



SR&ED claims

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New SR&ED Forms

CRA has published a new version of the T661 form. Every SR&ED claim involving a taxpayer's fiscal year which ends on or after 1 January 2009 MUST use this revised T661.

One of the substantial changes that CRA has invoked is for taxpayers to declare which of 12 different categories of "Evidence...you have to support your claim..." you have generated WHILE the SR&ED was in progress. These documents must prove:

- i) The technological advancement sought;
- ii) The technological obstacles;
- iii) The work done;
- iv) The start and end dates; and
- v) The employees or contractors involved.

CRA has indicated which types of documents support which types of filing requirements e.g. records of trial runs cannot substantiate technological obstacles. As a result, contemporaneous creation of correct project documentation is crucial.

Another major change is the elimination of free format technical descriptions. Instead, projects must be described in two or three text boxes, with severe word limits on each section. In our opinion, this word limit does not allow taxpayers to either describe the business context of their SR&ED projects or describe the systematic aspects of complicated projects involving manufacturing trials or complicated software development cycles. We believe that as a result, many more technical reviews will be performed, as CRA seeks

further information about the projects. As a result, the prudent way for taxpayers to proceed is to write their technical descriptions as was done in previous years, then cut, paste and edit the appropriate material into the new T661, but retain their original technical description, as it will be useful information to give to the CRA technical reviewer.

Get the Most out of Your SR&ED claims

Best Practice Tips for Keeping a Laboratory Notebook

An important part of writing and defending a successful SR&ED claim is remembering what your company's engineers and scientists did (up to 30 months ago) and being able to prove that to CRA's Technical Reviewers. Good documentation is essential. Modern methods include bug reporting software, email archivars and similar project management tools, but plain paper methods can be just as effective. Not only will you be able to easily write your SR&ED technical descriptions, remembering all the technical uncertainties and steps you took to remove them, but good documentation will help with intellectual property claims and technical staff continuity.

The following article on laboratory notebook best practices was adopted from NovaUCD's October 2008 newsletter. NovaUCD is the technology incubator at University College Dublin.

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Keeping a laboratory notebook is an essential part of scientific research. Besides being a vital tool for research management it may also provide vital evidence in determining ownership of intellectual property in the event of successful commercialization of your research output.

Your notebook should be detailed enough for someone else to read and understand exactly what you did and why you did it. All results should be kept in your notebook, not filed in folders or on your desk. This will minimize problems that may be encountered if any questions arise about your results and will be useful for planning future research, and writing up the results for publications.

In addition to the above, it is also important to adopt best practices in terms of maintaining a laboratory notebook if the results of your research are to be used as the basis of a patent application. This is especially important if the patent application is to be filed in the United States where the rule of 'first to invent' applies.

The following suggestions are proposed to assist you in keeping an accurate and detailed record of your laboratory results and also to ensure that the necessary evidence is available to prove both the date of the invention and one's entitlement to be named as an inventor.

1. Use a hardbound laboratory notebook with consecutively numbered pages.
2. Write in ink.
3. Date each page or entry.
4. Each experiment should ideally include the following sections
 - a. **Purpose.** Begin with a short explanation of why you did the experiment.
 - b. **Protocol.** Include a detailed description of what you actually did. Provide sufficient detail so someone could repeat the experiment exactly the way you did it. All procedures obtained from other sources (e.g., lab manuals or lab protocols) should be included as a

permanent part of your notebook if they are used for the first time. It is acceptable to cross-reference previous experiments, but you should specify any changes or differences in the experimental design.

- c. **Results.** Include the actual raw data in your notebook as well as any plots or calculations. Show any equations used for your calculations.
 - d. **Discussion.** Include a brief summary of the conclusions.
5. Errors should be crossed out with a single line so they remain readable. Do not tear pages out of your notebook. When an error is made, include a comment on what went wrong and whether the experiment was repeated. This will allow you to figure out what actually happened at a future date.
 6. Tape or staple any attachments (e.g. print-outs) directly to the notebook. All attachments should include the date and details about how they were obtained (e.g. the wavelength of the spectrophotometer, etc...). Material that is too large to be attached to the notebook (e.g. sequencing autoradiograms) should be clearly marked with the date and page of the experiment in your laboratory notebook.
 7. Have your laboratory notebook signed and dated by an independent witness on at least a weekly basis. The witness should be a fellow researcher who understands the research but preferably not someone who is within the same research group or who would have a claim as a co-inventor.
 8. Store your laboratory notebook in a safe location, preferably off-site.

Internet lines and equipment

Remember to include the leasing costs of broadband lines and access equipment in your SR&ED claim. The amount that can be claimed will depend upon whether it is used All or Substantially All (ASA; > 90%) for SRED, Shared Use Equipment (SUE 50% < x < 90%) or neither.

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Ontario SR&ED claims

Companies in Ontario should remember to also claim the Ontario Investment Tax Credit while they are claiming their federal SR&ED credits. Failure to do so will be expensive, as CRA will automatically assume that the company has applied for this the previous year and will include this in the next year's federal SR&ED submission as "Government Assistance", thus reducing the current year claim.

Written by Kevin Goheen, an SR&ED specialist with Collins Barrow Ottawa LLP. Kevin has many years of experience in preparing technical descriptions in support of client's SR&ED submissions, extracting the required work elements from interviews with the client's technical staff, providing full costing support on SR&ED claims and providing documentation templates that assist in the claim and audit process.

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