Producing in Canada

A GUIDE TO CANADIAN FILM,
TELEVISION AND INTERACTIVE
DIGITAL MEDIA INCENTIVE PROGRAMS

Heenan Blaikie

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Heenan Blaikie and the Entertainment Industry

Heenan Blaikie is one of Canada's leading law firms, with over 550 lawyers and professionals in nine cities including Toronto, Montreal and Vancouver. Since its inception in 1973, our firm has expanded steadily by recruiting top-notch talent and by building on our core strengths in entertainment, intellectual property, labour and employment, business law, taxation and litigation. We advise both domestic and international clients on all aspects of conducting business in Canada.

Heenan Blaikie's Entertainment Law Practice has been representing the legal interests of the entertainment industry for nearly 30 years. The members of our group—the largest team of entertainment lawyers in the country—advise clients involved in all entertainment media including film, television, theatre, video games, new media and music.

We are committed to serving the entertainment industry at home and abroad, offering leading-edge expertise to our clients in their day-to-day business operations. We provide advice on business formation, joint ventures, co-productions, mergers and acquisitions, and financing, as well as on labour, insurance, competition, production and distribution matters.

Our clients include major studios, independent producers, distributors, broadcasters, internet service providers, video game developers, financial institutions, software publishers, special effects and post-production houses, as well as multimedia and animation studios. We also represent many well-known directors, writers, producers, performers, musicians and other successful artists. Our ability to consistently deliver exceptional legal advice and practical solutions has been key to our success in forging long-term relationships with our clients.

Our areas of specialty include:

- International and Canadian co-productions
- Film, television and corporate financing
- International and domestic tax
- Telecommunications and broadcasting
- Production contracts
- Copyright and trade-marks
- Merchandising and licensing
- Music recording, publishing, labels, licensing and management
- New media and video games
- Litigation support
- Labour and employment law
- Competition and trade practice
- Immigration.

Introduction

Canada is recognized as a major player in film, television and interactive digital media production. The growth of Canada's multibillion dollar production industry is attributable to our high-standard facilities, competent workforce, physical and cultural proximity to the United States, as well as to very favourable economic factors. These include lower location and production costs than in the U.S. and Europe, a good exchange rate and advantageous government tax incentives and funding policies.

At Heenan Blaikie, we know the advantages associated with producing in Canada, including the various tax incentives provided by both federal and provincial governments. *Producing in Canada*, our guide to Canadian film, television and interactive digital media incentive programs, provides an overview of some of the available incentives and the criteria that must be satisfied to qualify for them. Although each financing program is described separately for ease of reference, any given production may qualify for two or more.

The information provided in this edition of *Producing in Canada* is current as of June 2013. The on-line version of our guide, available at heenanblaikie.com, is updated on a regular basis.

To find out more about Canadian film, television and interactive digital media incentive programs, **please contact one of the lawyers listed at the end of this document**.

Summary of Provincial and Federal Government Tax Credits

A more detailed description of each of the credits set out below can be found by province beginning on page 26.

FEDERAL

Jurisdiction	Tax Credit
25% of QLE / CAP	**Film or Video Production Tax Credit** ▪ 25% of labour expenditures[1] capped at 60% of production budget (approximately 15% of budget)
16% of QLE / NO CAP	**Film or Video Production Services Tax Credit** ▪ 16% of qualifying Canadian labour expenditures

ALBERTA

Jurisdiction	Tax Credit
N/A	None, but see details on Alberta Multimedia Development Program on page 26, which provides funding through direct grants

BRITISH COLUMBIA

Jurisdiction	Tax Credit
35% of QLE / CAP	**Film Incentive B.C.** ▪ Basic: 35% of eligible British Columbia labour expenditures up to a maximum of 60% of total eligible production costs ▪ Regional: 12.5% of eligible British Columbia labour expenditures pro-rated by the number of days of principal photography outside the Vancouver area, divided by the total number of days of principal photography in British Columbia ▪ Distant Location: an additional 6% of eligible British Columbia labour expenditures pro-rated by the number of days of principal photography done in a distant location in British Columbia within a prescribed area, divided by the total number of days of principal photography in British Columbia. ▪ Training: The lesser of 30% of trainee salaries or 3% of eligible British Columbia labour expenditures ▪ Combined benefit of above four tax incentives is the amount of eligible labour capped at 60% of total production costs ▪ Digital Animation or Visual Effects Incentive: 17.5% of eligible British Columbia labour costs directly attributable to digital animation or visual effects activities
33% of QLE / NO CAP	**Production Services Tax Credit** ▪ Basic: 33% of accredited qualified British Columbia labour expenditures ▪ Regional: 6% of accredited qualified British Columbia labour costs, pro-rated by the number of days of principal photography outside the designated Vancouver area, divided by the total number of days of principal photography in British Columbia ▪ Distant Location Regional: 6% of accredited qualified British Columbia labour costs, pro-rated by the number of days of principal photography in British Columbia within a prescribed area divided by the total number of days of principal photography in British Columbia ▪ Digital Animation or Visual Effects Incentive: 17.5% of accredited qualified British Columbia labour costs directly attributable to digital animation or visual effects activity
17.5% of QLE / NO CAP	**Interactive Digital Media Tax Credit** ▪ 17.5% of qualified British Columbia labour expenditure for video game development

Jurisdiction	Tax Credit
MANITOBA	
up to 65% of QLE / NO CAP or 30% "All spend" / NO CAP	**Film and Video Production Tax Credit** ▪ 45% of qualified Manitoba labour expenditures ▪ 10% frequent filming bonus ▪ 5% bonus for location filming outside of Winnipeg ▪ 5% Manitoba Producer bonus ▪ The foregoing bonuses may be combined with the basic credit for a total credit of 65% ▪ 30% of eligible local expenditures, including labour for productions that start principal photography after March 2010
40% of QLE / CAP	**Interactive Digital Media Tax Credit** ▪ 40% of Manitoba labour costs on eligible projects with a maximum tax credit on an eligible project of $500,000 ▪ $100,000 in eligible marketing and distribution attributable to the project
NEW BRUNSWICK	
25% – 30% of QLE / CAP	**New Brunswick Multimedia Initiative** ▪ 25 - 30% of eligible expenditures incurred in New Brunswick depending on project genre and company eligibility
NEWFOUNDLAND AND LABRADOR	
40% of QLE / CAP	**Film and Video Industry Tax Credit** ▪ Lesser of 40% of eligible labour expenditures or 25% of the total eligible production budget
NORTHWEST TERRITORIES	
N/A	**Northwest Territories does not offer a tax credit program**
NOVA SCOTIA	
50% – 65% of QLE / CAP	**Film Industry Tax Credit** ▪ Metro-Halifax: 50% of the eligible labour expenses ▪ Regions: 60% of the eligible labour expenses ▪ An additional 5% is available to those who qualify under the frequent filming bonus
NUNAVUT	
N/A Rebate Program (not a tax credit)	**Nunavut Labour Rebate** ***[Note: not a tax credit]*** ▪ 20 - 30% of the eligible Nunavut costs ▪ Rebate ≠ Tax program
ONTARIO	
35% of QLE / NO CAP	**Film and Television Tax Credit** ▪ Basic: 35% of eligible labour expenditures ▪ First-time producers: 40% on the first $240,000 of eligible labour expenditures ▪ Regional bonus: an additional 10% of eligible labour expenditures for a total of 45% of labour expenditures (minimum of five location days in Ontario, 85% of which must be outside of the Greater Toronto Area)

Jurisdiction		Tax Credit
25%	of QLE / NO CAP	**Production Services Tax Credit** ▪ Basic: 25% of all qualifying production expenditures in Ontario
20%	of QLE / NO CAP	**Computer Animation and Special Effects Tax Credit** ▪ 20% of eligible labour expenditures related to computer animation or visual effects
40%	of QLE / NO CAP	**Interactive Digital Media Tax Credit** ▪ 40% of eligible labour expenditures related to interactive digital media products for qualifying corporations which are not providing a fee-for-service arrangement ▪ 35% of eligible labour expenditures related to interactive digital media products for corporations which are developing products under a fee-for-service arrangement
PRINCE EDWARD ISLAND		
N/A		P.E.I no longer has a tax credit program targeted at the film industry. Please see page 38 for details on how an indigenous component may result in funding
QUEBEC		
35% 10% BONUS 10%	of QLE / CAP of QLE for SFX of QLE / WITHOUT PUBLIC FINANCIAL ASSISTANCE	**Refundable Tax Credit for Quebec Film and Television Productions** ▪ 35% of eligible labour expenditures capped at 50% of production costs (approximately 17.5% of budget) ▪ 45% (i.e. 35 + 10% bonus) of eligible labour expenditures capped at 50% of production costs related to the creation of digital animation or visual effects (approximately 22.5% of budget) ▪ 45% of eligible labour expenditures capped at 50% of production costs for certain French language films or giant screen films (approximately 22.5% of budget) ▪ 65% of eligible labour expenditures capped at 50% of production costs for Quebec regional productions (approximately 32.5% of budget) ▪ 10% of eligible labour expenditures (approximately 32.5% of budget) capped at 50% of production costs per fiction feature film or single documentary that does not receive any financial assistance from a public organization
25% 20% BONUS	"All spend" / NO CAP of QLE for SFX	**Refundable Tax Credit for Film Production Services** ▪ 25% of all-spend production costs (includes qualified labour costs and the cost of qualified properties) ▪ An additional 20% of eligible labour expenditures related to the creation of digital animation and computer-aided special effects provided such labour costs relate to the completion of computer aided special effects and animation
35%	of QLE / CAP	**Dubbing Tax Credit** ▪ 30% of eligible labour expenditures capped at 40.5% of eligible dubbing costs

Jurisdiction	Tax Credit
FRENCH TITLES 37.5% of QLE / NO CAP NO-FRENCH TITLES 30% of QLE / NO CAP OTHER TITLES 26.25% of QLE / NO CAP	**Multimedia Production Tax Credit** ▪ 37.5% of eligible labour expenditures for French “mass market” titles ▪ 30% of eligible labour expenditures for non-French “mass market” titles ▪ 26.25% of eligible labour expenditures for all other eligible titles
SASKATCHEWAN	
N/A of QLE / CAP	**Saskatchewan’s Film/TV and Digital Tax Credit Program** ▪ Has been eliminated. Refer to page 45 for information on the Saskatchewan Film Employment Tax Credit
YUKON	
N/A Rebate Program (not a tax credit)	**Film Incentive Program *[Note: not a tax credit]*** ▪ 25% rebate of Yukon below-the-line spend where eligible Yukon labour content equals or exceeds 50% of the total person days on the Yukon portion of the production ▪ 50% rebate for travel expenditures from Calgary, Edmonton, Vancouver to Whitehorse to a maximum of the lesser of $15,000 or 25% of total expenditures incurred in Yukon

1 “Labour expenditures” for the federal tax credit are defined as the labour expenditures incurred from the final script stage to post-production directly attributable to the production, reasonable in the circumstances and included in the cost to the corporation. For the provincial tax credits, a similar definition is used, but such labour expenditures must be paid to residents of that province. Eligible expenditures can be incurred as early as 2 years before principal photography begins so that in-house development labour costs of a script are eligible.

Federal Government Incentive Programs

FEDERAL TAX CREDITS

The Canadian federal government assists domestic and foreign producers by offering a number of tax incentives and funding programs that are available to both "service" productions and "Canadian-content" productions. The Canadian Audio-Visual Certification Office (CAVCO), a branch of the Department of Canadian Heritage and the Canada Revenue Agency (CRA), jointly administer the Canadian Film or Video Production Tax Credit Program and the Film or Video Production Services Tax Credit Program. Only one of these tax credits may be claimed for a particular production. *Note: As of April 2, 2012, applications must be submitted online.*

CANADIAN FILM OR VIDEO PRODUCTION TAX CREDIT PROGRAM (CPTC)

The CPTC was established to aid in the development of the Canadian film and television production industry and to promote Canadian television programming. This tax credit is equal to 25% of eligible labour expenditures, capped at 60% of total production costs.

The tax credit is a refundable tax credit (that is, it is fully payable to the production company even if it owes no taxes). It is calculated in conjunction with provincial credits such that the eligible production costs are reduced by any applicable provincial tax credit amount. The holding of an interest in a film or video production by a person other than the production corporation will no longer disqualify the production for eligibility for a tax credit, unless the production or one of the investors is associated with a tax shelter.

Eligibility Requirements

- An application for certificate of completion (Part B certificate) must be made within 24 months of the first fiscal year end following the commencement of principal photography. The certificate must be issued by CAVCO within six months of this date.
- The production company must be a taxable Canadian corporation which satisfies the criteria established by the *Income Tax Act Regulations*, as interpreted and administered by CAVCO.
- The corporation must be primarily in the business of Canadian film or photography production.
- The production company must own the copyright of the production.
- The production must not fall under the excluded genre categories or productions listed by CAVCO. These are news programs, talk and game shows, sporting and award events, reality television, productions that solicit funds, pornography, advertising, industrial or corporate productions and productions other than a documentary, all or substantially all of which consists of stock footage.
- The production must meet CAVCO's key creative point requirements.
- The production company must be owned and controlled, either directly or indirectly, by Canadian citizens or permanent residents in accordance with definitions found in a combination of the *Citizenship Act*,[1] the *Immigration Act*[2] and the *Investment Canada Act*[3].
- All producer-related personnel must be Canadian (some exceptions for productions involving non-canadian development).
- Not less than 75% of total labour costs must be payable for services provided to/by individuals who are Canadians.
- The production company must control the initial worldwide exploitation rights over the production.
- Confirmation in writing from a Canadian distributor or a CRTC-licensed broadcaster that the production will be shown in Canada within the two-year period following its completion.
- The production cannot be distributed in Canada by an entity that is not Canadian within the two-year period that begins when the production first becomes commercially exploitable.
- The production company or a related taxable Canadian corporation must retain an acceptable share of revenues from the exploitation of the production in non-Canadian markets.

Eligible Expenses

- Eligible labour expenditures must be reasonable under the circumstances, must be included in the cost to the production company, must be incurred for the stages of production (pre to post production) and must be directly attributable to the production itself.
- Eligible labour expenditures exclude amounts paid for the services of non-Canadian residents, unless the person was a Canadian citizen at the time the payment was made.
- Eligible costs may be incurred as early as two years before principal photography begins so that in-house development labour costs of an initial draft of a script, as well as the cost of further revisions are eligible.

QUALIFYING AS A CANADIAN PRODUCTION FOR THE CPTC

CAVCO and the Canadian Radio-television and Telecommunications Commission (CRTC) are the two government bodies responsible for determining whether a production qualifies as "Canadian". For more information on certification by the CRTC see the "Qualifying as a Canadian Production for CRTC Purposes" section below. CAVCO bases its determination on a draft regulation to the *Income Tax Act* (Canada) and it has set guidelines that must be satisfied before a film or television production is certified as Canadian.

Qualifying as a Canadian Production: CAVCO

In order for a production, other than a co-production or co-venture,[4] to qualify as a Canadian film or video production under the CAVCO rules for Canadian content-based tax incentives and other government incentives or enhanced Canadian broadcast license fees available for Canadian programs, the following must be satisfied:

Producer Eligibility under CAVCO

CAVCO introduced the Production Control Guidelines (PCG) on August 31, 2007, (Public Notice - CAVCO 2007 - 01) which replaces the Producer Control Guidelines. The PCG provides further guidance in the determination of the eligibility of productions to the CPTC.

The Canadian producer[5] must satisfy the following requirements of production control:

- The Canadian producer must have and maintain full control over the development of the project from the time at which the producer has secured underlying rights. Prior development of the project by non-Canadians is permitted.
- The Canadian producer must have and maintain full responsibility and control over all aspects (creative and financial) of the production of the project. Where a non-Canadian has the right to overrule any decision by the producer, the producer will have the onus of establishing, to the satisfaction of CAVCO, that the situation does not interfere with the producer's responsibilities and control.
- The Canadian producer must have and maintain full responsibility and control over all aspects of production financing. Documentation must demonstrate that the producer has assumed and retained the commercial risks associated with the financing and production of the project. Where a non-Canadian has the right to overrule any decision by the producer, the producer will have the onus of establishing, to the satisfaction of CAVCO, that the situation does not interfere with the producer's responsibilities and control.
- The Canadian producer must have and maintain full responsibility and control over the negotiation of initial exploitation agreements. Where the non-Canadian prior owner of the underlying rights retains exploitation rights to more than one significant territory (ie., U.S., Europe, Asia), after the producer has acquired the underlying rights, the producer will have the onus of establishing, to the satisfaction of CAVCO, that the situation does not interfere with the producer's responsibilities and control.
- The Canadian producer is entitled to a reasonable and demonstrable monetary participation in terms of budgeted fees and overhead, and participation in revenues of exploitation. For example, the producer must demonstrate an equity ownership in the project and retain at least 25% of the net profits from the exploitation of the production in non-Canadian markets.

The CAVCO Point System

A production must earn a *minimum of six points* based on the following allocation system, with points being awarded in each case if the function is wholly performed by a Canadian.

Under CAVCO's amended policy regarding proof of Canadian citizenship or permanent residency, producers and key creative personnel working under the Canadian Film or Video Production Tax Credit (CPTC) will be required to obtain a CAVCO personnel number in order to be eligible for Canadian content points. In order to receive a CAVCO personnel number, each eligible individual must send a copy of their proof of Canadian citizenship or permanent residency directly to CAVCO. **Producers should be aware that as of December 31, 2010, it is mandatory for producers and key creative personnel to have a CAVCO personnel number**. Previously, CAVCO required applicants under the CPTC to retain a copy of an individuals citizenship or permanent residency documentation.

Live Action Productions

The point system is as follows for productions other than animated productions:

Position	Points
Director	2
Screenwriter[6]	2
Highest Paid Lead Performer (or first voice)[7]	1
Second Highest Paid Lead Performer (or second voice)	1
Production Designer/Art Director	1
Director of Photography	1
Music Composer (original music only)	1
Picture Editor	1
Total	**10**

In addition, it should be noted that either the Director or the Screenwriter, and either one of the two highest paid leading performers must be Canadian.

Animated Productions

A different 10-point scale applies to animated productions. Animated productions must satisfy a minimum of six of the following 10 points to qualify as a Canadian Film or Video Production. Points are only awarded where the function is wholly performed by a Canadian.

Position	Points
Director	1
Writer and Storyboard Supervisor	1
Highest Paid or Second Highest Paid Lead Voice[8]	1
Design Supervisor	1
Camera Operator where operation is in Canada	1
Composer of the Musical Score (original music only)	1
Picture Editor	1
Layout and Background performed in Canada	1
Key Animation performed in Canada	1
Assistant Animation/In-betweening performed in Canada	1
Total	**10**

As with live action productions, at least one of the Director or the Writer and Storyboard Supervisor must be Canadian. In addition, the highest or second highest paid lead voice must be Canadian and all key animation must be done in Canada.

The CAVCO Cost Criteria: Canadian Expenditures

The CAVCO rules require that at least 75% of the total costs for services provided in relation to production must be paid to Canadians in respect of services rendered by Canadians, regardless of where such services are rendered. The following costs are excluded from the calculation:

- Post-production and laboratory services
- Producer remuneration (only fees paid to Canadian producer or co-producer)
- Amounts paid to key creative personnel who are covered by the point system
- Legal and accounting costs
- Insurance costs
- Financing costs.

In the case of animated productions, the costs associated with positions that entitle the production to a point based on the location where the work is done are not considered to be excluded costs.

In addition, a minimum of 75% of the aggregate cost of post-production and laboratory work, processing and final preparation must be paid for services provided in Canada.

It should also be noted that producers and licensees can apply to CAVCO for preliminary recognition that a film or television production will be a Canadian Film or Video Production if the final production conforms to information submitted to CAVCO. This Canadian Film or Video Production Certificate or "Part A Certificate" (which also provides an estimate of the claimable tax credit) assists producers in financing productions. The production in question must be completed within two years of the year end in which principal photography began, and must file for a final certificate of completion or "Part B Certificate" within 24 months from the end of the year in which principal photography began. The Part B Certificate must be issued within 30 months from the end of the year in which principal photography began.

For more information on CAVCO, visit **pch.gc.ca/cavco/.**

QUALIFYING AS A CANADIAN PRODUCTION FOR CRTC PURPOSES

In addition to the content requirements administered by CAVCO, the *Broadcasting Act*[9] provides a framework of rules to determine what is "Canadian." The organization charged with the responsibility of interpreting and applying these rules is the CRTC. The CRTC is also the government organization with the responsibility of issuing licences to Canadian broadcasters and regulating the amount of time that the broadcasters must devote to Canadian programs.

There are clear similarities in the criteria used by CRTC and CAVCO, and a production which is certified by CAVCO as a "Canadian film or video production" will automatically qualify as "Canadian" for CRTC purposes.

However, a production which the CRTC certifies as "Canadian" may not necessarily be certified as a "Canadian film or video production" by CAVCO. The CRTC released its updated rules regarding "Canadian content" in Public Notice CRTC 2000-42, which took effect on September 1, 2000.

A program which only achieves certification by the CRTC as "Canadian" will not be able to access the CPTC. However, there are other benefits available to a program being accorded certification as "Canadian" by the CRTC. Canadian broadcasters (which includes pay and specialty channels) are required as a condition of their licences to air a minimum amount of Canadian programming, so they are willing to pay a premium for programming which has been certified as Canadian. In addition, Canadian pay and speciality channels are also subject to minimum expenditure requirements in respect of certified Canadian programming. For the foregoing purposes, programming certified by either the CRTC or CAVCO as "Canadian" will suffice.

I. Basic Definition of Canadian Content

The CRTC will certify a program as "Canadian" if it meets the requirements outlined in the three sections listed below.

(A) Producer

The producer must be a Canadian citizen that is the central decision-maker throughout the production. In the event that there are non-Canadians engaged in producer-related functions, the production may still be certified as "Canadian" provided:

- Remuneration of the Canadian producer exceeds the total remuneration to foreign producers
- Non-Canadian producers are on set only to observe, to a maximum of 25% of principal photography.

(B) Point System

In evaluating Canadian content, the CRTC adopts CAVCO's point system. In addition the Canadian expenditure requirements are substantially similar to CAVCO's requirements. The CRTC has established criteria for live action and animated productions and each must achieve six points based on the following key creative functions being performed by Canadians.

Live Action Production or Continuous-Action Animated Production

Position	Points
Director	2
Screenwriter	2
Lead Performer or First Voice	1
Second Lead Performer or Second Voice	1
Production Designer	1
Director of Photography	1
Music Composer	1
Picture Editor	1
Total	**10**

Animated Production (other than Continuous-Action Animation)

Position	Points
Director	1
Scriptwriter and Storyboard Supervisor	1
First or Second Voice or First or Second Lead Performer	1
Design Supervisor	1
Layout and Background (location)	1
Key Animation (location)	1
Assistant Animation/In-Betweening (location)	1
Camera Operator (person) and Operation (location)	1
Music Composer	1
Picture Editor	1
Total	**10**

Notwithstanding the above tables, at least one of the director or screenwriter positions and at least one of the two lead performers must be a Canadian.

The CRTC will evaluate a live, videotape or film production as a Live Action or a Continuous-Action Production. Animation is the process of creating the illusion of motion through the use of inanimate or still images. The CRTC recognizes two types of animation:

- **Computer Animation**: Refers to the use of computers assisting or generating animated movement principally or wholly through digital image synthesis using computers and computer programs.
- **Traditional Animation**: is referred to as either "continuous" or "frame-by-frame." "Continuous" animation refers to the process of filming real figures as they are manipulated using mechanical devices, and for the purpose of CRTC "Canadian content" these animations will be treated as "Live Action" productions. "Frame-by-frame" animation refers to the process of filming or recording a series of poses of figures, shapes, objects, etc. in sequence on successive frames of recording material, thereby giving the illusion of movement.

(C) Expenditure Requirements

Service Costs. These costs represent all expenditures associated with a production. At least 75% of service costs less the costs listed below must be spent on Canadians:

- Remuneration for key creative personnel for points
- Remuneration for producer(s) and co-producer(s) (except for producer-related positions)
- Post-production/lab costs
- Accounting and legal fees
- Insurance brokerage and financing costs
- Indirect expenses
- Contingency costs
- Goods purchased, such as film/videotape supplies
- Other costs not directly related to production.

Post-Production/Lab Costs. At least 75% of all such costs need to be paid for services rendered in Canada by Canadians or Canadian companies.

II. Series

A series is defined as a program with two or more episodes produced by the same producer or production company. The programs must be equal in length and share a common title, theme and situation or set of characters.

The CRTC has recognized that production elements of a series may vary and as such has established a degree of flexibility. A series will be certified as "Canadian" by the CRTC even if certain individual episodes do not satisfy the minimum point requirements, provided that:

- At least 60% of the series' episodes meet or exceed the requirement of six Canadian content points per episode
- The series attains an average of six points per episode
- All episodes are broadcast at equitable times.

III. Sporting Events

Sporting events or tournaments are classified as Canadian by the CRTC, provided that the Canadian licensee or production company maintains control over the production and provides commentators. At least one of the major on-screen personalities must be Canadian and, if the event takes place outside of Canada, Canadian teams or athletes must compete.

IV. Special Recognition for Co-Ventures With Americans And Other International Partners

Co-ventures include co-productions with a foreign producer where there is no co-production treaty between the two countries or where the co-production treaty does not include the venture in question. In the absence of Official Treaty Co-Production status, these productions do not qualify for the CPTC. However, co-ventures certified by the CRTC are eligible for enhanced broadcast license fees since they will qualify as "Canadian" for CRTC purposes. Furthermore, unlike Official Treaty Co-Productions, co-ventures may be produced with American partners.

Co-ventures are considered "Canadian" if it can be shown that the Canadian production company has at least equal decision-making power over creative elements and is responsible for administering the entire portion of the Canadian budget. The production must also obtain a minimum of six Canadian content points, spend 75% on Canadian costs in the services and post-production categories and the director or writer and at least one of the two leading performers must be Canadian.

When broadcast or distributed by a licensee of the CRTC, co-ventures will qualify for special recognition if the CRTC is satisfied that the documentation shows that the Canadian production company:

- Has equal decision-making responsibility on all creative elements
- Is responsible for the administration of at least the Canadian element of the production budget.

When determining whether the decision-making responsibility for the production resides with the Canadian production company, the CRTC will require the following:

- The Canadian production must have sole or co-signing authority on the production bank account
- The Canadian production company must retain a 50% financial stake and a 50% share of the profits
- The Canadian production company must be at financial risk and have budgetary responsibility
- The Canadian production company must have at least an equal measure of approval over all elements of the production with its co-venture partners.

Co-ventures with Commonwealth countries, French-speaking countries or countries with which Canada has a film or television production treaty, may be provided additional flexibility. The production will be considered Canadian if:

- The director or the writer, and at least one of the two leading performers are Canadian
- It meets a minimum of five points for key creative personnel
- A minimum of 50% of the total costs incurred for services is paid to Canadians
- At least 50% of processing and final preparation are paid for services in Canada.

V. Production Packages

The CRTC defines a "production package" as two or more co-productions or co-ventures, undertaken by a Canadian production company in connection with one or more foreign production companies, where a production with minor foreign involvement is matched with a foreign production with minor Canadian involvement. A "twinning" involves matching a Canadian production with a foreign production with only a financial role being played by Canadians. Under the CRTC rules, "production packages" and "twins" can qualify as Canadian content if the following criteria are satisfied:

- The Canadian copyright is held by Canadians for both productions
- The budgets of both productions must be approximately equal
- The co-production agreements for the productions are submitted to the CRTC
- The Canadian production company has financial participation and a minimum 20% share in the profits of both productions
- A broadcaster may receive a credit for a production that has fewer Canadian elements, if it were to broadcast the production with more Canadian elements at an equitable time
- All the productions within the package fall in the same program category. It should be noted that animation productions are not eligible to form part of a production package
- The duration of both matched (or twinned) productions are approximately equal
- The production package program is a drama, comedy, variety, documentary and children's programming
- Both matched (or twinned) productions receive equitable scheduling on the same Canadian station or network.

VI. Dramatic Program Credit

The CRTC will grant a 150% time credit to a Canadian broadcaster each time a certified dramatic production is broadcast that meet the following criteria:

- Produced by a Canadian independent production company or licensee of the CRTC after April 15, 1984
- Certified as a Canadian program and achieves 10 points
- Broadcasts between the hours of 7:00 p.m. and 11:00 p.m. or at an appropriate children's viewing time (if children are the main audience)
- Contains a minimum of 90% dramatic content.

The time credit will be granted within a two-year period from the date of the first broadcast. This credit is not available to the largest multi-station ownership groups.

For more information on these criteria, visit **crtc.gc.ca/eng/archive/2000/PB2000-42.htm**.

FILM OR VIDEO PRODUCTION SERVICES TAX CREDIT PROGRAM (PSTC)

A production that does not meet the Canadian content criteria for the CPTC may be eligible for the PSTC. The PSTC was designed to encourage corporations to employ Canadians. The company can be a foreign owned or Canadian owned corporation. This tax credit is equal to 16% of labour expenditures paid to Canadian residents and there is no cap on the amount that can be claimed under this credit.

The tax credit is a refundable tax credit (that is, it is fully payable to the production company even if it owes no taxes) and it is calculated in conjunction with similar provincial tax credits.

Eligibility Requirements

- The applicant company performing production services must be either a Canadian-owned or foreign-owned corporation with a permanent establishment in Canada.
- The corporation must be primarily in the business of video or video production services.
- The production company must either own the copyright in the film during the production period or be engaged directly by the copyright holder to provide production services.
- The production company must meet the minimum expenditure requirements, which are $1 million for feature films, $200,000 for a one-hour television episode and $100,000 for a 30-minute television episode.
- The production must not fall under the excluded genre categories or productions listed by CAVCO. These are news programs, talk and games shows, sporting and award events, reality television, productions that solicit funds, pornography, advertising, industrial or corporate productions and productions other than a documentary, all or substantially all of which consists of stock footage.

Eligible Expenses

Expenses must be Canadian labour expenditures which:

- Are reasonable in the circumstances
- Are directly attributable to the production
- Were incurred after October 1997
- Were paid to persons who were resident to Canada at the time the payment was made
- Were incurred during the production process (pre to post production)
- Are paid for services provided in Canada.
- Are paid in the year or within 60 days after the end of the year.

For more information on the PSTC program, visit **pch.gc.ca/CAVCO**.

CANADA MEDIA FUND (CMF)

The CMF was launched on April 1, 2010, and combined the former Canadian Television Fund and the Canada New Media Fund. The CMF operates on a budget of approximately $360 million and is subject to yearly review. The purpose of the CMF is to "assist in the creation of successful, innovative Canadian content and applications for current and emerging digital platforms through financial support and industry research."[10]

Streams of Funding

CMF's contributions are divided into two streams of funding:

- The Experimental Stream, which invests in the development of innovative content and software applications for eventual integration into mainstream Canadian media platforms; and
- The Convergent Stream, which supports the creation of convergent television and digital media content.

EXPERIMENTAL STREAM

This stream is intended to support digital content that is innovative and interactive (Note: projects must include these characteristics). Under this stream, the maximum contribution per project is 75% of eligible costs or $1 million, whichever is less. Funding will be delivered in the form of a recoupable advance, which must be repaid from revenue generated by exploitation of the new project.

The CMF will choose projects under this stream according to the following: Production team (15%), Innovation and advancement (40%), Business plan (30%), and Distribution strategy (15%).

Eligibility Requirements

- Eligible applicants must be Canadian-controlled, taxable Canadian corporations with their head office in Canada or Canadian broadcasters. Or, the applicant can be a Canadian broadcaster that is licensed to operate by the Canadian Radio-television Telecommunications Commission.
- The applicant must own the copyright for the production.
- The project's underlying rights must be owned and are significantly and meaningfully developed by Canadians.
- The project must be produced in Canada, with at least 75% of its eligible costs being Canadian costs.
- The project must be, and remain throughout its production, under Canadian ownership and Canadian executive, creative and financial control.
- An eligible project must be digital media content and/or application software which is innovative and interactive. It must be intended for the general use of the Canadian public.
- Eligible projects include, but are not limited to mobile applications, video games, and web series. A television component is not required.
- A single eligible project may receive Development Production and/or Marketing and Promotion support, either alone or in combination with each other, but in no case will the contribution be more than $1 million.

Eligible Expenses

Eligible expenses are any costs which are directly related to the project such as, but not limited to:

- Research and preparation of content
- Salaries, benefits and wages for project teams
- Hardware and software costs
- Expenses for online content
- Travel and accommodation
- Marketing and promotion
- Project audit fees
- Other technical and administrative expenses.

CONVERGENT STREAM

This stream is intended to support the creation of television shows and related digital media content for four genres: drama, documentary, children's and youth, and variety and performing arts. Eligible projects must include content for television, at least one digital media platform and high levels of Canadian elements, including Canadian creative content.

The CMF requires at least 50% of a broadcast corporate group's envelopes to be spent on some kind of rich and substantial digital web or mobile component. Funding will be paid directly to the applicant producer in the form of license fee top-ups, equity investments, recoupable advances, and non-repayable contributions.

Eligibility Requirements

- Eligible applicants must be Canadian-controlled, taxable Canadian corporations with their head office in Canada or Canadian broadcasters. Or, the applicant can be a Canadian broadcaster that is licensed to operate by the Canadian Radio-Television Telecommunications Commission.
- Eligible projects must include convergent content produced on at least two platforms, one of which must be television, and at least one digital media component. The digital media component must be "rich, interactive" content such as games, interactive web content, podcasts, on-demand content, etc.
- The project must speak to Canadians and be primarily intended for a Canadian audience.
- The project must be certified by CAVCO and achieve 10/10 points (or the maximum number of points appropriate to the project) as determined by the CMF using the CAVCO scale.
- Underlying rights must be owned and be significantly and meaningfully developed by Canadians.
- The project must be shot and set primarily in Canada.

SUMMARY OF CONVERGENT STREAM PROGRAMS

Development Program

This program allocates funding to projects in the development stage through three sub-programs. These programs support Canadian television from both French and English regions of the country as well as in the English and French languages. The sub-programs are:

(I) English Development Envelope

This sub-program allows the CMF to make contributions to English language Canadian broadcasters who then choose which development projects they wish to allocate funds. Projects must have received a financial commitment from the broadcaster in question which meets or exceeds a specific amount. This amount is calculated by the CMF.

Amount of Contribution
For the television component the CMF's maximum contribution will be the lesser of:

- 50% (or 75% for a Regional Development Project) of the eligible costs in development; and
- $200,000 for big budget series in all genres, $125,000 for dramatic mini-series or $100,000 for all other eligible types of programming.

For the digital media component(s) the CMF's maximum contribution will be the lesser of:

- 50% of the eligible costs in development; and
- $50,000.

(II) Diverse Languages Program

This program ensures that Canadians have access to content that reflects the variety of languages they speak.

Nature of funding
- For television, there is a mix of licence fee top-ups and equity investments available.
- For digital media, funding is in the form of a non-repayable contribution.

(III) French Regional Project Development

Eligibility Requirements

- Applicants must have their head-office in the province of Quebec and be more than 150 km from Montreal. This sub-program has two segments, the French Regional Project Development and the French Regional Project Pre-Development.

- To be eligible, projects must have received a financial commitment from a Canadian broadcaster that meets or exceeds a specified minimum amount.

Amount of Contribution for the French Regional Project Development Segment
For the television component the CMF's maximum contribution will be the lesser of:

- 65% of the eligible costs in development; and
- $200,000 for big budget series in all genres, $125,000 for dramatic mini-series or $100,000 for all other eligible types of programming.

For the digital media component(s) the CMF's maximum contribution will be the lesser of:

- 50% of the eligible costs in development; and
- $50,000.

French Regional Project Pre-Development
This segment seeks to fund French-language Quebec regional programming in pre-development that has not yet received funding.

Eligible applicants may apply with a maximum of two eligible projects, neither of which may be a returning series, but the maximum contribution is $5,000 per project.

All applicants under this sub-program must include a letter of interest from a Canadian broadcaster, but no broadcaster fee is required.

(IV) English Regional Pre-Development

This sub-program seeks to fund English-language regional development that has not yet received funding.

Eligible applicants may apply with a maximum of two eligible projects, neither of which may be a returning series, but the maximum contribution is the lesser of 75% of eligible costs in pre-development or $15,000, per project.

PERFORMANCE ENVELOPE PROGRAM

This program enables the CMF to allocate funding envelopes to English and French broadcasters in an amount which reflects their history of supporting Canadian Programming. Broadcasting companies are then able to choose which projects to contribute portions of their envelope to subject to specified maximum contribution amounts.

Amount of Contribution

- For the television component, the maximum contribution is 49% of the component's eligible costs.
- For the digital media component(s) the maximum contribution is 75% of a component's eligible costs, or $500,000, whichever is less. Where there are multiple digital media components (e.g., a website, a mobile application, and a game), the $500,000 maximum contribution applies to each eligible component.

FRANCOPHONE MINORITY PROGRAM

This program is designed to encourage the creation of content on digital platforms that reflect the realities of French language communities living outside of Quebec. The company must be Canadian and primarily producing in the French-language outside of Quebec. As it is part of the convergent program, projects must include distribution on at least two platforms, one of which must be television.

Amount of Contribution

For the television component the CMF's maximum contribution will be the lesser of:

- 84% of the eligible costs; and
- $1,500,000 for a drama, $550,000 for a children's/youth program, $150,000 for a documentary ($400,000 for a one-off series or mini-series) or $400,000 for variety and performing arts productions.

For the digital media component(s) the CMF's maximum contribution will be the lesser of:

- 75% of a components eligible costs; and
- $200,000.

Note: The CMF has flexibility under the Francophone Minority Program, and its contribution may be lower or higher than the maximums outlined, depending on whether funding requests per program genre exceed or fall short of available resources for each genre.

For more information, visit **cmf-fmc.ca.**

ABORIGINAL PROGRAM

This program supports independent aboriginal production in Canada. Aboriginal language projects may also be eligible for funding. The applicant must be a self declared Aboriginal person who owns at least 51% of the production company and copyright in the eligible project. The CMF will solely decide the amount of funding a project receives up to a maximum amount.

Amount of Contribution

For the television component the CMF's maximum contribution will be the lesser of:

- 70% of eligible costs; and
- $400,000.

For the digital media component(s) the CMF's maximum contribution will be the lesser of:

- 75% of the eligible costs; and
- $200,000.

ENGLISH PRODUCTION INCENTIVE FUNDING PROGRAM

This program provides incentives to ensure that production occurs throughout all parts of Canada. The program may be implemented in parts of the country where English production volumes have decreased more than 20% below their five year average. For more information on this program, visit **cmf-fmc.ca**.

For the television component, the CMF's maximum contribution will be the lesser of:

- 10% of eligible costs; and
- $1,000,000

DIVERSE LANGUAGES PROGRAM FUNDING

This program supports independent production in languages other than English, French and Aboriginal Languages in order to reflect the diversity of Canadians. Funding is allocated according to a selective process using an evaluation grid. For more information on this grid and the program, visit **cmf-fmc.ca**.

Amount of Contribution

For the television component the CMF's maximum contribution will be the lesser of:

- 50% of eligible costs; and
- $200,000.

For the digital media component(s) the CMF's maximum contribution will be the lesser of:

- 75% of eligible costs; and
- $100,000.

ENGLISH POINT-OF-VIEW (POV) PROGRAM FUNDING

This program encourages the production of point-of-view documentaries in the English market. The projects must be English-language one-off Auteur Point-of-View/Creative Documentaries. Projects presenting information primarily for entertainment are not considered documentaries for CMF purposes.

Amount of Contribution

For the television component the CMF's maximum contribution will be the lesser of:

- 49% of eligible costs; and
- $300,000.

For the digital media component(s) the CMF's maximum contribution will be the lesser of:

- 75% of eligible costs; and
- $200,000.

VERSIONING PROGRAM

This program strives to increase the reach of existing programming to Canadians through language versioning. Eligible projects are contributed to by the CMF on a first come, first served basis. For more information on this program, visit cmf-fmc.ca.

For more information on the Convergent Stream programs, visit **cmf-fmc.ca**.

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1 R.S.C., 1985, c. C-29, s. 2(1).

2 R.S.C., 1985, c. I-2, s. 2(1).

3 R.S.C., 1985, (1st Supp.), c. 28, s. 3.

4 The criteria are different for co-productions and co-ventures. Co-productions may qualify as Canadian Film or Video Productions for the purposes of both the CPTC and the CRTC rules, whereas co-ventures may qualify for status as a Canadian program only for CRTC purposes (see "Qualifying as a Canadian Production for CRTC Purposes").

5 The definition of "Canadian" and "producer" are set out in section 1106 of the *Income Tax Regulations* (C.R.C., c. 945).

6 In the case of films, points will only be awarded for the screenwriter if all screenwriters are Canadian, or if the principal screenwriter and author of the published work on which the screenplay is based are Canadian.

7 The criteria used to determine which performers are lead performers are: (i) remuneration, including benefits, residuals, travel and living expenses, etc., (ii) billing and (iii) screen time.

8 See endnote 9 above for the criteria used to determine lead voice.

9 R.S.C. 1985, c. B-9 (as amended).

10 cmf-fmc.ca

Official Treaty Co-Productions

Canada is a party to co-production treaties with more than 50 countries,[1] which notably exclude the United States.

Co-production treaties are designed to assist Canadian producers and their counterparts in one or more other countries to collaborate on a production. This pooling of the creative, technical and financial resources of both producers helps to reduce the various risks of production and enhances the ability of the co-producers to finance and proceed with the production. Co-production treaties also simplify administrative and regulatory procedures such that goods and equipment used for production can flow easily between the participating countries.

When a production is made in accordance with a co-production treaty, the production gains "Official Treaty Co-Production" status. In Canada, the certification of Official Treaty Co-Productions is handled by the Co-Productions office of Telefilm Canada. As an Official Treaty Co-Production, the production is treated as a "national production" of each co-producing country and is subsequently eligible for government incentives and tax benefits in both countries on a proportionate basis. In Canada, an Official Treaty Co-production should qualify for treatment as a Canadian Film or Video Production for the purposes of the CPTC and as a Canadian program for the purposes of the CRTC. For example, if the Canadian co-producer is responsible for 60% of the co-production budget, then 60% of the budget is generally eligible for Canadian subsidies and the CPTC. The production may also be eligible for benefits under provincial programs, and, as a Canadian program, may be able to command higher license fees from broadcasters. It is important to note that these are general rules, and that the level and type of government support available are subject to the terms of the particular treaty and the application of specific provincial rules.

Co-production agreements generally specify the minimum financial, creative and technical participation required by each party, conditions for participation by third parties and procedures for entry and exit of personnel and equipment from participating countries. Such agreements also specify the language of the production and the co-producers, and stipulate that all services are to be provided by nationals of the participating countries. In general, the production must be filmed in one or more of the co-producers' countries. However, approval to film in a third-party country is occasionally granted. Approval may also be obtained to use an actor who is not a national of any of the co-producers' countries.

Generally, co-producers share responsibility for the exploitation of the completed production. Exploitation within a co-producer's home country is the responsibility of that producer and proceeds from such exploitation generally belong to that co-producer. Receipts from exploitation in other countries are usually split between co-producers in proportion to their contributions to the production budget. Typically, the copyright is shared, while domestic use of the copyright is controlled by the respective co-producers.

For an international co-production to gain Official Treaty Co-Production status, a co-production must be approved by the Co-Production office of Telefilm Canada. The approval process begins when the co-production agreement and supporting material are submitted to Telefilm Canada for an "Advance Ruling." This ruling will be granted if the production appears to comply with all aspects of the relevant co-production treaty. If the production is financed and made in accordance with the co-production agreement, Telefilm Canada will generally grant "Final Approval." Telefilm's approval will be communicated to CAVCO for the purposes of certification and eligibility for the CPTC (and other analogous credits). Any changes to a project may result in the loss of Official Treaty Co-Production status. Consequently, all changes are subject to review by Telefilm.

If Canada is not party to a co-production treaty with a specific country, a Canadian producer may obtain ad hoc approval from Telefilm Canada for Official Treaty Co-Production status. For Canadian authorities to grant such approval it must be shown that Official Treaty Co-Production status would be beneficial. However, ad hoc approval is not generally granted for a Canada-U.S. co-production.

TELEFILM CANADA CERTIFICATION FOR CO-PRODUCTIONS

Co-productions will generally be certified by Telefilm Canada if all of the following criteria are satisfied:

- Creative and technical participation is proportionate to the financial contribution of each co-producing country.
- The Canadian financing covers the cost of Canadian elements, which can never be lower than the minimum applicable treaty requirement. The minimum financial participation of each country varies from 15% to 30% depending on the treaty.
- The producer, the crew and the personnel exercising control over the creative, financial and technical aspects of the Canadian share of the project must be Canadian citizens or permanent residents.
- For co-productions with a European Union member country, the director(s) and scriptwriter(s) must be citizens or permanent residents of Canada or of a European Union member country.

The United Kingdom and France are Canada's two leading co-production partners, and below is an overview of the co-production treaties Canada has in place with these nations.

UNITED KINGDOM-CANADA CO-PRODUCTION TREATY

Although there is no tax incentive in the UK for television productions, the co-production treaty between Canada and the UK applies to both cinema and television. The Treaty, which has been in place, with some revisions, since 1975, is presently being renegotiated by the Canadian and British governments.

In the UK, the Department for Culture Media and Sport (DCMS) administers co-production treaties. In order to qualify as an official co-production, a film must be certified according to the terms of the bilateral treaty. Effective April 1, 2007, administration of the film certification process moved to the UK Film Council. All films that began principal photography after January 1, 2007, must therefore apply to the UK Film Council for certification. The DCMS remains responsible for signing and issuing provisional and final British Film certificates, based on the UK Film Council's assessment.

In order to qualify as an official co-production under the treaty, applicants must meet the following requirements:

- A co-producer's financial contribution to the co-production film shall be at least 20% of the total budget
- The production must have a minimum budget of $350,000
- Where a co-producer from one country provides less than one half of the total production costs, then the co-production must employ at least one leading performer, one feature performer, six craft or studio employees and one writer (if required) who are nationals or residents of that country.

In addition to the treaty requirements, since 2003 the DCMS has also:

- Made a distinction between the financial contribution (outlined above) and the "film-making" contribution; The DCMS requires that at least 40% of co-production budget expenditures occur in the UK for feature films made in the UK.
- Narrowed the interpretation of what qualifies as UK expenditures.
- Required that a minimum of 25% of the total qualifying production expenditure is incurred on filming activities that take place within the UK.

FRANCE-CANADA CO-PRODUCTION TREATIES

Although there are separate co-production treaties for television and cinema, the main requirements under both treaties are essentially the same. In France, the treaties are administered by the Director General of Le Centre National de la Cinématographie.

To qualify as an official co-production under the treaty, applicants must meet the following requirements:

- A co-producer's financial contribution to the co-production film shall be at least 20% of the total budget. This contribution requirement also applies to tri-partite productions. However, where the film is a French-language feature film with a budget greater than $3.5 million, then the financial contribution need only be 10%.
- The minority co-producer shall be required to make an effective technical and creative contribution, ideally in proportion to its investment.
- There must be two versions of the co-production - one in English and one in French. Dubbing must occur in Canada or France.

The treaty provides for several exceptions to the general requirement that an official co-production is wholly created within France or Canada. For example:

- Location shooting can occur in a third country if the script or action requires it, and if technicians from the co-producing countries participate in the filming
- Performers ordinarily resident in a third country may be authorized to participate
- Exceptions may be granted for third party producers, scriptwriters, performers, directors in exceptional cases on twinned productions.

For more information, visit Telefilm's Co-Production Guide at **telefilm.gc.ca**.

INTERPROVINCIAL CO-PRODUCTIONS

The guidelines for interprovincial co-productions are designed to assist Canadian producers in one or more other provinces to collaborate on a production and access tax incentives and government financing in their respective province. Similar to international co-productions, interprovincial co-productions facilitate the financial and creative collaboration between producers from various provinces. However, guidelines for interprovincial co-productions tend to be less complex than those set out in various international co-production treaties. Still, there may be various requirements dealing with ownership issues and minimum expenditures in order to qualify for some provincial tax credits.

For example, the Ontario Film and Television Tax Credit (OFTTC) guidelines require the following from an interprovincial co-production:

- The producer of the Ontario portion of the production qualifies as an Ontario resident for the two years immediately preceding the production year in which principal photography for the production commenced
- Not less than 20% of the cost of producing the production is the responsibility of the Ontario producer (the "Ontario Portion")
- Not less than 75% of the all amounts in respect of the cost of the Ontario Portion of the production, are payable to Ontario-based individuals or corporations for goods or services provided by Ontario-based individuals or corporations.

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1 For a current list of co-production treaties between Canada and other countries visit telefilm.gc.ca.

Private Incentives

There are various private programming funds available to assist in the financing of film and television program development, production and/or distribution. Similar to government incentives, these private incentives support distinctively Canadian-content productions and stimulate production in certain provinces. These incentives are usually in the form of equity, loans or grants.

Information contacts for some of these programs are as follows:

The Harold Greenberg Fund
astralmedia.com/en/theharoldgreenbergfund/default.idigit
hgfund@tv.astral.com
416 956.5431

Independent Production Fund
ipf.ca
info@ipf.ca
416 977.8966

MaxFACT
maxfact.org
info@lefonds.astral.com
514 939.5094

Rogers Cable Network Fund
rogersgroupoffunds.com
416 935.2526

Shaw Rocket Fund
rocketfund.ca
info@rocketfund.ca
403 750.4517

Rogers Documentary Fund
rogersgroupofoffunds.com
416 935.2526

Rogers Telefund
rogersgroupoffunds.com
416 935.2526

COGECO Program Development Fund
cogecofund.ca
info@cogecofund.ca
416 977.8966

Bell Broadcast and New Media Fund
bellfund.ca
info@bellfund.ca
416 977.8154

Alberta Government Incentive Programs

The Alberta Multimedia Development Fund (AMDF) provides incentives to filmmakers shooting productions in Alberta by way of the following direct grants:

ALBERTA PRODUCTION GRANT (FORMERLY THE APP)

Eligibility and Requirements

- Parent companies that have received, or are eligible to receive funding from the Cultural Industry Organization Project Grant Stream of the Alberta Multimedia Development Fund are not eligible.
- Recipients of this grant must be incorporated in Alberta, or registered to do business in the province.
- Recipients must be in good standing with the AMDF.
- The amount spent on the project within Alberta must be greater than $50,000 (before GST) for projects with a commercial licence agreement and $100,000 for projects without such an agreement.
- The maximum available funding for any project is $5 million
- Applicants seeking funding who provide a commercial licence agreement must provide written evidence of 70% confirmed financing for projects with budgets over 1 million and 50% confirmed financing for projects under 1 million.
- Projects without a commercial licence agreement must provide written evidence of 100% confirmed financing regardless of the size of the production budget.

For the purposes of this grant, productions are classified into two categories based on percentage of ownership:

Stream 1: Indigenous/Co-Production

- Between 30-100% Albertan ownership of production and proportionate creative and financial control
- Minimum of six Albertans must be employed in key creative positions (or 50% of key creative positions in the budget).
- 29% of all Alberta costs.
- For shoots lasting more than 30 consecutive days, or 300 person hours for digital projects, 1% additional funding will be granted to a maximum of 30% of total funding.
- *20 % of the Alberta Production Grant is reserved for Stream 1 projects with budgets under 1 million.

Stream 2: Foreign/Service

- Less than 30% of Albertan ownership of production
- Alberta incorporated corporation (foreign ownership permitted).
- Minimum of four Albertans must be employed in key creative positions (or one-third of the key creative positions in the budget).
- 25% of all eligible Alberta costs.
- For shoots lasting more than 30 consecutive days, or 300 person hours for digital projects, 1% additional funding will be granted to a maximum of 26% of total funding.

ALBERTA PROJECT/SCRIPT DEVELOPMENT GRANT (AND STORIES COMPONENT)

Eligibility and Requirements

- Applications require the participation of both a writer and a producer (the same person may fulfill both roles), and the producer must be an Alberta resident.
- Recipients of funding must be incorporated in Alberta or registered to conduct business in Alberta.
- Recipients must be in good standing with the AMDF.
- Start-up companies must be incorporated and must include a business plan with their application.
- Projects must be new productions.
- Projects must be at least 30 minutes in length.

The maximum grant, not including the Stories Component is:

- $15,000 for the pre-development phase; $25,000 for the first-draft phase; and $15,000 for the final draft phase.
- The maximum available funding per project is $55,000.

Applications under the Stories Component are eligible for the following additional amounts:

- $5,000 pre-development phase; $5,000 first-draft phase; and $5,000 final draft phase

EXPORT MARKET DEVELOPMENT GRANT

This program is designed to assist professional producers in expanding the marketing opportunities for their products and services by providing contributions to marketing/export development plans.

Eligibility and Requirements

- Recipients of funding must be incorporated in Alberta or registered to conduct business in Alberta.
- Recipients must be in good standing with the AMDF.
- Applicants must be an Alberta Production Grant recipient.
- The maximum grant available is $5,000 per parent company per fiscal year.
- Applicants may apply for up to 50% of eligible expenses, which include: travel expenses; registration fees; and promotional materials.

TRAINING AND MENTORSHIP GRANT

This grant will provide funding for companies to engage an intern for a significant professional development opportunity.

Eligibility and Requirements

The production company must:

- be incorporated in Alberta;
- be in good standing with the AMDF;
- offer a significant professional opportunity to an intern
- have a relevant track record re: internships; and
- be engaged under productions that are eligible under the Alberta Production Grant.

The intern must:

- be a permanent resident
- have lived in Alberta for at least six months;
- occupy one of the following positions: writer, director, art director, production designer, costume designer, editor, director of photography, composer, etc.;
- have industry experience/education;
- have a professional credit; and
- be an Alberta graduate of a recognized media program.

The maximum grant under this program is $20,000.

GENRES OF PRODUCTION NOT ELIGIBLE FOR FUNDING

- News, current events or public affairs programming, or a program that includes weather or market reports
- Talk shows
- Production in respect of a game or contest (other than a production directed primarily at minors)
- Sports event or activity
- Production that solicits funds
- Reality TV (this includes production that consists of scenes recorded on amateur home video cameras or private or public authority surveillance equipment, and programming currently known as court television and similar formats)
- Pornography
- Advertising
- Production produced primarily for industrial, corporate, or institutional purposes
- Production other than documentary, that consists of more than 25% stock footage.
- Consol or online video games (other than a production directed primarily at minors or relating specifically to the characters and premise of a licensed and commercially distributed television program or feature film.)
- Software/programming applications
- Video distribution platforms or aggregators

For more information on the programs offered by the Government of Alberta, visit **culture.alberta.ca/multimediafund/**

British Columbia Government Incentive Programs

The FDBC Film Development Society of British Columbia (British Columbia Film + Media) administers the following tax credit programs.

FILM INCENTIVE B.C. (FIBC)

The FIBC is a package of refundable corporate income tax credits for Canadian content productions which are divided into five specific categories:

Basic Incentive

This tax credit is equal to 35% of eligible British Columbia labour costs up to a maximum of 60% of total eligible production costs. To be eligible for this incentive the production company must be a taxable Canadian corporation, must have a permanent establishment in British Columbia, and be Canadian controlled, and the producer or eligible production corporation must control the ownership of the copyright. In addition, the producer must be both a Canadian resident and a resident of British Columbia on December 31 of the year prior to the year principal photography commences.

Regional Incentive

This tax credit is equal to 12.5% of qualified British Columbia labour costs, prorated by the number of days of principal photography outside the designated Vancouver area divided by the total number of days of principal photography in British Columbia. It assists production companies who shoot their productions outside of the designated Vancouver area. To be eligible, principal photography of the production must occur in British Columbia outside the designated Vancouver area for a minimum of five days, and more than 50% of the total number of days in which principal photography is done in British Columbia. This incentive must be accessed in conjunction with the FIBC Basic Incentive.

Distant Location Regional Incentive

This tax credit is equal to an additional 6% of qualified British Columbia labour costs, prorated by the number of days of principal photography filmed in British Columbia within a prescribed distant location area, divided by the total number of days of principal photography in British Columbia. It assists production companies who shoot their productions in prescribed distant locations of British Columbia. To be eligible, principal photography of the production must occur in British Columbia in the distant location zone for at least one day. This incentive must be accessed in conjunction with the FIBC Basic Incentive and the Regional Incentive.

Training Incentive

This tax credit is the lesser of 30% of trainee salaries or 3% of eligible British Columbia labour costs. To be eligible for the training incentive tax credit a trainee must be a British Columbia-based individual registered in an approved training program. This incentive must be accessed in conjunction with the FIBC Basic Incentive.

The above four tax incentives allow a production company to claim a combined benefit in the amount of eligible British Columbia labour capped at 60% of total production costs.

Digital Animation or Visual Effects Incentive

This tax credit is equal to 17.5% of eligible British Columbia labour costs incurred in making the production and which are directly attributable to digital animation or visual effects activities. This incentive must be accessed in conjunction with the FIBC Basic Incentive. There is no cap on the amount that can be claimed for a particular production or corporation.

Eligibility Requirements

- More than 50% of the copyright of the production must be owned by the B.C. based Canadian controlled corporation.
- 75% of principal photography must occur in British Columbia.
- The production must attain six of the possible 10 CAVCO points.
- A minimum of 75% of total production costs must be spent on goods or services provided in British Columbia by British Columbia based individuals or companies. In addition, a minimum of 75% of post-production costs must be paid in respect of post-production work carried out in British Columbia.

- The production must be shown in Canada within two years from completion of the production by a Canadian distributor or broadcaster.
- Some genres are excluded, such as: pornography, talk shows, news, live sporting events, game shows, reality television and advertising.
- If for television broadcast, each episode of the series must have a minimum 30-minute broadcast length, except for children's programming.

It should be noted that special rules apply to documentaries, international treaty co-productions and inter-provincial co-productions.

PRODUCTION SERVICES TAX CREDIT (PSTC)

The PSTC is a package of refundable corporate income tax credits available to productions that are not Canadian content productions, which are divided into four specific categories (it should be noted that a particular production may access only one of the FIBC or the PSTC, but not both).

Basic PSTC Incentive

This tax credit is equal to 33% of accredited qualified British Columbia labour costs incurred by an eligible BC-based corporation in making the production.

Regional PSTC Incentive

This tax credit is equal to 6% of accredited qualified British Columbia labour costs incurred by an eligible BC-based corporation in making the production, pro-rated by the number of days of principal photography outside the designated Vancouver area divided by the total number of days of principal photography in British Columbia. To be eligible, principal photography of the production must occur in British Columbia outside the designated Vancouver area for a minimum of five days; and more than 50% of the total number of days in which principal photography is completed in British Columbia. This incentive must be accessed in conjunction with the PSTC Basic Incentive.

Distant Location PSTC Regional Incentive

This tax credit is equal to 6% of accredited qualified British Columbia labour costs incurred by an eligible BC based corporation in making the production, pro-rated by the number of days of principal photography in British Columbia within a prescribed distant location area to the total days of principal photography in British Columbia. This credit must be accessed in conjunction with the PSTC Basic Incentive and the regional PSTC.

A detailed map of the regional and distant location areas is available at **bcfm.ca/downloadables/BCFilm_Tax_Areas.pdf**.

Digital Animation or Visual Effects PSTC Incentive

This tax credit is equal to 17.5% of accredited qualified British Columbia labour costs incurred by an eligible BC-based corporation in making the production which are directly attributable to digital animation or visual effects activities. This incentive must be accessed in conjunction with the Basic PSTC Incentive.

There is no cap on the amount that can be claimed for a particular production, corporation, or group of corporations.

Eligibility Requirements

The PSTC is available to both international and Canadian projects shot in British Columbia and is not subject to any content or Canadian ownership requirements. To be eligible for the PSTC:

- The production company must have a permanent establishment in British Columbia.
- Except in the case of episodes of less than 30 minutes consisting of all, or substantially all, digital animation or visual effects, for which no minimum per-episode budget is set, episodes of less than 30 minutes must have a budget level greater than $100,000 per episode, and episodes that are 30 minutes or longer must have a budget level greater than $200,000 per episode. For all other productions the budget level must be greater than $1,000,000.

- The eligible BC-based production company must either own the copyright in the production or have contracted directly with the owner of the copyright in the production to provide production services.

- Some genres are excluded, such as: pornography, talk shows, news, live sporting events, game shows, reality television and advertising.

INTERACTIVE DIGITAL MEDIA TAX CREDIT

This tax credit is administered by the British Columbia taxation authority, and is a refundable corporate income tax credit of 17.5% of qualified British Columbia labour expenditures available to taxable Canadian corporations with a permanent establishment in British Columbia to develop qualifying interactive digital media products, the primary purpose of which is to educate, inform or entertain and which include at least two of text, sound or images, for projects which commence after August 2010.

BRITISH COLUMBIA FILM + MEDIA - PROJECT DEVELOPMENT FUND

British Columbia Film + Media also offers financing on a project-by-project basis for the development of independent film and television productions, including digital media projects designed to enhance viewers' experience of a film or television project. Funding is available for specific applicants and projects that meet the following eligibility requirements:

- The company must be incorporated in British Columbia or Canada, with its head office in British Columbia

- B.C. residents, who must also be Canadian citizens or permanent residents, must hold a majority of the issued common voting shares

- With some exceptions, copyright of the project must be fully owned (or optioned) and controlled by the applicant

- An eligible Canadian or international broadcaster or distributor must have committed to advance development funds

- The principals, directors, officers and shareholders of the applicant company must be in good standing with British Columbia Film + Media.

Successful applicants may receive a non-recoupable advance of up to 50% of the broadcast or distribution commitment, up to $10,000 per project, or $20,000 for a series.

Eligible projects include feature films, television movies, pilots, television and mini-series, documentaries and docudramas that are live action, animation, reality, performing arts and entertainment, variety, talk or game shows.

BRITISH COLUMBIA FILM + MEDIA - PASSPORT TO MARKETS PROGRAM

This program is an initiative that provides financial support to British Columbia resident producers at certain international markets, conferences and exchanges to promote projects that producers have in development, assist in securing broadcast pre-sales, and stimulate co-production opportunities.

Eligible applicants

Are British Columbia based producers, distributors or sales agents who have a track record in the Canadian film and television industry, who have been pre-selected to attend a particular market, or who have experience producing domestically owned and controlled digital media content (excluding electronic games).

Individual applicants are eligible to receive support of $1,000 to $2,500 for select markets, for up to three markets per fiscal year. One producer per company may apply for support to an individual market site. In the case of a competitive call for applications, preference is given to producers who can demonstrate recent production credits (i.e., in the last two years).

For more information and updates on the Passport to Markets Program and full detail of the eligibility and selection criteria, visit **bcfm.ca**.

Manitoba Government Incentive Programs

MANITOBA FILM AND VIDEO PRODUCTION TAX CREDIT

The Manitoba Film and Video Production Tax Credit is broken down into the Cost-of-Salaries Tax Credit and the Cost-of-Production Tax Credit. The cost-of-production credit provides a 30% fully refundable corporate income tax credit based on all eligible Manitoba expenditures including labour and deemed labour. The cost-of-salaries credit provides a 45% fully refundable credit based on eligible labour expenses.

Under the Cost-of-Salaries Tax Credit, the following bonuses are also available:

- Frequent Filming Bonus equal to 10% of eligible Manitoba labour expenditures. In order to qualify for this bonus, the company must produce three films in Manitoba within two years (the third film will be eligible for the bonus)
- Rural and Northern Bonus equal to 5% of eligible Manitoba labour expenditures. In order to qualify for this bonus, at least 50% of a production's Manitoba production days must involve shooting at locations 35 kilometres (22 miles) outside of Winnipeg
- Manitoba Producer Bonus equal to 5% based on eligible salaries where a Manitoba resident receives credit as a Producer on an eligible film.

If the foregoing bonuses are combined, the Manitoba Film and Video Production Tax Credit can be as high as 65% of eligible Manitoba labour expenditures.

Eligibility Requirements

- Applicants must have a permanent establishment (as defined in the Income Tax Act) in Manitoba, must be incorporated in Canada (either federally or provincially) and must be a taxable Canadian corporation primarily carrying on a business that is a film or video production
- A minimum 25% of the corporation's salaries and wages must be paid for when performed in Manitoba (excluding documentaries)
- There are no Canada or Manitoba content requirements
- Copyright ownership is not required
- There is no requirement to work with Manitoba producers
- Co-productions qualify for this tax credit.
- Deemed salaries are capped at 30% of the total eligible Manitoba salaries if at least two Manitoba residents are trained per non-resident. The cap is 10% if only one Manitoba resident is trained per non-resident
- Outside share ownership of the production company does not affect eligibility

Eligible projects include: fully financed television movies, documentaries, features, dramatic series, animation, children's programming, music programming, informational series, variety, multimedia, digital and CD-ROM productions.

Additional MANITOBA FILM AND MUSIC programs include:

- Pitch Readiness Program for Multi-Episode Productions
- Television and Web-Based Development Fund
- Television and Web-Based Production Fund
- Feature Film Production Fund
- Grant Program for Emerging Talent and Micro-Budget Production
- Access to Markets and Access to Festivals Programs
- Feature Film Development Fund.

THE FILM/VIDEO SCRIPT DEVELOPMENT GRANT

This grant is administered by the Manitoba Arts Council and offers up to $6,000 per project to aid in the creation of scripts. The grant may also be used as a living allowance.

Eligibility Requirements

The applicant must be an artist who has established a professional reputation in the visual arts or a professional filmmaker, or writer who:

- Is a Canadian citizen, permanent resident or landed immigrant
- Has maintained principal residence in Manitoba for at least one year prior to making an application
- Is recognized as a professional in his/her artistic discipline
- Has completed basic training or has equivalent experience in film or film-making
- Students are ineligible.

Eligible genres include drama, documentary animation, and experimental film and video. Ineligible projects include TV pilots and instructional, promotional and industrial films.

THE VIDEO PROJECT GRANT

Also administered by the Manitoba Arts Council, this grant offers up to $6,000 for costs related to project development. The eligibility requirements are the same as those listed above for the Film/Video Script Development Grant.

THE VIDEO PRODUCTION GRANT

This grant is also administered by the Manitoba Arts Council and offers up to $20,000 for a range of production-related costs. The eligibility requirements are the same as those listed above for the Film/Video Script Development Grant.

For more information on these and other programs, visit **mbfilmmusic.ca**.

MANITOBA INTERACTIVE DIGIGAL MEDIA TAX CREDIT (MIDMTC)

The tax credit will be equal to 40% of the remuneration paid to Manitobans on eligible products approved. The maximum tax credit on an eligible product is $500,000.

Eligibility Requirements

- Must be a taxable Canadian corporation with a permanent establishment in Manitoba

- Must pay at least 25% of its remuneration to employees who are Manitoba residents

- Product must be an eligible interactive digital media product in accordance with MIDMTC regulations

- Eligible labour costs include 100% of salaries and wages incurred and paid to employees who are Manitoba residents for the project period; and 65% of fees incurred and paid to third parties

For mor information on this program, visit mbfilmmusic.ca

New Brunswick Government Incentive Programs

MULTIMEDIA INITIATIVE

In November 2011, New Brunswick replaced the New Brunswick Film Tax Credit with the Multimedia Initiative. The Multimedia Initiative will fund 25% to 30% of eligible expenditures incurred in New Brunswick.

The basic provincial contribution will be 25% of eligible expenditures incurred in the province, including salaries paid, and goods and services consumed. An additional 5% incentive can be acquired by bona fide New Brunswick production companies who are permanently established in the province and who are producing any of the following: a) dramatic and documentary feature films, made-for-TV movies, and TV series intended for theatrical screening and television; b) dramatic, animated, variety and children's TV, film or video programming; or c) television, film and video programs in documentary, educational, experimental and non-theatrical genres.

Eligibility Requirements

- The production company must be incorporated in New Brunswick
- The directors of the company must qualify as residents by showing that they were resident in New Brunswick on December 31 of the previous year, and that they filed income tax in New Brunswick
- The production company must have a permanent establishment in New Brunswick
- The production company must hold assets of less than 25 million at all times during the taxation year
- The production company must demonstrate that its primary purpose is the domestic or collaborative production of film, television or interactive new-media

Production companies can also be involved in co-production agreements and still receive funding under the Multimedia Initiative.

INTER-PROVINCIAL CO-PRODUCTION REQUIREMENTS

There must be an eligible New Brunswick company who shares in the creative and financial control of the project. However, the determination of whether an inter-provincial co-production is eligible for funding is at the discretion of the department of Culture, Tourism and Healthy Living. The following factors are minimum requirements and will not guarantee funding:

- The production company applying for the funding must be owned and controlled by an eligible New Brunswick resident
- The applicant company must receive shared credit as a producer of the project
- The applicant company must share in the revenues of the production at terms no less favorable than the proportion of funding it brings to the project
- The New Brunswick company's copyright ownership must not be less than 33%
- A minimum of 50% of the total production budget must be spent in New Brunswick

INTERNATIONAL CO-PRODUCTIONS

International co-productions must meet the requirements of inter-provincial projects, in addition to the following:

- The New Brunswick production company must retain not less than 20% of total revenues
- The New Brunswick production company must own at least 20% of any copyrighted material
- The New Brunswick company must demonstrate that it has satisfied all relevant international co-production treaties, as determined by the Canadian Media Fund

For more information on the Multimedia Initiative and other projects, please visit **nbfilm.ca**.

Newfoundland and Labrador Government Incentive Programs

NEWFOUNDLAND AND LABRADOR FILM AND VIDEO INDUSTRY TAX CREDIT

The Newfoundland and Labrador Film and Video Industry Tax Credit is limited to the lesser of 40% of total eligible labour expenditures in Newfoundland and Labrador and 25% of the total eligible production costs. There is a corporate cap of $3 million for a 12 month period. There are no provincial or CAVCO Canadian content requirements for this tax credit.

Eligibility Requirements

- A production company must be incorporated under the laws of Newfoundland and Labrador, another Province of Canada or Canada, have a permanent establishment in Newfoundland or Labrador, and be primarily in the business of film, television or video production.
- The company must pay a minimum of 25% of salaries and wages within Newfoundland and Labrador to provincial residents.

Broadcasters and cable companies are not eligible to apply for this tax credit.

Eligible genres include feature films, television series and movies and video programs in the following areas: drama, variety, animation, children's programming, music programming, informational series or documentary.

The following genres are excluded from the program: news, talk shows, sporting events, galas, pornography, advertising, projects contrary to public policy or projects the government determines are not eligible.

NEWFOUNDLAND AND LABRADOR FILM DEVELOPMENT CORPORATION

The Newfoundland and Labrador Film Development Corporation administers an equity investment program to assist in scriptwriting, production, postproduction, distribution and marketing. This assistance is capped at 20% of overall costs of a given project. To be eligible for this equity investment program, film and video production companies must be incorporated in the province, and be at least 51% owned by residents of Newfoundland and Labrador. Eligible projects include feature films, TV movies, mini-series, TV specials and non-theatrical films, provided that a market can be demonstrated. Inter-provincial and foreign co-productions may benefit from this program so long as the Newfoundland producer holds a minimum of 33% interest in the project. The project must meet Canadian content requirements as set out by CAVCO. The Newfoundland and Labrador Film Development Corporation has set the following maximum equity contributions:

- Dramatic series: $250,000
- Theatrical feature film or television feature length movie (MOW): $250,000
- Documentary (stand alone or series), children's, other: $150,000.

For more information on incentives provided by the Government of Newfoundland and Labrador, visit **nlfdc.ca**.

Bonus Features

The NLFDC offers a Deeming Provision which allows the residency requirement to be waived when a qualified resident person is not available, and a non-resident serves as a mentor of a resident of the province.

Nova Scotia Government Incentive Programs

NOVA SCOTIA FILM INDUSTRY TAX CREDIT

The Nova Scotia Film Industry Tax Credit is administered by Film Nova Scotia on behalf of the Nova Scotia Department of Finance. It is a refundable corporate income tax credit, available to both productions and co-productions. There is no corporate cap, no Canadian content requirement and no copyright ownership requirement.

The Tax Credit is equal to 50% of eligible Nova Scotia labour for productions that occur in the Halifax region or 60% of eligible Nova Scotia labour for productions that occur in other regions of the province. An additional 5% of eligible labour expenses is available for productions that qualify for the frequent filming bonus.

Eligible categories include television, videotape, feature film, non-theatrical production or interactive websites associated with television or feature film projects, with the subject of drama, variety, performing arts, animated or information series, documentary or music programming, including music videos.

Eligibility Requirements

Eligible production companies must:

- Be incorporated under the laws of Nova Scotia or another province of Canada, or federally
- Have a permanent establishment in Nova Scotia (which could include a production office)
- Be a taxable Canadian corporation primarily carrying on business related to film or video production.
- At least 25% of Canadian salaries and wages must be paid to Nova Scotia residents.

OTHER PROGRAMS

- Film Nova Scotia also administers:
- An equity investment program
- A development loan program
- New media equity investment
- Market and festival assistance
- Partnerships in training
- Sponsorships
- A feature film distribution assistance program
- The CBC/Film Nova Scotia bridge award

For more information on programs provided by Film Nova Scotia, visit **film.ns.ca**.

Nunavut Government Incentive Programs

NUNAVUT SPEND INCENTIVE PROGRAM

The Nunavut Spend Incentive Program (NSIP), administered by the Nunavut Film Development Corporation, awards production companies a rebate on the total eligible costs for production goods and services purchased and consumed in Nunavut.

For the purposes of the NSIP, productions are classified into the following two categories to determine the level of incentive that can be accessed:

Spending Stream I: Majority (51% or more) Nunavut ownership and control of production and the company maintains a registered head office in Nunavut. Residents of Nunavut employed in at least 2 of the 8 key creative positions, or 1 key creative position and 2 trainee key creative positions. Eligible to receive a spend rebate of 27% of eligible Nunavut expenses purchased and consumed in Nanavut. The project will have enhanced eligibility with employment and training of additional key creative personnel who are Nunavut residents, and can receive a further 1% for each additional Nunavut resident employed in a key creative position to a maximum total bonus of 2%. Eligibility may be further enhanced if the completed production is versioned into the Inukitut/Inuinnaqtun language for an additional 1% bonus. The maximum spend rebate, including any bonuses, is 30%.

Spending Stream II: Equal minority (10% to 50%) owned, controlled and creatively directed by residents of Nunavut and the company maintains a registered office in Nunavut. Officers and Directors of the company who are resident in Nunavut participate in the management of business activities. Residents of Nunavut employed in at least 2 of the 8 key creative positions, or 1 key creative position and 2 trainee key creative positions. Eligible to receive a spend rebate of 17% of eligible Nunavut expenses. The project will have enhanced eligibility with employment and training of additional key creative personnel who are Nunavut residents, and can receive a further 1% for each additonal Nunavut resident employed in a key creative position to a maximum total bonus of 2%. Eligibility may be further enhanced if the completed production is versioned into the Inukitut/Inuinnaqtun language for an additional 1% bonus. The maximum spend rebate, including any bonuses, is 20%.

Eligibility Requirements

The project must be supported by a broadcast license or distribution agreement (in the case of theatrical releases) at fair market value:

- Recipients must be incorporated in Nunavut or Canada and their primary activity must be developing and producing film, television and/or digital media content.
- The amount spent in Nunavut for the project must be greater than $25,000.
- Note: Productions in Spending Stream II with budget exceeding $500,000 must show that they have entered into an agreement with a licensed Canadaian broadcaster or bona fide distributor.

Genres of production NOT eligible for funding are:

- News, current events or public affairs programming or programs that include weather or market reports
- Talk shows
- Sports events or activities
- Gala presentations or award shows
- Projects that solicit funds
- Pornography
- Advertising and commercials
- Projects produced primarily for industrial, corporate, or institutional purposes
- Projects, other than documentaries, which substantially consist of stock footage
- Digital media games intended primarily for the video arcade market
- Projects that contravene any civil or criminal law
- Productions which spend less than $25,000 on goods and services consumed in Nunavut.

OTHER PROGRAMS AVAILABLE

The Nunavut Film Development Corporation also administers:

- Development Loans Program - The Government of Nunavut provides non-interest bearing loans to assist in project development of qualifying Nunavut film, television and new media companies.

- Marketing Assistance Program - provides travel grants to qualifying filmmakers to attend film related events and festivals they have been invited to, to support a premier screening of a Nunavut production, to help with advertising costs related to a premier screening of a Nunavut production and for publication of promotional material for Nunavut productions.

- Professional Development Program - assists Nunavut professionals with training opportunities within the film, television and new media industry.

- Industry Development and Training Program - provides opportunities to receive funding for training and development from established industry professionals.

- Contributions toward Major Film Projects Program - a contribution made by the Government of Nunavut towards major projects where there is a significant benefit towards the territory's film industry. Contributions will be viewed as an equity investment in profits of the project.

For more information on the programs provided by the Nunavut Film Development Corporation, visit **nunavutfilm.ca**.

Ontario Government Incentive Programs

The Ontario Media Development Corporation (OMDC formerly the Ontario Film Development Corporation) jointly administers the following tax credit programs with the Ontario Minister of Finance.

ONTARIO MEDIA DEVELOPMENT CORPORATION FILM FUND (OMDC)

The OMDC Film Fund has been developed to increase the level of indigenous film production in Ontario. It will provide support to Ontario producers for feature film projects in the final stages of development and production financing. The OMDC Film Fund consists of two components:

- Development – Provides funding in the form of an interest-free loan of up to $25,000 for the final development stage
- Production – Provides funding in the form of a repayable advance of up to $400,000 on a last-in basis to complete the financing of a feature film.

Complete eligibility requirements are outlined in the OMDC Film Fund Production Guidelines and the OMDC Film Fund Development Guidelines at **omdc.on.ca**.

ONTARIO FILM AND TELEVISION TAX CREDIT (OFTTC)

The OFTTC is equal to 35% of eligible labour costs, with no cap.[1] First-time producers are eligible for an enhanced rate of 40% on the first $240,000 of labour costs.

Eligibility Requirements

- At least 75% of total final production costs are Ontario expenditures (in the case of inter-provincial and international treaty co-productions, 75% of total expenditures are in respect of the Ontario portion of the production)
- In the case of an inter-provincial co-production, not less than 20% for the cost of producing the production is in respect of the Ontario portion of the production
- The production company must have a permanent establishment in Ontario
- The production company must be Canadian controlled and must be a qualified corporation for the purpose of the federal credit
- The production company's primary business must be the production of Canadian films and videos
- At least 95% of post-production costs must be incurred in Ontario other than in the case of co-productions
- The producer must be an Ontario resident for at least two years prior to the commencement of principal photography
- The film must be shown in Ontario within two years of completion by an Ontario-based film distributor or Canadian broadcaster during prime time (that is, between 7 p.m. and 11 p.m.)
- The production must attain at least 6 of the possible 10 CAVCO points (unless it is an official treaty co-production)
- A minimum of 85% of the total number of days of principal photography or key animation must be done in Ontario, unless it is a documentary or treaty co-production
- The Ontario Minister of Culture must certify the production as an Ontario production.

Ineligible productions include: television programs not shown in prime time other than children's programming and non-Canadian controlled service productions, news, game shows, award shows, fundraising shows, talk shows, reality television and sports shows.

Inter-provincial and international treaty co-productions are eligible for this tax credit. In such cases, the calculation is based on Ontario's portion of the production budget.

REGIONAL BONUS

Productions shot in Ontario and entirely outside of the Greater Toronto Area (GTA) or productions that have at least five location days in Ontario (in the case of a television series, the number of location days must be at least equal to the number of episodes in the series) and at least 85% of such location days outside of the GTA, are eligible to receive a 10% percent bonus on all Ontario labour expenditures.

ONTARIO PRODUCTION SERVICES TAX CREDIT (OPSTC)

The Ontario Production Services Tax Credit has been expanded for expenditures incurred after June 30th 2009, and is equal to 25% of all qualifying production expenditures in Ontario. For expenditures before this date, the OPSTC is equal to 25% of the eligible Ontario labour expenditures incurred in Ontario. There is no limit on the amount of qualifying expenditures. In addition, this credit can be combined with the federal Film or Video Production Services Tax Credit of 16% of qualified Canadian labour expenditures. This credit is available to both Canadian and foreign production companies producing in Ontario.

Eligibility Requirements

- The corporation must be primarily engaged in the business of film or video production
- The production must meet minimum budget levels of $100,000 per episode of 30 minutes or less of a television series, $200,000 per episode greater than 30 minutes and $1 million for all other productions
- The OFTTC and the OPSTC cannot both be claimed for the same episode of a television series
- Ineligible genres include news shows, talk shows, game or contest productions, sports events, gala or award presentations, pornography, reality television and advertising or industrial productions.
- No content requirements need to be satisfied to be eligible for this tax credit provided that the production company has a permanent establishment in Ontario (which includes a production office set up in Ontario during filming), and either owns the copyright in the production or contracts directly with the copyright owner.

ONTARIO COMPUTER ANIMATION AND SPECIAL EFFECTS TAX CREDIT (OCASE)

This tax credit assists in the creation of digital animation or digital visual effects to be used in eligible film or television productions. The OCASE tax credit is equal to 20% of labour costs, with no cap. This tax credit is available to both Canadian and foreign owned corporations that create digital animation or digital visual effects at a permanent establishment in Ontario. This includes digital animation and digital visual effects that are created for non-Canadian productions, provided that they are created at a permanent Ontario establishment.

ONTARIO INTERACTIVE DIGITAL MEDIA TAX CREDIT (OIDMTC)

This tax credit is equal to 40% of eligible Ontario labour expenditures and eligible marketing and distribution expenses of an eligible corporation and incurred in the creation of eligible interactive digital media products. It also applies to 100% of any remuneration paid to arm's length Ontario parties who are not employees of the corporation, and to eligible marketing and distribution expenditures. The maximum eligible marketing and distribution expenditures are capped at $100,000 per product.

Eligibility Requirements

- The production must be an "eligible product" in accordance with OIDMTC regulations
- The product must be created at a permanent establishment in Ontario
- The corporation which develops the eligible product must be a Canadian corporation, but need not be Canadian owned
- The corporation's annual gross revenues must not exceed $20 million
- The corporation's total assets must not exceed $10 million
- The corporation must not be exempt from taxation under the *Corporations Tax Act*[2]
- The product must have been developed for commercial exploitation, but not used to promote the corporation.
- Corporations which cannot meet the asset or revenue requirements set out above or which are developing a product under a fee-for-service arrangement, can access a reduced OIDMTC of an amount equal to 35% of all eligible costs.

OTHER PROGRAMS

Other Ontario funding programs include:

- The CJOH-TV/CTV Television Incorporation Development Fund
- The CTV Television Incorporation Script Development Fund
- The Ontario Arts Council
- The Toronto Arts Council Grants to Media Artists Program
- TV Ontario

For more information on programs provided by the Ontario Media Development Corporation, visit **omdc.on.ca**.

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1 Equity investments from such government agencies as Telefilm Canada, among others, will no longer reduce eligible Ontario labour expenditures.

2 R.S.O., 1990, c. C.40, s.57.11.

Prince Edward Island Government Incentive Programs

P.E.I. no longer offers funding specific to the film industry through tax credits or grant programs. However, there may be funding for projects that have an indigenous component, but these awards are discretionary, and projects are selected on a case-by-case basis. For more information and updates, please visit **innovationpei.com**.

Quebec Government Incentive Programs

REFUNDABLE TAX CREDIT FOR QUEBEC FILM AND TELEVISION PRODUCTIONS

The Refundable Tax Credit for Quebec Film and Television Productions, which is administered by the Société de développement des entreprises culturelles ("SODEC"), is generally equal to 35% of eligible labour expenditures, to a maximum of 50% of production costs. The general maximum effective rate is 17.5% of a production budget. An additional bonus credit of 10% is available for eligible labour expenditures which are directly attributable to the creation of digital animation or visual effects, (with a general maximum effective rate of 22.5% of a production budget). For giant screen films and for certain French-language feature films including (i) animation; (ii) youth programming; and (iii) documentaries which meet higher content criteria, a tax credit of up to 45% of labour expenditures applies, to a maximum of 50% of production costs (with a general maximum effective rate of 22.5% of a production budget). For regional productions (in the Province of Quebec but outside of the Montreal region) produced by regional producers, a tax credit of up to 65% of eligible labour expenditures applies to a maximum of 50% of production costs (with a general maximum effective rate of 32.5% of a production budget). Additionally, a 10% tax credit of eligible labour expenditures is available per fiction feature film or single documentary that does not receive any financial assistance from a public organization.

Eligibility Requirements

- A production company must first obtain an advance ruling or a certificate from SODEC

- A production company must be a corporation having an establishment in Quebec, must carry on a Quebec film or television production business, must not be directly or indirectly controlled by a person or persons not resident in Quebec for at least 24 months prior to the year in which the tax credit is claimed, must not be a corporation holding a broadcast licence issued by the Canadian Radio-television and Telecommunications Commission (a "Broadcaster") and must not be a corporation that in the preceding 24 months has had a non-arms length relationship with a Broadcaster unless the corporation has been issued an eligibility certificate by SODEC for the current fiscal year

- The production must generally meet 6 of the possible 10 Quebec content points (the Quebec-content point scale is similar to that of CAVCO, but is based on residence of key personnel in Quebec,[1] rather than on Canadian citizenship). In certain circumstances, the production must meet seven of the 10 possible Quebec content points where only five of the key personnel are residents of Quebec but where two are residents of Canada.

- For productions of 75 minutes or more (per episode in the case of a series), 75% of post-production costs must be incurred and paid with respect to services rendered in Quebec

- For productions of 75 minutes or more (per episode in the case of a series), a minimum of 75% of production costs, excluding payments to key personnel for purposes of the point scale and those related to financing, must be paid to individuals resident in Quebec at the end of the previous year or to corporations or partnerships having an establishment in Quebec during the year

- For productions of less than 75 minutes (per episode in the case of a series) and for all co-productions regardless of duration, the content points requirement relating to key personnel does not apply, but the production must meet the requirement that 75% of all production costs, except those relating to financing, must be paid to individuals resident in Quebec at the end of the previous year or to corporations or partnerships having an establishment in Quebec during the year

- A production must have a commitment from a Canadian broadcaster or distributor undertaking that the production will be broadcast or exhibited in theatres in Quebec. However, for a giant-screen production, the production company only needs an undertaking that the production will be screened in Canada in a public performance venue.

Eligible projects (live action or animation) include feature films, television programs, documentaries and documentary series, children's programs, and certain variety and game programs.

Official Treaty International Co-productions and Inter-provincial Co-productions are also eligible for this tax credit if a minimum of 75% of production costs relating to the Canadian portion of the co-production are paid to Quebec residents or incurred for services rendered in Quebec. In such cases, the tax credit is calculated based on Quebec's portion of the budget.

REFUNDABLE TAX CREDIT FOR FILM PRODUCTION SERVICES

This tax credit, administered by SODEC, is equal to 25% of all-spend production costs (including qualified labour costs and the cost of qualified properties). An additional bonus rate of 20% is available for qualified labour costs which are directly attributable to the creation of digital animation or computer aided special effects and animation.

Eligibility Requirements

- A production company must first obtain an advance ruling or a certificate from SODEC
- The corporation must have an establishment in Quebec
- The corporation's primary business must be the operation of a film or television production business or production service business
- The production company must either own the copyright in the production or have directly contracted with the copyright owner to render production services for the production
- The production must meet a cost minimum which varies depending on the type of production and duration
- The corporation must not be exempt from income tax

Official Treaty Co-productions are eligible for the Quebec Refundable Tax Credit for Film Production Services. Eligible projects (live action or animation) include feature films, television programs, documentaries and documentary series, children's programs, and certain variety and game programs.

QUÉBEC DUBBING TAX CREDIT

The Quebec Dubbing Tax Credit administered by SODEC, is equal to 30% of eligible labour expenditures incurred for dubbing an eligible production. This amount is capped at 40.5% of eligible dubbing costs. This credit cannot be claimed if dubbing costs were included in production costs for the Refundable Tax Credit for Quebec Film and Television Productions or if claimed under the Refundable Tax Credit for Film Production Services.

Eligibility Requirements

- The corporation must have an establishment in Quebec.
- The corporation must provide dubbing services (this includes broadcaster affiliated companies).
- This tax credit is only available to productions which meet the genre requirements of the Refundable Tax Credit for Quebec Film and Television Productions.
- The corporation must obtain a certificate from SODEC certifying the production as a qualified production.
- 75% of the persons engaged in set direction or as talent associated with the dubbing of the qualified production must be Quebec residents.

For more information on programs administered by the Société de développement des entreprises culturelles, visit **sodec.gouv.qc.ca**.

THE QUEBEC MULTIMEDIA PRODUCTION TAX CREDIT

This credit is administrated by Investissement Québec. The Refundable Tax Credit for the Production of Multimedia Titles is granted at a rate of 37.5% of eligible labour expenditures for "mass market" titles with a French-language version, 30% of eligible labour expenditures for "mass market" titles with no French-language version, and 26.25% of eligible labour expenditures for all other eligible titles.

A corporation for which 75% of its activities consist of producing eligible multimedia titles for itself or others, may expedite the process of applying for the credit by qualifying as a specialized corporation.

Eligibility Requirements

- The corporation must have an establishment in Quebec and operate a multimedia title production business
- The corporation must first obtain an eligibility certificate from Investissement Québec.
- The corporation must not be exempt from income tax
- The corporation must not be entitled to the tax credit for corporations specializing in the production of multimedia titles
- Eligible multimedia titles may be on-line or off-line, but must be interactive and contain a significant amount of at least three of the following elements: text, sound, images and animated images.

In general, interpersonal communication systems, transactional services and corporate promotion titles are not eligible.

For more information on Investissement Québec programs, visit **investquebec.com**.

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1 On June 29, 2000, the Quebec Ministère des Finances released an Information Bulletin announcing that the applicable Quebec content criteria based on "domicile" of key individuals would be replaced as of the date of the bulletin by criteria based on "residence" in Quebec at the end of the previous year. In addition, as an alternative to the 6-out-of-10 point requirement, a production will now be permitted to qualify as a Quebec Film on a 7-out-of-10 point basis provided that 5-out-of-7 points are awarded for individuals residing in Quebec and not more than two points are awarded to an individual who, although not a Quebec resident, is a Canadian citizen for the purposes of the *Citizenship Act* or a permanent resident for the purposes of the *Immigration Act*, as at the end of the preceding year.

Saskatchewan Government Incentive Programs

On March 21, 2012, the Saskatchewan government announced its intention to terminate the Saskatchewan Film Employment Tax Credit (SFETC) outlined below. As of July 1st, 2012, applications under the SFETC will no longer be accepted.[1]

SASKATCHEWAN FILM EMPLOYMENT TAX CREDIT

The SFETC is equal to 45% of eligible labour expenditures, to a maximum of 50% of the total production costs. "Eligible labour" refers to Saskatchewan and deemed non-Saskatchewan labour. There is a bonus equal to 5% of the total production budget for productions shot 25 miles (40 km) outside of Regina or Saskatoon, which increases the maximum credit to 22.5% of the total production budget. This bonus is calculated on any expenditures incurred in Saskatchewan. There is also a key creative position bonus equal to 5% of eligible labour expenditures. This bonus is designed for projects with budgets of $3 million or more, and the production must attain a minimum six out of 10 points based on the hiring of Saskatchewan crew into key positions. There are no corporate or project caps, and no copyright requirement for this tax credit.

Eligibility Requirements

- The production company must have a permanent establishment in Saskatchewan

- The production company must pay at least 25% of all labour costs to Saskatchewan residents

- The production company cannot be controlled by a corporation based outside of Saskatchewan

- The production company must be incorporated in Canada or in a province of Canada, be a taxable Canadian corporation and be producing an eligible film

- The production company cannot be a shareholder in a Canadian broadcaster.

Eligible productions need not meet Canadian or Saskatchewan content requirements. Eligible genres include: drama, variety, animation, children's programming, music programming, education resource programs, information series or documentaries. Canadian broadcasters and specialized channels are not eligible applicants.

FUNDING FOR SASKATCHEWAN-BASED PRODUCERS

SaskFilm's funding programs still remain available for Saskatchewan-based producers. To qualify as Saskatchewan-based, the producer must be a Canadian resident or permanent citizen currently residing in Saskatchewan.

For more information on Saskatchewan's incentive programs, please visit **saskfilm.com**.

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1 Sask Reg 19/2012, s 2.

Yukon Government Incentive Programs

Since no taxes are paid in the Yukon, no tax credit is available to production companies that produce in this territory. Instead, the Yukon Film and Sound Commission has developed other incentive programs to attract production companies to the area.

YUKON FILMMAKERS FUND

The Filmmakers Fund contributes up to $8,000 to film productions by Yukon Residents and Yukon businesses that are either produced or post-produced in the Yukon.

YUKON FILM LOCATION INCENTIVE POLICY

Spend Rebate

This spend rebate is a 25% rebate of Yukon below-the-line spend where eligible Yukon labour content equals or exceeds 50% of the total person days on the Yukon portion of the production, where the production company has either a broadcast or distribution agreement with an internationally recognized entity.

Note that productions accessing the Yukon spend Rebate are not elgible for the Travel Rebate.

Yukon Travel Rebate

This travel rebate is only available to production companies from outside Yukon and available to dramatic television productions, feature films and MOWs. Yukon Film will pay up to 50% of travel costs from Calgary, Edmonton or Vancouver to Whitehorse. This rebate is calculated as the lesser of $2,000 multiplied by the number of days of principal photography in the Yukon, to a maximum of $15,000, or 15% of Yukon expenditures.

This rebate is also available for the production of commercials. 50% of travel costs from Calgary, Edmonton or Vancouver to Whitehorse are paid subject to the following calculation: the lesser of $2,000 multiplied by the number of days of production in the Yukon, to a maximum of $10,000, or 10% of total Yukon expenditures.

For the Travel Rebate, the minimum Yukon crew level must be 15% or more of the total person days for the Yukon portion of the production. Travel costs for any non-Yukon crew member where in the sole discretion of the Yukon Film & Sound Commission, a qualified Yukon crew member could have been used instead will not be considered for the Travel Rebate.

FILM DEVELOPMENT FUND

This fund can provide up to 50% of the Yukon expenditures to a maximum of $35,000, or 33% of the total project expenses, whichever is less, in the form of a grant. This includes the following four phases: concept to fully developed script; treatment to first-draft script; first-draft to final-draft screenplay; polish/rewrites and preproduction expenses. An additional $10,000 may be awarded for costs associated with training and mentoring a Yukon screenwriter. The total contribution may not exceed 75% of the total project costs.

Eligibility Requirements

- Applicants must be Yukon residents or Yukon registered corporations (majority owned by Yukon residents) whose primary business is film production
- Applicants must own 51% of the project, and must have a broadcast development agreement with a licensed broadcaster or a distribution arrangement.

- Broadcasters and distributors are not eligible.
- Note that productions accessing the Film Development Fund are not eligible to apply for rebates of Yukon expenditures under the Yukon Film Location Incentive Program.

FILM PRODUCTION FUND

This fund offers a maximum project contribution of $500,000. For productions solely controlled by a Yukon resident or corporation, the contribution will be based on 30% of Yukon expenditures, or 30% of total production costs, whichever is less, in the form of a grant. Corporate and producer fees must be directly related to the project, but may not exceed 30% of the total budget combined. For co-productions, the contribution will be based on 30% of Yukon expenditures, or 20% of total production costs, whichever is less.

Eligibility Requirements

- The applicant must be a Yukon-registered corporation (at least 51% owned by Yukon residents) whose primary business is film production, and must own controlling interest in the project. In the case of co-productions, the co-production company must be registered in the Yukon.
- Broadcasters and distributors are not eligible. In general, sports broadcasts, instructional programs, game shows, news, current affairs programming, informercials, infotainment, commercials, industrials, amateur video and pornography are not eligible.
- Projects must be supported by a broadcast license with a licensed broadcaster or a distribution agreement.
- In the case of a co-production, such a company must be registered in the Yukon. In addition, the Yukon producer must participate as a full partner in the production, and demonstrate a significant degree of financial and creative control and receive a corresponding share of the revenues of the production, at terms no less favourable than those of the non-Yukon producers.

Recipients under this program are not eligible to apply for the Yukon Film Location Incentive Program.

For more information on incentives provided by the Yukon government, visit **reelyukon.com**.

Union and Guild Related Issues

SAG GLOBAL RULE ONE

The Screen Actors Guild's (SAG) "Global Rule One" (GR1) effectively extends the territoriality of the SAG collective agreement into Canada. As a consequence, many SAG members will not agree to render services in Canada unless they are engaged on SAG terms and minimums.

While the imposition of GR1 initially created many problems for foreign productions shooting in Canada, the introduction of certain exemptions by SAG, the support of the Canadian actors' union (ACTRA), and the establishment of an accepted protocol, have resulted in a fairly streamlined process.

Under the current rules, a foreign producer typically engages SAG members through a SAG signatory company and then lends the services of those SAG members to the local Canadian production company. In the situations where the foreign producer is not a SAG signatory, the Canadian production services company will become signatory to the ACTRA Independent Production Agreement and sign a side letter with SAG for the SAG members. The SAG members will work under the SAG rules but their agreement will fall under ACTRA jurisdiction. The Canadian producer will require the SAG member to sign the ACTRA "faceplate" agreement and will attach the long form SAG agreement as a rider.

DIRECTOR'S GUILD OF CANADA

A production company becomes a signatory to the Directors Guild of Canada (DGC) by signing a simple five-page document called "Bargaining Authorization and Voluntary Recognition Agreement" (Agreement). This Agreement is between the production company, parent company and the DGC for the specific production. The parent does not become a signatory for all future productions by signing the Agreement; it only applies to the specific production.

Once the production company becomes a DGC signatory, it must hire DGC members in good standing for all job classifications covered by the DGC Basic Agreement (the DGC and DGA cover similar job classifications).

In the event the director on the production is a Directors Guild of America (DGA) member, the DGA and the DGC have a reciprocal agreement that DGA directors may work in a DGC jurisdiction under the DGA Agreement. The DGA application process is much more extensive than the DGC.

Despite the reciprocal agreement, the producer is still required to obtain prior approval from the DGC. The director needs to become a permittee by completing a work permit application for non-Canadians. The DGC also requires that a resume be attached to the permit application. A permit fee of $200.00 per week of engagement during principal photography will be deducted from gross remuneration and remitted by the producer to the DGC. The fringe benefits will be calculated and paid pursuant to the DGA Basic Agreement. The DGC may refuse the permit if it is a first-time or inexperienced director.

WRITERS GUILD OF CANADA

Whether the Writers Guild of Canada (WGC) or the Writers Guild of America (WGA) has jurisdiction over a given production is determined by the location of the producer. If a Canadian producer is engaging a WGA member, the agreement will fall under the terms of the WGC Independent Production Agreement (WGC IPA), and the Canadian producer must become signatory to the WGC and sign a side letter with the WGA. The WGA member writer then must obtain a Working Rule 8 Waiver from the WGA.

The WGA member's contract shall be subject to all the terms of the WGC IPA, except for the following:

- The minimum compensation payable to a WGA member shall be that under the WGA Basic Agreement, which is generally higher than the WGC
- The producer will have to pay the additional expense of the WGA member's pension and health benefits.

Please note that under the WGC IPA the writer does not assign copyright in and to the screenplay, it is only a licence for a specific use.

Tax-Related Issues

WITHHOLDING TAXES – GENERAL

The Canada Revenue Agency (CRA) is responsible for the enforcement and collection of income taxes levied under the *Income Tax Act* (Canada).

The *Income Tax Act* generally requires any person who pays for services provided by a non-resident in Canada, even a non-resident payer, to withhold and remit taxes from the payment. Payments to employees are subject to withholding at graduated payroll rates. Payments to behind-the-scenes (BTS) independent contractors are subject to 15% withholding tax if the independent contractor is a non-resident. Payments to actors or their loan-out companies are subject to withholding tax at 23%.[1] The actor can elect to file a Canadian tax return and pay tax at ordinary marginal rates on the income, in which case the 23% amount is treated as a prepayment on account of the tax. If an independent contractor (whether BTS or on-camera) is a Canadian resident, no withholding is required.

TREATY EXEMPTIONS

1. Employee Exemption

Non-resident employees may be exempted from Canadian taxes if Canada has a tax treaty allowing this exemption with the country in which the employee is resident. For example, employees who are resident in the United States will not be subject to Canadian tax if they:

- earn less than $10,000 in Canada, or
- were present in Canada for less than 183 days in the calendar year and the remuneration is not borne by a Canadian resident or non-resident with a fixed base in Canada.

Employees who qualify for this exemption must submit an application to the CRA for a letter of authority to reduce or eliminate withholding taxes.

2. BTS Waiver

The CRA has developed administrative guidelines whereby it will issue a tax treaty-based “waiver” upon application by a non-resident BTS contractor who is resident in a treaty country.[2] The guidelines are intended to establish that the non-resident is entitled to a tax exemption pursuant to a tax treaty between Canada and the non-resident’s country of residence. Where a waiver is obtained, the payer is not required to withhold taxes.

1 Note that the Canada-U.S. treaty reduces the withholding tax rate to 10% on the first $5,000 (Cdn) paid to an independent contractor, whether for BTS or on-camera services.

2 U.S. resident actors may qualify for a waiver under these guidelines only if their gross income earned in Canada in the calendar year is less than $15,000 (Cdn).

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