



**NOVA SCOTIA FILM INDUSTRY TAX CREDIT
GUIDELINES AND APPLICATION**

***Please note that Regulations are currently being amended.
Further details will be available once the Regulations are finalized.***

Contact:

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The Nova Scotia Film Development Corporation (the “Corporation”) is a Crown Corporation, which reports to the Minister of Economic Development. It was created by an Act of the Legislature, proclaimed on August 1, 1990. The following statement outlines and reflects the Corporation’s mission and the beliefs of the staff and Board of Directors as they relate to today’s marketplace:

Our mission is to grow Nova Scotia’s film, television, and new media industry with our partners by stimulating investment and employment and by promoting Nova Scotia’s producers, productions, locations, skills and creativity in global markets.

To help reach this objective, the Corporation administers the Nova Scotia Film Industry Tax Credit on behalf of the Department of Finance. Additional information can be obtained by calling the Director of Finance of the Nova Scotia Film Development Corporation at (902) 424-7177.

This refundable corporate tax credit is available to qualifying producers of qualifying Nova Scotia productions and co-productions.

Calculation

The tax credit is calculated as follows:

For productions that started principal photography after April 10, 2000 and before January 1, 2005:

	Base Tax Credit Rates	Regional Bonus of Up To	Total Potential Tax Credit
Labour Rate	30%	5%	35%
Production Cost Rate (Cap)	15%	2.5%	17.50%

For labour paid on or after January 1, 2005:

	Base Tax Credit Rates	Regional Bonus of Up To	Frequent Filming Bonus *	Total Potential Tax Credit
Labour Rate	35%	5%	5%	45%
Production Cost Rate (Cap)	17.5%	2.5%	No applicable cap	20% of production cost + 5% of eligible NS labour

Please note that the tax credit will be the lesser of the tax credit calculation based on labour and the tax credit calculation based on production cost.

* Should qualifying conditions be met. Conditions are set out under the frequent filming bonus section.

Requirements

The basic requirements to qualify for the tax credit are as follows:

- the applicant must be incorporated under the laws of Nova Scotia, another province of Canada, or Canada.
- the applicant corporation has a permanent establishment, such as a production office, in Nova Scotia (Income Tax Act definition – a fixed place of business, an office, a branch, etc.).
- at least 25% of Canadian labour must be paid to eligible Nova Scotia residents (resident in Nova Scotia on the last day of the previous or current taxation year).
- the corporation has been registered by the Nova Scotia Film Development Corporation as producing an eligible film.
- copyright does not have to be owned by the Nova Scotia corporation.

Application Process

Part A Certificate application - optional

To register a production a producer is required to submit a completed signed and dated application form indicating Part A certificate. Part A applications are subject to a processing fee of \$100 plus 15% HST, which is to be submitted with the application. The Producer is required to submit the following information (Attachment 1 – Part A Deliverables of the application):

- Synopsis of the production;
- One copy of the script or treatment;
- List of eligible employees and eligible individuals;
- A copy of the certificate of incorporation;
- Detailed locked budget signed and dated by the Producer with an indication of eligible labour expenditures;
- Recoupment schedule (required even if the Nova Scotia Film Development Corporation has not provided funding for development or production).

Once this information is received and reviewed by the Nova Scotia Film Development Corporation, a Registration Letter will be issued to the Producer, which outlines the estimated amount of tax credit that they may be entitled to receive. Producers can often obtain interim financing using this letter.

Incomplete application and missing documentation will delay registration.

Producers may choose to not apply for a Part A certificate and file a Part B application after production is completed.

Final Certificate

Part B Certificate application - mandatory

After the Production has been completed, the Producer will submit a newly completed signed and dated application with additional information. The processing fee for Part B applications is 0.2% of eligible Nova Scotia labour, with a minimum processing fee of \$200, capped at \$2,000 per application. The processing fee, plus 15% HST, is to be submitted with the application. The information is as follows (Attachment 1 – Part B Deliverables of the application):

- List of Nova Scotia labour being claimed, including:
 - (i) eligible employees and eligible individuals (names, social insurance numbers, eligible salaries, occupations and addresses)
 - (ii) all third party labour (attach all supporting invoices and Statement of Eligible Nova Scotia Labour)

Although the “Declaration of Residency” (attached) is not submitted as part of the application process, it must be completed and maintained by the Producer.
- Projects with budgets above \$500,000 require an audited cost report; budgets in excess of \$100,000 but equal to or less than \$500,000 require a review engagement report; and budgets equal to or less than \$100,000 require a Producer’s affidavit certifying the final cost report. Effective January 1, 2004, **all reports must break out the total amount of production dollars spent in the province** (including all Nova Scotia labour) **as well as the Nova Scotia labour expenditure.** The Corporation has the right to request an audited cost report on any project and the Producer shall be obligated to provide the report at their cost.
- A detailed list of accounts payable as of the audit date, indicating labour or non-labour, and dates paid for any labour amounts paid within 60 days of the applicant’s year end.
- The Producer shall give the Nova Scotia Film Development Corporation the following credit on all copies of the Production and promotional material relating to the Production:

Produced with the assistance of the Nova Scotia Film Industry Tax Credit

To assist in verifying this credit, one professional colour VHS/DVD copy of the Production must be submitted with the Part B application.

Regional Bonus

The regional bonus can increase the tax credit rate by up to 5% of eligible labour and raise the production cost cap by up to 2.5%. Productions qualify for a regional bonus by shooting in the eligible geographic area (EGA). The EGA is defined as thirty kilometres or more driving distance from Halifax City Hall. For further clarity, this area is bound by the Mount Uniacke exit of Highway 101, the Halifax International Airport exit of Highway 102, the Tantallon exit of Highway 103, and the Porters Lake exit of Highway 107. The regional bonus rate calculation is prorated based on the number of days of principal photography or key animation done inside and outside the EGA.

Frequent Filming Bonus *

*** Please note that Regulations are currently being drafted. Further details will be available once the Regulations are finalized.**

The frequent filming bonus will apply for eligible local and guest productions commencing principal photography after December 31, 2004.

- A frequent filming bonus of 5% of eligible Nova Scotia labour is available on the third film commencing principal photography within a two-year period.
- Principal photography for the third film must have commenced on or after January 1, 2005.
- Principal owner for each of the three films must be the same person or group of persons.
- Principal photography on all three eligible films must be completed in order to receive the frequent filming bonus on the third film.

- Any subsequent films completed after the third eligible film may be eligible for the 5% bonus, provided that there are three eligible films that commence principal photography in any two-year period.

Productions where the Nova Scotia Film Development Corporation is an equity investor

When included in the financing structure, the Nova Scotia Film Industry Tax Credit, as well as the Federal Tax Credit and any other provincial tax credits, are considered to be producer's equity. A minimum of 50% of the tax credit amounts must be included in the Production's financing structure if the Producer is eligible.

In the event that the total aggregate of all tax credits is less than the initial budgeted total tax credits, the Producer will invest the amount required to maintain the initial budgeted amount included in the Production's financing structure.

In the event that the total aggregate of all tax credits is greater than the initial budgeted total tax credits, the amount in excess will be considered Production Revenue and disbursed according to the Recoupment Schedule agreed to in the equity contract. For greater clarity, the excess refers to the original budgeted total tax credits, not just the amounts included in the Production's financing structure. The amount in excess shall not be applied to an overage in the production budget.

Frequently Asked Questions

Is the Tax Credit reduced by other tax credits?

The Nova Scotia Film Industry Tax Credit is not reduced by any other tax credits that the Producer may receive.

What is considered "eligible labour"?

Eligible labour includes amounts paid to eligible individuals or eligible employees of the corporation for services rendered which are **directly** attributable to the production of the film or television show. Also, labour amounts paid to another corporation are eligible if the amount claimed does not exceed the salaries or wages of that corporation's eligible employees for personally rendering the services.

Eligible labour includes costs incurred from the end of the final script stage to the end of post-production and includes all "above-the-line" and "below-the-line" personnel.

Wages and salary paid for work outside the province would also qualify, as long as these amounts are paid to Nova Scotia residents.

Who are considered "eligible individuals" or "eligible employees"?

"Eligible individuals" or "eligible employees" are persons who were resident in the province on the last day of the previous or current taxation year. The determination of residency is based on the Federal Income Tax Act and is accepted as the province where you normally live, i.e. pay rent, maintain bank accounts and drivers license, and where you pay taxes.

Are deferrals eligible for the Tax Credit?

In order to qualify for the Tax Credit, the salaries and wages must be paid within sixty days of the corporation's year end. Amounts which will not actually be paid or are contingent on some future event, i.e. profit participation, do not qualify.

What types of productions qualify?

Television, videotape, feature film, non-theatrical production or interactive websites associated with television or feature film projects, and the subject is drama, variety, performing arts, animated or informational series, documentary or music programming, including music videos.

The following types of productions are not eligible: news, current events or public affairs programming; programs that include weather or market reports; talk shows; sports events; gala presentations or award shows; projects that solicit funds; pornography; advertising; projects produced primarily for industrial, corporate or institutional purposes; projects (other than documentaries) which substantially contain stock footage.

Is production services work eligible for the Tax Credit?

Production services work is eligible for the Tax Credit.

- (a) When the guest producer applies directly, the Tax Credit would be calculated on the appropriate percentages of eligible Nova Scotia labour and the full audited production costs.
- (b) A Nova Scotia service company may access the Tax Credit on behalf of the guest producer provided that the applicant company receives a producer credit. In this case the Tax Credit would be calculated based on the sub-contracted costs.

The following credit shall be provided on all copies of the Production and promotional material relating to the production:

Produced with the assistance of the Nova Scotia Film Industry Tax Credit

To assist in verifying this credit, one professional colour VHS/DVD copy of the Production must be submitted with the Part B application.

Is the Tax Credit reduced by amounts received from the government?

The Nova Scotia Film Industry Tax Credit is not reduced by any other film industry tax credits, Federal or Provincial. It is reduced, however, by amounts which are considered “government assistance,” which includes “assistance from a government, municipality or other public authority whether as a grant, subsidy, forgivable loan, deduction from tax, investment allowance or as any other form of assistance”. This would include items such as employment insurance subsidies, or grants received directly from the government as an incentive. It does not include equity investments or grants received from designated film funding agencies.

Are there any caps on the Tax Credit?

There are no dollar caps per production or per producer. The Tax Credit is designed to encourage spending on Nova Scotia labour. The more eligible labour that you use the more tax credit you can receive.

How can I be sure that the labour I am using would qualify?

To make sure that the people you are hiring would be considered eligible for the Tax Credit, you must have them complete and sign a “Declaration of Residency” form (attached). These declarations must be completed and maintained by the Producer.



**Nova Scotia Film Industry Tax Credit
Application Form**

Section 1

Identification

1. Check one: (A) Initial Registration or (B) Certificate Application

Is the processing fee enclosed? Yes No Amount \$ _____

2. Is this:

(a) an official treaty co-production? Yes No
(If yes, please attach certification.)

(b) an inter-provincial co-production? Yes No

(c) a production services arrangement? Yes No

3. Title of Production:

Previous Titles:

If TV series, cycle number:

4. Name of Applicant Production Company:

Revenue Canada Corporation #:

Provincial Registration #:

Production Company's Year End (month/day/year):

Address:

Contact Person:

Phone Number:

Fax Number:

5. Officers of Applicant Production Company:

6. Directors of Applicant Production Company:

7. Shareholders of Applicant Production Company:

<u>Name</u>	<u>Province of Residence</u>	<u>Type of Shares Held</u>	<u>Percentage Owned</u>
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Section 2 **Broadcaster/Distributor Information**

8. Distributor Information

<u>Name of Distributor</u>	<u>Date of Delivery</u>	<u>Format (35mm,16mm,Beta etc.)</u>
Canada		
U.S.		
U.K.		
Other		

9. Broadcaster Information (First Rights or Window)

	<u>Name of Broadcaster</u>	<u>Date of Broadcast or Delivery</u>
Canada		
U.S.		
U.K.		
Other		

Broadcaster Information (Subsequent Rights or Window)

	<u>Name of Broadcaster</u>	<u>Date of Broadcast</u>
Canada		
U.S.		
U.K.		
Other		

Section 3**Description of Production**

10. Genre (check one): Drama/Comedy Variety
- Children Educational or Informational
- Documentary Other _____
- Music
-

11. Category (check one): Feature Film TV Series
- TV Special/Pilot TV Movie
- Interactive Website * Direct to Video
- Interactive DVD/CD* Other _____
- TV Documentary

* related to a film or TV property

12. Total running length in minutes (per episode, if TV series):

If TV series, number of episodes:

Section 4**Production Schedule**

13. Dates for: Development
- Pre-Production
- Production
- Post-Production
-

14. Locations of production Number of days Dates for each area
(General, e.g. Halifax/Dartmouth)
- (a)
- (b)
- (c)
- (d)
- (e)

Section 6**Tax Credit Calculations**

17. Please complete the following section if you are applying for the regional bonus:

Note: The eligible geographic area (EGA) is defined as at least 30 kilometres driving distance from Halifax City Hall. See the Film Industry Tax Credit Regulations for further detail. Include any days of principal photography shot outside Nova Scotia in (B).

Regional Bonus Rates Calculation:

(A) Number of days of principal photography shot inside the EGA _____

(B) Number of days of principal photography shot outside the EGA _____

(C) Total number of days of principal photography _____

(i) Labour Rate: $(A)/(C) * 40\% + (B)/(C) * 35\% =$ _____

(ii) Production Cost Rate: $(A)/(C) * 20\% + (B)/(C) * 17.5\% =$ _____

18. Please complete the following section if you are applying for the frequent filming bonus:

	Title of Production	Principal Photography Commencement Date	Principal Photography Completion Date	Principal Owner of the Applicant Production Company
1st Prior Film				
2nd Prior Film				
Qualifying Film				

19. (a) Eligible Cost of Production

Total Cost of Production		\$ _____ (A)
Less: Assistance*	\$ _____	
	\$ _____	
	\$ _____	
Total Assistance		\$ _____ (B)
Eligible Cost of Production (subtract B from A)		\$ _____ (C)
Tax Credit Based on Production Cost (multiply C x 17.5% or rate calculated in Section 17(ii) if applicable)		\$ _____ (D)

(b) Eligible Labour Expenditures

Total Canadian Labour Expenditure		\$ _____
Total Nova Scotia Labour Expenditure		\$ _____ (E)
Less: Deferrals	\$ _____	
	\$ _____	
	\$ _____	
Total Deferrals		\$ _____ (F)
Eligible Cost of Labour (E minus F)		\$ _____ (G)
Tax Credit Based on Eligible Labour (multiply G x 35% or rate calculated in Section 17(i) if applicable)		\$ _____ (H)

(c) Tax Credit Calculation

Allowable Tax Credit (lesser of D and H)		\$ _____
Frequent Filming Bonus (multiply (G) by 5% if applicable)	\$ _____	
Total Amount of Tax Credit		\$ _____

* includes "assistance from a government, municipality or other public authority whether as a grant, subsidy, forgivable loan, deduction from tax, investment allowance or as any other form of assistance."

Section 7

Personnel

20.	<u>Name</u>	<u>Province of Residence</u>	<u>Remuneration</u>
	Executive Producer(s)		
	Co-producer(s)		
	Producer(s)		
	Any other Producer(s)		
	Lead Performer		
	Second Lead		
	Director		
	Screenwriter(s)		
	Director of Photography		
	Art Director		
	Music Composer		

Section 8

Producer's Declaration

21. I am an authorized Signing Officer of the Company and certify that this application, and the accompanying information submitted, has been examined by me and is true and complete.

I certify that I will comply with the Act and Regulations for the Nova Scotia Film Industry Tax Credit, Section 13E of Chapter 217 of the revised statutes of Nova Scotia, 1989, the Income Tax Act.

I will also furnish, upon request, all additional records and documents deemed necessary by the Minister of Finance; I hereby consent to the conduct of any audit to be performed on the Production Company for certification purposes.

Signature _____ Date _____

Name (print) _____ Title _____

Warning: The Income Tax Act allows for penalties to be applied if any person provides information which they know is false or misleading, or if material facts are omitted.

Attachment 1 - Part A Deliverables

The following information is required for initial registration of a production for the Nova Scotia Film Industry Tax Credit.

1. A complete, signed and dated application form (estimated costs).
2. Synopsis of the Production.
3. One copy of the script or treatment.
4. List of eligible employees and eligible individuals.
5. A copy of the certificate of incorporation.
6. Detailed, locked budget signed and dated by the Producer with an indication of the eligible labour expenditures.
7. Recoupment schedule (required even if the Nova Scotia Film Development Corporation has not provided funding for development or production).
8. Payment of processing fee (\$100 plus 15% HST).

**** Tax credits will not be registered unless all of the above information is supplied.****

Attachment 1 - Part B Deliverables

The following information is required in order for a final certificate to be issued for the Nova Scotia Film Industry Tax Credit.

1. A complete, signed and dated application form (actual costs).
2. List of Nova Scotia labour, including eligible employees and eligible individuals (names, social insurance numbers, eligible salaries, occupations and addresses) and third party labour (include all supporting invoices and appropriate statements of Nova Scotia labour).
3. Audited statement of production costs (or review engagement or producer's affidavit and cost report, if applicable) with Nova Scotia expenditures and Nova Scotia labour broken out.
4. A detailed list of accounts payable as of the audit date, indicating labour or non-labour, and dates paid for any labour amounts paid within 60 days of the applicant's year end.
5. One professional colour VHS/DVD copy of the completed Production.
6. Payment of processing fee (0.2% of eligible Nova Scotia labour, with a minimum processing fee of \$200, capped at \$2,000 per application, plus 15% HST).

**** Tax credits will not be finalized unless all of the above information is supplied.****

**Nova Scotia Film Industry Tax Credit
Declaration of Residency**

(For productions commencing between January 1, _____ - December 31, _____ .)

Instructions: Please complete all sections of this form (you may type or print)

(name of production)

I, _____, hereby certify and confirm that:
(full name-please print)

1. I was/will be resident in Nova Scotia on the 31st day of December 200__ and my civic address was/will be the following:

(full address including postal code)

2. I have performed/will perform the services of _____
(job title)
commencing on _____ and ending on _____.
(start date) (end date)

3. For my services, described above, I was paid/will be paid as (please check the correct response):

- (i) an employee of the production company () **or**
(ii) as an independent contractor using my personal services company () **or**
services company (incorporated? yes no)

(name of company)

- (iii) as an independent contractor in my individual capacity ()

4. I understand that _____ will be relying on this
(name of production company)
declaration for its application for a Nova Scotia Film Industry Tax Credit which may be subject to government audit, and hereby warrant that the above-noted information is true and correct.

Signature of Declarant

Social Insurance Number

Date

IN THE MATTER OF: THE INCOME TAX ACT, R.S.N.S., c. 217, s. 13E
DIVISION FD – FILM INDUSTRY TAX CREDIT

-and-

PRODUCER

STATEMENT OF ELIGIBLE NOVA SCOTIA LABOUR

I, _____, of _____,
SUPPLIER CORPORATION

of the Province of Nova Scotia, make oath and say as follows:

I have supplied the Producer identified above with goods and/or services

for the production titled _____, in

the amount of \$ _____ (net of HST), as indicated on the attached

invoice(s) dated _____.

I attest that the percentage of Nova Scotia labour represented in the invoice(s) amount is

_____%. This calculates to \$ _____ worth of eligible Nova Scotia

labour.

SWORN TO at _____)
in _____, Province of)
NOVA SCOTIA, this _____ day)
of _____, 200____, before me)

WITNESS

SUPPLIER

HOW IS THE TAX CREDIT CALCULATED?

- The Nova Scotia Film Industry Tax Credit is a refundable corporate tax credit.
- For productions commencing principal photography after December 31, 2004, the base tax credit rates are 35% of the eligible Nova Scotia labour to a maximum of 17.5% of the total production budget (world budget).
- There is a 5% frequent filming bonus.
- There is a regional bonus of up to 5%.
- There is no limit on the size of the production budget.
- There is no corporate cap.
- There is no asset cap.
- There are no Canadian content requirements.
- There are no copyright ownership requirements.
- Production services are eligible.

WHO CAN APPLY?

Basic requirements to apply for the tax credit:

- The applicant must have a permanent establishment, such as a production office, in Nova Scotia (Income Tax Act definition – a fixed place of business, an office, a branch, etc.). In the case of an animation production, the animation studio would be considered the permanent establishment.
- The applicant must be incorporated under the laws of Nova Scotia, another province of Canada, or Canada.
- At least 25% of the total Canadian labour must be paid to eligible Nova Scotia residents.

ELIGIBLE PROJECTS?

- Eligible categories include television, videotape, feature film, non-theatrical production or interactive websites associated with television or feature film projects, and the genre is drama, variety, performing arts, animated or informational series, documentary or music programming, including music videos.
- Unlike other provincial tax credits, there is no minimum amount of shooting which has to take place within the province. The Nova Scotia Film Industry Tax Credit is a labour tax credit – the key is to hire Nova Scotia residents.

OTHER

- The Nova Scotia Film Industry Tax Credit is compatible with the Production Services Tax Credit.
- The Nova Scotia Film Industry Tax Credit is not reduced by any other tax credits that the producer may receive.
- All applications must be accompanied by processing fee: Part A, \$100 plus 15% HST; Part B, 0.2% of eligible Nova Scotia labour (minimum \$200, maximum \$2,000 per application), plus 15% HST.
- The guidelines and application can be accessed at www.film.ns.ca.