

Canadian Audio-Visual Certification Office (CAVCO) INFORMATION BULLETIN

BACKGROUND

- CAVCO is a branch of the Department of Canadian Heritage, formerly the Department of Communications.
- CAVCO was formally established in 1976 at which time it began administering the Capital Cost Allowance Program (CCA).
- The CCA deduction was available to producers at a rate of 100% in one year. In 1983 it went to 50% per year over two years. With tax reform in 1987, the rate was reduced to 30% on a declining balance basis.
- The present Canadian Content point system was introduced in 1982. In 1984, the CRTC adopted the same system.
- In 1995, the Canadian Film or Video Production Tax Credit Program (CPTC) was introduced to replace the Capital Cost Allowance Program (CCA). No alterations were made to Canadian-Content requirements but the law, regulations and program guidelines were strengthened to require more control of production and exploitation by Canadian producers.
- CAVCO employs Tax Credit Officers with a background in law, accounting, business administration, financial management and the production industry. In addition, it periodically calls upon the resources offered by the Department of Justice lawyers.

MAIN PROGRAMS CO-ADMINISTERED BY CAVCO AND REVENUE CANADA

CANADIAN FILM OR VIDEO PRODUCTION TAX CREDIT PROGRAM (CPTC)

- The objective of the CPTC is to encourage the production of Canadian programming and to develop an active domestic production sector.
- The CPTC is available at a rate of 25% of eligible salaries and wages incurred after 1994. Eligible salaries and wages qualifying for the credit may not exceed 48% of the cost of the production, net of assistance, as certified by the Minister of Canadian Heritage.
- The tax credit could provide assistance of up to 12% of the cost of production, net of assistance.

FILM OR VIDEO PRODUCTION SERVICES TAX CREDIT PROGRAM (PSTC)

- The PSTC is a mechanism designed to encourage the employment of Canadians, by a taxable Canadian or a foreign-owned corporation with a permanent establishment in Canada, the activities of which are primarily film or video production or production services.
- CAVCO's role under the PSTC is to determine the eligibility of the production and to issue an Accredited Film or Video Production Certificate on behalf of the Minister of Canadian Heritage.
- The PSTC is a refundable tax credit equal to 11% of salary and wages paid to Canadian residents or taxable Canadian corporations (for amounts paid to employees who are Canadian residents) for

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provided to the production in Canada. There is no cap on the amount which can be claimed.

ROLE OF CAVCO, REVENUE CANADA AND TELEFILM CANADA UNDER THE CPTC

CAVCO

CAVCO co-administers the tax credit program with Revenue Canada; it does not provide funding. CAVCO performs two distinct functions: 1) Canadian content recognition; and 2) estimation of the eligible expenses of production. CAVCO certification allows access to the tax credit and provides Canadian-Content recognition for access to other public and private funds such as the Canadian Television Fund and Telefilm Canada funds. This certification is also recognized by the CRTC for broadcast purposes.

REVENUE CANADA - CANADA CUSTOMS AND REVENUE AGENCY (CCRA)

The responsibilities of the CCRA are: to provide assistance to claimants; interpret and apply section 125.4 and all other provisions of the *Income Tax Act* and the *Income Tax Regulations* that may have an impact on the credit; review or audit the film tax credit claims; and provide refund cheques.

TELEFILM CANADA

Telefilm administers co-production agreements on behalf of the Minister of Canadian Heritage. Producers are required to comply with the applicable treaties established between Canada and over 40 countries and the guidelines established by Telefilm Canada. The minimum financial participation for each country varies between 15% and 30%, depending on the agreement.

CANADIAN CONTENT 10-POINT SYSTEM UNDER THE CPTC

The production must earn a minimum of six points based on the following key creative people qualifying as Canadian:

Live Action

Director	2 points
*	
Screenwriter	2 points*
Lead Performer	1 point**
Second Lead Performer	1 point**
Art Director	1 point
Director of Photography	1 point
Music Composer	1 point
Picture Editor	1 point

**Either the screenwriter or director must be Canadian.
As well, points for screenwriters may be obtained only if all screenwriters are Canadian, or if both the principal screenwriter and the author of the work on which the production is based, are Canadian.
**Either the lead or second lead performer must be Canadian.*

Animation

Director	1 point*
Scriptwriter and Storyboard	
Supervisor	1 point*
First or Second Voice	1 point**
Design Supervisor	1 point
Music Composer	1 point
Picture Editor	1 point
Layout and Background	1 point
Key Animation	1 point***
Assistant Animation/In-Betweening	1 point
Camera Operator and Operation	1 point

**Either the director or screenwriter and storyboard supervisor must be Canadian
**The first or second lead voice must be Canadian.
***Key animation must be done in Canada.*

At least 75 per cent of all production costs must be paid to Canadians except the following:

- 1) remuneration paid to the producer
 - 2) remuneration paid to key creative personnel as is previously listed
 - 3) legal
 - 4) accounting
 - 5) insurance
 - 6) financing costs.
- Also, at least 75 per cent of post-production processing and final preparation (Lab) costs must be paid for services provided in Canada.

CAVCO CHECKLISTS OF REQUIRED DOCUMENTATION UNDER THE CCA AND THE CPTC

CAPITAL COST ALLOWANCE PROGRAM (CCA)

Stages of Certification	Documents Requested
Advance Ruling (AR)	<input type="checkbox"/> Application Form <input type="checkbox"/> Chain of Title <input type="checkbox"/> Budget Summary <input type="checkbox"/> Prospectus/Offering Memorandum, if applicable
Revenue Guarantee (RG) certification	<input type="checkbox"/> AR application <input type="checkbox"/> Copy of Distribution Agreement
Provisional Approval (PA) or Certification (C)	<input type="checkbox"/> Application Form* <input type="checkbox"/> Synopsis* <input type="checkbox"/> Copy of VHS* <input type="checkbox"/> Final Screen Credits* <input type="checkbox"/> Production Report for final shooting/taping day <input type="checkbox"/> Chain of title documents <input type="checkbox"/> All agreements relating to the financing.* <input type="checkbox"/> Declaration of Citizenship <input type="checkbox"/> Audited Statement* <input type="checkbox"/> Breakdown of Costs - Form 6 (Live Action) or Form 7 (Animation) <input type="checkbox"/> Budget* <input type="checkbox"/> Telefilm Final Recommendation* <input type="checkbox"/> Three Lead Performer Agreements
Exemptions for non-Canadian courtesy credits	<input type="checkbox"/> Affidavit

CANADIAN FILM OR VIDEO PRODUCTION TAX CREDIT PROGRAM (CPTC)

Stages of Certification	Documentation Requested
Part A	<input type="checkbox"/> Application Form* <input type="checkbox"/> Synopsis* <input type="checkbox"/> Screen Credits <input type="checkbox"/> Lead Performer Agreements <input type="checkbox"/> Budget* <input type="checkbox"/> Breakdown of Eligible Labour* <input type="checkbox"/> Distribution/Broadcasting Agreements* <input type="checkbox"/> Corporate Documentation* <input type="checkbox"/> Financing Agreements* <input type="checkbox"/> Chain of Title Documents <input type="checkbox"/> Treaty Co-Production Agreement* <input type="checkbox"/> Telefilm Canada Advance Ruling*
Part B	<input type="checkbox"/> Same as Part A, if not previously submitted. <input type="checkbox"/> VHS * <i>In the case of a series, copy of three (3) representative episodes</i> <input type="checkbox"/> Final Screen Credits <input type="checkbox"/> Declarations of Citizenship <input type="checkbox"/> Declaration by the Producer* <input type="checkbox"/> Audited Statement, Review Engagement Report or Affidavit* <input type="checkbox"/> Final Cost Report <input type="checkbox"/> Breakdown of Costs - Form 6 (Live Action) or Form 7 (Animation) <input type="checkbox"/> Final Financing Agreements <input type="checkbox"/> Telefilm Canada Final Recommendation*
Exemptions for non-Canadian individuals requesting a courtesy credit	<input type="checkbox"/> Affidavit <input type="checkbox"/> Agreement for Individual receiving credit <input type="checkbox"/> Preliminary Credits

* Documents required for Official Treaty Co-productions.

CANADIAN FILM OR VIDEO PRODUCTION TAX CREDIT (CPTC)

Please note: The following represents general information only. The legislation which governs the CPTC is set out in section 125.4 of the *Income Tax Act* of Canada and draft section 1100 of the Regulations to the Act. The relevant sections of the Act and the Regulations take precedence over the general information in this document.

What is it?

The Canadian Film or Video Production Tax Credit (CPTC) is a fully refundable corporate tax credit which is designed to support the growth of a viable indigenous film and video production industry in Canada. The CPTC is jointly administered by the Department of Canadian Heritage, through the offices of the Canadian Audio-Visual Certification Office (CAVCO), and by Revenue Canada.

What is the effective rate of the tax credit?

The credit is available at the rate of 25% of the qualified labour expenditure (QLE) incurred after 1994 by a qualified corporation for the production of a Canadian film or video production. The QLE may not exceed 48% of the cost of production at the end of the year. The tax credit is therefore limited to 12% of the overall cost of production (25%x48%).

How is it calculated?

The QLE is the **lesser** of the **Eligible Production Cost** or the **Net Labour Expenditure**. The **Eligible Production Cost** is the total production cost, net of assistance, deferrals, and equity owned by prescribed persons, multiplied by 48%. The **Net Labour Expenditure** is the eligible labour expenditure, net of labour-related deferrals, multiplied by the percentage of the ownership retained by the production corporation.

Who can qualify as an eligible Canadian production corporation for the tax credit?

A qualified Canadian corporation for a taxation year means a corporation that is throughout the year a prescribed taxable Canadian corporation the activities of which in the year are primarily the carrying on through a permanent establishment (as defined by regulation) in Canada of a business that is a Canadian film or video production business.

How does a production qualify for the CPTC?

A Canadian film or video production is (i) a Treaty co-production or (ii) a production whose worldwide copyright is owned and controlled exclusively by Canadians for a minimum of 25 years, where 75% of the service costs are expended on Canadians and 75% of post-production costs are expended in Canada, and in respect of which a

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minimum of 6 out of 10 points is earned for Canadian key creative functions (the Lead or Second lead performer and the Director or Screenwriter are mandatory key creative positions that must be filled by Canadians).

In addition, for non-Treaty productions, Canadians must control the initial licensing of all commercial exploitation of the production and only Canadians can exploit the production in Canada for the first 25 years after the production is completed and is commercially exploitable. Producers must also be able to demonstrate that they retain a share of revenues, acceptable to the Minister of Canadian Heritage, from the exploitation of the production outside of Canada. Finally, a Canadian broadcaster or distributor must commit, in writing, to have the production shown in Canada within the two year period that begins at the first time the production has been completed and is commercially exploitable.

Excluded genres of production include: news, current events, talk shows, game shows, sports events, awards shows, advertising, corporate videos and pornography.

How do I access the tax credit?

In order to receive a CPTC, a Canadian production corporation must first obtain from CAVCO a Canadian Film or Video Production Certificate (APart A@) and a Certificate of Completion (APart B@). The Part A Certificate can be obtained when all financing for the production budget is confirmed and a Part B Certificate can be obtained after completion of the production (production must be completed no later than 2 years after the end of the corporate fiscal year in which principal photography began). The tax credit is claimed from Revenue Canada on a yearly basis by filing a copy of the Part A Certificate and a completed T1131 form (indicates labour expenditures for the corporate fiscal year) along with the corporate income tax return for the year. The Part B Certificate must be filed with Revenue Canada within 30 months of the end of the corporate fiscal year in which principal photography began. Revenue Canada will then adjust the corporate taxes owing according to the amount of the tax credit or, if there is no tax owing for the year, it will issue a cheque for the eligible amount.

Is there an application fee?

For a Part A application, the fee is a flat \$200, payable to the Receiver General for Canada. The Part B fee is .12% of the Eligible Production Cost (with a minimum fee of \$200 if no earlier Part A was applied for and the application is for a combined Part A and B). There is no additional fee payable when the eligible Canadian production corporation applies to Revenue Canada.

Complete Guidelines to the CPTC program are available from CAVCO. Please contact:

CANADIAN AUDIO-VISUAL CERTIFICATION OFFICE (CAVCO)
Les Terrasses de la Chaudière, 15 Eddy Street, 6th Floor, Room 113, Hull, Quebec K1A 0M5

**Telephone: 1-888-433-2200 Facsimile: 819-997-6892 E-mail: cavco_bcpac@pch.gc.ca
www.pch.gc.ca/cavco**

FILM OR VIDEO PRODUCTION SERVICES TAX CREDIT **(PSTC)**

Please note: The following represents general information only. The legislation which governs the PSTC is set out in section 125.5 of the *Income Tax Act* of Canada and draft section 9300 of the Regulations to the Act. The relevant sections of the Act and the Regulations take precedence over the general information in this document.

What is it?

The Film or Video Production Services Tax Credit (“PSTC”) is a refundable corporate tax credit which is designed to support the film and/or video production services industry in Canada by encouraging the use of Canadian labour on productions that shoot in Canada, whether they are foreign-owned or domestic. The PSTC is jointly administered by the Department of Canadian Heritage, through the offices of the Canadian Audio-Visual Certification Office (CAVCO), and by Revenue Canada.

What is the effective rate of the tax credit?

The PSTC is available at a rate of 11% of “qualified Canadian labour expenditures.” These are amounts which are incurred after October 1997 by an eligible production corporation for services provided in Canada by Canadian residents or taxable Canadian corporations (for amounts paid to employees who are Canadian residents) for the production of an “accredited production.” The “qualified Canadian labour expenditure” is reduced by any assistance received in respect of the Canadian labour expenditures, such as other provincial tax credits. Currently, a number of provinces provide similar tax credits that are obtainable along with the federal tax credit.

Is there any limitation on the amount of tax credit which can be received?

There is no cap on the amount of PSTC which can be received in respect of any production or by any corporation or its related entities. It is also completely refundable, so, if there is no tax owing for the year, the corporation will receive a cheque for the eligible amount.

Who can qualify as an “eligible production corporation”?

Any corporation, whether a taxable Canadian corporation or a foreign-owned corporation, the activities of which in the year are primarily the carrying on through a permanent establishment in Canada of a film or video production business or a film or video production services business may qualify as an eligible corporation and claim the credit.

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How do I qualify for the credit?

There is a two-fold requirement to access the credit. First, the production cost must exceed \$1,000,000 (Cdn) for a single production, \$200,000 (Cdn) for each episode in a series (or a pilot for such series) which has a running time of 30 minutes or more and \$100,000 (Cdn) for each episode in a series (or a pilot for such series) with a running time of less than 30 minutes. Second, the production must be of an eligible genre. Excluded genres include: news, current events, talk shows, games shows, sports events, award shows, advertising, corporate videos and pornography.

How do I access the tax credit?

In order to receive a PSTC, the copyright owner of the production must first obtain an “Accredited Film or Video Production Certificate” (the “Accreditation Certificate”) from CAVCO. It is the responsibility of the copyright owner to provide a copy of the Accreditation Certificate to all “eligible production corporations” who provide services to the production. A copy of the certificate, along with Revenue Canada form T1177, *Claiming a film or video production service tax credit*, must be filed with the corporate tax return for the year of each “eligible production corporation”. Revenue Canada will then review the claim by the corporation and determine the amount of the PSTC which the corporation is entitled to receive. The tax credit must be claimed in each year in which eligible labour expenditures are incurred. The copyright owner of the production must apply to CAVCO for the Accreditation Certificate, or appoint an agent (known as the “Official Designee”), to do so on its behalf. The application can be made any time after the budget is locked and a detailed synopsis for the production can be provided.

Is there an application fee?

Yes, currently the fee is set at a flat rate of \$5,000 (Cdn) payable in respect of each application for an Accreditation Certificate for a production or for a series of episodes. Where the aggregate tax credit received in respect of an application is less than \$25,000 (Cdn), the applicant may be entitled to a partial rebate of the fee. There is no additional fee payable when the “eligible production corporation” applies to Revenue Canada.

Complete Guidelines to the PSTC program are available from CAVCO. Please contact:

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Les Terrasses de la Chaudière, 15 Eddy Street, 6th Floor, Room 113, Hull, Quebec K1A 0M5
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www.pch.gc.ca/cavco

Telefilm Canada, a cultural investor in film, television and multimedia

A cultural agency of the Canadian government, Telefilm Canada is dedicated to the development and promotion of the Canadian television, film and new media industry.

Telefilm Canada is a cultural investor. Its mission is to provide financial assistance and strategic leverage to the industry in producing high-quality works that reflect Canadian society, including its linguistic duality and cultural diversity, while ensuring their widest possible distribution in Canada and abroad.

Established in 1967 as a Crown corporation, Telefilm Canada enjoys an annual budget of approximately \$180 million, which enables it to act as a key financing, strategic and promotional partner on the national and international scenes.

Administration of Telefilm Canada

Telefilm Canada's operations are governed by the *Canadian Film Development Corporation Act* and the *Financial Administration Act*, and its contributions to the industry must be made in compliance with Treasury Board rules. The Corporation's funds and programs are administered in accordance with the Memoranda of Understanding and Contribution Agreements with the Department of Canadian Heritage.

The members of the Board of Directors of Telefilm Canada are appointed by the Governor General in Council. The Board reports on its administration in an annual report, whose financial statements are audited by the Auditor General of Canada.

Diversified Support: From Scriptwriting to International Sales

Telefilm administers 15 funds and programs including the Equity Investment Program (EIP) of the Canadian Television Fund (CTF), a public-private partnership; the Feature Film Fund; and the Multimedia Fund.

Each year it contributes to the development and production of some 600 feature films, made-for-TV movies, drama series, documentaries, children's programs, variety shows and multimedia products of outstanding cultural value.

To ensure that these products reach large audiences, the Corporation participates in other industry activities such as distribution, export, versioning, marketing and promotion at Canadian and foreign festivals and markets.

Telefilm's financial support is varied. Most often provided as an investment, it also comes in the form of advances, loans, loan guarantees and grants. Telefilm shares product risks and revenues with the industry. Recouped amounts are reinvested in production and distribution activities.

Telefilm Canada provides targeted support for small and mid-size companies in all regions of the country. Access to project development resources, the Production Revenue-Sharing Program and the International Marketing Fund is reserved exclusively for these companies, and the Corporation's group stand facilitates SMB participation at major international markets.

A Strong National and International Presence

Telefilm's four Canadian offices provide their clients with a wide range of services. Located in Montréal (corporate headquarters), Toronto, Vancouver and Halifax, they stimulate creativity on a national scale.

The Corporation also operates an office in Paris, which provides valuable expertise for implementing international strategies that open new markets for Canadian production.

Telefilm Canada administers Canada's co-production agreements with 54 countries. These agreements serve as instruments for the development of the Canadian industry, ensuring both financing and foreign distribution for Canadian products.

Telefilm works with production, distribution and broadcasting companies and other Canadian and foreign government organizations in the audiovisual sector to enable Canada's industry to grow in an environment propitious to the creation of original, high-quality products with audience appeal.

Telefilm Canada's principal funds and programs

Production and development

The largest share of the Corporation's commitments is devoted to project development and production. Telefilm's principal funds in this sector are as follows:

Canadian Television Fund (CTF) - Equity Investment Program (EIP)

The CTF is a private-public partnership created in 1996 by the Canadian government and the Canadian cable industry. Telefilm Canada administers the Fund's Equity Investment Program, providing support for the development and production of television programs, and for the production of feature films for theatrical release and broadcast.

Feature Film Fund

Created in 1986, this fund assists the development and production of English- and French-language feature films destined for theatrical release, made by celebrated filmmakers and new talents from all Canadian regions.

Multimedia Fund

Created in 1998, this fund supports the development, production and marketing of educational, edutainment and entertainment multimedia products intended for the general public.

Other project development and production funds and programs

Telefilm Canada also supports creative endeavours by means of three mini-treaties with France (for film and television), the Regular Fund (which assists mainly low-budget works from the regions) and the Production Revenue-Sharing Program.

National and international product exposure

Telefilm Canada helps to expand audiences for Canadian products at home and abroad through a variety of funds and programs. The Corporation also encourages and facilitates international partnerships benefiting the Canadian industry.

Feature Film Distribution Fund

Created in 1989, this fund is aimed chiefly at recognized Canadian distributors. It provides lines of credit for use in acquiring the distribution rights to Canadian feature films and ensuring their domestic launch and marketing.

Versioning Fund

This fund serves to make Canadian works more widely accessible in both official languages, on television and in movie theatres.

Canadian Production Marketing Fund

This fund has two components: national (test marketing, launch, advertising and promotion) and international (promotional campaigns, advertising in specialized publications, marketing at markets, etc.).

Canada Showcase

Each year Telefilm Canada assists some 25 Canadian festivals held throughout the country. These festivals offer significant Canadian programming.

Participation at international markets

Telefilm Canada takes part in nine international markets: three for television (MIP-TV, MIPCOM and NATPE), three for film (Cannes and Berlin festivals and the American Film Market) and three for multimedia (E3, MILIA and MIM).

International festivals

Telefilm Canada provides logistical and promotional support for the participation of Canadian productions in international festivals. The Corporation maintains contacts with some 200 foreign festivals.

CANADIAN TELEVISION FUND

The Canadian Television Fund is a public-private partnership created by the Government of Canada and the Canadian cable industry.

It is one Fund with two complementary Programs; the Licence Fee Program and the Equity Investment Program, administered by Telefilm Canada. The CTF works to increase the quality and quantity of distinctively Canadian television productions while supporting the production and broadcasting sectors and the employment opportunities they create.

The Cable Production Fund (an initiative of the Canadian cable industry), Telefilm Canada and the Department of Canadian Heritage joined forces in 1996 to create the CTCPF, which was renamed the Canadian Television Fund. Each party contributes financial resources to a critical funding program for the Canadian television and film industry.

The CTF objectives, primarily, are:

2. To increase the broadcast presence of high-quality Canadian television programs in all regions of Canada, in both official languages, created by both the majority and minority official-language production sectors.
3. To enhance the Canadian broadcasting and production sectors' capacity to produce and distribute television programming in Canada, and where appropriate, abroad.
4. To create increased employment.

In fiscal 1998-99, the Fund operated with a budget of more than \$200 million, \$100 million from the Department of Canadian Heritage, \$60 million coming from the private sector (principally the cable industry) and \$50 million from Telefilm Canada. This funding permitted the CTF to contribute approximately \$210 million to 413 television programs and 19 feature films resulting in 2,278 new hours of high quality distinctively Canadian programming.