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Canadian and Ontario Film and Television Tax Credits

Overview

Refundable tax credits relevant to film production are offered by both the federal government and the province of Ontario. The federal tax credits consist of:

(i) the Canadian Film or Video Production Tax Credit (CPTC); and

(ii) the Canadian Film or Video Production Services Tax Credit (PSTC).

The Ontario tax credits consist of:

(i) the Ontario Production Services Tax Credit (OPSTC);

(ii) the Ontario Computer Animation & Special Effects Tax Credit (OCASE);

(iii) the Ontario Film & Television Tax Credit (OFTTC); and

(iv) the Ontario Interactive Digital Media Tax Credit (OIDMTC).

Each credit is refundable and the Ontario tax credits are “stackable” in those combinations described in the following pages. If, for example, Ontario credits of 20% and 25% are stackable, the total credit would be 45%. However, the relevant Federal tax credit would only apply to the balance of qualifying expenditures. Assuming, then, a stacked Ontario credit of 45% (OPSTC and OCASE) and a Federal credit of 16% (PSTC), the combined Federal and Ontario tax credit would be 53.8% [Step 1: 100 - 45% = 55. Step 2: 16% of 55 = 8.8. Step 3: 45 + 8.8 = 53.8].

This document provides only a summary of principal requirements and is not intended to be complete or to be relied upon as a substitute for legal advice.

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	Amount	Production Company	Project	Eligible Expenditure
Federal Tax Credits				
Canadian Film or Video Production Tax Credit (CPTC)	The CPTC is **25%** of qualified labour expenditures for the year in respect of the production. Qualified labour expenditures are limited to 60% of the amount by which the cost of the production exceeds assistance. The CPTC is therefore capped at 15% of the cost of the production, net of assistance. "Assistance" refers to any financial assistance from public or private Canadian sources or from foreign sources, where it is in the form of grants, subsidies, provincial tax credits, forgivable loans, services and any other similar form of assistance. The CPTC and PSTC cannot both be claimed.	The applicant must be a **"qualified corporation"**; that is: • the applicant must be a taxable Canadian corporation throughout the year; • the primary activity of the applicant in the year must be a Canadian film or video production business; and • the activity must be carried on through a permanent establishment in Canada. CAVCO also requires that the applicant, and if applicable the Canadian distribution company, be owned and controlled, either directly or indirectly, by Canadian citizens or permanent residents.	The production must be certified by CAVCO as a **"Canadian film or video production"**; that is, a film or video production: • on which principal photography (key animation) commenced before the end of the year; • that is either a treaty co-production or satisfies the regulations under the *Income Tax Act* (Canada)—these are the Canadian content requirements and include the points system; • that, except where a production is a treaty co-production (or in the case of prescribed persons), either the applicant or a related prescribed taxable Canadian corporation is the exclusive worldwide copyright owner for the first 25 years or controls the initial licensing of commercial exploitation of the project; • that a Canadian distributor or CRTC-licensed broadcaster has confirmed will be shown in Canada within two years of completion (and no non-Canadian entity will distribute the production in Canada within that period); and • that does not fall within an ineligible genre such as news, sports, advertising, etc.	**"Qualified labour expenditures"** are salaries and wages that are: • directly related to the production: • reasonable in the circumstances; • related to salaries and wages incurred from script development to the end of post-production; • included in the cost of the production; and • paid within 60 days after the end of the year. Qualified labour expenditures include payments for services provided by consultants, employees of other corporations and partnerships provided that certain requirements are met. Special provision is made for the reimbursement of expenses incurred by a parent corporation that is a taxable Canadian corporation. Qualified labour expenditures do not include remuneration determined by reference to profits or revenues, *i.e.*, profit sharing, or employment income referable to employee stock options. Qualified labour expenditures do not include payments for services rendered by a person who is a non-resident at the time the services are performed, unless that person is a Canadian citizen

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Canadian Film or Video Production Services Tax Credit (PSTC)	The PSTC is **16%** of qualified Canadian labour expenditures for the year in respect of the cost of the production, net of assistance.
	
	"Assistance" means financial assistance from any source, including grants, subsidies, provincial tax credits, forgiv-able loans, contributions, services or certain advances and any other similar forms of assistance.
	
	There is no cap such as is imposed on the CPTC.
	
	The PSTC and CPTC cannot both be claimed.
		The applicant must be an "**eligible production corporation**"; that is:
		• the applicant must be a corporation;
		• the primary activity of the applicant in Canada in the year must be a film or video production business or a film or video production services business;
		• the activity in Canada must be carried on through a Canadian permanent establishment; and
		• the applicant must either:
		  ○ own the copyright in the production throughout the period during which the production is produced in Canada; or
		  ○ have contracted directly with the copyright owner to provide production services, provided that the owner of the copyright is not an eligible production corporation in respect of the particular production (usually because the copyright holder does not carry on business in Canada through a permanent establishment).
			The production must be certified by CAVCO as an "**accredited film or video production**"; that is, a film or video production:
			• on which principal photography (key animation) commenced before the end of the year;
			• for which aggregate production expenditures for the period ending 2 years after principal filming or taping began exceed CDN$1 million;
			• in the case of a television series, for which aggregate production expenditures for the period ending 2 years after principal filming or taping began exceed CDN$100,000 for episodes of less than 30 minutes and CDN$200,000 in all other cases (although a television series requires two or more episodes, a pilot episode qualifies on its own); and
			• that does not fall within an ineligible genre such as news, sports, advertising, etc.
				"**Qualified Canadian labour expenditures**" are salaries and wages that are:
				• directly related to the production:
				• reasonable in the circumstances;
				• related to salaries and wages incurred from the final script stage (excludes screenwriting fees) to the end of post-production; however, post production services must be as specifically enumerated in the *Income Tax Act* (Canada);
				• related to services rendered in Canada;
				• paid to employees resident in Canada at the time the payments were made; and
				• paid within 60 days after the end of the year for which the credits are claimed.
				
				Qualified Canadian labour expenditures include payments for services provided by consultants, employees of other corporations and partnerships provided that they carry on business in Canada through a permanent establishment and certain other requirements are met.
				
				Special provision is made for the reimbursement of expenses incurred by a parent corporation that is a taxable Canadian corporation.
				
				Qualified Canadian labour expenditures do not include remuneration determined by reference to profits or revenues, *i.e.*, profit sharing, or employment income referable to employee stock options.

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ONTARIO TAX CREDITS				

Ontario Production Services Tax Credit (OPSTC)	The OPSTC is **25%** of qualifying production expenditures, net of assistance.
	
	Although the OFTTC includes an enhancement for first time producers while the OPSTC does not, the OPSTC is regarded as already being enhanced because it is not limited to labour costs.
	
	“Assistance” means financial assistance from any source, including grants, subsidies, forgivable loans, contributions, services or certain advances and any other similar forms of assistance.
	
	The OPSTC is stackable with either Federal credit and with the OCASE.
		The applicant must be a “**qualifying corporation**”; that is:
		• the applicant must be a corporation;
		• the primary activity of the applicant in Ontario in the year must be a film or video production business or a film or video production services business;
		• the activity must be carried on through a permanent establishment in Ontario; and
		• the applicant must either:
		    ○ own the copyright in the production throughout the period during which the production is produced in Ontario; or
		    ○ have contracted directly with the copyright owner to provide production services, provided that the owner of the copyright is not a qualifying corporation in respect of the particular production (usually because the copyright holder does not carry on business in Ontario through a permanent establishment).
			The production must be certified by the OMDC as an “**eligible production**”; that is, a film or television production:
			• on which principal photography (key animation) commenced before the end of the year;
			• for which aggregate production expenditures for the period ending 2 years after principal filming or taping began exceed CDN$1 million;
			• in the case of a television series, for which aggregate production expenditures for the period ending 2 years after principal filming or taping began exceed CDN$100,000 for episodes of less than 30 minutes and CDN$200,000 in all other cases (although a television series requires two or more episodes, a pilot episode qualifies on its own);
			• that does not fall within an ineligible genre such as news, sports, advertising, etc.; and
			• for which public financial support would not be contrary to public policy.
				“**Qualifying production expenditures**” are:
				• Eligible wage expenditures;
				• Eligible service contract expenditures; and
				• Eligible tangible property expenditures in respect of the production.
				
				Special provision is made for the reimbursement of expenses incurred by a parent corporation that is a taxable Canadian corporation.
				
				“Eligible wage expenditures” are salaries and wages that are:
				• directly attributable to the production :
				• reasonable in the circumstances;
				• related to services rendered in Ontario from the final script stage (excludes screenwriting fees) to the end of post-production;
				• are paid within 60 days after the end of the year; and
				• are paid to employees of the applicant that were resident in Ontario both at the end of the year preceding the year in which principal photography began and at the time the expenditures are made.
				
				“Eligible wage expenditures” do not include remuneration determined by reference to profits or revenues, *i.e.*, profit sharing, or employment income referable to employee stock options.
				
				“Eligible wage expenditures” exclude labour costs included for SR&ED purposes, *i.e.*, SR&ED costs are excluded from production costs.
				
				“Eligible service contract expenditures” are expenditures that meet all but the last of the above-bulleted requirements and are instead paid to consultants, employees of other corporations and partnerships that carry on business in Ontario through a permanent establishment and which were resident in Ontario both at the end of the year preceding the year in which principal photography (key animation) began and at the time the expenditures are made and the services rendered in Ontario.
				
				“Eligible tangible property expenditures” means depreciation if the asset is owned, and the leasing cost if the asset is leased, provided that certain requirements are met. This principally applies to equipment, studio rentals and software.

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Ontario Computer Animation and Special Effects Tax Credit (OCASE)	The OCASE is **20%** of qualifying labour expenditures, net of assistance. "Assistance" means financial assistance from any source, including grants, subsidies, forgivable loans, contributions, services or certain advances and any other similar forms of assistance. The OCASE is stackable with either Federal credit and with either the OPSTC or the OFTTC.	The applicant must be a "**qualifying corporation**"; that is: • the applicant must be incorporated in Canada, (it can be Canadian or foreign owned); • the applicant must perform eligible computer animation and special effects activities; • the activities must be carried on through a permanent establishment in Ontario; and • the activities must be in respect of an "eligible production" undertaken by the applicant.	The production must be certified by the OMDC as an "**eligible production**"; that is, a film or television production: • that is produced for commercial exploitation; • that does not fall within an ineligible genre such as news, sports, advertising, etc.; and • for which public financial support would not be contrary to public policy.	"**Qualifying labour expenditures**" are: • qualifying wage amounts; and • qualifying remuneration. "Qualifying wage amounts" are salaries and wages that are directly attributable to eligible computer animation and special effects activities provided that: • the activities are carried out by the applicant; • the activities are carried out in Ontario; and • the activities are for the eligible production. "**Eligible computer animation and special effects activities**" include designing, modelling, rendering, lighting, painting, animating and compositing, but exclude SR&ED costs, *i.e.*, SR&ED costs are excluded from production costs. Special provision is made for the reimbursement of expenses incurred by a parent corporation that is a taxable Canadian corporation. Qualified labour expenditures include payments for services provided by consultants, employees of other corporations and partnerships provided that certain requirements are met. "Qualifying wage amounts" cannot be claimed by a 'personal services business'. Such amounts would instead be claimed by the personal services business's client. "Qualifying labour expenditures" do not include remuneration determined by reference to profits or revenues, *i.e.*, profit sharing, or employment income referable to employee stock options.

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Ontario Film & Television Tax Credit (OFTTC)	The OFTTC is **35%** of qualifying labour expenditures, net of assistance. "Assistance" means financial assistance from any source, including grants, subsidies, forgivable loans, contributions, services or certain advances and any other similar forms of assistance. For a "first-time production", the OFTTC is 40% of the first $240,000 of qualifying labour expenditures. An additional regional bonus of 10% of qualifying labour expenditures is available if certain conditions are met. The OFTTC is stackable with either Federal credit and OCASE.	The applicant must be a "**qualifying production company**"; that is, it must: • be a "qualified corporation" for the purposes of the CPTC; and • have a permanent establishment in Ontario.	The production must be certified by the OMDC as an "**eligible Ontario production**", for which the principal, but not only, requirements are: • the "producer" must be an individual resident in Ontario at the end of the last two years ending before principal photography commenced; • the production must have at least six Canadian content points (unless it is a co-production); • at least 75% of the production costs must be paid to (i) individuals resident in Ontario at the end of the year preceding the year in which principal photography began or (ii) corporations for goods or services provided in the course of carrying on business through a permanent establishment in Ontario; • at least 95% of post-production costs must be for services performed in Ontario (unless it is a co-production); • photography or key animation must be done in Ontario at least 85% of the time; • if for television, it must be suitable for a minimum 30-minute time slot (unless it is a children's program); • the applicant or a related corporation must be the exclusive worldwide copyright owner of the production for all commercial exploitation purposes for 25 years and control the initial licensing of all commercial exploitation (unless it is a co-production); and • there must be an agreement with an Ontario-based distributor or a Canadian broadcaster to show the production in Ontario within two years of completion.	"**Qualifying labour expenditures**" are salaries and wages that are: • directly attributable to the production; • included in the cost or capital cost of the production; • reasonable in the circumstances; • related to salaries and wages incurred from (subject to qualification) script development or the acquisition of story rights to the end of post-production; • paid within 60 days after the end of the year; and • paid to individuals resident in Ontario at the end of the year preceding the year in which principal photography (key animation) began. Qualified labour expenditures include payments for services provided by consultants, employees of other corporations and partnerships provided that certain requirements are met. Special provision is made for the reimbursement of expenses incurred by a parent corporation that is a taxable Canadian corporation. Qualified labour expenditures do not include remuneration determined by reference to profits or revenues, *i.e.,* profit sharing, or employment income referable to employee stock options. Qualified labour expenditures do not include payments by one qualifying production company to another in respect of the production. Qualifying labour expenditures do not include expenditures included for SR&ED purposes, *i.e.,* SR&ED costs are excluded from production costs.

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Ontario Interactive Digital Media Tax Credit (OIDMTC)	The OIDMTC is **40%** of qualifying expenditures, or **35%** in the case of specified products, net of assistance. "Assistance" means financial assistance from any source, including grants, subsidies, forgivable loans, contributions, services or certain advances and any other similar forms of assistance. The OIDMTC is not stackable with any other tax credit.	The applicant must be a "**qualifying corporation**"; that is, it must: • develop an eligible product at a permanent establishment in Ontario operated by the corporation. Special rules apply to game development corporations which are not addressed in this summary.	The products must be certified by the OMDC as "**eligible products**". A product (other than a specified product) is an eligible product if: • it is an "interactive digital media product"—the key requirement of which is that individual users can choose the information to be presented and the form and sequence in which it is to be presented; • at least 90% of the product was developed in Ontario by the qualifying corporation; • the product was developed for sale or license by the qualifying corporation to arm's length customers who did not commission the product; • the product is not used primarily for interpersonal communication; • the product is not used primarily to present or promote the qualifying corporation; • the product is not used primarily to present, promote or sell the products or services of the qualifying corporation; and • public financial support would not be contrary to public policy. A product is both a **specified product** and an eligible product if substantially the same conditions set out above are met except that the product's development is commissioned by an arm's length purchaser for license or sale by that purchaser to arm's length customers of its own.	"**Qualifying expenditures**" in respect of eligible products other than a specified products are: • "eligible labour expenditures"; and • "eligible marketing and distribution expenditures". "Qualifying expenditures" in respect of eligible products that are specified products include only "eligible labour expenditures". "Eligible labour expenditures" are (i) salaries or wages paid to the applicant's employees and (ii) remuneration paid to consultants, employees of other corporations and partnerships (subject to certain requirements), provided that: • the expenditures are directly attributable to the development of the eligible product; • the expenditures are included in the cost or capital cost of the eligible product; • the expenditures are paid within 60 days after the end of the year; • the expenditures are paid to individuals that were resident in Ontario at the end of the year preceding the year in which the particular individual provided the service; • employees report to a permanent establishment of the applicant in Ontario at which the eligible products are developed; • consultants perform their services at a permanent establishment in Ontario, either of their own or of the applicant's; and • the expenditures are not included for SR&ED purposes, i.e., SR&ED costs are excluded from product costs. "Eligible marketing and distribution expenditures" are expenditures directly attributable to advertising or promoting the eligible product or its distribution provided that certain requirements are met. The principal, but not only, criterion is a $100,000 limit.

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