

## Life Science Patents

### *International Financial Activity Act*

**Bill 2**, *Revenue Statutes Amendment Act, 2005*, amended the international financial activities under the *International Financial Activity Act* (IFA Act). Bill 2 received royal assent on November 24, 2005.

The IFA program is expanded, effective January 1, 2006, to include refunds of British Columbia corporate income taxes on income derived from certain patents.

The amendments made by Bill 2 and by the amendments to the regulation result in the changes detailed in this bulletin. Please read this bulletin in conjunction with **Bulletin IFA 001**, *International Financial Activity Act Overview*.

The information in this bulletin is provided for your convenience and guidance and is not a replacement for the legislation. The *International Financial Activity Act* and Regulation can be found on our website at [www.gov.bc.ca/sbr](http://www.gov.bc.ca/sbr)

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### **NEW INTERNATIONAL FINANCIAL ACTIVITIES ADDED**

Effective January 1, 2006, international financial activities of a corporation are expanded to include activities related to certain patents (patent activity):

- selling, assigning or licensing to a non-resident a patent within a prescribed class of patents

- selling to a non-resident a good or service whose sales revenue is principally derived from an invention for which a patent, within a prescribed class of patents, is owned by the corporation

The non-resident may be at arm's length or non arm's length with the corporation, as those terms are defined in the *Income Tax Act* (Canada).

### **PRESCRIBED CLASS OF PATENTS**

The prescribed class of patents incorporates certain inventions related to life sciences. The patents must not have expired or otherwise have ceased to exist and must have a primary classification number in accordance with the International Patent Classification. The prescribed class of patents does not include a patent that relates to tobacco or any product made of tobacco unless the product assists people to cease using tobacco. A list of eligible classifications related to life sciences can be found in the appendix to this bulletin.

## CALCULATION OF THE TAX REFUND

In each taxation year, a registered corporation may choose to claim a tax refund either on its patent activity or on its other eligible activities, but not on both. There is no refund available to specialist employees in patent activities.

A tax refund will be paid to a corporation only after all British Columbia and federal income taxes for the taxation year are paid.

The tax refund for patent activities is limited to the lesser of \$8 million and 75% of British Columbia corporate income tax paid.

A registered corporation may claim a tax refund of income taxes on patent activities calculated as follows:

Tax refund = Lesser of:

\$8 million, and

$[A/(B \times C)] \times D \times 75\%$

where:

- **A** is the corporation's net income for income tax purposes from its patent activities of its international financial business (IFB). The IFB income does not include assistance included in income under section 12(1)(x) of the *Income Tax Act* (Canada),
- **B** is the corporation's net income for income tax purposes, less any net capital losses and dividends deducted in determining the corporation's taxable income for the year,
- **C** is the percentage of taxable income allocated to British Columbia for the taxation year, and
- **D** is the corporation's British Columbia income tax (after deducting all tax credits and deemed payments).

For corporations that are registered for less than 365 days in a taxation year, the \$8 million limit is prorated based on the number of days registered.

For taxation years that began before January 1, 2006, the \$8 million limit is to be prorated for the number of days registered after December 31, 2005.

The \$8 million limit must be shared among associated corporations eligible to claim a tax refund on patent activities.

## REGISTRATION AND FILING REQUIREMENTS

Please see [Bulletin IFA 001](#), *International Financial Activity Act Overview*, for registration and filing requirements.

### NEED MORE INFO?

**This bulletin is intended to assist in the understanding of the requirements of the governing *International Financial Activity Act* legislation and related regulations. It is not intended to replace the need to consult the legislation and regulations for their application in a particular situation. In the event of a conflict between the legislation and this bulletin, the legislation shall prevail.**

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[www.sbr.gov.bc.ca/itb](http://www.sbr.gov.bc.ca/itb) While there, you can  
subscribe to our free electronic update  
service.**

**APPENDIX:  
LIFE SCIENCE PATENTS UNDER THE  
INTERNATIONAL FINANCIAL ACTIVITY REGULATION**

The prescribed class of patents incorporates certain inventions related to life sciences and are determined by reference to the primary classification of the patent under the International Patent Classification.

The list of eligible classifications related to life sciences is as follows:

<b><u>Category</u></b>	<b><u>Class</u></b>	<b><u>Subclass</u></b>	<b><u>Group</u></b>	<b><u>Description</u></b>
A	01	H	all	new plants or processes for obtaining them; plant reproduction by tissue culture techniques
A	01	N	1/00	preservation of bodies of humans or animals, or parts thereof
A	01	N	1/02	preservation of living parts
A	01	N	3/00	preservation of plants or parts thereof
A	61	all		medical and veterinary science; hygiene
C	02	F	3/00	biological treatment of water, waste water, or sewage
C	07	all		biochemistry: organic chemistry
C	08	all		biochemistry: organic macromolecular compounds
C	12	M	all	microbiology: apparatus for enzymology or microbiology
C	12	N	all	microbiology: micro-organisms or enzymes; compositions thereof
C	12	P	all	microbiology: fermentation or enzyme-using processes to synthesize a desired chemical compound or composition, or to separate optical isomers from a racemic texture
C	12	Q	all	microbiology: measuring or testing processes involving enzymes or micro-organisms; compositions or test papers therefor; processes of preparing such compositions; condition-responsive control in microbiological or enzymological processes

**APPENDIX (CONTINUED)**  
**LIFE SCIENCE PATENTS UNDER THE**  
**INTERNATIONAL FINANCIAL ACTIVITY REGULATION**

<u>Category</u>	<u>Class</u>	<u>Subclass</u>	<u>Group</u>	<u>Description</u>
C	12	S	3/00	microbiology: treatment of animal or plant materials or micro-organisms;
C	12	S	3/20	microbiology: removal of nucleic acids from cells
C	12	S	3/22	microbiology: treatment of blood fractions
C	12	S	3/24	microbiology: treatment of animal secretions or organs
G	01	N	33/02	investigating or analyzing food
G	01	N	33/03	investigating or analyzing edible oils or edible fats
G	01	N	33/04	investigating or analyzing dairy products
G	01	N	33/08	investigating or analyzing eggs
G	01	N	33/12	investigating or analyzing meat/fish
G	01	N	33/15	investigating or analyzing medicinal preparations
G	01	N	33/48	investigating or analyzing biological material; determining the germinating capacity of seeds; haemocytometers (counting blood corpuscles over a surface by scanning the surface)
G	01	N	33/483	physical analysis of biological material
G	01	N	33/487	physical analysis of liquid biological material
G	01	N	33/49	physical analysis of blood

**APPENDIX (CONTINUED)**  
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<u>Category</u>	<u>Class</u>	<u>Subclass</u>	<u>Group</u>	<u>Description</u>
G	01	N	33/493	physical analysis of urine
G	01	N	33/497	physical analysis of gaseous biological material
G	01	N	33/50	chemical analysis of biological material; testing involving biospecific ligand binding methods; immunological testing (measuring or testing processes other than immunological involving enzymes or micro-organisms, compositions or test papers therefor; processes of forming such compositions, condition responsive control in microbiological or enzymological processes)