KPMG

Film Financing and Television programming

A Taxation Guide

Now in its eighth edition, KPMG LLP's ("KPMG") Film Financing and Television Programming: A Taxation Guide (the "Guide") is a fundamental resource for film and television producers, attorneys, tax executives, and finance executives involved with the commercial side of film and television production. The guide is recognized as a valued reference tool for motion picture and television industry professionals.

Doing business across borders can pose major challenges and may lead to potentially significant tax implications, and a detailed understanding of the full range of potential tax implications can be as essential as the actual financing of a project. The Guide helps producers and other industry executives assess the many issues surrounding cross-border business conditions, financing structures, and issues associated with them, including film and television development costs and rules around foreign investment. Recognizing the role that tax credits, subsidies, and other government incentives play in the financing of film and television productions, the Guide includes a robust discussion of relevant tax incentive programs in each country.

The primary focus of the Guide is on the tax and business needs of the film and television industry with information drawn from the knowledge of KPMG International's global network of member firm media and entertainment Tax professionals.

Each chapter focuses on a single country and provides a description of commonly used financing structures in film and television, as well as their potential commercial and tax implications for the parties involved. Key sections in each chapter include:

Introduction
A thumbnail description of the country's film and television industry contacts, regulatory bodies, and financing developments and trends.

Key Tax Facts
At-a-glance tables of corporate, personal, and value-added (VAT) tax rates; normal nontreaty withholding tax rates; and tax year-end information for companies and individuals.

Financing Structures
Descriptions of commonly used financing structures in film and television production and distribution in the country and the potential commercial tax implications for the parties involved. The section covers rules surrounding co-productions, partnerships, equity tracking shares, sales and leaseback, subsidiaries, and other tax-efficient structures.

Tax and Financial Incentives
Details regarding the tax and financial incentives available from central and local governments as they apply to investors, producers, distributors, and actors, as well as other types of incentives offered.

Corporate Tax
Explanations of the corporate tax in the country, including definitions, rates, and how they are applied.

Personal Tax
Personal tax rules from the perspective of investors, producers, distributors, artists, and employees.

Digital Media
For the first time, we have included a discussion of digital media tax considerations recognizing its growing role in the distribution of film and television content.

KPMG and Member Firm Contacts
References to KPMG and other KPMG International member firms' contacts at the end of each chapter are provided as a resource for additional detailed information.

Please note: While every effort has been made to provide up-to-date information, tax laws around the world are constantly changing. Accordingly, the material contained in this publication should be viewed as a general guide only and should not be relied upon without consulting your KPMG or KPMG International member firm Tax advisor.

Production opportunities are not limited to the countries contained in this Guide. KPMG and the other KPMG International member firms are in the business identifying early-stage emerging trends to assist clients in navigating new business opportunities. We encourage you to consult a KPMG or KPMG International member firm Tax professional to continue the conversation about potential approaches to critical tax and business issues facing the media and entertainment industry.

Thank you and we look forward to helping you with any questions you may have.

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Canada

Introduction

The Canadian film and television production industry is vibrant, having flourished since the early 1980s—when a combination of factors brought more talent into the industry; more investment by private investors, governments, and financial institutions; and more foreign productions to Canada. The cheaper Canadian dollar attracted foreign producers, especially U.S. studios, independents, and broadcasters. As a result, a large talent pool has developed, and excellent facilities have been built and continue to be enhanced. Canadian sites have often been referred to as "Hollywood North."

The Canadian film and television production industry recorded a production volume of CA $6.83 billion in 2016. The provinces of Ontario and British Columbia boast the largest North American film production centers outside of Los Angeles and New York, each with over $2 billion in production volume. The province of Québec has a strong French-language film and television production industry. The Canadian film and television production sector is the largest contributor to production volume at $2.87 billion. Foreign location and service production is the second-largest key sector with a production volume of $2.64 billion.

These production levels are possible through the tremendous advantages provided by tax incentives, as well as government support through loans, grants, equity investment and pools of funds investing in development and distribution. In addition, there are now corporate and industry association funding, including the Canada Media Fund.

The Canadian film and television industry had a kick-start in the 1970s and 1980s with financing made available from tax shelter syndications sold to passive individual investors. These were phased out in favor of refundable tax credits starting in 1995 with the introduction of the Canadian Film or Video Production Tax Credit (CPTC) that benefits Canadian-owned-and-produced film and television productions. In 1997, the Federal Film or Video Production Services Tax Credit (PSTC) was announced.

The provinces and territories followed suit, providing tax credits and other subsidies, such as production incentives for both certified film and television, as well as production services, for qualifying labor expenditures made in their province. Some also offer incentives for interactive digital media products. While the federal tax credits have remained stable, several provinces have decreased their film and television financing, moving from a refundable tax credit system to a production incentive resulting in decreased production volume in these jurisdictions.

International treaty co-productions allow Canadian producers to partner with foreign production companies from 54 countries, the latest treaty being with India. Across Canada, many producers and distributors are publicly listed companies and several have merged to create fully integrated entertainment companies, providing the opportunity to raise a significant amount of capital to invest in film properties, equipment, and related business ventures, including interactive technology, broadcast assets, and other new forms of media and entertainment.

Key Tax Facts

Highest corporate profits tax rate*	26.5%
Highest personal income tax rate*	49.53%
Federal Goods and Services Tax (GST)	5%
Harmonization Sales Tax (HST)	13% (ON) and 15% (NB, NL, NS, PE)
Annual GST/HST registration limit	CA $30,000
Normal non-treaty withholding tax rates: Dividends	25%
Interest (other than certain exempted interest)**	25%
Royalties (other than certain copyright royalties eligible for 0%)	25%
Tax year-end: Companies (other than excepted businesses)	Fiscal year
Tax year-end: Individuals and unincorporated business	Calendar year

* Combined Federal and Provincial effective January 1, 2014, using Ontario as sample province.

** No withholding tax on interest paid to nonrelated non-resident.

Note that corporate tax returns are due six months after the fiscal year-end, and there are no extensions. However the final corporate tax payment is due two months after the year-end; in certain cases, Canadian-controlled companies may have until the end of the third month to make their final installment. Personal returns are due April 30 after the calendar year, though there is an extension until June 15 in respect of those earning business income; the final tax payment is due April 30.

Film Financing

Financing Structures

Co-Production

Canada has production treaties with more than 50 countries, as well as several additional agreements with other countries. Pursuant to these treaties and agreements, the Canadian producer/partner spends a portion of the production budget in Canada and in return retains certain territories from which revenue can be earned, including Canada. Similarly, the producer/partner from the other country contributes their share of the production costs, usually in their country. It is possible to arrange a treaty co-production among producers from multiple countries as participants. The treaties are administered by Telefilm Canada through its co-production department.

Co-productions must be certified by the Department of Canadian Heritage and, as a result, become eligible for enhanced Canadian license fees and tax depreciation as a certified production with respect to the Canadian portion of the budget. The Canadian-certified budget should qualify for the CPTC as well.

The co-production structure does not create a partnership or joint business venture, unless that is the intention of the parties, and it is so structured. Therefore, the foreign party to the co-production should not be subject to tax in Canada, unless they otherwise carry on business in Canada.

The co-production structure must be carefully planned to ensure that its worldwide exploitation does not constitute the carrying on of a business in Canada to avoid reporting all of the distribution activity in Canada. Often, it is the case that there is some form of revenue collection agreement by which all parties are "equalized" after recovering revenue in their respective territories. These arrangements should be carefully structured to avoid unnecessary withholding tax and reporting in more than one country.

Non-Certified Film

There is no co-production treaty with the United States. In the past, U.S. producers have used other structures to produce in Canada and/or to gain access to benefits of Canadian tax incentives. Specifically, the PSTC is not dependent on certification of the film asset and, to an extent, was designed as an incentive to U.S. producers and other foreign producers wishing to film in Canada. Such producers can use their own production subsidiary to produce the film in Canada in order to access these credits.

It is also possible to consider producing in a structure to qualify not only for the PSTC but also for Canadian Content rules promulgated by the Canadian Radio-television and Telecommunications Commission (CRTC), which would allow for other Canadian nontax-related benefits. This is referred to as the Co-venture Structure and requires that the production be made by a Canadian producer (as defined). These rules are outlined in CRTC Public Notice 2000-42.

In some cases, U.S. producers have licensed production rights to a Canadian producer so that the production can be made as a certified film. In some cases, U.S. broadcasters or distributors provide revenue guarantees to assist in completing the financing structure of a particular production. In all situations of "co-productions" with non-treaty partners, care must be taken to ensure that the film remains certifiable, specifically that the producer control guidelines are respected, as more fully described below.

Public Companies

Several Canadian film producers and distributors are publicly listed companies on Canadian stock exchanges. A few are listed on U.S. exchanges as well.

By virtue of selling shares or units to the public, such producers and distributors have raised a substantial amount of capital that has been applied, among other things, to acquire new film properties either for production or exploitation, enhancing their respective film libraries and acquiring new production equipment. In addition, some have made significant acquisitions in related/complementary businesses, including animation, post-production, distribution and broadcasting.

Tax and Financial Incentives

Tax credits are obtained through the filing of corporate tax returns accompanied by prescribed forms calculating the credit, as well as the applicable form of certification or accreditation to confirm the project qualifies for the respective credit. Certificates are obtained through application to the certifying authority; federal programs are harmonized with provincially administered programs for eligible film and television productions. There are fees charged by the certifying authority to apply for each credit.

Canadian Audio-Visual Certification Office (CAVCO)
http://canada.pch.gc.ca/eng/1455560477351
CAVCO and the Canada Revenue Agency (CRA) jointly administer two federal tax credit programs for film and television productions, on behalf of the Department of Canadian Heritage.

Canadian Film or Video Production Tax Credit (CPTC)
http://canada.pch.gc.ca/eng/1455640574258/1455641112454
In its 1995 federal budget, the Canadian government introduced a fully refundable tax credit for qualified Canadian production companies that own the copyright in the production. This tax credit is worth up to 25% of qualified labor expenditures on an eligible Canadian film or video production, to a maximum credit of 60% of certified production costs, resulting in a maximum credit of 15% of the film cost, net of assistance.

The CPTC can be assigned to lenders as security for bridge financing; this allows the producers to obtain financing from third parties for this portion of their production budget, which is valuable because obtaining the refund is potentially subject to long delays for processing the certification (discussed below) and audit of the tax return by CRA. CRA's service-level agreement is a 120-day turnaround for tax return filings that are complete, though subsequent delays do arise if CRA requires more substantiation or if other outstanding tax matters exist in respect of the company.

The Income Tax Act and Regulations outline the tests that a Canadian production must meet to earn this production tax credit. These tax rules also create a separate depreciation class for productions that qualify for the credit.

The CPTC is available to taxable Canadian corporations whose primary business activity is the production of Canadian certified films, carried on through a permanent establishment in Canada ("Eligible Production Company").

A company must file with its tax return a Canadian Film or Video Production Certificate obtained from the Department of Canadian Heritage. The certification process is a two-part process. The Part A certificate ("Canadian Film or Video Production Certificate") is obtained by filing an application form including all requested material; this includes providing a detailed budget, a breakdown of eligible labor expenditures, a copy of production financing agreements, and a copy of all distribution, exploitation, and license agreements. The final Part B certificate ("Certificate of Completion") can be obtained by filing an application, which requires a declaration by the producer that the production is fully complete and commercially exploitable, a final cost report, a breakdown of the eligible labor expenditures, an audited schedule of production costs (productions under CA $500,000 may not require an audit performed by a third-party), and a declaration of citizenship for all production- and creative-related personnel. This certificate also certifies that the production was completed within two years after the end of the corporate taxation year in which the principal photography began. In addition, the submission must include a copy of the production.

No credit is available to a production which is a tax shelter investment (as prescribed in the Income Tax Act).

To ensure that the credit is reserved for productions that are developed, produced and exploited by Canadians and under the effective control of Canadians, the Department of Canadian Heritage has provided "Producer Control Guidelines" that will need to be met in order for the production to be certified as Canadian. In addition, CAVCO issued Public Notice

– CAVCO 2006-02 and Public Notice CAVCO 2007-01, which set out the current positions of the Department of Canadian Heritage.

The producer is defined as the individual who is:

- The central decision maker for the production;
- Directly responsible for acquiring the story or screenplay, the development, creative and financial control, and exploitation of the production; and
- Identified as the "producer" in the production.

For purposes of the credit, "Canadian" includes Canadian citizens, permanent residents (defined in the Immigration Act), and Canadian-controlled corporations (as defined in the Investment Canada Act).

Canadian broadcasters may qualify for this credit through the application by a broadcaster-affiliated production company, but the Department of Finance announced that their production activity will be monitored to ensure their proportionate share of certified productions does not increase beyond historical levels, thereby protecting the viability of the Canadian independent production sector.

Public Notices

CAVCO issues a Public Notice – Call for Comments to seek written comments on proposed policy changes on an as-needed basis. Once written comments have been compiled, a Public Notice is published with the results. These public notices often replace sections of the CPTC Program Guidelines.

A Public Notice was published on December 3, 2016, noting that applications increased by 20% from the previous year and would impact the processing times for CPTC applications.

Production Control Guidelines

The producer must be a Canadian resident individual or eligible corporation from the beginning to the end of the production. The producer is involved in and ultimately responsible for the acquisition and/or meaningful development of the story; commissioning of the writing of the screenplay/series bible; selection, hiring, and firing of key artists and creative personnel; preparation, revision and final approval of the budget; all overages; binding of the production company to talent and crew contracts; arranging the production financing; supervision of the filming/taping and postproduction; final creative control (as per contract); production expenditures (as per contract); production bank accounts (sole and unfettered check-signing authority); and arrangement of the commercial exploitation of the production.

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;
- Must have and maintain full responsibility and control over all aspects (creative and financial) of the production of the project;
- Must have and maintain full responsibility and control over all aspects of production financing;

- Must have and maintain full responsibility and control over the negotiation of initial exploitation agreements; and
- Is entitled to a reasonable and demonstrable monetary participation in terms of budgeted fees and overhead, and participation in revenue of exploitation.

NOTE: The producer will have the onus of establishing all of the above, to the satisfaction of CAVCO.

- Limited Use Rights: Rights related to underlying works acquired under license are acceptable if the copyright owner retains worldwide copyright for all commercial purposes for 25 years and no one other than the copyright owner can commercially exploit the production. It is expected that arrangements such as the following will be treated as a service deal not eligible for CPTC: where the original owner of a right has all distribution rights outside Canada, where the rights to the story and exploitation in certain territories and medium are retained by the author, where a Canadian producer exploits the concept only in Canada, and where the producer does not acquire world rights. The production may, however, qualify for production services tax credits (see discussion below).

The CPTC is available for Canadian film or video productions that are treaty co-productions, and for other productions that meet all of the following criteria:

- The producer must be a Canadian at all times during the production;
- Six "points" for Canadian creative services involved in the production, must be allotted by the Department of Canadian Heritage (see below);
- At least 75% of costs for services provided in respect of the production must be payable to, and in respect of, services provided by Canadians. This calculation excludes, among other things: amounts payable in respect of insurance, financing, legal and accounting fees; remuneration payable to individuals or the producer in respect of all the "points" categories; and post-production costs; and
- At least 75% of costs incurred for post-production, including sound rerecording, picture editing and so on, is incurred in respect of services provided in Canada.

The production must obtain a Certificate of Completion (Part B), as described above, from the Department of Canadian Heritage within 30 months of the end of the corporation's taxation year in which principal photography began, certifying that it was completed within two years after the end of that year. This signifies the completion of the certification process.

Under the currently applicable Production Control guidelines:

- The corporation (or a related taxable Canadian corporation) must hold the exclusive worldwide copyright for all commercial exploitation for 25 years after the completion of post-production. The corporation must also control the initial licensing of commercial exploitation and retain a share of revenue from the exploitation in non-Canadian markets that is "acceptable to the Department of Canadian Heritage;" and
- A written agreement must exist for fair market value consideration with a Canadian film or video distributor or a CRTC-licensed broadcaster, to have the production broadcast in Canada within two years of the production's completion. Within these first two years, it cannot be distributed in Canada by a non-Canadian distributor.

A Public Notice was published in March, 2017, which outlines the circumstances under which Canadian audio-visual productions shown exclusively via online platforms can now meet this requirement.

- Eligible platforms that can be used to meet the "shown in Canada" requirement of the Canadian Film or Video Production Tax Credit program (CAVCO Public Notice 2017-01).

Also note that credits are not available for certain genres of productions, including nondramatic television programming such as news, current affairs and sports programs, game shows (unless aimed at minors), and productions made for industrial, corporate or institutional purposes. Also excluded are productions "for which public financial support would be contrary to public policy, in the opinion of the Department of Canadian Heritage." Please refer to the Public Notices mentioned above for any updates to the definitions of ineligible genres.

Final Public Notices on the definitions of genres were published in March, 2017:

- Definitions for ineligible genres of production for the purpose of the federal film or video production tax credit programs (CAVCO Public Notice 2017-02); and
- Definition of "advertising" for the purpose of the federal film or video production tax credit programs (CAVCO Public Notice 2017-03). This notice alters the definition applicable to both the CPTC and the Production Services Tax Credit.

On September 30, 2016, the Income Tax Regulations for Film and Television productions were amended to remove "talk shows" from the list of excluded genres for the CPTC productions for which the principal photography started after February 16, 2016.

Qualified Labor Expenditures

To be eligible for the production credit, labor expenditures of qualified corporations must be "reasonable" and they must be included in the production's cost. Salary or wages qualify for the credit; amounts determined by profits or revenue, and stock option benefits do not qualify. Qualifying labor expenditures are reduced by any assistance received or expected to be received by the production, including provincial tax credits.

Salary or wages must be attributable to the period from the final script stage (following acquisition of the story or script) to the end of post-production, and they must be paid within 60 days of the year end. Remuneration paid to a nonemployee for personal services or the services of that person's employees in respect of the production qualifies for the purposes of the credit. Expenditures in respect of nonresidents of Canada do not qualify for the credit other than in respect of Canadian citizens. Also eligible are payments to taxable Canadian corporations, partnerships carrying on business in Canada, and Canadian personal service corporations, subject to certain tests to determine the percentage of the remuneration that qualifies.

Wholly-owned subsidiaries of taxable Canadian corporations can reimburse their parents for labor expenditures that would otherwise qualify in respect of a production.

Qualifying post production services are specifically identified in the regulations, and include certain sound effects, editing, special effects, computer graphics, and printing tasks.

"Production costs" for purposes of calculating the credit arise from the "final script stage" and can be incurred from as early as two years prior to commencement of principal photography, but not before incurring the first development cost or the acquisition of the story.

The Points System

Live Action productions. To qualify as "Canadian" for purposes of the production tax credit, the director or principal screenwriter and one of the two highest paid performers must be Canadian. The production must also have a total of six "points," which are earned by having Canadians occupy the following key creative roles:

- Director;
- Principal screenwriter, i.e., if more than one writer is credited, each writer must be Canadian, or one writer must be Canadian and the screenplay must be adapted from a Canadian work published in Canada;
- Lead performer (highest remuneration; billing and screen time may also be considered);
- Second lead performer (second highest remuneration; billing and screen time will also be considered);
- Art director;
- Director of photography;
- Music composer; and
- Picture editor.

Each of the above, except for director and principal screenwriter, qualifies for one point. Director and principal screenwriter qualify for two points.

Animated productions. To qualify as "Canadian," the director or both the principal screenwriter and storyboard supervisor, must be Canadians; one of the two highest paid voices must be Canadian; and the key animation must be performed in Canada. The production must also have a total of six "points," which are earned by having key creative work done in Canada or by having Canadians occupy the following key creative roles: :

- Director;
- Lead voice with highest or second highest remuneration (length of time voice is heard may also be considered);
- Design supervisor;
- Camera operator (if camera operation is done in Canada);
- Music composer;
- Picture editor;
- Principal screenwriter and storyboard supervisor (if both are Canadian);
- Layout and background performed in Canada;
- Key animation performed in Canada; and
- Assistant animation and inbetweening done in Canada;

Each of the above qualifies for one point.

Documentary productions. For documentary productions, all filled creative positions must be occupied by Canadian individuals unless the "six points" Canadian content test is otherwise met.

Public Notice CAVCO 2014-01 outlined the Lead Performer Policy and clarified the "documentary exemption" with respect to the awarding of CAVCO points.

Public Notice CAVCO 2010-01, Amended Policy on Proof of Canadian Citizenship or Permanent Residency for Producers and Key Creative Personnel, outlines the procedure for application and receipt of a unique CAVCO personnel number. Applicants are advised that cases where proof of Canadian citizenship or permanent residency is not supplied will lead to a reduction of a corresponding number of Canadian content points.

Film or Video Production Services Tax Credit (PSTC)
http://canada.pch.gc.ca/eng/1455567039116/1455567163153
On October 29, 1997, the Department of Finance first released draft legislation to implement a refundable tax credit to corporations carrying on a production services business in Canada. This program now provides a credit of 16% of qualified labor expenditures incurred and is available to Canadian, as well as foreign-based, film producers.

PSTC is designed primarily to encourage the employment of Canadians by a producer. In return for hiring Canadian residents to perform work in Canada, the producer may be entitled to this fully refundable tax credit. A production that receives CPTC is not eligible for a PSTC.

The credit is also available to corporations including foreign corporations. The corporation has to meet the following conditions to be entitled to the credit:

- Its activities in Canada should be primarily (50% or more) a film or video production business or a film or video production services business carried on through a permanent establishment in Canada; and
- The corporation has contracted directly with the owner of the copyright to provide production services if the owner is not an eligible production corporation in respect of the production.

The Department of Canadian Heritage is responsible for ensuring that the production conforms to the following requirements:

- The film or video's production cost should be in excess of CA $1 million. With respect to a TV series, episodes of less than 30 minutes should cost more than CA $100,000, or if longer, should cost more than CA $200,000.

Ineligible productions include:

- News, current events or public affairs programming, or a program that includes weather or market reports;
- A talk show;
- A production in respect of a game, questionnaire or contest;
- A sports event or activity;

- A gala presentation or awards show;
- A production that solicits funds;
- Reality television;
- Pornography;
- Advertising; and
- A production produced primarily for industrial, corporate, or institutional purposes.

An accreditation certificate must be obtained from the Department of Canadian Heritage certifying that the production is an accredited production. The application to CAVCO for an accreditation certificate can be made by either the copyright owner or by an agent appointed by the copyright owner, referred to as the "Official Designee." If the latter, then the copyright owner must sign and notarize the Official Designee Affidavit and provide all documentation requested. In addition, if there is more than one copyright owner, an affidavit from only one of these owners will be sufficient to fulfill the requirements of the Program. It can be applied to any time after the budget for the production or series is locked in and a detailed synopsis of the production or series can be provided.

Qualified Labor Expenditures

Labor expenditures that are incurred and which are directly attributable to the production qualify for the credit as long as they are "reasonable" in amount. The expenditure should relate to services rendered in Canada for the stages of the production from the final script stage to the end of the post production stage. The expenses have to be paid by the corporation within the year or within 60 days after the year-end to employees of the corporation who are residents of Canada at the time of payment, or to a person, corporation or a partnership that carries on a business through a permanent establishment in Canada for services rendered to the corporation.

Provincial Tax Credits & Production Incentives

Provincially available tax credit programs for eligible film and television productions are administered by the provincial certifying authority; they are harmonized with the federal tax credit system administered by CAVCO. In addition to a basic rate, provinces may offer bonuses when filming in a jurisdiction, performing computer animation or visual effects activities, and using prescribed local labor, for example. Production incentives are available for filming in several provinces that do not offer tax credits; however, these incentives may not harmonize with federal tax credits. Many provinces offer incentives for the development of interactive digital media products. There are often fees charged to apply for each credit.

Ontario

http://www.omdc.on.ca/

The Ontario Media Development Corporation (OMDC) administers incentives as an agency of the Ministry of Tourism, Culture and Sport jointly with the CRA. Refundable tax credits are available for film and television productions, interactive digital media products, and companies engaged in computer animation and special effects work on film and television productions.

Ontario Film and Television Tax Credit (OFTTC)

http://www.omdc.on.ca/film_and_tv/tax_credits/OFTTC.htm

The OFTTC is a refundable tax credit available to qualifying production companies with respect to eligible Ontario labor expenditures in respect of eligible Ontario productions. The

OFTTC is calculated as 35% of the eligible Ontario labor expenditures, net of assistance reasonably related to these expenditures, incurred by a qualifying production company with respect to an eligible Ontario production. An enhanced credit rate of 40% on the qualifying labor expenditure subject to certain thresholds is available for first-time producers. Productions that are shot in Ontario entirely outside of the Greater Toronto Area, or that have at least five location days in Ontario (or in the case of a television series, the number of location days is at least equal to the number of episodes in the series), and at least 85% of the location days in Ontario are outside the Greater Toronto Area, receive a 10% bonus on all Ontario labor expenditures incurred for the production.

A qualifying production company must be a Canadian corporation that is Canadian-controlled, maintains a permanent establishment in Ontario, and files an Ontario corporate tax return. Only productions with at least 6 out of 10 Canadian content points or international treaty co-productions are eligible. Productions must be in an eligible genre; have an agreement to be shown commercially in Ontario within two years of completion; have an Ontario producer; meet a minimum Ontario threshold of spending 75% of total final costs on Ontario expenditures and 85% of principal photography days in Ontario; and if for broadcast, be suitable for at least 30-minute time slot. There are exemptions for documentary productions on filming in Ontario, as well as provisions for inter-provincial co-productions. The producer must have been a resident of Ontario at the end of the two calendar years prior to commencement of principal photography. This credit is harmonized with the federal Canadian Film or Video Production Tax Credit.

Ontario Production Services Tax Credit (OPSTC)

http://www.omdc.on.ca/filmand_tv/tax_credits/OPSTC.htm

The OPSTC is a refundable tax credit net of any Ontario taxes payable. The OPSTC is calculated as 21.5% of all qualifying production expenditures incurred in Ontario after April 23, 2015 and as 25% before that date. In order to receive the 25% rate on expenditures incurred between April 23, 2015 and August 1, 2016, applicants must have met the grandfathering criteria and applied to the OMDC before August 1, 2015.

The credit is available to eligible production companies (including foreign-owned production companies) in respect of Ontario production expenditures in connection with eligible film or television productions. Production companies must be taxable Canadian or foreign-owned corporations with a permanent establishment in Ontario, and must own the copyright or contract directly with the copyright owner to provide production services. Productions must be in an eligible genre and have production expenditures net of government assistance in excess of CA $1,000,000 per feature production or CA $200,000 per episode (greater than 30 minutes; otherwise, CA $100,000 per episode). A qualifying corporation's Ontario labor expenditures, including those paid under an eligible service contract, must be at least 25% of the qualifying production expenditures claimed for taxation years that commence after April 23, 2015.

There is no limit on the amount of labor expenditures which may be eligible or other production expenditures. There are no per project or annual corporate tax credit limits. In addition, this credit can be combined with the federal Film or Video Production Services Tax Credit. A production that receives an OFTTC is not eligible for an OPSTC.

Ontario Computer Animation and Special Effects Tax Credit (OCASE)
http://www.omdc.on.ca/film_and_tv/tax_credits/OCASE.htm

The OCASE tax credit is an 18% refundable tax credit (net of Ontario taxes payable) on eligible Ontario labor expenditures for eligible computer animation and special effects activities incurred after April 23, 2015 and 20% prior to this date. In order to receive the 20% rate on expenditures incurred between April 23, 2015 and August 1, 2016, applicants must have met the grandfathering criteria and applied to the OMDC before August 1, 2015.

The credit is available to Canadian corporations (Canadian or foreign owned) which perform eligible activities at a permanent establishment in Ontario and file an Ontario corporate tax return. Productions must be produced for commercial exploitation and be of an eligible genre. Eligible applicants may be the producer of an eligible film or television production; or, in the case of an animation or visual effects house or a post-production house, it may perform eligible activities under contract with the producer of the eligible production, or with another qualifying corporation that is carrying on eligible computer animation and special effects activities for the eligible production. OCASE can be claimed by a wholly owned subsidiary in respect of expenditures incurred by its parent in respect of the subsidiary's production, and there may be one or more qualifying corporations in respect of a production. For productions where all eligible expenditures are incurred after April 23, 2015, the production must have also received an OFTTC or OPSTC certificate to be eligible for the OCASE tax credit. There is no cap on eligible Ontario labor expenditures. OCASE may be claimed in addition to the OFTTC or OPSTC.

Ontario Interactive Digital Media Tax Credit (OIDMTC)
http://www.omdc.on.ca/interactive/Tax_Credits/OIDMTC.htm

The OIDMTC is a refundable tax credit based on eligible Ontario labor expenditures and eligible marketing and distribution expenses claimed by a qualifying corporation with respect to interactive digital media products that entertain the user and products that educate children under the age of 12. The OIDMTC is calculated as 40% of eligible Ontario labor expenditures and eligible marketing and distribution expenses by qualifying corporations, regardless of the size of corporation, to create "non-specified" interactive digital media products in Ontario. For those qualifying corporations applying for an OIDMTC on "specified products", which are products developed under a fee-for-service arrangement, the OIDMTC tax rate is 35% on qualifying expenditures.

A qualifying corporation is a Canadian corporation (Canadian or foreign-owned) that develops an eligible product at a permanent establishment in Ontario in which it operates and files an Ontario tax return. A qualifying small corporation meets these criteria as well and had, during the preceding taxation year (on an associated company basis), neither annual gross revenue in excess of CA $20 million nor total assets in excess of CA $10 million. There is no limit on the amount of eligible Ontario labor expenditures that may qualify, and there are no per-project or annual corporate limits on the amount of the OIDMTC that may be claimed. Eligible marketing and distribution expenses are capped at CA $100,000 per non-specified product.

British Columbia
http://www.creativebc.com/

Creative BC, an independent agency, administers incentives for film and television productions on behalf of the certifying authority, the B.C. Ministry of Jobs, Tourism and Skills Training. The Canada Revenue Agency reviews and audits claims and issues refund checks, where appropriate.

British Columbia Film and Television Tax Credit
http://www.creativebc.com/investment/tax-credits/film-incentive-bc/index

The Film Incentive BC (FIBC) program provides five refundable tax credits to corporations that produce eligible film and/or video productions in British Columbia. The tax credits are for domestic productions with qualifying levels of Canadian content and are based on the British Columbia labor expenditures.

The FIBC program includes a Basic Incentive and four additional tax credits to encourage film and television production in British Columbia. Incentives for Regional, Distant Location Regional, Training and Digital Animation or Special Effects may only be accessed if the production is eligible for, and has claimed, the Basic Incentive.

The Basic Incentive assists British Columbia producers in the form of a tax credit of up to 35% of eligible British Columbia labor costs. The tax credit is available to British Columbia-controlled production companies that have controlling ownership of the copyright in qualifying productions. The producer must be a British Columbia resident and a Canadian.

The Regional Tax Credit incentive stimulates production outside Vancouver with a tax credit of up to 12.5% of eligible British Columbia labor for productions that shoot a minimum of five days and a minimum of 50% of the total number of days in which principal photography is performed in British Columbia and have production offices outside the Vancouver area.

The Distant Location Regional Tax Credit is an additional 6% of qualifying British Columbia labor expenditure. The credit is prorated by the number of days of principal photography performed in a distant location in British Columbia, over the total number of days in which principal photography is performed in British Columbia. A detailed map of the regional and distant locations areas can be viewed on the British Columbia Film Web site.

The Film Training Tax Credit incentive promotes the development of skilled workers in the industry. The available tax credit is calculated as the lesser of 30% of trainee salaries or 3% of total eligible labor costs. It assists producers to hire trainees registered in recognized training programs.

The Digital Animation or Visual Effects Tax Credit incentive is calculated on the British Columbia labor expenditures directly attributable to digital animation or visual effects activities and post-production services carried out with digital technology. The tax credit available is 16% of expenditures on visual effects activities and post-production services for productions with a principal photography start date on or after October 1, 2016. For productions with a principal photography start date between February 28, 2015 and September 30, 2016, the tax credit available is 17.5% of visual effects and post-production labor expenditures. For productions that started principal photography before February 28, 2015, the 17.5% rate is applied only to the directly attributable activities and not to the post-production services.

The corporation claiming the FIBC must be Canadian-controlled, must own more than 50% of the copyright for 25 years, and control the initial licensing of the commercial exploitation. The remaining copyright interests in the production may be held by a Canadian-controlled film or video production company, a Canadian broadcaster, a federal or provincial government film agency or a non-profit organization funding film or video productions.

In addition, during the relevant taxation year, an eligible production corporation must have a permanent establishment in British Columbia, and its activities must primarily be the carrying on of a film or video production business through a permanent establishment in Canada. The eligible production corporation must be British Columbia controlled, which requires one or more British Columbia–based individuals to own a majority of the voting interests of the corporation throughout the taxable year.

The production must qualify as "Canadian content," which means it must achieve 6 out of 10 Canadian content points. At least 75% of total production and post-production costs must be spent in British Columbia and be paid to British Columbia residents or companies, and at least 75% of a project's total days of principal photography must occur in British Columbia. The producer of the film or video production must be a British Columbia-based individual who is a Canadian citizen or permanent resident. The production must be distributed by a Canadian distributor or broadcaster and be exhibited in Canada within two years. There are excluded genres and special rules for international treaty co-productions, interprovincial co-productions and documentary productions.

The labor expenditure can be a maximum 60% of total production costs. There is no minimum size of production that may qualify. There is also no project cap limiting FIBC that can be claimed with respect to a particular production and no corporate cap limiting FIBC that a corporation or group of corporations may claim. FIBC is harmonized with the federal Canadian Film or Video Production Tax Credit.

British Columbia Production Services Tax Credit (BC PSTC)
http://www.creativebc.com/investment/tax-credits/production-services-tax-credit/index

The BC PSTC is calculated as 28% of qualified British Columbia labor costs with no limitation, for productions with a date of principal photography that begins after October 1, 2016. For productions that started principal photography prior to October 1, 2016, the rate is 33%.The rate for episodic television is based on the start of principal photography of the first episode in the series. The tax credit is available to taxable corporations with a permanent establishment in British Columbia in the business of film production.

Along with the Basic PSTC, there are incentives for Regional (6%) and Distant Location Regional (6%) which are prorated by the number of days of principal photography in British Columbia outside of the designated Vancouver area and within a prescribed area to the total number of days of principal photography in B.C. There is also a Digital Animation or Visual Effects (DAVE) PSTC incentive which is calculated on the British Columbia labor expenditures directly attributable to digital animation or visual effects activities and post-production services. The available DAVE tax credit is 16% of expenditures on visual effects activities and post-production services for productions with a principal photography start date on or after October 1, 2016. For productions with a principal photography start date between March 1, 2015 and September 30, 2016, the tax credit available is 17.5% of visual effects and post-production labor expenditures. For productions that started principal photography on or before February 28, 2015, the 17.5% rate is applied only to the directly attributable activities and not to the post-production services. The Regional PSTC, Distant Location Regional PSTC and DAVE PSTC must be accessed in conjunction with the Basic Production Services Tax Credit. The BC PSTC is harmonized with the federal Production Services Tax Credit.

British Columbia Interactive Digital Media Tax Credit (IDMTC)
http://www2.gov.bc.ca/gov/content/taxes/income-taxes/corporate/credits/interactive-digital-media

The British Columbia Ministry of Finance administers the IDMTC for eligible registered corporations that develop interactive digital media products in British Columbia after August 3, 2010 and before September 1, 2018. The credit is calculated as 17.5% of eligible salary and wages incurred in the tax year.

Alberta
http://film.alberta.ca/default.aspx
Alberta Film administers programs and incentives on behalf of the Government of Alberta through the Alberta Culture and Tourism Ministry.

Alberta Media Fund (AMF)
http://culture.alberta.ca/arts-and-cultural-industries/alberta-media-fund/

The AMF provides support to organizations and individuals involved in the cultural industries, which include screen-based media production, through a variety of grants, including the Alberta Production Grant which provides incentives to filming in Alberta.

The Alberta Production Grant is available to corporations incorporated in Alberta or registered to conduct business in Alberta. The production must be an eligible production as defined in the AMF guide, with respect to genre, commercial exploitation, and confirmation of financing. The amount spent in Alberta for the project must be greater than CA $50,000 (before GST). The maximum annual funding available to any project is CA $5 million. Applications must be made prior to the first day of principal photography. There is no fee to apply.

APG is offered under the following two Streams:

Stream I – Indigenous/co-Production – 29% of all eligible Alberta costs. The following are the requirements:

- Between 50% and 100% Albertan ownership and proportionate financial and creative control;
- Alberta company incorporated in Alberta;
- Minimum employment of eight Albertans in Head of Department positions, with the possibility of substituting two trainee positions for one Head of Department position, to a maximum of four trainees); and
- Bonus funding of 1% for shoots that last more than 30 consecutive days, or 300 person hours for digital projects, to a maximum of 30% of Alberta production costs.

Stream II – Foreign/Service – 25% of all eligible Alberta costs. The following are the requirements:

- Less than 50% Albertan ownership;
- Registered to conduct business in Alberta, and in good standing with Corporate Registry;

- Minimum employment of four Albertans in Head of Department positions (with the possibility of substituting two trainee positions for one Head of Department position, to a maximum of four trainees); and
- Bonus funding of 1% for shoots that last more than 30 consecutive days, or 300 person hours for digital projects, to a maximum of 26% of Alberta production costs.

Manitoba
https://www.gov.mb.ca/jec/invest/busfacts/govt/fv_taxcredit.html
Manitoba Film and Music provides the tax certificates to eligible film and video production companies and the tax credit is administered by the Canada Revenue Agency.

Manitoba Film and Video Production Tax Credit (MFVPTC)
http://mbfilmmusic.ca/en/film/tax-credits

The MFVPTC is a fully refundable corporate tax credit available to qualifying producers of eligible Manitoba productions and co-productions. The MFVPTC has been extended to December 2019 and all eligible expenditures must be incurred and paid before December 31, 2019. There are no fees to apply.

Corporations must have a permanent establishment in Manitoba, be incorporated in Canada, and be a taxable Canadian corporation primarily carrying on a film or video production business. A minimum of 25% of the corporation's T4 summary must be paid to eligible Manitoba employees for work performed in Manitoba (with exemption for documentary productions). Corporations may either apply for up to 65% with the Cost-of-Salaries Tax Credit (including bonuses) or 30% on all eligible Manitoba expenditures with the Cost-of-Production Tax Credit. There are no Canadian or Manitoban content requirements. In cases where there are no available, willing, and/or qualified Manitoba crew, a nonresident's salary may be deemed eligible labor provided that, for each deemed crew member, one Manitoba resident receives training on the production. There is also a cap on deemed salaries.

The Cost-of-Salaries Tax Credit has a base rate of 45%, and by accessing the following bonuses in conjunction, it may be raised to 65% for eligible productions:

- Frequent Filming Bonus increases tax credit to 55% on the third film shot by the corporation within a two-year period; the 10% bonus can be maintained on subsequent projects by maintaining production activity of three films within a two-year period.
- Manitoba Producer Bonus is a 5% bonus for co-producing with a Manitoba producer.
- Rural and Northern Bonus is a 5% bonus for shooting at least 50% of principal photography in Manitoba at least 35km from Winnipeg's center.

Once the production is complete and all expenses have been paid, the Corporation may choose between the Cost-of-Salaries Tax Credit and the Cost-of-Production Tax Credit, for the most beneficial tax credit. The MFVPTC is compatible with either the CPTC or the PSTC. The tax credit is processed by the Canada Revenue Agency as part of a qualifying company's annual income tax return.

Manitoba Interactive Digital Media Tax Credit (IDMTC)
http://www.gov.mb.ca/jec/invest/busfacts/govt/intmedia_tc.html

The Manitoba Department of Growth, Enterprise and Trade administers the IDMTC to Canadian taxable corporations with a permanent establishment in Manitoba that develop and produce interactive digital media projects in Manitoba before December 31, 2019. The refundable corporate income tax credit is calculated as 40% of Manitoba labor costs on eligible projects; the maximum tax credit per project is $500,000.

Saskatchewan
http://www.creativesask.ca/
The Government of Saskatchewan invests a maximum of CA $3.25 million annually to encourage production in the province through the Screen-Based Media Production Grant administered by Creative Saskatchewan.

Screen-Based Media Production Grant
https://www.creativesask.ca/sbmprod

The Screen-Based Media Production Grant will provide financial support to the film, television and interactive digital media industries for production activities in two streams. The maximum amount of financial support provided to any applicant is CA $600,000 per fiscal year (April 1 to March 31).

The Saskatchewan Stream is a maximum of 30% of all eligible Saskatchewan expenses. Applicants must be the owner or co-owner of the project and at a minimum control a share of copyright and receive a share of net exploitation revenue that are proportional to their financial participation

Service Production Stream is equivalent to 25% of all eligible Saskatchewan expenditures. There are no copyright ownership requirements.

For both streams, the following are the requirements:

- Applicants must receive sole, or in the case of co-production, shared and equal stature Producer Credit on the production.
- Applicants must have experience as producers of commercial film and/or television and/or interactive projects or related experience, and must demonstrate that they possess the necessary expertise and resources to complete the proposed production and arrange for its marketing.
- The production company cannot hold a broadcasting license issued by the CRTC or deal at non-arm's length with a corporation that holds a license.
- Productions must have a license from a broadcaster or agreement for distribution and a minimum confirmed financing. Interactive projects must demonstrate market interest in the form of a letter of intent from a market channel partner committing to take the project to market and to actively promote the project; the letter of interest need not include a cash financing commitment to the project.

Eligible companies must be incorporated in Saskatchewan or federally, the principal place of business must be located in Saskatchewan, and substantial ownership control must remain with Saskatchewan residents. Commercial intent must be the primary purpose and focus of the project, and productions must be in one of the eligible genres listed. Eligible costs generally include all expenditures on goods and services purchased in Saskatchewan.

Québec
http://www.sodec.gouv.qc.ca/fr/home
The Province of Québec offers film and television tax credits which are harmonized with the federal program and are jointly administered by Revenu Québec and the Société du

développement des entreprises culturelles (SODEC). A tax credit is also offered for dubbing film and television into French. Investissement Québec administers a tax credit for multimedia titles.

Québec Film and Television Production Tax Credit

http://www.sodec.gouv.qc.ca/fr/programme/route/cinema

A corporation may claim a refundable tax credit for Québec film productions for qualified labor expenditures incurred and paid to produce a Québec film. The tax credit is calculated as 32% of labor costs for film and television productions that are not developed from a foreign concept or format. The labor costs are capped at 50% of production expenditures and the tax credit can be up to 16% of production expenditures. For productions that are developed from a foreign concept or format, the tax credit is calculated as 28% of labor costs. The labor costs are capped at 50% of eligible production expenditures and the tax credit can be up to 14% of production expenditures. French-language productions, animated productions, documentaries, productions aimed at youth, and large-format (i.e., IMAX) films may be eligible to receive a tax credit that is up to 20% of production expenditures, or 18% if the production is developed from a foreign concept or format.

Productions that are shot outside the Montréal region may receive a tax credit that is up to 24% of production expenditures or 22% if the production is developed from a foreign concept or format. An additional 16% tax credit is available for digital effects and computer animation work performed in Québec.

To qualify for the tax credit, a corporation must have an establishment in Québec, carry on a film or television production business in Québec, and not be controlled by one or more persons resident outside of Québec in the 24 months preceding.

The Producer must be a Québec resident and there must be Québec residents in key creative positions, equaling 6 or more points out of 10 on a scale similar to CAVCO points. Qualifying productions must be at least 75 minutes long, have at least 75% of the total production costs paid to Québec residents and have at least 75% of post-production costs paid for services provided in Québec. Productions must have a commitment to be broadcast or exhibited in Québec. When the production is filmed in a language other than French, the dubbing must be undertaken in Québec.

The Québec government announced in the 2014 provincial budget that this tax credit would be reduced; however, this decision was reversed in the 2015 provincial budget. To provide relief to productions in the interim, the Québec government implemented a bonus to allow the tax credit to be up to 52% of eligible labor costs. This bonus is in effect between December 2, 2014 and January 1, 2017.

Québec Tax Credit for Film Production Services (QPSTC)

http://www.sodec.gouv.qc.ca/fr/programme/route/cinema

The QPSTC is a refundable tax credit calculated as 20% of all qualifying production expenditures incurred in Québec for the making of an eligible production. There is a bonus of 16% applied to the labor expenditures directly attributable to computer-aided animation and special effects, including on-set activities such as shooting scenes in front of a chroma key.

The QPSTC is available to corporations that either own the copyright for the eligible production throughout the period during which the production is carried out in Québec; or contract directly with the copyright owner to provide production services. The Production's worldwide budget must be greater than CA $1,000,000 per feature production or CA $200,000 per episode (greater than 30 minutes, otherwise CA $100,000 per episode). There is no project or compensation cap. The QPSTC cannot be combined with any other Québec tax credit except for the Québec Film Dubbing Tax Credit as long as the dubbing expenditures are not included in the QPSTC production costs.

Québec Film Dubbing Tax Credit
http://www.sodec.gouv.qc.ca/fr/programme/route/cinema

Eligible corporations that provide dubbing services, and have been in operation for at least one year in Québec, may apply for the costs of dubbing an eligible production into the French language. These services must be carried out in Québec. The rate of the tax credit for film dubbing is 35% of eligible labor costs to a maximum of 45% of the total dubbing contract. The eligible activities include eligible dubbing labor, the audition, i.e., the test session intended to establish the dubbing cast, and the preparation of texts, i.e., the work relating to computer-assisted detection (including the preparation and formatting of the original text according to the standards of the software used, the preparation of markers, verification and correction of adapted texts.

To be eligible, productions must meet the requirements for genre and running time, and must have at least 75% of the eligible salaries paid to Québec residents.

Québec Production of Multimedia Titles
http://www.investquebec.com/quebec/en/financial-products/all-our-products/production-of-multimedia-titles.html

Investissement Québec administers the Production of Multimedia Titles tax credit to Québec multimedia companies. It is a refundable tax credit calculated as up to 37.5% of eligible labor expenditures for activities performed on all operations necessary to produce the multimedia title, commencing with the design stage and indefinitely thereafter. Eligible companies produce multimedia titles on an electronic medium and that run using software that supports interactivity, or produce related titles, such as digital animation films associated with an eligible multimedia title produced by the same company. There is a salary cap on each eligible employee and on remuneration for each subcontractor of CA $100,000 incurred in the year.

Nova Scotia
http://www.novascotia.ca/finance/en/home/taxation/tax101/businesstax/corporateincometax/default.aspx

The Nova Scotia Department of Finance offers various incentives for film and television productions, digital animation productions, and interactive digital media products developed in Nova Scotia. Applications for the Nova Scotia Digital Media Tax Credit, which serves animated film and television productions, as well as interactive digital media products, are made directly to the N.S. Department of Finance. Nova Scotia Business Inc. administers the Nova Scotia Film and Television Production Incentive Fund, a replacement for the refundable Film Industry Tax Credit that was shut down on June 30, 2015.

Nova Scotia Film & Television Production Incentive Fund (Fund)
http://www.novascotiabusiness.com/en/home/businesssupport/resourcesandfunding/filmapplication.aspx

Effective July 1, 2015, and for productions that begin principal photography after this date, the maximum funding available per project is CA $4 million. In order to be eligible for the

Fund, production companies must have a permanent establishment in Nova Scotia and be engaged primarily in the creation of film/video productions for public viewing. Productions must spend at least CA $25,000 in Nova Scotia and must not be eligible for the Digital Media Tax Credit, the Digital Animation Tax Credit, the Film Industry Tax Credit or any other Nova Scotia tax credit programs.

The Fund is offered in two categories, based on percentage of ownership:

Stream I – Indigenous/Co-Production: 26% of all eligible Nova Scotia costs. The following are the requirements:

- Between 50%–100% Nova Scotian ownership and control of production;
- A minimum of eight Nova Scotians must be employed in Head of Department positions or acceptable combination;
- Bonus funding of 2% for shoots where greater than 51% of the principal photography is outside the boundaries of Halifax Regional Municipality; and
- Bonus funding of 1% for shoots of more than 30 days.

Stream II – Foreign/Service Productions: 25% of all eligible Nova Scotia Costs. The following are the requirements:

- 50% or less Nova Scotian ownership or control of production;
- A minimum of four Nova Scotians must be employed in Head of Department positions or acceptable combination;
- Bonus funding of 2% for shoots where greater than 51% of the principal photography is outside the boundaries of Halifax Regional Municipality; and
- Bonus funding of 1% for shoots of more than 30 days.

For both streams, production companies can receive up to 3% additional funding if the production meets the criteria for the Nova Scotia Content Incentive, which include requirements for copyright ownership, control by a Nova Scotia producer, and post-production location. Applications must be received prior to the commencement of principal photography.

Nova Scotia Digital Media Tax Credit

http://www.novascotia.ca/finance/en/home/taxation/tax101/businesstax/corporateincometax/digitalmediataxcredit.aspx

The Digital Media Tax Credit is for interactive digital media products and for animated film and television productions which begin key animation on or after July 1, 2015. It is primarily based upon labor costs and expenditures incurred and paid in Nova Scotia.

Eligible digital media products must be interactive and the primary purpose must be to educate, inform or entertain users. Ineligible products include operating system or application software, those developed primarily for interpersonal communications, or are promotional, pornographic or discriminatory.

The tax credit is available to Canadian taxable corporations with a permanent establishment in Nova Scotia and is applicable to 50% of eligible salaries, or up to 25% of total expenditures made in Nova Scotia. A 10% geographical area bonus on labor expenditures is available for corporations with a permanent establishment outside the Halifax Regional

Municipality. Corporations may also be eligible to receive a credit on marketing and distribution expenditures to a maximum of CA $100,000 per product; including expenditures made outside of Nova Scotia.

The animation incentive is a 17.5% bonus on animation-specific activities on the base rate for interactive digital media products. "Part A" applications, which determine eligibility at the start of key animation, are mandatory. There are maximum salary levels eligible to be claimed under the incentive.

New Brunswick
http://www2.gnb.ca/content/gnb/en/departments/thc/Culture/content/FilmTelevisionandNewMedia.html
The Province of New Brunswick Department of Tourism, Heritage and Culture, offers a production incentive for film and television productions. The mandate of the New Brunswick Arts and Cultural Industries Branch of the Department, as it relates to the film industry, is to support a viable and culturally significant film industry in New Brunswick.

New Brunswick Film & Television Industry Program – Production Incentive
http://www2.gnb.ca/content/gnb/en/departments/thc/services/services_renderer.201386.Film_and_Television_Industry_Program_-_Production_Incentive.html

The New Brunswick Film and Television Industry Program – Production Incentive offers either a labor-based production incentive or an all-spend incentive. The Labor-Based incentive is equal to a maximum of 40% of eligible salaries paid to New Brunswick residents; eligible salaries cannot exceed 50% of the eligible costs of production. The All-Spend Incentive is equal to a maximum of 25% of all New Brunswick expenditures for variety and service productions, or to a maximum 30% of all New Brunswick expenditures for New Brunswick based productions or co-productions. Eligible expenditures include New Brunswick labor, New Brunswick service contract expenditures, and New Brunswick expenditures for the rental or acquisition of related materials.

Applicant companies may be incorporated in New Brunswick or externally. Individuals, non-incorporated groups, licensed broadcasters, distributors and national film agencies are not eligible to apply. Projects submitted to the program must be undertaken within the program's fiscal year. Applications are not accepted for projects slated for production in future years. Eligible genres are television movies, documentaries, feature films, dramatic TV series, variety and captations, animation, children's programming, reality and lifestyle series, educational, experimental and non-theatrical.

Newfoundland and Labrador
http://www.fin.gov.nl.ca/fin/tax_programs_incentives/business/filmandvideotax.html
To foster and promote the development and growth of the film and video industry and to increase the province's visibility as a location, the Newfoundland and Labrador Film Development Corporation administers tax credits for the Newfoundland and Labrador Department of Finance.

Newfoundland and Labrador Film and Video Tax Credit
http://www.nlfdc.ca/taxcredit.aspx

A refundable tax credit is provided to support the training and hiring of Newfoundland and Labrador film personnel. Film, television, or video production companies with a permanent establishment in the province may receive the lesser of 40% of eligible local labor costs or 25% of total production costs, with a corporation credit limit of CA $4 million per 12 month period. Eligible projects are required to have at least 25% of the salaries and wages paid by the corporation to eligible Newfoundland and Labrador employees. The application is a two-part process. The Part I application form must be submitted on or before the first day or principal photography, and Part II must be submitted after post production has been completed.

Newfoundland and Labrador Interactive Digital Media Tax Credit
http://www.fin.gov.nl.ca/fin/tax_programs_incentives/business/idmtc.html

The Newfoundland and Labrador Department of Finance administers a 40% refundable provincial tax credit on eligible wages and remuneration to interactive digital media companies in the province for fiscal years beginning on or after January 1, 2015. Eligible expenditures include eligible salaries and 65% of eligible remuneration; the value is limited to CA $40,000 per employee and CA $2 million per company, per year.

Nunavut
http://www.nunavutfilm.ca/funding-programs
The Nunavut Film Development Corporation, a not-for-profit company, administers funding incentives for filmmakers on behalf of the Nunavut Department of Economic Development and Transportation.

Nunavut Spend Incentive Program
http://www.nunavutfilm.ca/sites/default/files/spend_incentive_guidelines_v1.pdf

The Spend Incentive is a rebate on the total eligible costs for production goods and services purchased and consumed in Nunavut; productions must spend more than CA $25,000 on Nunavut goods and services. There are two streams available for Nunavut (Stream 1) and non-Nunavut (Stream 2) filmmakers. Increased financial benefits of up to 3% may apply to productions that employ and train Nunavut key creative personnel and/or complete an Inuktitut/Inuinnaqtun version of the production. The applicant or its affiliate must own 100% of the copyright in the production, or first option to adapt the underlying property and acquire copyright ownership; exceptions apply to co-productions. At least one of the producers must be a resident of Nunavut. Cascading rebate amounts apply to multiple seasons of an eligible series production.

Stream 1, a rebate of 27% on total eligible Nunavut goods and services, is available for Nunavut production companies majority-owned by Nunavut residents, have a permanent establishment and head office, and carry on day-to-day operations in Nunavut, with the primary purpose of operating a film, television, or digital media production company. At least two of the eight key creative positions on the production must be filled by residents of Nunavut, or one of the eight key creatives and two trainee key creative positions must be filled by residents of Nunavut.

Stream 2 provides a rebate of 17% on total eligible Nunavut goods and services for production companies from outside of Nunavut (with equal or minority Nunavut ownership, from 10% to 50%). There must be a permanent establishment in Nunavut, and the Nunavut officers/directors must participate in the management of business activities. At least two of the eight key creative positions on the production must be filled by residents of Nunavut, or one of the eight key creatives and two trainee key creative positions must be filled by residents of Nunavut. If the budget exceeds CA $500,000 only, an agreement must have been entered into with a Canadian broadcaster or distributor.

Prince Edward Island
http://www.innovationpei.com
The Government of Prince Edward Island, through Innovation PEI, offers labor rebates to support the creation of new or innovative products in strategic industrial sectors including information and communications technology.

Prince Edward Island Innovation and Development Labour Rate (IDLR)
http://www.gov.pe.ca/photos/original/IPEI_Labour_Rbt.pdf

The IDLR is a refundable labor rebate that may apply to projects in support of the development and/or commercialization of new products, processes, and services that will be sold primarily beyond the borders of Prince Edward Island. The rebate is equal to 25% of eligible salaries and wages for full-time positions with a minimum gross wage of CA $30,000 per annum. Eligible companies must have a permanent establishment in Prince Edward Island and carry on the development of new or innovative products, processes, or services. The application for the IDLR must be submitted before the project is undertaken.

Yukon
http://www.gov.yk.ca/services/business_funding.html
The Yukon Government Ministry of Economic Development offers production incentives and funding administered by Yukon Media Development for Yukon filmmakers and co-productions filming in Yukon .

Yukon Film Locations Incentive Program

http://www.reelyukon.com/Rebates

The Yukon Film Locations Incentives Program encourages production companies from outside Yukon to film in Yukon and hire and train Yukoners. There are three components to this incentive program: Yukon Spend Rebate, Training Program, and Travel Rebate.

Yukon Spend Rebate – where the production company has either a broadcast or distribution arrangement with an internationally recognized entity, and where eligible Yukon labor content equals or exceeds 50% of the total person days on the Yukon portion of the production, the production is eligible for a rebate of up to 25% of Yukon below-the-line spend. Productions accessing the Yukon Spend Rebate are not eligible for the Travel Rebate.

Training Program – The production company may apply for a rebate of up to 25% of a trainer's wages for the period during which they are actively transferring skills to a Yukon trainee. This must be at a rate no more than that of the position next more senior to the one being trained. The training rebate will be capped based upon available resources. Trainees must be Yukon Labor who have demonstrated commitment to a career in film, who are union permittees, or have significant recent experience working on a film production or have graduated from a recognized film crew training program.

Travel Rebate – The production is eligible for a travel rebate of up to 50% of travel costs from Vancouver or Edmonton or Calgary to Whitehorse where the production company is from outside Yukon and where Yukon labor content equals or exceeds 15% of the total person days on the Yukon portion of the production. The rebate is capped depending on the nature of production.

Northwest Territories
http://www.iti.gov.nt.ca/en/services/nwt-film-rebate-program
The Northwest Territories' Department of Industry, Tourism and Investment identifies the film sector as a priority area in which the Government of the Northwest Territories (NWT) invests to create viable economic opportunities. Productions filming on location in the NWT can submit proposal packages for the NWT Film Rebate Program to the Northwest Territories Film Commission Office.

Northwest Territories Film Rebate Program

http://www.nwtfilm.com/rebate

The NWT Film Rebate Program provides financial incentives to productions filming on location in the NWT through three program categories:

The NWT Labour/Training Rebate provides a 25% rebate for eligible NWT labor. An additional 15% rebate is available for key creative personnel or Recognized Positions (listed in the Guidelines) or NWT Residents candidates receiving on-set training.

The NWT Expenditure Rebate provides a 25% rebate for all goods and services that qualify as NWT spending purchases and are consumed in the NWT. An additional 15% rebate is available for goods and services for productions shooting outside Yellowknife city limits.

The NWT Travel Rebate provides a 10% rebate for travel to and from the NWT from anywhere in the world. A 35% rebate is available for travel within the NWT (excluding aerial photography). The NWT Travel Rebate may not exceed CA $15,000 per production, and travel costs for a non-NWT resident may not be eligible in cases where a qualified NWT crew member could have been hired instead.

Eligible applicants may be an NWT production company, NWT co-production partners, or a Guest Producer (as defined in the Guidelines). Applicants must spend a minimum of CA $60,000 in the NWT on labor, goods, and services. Moreover, NWT labor must equal or exceed 30% of the total in-territory spend. Preference will be given to projects with TV broadcast or theatrical distribution commitments; commercials are also eligible to apply, but only under the NWT Travel Rebate Program. The NWT Film Commission may set specific dates each year for intake of applications.

Corporate Funding

Canadian broadcasters have also set up several funds to support development, interim financing, etc., primarily for Canadian production. In most cases, the criteria to qualify include meeting the certification rules as outlined by CAVCO, as well as the Canadian content rules of the CRTC. Several financial institutions provide interim financing for film, TV, or digital media productions.

Government Funding

In addition to the tax incentives discussed elsewhere in this chapter, various government bodies also provide direct funding to the industry.

The funding levels and/or requirements of each body may change periodically, in large part resulting from the implications of changes in their budgetary situations and the policy objectives of the government. As there could be many changes to the currently available programs described herein, interested parties should obtain current information when planning applications for funding. Applicants should also seek out the detailed reporting requirements of each particular agency. This information is posted on the relevant Web site, as noted below.

Provinces and Municipalities provide support for production, including significant location services and infrastructure support through their film commissions. Along with the provincial entities, listed below are a selection of municipal and regional organizations:

- Toronto Film, Television and Digital Media Office (TFTDMO) http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=4ee01b261582e310VgnVCM10000071d60f89RCRD
- Ottawa Film Office http://www.ottawafilmoffice.ca/
- Winnipeg Film Office http://www.winnipeg.ca/filmandspecialevents/filmoffice.stm
- Calgary Film Centre http://www.calgaryeconomicdevelopment.com/industries/focus-areas/film-and-tv/
- Vancouver Film & Media Centre, and the Vancouver Film Commissioner: http://www.vancouvereconomic.com/vancouver-film-media-centre/
- Montréal Film and TV Commission http://www.montrealfilm.com/
- Halifax Film Office https://www.halifax.ca/business/filming-halifax

Please refer to the respective Web sites for complete information.

Canada Media Fund
http://www.cmf-fmc.ca/
The Canada Media Fund (CMF) fosters, develops, finances and promotes the production of Canadian content and applications for audiovisual media platforms.

CMF champions the creation of successful, innovative Canadian content and applications for current and emerging digital platforms through financial support and industry research. Created by Canada's cable and satellite distributors and the Government of Canada, the CMF's vision is to connect Canadians to their creative expressions, to each other, and to the world. Projects are supported through two streams of funding: an Experimental Stream, which invests in Canadian interactive digital media content and software applications considered innovative and leading edge, and a Convergent Stream, which supports the creation of television productions and value-added digital media components that are related to CMF-funded television productions. The Convergent Stream provides the Canadian public with the opportunity to access their favorite content on different platforms for a truly convergent experience.

Through the Convergent Stream, the CMF supports the creation of television shows and related digital media content in four underrepresented genres: drama, documentary, children and youth, and variety and performing arts. There are 12 different programs under the Convergent Stream for both French and English-language production. Eligible projects include content produced for broadcast on television and distribution on at least one digital media platform. Projects must achieve 10/10 points on the CAVCO scale for key creative personnel. Incentives are awarded on a first-come-first-served basis until resources for the incentive are depleted or until the application deadline, whichever comes first.

The digital media component of Convergent projects must be rich, interactive content such as games, interactive Web content, on-demand content, podcasts, webisodes and mobisodes.

The Experimental Stream encourages the development of innovative, interactive digital media content and software applications. Projects funded are to be developed for commercial potential by the Canadian media industry or public use by Canadians. Funding is allocated according to a selective process. The CMF introduced two pilot programs in their 2016-2017 fiscal year: Commercial Projects Pilot Program and the Web Series Pilot Program.

Eligible applicants will include Canadian-controlled, taxable Canadian production corporations with their head office in Canada and Canadian broadcasters (public or private). These include television, interactive and web-based production companies; private and public broadcasters; and broadcaster-affiliated production companies.

The Program Budget for the CMF for fiscal year 2016–2017 was CA $371.2 million, with funding available between CA $750,000 and CA $210 million per program.

Telefilm Canada – Canada Feature Film Fund
http://www.telefilm.ca/en/?q=en
Founded in 1967 as the Canadian Film Development Corporation, Telefilm Canada is dedicated to the cultural, commercial and industrial success of Canada's audiovisual industry. Through its various funding and promotion programs, Telefilm supports dynamic companies and creative talent in Canada and around the world. Telefilm also administers the programs of the Canada Media Fund. Telefilm is a Crown Corporation that reports to Canadian Parliament through the Department of Canadian Heritage; it has regional offices across Canada.

The Canada Feature Film Fund has programs to fund the development and production of feature film projects in both official languages. All programs are subject to updated guidelines on a yearly basis; care should be taken to ensure that current guidelines are accessed for up to date information. Other programs include the Micro-Budget Production Program and the Theatrical Documentary Program.

Development funding for script development is provided for one project per year to production companies that have produced at least one feature film in the last five years. Development funding is an advance against production funding, repayable on the first day of principal photography.

As of fiscal year 2016-2017, there are two streams of production funding. The Regular Stream provides funding on a selective basis. The Fast Track Stream replaces the Performance Envelope structure; funds are provided based on the track record of the production company, and Telefilm aims to fund at least one project per eligible company over a two-year period, subject to a cap on financial participation.

Applicants must be Canadian-controlled companies with a head office in Canada, and the producers and key production personnel must be Canadian citizens or permanent residents; the feature film must be owned by a Canadian and meet Canadian content criteria including a Canadian performer in a lead role.

The marketing program is available to distribution and production companies looking for marketing and distribution support for their feature film projects. The program funds marketing activities aimed at increasing theatrical accessibility and enhancing opportunities for audience access via digital distribution and multiple viewing platforms

Ontario Media Development Corporation (OMDC)
www.omdc.on.ca
OMDC provides support for film producers in creating new products, and to develop existing film and television markets, access new markets and grow their business. Programs available are the Film Fund and Export Fund – Film and Television. Individual producers must be Ontario residents and the production company must be Ontario based.

The Film Fund has programs for the final stages of development/packaging and for projects in the final stages of production financing. Development financing is available as an interest-free loan. Production financing is provided as a repayable advance on a last-in basis to complete the financing of a feature film. These programs are on a selective, competitive basis, and applications are accepted at the posted deadlines.

Financing is also available for producers of interactive content through the Interactive Digital Media Fund and the Export Fund – Interactive Digital Media.

OMDC also administers a Location Promotions and Services program to attract films to Ontario, including location scouting and other logistical support.

Société De Développement Des Entreprises Culturelles (SODEC)
http://www.sodec.gouv.qc.ca/fr/home
SODEC offers many financing tools to Québec producers and production companies, including loan guarantees, loans, revolving credit or stock investments. On a selective basis, financing is also provided in the form of grants, repayable funding or investments.

SODEC Financière is an entity partnering with the Québec government, National Bank of Canada, Groupe TVA (a prominent French language broadcaster), Fonds de solidarite des travailleurs du Québec, and entertainment entrepreneurs and risk-capital managers to form Financieres Des Enterprises Culturelle (FIDEC). FIDEC offers production gap financing, loans, equity investment, and debentures primarily for Québec-controlled enterprises. Gap financing for film and television productions is a maximum of CA $5 million per project for a maximum of 36 months for Québec or foreign companies with Québec alliances that maintain a place of business in Québec and provide economic spin-off in Québec.

Creative BC
http://www.creativebc.com/
Creative BC combines the programs and services of the B.C. Film Commission and B.C. Film + Media. These services include industry programming, export and marketing support for film and television, production support services and a location library, tax credit administration and policy development. Project and Market Development Funding is offered to projects and organizations through programs covering Slate Development, Project Development, Passports to Markets, Interactive Fund, and Regional Film Funding.

Alberta Film
http://film.alberta.ca/
Alberta Film, through the Alberta Media Fund, supports the development of scripts by Albertan writers, directors and producers through the Alberta Project/Script Grant. Marketing and export support is also available.

Alberta Film offers comprehensive production services from information about unions and guilds to contacts for highly skilled and experienced crew, including producers, directors, location managers, grips, costume designers and more. An online production resources database is available.

Manitoba Film and Sound Recording Development Corporation
http://mbfilmmusic.ca/en/
Manitoba Film & Sound Development Corporation (Manitoba Film & Music) supports Manitoba film and music through its objectives, which are to create, stimulate, employ and invest in Manitoba by developing and promoting Manitoba companies, producing and marketing film, television, video and music recording projects, as well as promoting Manitoba as a film location for offshore production companies.

Manitoba Film & Music provides programs under three areas, Program Delivery and Administration, Marketing and Advocacy. Included are production funds in the forms of equity investments, loans and grants for productions filmed in Manitoba; they include a Pitch-Readiness Program, development funding, production funding for Film and Television and Emerging Talent and Micro-Budget Production funding.

Manitoba Film & Music also provides the services as the film commission for the Province of Manitoba and administers the Manitoba Film and Video Production Tax Credit

Creative Saskatchewan
http://www.creativesask.ca/
Creative Saskatchewan has granting programs for funding screen-based work with set application periods, including support for script development by Saskatchewan writers and producers through the Screen-Based Media Content Development Grant. Market Travel grants are also available.

Location services are also provided by Creative Saskatchewan, including three purpose-built production studios.

New Brunswick Department of Tourism, Heritage and Culture
http://www2.gnb.ca/content/gnb/en/departments/thc/Culture/content/FilmTelevisionandNewMedia.html
The Government of New Brunswick offers grants for travel to New Brunswick resident producers invited to significant festivals or events and for emerging New Brunswick filmmakers producing a calling card film.

Screen Nova Scotia
https://screennovascotia.wildapricot.org/
Screen Nova Scotia represents the people working in film, television and digital animation in Nova Scotia. They provide locations breakdown, digital locations library, location scouts support, and act as a community and industry liaison.

Newfoundland and Labrador Film Development Corporation (NLFDC)
http://www.nlfdc.ca/gallery.aspx
Funding programs provided by NLFDC are designed to assist and support the development of the indigenous film and video industry in Newfoundland and Labrador. Funds are provided as loans for development or equity investment in film and television production. There are set deadlines for the Development Program and the Equity Investment Program.

Under its mandate to promote the province in national and international film and video markets as a location for film, television, and commercial productions, NLFDC provides location support and a digital locations library.

Northwest Territories Government
http://www.nwtfilm.com/funding
The Government of the Northwest Territories (GNWT) offers film industry funding and services through the Departments of Industry, Tourism and Investment, and Education, Culture and Employment. The Support to Entrepreneurs and Economic Development (SEED) Policy assists self-employed film and media arts producers in the NWT with up to 70% of eligible costs. Applicants must have a demonstrated proficiency in the film and media arts sector and may submit only one application per year. Funding is provided for Film Development, Marketing & Promotion and Film Sponsorship.

The NWT Film Commission, a branch of the territorial government established in 1999, advises that there are a number of experienced television and film professionals available to provide services and expertise to visiting production companies. A Film Suppliers Guide lists them, along with businesses and organizations and their specific areas of expertise.

Nunavut Film Development Corporation
https://www.nunavutfilm.ca/funding
The Nunavut Film Development Corporation (Nunavut Film) provides funding for Nunavut filmmakers. The programs for Nunavut filmmakers have been devised to encourage cultural representation on screen, online and on mobile applications, support the growth of a community of content creators, assist in the development of interactive digital media content, and assist in the development and marketing of the Inuit language and Nunavut landscapes. Incentives are provided for Creative Content Development, Entry-Level Film and Short Films. There are also incentives for Inuktut Versioning of Existing Programs.

Nunavut Film provides support for productions filming in the territory through permits, film services such as outfitters and communications, and crew listings.

Prince Edward Island Film and Media
http://www.peifilmandmedia.com/
PEI Film and Media acts as a community resource and directory of film and media professionals in Prince Edward Island.

Yukon Media Development
http://www.reelyukon.com/FundingPrograms
The Government of Yukon provides training, development, production, marketing, and locations incentive support to Yukon Residents and Yukon Businesses, as well as provides support to established film & television production companies to consider co-producing with Yukon.

The Yukon Film Production Fund was created to assist Yukon production companies to consolidate their skills under the guidance of more experienced filmmakers. Support to Yukon's film industry is provided through programs that assist Yukon film and video professionals to develop viable careers and businesses making films and videos for broadcast or commercial release.

Yukon Film & Sound Commission provides a location library and comprehensive guides for filming in the territory.

Producers

Producers may qualify for enhanced tax depreciation with respect to certified films (see "Amortization of Expenditure"). This tax depreciation allows the deferral of tax with respect to revenue arising from a certified film until all production costs are recovered. The system differs with respect to certified films made in 1995 or later in which a film tax credit was earned and all other pre-1996 certified films.

In addition, equipment acquired to produce films may be eligible for enhanced tax depreciation, and taxable profits of a corporation may be eligible for reduced tax rates available to all manufacturers of products for sale or exploitation. The rate of tax reduction depends on the portion of capital assets and labor cost used in the manufacturing activity; some provinces also apply a rate reduction. Accessing this rate reduction may depend on the corporate structure (e.g., tax filing by corporations not on a consolidated basis) and other activities carried on by the corporation.

In addition, businesses are eligible to claim all reasonable business expenses pertaining to their operations, subject to restrictions with respect to meals and entertainment expenses. Generally, only 50% of meals and entertainment expenses as defined in the legislation are deductible in computing taxable income. These expenses are fully deductible if included in the taxable income of employees/contractors; or if the employees/contractors are working at a "remote location" as defined in the Income Tax Act.

Producers can access the government funding and private funding described above, in addition to all federal and provincial tax credits described above. Generally, there is a very favorable climate for producers operating in Canada.

Distributors

No specific tax incentives are available for distributors acquiring film rights. In practice, many distributors follow Canadian GAAP* to amortize the investment in the production or acquisition of film rights. If a copyright in the film is acquired, the distributor may be subject to the same treatment as the producer, depending on whether he is actively involved in the production business and hence may be considered an eligible production company.

*Note that certain corporations in Canada have switched to IFRS commencing January 1, 2011; however, material differences as compared to Canadian GAAP are not expected to result. Royalty payments made to nonresident holders of film copyright are subject to a 25% withholding tax, which is reduced under most tax treaties, with 10% being the most common treaty rate. Under appropriate circumstances, payments for the purchase of Canadian rights in perpetuity could be construed as not a royalty and hence not subject to withholding. Royalties in respect of the reproduction of copyright in literary, dramatic, musical, or artistic works are not subject to withholding, e.g., with respect to certain merchandising.

If film copyright royalties arise in the conduct of a business operated in Canada, the business is taxable in Canada unless exempted by treaty; the latter would be the case if activity is not sufficient to create a permanent establishment in Canada (as defined in the appropriate tax treaty article). However, see the "Indirect Taxation" section below for applicable rules regarding the Goods and Services Tax (GST) and the Harmonized Sales Tax (HST).

Actors and Artists

There are no specific tax or other incentives available for actors or other artists who are resident in Canada for tax purposes. Based on appropriate contractual arrangements, CRA generally treats on-camera personnel as independent contractors who are eligible for appropriate and reasonable business expense claims. Such independent contractors may, if they wish, carry out their activity through a loan-out company which may, in appropriate circumstances, reduce the total tax burden on income arising from their performances.

CRA published a pamphlet to facilitate a determination as to whether the relationship is one of employee/employer or a business relationship of an independent contractor; it is also possible to obtain a written determination from CRA. Generally, behind the scenes personnel who are incorporated and principal actors can be considered independent contractors. This could necessitate registration and hence collection of GST/HST (see "Indirect Taxation").

Other Financing Considerations

Tax Costs of Share or Bond Issues

No tax or capital duty is imposed in Canada on the issue of new common or preference shares or debt instrument nor with respect to the transfer or reorganization thereof. There are legal procedures with which to comply and, in the case of public issues, significant underwriting costs and other expenses of issue, e.g., reporting documents, filing fees, etc.

Exchange Controls and Regulatory Rules

There are no specific exchange controls or other regulatory rules in Canada other than with respect to publicly traded securities which are the subject of regulatory, financial, and other reporting requirements, e.g., insider trading activity, financial results, and significant transactions. A foreign investor, producer, or artist is not prevented from repatriating income arising in Canada back to his or her home country—though nonresident withholding tax will likely apply, the rate of which would be determined based on the tax residency of the nonresident.

Corporate Taxation

Recognition of Income

Film Production Company – Production Fee Income

Canadian-Resident Company

If a special purpose company is set up in Canada to provide production services for a film without acquiring any rights in that film, i.e., a production service company, the tax authorities could query the level of net income if they believe that the level of production fee income is below an arm's length rate. It is difficult to be specific about the percentage of the total production budget that would be an appropriate level of net income in Canada, but in past experience an accepted level could be between 1% and 2% of the production budget.

For example or by comparison, independent production service companies and administration companies have offered to provide their corporation for purposes of obtaining the production services tax credits for a fee between approximately 1% and 2% of the production budget. This provides arm's length support for similar non-arm's length structures.

In past practice, many production service companies show zero net income, e.g., if appropriate, arm's length amounts are paid out to all participants; CRA has not, to our knowledge, reassessed these companies, especially if these payments are made to a Canadian taxpayer. However, CRA has more exposure to this issue through their audits of the production services tax credit (see separate description), as well as enhanced corporate tax reporting obligations with respect to transactions with foreign corporations and disclosure requirements regarding transfer-pricing methodology, which must be filed with all corporate tax returns to access tax credits.

Non-Canadian-Resident Company

If a company is not resident in Canada but has a production office to administer location shooting in Canada, it is possible that the tax authorities may take the position that it is carrying on business in Canada and hence is subject to tax as a branch unless specific exemptions are available under the appropriate tax treaty. In this case, it might be possible to argue that the location is similar to a "building, construction, or installation project," which does not exist for more than the treaty-defined period, assuming it is not otherwise a permanent establishment. For example, under the Canada-U.S. Treaty, if one country sends employees to work in the other country, the company shall not be deemed to have a permanent establishment in the other country if services are performed in the other country by an individual who is present in the other country for less than a total of 183 days in any 12-month period. The use of equipment and site rentals by a film production may create even more doubt in this regard.

Note that nonresident corporations claiming treaty exemption are required to file federal tax returns along with a treaty exemption claim in prescribed form.

Clearly, the production of a TV series, which takes place over an extended period of time, could result in a permanent establishment.

If CRA were to attempt to tax the company on a proportion of its profits on the basis that it did have a permanent establishment in Canada, they would first seek to determine the appropriate level of profits attributable to the branch. A proper measurement of such profits may be a difficult and time-consuming analysis. It is likely that the Canadian tax authorities would measure the profit enjoyed by the company in its own resident territory and seek to attribute a proportion of this, for example, by arguing that a significant portion should accrue to Canada if the production was "controlled and managed" in Canada. The level of tax liability could ultimately be a matter for competent authority determination.

It is common to use a single-purpose production services company, a separate subsidiary of the foreign company and incorporated in the foreign jurisdiction, and to produce in Canada for the copyright owner in order to avoid direct reference to profits of the rights holder (parent company).

Note that corporations planning to take advantage of the CPTC or the PSTC are required to carry on that business through a permanent establishment in Canada in order to be entitled to the credits. Therefore, in practice, we expect that most productions will be set up as a

Canadian permanent establishment and will file tax returns in order to access federal and provincial tax credits. In this case, it is more efficient to use a separate company to carry on this activity to avoid the issue of allocating "parent company" profit margin to a branch. However, transfer pricing will be monitored in the audit process.

Film Production Company – Sale of Distribution Rights

If a production company sells distribution rights in a film asset to a distribution company in consideration for an advance lump-sum payment and subsequent periodic payments based on revenue, the sale proceeds would normally be treated as income arising in the business of exploiting its film library.

If a Canadian production company transfers such assets offshore, the tax authorities would be expected to examine the price charged (and hence revenue recognized) if the transaction was struck between unrelated parties. It is often the case with Canadian production companies that such rights are in fact sold to arm's length foreign distributors, sales agents, or broadcasters at arm's length prices. However if film rights are sold offshore in a non-arm's length transaction at less than an arm's length price, the sale proceeds would be adjusted to an arm's length price by CRA.

In the case of producers of television programming, it is often the case that they directly license the film asset for limited periods. In appropriate circumstances for tax purposes, this license fee income may be recognized over the term of the license, hence deferring recognition of income.

License fees are included in income for tax purposes at the earlier date of receipt of cash and an amount becoming receivable under the terms of the contract. A reasonable reserve is available if cash received has been included in income and goods or services have to be delivered after the year-end; this reserve may not be available if the film is ready for delivery before year-end but is delivered after the end of the year.

Film Distribution Company

If a company acquires distribution rights in a film from an unrelated production company, the payment for the acquisition of the rights is treated as the purchase of a film asset for accounting purposes. This would be the case whether the company exploited the rights in Canada or worldwide, and the same treatment would apply whether or not the production company was resident in a territory which had a double tax treaty with Canada.

The rights should be valued at the end of each accounting period of the distribution company in accordance with GAAP. In most cases the amortization so calculated under GAAP is used in the computation of income for tax purposes as noted above.

The income arising from exploiting such rights is normally recognized as business income. The distribution company would be taxed on the income derived from the exploitation of any of its acquired films, wherever and however these were sublicensed, provided that the parties were not related. If they were related, the tax authorities might review whether the level of income was at arm's length and considered as an upward adjustment. For tax purposes, income is usually recognized in the year it arises, not necessarily when the contract is signed or the income received; this is generally at the commencement of the license period. For appropriate licensing agreements (mostly applicable for television programming) the income may qualify to be deferred over the term of the agreement for tax purposes; this latter treatment would affect the annual amortization accordingly. Note that the ability to defer such revenue may be challenged by the tax authorities.

Revenue from foreign sources should be converted to Canadian dollars at the appropriate rate of exchange, and foreign tax credits may be available if tax is withheld at the source (see discussion below).

In some distribution arrangements, a sales agent earns a fee with respect to revenue collected on behalf of the owner of the film rights. In this case, the fee is recognized as it is earned pursuant to the terms of the contract, sometimes at the time of delivery of the film to the broadcaster/exhibitor or alternatively, when the contract is signed.

At the end of each accounting period, the appropriate accounting provisions are made with respect to unpaid balances; this adjustment may also change the amount of amortization of the cost of the film asset. These adjustments are generally followed for tax purposes.

Transfer of Film Rights between Related Parties

Where a worldwide group of companies holds rights to films and videos and grants sublicenses for exploitation of those rights to an affiliated Canadian company, care must be taken to ensure that the profit margin remaining in the Canadian company represents a reasonable amount, both with respect to the circumstances of the inter-company transaction and the results within the industry in Canada. Any transactions within a worldwide group of companies could be challenged by CRA since they would seek to apply an open-market, third-party value to such transactions. If income is remitted by a Canadian resident company to a lower tax jurisdiction pursuant to a sublicensing distribution agreement, CRA may seek justification thereof. There is no specific level which they can seek to apply. The CRA is knowledgeable of comparable arrangements made by unrelated distributors. In this regard, CRA has a great deal of experience in respect of intercompany arrangements with U.S. studios.

Contemporaneous documentation should be gathered at the time a deal is struck to provide to the tax authorities if they query the arrangement, and a bona fide contractual arrangement should be documented.

It is possible to obtain an Advance Pricing Agreement from CRA. It requires complete disclosure of the details of all transactions with the related nonresident, as well as full disclosure of the details of the proposed transactions, such as royalty agreements, distribution arrangements, etc. Though confidential, it would still form the basis of CRA's industry knowledge, and it is unlikely that foreign-controlled companies would wish to give such data to CRA prospectively.

In appropriate circumstances and with appropriate tax planning it may be possible to structure the Canadian distribution company as a special purpose entity eligible for a low corporate tax rate; this may require that ownership and control not be held by the foreign entity and requires careful planning and implementation.

Amortization of Expenditure

Production Expenditure

Where a production company is engaged to produce a film under a production services agreement, the costs incurred under this contract usually relate to an arrangement under which there is a reimbursement or cost recovery out of future (known) revenue arising from that film. In many cases, these are "cost plus" arrangements, and the producer is not at risk with respect to the production costs. In such circumstances, the costs are matched to the revenue, as with any other transaction involving the incurring of costs over a period of time. The recognition for tax purposes generally follows the GAAP reporting.

Where a production company also owns substantially all rights to the film including copyright, but intends to sell it on completion, the costs are accumulated and applied as costs of sale against the proceeds of sale at the time the sale occurs; this would apply to any company holding the film as inventory. The production company may also earn a profit from producer fees and overhead cost recoveries charged to the production budget.

In the case where the production company retains the completed film and holds the copyright from which it will derive distribution revenue and government incentives where applicable (see above), the film asset is considered a capital asset. Its costs are capitalized and depreciated for tax purposes.

Films other than certified films described below, are depreciated at 30% on a declining balance-basis, except that in the first year of ownership of a completed film, only 15% can be claimed. Generally, depreciation can only be claimed in any taxation year, against net income arising from the exploitation of these assets, and only in the year in which the asset is "available for use."

Similarly, if the CPTC is being applied for with respect thereto, depreciation can be claimed at 15% in year one and 30% thereafter on a declining balance basis. An additional allowance is also available with respect to the amount of net income from all film assets that qualify for this depreciation class (being all films in this category), net of that year's regular statutory depreciation claim, up to the amount of the undepreciated cost of certified films in this class.

The certification process involves an application to CAVCO, which includes a Statement of Production Costs prepared in a prescribed format and audited by an independent chartered accountant (for productions with a budget of CA $500,000 or more) and is more fully discussed earlier in this chapter.

It is important to note that regular (other than the additional allowance discussed above) tax depreciation claimed with respect to certified films may be claimed as a deduction to shelter other sources of income, where for example there is not sufficient taxable income arising from these films.

CRA has taken the position that meals and entertainment expenses including catering costs, are only allowed up to 50%, unless they meet the "special work site" definition or they are included in taxable income of the employees/contractors.

Other Expenditure

Neither a film distribution company nor a film production company has any special status under Canadian tax law. Consequently they are subject to the usual rules applicable to other companies. For example, in calculating taxable income, they may deduct all reasonable outlays for administering the business, an allocation of prepaid expenses, and depreciation and amortization as described elsewhere in this chapter and further detailed in the regulations to the Income Tax Act.

Certain other expenditures cannot be deducted, for example any expenditure on capital account. However, depreciation may be claimed on buildings and equipment and amortization on purchased goodwill, as allowed by statute. For companies considered to be manufacturing goods as defined by statute, certain equipment used primarily for the manufacturing of goods for sale or lease is eligible for a more generous depreciation of 50% straight-line rate (for eligible assets acquired after March 18, 2007 and 30% for eligible assets acquired before 2016) on the declining balance of undepreciated cost. The deduction of certain automobile costs is also restricted under the statute.

All expenditures must be reasonable in amount and incurred for the purpose of producing business or investment income.

Foreign Tax Relief

Producers

If a Canadian producer receives revenue from a nonresident, tax is generally withheld at the source based on the domestic law in the payer's country and as reduced by the applicable tax treaty. In most foreign countries, written application must be made to enjoy the reduced tax rate.

For Canadian tax purposes, a foreign tax credit may be claimed on a country-by-country basis, with respect to the net income for tax purposes derived in the year from that country but only up to the amount of tax as reduced by treaty. By virtue of generous deductions claimed for tax depreciation, etc., there may be no claim available. In this case, it is possible to use the foreign tax as a deduction, hence benefiting from a proportion of tax relief, but this is not the preferred method. If tax is paid with respect to revenue arising from business carried on in the foreign country, the foreign tax may be carried forward to be applied against future net income from that country; where the income is not considered to arise from carrying on business in a foreign country, there is no carryforward of unused credits.

Alternatively, there is a tax provision available whereby there is a notional recognition of foreign taxable income which results in a claim for the foreign tax credit in the current year; the notionally reported income is added to the tax loss carryforward so that it can be applied to reduce future taxable income. This provision is appropriate to apply where, for example, it is unclear whether the carryforward of the tax credit can be utilized; the tax credit carryforward is converted to a loss carryforward that can be applied against future sources of income.

Also, by virtue of the fact that income may be recognized before it is actually received, it is necessary to ensure that all tax withheld with respect to a particular source of income has been considered in calculating the foreign tax credit.

In situations where withholding at source is a material cost to a company, the company could consider structuring its offshore distribution business in a more favorable jurisdiction.

Distributors

If a Canadian resident film distributor receives income from a nonresident with respect to film assets (rights) that it owns, any tax withheld at the source is generally accounted for on a basis similar to that for a producer.

Alternatively, if the distributor is operating within a fee-based contract, such as a sales agent, the revenue and any tax withheld with respect to that revenue may be for the account of the owner of the film asset.

In some cases, the distributor is carrying on business in Canada by distributing product in foreign territories on behalf of the copyright owner, who is resident in a third country. In that case the payer should withhold tax at the appropriate rate as between the payer's territory and the owner's territory.

If the distributor collects worldwide revenue on behalf of a nonresident owner and remits a combination of revenue including Canadian-source revenue, there is a risk that CRA will assess withholding tax on the full payment. Therefore, it is prudent to separate the Canadian contractual arrangement from that related to the rest of the world to avoid Canadian withholding tax on the remittance of revenue from "the rest of the world" out of Canada.

Indirect Taxation

Goods and Services Tax/Harmonized Sales Tax

Canada's Goods and Services Tax (GST) applies at a rate of 5% to most goods acquired and services rendered in Canada. The provinces of Ontario, New Brunswick, Nova Scotia, Newfoundland and Labrador, and Prince Edward Island use a blended federal/provincial Harmonized Sales Tax (HST), which applies to the same base of goods and services as the GST. The HST rates, 13% and 15%, are comprised of a 5% federal component and a provincial component. The GST and the HST are the same tax with a different rate applicable depending on where a supply is made.

Generally, every person who makes a taxable supply (including a zero-rated supply) in Canada in the course of a commercial activity is required to register unless the person qualifies as a small supplier (less than CA $30,000 annual taxable supplies), is only engaged in selling real property otherwise than in the course of business, or is a nonresident person who does not carry on business in Canada.

Businesses that are registered for GST/HST purposes are required to collect and remit GST/HST on taxable supplies made in Canada and are generally entitled to claim an offsetting input tax credit (ITC) for GST/HST paid on expenditures acquired for use in making those taxable supplies. The tax is ultimately borne by consumers who usually cannot recover the GST/HST incurred on their expenditures.

Zero-rated supplies, e.g., exported goods/services and basic groceries, are taxable supplies to which a 0% rate of GST/HST applies. Suppliers who make zero-rated supplies are generally entitled to recover all of the GST/HST paid on expenditures incurred in order to make such supplies via an ITC.

The GST/HST does not apply to certain supplies deemed to be exempt from tax, such as residential rents and financial services. Unlike zero-rated supplies, suppliers who make exempt supplies are not entitled to recover GST/HST paid on expenditures incurred in order to make exempt supplies (although certain suppliers of public services are entitled to partial rebate).

Supply of Production Services

The supply of production services provided in whole or in part in Canada by a Canadian production services company to a Canadian studio will be subject to GST/ HST; however, the Canadian studio should be entitled to claim an ITC for such GST/ HST. Supplies of production services to a nonresident studio may qualify for zero-rating, i.e., taxable at 0%. For example, if a nonresident studio hires a Canadian production services company to produce a film in Canada where the producer has no interest in the film rights, (i.e., non-resident studio is the owner of the copyright to the film), the production services rendered to the nonresident studio may qualify for zero-rating.

Supply of Distribution Rights and Other Intangible Personal Property

In general, the application of GST/HST to the supply of distribution rights and other intangible personal property (IPP) is based on the following rules:

- A supply of IPP is not subject to GST/HST where the IPP may not be used in Canada;
- A supply of IPP that can be used in Canada, other than a supply of an admission to a place of amusement or other events, is not subject to GST/HST where the IPP is supplied by a person who is not resident in Canada, not registered for GST/HST purposes, and not carrying on business in Canada. However, the recipient may have to self-assess GST/HST in some cases; and
- All other supplies of IPP are taxable, except if the supply is made to a nonresident person who is not registered for GST/HST, the supply should qualify for zero-rating provided the rights may be exercised both in and out of Canada.

Based on the above, generally, the supply of distribution rights or other IPP by a person registered for GST/HST will be subject to GST/HST unless either the rights may only be used outside Canada or the purchaser is not resident in Canada and not registered for GST/HST purposes (unless the rights may only be exercised in Canada).

The supply of distribution rights or other IPP by a nonresident who is not registered for GST/HST and is not considered carrying on business in Canada will not be subject to GST/HST. A Canadian purchaser of such rights is not required to self-assess GST/HST provided the purchaser is registered for the GST/HST and the IPP will be used exclusively, e.g., 90% or more, in the commercial activities of the purchaser.

A number of changes to the place of supply rules were enacted on May 1, 2010, which affect the determination of the proper rate of GST/HST to be charged and are largely based on the location where the IPP can be used. Accordingly, the extent to which an IPP can be used in a participating province (HST province) is generally used as a starting point to determine the GST/HST that applies to any given taxable supply of IPP. Various rules apply for IPP, including special place of supply rules for IPP that relates to real property or to tangible personal property. The various provincial rules are beyond the scope of this guide; therefore, the provider of IPP should consult their indirect tax service provider in order to properly determine the proper application of the taxes.

Peripheral Goods and Merchandising

The sale of peripheral goods connected to the distribution of a film (such as books, magazines, and advertising materials) and related merchandise (such as clothes, toys, etc.) will attract GST/HST where the goods are supplied by a GST/HST registrant and are delivered or made available to a purchaser in Canada. GST/HST may not apply where such goods are exported from Canada and the supporting exportation documentation is maintained. It is also important to note that, depending on the exact nature of the goods, there could be point of sale rebates available that would impact the rate of GST/HST to be charged on the sale of such goods.

Promotional Goods and Services

GST/HST does not generally apply to promotional goods and services provided free of charge. GST/HST registrants who provide such goods and services are entitled to claim ITCs for the GST/HST paid or payable on expenditures made in the course of supplying such promotional goods and services to the extent that such goods and services are purchased for use in their commercial activities.

Rebates for Nonresident Producers

Unregistered nonresident producers may be entitled to claim a rebate of GST/HST paid on property or services (other than a service of storing or shipping property) acquired to produce artistic works for export. The property or services eligible for rebate must be acquired for consumption or use exclusively (generally interpreted to mean 90% or more) in the production of an original literary, musical, artistic, motion picture, or other work in which copyright protection exists.

A nonresident producer is entitled to assign the rights to this rebate to a Canadian supplier of property or services, effectively allowing the non-resident to purchase property or services free of GST/HST.

Importation of Goods into Canada

The GST generally applies to the importation of goods into Canada at a rate of 5% calculated on the duty paid value (see below). GST owing on goods imported into Canada is generally payable by the importer of record of the goods.

Québec Sales Tax

The Québec Sales Tax is a value-added provincial tax that is levied in the same manner and on essentially the same base of goods and services as the GST/HST. QST applies at a rate of 9.975% on the consideration charged for taxable goods and services supplied in Québec.

Provincial Sales Tax

Three provinces in Canada—Saskatchewan, Manitoba, and British Columbia—impose provincial sales taxes (PST) on goods and certain services acquired for use in those provinces. These provinces require vendors carrying on business in the province to register and collect PST on their sales. If the vendor does not collect the tax, the purchaser may be liable to self-assess for the applicable PST. The general tax rates of PST range from 6% to 8%. Other tax rates of PST apply on specific goods. Some provinces also levy PST on insurance premiums.

Some provinces offer partial relief from the payment of PST on goods used temporarily in the province. In addition, some provinces provide exemption from PST for equipment and, in some cases, props used in the making of a motion picture.

Customs Duties

Goods imported into Canada may be subject to customs duties. The rate of customs duty imposed will depend on the tariff classification of the goods, the country of origin, and the value for duty.

Duty rates can vary according to the country of origin of the goods. For example, many goods of U.S. or Mexican origin enter Canada duty free or at very low rates of duty under the provisions of the North American Free Trade Agreement (NAFTA). Imports from developing countries are also eligible for beneficial tariff rates. Appropriate documentation certifying the origin of goods must be available for review by customs authorities in order to qualify for these beneficial rates.

The value for customs duty must be determined using one of the methods established in the Customs Act. In most cases, the transaction value or the price at which the goods are sold for export to Canada is the value that is used for customs purposes. Certain adjustments to the transaction price, for example, transportation and insurance cost from the point of direct shipment to Canada, can be deducted in arriving at an acceptable value for customs purposes. Where imported goods are leased from foreign suppliers, the transaction value method or the lease cost cannot be used as the valuation method for customs purposes; in these situations, an alternative method must be applied in order to arrive at a determined fair value of the imported leased goods. Persons should seek the advice of a customs practitioner before the importation of goods into Canada.

Temporary Importations

Goods such as film equipment imported for temporary use in Canada may qualify for duty free entry into Canada. That is, where enumerated goods are imported temporarily for a specific use, relief from customs duty may be available at the time of importation for a period of up to 18 months. Extensions can be granted in 6 month increments up to an additional 30 months.

In some cases, the importer may have to pay a deposit at the time the goods are imported. The deposit will be refunded in whole or in part upon subsequent export after temporary use in Canada.

Actors and directors entering Canada for a short period of time are generally allowed to bring in personal effects, such as a motor vehicle, without paying customs duty. However, the actors and directors may be required to show a work permit at the time of entry into Canada.

Importing of Films and Videotapes

Duty may apply to the importation of motion picture films or videotapes. The duty rates will vary depending on the country of origin and the goods themselves, e.g., the size of the videotape. Generally, motion picture film imported from the United States is duty free.

Personal Taxation

Nonresident Artists

Canada taxes the income arising to a nonresident from services provided in Canada, unless reduced or relieved by a tax treaty, regardless of where the income is received.

The payer is obliged to withhold federal tax at 15% of all remuneration paid to the nonresident in respect of services provided in Canada. Administratively, CRA does not levy withholding tax on per diems for travel, meals, and accommodation if receipts support these expenditures; otherwise, they are subject to tax. Most tax treaties do not provide relief, though there is a nominal threshold of relief under the U.S. treaty for example.

Where the payer is a nonresident, these rules may not be effective in practice. However, payrolls of many productions carried out in Canada are audited by CRA; productions applying for labor-driven tax credits are under close scrutiny by CRA as discussed above. CRA is currently taking the position that the value of meals provided (catering) is a taxable benefit unless filming is at a remote location. Note that as discussed above, if taxable to the recipient of this benefit, the amount can be included in the calculation of qualifying labor for tax credit purposes.

The withholding tax represents a tax installment but not necessarily the final liability. The individual is obliged to file a Canadian personal tax return for the year in which the income is received using the same net income calculations available to residents. In the past, administratively, CRA has not always demanded these filings unless the nonresident returns to Canada on a recurring basis or remains here for an extended period, for example, to complete a television series. CRA's position in this regard, however, is that the individual is required to file a tax return. This would result in more nonresidents being obliged to file tax returns, and many would owe more tax than the amount withheld at the source. Of course, their jurisdiction of residence may allow a foreign tax credit for all or part of the Canadian tax.

Québec levies a further similar withholding tax on nonresidents at the rate of 9%.

In respect of acting services provided, actors are subject to a Federal withholding tax of 23% as a "final tax" on Canadian income; no tax return filing is required. However, they may elect to file a tax return to be taxed at regular personal rates in respect of net income (after applicable expenses); if this calculation of tax is less than the withholding, a refund can be claimed.

An artist (or any other nonresident individual) sojourning 183 days or more in Canada in a calendar year will be deemed resident and taxable on worldwide income for the calendar year (with foreign tax credits or exemptions allowed for income earned outside Canada). Most tax treaties provide for the application of a "tie-breaker" test, so an artist or other sojourning individual who has residency ties elsewhere could be considered a nonresident. However, this possibility should be reviewed and addressed before the 183 days is met in the event there is risk of a tax liability being assessed by CRA; this is a particular problem if the nonresident does not reside in a treaty jurisdiction. It is possible to obtain a determination of non-residency status before commencing the Canadian contract by application in prescribed manner to the International Taxation Services Office of CRA. In general, the rules that apply to a nonresident corporation, with respect to "waiver applications" and "determination of final tax liability," also apply to nonresident individuals carrying on a business in Canada.

Under the Canada-U.S. Treaty, a waiver of withholding taxes can be obtained if remuneration does not exceed CA $10,000 in any calendar year or the recipient is not present in Canada for more than 183 days and the remuneration is paid by a nonresident and is not ultimately borne by a corporation with a permanent establishment in Canada. Québec has a similar waiver procedure.

If an artist uses a loan-out company, CRA will agree to subject to withholding tax only the amount paid to the artist (net of bona fide expenses incurred by the company). However, application must be made to reduce the tax withholding on gross revenue, which is otherwise applicable. Many tax treaties do not provide relief from tax with respect to loan-out companies in which the artist participates in profits.

Loan-out companies may be effective, however, for off-camera individuals. The company must apply to CRA to obtain a waiver from tax where the applicable treaty allows relief for a company with no permanent establishment in Canada. Otherwise, revenue received for services provided in Canada are subject to the 15% withholding (and 9% withholding in Québec, if applicable), and a corporate tax return must be filed. Companies seeking treaty relief are obliged to file a tax return as noted above.

HST/GST implications are discussed separately above.

Resident Artists

Canada taxes its residents on worldwide income from all sources. Artists are generally considered not to be employees unless facts and circumstances dictate otherwise; as a result, they would file as independent contractors and claim all reasonable expenses incurred to earn income and depreciation with respect to capital expenditures. They may also claim a foreign tax credit for appropriate foreign tax paid with respect to net foreign income, calculated on a per country basis. Income earned as an independent contractor may also be subject to social security tax.

HST/GST implications are discussed separately above.

Artists may consider the use of a corporation as part of their overall personal tax planning structure. A Canadian-controlled private corporation may provide attractive tax deferral and savings opportunities with respect to income earned in Canada; expert tax advice should be sought in this regard.

Employees

Employers are obliged to withhold income and social security tax and unemployment insurance premiums from employees and remit these amounts to the appropriate revenue authority on a regular basis, depending on the size of their payroll. Withholding is based on actual tax rates, but individuals have the right to apply for a reduction of source deductions if they expect to have significant, and provable, tax deductions or foreign tax credits.

Employers also remit a matching amount for social security and unemployment insurance and bear other employment levies such as provincial employer health taxes and workers' compensation premiums.

If foreign employees are seconded to Canada there may be relief from Canadian social security pursuant to the applicable Social Security Totalization Agreement and, in limited circumstances, relief from unemployment insurance premiums.

Employees may not claim job-related expenses, other than specific expenditures required by the employer and for which the employer provides documentation in prescribed form.

If the employer requires the employee to move temporarily away from his or her home, the employee may in appropriate circumstances obtain tax exempt allowances for "board and lodging" and travel, called "special work site" status.

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