



## SR&ED News: CRA Increases Limit on Tax Court Informal Procedures

By Elliot Schiller

Scientific Research and Experimental Development (SR&ED) claims, if initially rejected by the CRA's SR&ED technical and financial reviewers have been subjected to a lengthy and often costly objection process. Regrettably, the initial rejection can be based on a nuanced policy interpretation and not tax law, which can be enough to discourage small businesses from pursuing a proper redress of their claim. Taxpayers should expect to receive the tax credits that they are entitled to, and the process thus far has often discouraged them from obtaining them.

The SR&ED process from start to finish goes as follows. As part of the annual T2 Corporation Income Tax Return, there are schedules that address SR&ED. These are reviewed separately by a specialized department within CRA. The reviewers have the option of accepting the claim as filed, or communicating to the taxpayer for either more information to be supplied, or for a scheduled review meeting to review the claim in person. In all cases, the CRA deliverable is a Notice of Assessment which outlines the results of the SR&ED review. In the case where the taxpayer disagrees with this result, the taxpayer now has two choices. The taxpayer can elect to file a Notice of Objection (NOO), which is reviewed by an internal CRA appeals officer, a different person than the original reviewer, but still an internal CRA employee. Such objection can often take years to be heard and involves extensive preparation of supporting documentation by the taxpayer. This is because the NOO does not initiate a hearing, but simply a review of documents submitted. The other option is Tax Court. In this case, there are two procedures available to the taxpayer: general and informal.

### General Procedure

The General Procedure for settling a dispute with CRA includes discovery of documents, examination for discovery, pre-hearing conferences, hearings, etc. We've all seen TV legal dramas and know the drill. When the dispute involves hundreds of thousands of dollars, this is the only avenue that the taxpayer can logically pursue, despite the substantial costs of litigation, the time to obtain a judgement, and the risk of a losing judgement.

As a result of the changes to the Income Tax Act and Tax Court Canada Act introduced through the 2013 federal budget process, claims that are within the range of a CRA tax credit of \$25,000 and the accompanying provincial credit in the same range, \$25,000, can now use the informal review procedure to settle the claim.

### Informal Review Procedure

The Informal Review Procedure claim settlement process is a very attractive route for many small businesses. The informal procedure is a simplified and streamlined procedure that moves cases quickly to a hearing (akin to a small claims matter in the civil procedure). The onus of proof in this case is with the taxpayer. The taxpayer needs to show that he indeed did meet the requirements of a SR&ED claim (Needless to say, in the case of a Teeger Schiller Inc. client, we would not have submitted the claim if it didn't meet the requirements). However, just like in small claims matters, there is a single hearing, it is informal, just as its name implies, still, it is important that the taxpayer have all of his evidence available at the hearing.

The good news for the taxpayer is that current court practices tend to focus judgements on the process and not the nuances that so often resulted in the initial rejection by CRA. Further, the process does not require the taxpayer to incur any legal fees, it is resolved in an acceptable timeframe, and with the increase of the tax credit limits, the tax credit awarded is often equivalent to the original claim amount.

With these new limits available, small businesses can now feel confident that they will obtain the tax credits that they are entitled to.

### About the author

Elliot Schiller, Ph.D., C.M.C. is a director at Teeger Schiller Inc., a company that specializes in obtaining government funding, and providing computer systems consulting services to our clients. His clients receive over \$5 million annually to support their ongoing business innovation. Email [eschiller@teegerschiller.com](mailto:eschiller@teegerschiller.com), visit [www.TeegerSchiller.com](http://www.TeegerSchiller.com), or phone 1-888-816-0222 ext. 102.

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## David Teeger

### Director

David Teeger C.A., C.A. (S.A.) graduated as a Chartered Accountant in South Africa, and upon arrival in Canada he obtained his Canadian C.A. designation and joined Richter & Associates, a management consulting firm, where he concentrated his practice on various business sectors including household goods, fashion, automotive parts, public associations, and retail chains. He performed many roles in his 15 years at Richter, including managing the professional services organization in North America and all business operations throughout Europe.

David's professional capabilities include computer audits, feasibility studies, system analyses and assistance in the selection, negotiation and implementation of computerized solutions.

As a founding partner of Teeger Schiller Inc., he has focused his practice on consulting to management. His team of professionals has helped businesses select and successfully install a variety of ERP business solutions and add-on systems including business intelligence solutions to give new life to existing computer systems. David's clients not only rely on him to successfully manage the implementation of their new systems, but to manage the change that occurs in their organizations as a result of the use of these new tools.



## Elliot Schiller

### Director

Elliot Schiller, Ph.D., C.M.C. began his career as a Chemical Engineer working for Grumman Aircraft, in Long Island, New York. He obtained his Ph.D. at the University of Pittsburgh with funding from the U.S. Atomic Energy Commission, and, after being awarded a Presidential Fellowship, he went on to perform research and development activities at Brookhaven National Laboratory.

Since coming to Canada, he has primarily assisted consumer products and retail organizations in a variety of strategic management initiatives, traveling around the globe on behalf of his clients. In 1987, Elliot joined Richter & Associates, and it is here that he first met David Teeger.

As a founding partner of Teeger Schiller Inc., he has focused the SR&ED / Grant Division on obtaining grants and tax incentives for over 100 companies in the small to medium sized business sector. His team has provided services to the discrete / processing manufacturing, material development, textiles, apparel, automotive and computer sciences sectors. Annually, Teeger Schiller Inc. secures more than \$5 million in government funding to assist its clients in having their business initiatives supported by government funding.



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