



Bulletin

NUMBER 67 | JANUARY 24, 2017

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CRA Appoints New Director General of SR&ED

- Large filer "Process Review" protocol ended
- National sector specialists to handle "large" files

Tara Cosgrove has been appointed Director General in charge of Canada's Scientific Research and Experimental Development tax credit program. Ms. Cosgrove – who is not a CPA – was formerly director of program services for the Canadian Border Services Agency (c. 2009) and CRA corporate secretary (c. 2014). A cursory review of publicly available information suggests corporate communications were significant components of her duties in these positions.

Ms. Cosgrove replaces Lucie Bergevin (c. 2012-2016) who left the SR&ED Director General post in mid-2016. Prior to heading the SR&ED program, Ms. Bergevin – a CPA – was DG of the International and Large Business Directorate where she was responsible for enforcing Canadian tax compliance of multinational corporations, international transactions and the mitigation of aggressive tax planning.

After Ms. Bergevin's departure from the post in mid-2016, Hélène Marquis served as acting DG of SR&ED until Ms. Cosgrove's appointment. Ms. Marquis had been Director of the Policy Development Division where she lead the policy review project (started 2010) which in December 2012 released 22 new SR&ED policy guidance documents. Many observers view these new policy documents as setting out a definition of SR&ED eligibility that is overly narrow as compared to what is intended by the legislation^{1, 2}. As of this writing, Ms. Marquis is thought to have left the CRA for a senior position with Fisheries and Oceans Canada.

Ms. Cosgrove faces some real challenges: As of December 2016 there were over 150 SR&ED cases working their way through the Tax Court of Canada, the top ten of which account for some \$400M in disputed R&D expenditures³. Industry groups have expressed widespread dissatisfaction with the program's administration and even called for the assessment of scientific eligibility to be moved outside the CRA⁴.

The last non-CRA "outsider" to be appointed as DG of the SR&ED program was Norine Heselton (c. 1999-2003) who was recruited to the post from a career in the telecom sector which included senior positions with MT&T, BC TEL, Stentor, and ITAC. Looking back, Ms. Heselton (also a strategy / communications specialist rather than a CPA) seems to have been one of the more effective DG's particularly for her work in resolving industry dissatisfaction with CRA's administration of the SR&ED program that exploded on the agency at a 1998 stakeholder conference held in Vancouver. See the "Learn More" section below for her reflections on the challenges she faced in the aftermath of that event⁵.

Also notable: Earlier this month CRA announced that it would resume operating a team of sector specialists tasked with handling large claims at a national level. Although the agency has given no definition of what constitutes a "large" claim, the inclusion of this proviso suggests a change from past incarnations of the sector specialist program which ended eight to ten years ago. At that time national sector specialists were responsible for "policing" consistency of scientific assessments across the country and had authority to directly intervene in disagreements between CRA and claimants. It may well be that these new sector specialists will function as replacements for CRA's recently defunct "Process Review" protocol. Process Review was an alternate methodology that assessed measured SR&ED rule compliance by focusing on the claimant's process for identifying their SR&ED work (that is, their policies, procedures, organization and systems), rather than on individual projects.

Learn More

¹ CPA Canada and Canada Revenue Agency A New Model for Collaboration, CPA Canada Dec 2014 see reference to "Problematic Administrative Polices" under SR&ED Committee on page 12
http://www.scitax.com/pdf/CPA_Canada_and_CRA_Dec-2014.pdf

\$4.2 Billion Dollars of Innovation Incentives 'Clawed Back' Through Administrative Fiat CATA Nov 2016

² "CATA's research document points to the CRA's new, restrictive interpretive and administrative policies even though the Agency continues to maintain that there has been no change in policy."

³ "On the other hand, the courts indicate that there is significant divergence between some of the CRA's policies and approaches and what the courts see as appropriate for an incentive program."
<http://catalogca.ca/2016/4-2-billion-dollars-clawed>

⁴ SR&ED Needs Help: CATA's Call for the overhaul of the system of tax incentives for Innovation and an Independent Authority to manage the delivery of tax incentives:

<http://catalogca.ca/2016/sred-call-to-action>

⁵ Norine Heselton's 2002 comments on the challenges of handling fallout from the 1998 Vancouver conference:

http://www.scitax.com/pdf/Norine_Heselton_SRED_Conference_1998.pdf

Former Canadian Revenue Minister Hon. Herb Dhaliwal's account of the joint government / industry conference "Building Partnerships" held June 1998 in Vancouver. The conference concluded with the Minister of National Revenue publicly committed to fixing the SR&ED ITC program[31].

http://www.scitax.com/pdf/Hon_Herb_Dhaliwal_SRED_Conference_1998.pdf

Introduction to the Canada Revenue Agency at Nov 2015 (transition briefing)

http://www.scitax.com/pdf/Introduction_to_the_Canada_Revenue_Agency-Nov_2015.pdf

- see page 7 for org chart of executive management; SR&ED falls under the purview of Richard Montroy
- see page 10 for a detailed listing of program branches which shows SR&ED under the Compliance Program Branch (CPB) along with Criminal Investigations, Offshore Compliance, etc.
- see page 35 for the operating budget for SR&ED administration
- Tara Cosgrove appears as Corporate Secretary on page 13

About Scitax

Scitax Advisory Partners LP is a Canadian professional services firm with specialist expertise in all aspects of planning, preparing and defending Scientific Research and Experimental Development (SR&ED) tax credit claims.

We offer a multi-discipline team of engineers, chartered accountants and tax lawyers to ensure that your SR&ED issues are covered from every angle.

While we normally work in concert with our client's existing accountants, our affiliated tax-dedicated chartered accounting firm – Cadesky Tax – is an expert resource for advice on any taxation matter such as may arise either during the planning and preparation of your claim or while dealing with CRA afterwards.

In addition to planning and preparing new claims, we also engage on claims that have been challenged by CRA auditors or that have received negative assessments for either scientific or expenditure eligibility. If a satisfactory settlement cannot be achieved with CRA at the local office level, we will appeal your assessment through either Notice of Objection or Tax Court of Canada procedures with the assistance of our affiliated firm of tax lawyers.



Celebrating ten years



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