

Minutes of Hamilton Region SR&ED Practitioners' meeting (Sept 17/09)

Date:

Thursday, September 18, 2008

Time:

4:30-6:00 PM

Location:

Travelodge, Burlington,
2020 Lakeshore Rd.

Event Moderated by;

- Dave Sabina, C.A. Hamilton Region SR&ED practitioners group, team leader &
- Dominic Ioannoni, Canada Revenue Agency

Overview - Topics of discussion:

I) Specific issues addressed in the 2009 MEUK SR&ED newsletters as follows:

A) 2009-1 (20 Minutes) – New project reporting format

- i) CRA software example - project COMMENTARY
- ii) Template(s) to identify and quantify the required elements:
- iii) Providing technical documents via website
- iv) Best practices for isolating SR&ED “key criteria”

B) 2009-2 (10 Minutes)

- i) Recent SR&ED tax cases & related issue(s)
 - Advanced Agricultural – Eligibility of clinical trials
– revoking “proxy” election once filed
 - Spasic – “hobby” vs. “carrying on business”
“documentation”
- ii) 2009 Federal & Ontario budgets
 - expenditure limit phase out range increased to \$500 – 800K for 2010+
 - new ORDTC (discussed further per 2009-4 below)

C) 2009-3 (10 Minutes)

- Factoring SR&ED credits
- Selected SR&ED funding / factoring agents in the Golden Horseshoe area
 - 6 W's of factoring SR&ED credits &
 - Considerations for SR&ED claim preparers

D) 2009-4 (20 Minutes)

- i) Recent CRA Directives on filing new T661 SR&ED forms (Q&A's)
- ii) Calculation of Ontario's new ORDTC
 - ORDTC IS reduced by the OITC
 - OITC is NOT reduced by the ORDTC

II) SR&ED Ombudsmen request for feedback

5 main questions for claimant & preparer feedback

List of attendees & participants:

ATTENDEES:

September 17, 2009 Hamilton Region SR&ED Practitioners Workshop

	<u>Name</u>	<u>Firm</u>
1	Alan Fyfe	FCS
2	Alex Murphy	Murphy & Co.
3	Alex Schiappa	Deloitte
4	Andrew Kolodziej	Benetax/Gordon & Milstein C.A.
5	Armando Valerie	SLF Group
6	Barry Doerbecker	Henderson Partners LLP
7	Beth Yeh	Roth Mosey & Partners
8	Bill Murphy	Murphy & Co.
9	Bob Turner	INAC Services Limited
10	Bryan Allendorf	BGA Tax Strategies
11	Chris Chipman	OME
12	Chris Dehann	Unknown
13	Chris Fattaei	Shirlon Plastics
14	Christine Gribowski	Gribowski and Associates Limited
15	Danny Ladouceur	R&D ONE
16	David Sabina	MEUK Corporation
17	Debra Porter	MEOI (Ministry of Enterprise)
18	Dieter Birk	Geofuel
19	Dominic Ioannoni	CRA
20	Doris Turner	Shirlon Plastics
21	Duncan Peake	Williams and Partners
22	Earl Viner	SRnEd Limited
23	Erik Roller	Tino-Gaetani & Carusi
24	Frank Baron	Frank Baron, C.M.A.
25	Frank Dodaro	Fazzari & Partners LLP
26	Frank Fiasche	BDO Dunwoody LLP
27	Glenn Dalzell	TCE Capital
28	Gul Nawaz	Nawaz Taub Noor & Wasserm/Morrison & Hollingsworth
29	Harvey Cantor	Harvey Cantor, C.A.
30	Jack Klieb	DM Primers Inc.
31	Jay Wignai	Deloitte
32	Jeff Robertson	BDO Dunwoody LLP
33	Jerry Gribowski	Gribowski and Associates Limited
34	John Carusi	Tino-Gaetani & Carusi
35	Kris Shah	OME Group
36	Kyle Hannah	Shirlon Plastics
37	Mark Sims	Graham Mathew Professional Corp.
38	Mary Grbic	Research Development Consulting inc.
39	Niru Desai	Saija Enterprises Inc.
40	Pat Murphy	Murphy & Co.
41	Paul Zilkey	FCB Financial
42	Peter Davies	Expert Solutions
43	Peter Kahn	JPK Associates Inc.
44	Peter Lambert	Graham Mathew Professional Corp.
45	Roy Bilic	Roy Bilic, C.A.
46	Sandy Hale	BDO Dunwoody LLP
47	Shannon Depalo	Deloitte
48	Stephanie Cormack	Murphy & Co.
49	Steve Dalton	MEOI (Ministry of Enterprise)
50	Tanya Radenovic	BOND Consulting
51	Thomas Nagel	Novatran Systems
52	Tony Bamran	OME Group
53	Vinay Khosla	Kurz Ghumman Khosla LLP

Details on issues discussed:

Note all of these issues have additional “**backup documentation**” available at:

http://www.meuk.net/resources_practitioners.html

I) Specific issues addressed in the 2009 MEUK SR&ED newsletters as follows:

A) 2009-1 (20 Minutes) – new project format

- i) CRA software project COMMENTARY
- ii) Template(s) to identify and quantify the required elements:
- iii) Providing technical documents via website
- iv) Best practices for isolating SR&ED “key criteria”

Discussion issues: The discussion centered on the review of the sample project description (Data warehouse improvement) that was provided with the release of the November 2008 T661 form and examined what practitioners perceived to be both the strong and we weaker aspects of the current project description.

Notable areas for improvement included:

- the ability to quantify objectives &
- thereby illustrate measurement and analysis. .

Stronger aspects of the sample claim included:

- the illustration of technological versus business objectives &
- evidence of related technological uncertainties.

B) 2009-2 (10 Minutes)

i) Recent SR&ED tax cases & related issue(s)

- Advanced Agricultural – Eligibility of clinical trials
 - Ruling & rationale: LOSS - NOT SR&ED since lacked “hypotheses”
- Advanced Agricultural – revoking “proxy” election once filed
 - Ruling & rationale: LOSS - NO ability to revoke election
- Spasic – “hobby” vs. “carrying on business”
 - Ruling & rationale: LOSS - carrying on business requires “documentation”

Discussion issues: These recent cases were summarized very quickly however most of the conclusions and issues were deemed obvious to the majority of group participants. .

ii) 2009 Federal & Ontario budgets

- expenditure limit phase out range increased to \$500 – 800K for 2010+
- 2009 Ontario budget phase out range as per federal
- new ORDTC (discussed further per 2009-4 below)

Discussion issues: The mechanics of these new phase-out formulas were quickly reviewed and felt to be straightforward and their interpretation. The only significant issue of contention was on the mechanics of the calculation of the ORDTC (which is discussed later per 2009-4 below).

C) 2009-3 (10 Minutes)

Factoring SR&ED credits

- Selected SR&ED funding / factoring agents in the Golden Horseshoe area
- 6 W's of factoring SR&ED credits
- Considerations for SR&ED claim preparers

Discussion issues: The group discussion focused on the recent increase in need for SR&ED financing based on current economic conditions. Discussion examined and compared four alternative suppliers in the Southern Ontario region.

In particular one of the participants (Paul Zilkey) of TCE capital provided additional details on the financing methodology(ies) in question.

D) 2009-4 (20 Minutes)

i) Recent CRA Directives on filing new T661 SR&ED forms (Q&A's)

Discussion issues:

D) Issues on “completeness” of new T-661 form.

We discussed the following excerpts from APP 2004-02r2-eng Filing Requirements for Claiming SR&ED released June 11, 2009:

- **Q.2 If neglect to tick a certain box or I tick the wrong box on Form T661, will claim be denied?**
 - **A.2 No, with one exception (box 160 or 162 proxy election).**

- Q.4 When does an SR&ED claim need to be filed in order for the CRA to review and advise the claimant of any deficiencies in the SR&ED claim?
 - A.4 If an SR&ED claim is filed at least 90 days before the reporting deadline, the CRA should have sufficient time to conduct a review.
- Q.5 Can I submit (IRAP) project summaries instead of completing Part 2 of Form T661?
 - A.5 No.
- Q.6 Will the CRA disallow a project based on the technical content or quality of the narratives provided on lines 240 to 252?
 - A.6 **No (unless NO details provided).**

2) Options for using commercial tax software file a previous version of Form T661?

- For 2008 & prior tax years:
 - Use prior version
 - File paper copy OR
 - Use version (08) and attach descriptions

	If my tax year ends in:		
	2008 or earlier	2009	2010 or later
Which version of Form T661 can I use?	Form T661 (07) or Form T661(08)	Form T661(08)	Form T661(08)
Which format can I use to file my project information?	Form T661 (07) or (08) formats	Form T661(08) Part 2	Form T661(08) Part 2
If I have more than 20 projects, how many project narratives must I submit to the CRA?	The 20 largest projects in dollar value	The 20 largest projects in dollar value	All projects claimed

ii) Calculation of Ontario's new ORDTC

Discussion issues: to discuss the mechanics of the new ORDTC calculation including the following potential problem:

- **The ORDTC IS reduced by the OITC**
- The OITC is NOT reduced by the ORDTC
- **Result = Manual entry required for Taxprep and Profile which most practitioners are NOT performing.**

Unresolved issue:

- **What about claims filed without this adjustment? Practitioner are unsure if the CRA will:**
 - **make this adjustment via “notice of Re-assessment”**
 - **make the adjustment in a future year or**
 - **ignore it.**

II) SR&ED Ombudsmen request for feedback

Discussion issues: in an effort for a serious performance the SR&ED Ombudsmen has requested feedback on **5 main questions for claimant & preparer feedback:**

Re. Post Feb. 21/07 SR&ED claims:

- Did **CRA adequately inform** taxpayers about the recent changes to the T661 form?
- Has the **cost of filing** and defending an SR&ED claim changed?
- Did CRA accept your **request for a "second opinion"**?
- Did CRA review and audit your claim act in a **professional and courteous manner?**
- Has any CRA person ever attempted to **dissuade you from retaining professional advice?**

The Forms for submission available at:

<http://www.taxpayersrights.gc.ca/frm-fl-eng.pdf>