



Canada Revenue
Agency

Agence du revenu
du Canada

Application Policy SR&ED 2000-02R
Guidelines for Resolving Claimants' SR&ED Concerns

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1. Introduction

The Canada Revenue Agency (CRA) is committed to providing fair treatment to all claimants of the Scientific Research and Experimental Development (SR&ED) tax incentive program. In keeping with this commitment, guidelines have been established to ensure that SR&ED claimants' concerns are addressed in a fair and timely manner. This application policy details the steps to resolving claimants' SR&ED concerns and it is meant to benefit all concerned parties: SR&ED claimants, the CRA and other stakeholders.

These guidelines replace the Application Policy SR&ED 2000-02 dated May 24, 2000.

2. Roles and Responsibilities

The effective processing of an SR&ED claim requires open communication and cooperation between the claimant, the Research and Technology Advisor and the Financial Reviewer. This section defines each party's roles and responsibilities.

2.1. Claimant

The roles and responsibilities of the claimant are to:

- comply with the SR&ED program's requirements, such as the filing requirements and eligibility criteria;
- prepare and maintain proper technical and financial documentation to support the work and expenditures claimed;
- respond in a timely manner to the SR&ED staff's queries and requests for information;
- provide the SR&ED staff access to the appropriate personnel in the company;
- provide additional information and supporting documentation, as requested by the SR&ED staff, for the work and expenditures claimed; and
- advise the SR&ED staff of any concerns, as soon as possible.

2.2. Research and Technology Advisor

The roles and responsibilities of the Research and Technology Advisor (RTA) are to:

- explain the SR&ED review process to the claimant, including the options for resolving any concerns;
- examine the technical documentation and other relevant information to perform a review;
- evaluate the eligibility of the work claimed;
- request additional information in a clear manner;
- discuss with the claimant any concerns regarding the eligibility of the work claimed;
- provide a report to the claimant which includes the eligibility decision of the work claimed and the reasons for the decision;
- invite feedback from the claimant about the report; and

- address the claimant's concerns as soon as possible.

2.3. Financial Reviewer

The roles and responsibilities of the Financial Reviewer (FR) are to:

- explain the SR&ED review process to the claimant, including the options for resolving any concerns;
- examine the financial documentation and other relevant information to perform a review;
- review the expenditures and tax credits claimed;
- request additional information in a clear manner;
- discuss with the claimant any concerns regarding the expenditures and tax credits claimed;
- discuss the relevant findings of the review with the claimant;
- provide the claimant with a letter which summarizes the findings of the financial and technical reviews, including a clear explanation of any proposed adjustments; and
- address the claimant's concerns as soon as possible.

For more details on these roles and responsibilities, see the *Guide to Conducting a SR&ED Review* and Application Policy SR&ED 96-03R *Claimants' entitlements and responsibilities*. Both of these documents are available on the CRA's Web site at <http://www.cra.gc.ca/taxcredit/sred/policyindex-e.html>.

3. Resolving Concerns

This section describes ways of resolving concerns that may arise during the various stages of processing an SR&ED claim.

3.1. Concerns Regarding the Filing Requirements

If an SR&ED claim is denied for not meeting the filing requirements, the claimant or an authorized representative may write a letter to the SR&ED Assistant Director at the tax services office to request that the filing requirements be waived in accordance with subsection 220(2.1) of the *Income Tax Act*. The letter must outline the facts of the case and the reasons the request should be accepted. The Assistant Director will review the claimant's request and provide a decision based on the facts of the situation. For more information on the filing requirements, see the Application Policy SR&ED 2004-02 *Filing Requirements for Claiming SR&ED Carried Out in Canada* on the CRA's Web site at <http://www.cra.gc.ca/taxcredit/sred/policyindex-e.html>

3.2. Concerns with a Review

If concerns arise during the SR&ED technical and/or financial review of a claim, the claimant is encouraged to take the following steps to resolve their concerns, **before the file is closed and processed**.

Step One – Talk to the Research and Technology Advisor (RTA) and/or Financial Reviewer (FR)

As a first step to resolving any concerns, the claimant should talk to the RTA and/or FR about their concerns as soon as possible. Issues often arise because of a misunderstanding of the facts of the claim, or a lack of information. To clarify the issues, the claimant may be asked to provide more information, to meet with the SR&ED staff, or to arrange for additional site visits. By openly discussing the eligibility and financial issues and clearly presenting the facts, often the concerns can be resolved to the satisfaction of all parties.

Step Two – Contact the Research and Technology Manager and/or Financial Review Manager

If the claimant's concerns are not resolved to their satisfaction after discussions with the RTA and/or FR, then the second step is for the parties to involve the Research and Technology Manager (RTM) and/or Financial Review Manager (FRM). The RTM and/or FRM will review the facts of the case and consider the claimant's perspective on the issues, as well as those of the RTA and/or FR. Open and direct communication between all parties is encouraged to avoid any misunderstandings. The RTM and/or FRM will work with the claimant and the RTA and/or FR to resolve the concerns.

Step Three – Request an Administrative Second Review

If the claimant feels that their concerns have still not been satisfactorily addressed, they can request an *Administrative Second Review*. An Administrative Second Review determines whether the SR&ED laws and policies have been correctly applied and if the claimant has been given due process.

In order to initiate an Administrative Second Review, the claimant must make their request in writing to the SR&ED Assistant Director. In their request, the claimant should explain why they want an Administrative Second Review and should provide relevant facts and documentation to support their case.

An Administrative Second Review is usually conducted by the SR&ED Assistant Director. However, the Assistant Director can delegate this responsibility to another person in the SR&ED program who was not previously involved in the case.

The Assistant Director will begin the Administrative Second Review by collecting and reviewing all the relevant information received from the parties involved, including details of the claimant's concerns, the RTA's and/or FR's positions and any additional facts and documentation submitted by the claimant. If the Assistant Director considers the information to be incomplete or unclear, he or she may request additional information or clarification from the parties.

If the claimant submits additional information with their request for an Administrative Second Review, the RTA and/or FR, at the discretion of the Assistant Director, may be asked to review the additional material and to determine if it addresses the issues. If it does, the RTA and/or FR will revise their decision accordingly.

When conducting an Administrative Second Review, the Assistant Director will determine whether:

- the SR&ED technical and financial reviews were consistent with the current SR&ED legislation, application policies, and guidance documents; and
- the claimant was given due process.

In determining whether due process was given, the Assistant Director will decide whether:

- the claimant was given reasonable opportunity and time to explain the work and/or expenditures claimed;
- the RTA and/or FR asked for clarification of the issues, and whether the request was clear;
- the claimant was given reasonable opportunity and time to provide additional information;
- the RTA and/or FR considered all the information that was submitted by the claimant;
- the RTA and/or FR clearly explained to the claimant why the work and/or expenditures claimed were not eligible;
- the claimant was given a report which included the eligibility decision of the claimed work and an explanation as to why the work was not eligible; and
- the claimant was given reasonable opportunity and time to respond to the report.

Based on the Assistant Director's determination, there are two possible outcomes of the Administrative Second Review: ***Decision Maintained*** or ***Decision Reconsidered***.

i. Decision Maintained

If the Administrative Second Review reveals that the SR&ED technical and/or financial review was consistent with the current SR&ED legislation, application policies and guidance documents, and that the claimant was given due process, then the technical and/or financial review will proceed in the usual manner. The claimant will be advised of this outcome in a letter from the Assistant Director.

ii. Decision Reconsidered

If the Administrative Second Review indicates that the SR&ED technical and/or financial review was not consistent with the current SR&ED legislation, application policies and guidance documents, and/or the claimant was not given due process, then further action will be taken to address the Assistant Director's findings. For example, if the claimant was not given a reasonable opportunity to provide additional information to support their claim then the opportunity to do so will be provided. The claimant will be informed of this outcome in a letter from the Assistant Director.

3.3. Appeals Process

Once the SR&ED technical and financial reviews are completed, and the SR&ED report is finalized, the claimant will be sent a Notice of Assessment. The Notice of Assessment will

summarize the SR&ED investment tax credits allowed or disallowed based on the findings of the reviews. If the claimant does not agree with the Notice of Assessment, regardless of whether they received an Administrative Second Review, the claimant has the option of filing an objection within 90 days of the date of the Notice of Assessment. This process is handled by the Appeals Branch of the CRA.

More information about the Appeals Process is available on the CRA's Web site at http://www.cra.gc.ca/agency/programs_services/disagree/menu-e.html

4. Contact Information

For more information on the SR&ED program, visit CRA's Web site at www.cra.gc.ca/sred or contact one of the following tax services offices:

Location	Telephone
Halifax	1-866-433-5986 or (902) 426-2386
Québec	1-866-204-0101, Ext. 648-7151 or (418) 648-7151
Montréal	(514) 496-1317
Laval	1-888-784-8709 or (514) 338-4198
Ottawa	(613) 598-2106
Toronto Centre	(416) 973-2814
Toronto West	(905) 566-6010
Hamilton	(905) 572-2650
Calgary	(403) 691-5890
Vancouver	1-866-317-0473
Across Canada - Toll free	1-800-959-5525