

Federal Tax Credit Programs for the Film and Television Production Industry

Canadian Audio-Visual Certification Office (CAVCO)

March 2017 - *morning*

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Overview

- In 2015-16, the film and television production industry in Canada supported 140,600 jobs and generated an estimated \$8.5 billion in GDP for the Canadian economy.¹
- The Department of Canadian Heritage, through the Canadian Audio-Visual Certification Office (CAVCO), and the Canada Revenue Agency (CRA) co-administer two tax credit programs for the film and television industry:
 - The Canadian Film or Video Production Tax Credit (CPTC)
 - offers a fiscal advantage (based on labour costs) to Canadian-owned production companies producing Canadian content film and television productions
 - Projected value of CPTC for 2017 is \$300 million
 - The Film or Video Production Services Tax Credit (PSTC)
 - offers a fiscal advantage (based on labour costs) for the production of foreign- or Canadian-owned film and television productions in Canada
 - Projected value of PSTC for 2017 is \$150 million
- In 2016-17, CAVCO received close to 3000 Tax Credit Certification applications and issued over 2500 certificates.

¹ Source: *Profile 2016: Economic Report on the Screen-based Media Production Industry in Canada*, p.4

Canadian Film or Video Production Tax Credit (CPTC)

- **Objective**
 - Introduced in 1995 to support the creation of Canadian film and television productions and the development of an active domestic production sector
- **Key criteria for eligibility**
 - Canadian-owned and controlled production companies producing Canadian content productions, including treaty coproductions
 - Producer-related personnel and a minimum number of key creative personnel must be Canadian citizens or permanent residents
 - Agreement with either a Canadian broadcaster or a Canadian distributor to show the production in Canada within 2 years
 - Productions cannot be ineligible genres (e.g. news, current events programming, sports events, awards shows, pornography, advertising)
 - Minimum Canadian production and post-production expenditure requirements
 - Copyright ownership of production by Canadian production company

Canadian Film or Video Production Tax Credit (CPTC) (cont.)

- **Tax credit rate**
 - Equal to 25% of the qualified labour expenditures (QLE). The QLE refers to the eligible labour expenditure, capped at 60% of the cost of production net of assistance.
 - Maximum credit is 15% of the cost of production (25% of 60%)
- **Administration**
 - **CAVCO** – Reviews applications to determine whether a production meets the Canadian content requirements set out in section 1106 of the *Income Tax Regulations*, estimates eligible labour expenses, and recommends to the Minister of Canadian Heritage whether or not the production should be certified. Under section 125.4 of the *Income Tax Act*, the Minister of Canadian Heritage is responsible for issuing a Canadian film or video production certificate (Part A certificate) to a production meeting the requirements of the Regulations. A certificate of completion (Part B certificate) must also be issued once the production is complete.
 - **CRA** - Interprets and applies relevant sections of the *Income Tax Act*, reviews and audits tax claims and issues refund cheques. To obtain the tax credit, the production company files the CAVCO Part A certificate with the CRA when filing its annual corporate income tax return(s) for years in which it incurred expenses for a production.

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Film or Video Production Services Tax Credit (PSTC)

- **Objective**
 - Introduced in 1997 to encourage the use of Canadian labour on productions shot in Canada
 - Promotes Canada as a location of choice for foreign and Canadian-owned film and television productions and ensures the existence of a production infrastructure of international calibre in Canada
- **Eligibility**
 - Taxable Canadian or foreign-owned companies established in Canada
 - No Canadian content requirements, but productions must meet minimum cost requirements and not be ineligible genres (e.g. news, current events programming, talk shows, sports events, awards shows, pornography, advertising)
- **Tax credit rate**
 - Available at a rate of 16% of the "qualified Canadian labour expenditure" incurred by an eligible production corporation for services provided in Canada by Canadian residents, net of assistance.
- **Administration**
 - **CAVCO** – Makes a recommendation to the Minister of Canadian Heritage after reviewing whether a production meets the requirements of section 9300 of the *Income Tax Regulations*. Under section 125.5 of the Act, the Minister is responsible for issuing an accredited film or video certificate for eligible productions.
 - **CRA** – Interprets and applies relevant sections of the *Income Tax Act*, reviews and audits tax claims and issues tax refund cheques

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Administration of treaty coproductions

- An audiovisual coproduction is a film or television production created by pooling creative, technical and financial resources of Canadian and foreign coproducers
- Canada has ratified agreements with 54 foreign countries
- Coproductions produced according to the terms of an international coproduction treaty are granted national status in each partnering country and are eligible for the CPTC
- 60 treaty coproductions produced in 2014/15 were certified under the CPTC program. The total Canadian production budgets for these productions was \$216 million
- Telefilm Canada provides CAVCO with a preliminary and final recommendation on whether or not a production is produced according to the requirements of the applicable treaty
- CAVCO is responsible for assessing whether or not a production meets all the requirements of the *Income Tax Act* and Regulations, including whether or not it is a coproduction pursuant to a treaty, and for providing a recommendation on whether or not to issue a "Canadian film or video production certificate" for the production, taking into account the written recommendation from Telefilm
- CAVCO is also responsible for reviewing "coproduction attestation" requests in respect of productions produced according to a treaty that are not eligible to the CPTC, or for which no CPTC application has been submitted

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Application Fees (CPTC)

- A fee is required for each application to CAVCO, based on the Eligible Production Cost amount for the production. The fee is calculated as follows:
 - Part A: 0.15% of Eligible Production Cost
 - Part B: 0.15% of Eligible Production Cost
 - Part A/B: 0.30% of Eligible Production Cost (minimum fee of \$200)
- An additional fee of \$300 is required for amending a previously issued certificate, at the request of the producer.
- Eligible Production Cost: An amount equivalent to 60% of the total production cost net of assistance.

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Application Fees (PSTC)

- An administration fee of C\$5,000 is payable for each application for an Accreditation Certificate for a production or a series of episodes. An application for a series of episodes generally includes only those episodes produced for one broadcast season. If a pilot episode is applied for under a separate application, an application for the remainder of the episodes in that broadcast season is subject to an additional application fee.
- An additional amendment fee of C\$1,000 is required where copyright ownership has changed after an Accreditation Certificate has been issued and an Amended Accreditation Certificate is required.

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Information Relevant to Applying for the Canadian Film or Video Production Tax Credit

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1. DEADLINES AND WAIVERS

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Deadlines

- There are **two Part B application deadline options** in the Regulations.
 - The first deadline is the **24-month deadline** – no valid CRA waivers are required.
 - The second deadline is the **42-month deadline, which is final** – two valid CRA waivers are required.
- The **Part B certification deadline** in the Regulations is the **48-month deadline**, after which CAVCO cannot recommend certification.
- More information on deadlines can be found in CAVCO Public Notice 2013-01, available on CAVCO's website.

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Calculating Application and Certification Deadlines

- Three dates are used to calculate the application and certification deadlines. They are:
 - the Start Date of Principal Photography,
 - the Corporate Taxation Year End date selected by the production company, and
 - the Date of Incorporation of the production company.
- The first date that must be determined is the **First Corporate Taxation Year End date that followed Commencement of Principal Photography**, as all the deadlines are calculated from this date.
- The 24-month, 30-month, 42-month, and 48-month deadlines are just those number of months added to the **First Corporate Taxation Year End date that followed Commencement of Principal Photography**.

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Calculating Application and Certification Deadlines (cont'd)

Example

Commencement Date of Principal Photography	May 21, 2011
Corporate Taxation Year End date	Last day in February each calendar year
Date of Incorporation	October 10, 2004
First Corporate Taxation Year End date that followed Commencement of Principal Photography	February 29, 2012
24-month application deadline	February 28, 2014
30-month certification deadline	August 28, 2014 (or August 31)
42-month application deadline with 2 waivers*	August 28, 2015 (or August 31)
48-month certification deadline	February 29, 2016

* CRA waivers required for taxation years ending on Feb 29, 2012 and Feb 28, 2013.

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Waivers

- The Waiver is officially known as Canada Revenue Agency (CRA) form T2029 "Waiver in Respect of the Normal Reassessment Period".
- Once the CRA has assessed a corporation's income tax return for a particular taxation year, the CRA issues its Notice of Assessment to the corporation.
- For a private corporation, the normal reassessment period is three years from the date of the Notice of Assessment (for a publicly-traded corporation, it is four years from the date of the Notice of Assessment).
- For a production to use the final application deadline of 42-months from the first corporate taxation year end that followed commencement of principal photography, the production company must file a valid waiver for the first and second taxation years that followed commencement of principal photography.

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Waivers (cont'd)

- Two valid waivers must be filed with the CRA by the production company for any production where the Part B application was filed after the 24-month application deadline but by the 42-month application deadline.
- The production company should mail the two waivers to the CRA's Film & Media Tax Credits section in Ottawa - the specific address is provided in CAVCO Public Notice 2013-01.
- Valid waivers are required for all production companies in a domestic co-production.
- **The only exception to this requirement** for these later Part B applications is if a relevant taxation year has not yet been assessed by the CRA. It is not possible to extend the reassessment period before that year has been assessed.
- **IMPORTANT NOTE:** If a producer does not submit a Part B application prior to the 24-month deadline and fails to file the required CRA waivers, CAVCO must revoke the Part A certificate.

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**PROTECTED A
when completed**

**Waiver in respect of the normal reassessment period or
extended reassessment period**

DO NOT USE THIS AREA

For use by a taxpayer to waive the normal reassessment period in respect of a taxation year, as defined in subsection 152(3.1), or the additional three year period referred to in paragraph 152(4)(c), within which the Minister may assess, reassess or make additional assessments under subsection 152(4) of the Income Tax Act.

For a Waiver in respect of the normal reassessment period provided under subparagraph 152(4)(a)(i):

- One completed copy of this Waiver is to be filed with the Tax Services Office within:
 - (1) four years, where at the end of the year the taxpayer is a mutual fund trust or a corporation other than a Canadian-controlled private corporation; or
 - (2) three years in any other case,
 after the earlier of the day of mailing of a notice of an original assessment or a notification that no tax is payable for a taxation year.

A Waiver in respect of the normal reassessment period may be revoked only by filing a Notice of Revocation of Waiver (Form T052), and such revocation is effective on the day that is six months after the date on which the Notice is filed.

For a Waiver in respect of the extended reassessment period provided under paragraph 152(4)(b):

- One completed copy of this Waiver is to be filed with the Tax Services Office within three years after the expiry of the normal reassessment period.
- The Department of Finance released draft legislation for consultation on July 10, 2010 to amend subsection 152(4.1) of the Income Tax Act to allow a taxpayer to revoke a waiver made under paragraph 152(4)(b). This amendment would come into force on Royal Assent.

Instructions applicable to both Waivers:

- In order for a Waiver to be valid, the matter(s) being waived must be specified in the space provided and the Waiver must not specify a time limit in respect of its period of application.
- This Waiver must be signed by the taxpayer or legal representative, or, if a corporation, by an authorized officer.

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Instructions applicable to both Waivers:

- In order for a Waiver to be valid, the matter(s) being waived must be specified in the space provided and the Waiver must not specify a time limit in respect of its period of application.
- This Waiver must be signed by the taxpayer or legal representative, or, if a corporation, by an authorized officer.

<small>Name of taxpayer (entity) if there has been a name change or amalgamation, also include the previous name in brackets.</small>		<small>Name of production company as it appears on the related corporate tax return</small>	
ABC Canada Productions Inc.			
<small>Address</small>		<small>Note: Separate waiver form required for each taxation year</small>	
173 Main Street			
<small>Montreal, Quebec A1B 2C3</small>		<small>9 digit business number issued by the CRA</small>	
<small>Postal Insurance Number or Business Number</small>		<small>Year Month Day</small>	
1 2 3 4 5 6 7 8 9		2 0 1 1 3 1 2 1 1	

W A I V E R

Check the applicable box and complete as directed:

The normal reassessment period referred to in subparagraph 152(4)(a)(i) of the Income Tax Act, within which the Minister may assess or make additional assessments or assess tax, interest or penalties under the Act is hereby waived for the taxation year indicated above, in respect of:

the Canadian Film or Video Production Tax Credit (section 125.4 of the Income Tax Act) for the following production(s):
 Title: Canadian TV Show
 Case File Number: 30000

The additional three year period referred to in paragraph 152(4)(c) of the Income Tax Act, within which the Minister may assess or make additional assessments or assess tax, interest or penalties under the Act is hereby waived for the taxation year indicated above, in respect of. (Specify the provision found in one of subparagraphs 152(4)(x) to (v) where the assessment, reassessment or additional assessment could otherwise have been issued.)

Signature of taxpayer, legal representative or authorized officer Print name clearly before signing, original signature required Date 2014 07 01

Position or Office Print position or title clearly

President

T052 (14)

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2. CORPORATIONS

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Corporate Eligibility

- To qualify for the CPTC, the applicant production company, and if applicable, the Canadian distribution company through which it will distribute the production in Canada, must be owned and controlled by Canadians.
- Information regarding the shareholders of these companies is required to confirm that a corporation applying under the CPTC program is Canadian-controlled, as determined by sections 26 to 28 of the *Investment Canada Act*.
- More than 50% of voting shares must be owned and controlled by "Canadians".
- Any corporate or other business shareholder that owns a majority of voting shares in the production company must also be confirmed as being Canadian-controlled. As well, where there are several minority shareholders which are corporations or other business entities, it must be established that a majority of shares are owned by Canadian-controlled entities.
- CAVCO may request additional agreements relating to the decision-making authority of shareholders in a production company.

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Corporate Eligibility (cont.)

- A corporation must be both *de jure* (legal control) and *de facto* (actual control) Canadian-controlled with respect to voting shares, pursuant to CAVCO's review of the shareholder information.
- *De jure* control of a company exists when a person, or group by virtue of shareholdings, has the power to elect the majority of the board of directors. This is demonstrated in legal contracts.
- *De facto* control focuses on influence, rather than legal power. This type of control exists when another corporation, person or group of persons has any direct or indirect influence that, if exercised, would result in control in fact of the corporation.
- A corporation that is controlled directly or indirectly in any manner whatsoever by one or more persons, all or part of whose taxable income is exempt from tax under Part I of the *Income Tax Act*, or a prescribed labour-sponsored venture capital corporation referred to in s. 6701 of the Regulations, is not considered to be a "prescribed taxable Canadian corporation", as defined by regulation. A production produced by such a corporation is ineligible for the Canadian film or video production tax credit.

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Corporate Eligibility (cont.)

According to the *Investment Canada Act*, Canadian means:

- a Canadian citizen;
- a permanent resident within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act*, who has been ordinarily resident in Canada for not more than one year after the time at which he or she first became eligible to apply for Canadian citizenship;
- a Canadian government, whether federal, provincial or local, or an agency thereof; or,
- an entity that is Canadian-controlled.

To be considered "ordinarily resident" in Canada, an individual must demonstrate that they have taken residence in Canada in their usual day-to-day routine. If a permanent resident is eligible for citizenship, they have a maximum of one year to apply to obtain Canadian citizenship; if they don't, they are not considered to be "Canadian" according to the *Investment Canada Act*.

Please note that the above statements apply only to the determination of whether a corporation is Canadian. Permanent residents are always considered Canadian for the allotment of key creative points.

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3. UNDERLYING RIGHTS AND COPYRIGHT

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Copyright

The Canadian production company must retain copyright in the production for all commercial exploitation purposes for the 25-year period beginning at the time the production becomes commercially exploitable.

This does not apply to treaty-co productions.

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Chain of title

- The development process in film and television production begins with securing the underlying rights to a project. Whether the project is based on a novel, a friend's story or an original idea, to turn that original material into a film or television project requires the owner to give the rights to use the material in that way.
- "Chain of title" within the context of the film and television industry refers to a series of documents or agreements that establish proprietary (ownership) rights in a production and all its parts. It is a collection of all of the documents that relate to the creation of and transfer of title to any property used in the making of the production.
- This chain of documentation demonstrates how the production company has full rights to develop, produce and distribute a work.
- Chain of title documents may include:
 - Option and purchase agreement
 - Writer's agreement
 - Assignment and transfer agreement
 - Quitclaim agreement
 - Director or producer agreement
 - Domestic coproduction agreement
- Chain of copyright is used by CAVCO to evaluate that there is clean legal title in a work – no evidence of competing claims, underlying rights not being transferred properly, etc.

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4. PRODUCTION COSTS

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Overview

Applicants provide cost information in a number of ways:

- Costs Section (application)
- Locked budget (Part A)
- Final Cost Report (Part B)
- Breakdown of Costs – Live Action (01F21) or Animation (01F22) (Part B)
- Audited Schedule of Production Costs or Review Engagement Report (Part B)

Labour Expenditures:

- must be reasonable in the circumstances;
- must be included in the cost or, in the case of depreciable property, the capital cost to the corporation, of the property;
- must be incurred from the production commencement time to the end of post-production stage; and
- must be directly attributable to the production of the property.

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Audits

- An audited Schedule of Production Costs is required at the Part B stage for all productions with a final cost of \$500,000 or more.
- A Review Engagement is required for productions with a final cost of \$200,000 to \$499,999.
- For productions with a final cost of less than \$200,000, the producer will confirm the final production cost amount as part of the Attestation made for an application.
- Audit requirements
 - The auditor must be a Licensed Public Accountant in Canada and must be an independent third party not related to the producer.
 - The auditor's report must be addressed to the party which has engaged the auditor - that is, to the directors of the production company or the specific producer(s) of the production. The auditor's name, address and telephone number must be listed and the auditor's report must be dated as at the completion of the audit fieldwork.
 - The audit must be performed in accordance with generally accepted auditing standards and the auditor must have sufficient knowledge of accounting principles and practices generally recognized in the film and television industry.
 - The audit or a review engagement report must be signed by the accounting firm.
 - Report must be in Canadian dollars and should generally conform to the line items in the standard Telefilm budget template.

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Canadian Costs

- Canadian costs are reported in a Breakdown of Cost form.
- At least 75% of the total of all costs for services provided toward producing the production (other than excluded costs) must be payable for services provided to or by Individuals who are Canadians, and at least 75% of the total of all costs incurred for the post-production must be incurred for services provided in Canada.
- Form is divided into four main categories:
 - **Producer / Key creative personnel costs (1)**
 - **Services costs (2)**
 - **Laboratory / Post-Production costs (3)**
 - **Other (4) expenses**
- Only in the Services and Laboratory categories is the breakdown required based on costs being Canadian or non-Canadian.

Breakdown of Canadian Costs - Live Action

IMPORTANT
 • Not required for treaty co-production.
 • Type all answers.
 • All items in *italics* are video budget accounts.

Account	Canadian	Non-Canadian	Excluded	Other	Total
1 Key Creative Personnel					
2 Services					
<i>a) Remuneration</i>	\$0				\$0
<i>b) Travel and Living Expenses</i>	\$0				\$0
<i>c) Other Costs</i>	\$0				\$0
3 Development Costs					
4 Producer					
4.1 Canadian Producer					
<i>a) Remuneration</i>	\$0				\$0
<i>b) Travel and Living Expenses</i>	\$0				\$0
4.2 Canadian Co-Producer					
<i>a) Remuneration</i>	\$0				\$0
<i>b) Travel and Living Expenses</i>	\$0				\$0
4.3 Line Producer					
<i>a) Remuneration</i>	\$0				\$0
<i>b) Travel and Living Expenses</i>	\$0				\$0
4.4 Executive Producer					
<i>a) Remuneration</i>	\$0	\$0			\$0
<i>b) Travel and Living Expenses</i>	\$0	\$0			\$0
4.5 Associate Producer					
<i>a) Remuneration</i>	\$0	\$0			\$0
<i>b) Travel and Living Expenses</i>	\$0	\$0			\$0
4.6 Other Personnel related to the Production					
<i>a) Remuneration</i>	\$0	\$0			\$0
<i>b) Travel and Living Expenses</i>	\$0	\$0			\$0
<i>c) Other Costs</i>	\$0	\$0			\$0
5 Director					
<i>a) Remuneration</i>	\$0				\$0
<i>b) Travel and Living Expenses</i>	\$0				\$0
<i>c) Other Costs</i>	\$0	\$0			\$0

Category	Sub-Category	2015	2016	2017	2018	2019	2020
6	Remuneration	50	50	50			50
	Travel and Living Expenses	50	50	50			50
	Other Costs	50	50	50			50
	Sub-Total	150	150	150	50	50	150
7	Production						
	Cost		50	50			50
	Production Staff		50	50			50
	Design Labour	50	50	50			50
	Construction Labour		50	50			50
	Set Dressing Labour		50	50			50
	Property Labour		50	50			50
	Special Effects Labour		50	50			50
	Storyboarding Labour		50	50			50
	Storyboard Labour		50	50			50
	Makeup/Labour		50	50			50
	Video Technical Crew	50	50	50			50
	Camera Labour	50	50	50			50
	Production Labour		50	50			50
	City Labour		50	50			50
	Production Sound Labour		50	50			50
	Transportation Labour		50	50			50
	Flight Benefits	50	50	50			50
	Production Office Expenses		50	50			50
	Production Office Expenses		50	50			50
	Location Office Expenses		50	50			50
	Set Expenses		50	50			50
	Set Expenses		50	50			50
	Travel and Living Expenses	50	50	50			50
	Transportation		50	50			50
	Construction Materials		50	50			50
	Set Supplies		50	50			50
	Set Dressing		50	50			50
	Pumps		50	50			50
	Special Effects		50	50			50
	Artists		50	50			50
	Workshop Supplies		50	50			50
	Makeup/Labour		50	50			50
	Video Camera Facilities		50	50			50
	Video Camera Technical Facilities		50	50			50
	Camera Equipment		50	50			50
	Special Equipment		50	50			50
	Key Equipment		50	50			50
	Sound Equipment		50	50			50
	Sound Unit		50	50			50
Makeup Stand		50	50			50	
Production Laboratory		50	50			50	
Sub-Total (Production)		60	60	60	50	50	150

Category	Sub-Category	2015	2016	2017	2018	2019	2020
8	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
9	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
10	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
11	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
12	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
13	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
14	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
15	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
16	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
17	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
18	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
19	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
20	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
21	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
22	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
23	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
24	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
25	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
26	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
27	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
28	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
29	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
30	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
31	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
32	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
33	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
34	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
35	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
36	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
37	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
38	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
39	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
40	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
41	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
42	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
43	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
44	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs	50			50		50
	Sub-Total	150			150		150
45	Remuneration	50			50		50
	Travel and Living Expenses	50			50		50
	Other Costs						

5. FINANCING

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Overview

- Various sources of financing are used to fund a production.
- Different types of financing affect the amount of the CPTC payable in respect of a production.
- The most important thing for the purpose of calculating the CPTC tax credit estimate is to determine whether a source of funding is assistance or not.
- Generally, assistance includes any amount received from public or private Canadian sources or from foreign sources, such as grants, subsidies, provincial tax credits, forgivable loans, deductions from tax, allowances, or any other form of inducement or assistance.
- The production company is required to report any assistance that is known or anticipated at the time of submitting an application.
- The production company must provide copies of all documents/contracts related to financing sources listed in an application.

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Sources of Financing

Generally not assistance:

- Broadcast Licence Fees – domestic or foreign broadcaster
- Distribution agreement – advances or minimum guarantees (domestic and foreign)
- Bona-fide Loan
- Canada Media Fund – License Fee Program
- Gap Financing agreement
- Operating Capital
- Private Equity (e.g. Harold Greenberg Fund)
- Share Purchase
- Sponsorship

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Sources of Financing (cont'd)

Assistance:

- Government Equity
- Forgivable Loans
- Provincial Tax Credits
- Services
- Grants
- Canada Media Fund – Equity Investment Program
- Labour Deferrals
- Other Deferrals

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Calculation of Tax Credits

Sample Financing Scenario and CPTC Calculation

Total Production Budget: \$335,000

Total Labour Expenditure: \$167,500

Financing:	
IPF – Equity	\$150,000
Provincial Tax Credit	\$100,000*
Broadcaster Licence	\$ 50,000
Distribution Advance	\$ 5,000
Producer/Crew Deferrals	\$ 10,000*
Operating Capital	\$ 10,000
Services/Facilities In-Kind	\$ 5,000*
Sponsor	\$ 5,000

* these amounts are considered assistance

Maximum tax credit calculation (cap):

Total production cost	\$ 335,000
Less assistance	- \$ 115,000
Net production cost	\$ 220,000
Maximum %	x 60%
Eligible production cost	\$ 132,000
Tax credit rate	x 25%
Maximum tax credit	\$ 33,000

Labour-based calculation:

Actual labour expenditures	\$ 167,500
Tax credit rate	x 25%
Tax credit based on labour	\$ 41,875

Tax credit equals the lesser of the two calculations: \$ 33,000

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Calculation of Tax Credits

PSTC Calculation

Total Cost of Production Spent In Canada: \$10,000,000	
Eligible Canadian labour:	\$ 4,500,000
Less assistance (e.g. provincial tax credit):	- \$ 1,000,000
Qualified Canadian labour expenditure	\$ 3,500,000
Tax credit rate	x16%
Tax credit	\$ 560,000

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6. EXPLOITATION

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Overview

- At least one of the Canadian distribution or broadcast agreements must contain a commitment to show the production in Canada within the two-year period following its completion.
- A production is an "excluded production" if it is distributed in Canada by a non-Canadian entity within the two-year period that begins after the production was completed and commercially exploitable.
- CAVCO must be satisfied that the Canadian production company retains an acceptable share of revenues from the exploitation of the production in non-Canadian territories, as well as the Canadian territory.

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The "2-year" clause

- There must be a commitment by a Canadian broadcaster or distributor to broadcast or distribute the production within the two-year period following its completion (i.e. the "2-year clause");
- A production is considered to be "shown in Canada" by being broadcast on television (for example, through conventional, specialty or pay television services, or licensed VOD services), shown in a movie theatre, distributed on DVD, or being made available on an online service meeting the requirements as set out in CAVCO's Public Notice 2017-01.
- In cases where a production is being exclusively shown on an online service, the service must:
 - be an online video service carrying other content pre-screened or pre-qualified by either (a) the online service or (b) the distributor, under an arrangement with the online service.
 - be readily accessible to Canadians in Canada; and
 - have Canada as a part of its target audience (i.e., be a service where Canadians would likely look for linear audio-visual content, as opposed to a service primarily intended for foreign territories).
- In all cases where a production is being shown exclusively online (except when directly contracting with CRTC-licensed broadcasters), the production company will still require an agreement in writing with a Canadian distributor to meet the "shown in Canada" requirement.

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7. PERSONNEL

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Overview of Canadian Content Point System

- A production must meet CAVCO's key creative point requirements to be eligible for CPTC certification, unless it is a treaty co-production.
- Points are given where a key creative position is occupied exclusively by Canadians. A person must be Canadian for the duration of time they are working on a production.
- For individuals to be considered "Canadians", they must be either Canadian citizens or permanent residents of Canada. To demonstrate that a given individual is a Canadian, an applicant must submit a CAVCO Personnel Number (CAVCO ID) as part of their application.
 - Maximum number of points available: 10
 - Production must have minimum of 6 points
 - Point total can be lower than 6 for a documentary, but all filled key creative positions must be occupied by Canadians
 - A certificate number is issued for each of the episodes in a television series, so every episode must meet the minimum points requirement to be eligible for CPTC certification

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Canadian Content Point System

Live Action

Director	2 points
Screenwriter	2 points
Lead Performer	1 point
receiving highest remuneration	
Lead Performer	1 point
receiving second highest remuneration	
Art Director	1 point
Music Composer	1 point
Director of Photography	1 point
Picture Editor	1 point

- Either the Director or Screenwriter must be Canadian
- Either the Lead Performer or Second Lead Performer must be Canadian
- Productions (other than documentaries) must obtain a minimum of 6 points to be eligible (n/a for treaty co-productions)
- Documentaries may obtain less than 6 points as long as all key creative positions are occupied by Canadians

Animation

Director	1 point
Principal Screenwriter <u>and</u> Storyboard Supervisor	1 point
Lead Voice receiving highest or second highest remuneration	1 point
Design Supervisor	1 point
Music Composer	1 point
Picture Editor	1 point
Camera Operator (if done in Canada)	1 point
Layout and background done in Canada	1 point
Key Animation done in Canada	1 point
Assistant Animation/ in-betweening done in Canada	1 point

- Either the Director or both the Principal screenwriter and Storyboard supervisor must be Canadian
- Either the First or Second Lead Voice Performer must be Canadian
- Key animation must be done in Canada
- In some cases, points are awarded where the individuals occupying positions are Canadian. In some cases, points are awarded where the work is done in Canada
- Must obtain a minimum of 6 points to be eligible (n/a for treaty co-productions)

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Lead Performer Policy Overview

- Determining who gets the lead performer points is a two-step process:
 - Who are the lead performers (considering remuneration, billing and time-on-screen)?
 - Who are the highest and second highest paid lead performers?
- A performer who has only a minor or peripheral role will not be considered a lead performer
- See CAVCO Public Notice 2014-01 for full details of this policy

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8. INELIGIBLE GENRES

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Overview

- If a production falls under one of the ineligible genre categories, it will be considered an "excluded production" and not be eligible for a tax credit.
 - news, current events or public affairs programming, or a programme that includes weather or market reports,
 - a production in respect of a game, questionnaire or contest (other than a production directed primarily at minors),
 - a sports event or activity,
 - a gala presentation or an awards show,
 - a production that solicits funds,
 - reality television,
 - pornography,
 - advertising,
 - a production produced primarily for industrial, corporate or institutional purposes, or
 - a production, other than a documentary, all or substantially all of which consists of stock footage.
- The list of ineligible genres is slightly different for the PSTC.
- For more information, see CAVCO Public Notices 2017-02 and 2017-03.

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9. PRODUCTION CONTROL

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Overview

- CAVCO must ensure the producer has control over the production.
- "Producer" means a producer of a film or video production who:
 - controls and is the central decision maker in respect of the production;
 - is directly responsible for the acquisition of the production story or screenplay and the development, creative and financial control and exploitation of the production; and
 - is identified in the production as being the producer of the production.
- Producer must be a Canadian citizen or a permanent resident of Canada.

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Indicators

The following indicators are used to verify whether the required definition of "producer" is being met:

- **The Canadian producer ("Producer") must have and maintain full control over the development of the project from the time at which the producer has secured the underlying rights.**
- **The Producer must have and maintain full responsibility and control over all creative and financial aspects of the production.**
- **The Producer must maintain full responsibility and control, and have final decision-making authority, over all aspects of production financing.**
- **The Producer must have and maintain full responsibility and control over the negotiation of the initial exploitation agreements.**
- **The Producer is entitled to reasonable and demonstrable monetary participation in terms of budgeted fees, overhead, and exploitation revenues.**

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Formats

- Format programs, based on popular concepts or formats initially produced and exploited in a territory outside of Canada, and intended to be produced in Canada by a Canadian producer under a licence issued by the non-Canadian owner of the underlying rights, are eligible for the CPTC.
- The Canadian producer must clearly demonstrate that he or she controls the initial exploitation of the Canadian version of the production.
 - The format must have been produced and exploited in another territory.
 - Exploitation rights can be restricted to Canada only.
 - The length of the exploitation term granted to the Canadian production company should not be restricted to less than 25 years.
 - The Canadian production company must have control over the exploitation rights of its production in any other territories.
 - The Canadian production company must still retain an acceptable share of revenues from any exploitation in non-Canadian territories.
 - The Canadian production company must own the copyright in the completed version of the format program it is producing.
 - The Canadian production company must establish that it meets CAVCO's producer control requirements.
 - All available chain-of-title documentation must be provided as part of an application for a format program.

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CAVCO – Contact Information

For more information on CAVCO, including:

- CPTC and PSTC guidelines
- how to apply for a CAVCO personnel number
- how to apply using the CAVCO online system
 - checklists for applications
 - CAVCO Public Notices

visit our website (<http://canada.pch.gc.ca/eng/1455560477351>) or call 1-888-433-2200.

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