

Minutes of September 14, 2000
Hamilton Region SR&ED Practitioner's meeting

Issue 1: Status of SR&ED eligibility on “salary & wages” incurred outside of Canada 1
Issue 2: Negative tax effects from proper treatment of “development costs” still unchanged 1
Issue 3: Financial Statement & tax implications of “super-allowance” being treated as government
assistance 2
Issue 4: Use of databases to track SR&ED project technical and financial information 2

Minutes prepared and distributed September 2000 by David Sabina, group moderator

**Issue 1: Status of SR&ED eligibility on “salary & wages”
incurred outside of Canada**

As previously stated, based on the results of the Tigney Technologies and LGL appeals, the CCRA has taken the position that it will deny SR&ED credits eligibility¹ on “salary and wages” of Canadian employees while abroad².

One of the most compelling arguments to support the eligibility of SR&ED credits on “salary and wages” of Canadian employees while abroad is the fact that the **Canadian employee remains taxable on his or her salary and wages** regardless of where these duties are performed. As a result, in most if not all cases, the CCRA earns substantially greater tax revenues from the personal taxes of the individual employee than it pays out to the SR&ED performers (i.e. the employers) on these wages.

In a previous meeting our group unanimously agreed that the current tax policy appears to inhibit achievement of our Science Policy goal to, “ensure that new knowledge can be acquired and disseminated widely, from Canadian sources and from around the world.” These issues were submitted to Norine Heselton, Director General of the SR&ED program.

David Sabina received a response to this letter supporting a “deny all foreign expenses” position. Its **current rational** for this position is that it believes that there could be **loss of infrastructure** from encouraging Canadians to travel abroad.³ This is in fact **in complete contradiction of a 1997 study performed by the Department of Finance** confirmed that the result of these activities is a net influx of infrastructure to the Canadian economy.⁴

We propose to explore these results as well as potential avenues for follow-up including letters to the Ministers of Finance and Industry. The group proposed to delay the issue of this letter until the result of the upcoming Federal elections and then renew its focus on this issue with the appropriate ministries in the new year.

Issue 2: Negative tax effects from proper treatment of

¹ By way of inclusion in Canadian expenses defined under ITA subsection 37(1)

² SR&ED Application Policy Paper 95-01R – Issue 2: SR&ED outside Canada

³ CCRA rulings letter – January 14, 2000, N. Heselton, Director General

⁴ “Why and How Governments support Research and Development,” December 1997, Department of Finance (copies available at meeting or on request)

October 19, 2001

Attention: Hamilton SR&ED Practitioners' Group Members

Re. Minutes of October 11 meeting

Dear member,

Please find attached the minutes summarizing the major issues, analysis and recommendations contemplated during the above noted meeting of the Hamilton R&D practitioners' group.

Attendees:	2
Issue 1: Status of SR&ED eligibility on "salary & wages" incurred outside of Canada...	2
Issue 2: Provincial harmonization issues - "development costs" / qualified corporations .	3
Other issues on provincial harmonization.....	3
Issue 3: Tax cases now on line (better access to information among CCRA & claimants)	4
Issue 4: Foreign contractors in Canada (how & when to claim for SR&ED).....	4
Issue 5: Software examples released – CCRA / claimant feedback to date.....	5
Issue 6: Loss on ITC refundability on repayments of government assistance.....	5
Issue 7: Ontario problems	5
a) why pre-approval required for OBRI (Ontario Business Research Institute) credit...	6
b) "super-allowance" replaced by "exclusion of Federal ITC's" from Ontario income.	6
Group's analysis and comment - "Loophole" in the wording?.....	7
c) SR&ED stock options – effects on employee if SR&ED denied	8

Please feel free to send any comments or questions on these issues or to provide details of other issues you would like to see addressed. (Please respond by fax 905- 631-0698 or email dsabina@meuk.net)

Regards,

Dave Sabina,
Hamilton Group Leader

July 10, 2002

Hamilton region SR&ED Practitioners' Group

Re. Minutes of Meeting – June 12 (5-7 p.m.)

Dear member,

Please find attached the minutes summarizing the major issues, analysis and recommendations contemplated during the above noted meeting of the Hamilton SR&ED practitioners' group.

Attendees	2
New issues:	3
NRC / IRAP overview	3
New CCRA releases	4
SR&ED Investment Tax Credits for Farm Producers via “Agricultural organizations”	4
New - APP 2002 - 01 - administrative salaries or wages	4
Food and Consumer Packaged Goods Sector SR&ED Guidance Document.....	6
1) Formula Ingredient, Manufacturing Specifications (F.I.M.S.).....	6
2) Consumer Research	7
3) Scale-up and Commercialization.....	7
Water and Energy Sources as Materials	7
The Account Executive Service for the (SR&ED) Program	9
Recent SR&ED tax cases results & implications	10
DATACALC RESEARCH CORPORATION v. THE QUEEN	10
Issue(s): extension of 18 month filing deadline.....	10
MIMETIX PHARMACEUTICALS INC. v. THE QUEEN	10
Issue(s): “defacto” control	10
Status of issues raised during previous meetings	12
SR&ED eligibility on “salary & wages” incurred outside of Canada	12
Provincial harmonization issues - “development costs” / qualified corporations.....	12
Loss on ITC refundability on repayments of government assistance	13
Ontario problems	13
a) OBRI pre-approval	13
b) “Super-allowance” replaced by “super deduction” from Ontario income	14

Regards,

Dave Sabina, C.A.
Hamilton Group Leader

**Hamilton Region SR&ED Practitioner's Workshops
Minutes of meetings: May 16th, 2003 & September 4th, 2003
Holiday Inn – Burlington**

Topics discussed during May & September 2003 meetings:

1.1.	List of attendees & participants	2
2.	New T661 form.....	3
2.1.	Elimination of "technological uncertainty heading" in Part 2	3
2.2.	BN number required for all subcontractors	4
2.3.	Reporting for Unpaid amounts.....	5
2.3.1.	Degree of disclosure required	6
2.3.2.	Reporting for unpaid wages vs. other types of expenses	6
2.3.3.	Risks of being deemed a Salary Deferral Arrangement (SDA).....	6
3.	Commercial vs. experimental production.....	8
3.1.	Issues in agreement – no carve out of SR&ED wages.....	9
3.2.	Issues in contention.....	9
3.2.1.	Carve out of SR&ED subcontractors.....	9
3.2.2.	Definition of “Commercial” production	10
4.	Ontario SR&ED issues	11
4.1.	Ontario OITC taxability - timing of tax on proxy amount.....	11
4.1.1.	Tax mechanics of issue: received vs. receivable	11
4.1.2.	Summary of overall tax effects / implications	13
4.2.	Ontario Business-Research Institute Tax Credit – Pre-approval	14
4.2.1.	Issue: Why Ontario pre-approval required since audited by CCRA?.....	14
4.2.2.	Response to date: no plans to waive requirement.....	14

Minutes prepared and distributed October 10, 2003 by David Sabina, group moderator

“SR&ED Practitioner's Workshop” – Meeting minutes

Thursday, July 15th, 2004 2:00-4:00 pm

Lo Presti's Restaurant - Hamilton

1) Allocation of Labour Expenditures For SR&ED Guidance Document SR&ED Directorate July 2004

Discussed the fact that where formal systems have not been implemented, claimants can determine SR&ED salaries and wages using appropriate labour allocation methodologies. This document is intended to provide guidance on the elements of such methodologies and to provide an illustration of a sample application.

Levels of information: generally three levels at which information can be summarized:

- high (corporate or strategic concept level)
- medium (project level)
- low (activity level)

Example of an allocation methods discussed further.

2) ON 2004 BUDGET CHANGES RE. ASSOCIATED CORPORATIONS

The group discussed the policy intent of these provisions for associated corporations is to prevent the multiplication of the expenditure limit by corporations controlled by the same person or group of persons.

3) 2002 SR&ED Client Survey results

Issues covered: Simplification, Timeliness & Consistency

4) SR&ED partnership committee issues

Group briefly Issues include Strategic Business Plan, Large Business claims and Electronic Filing (2005).

5) Application Policy 2004-1: Retiring allowances

Group discussion focused on clarification that these payment may be eligible as an “overhead expense” for traditional overhead claimants.

6) PLASTICS MATERIALS, PROCESSING, EQUIPMENT & TOOL MAKING GUIDANCE DOCUMENT DATE: April, 2004

The policy paper provides guidance and example relevant to mold and tool makers.

HAMILTON REGION SR&ED PRACTITIONERS WORKSHOP:

Date:

Thursday, January 20, 2005

Time:

2-4 PM

Location:

Holiday Inn, Burlington,
3063 South Service Rd.

Topics discussed:

A) Recent CRA Directives:

Recent CRA Directives - financial

- Prototypes, Pilot Plants, Custom Products and Commercial Assets
- Filing Requirements for SR&ED
- Reporting deadlines: corporations, partnerships & proprietorships
- Recourse for missed deadlines / filing early enough to catch deficiencies
- Allocation of Labour Expenditures for SR&ED
- Retiring Allowances.

Recent CRA Directives - technical

- Plastics, materials processing, equipment & tool making guidance document including 16 project examples
- Pulp and paper sector guidance document

B) Other recent financial developments:

- New definition of "prescribed" Stock Exchanges in Canada

C) Follow-up on significant issues from prior meetings:

Recently resolved issues:

- Commercial vs. experimental production - 2003 vs. 2005: no carve out of SR&ED wages OR SR&ED subcontractors to the extent required to resolve technological uncertainties.

Unresolved issues:

- SR&ED "salary & wages" incurred outside of Canada – 2000+
- Capital tax implications from "development costs" – 2000+
- Ontario Business-Research Institute Tax Credit - Pre-approval
Issue: Why Ontario pre-approval required since audited by CRA?
Response to date: no plans to waive requirement – next steps

Sincerely, Dave Sabina

Hamilton Region SR&ED practitioners group, team leader

SR&ED Practitioner’s Workshop meeting minutes

SR&ED (Scientific Research & Experimental Development) Practitioner’s workshop¹:

Thursday, October 27, 2005 - (3 pm – 5 pm)
Holiday Inn – Burlington (QEW & Guelph Line)

Topics discussed:

I	Recent SR&ED tax cases & related issue(s)	2
I.1	Alcatel – SR&ED eligibility of stock options	2
I.1.1	Ruling & rationale: qualified SR&ED expense.....	2
I.1.2	Moderator note – subsequent events – proposal to disallow > Nov. 14, 2005	2
II	New CRA pronouncements	2
II.1	New T661 form – required >September 30, 2005	2
II.1.1	Now need “statements of work” for subcontractors	2
II.1.2	If missing > 18 months ENTIRE CLAIM could be denied!	2
II.2	APP 2002-02R2: Experimental vs. Commercial Production	3
II.2.1	Clarification - “sale” does NOT disqualify SR&ED work BUT warrants further examination	3
II.2.2	Case examples of eligible vs. ineligible work	3
II.2.3	Effects on recommended documentation:	4
II.3	Reasonableness of Shareholder/Manager Remuneration - SR&ED planning – keeping income <\$300,000	4
II.3.1	Tax Economics of this issue – concept of “integration”.....	5
II.3.2	Group concerns & recommendation – provide clarity & legislative relief.....	6
II.4	SR&ED filing deadlines – 15 vs. 18 months?.....	6
II.4.1	CRA – position – file within 15 months for safety.....	6
II.4.2	Canada Post filing procedures	7
II.4.3	Issue – proving “prescribed information” filed within 18 months!	7
III	Attendees:	8

¹ * Note - SR&ED Practitioners are generally accountants or consultants who prepare SR&ED claims on behalf of their clients.

Hamilton Region SR&ED Practitioner meeting

Minutes - March 9, 2006

Minutes of the March 9, 2006 SR&ED practitioner’s meeting regarding recent developments to Scientific Research and Experimental Development (SR&ED) project management and tax credit claims.

Recent CRA pronouncements	2
New T661 form – required >September 30, 2005	2
Now need “statements of work” for subcontractors	2
If missing > 18 months ENTIRE CLAIM could be denied!.....	2
New APP SR&ED 2005-01 on Shared-Use-Equipment	2
Intended use vs. Actual use	2
Prescribed Depreciable Property (PDP)	2
New APP SR&ED 2005-02 on Assistance.....	2
Assistance versus contract payment	2
The OITC – How is it Taxed?.....	2
Issue: timing of tax on proxy amount	2
Tax mechanics of issue: received vs. receivable	2
Legislative support for deferral	2
Recent SR&ED tax cases & related issue(s).....	3
Alcatel – SR&ED eligibility of stock options	3
Ruling & rationale: qualified SR&ED expense	3
Legislative proposal to disallow > Nov. 17, 2005	3
Overview of recent SR&ED tax cases.....	3

HAMILTON REGION SR&ED PRACTITIONERS WORKSHOP:

I welcome you and any interested associates to attend our next SR&ED practitioners workshop.

Date:

Thursday, September 20, 2007

Time:

4:30-6:00 PM

Location:

Holiday Inn, Burlington,
3063 South Service Rd.

Proposed topics for discussion (please submit additional requests):

- A) Recent SR&ED tax cases & related interpretative issue(s)**
- Armada - **eligibility of SR&ED preparation fees**
 - Nuytten - personal (T1) SR&ED claim disallowed since work in Co.
 - Hopmeyer - Whether SR&ED eligible while insolvent
 - Systemhac - Director fined \$75,000 for **SR&ED tax fraud** in B.C. court
- B) Recent CRA & Ontario Directives - financial**
- 2007 SR&ED limits for specified employees
 - CRA & Ontario harmonization 2008
 - Timeline for implementation - What's next?
 - Transitional Mechanism for SR&ED
 - Unresolved issues – still under discussion
- C) Practitioner issues with CRA & Ontario MOF processing**
- Ontario OITC assessments & related problems created
 - issued pre-CRA assessment for small claims (<\$15K) &
 - 4-6 month post-CRA assessment for larger claims (>\$50K)
 - proposed effects under harmonization in 2008/2009
 - CRA SRED assessment practices
 - RC59 (authorizations being lost – steps to get back quickly)
 - proposals for potential e-filing of SR&ED claims
 - proposals to audit claims post assessment (has anyone experienced this?)
 - dispute resolution: success to date + future of 2nd Admin review process
- D) New services for claimants – SR&ED factoring agents**
- Details on recent parties who wish to lend or factor \$ for SR&ED tax credits

Please note that there is NO charge for this event. Further details are available at www.meuk.net.

In the meantime, I welcome your input and look forward to seeing you on Sept. 20th!

**PLEASE CONFIRM ATTENDANCE VIA:
EMAIL (dsabina@meuk.net) OR PHONE (905-631-5600).**

Sincerely, Dave Sabina, C.A.
Hamilton Region SR&ED practitioners group, team leader

HAMILTON REGION SR&ED PRACTITIONERS WORKSHOP:

Minutes of the SR&ED Practitioner's Workshop

Date:

Thursday, September 18, 2008

Time:

4:30-6:00 PM

Location:

Holiday Inn, Burlington,
3063 South Service Rd.

Overview - Topics of discussion:

The discussion followed a discussion of issues which have been outlined in further detail as follows:

- I) MEUK SR&ED newsletters (download at www.meuk.net/resources_newsletters.html)
- A) 2008-1 (20 Minutes)
 - i) Recent SR&ED tax cases & related issue(s)
 - ii) Recent CRA pronouncements
 - 2008 budget
 - Enhanced incentives
 - SR&ED wages outside Canada eligible up to 10% if no foreign taxes paid
 - Carry-back of non-refundable ITC – restriction on refunds
 - iii) Ontario SRED credits - recent changes
 - (OBRI) – pre-approval requirement waived
 - Ontario harmonization - The Transitional Debit/Credit
 - B) 2008-2 (20 Minutes)
 - i) Recent CRA pronouncements
 - New T661 form in Fall 2008
 - ii) SR&ED program usage & spending statistics
 - Credits earned by rate of ITC's, size of corp. & industry sector
 - iii) International comparisons of R&D incentives
 - Marginal effective tax rates on investments in R&D assets
 - iv) SR&ED – dispute resolution - appeals and objections
- II) Overview 4 issues from CATA (30 Minutes) (download at www.cata.ca)
- i) Definition of SR&ED -248(1)
 - (technological eligibility 11 examples-App. A)
 - ii) Contracts – Goods vs. services & who claims
 - (CRA confusion 6 examples-App. B)
 - iii) Filing deadline for SR&ED claims
 - (18-month deadline)
 - iv) Use of normally kept books and records as basis for allocating costs to SR&ED work

Event Moderated by;

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