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The CRA's new positions on Form T-661 Part 9 – Claim preparer information

February 3, 2014 (14-1)

As outlined in our [December 30, 2013 newsletter](#), scientific research and experimental development (SR&ED) claimants must now provide claim preparer information as contemplated in the 2013 federal budget. The provisions apply whenever a claimant has engaged a third party, other than an employee of the claimant, to assist in the preparation of an SR&ED claim.

The Canada Revenue Agency (CRA) has developed administrative policies regarding this new requirement which are relieving in nature and welcome. They respond to a number of practical concerns that had been raised by the tax community.

Background

The March 21, 2013 federal budget proposed changes to the SR&ED tax incentive program, including the introduction of penalties for failure to provide claim preparer information. These provisions led to the revisions to the T661 form to include additional prescribed information in respect of SR&ED claim preparers in new Part 9 – Claim preparer information. As of January 1, 2014, the new version of Form T661(13) is mandatory for all filings under the SR&ED program. The new Form must be used for all taxation years including amended returns.

A penalty of \$1,000 may be assessed in respect of each SR&ED claim for which prescribed information about the claim preparer is missing, incomplete or inaccurate, unless the claim preparer can demonstrate that a reasonable degree of care, diligence and skill was exercised to provide the information as required. If a claim preparer has prepared or assisted in the preparation of the claim, the claim preparer will be jointly and severally, or solidarily, liable with the claimant for the penalty. The penalty applies in respect of all claims filed on or after January 1, 2014.

The extent of the required information on fee arrangements for SR&ED claim preparation was a surprise to many, and there were concerns that commercial confidential information may be shared with competitors. The tax community initiated consultations with the CRA and the Department of Finance and the government responded to these concerns.

Key Changes

On January 6, 2014, the CRA advised that it would publish new guidance on the submission of claim preparer information in Part 9 of the T661. In response to concerns regarding confidentiality of commercially sensitive information, the CRA has agreed to accept Part 9 - claim preparer information, as a separate submission for

each claim preparer who prepared or was involved in the preparation of the SR&ED claim. Form T661(13) may be submitted to the CRA with Part 9 left blank as long as, at the same time, completed Part 9 forms are filed under separate cover in accordance with the CRA [new guidance](#) published on January 30, 2014.

Taxpayers should consider the following guidelines:

- File Form T661(13) fully completed (except for Part 9) with the CRA by the reporting deadline. See the CRA's [SR&ED filing requirements policy](#).
- Complete a paper copy of Part 9 for each claim preparer involved in the preparation of the SR&ED claim, and certify that the claim preparer information is complete and accurate.
- Send each completed paper copy of Part 9 along with a cover letter directly to the [Taxation Centre](#). The cover letter should include the claimant's name and business number and the tax year (start and end dates) of the claim. Each Part 9 and cover letter must be submitted to the CRA when Form T661(13) is filed. If the CRA does not receive the Part 9 and cover letter for each claim preparer involved in preparing the SR&ED claim, the \$1,000 penalty may be applied.

It should be noted that the signing officer listed in Part 9 need not necessarily be the same signing officer that certifies the entire claim in Part 10.

The CRA has confirmed that a claim will not be disallowed on filing if the Part 9 prescribed information is missing, incomplete or inaccurate. The \$1,000 penalty may be assessed in such a situation. Prudent taxpayers that are filing their SR&ED claims close to the filing deadline should provide all prescribed information, including completed Part 9, in order to meet the requirement of a complete claim.

Can we assist?

We are available to assist you on how to apply the provisions of the SR&ED program in your business and industry, to interpret the CRA's published policy in your specific situation, and to adapt to the new Form T661. If you would like to discuss these or any other matters related to SR&ED, please contact your local Deloitte SR&ED consultant or any of the Deloitte practitioners listed in this newsletter.

Albert De Luca, National Leader

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