

The background of the page features a vibrant aurora borealis in shades of green and blue, dancing over a dark, snow-capped mountain range. A large, semi-transparent, dark blue stylized maple leaf is overlaid on the scene, with the aurora appearing to glow through its points and curves. The overall mood is serene and majestic, representing the natural beauty of Canada.

**Canadian Film or Video Production Tax Credit (CPTC)**  
Canadian Audio-Visual Certification Office (CAVCO)

# Application Guidelines

# Catalogue Publication Information

Open Government Publication

Cette publication est également offerte en français.

This publication is available in PDF and HTML format at the following Internet address: <http://www.canada.ca/cavco>

©Her Majesty the Queen in Right of Canada, 2020

Catalogue Number: CH44-141/1-2019E-PDF

ISBN 978-0-660-27996-1

This document is published under the Open Government License:

[open.canada.ca/en/open-government-licence-canada](http://open.canada.ca/en/open-government-licence-canada)

## Table of contents

Overview .....	6
What is the Canadian Film or Video Production Tax Credit? .....	6
What information is in these guidelines? .....	6
Who can apply for the CPTC? .....	6
How do I submit an application to CAVCO? .....	6
How is the CPTC calculated? .....	6
Are all types of audiovisual content eligible for the CPTC? .....	6
What is the Film or Video Production Services Tax Credit (PSTC)? .....	7
What are the requirements for a production to be eligible for the CPTC? .....	7
1. Administration of the CPTC Program .....	9
1.01 Contacting CAVCO .....	9
1.02 Overview .....	9
1.03 Role of CAVCO .....	9
1.04 Role of the CRA .....	10
1.05 Certification of Treaty Coproductions under the CPTC Program .....	10
1.06 Submitting an Application to CAVCO .....	11
1.07 Application Fees .....	11
1.08 Application Review Process .....	11
1.09 Part B Application and Certification Deadlines .....	13
1.10 Compliance Reviews .....	14
1.11 Denials and Revocations .....	14
1.12 Internal CAVCO Audits .....	14
1.13 Preliminary Opinions of Eligibility (Pre-assessments) .....	15
1.14 Confidentiality of Taxpayer Information .....	15
1.15 Screen Credit Requirements .....	15
1.16 Canadian Content Certification through the Canadian Radio-television and Telecommunications Commission (CRTC) .....	16
2. Corporate Eligibility Requirements .....	17
2.01 Prescribed Taxable Canadian Corporation .....	17
2.02 Qualified Corporation .....	18

2.03 Domestic Coproductions .....	18
3. Copyright Ownership .....	19
3.01 General .....	19
3.02 Copyright Owner .....	19
3.03 Prescribed Person .....	19
4. Ineligible Production Genres .....	21
4.01 List of Ineligible Genres .....	21
4.02 How CAVCO assesses whether a production falls under an ineligible genre definition .....	21
4.03 Additional clarifications (including definitions) for each ineligible genre.....	21
5. Treaty Coproductions .....	28
5.01 Overview .....	28
5.02 Roles of Telefilm Canada and CAVCO in Coproduction Certification.....	28
5.03 Requirements for CPTC Certification of a Treaty Coproduction .....	28
5.04 Treaty Coproduction Attestation Process .....	28
5.05 International Co-ventures .....	29
6. Key Creative and Producer-Related Personnel.....	30
6.01 Requirements for Proof of Canadian Citizenship or Permanent Residency .....	30
6.02 Key Creative Personnel – Live Action Productions.....	31
6.03 Key Creative Personnel – Animation Productions .....	32
6.04 Key Creative Point Requirements for Documentaries .....	32
6.05 General Rules for Evaluating Key Creative Points .....	33
6.06 Screenwriters .....	33
6.07 Lead Performers (live action) / Lead Voices (animation).....	33
6.08 Music Composer.....	37
6.09 Producer-related Personnel .....	37
6.10 Production Control .....	37
6.11 Chain-of-title Documentation .....	39
6.12 Exemptions for Non-Canadian Producer-Related Personnel.....	40
6.13 Non-Canadian Showrunners .....	41
7. Financial Information.....	42
7.01 Qualified Labour Expenditure .....	42
7.02 Eligible Production Cost .....	42

7.03	Net Labour Expenditures.....	43
7.04	Production Commencement Time .....	43
7.05	Types of Labour Expenditures .....	43
7.06	Financing Sources.....	44
7.07	Financing from the Canada Media Fund (CMF) .....	45
7.08	Sample Tax Credit Calculation.....	45
7.09	Audit Requirements .....	46
7.10	Minimum Canadian Expenditure Requirements.....	47
7.11	Tax Shelter Investments .....	49
8.	Exploitation of a Production .....	50
8.01	Control over Exploitation Rights .....	50
8.02	Canadian Distribution and Broadcast Rights (the “Shown in Canada” Requirement).....	50
8.03	Platforms that can be used to meet the “Shown in Canada” Requirement .....	50
8.04	Using an Agreement with a Canadian Distributor .....	51
8.05	Using an Agreement with a CRTC-licensed Broadcaster.....	51
8.06	Fair Market Value .....	51
8.07	Online-only Productions.....	51
8.08	Distribution in Canada by a Non-Canadian Entity.....	52
8.09	Acceptable Share of Revenues.....	53
8.10	Format Programs.....	53

# Overview

## What is the Canadian Film or Video Production Tax Credit?

The Canadian Film or Video Production Tax Credit (CPTC) is a refundable corporate tax credit designed to encourage the creation of Canadian film and television programming and the development of an active domestic independent production sector in Canada. The CPTC program is jointly administered by the Department of Canadian Heritage, through the Canadian Audio-Visual Certification Office (CAVCO), and by the Canada Revenue Agency (CRA).

The CPTC is governed by section 125.4 of the *Income Tax Act* (the "Act") and section 1106 of the *Income Tax Regulations* (the "Regulations"). Links to the full text of the Act and Regulations are available on [CAVCO's website](#)<sup>1</sup>. The Act and Regulations take precedence, to the extent of any inconsistency with these guidelines.

## What information is in these guidelines?

These guidelines focus on the requirements a production must meet to be certified as a Canadian film or video production under the CPTC program.

They also explain how the tax credit for a production is calculated, and the CRA's role in reviewing claims for the tax credit following the certification of a production through CAVCO.

## Who can apply for the CPTC?

The CPTC is available only to a Canadian production company that is a qualified corporation. A qualified corporation is one that is throughout a given taxation year a prescribed taxable Canadian corporation with a permanent establishment in Canada, and that primarily carries on the activities of a Canadian film or video production business. A Canadian film or video production in this context is a production meeting the requirements of section 1106 of the Regulations.

## How do I submit an application to CAVCO?

Applications for CPTC certification must be submitted through the CAVCO Online application system. See [CAVCO's website](#) for more information.

Production companies must apply to CAVCO for both a Canadian film or video production certificate (Part A certificate) and a certificate of completion (Part B certificate) for each production.

## How is the CPTC calculated?

The CPTC is available at the rate of 25% of the qualified labour expenditure for an eligible production in a given taxation year. The qualified labour expenditure represents the eligible labour expenses incurred for a production, capped at 60% of the production's total cost once funding amounts considered assistance are deducted. The maximum CPTC available for a production is therefore 15% of the total cost of production net of assistance. The rules for calculating the tax credit are set out in section 125.4 of the Act.

## Are all types of audiovisual content eligible for the CPTC?

To be eligible for CPTC certification, a production must be a linear, non-interactive film or video production.

An interactive project requiring some form of viewer intervention to progress the storyline is not eligible. A 360/virtual reality (VR) production can be eligible, as long as the storyline progresses in a linear way without needing any active viewer intervention. Viewer involvement outside of the context of the audiovisual project – for example, through online voting – is acceptable.

Websites, games, apps, and any similar products are **not** eligible for the CPTC.

---

<sup>1</sup> Note that when extended parts of Acts or Regulations are directly quoted in these guidelines, they appear in italics.

## What is the Film or Video Production Services Tax Credit (PSTC)?

The PSTC is the other federal audiovisual tax credit program co-administered by CAVCO and the CRA. It promotes Canada as a location of choice for foreign- and Canadian-owned film and television productions and supports the existence of a production infrastructure of international calibre in Canada.

It is available to Canadian-based production companies or production service companies at a rate of 16% of the qualified Canadian labour expenditure for a production. The qualified Canadian labour expenditure is equal to all eligible labour expenses (expenses payable to Canadian residents for services rendered in Canada) minus the total of all financing amounts considered assistance.

Productions eligible for the PSTC generally feature non-Canadian creative control and non-Canadian copyright ownership.

For more information on PSTC program requirements, see [CAVCO's website](#).

Note that a corporation cannot receive both the PSTC and the CPTC for the same production.

## What are the requirements for a production to be eligible for the CPTC?

For a production to be eligible under the CPTC program, it must meet all of the requirements set out below. Each is further described in the noted section of the guidelines. These requirements are found in section 125.4 of the Act and section 1106 of the Regulations, under the definitions for "Canadian film or video production," "Canadian film or video production certificate" and "excluded production."

### 1) Application and certification deadlines

CAVCO has a two-part application process. There is no deadline to submit a Part A application for a production. A Part B application must be received by CAVCO within 24 months of the production company's first taxation year end following the start of principal photography. The Part B certificate for a production must be issued by CAVCO within six months of this application deadline. These deadlines can be extended by 18 months if valid T2029 waivers are filed with the CRA. (See section [1.09](#))

### 2) Canadian production company

The production company must be a prescribed taxable Canadian corporation and a qualified corporation. (See sections [2.01-2.02](#))

### 3) Canadian copyright ownership

Only the production company or a prescribed person may own copyright in the production during the 25-year period beginning when the production is complete and commercially exploitable. (See sections [3.01-3.03](#))

### 4) Production genres

The production cannot fall under any of the ineligible production genres. (See sections [4.01-4.03](#))

### 5) Key creative points for Canadians

The production must obtain a minimum number of points given for key creative positions occupied by Canadian citizens or permanent residents, and obtain certain points that are mandatory. (See sections [6.01-6.08](#))

### 6) Canadian producer

All producer-related personnel (other than those receiving exemptions permitted in limited circumstances) must be Canadian. (See sections [6.09-6.13](#))

### 7) Canadian cost requirements

At least 75% of the total of all costs for services related to producing the production (other than certain excluded costs) must be payable for services provided to or by individuals who are Canadian. (See section [7.10](#))

At least 75% of the total of all post-production costs for a production (other than certain excluded costs) must be incurred for services provided in Canada. (See section [7.10](#))

**8) Canadian control over exploitation rights**

Only the production company or a prescribed person may control the initial licensing of commercial exploitation rights for the production. (See section [8.01](#))

**9) Exploitation in Canada**

Either a Canadian distributor or a CRTC-licensed broadcaster must provide written confirmation that the production will be shown in Canada within the two-year period beginning when the production is complete and commercially exploitable. (See sections [8.02-8.06](#))

**10) No distribution in Canada by non-Canadians**

The production cannot be distributed in Canada by a non-Canadian entity within the two-year period beginning when the production is complete and commercially exploitable. (See section [8.08](#))

**11) Acceptable share of revenues**

The production company or a related prescribed taxable Canadian corporation must receive an acceptable share of revenues from the exploitation of the production in non-Canadian markets. (See section [8.09](#))

Note that requirements 3, 5-8 and 11 do not apply to treaty coproductions.

A treaty coproduction must meet all other requirements, and must conform to the terms of the applicable coproduction treaty. See [Chapter 5](#) for more information on the certification of treaty coproductions under the CPTC program.



# 1. Administration of the CPTC Program

## 1.01 Contacting CAVCO

Information relevant to the CPTC program, including program guidelines, forms, and the online application portal, is available on [CAVCO's website](#).

Contact information:

Canadian Audio-Visual Certification Office (CAVCO)  
Canadian Heritage  
15 Eddy Street  
Gatineau, Quebec  
K1A 0M5

Telephone: 1-888-433-2200 (toll-free)  
Fax: 1-819-934-8958  
Teletypewriter: 1-888-997-3123  
E-mail: [bcpac-cavco@pch.gc.ca](mailto:bcpac-cavco@pch.gc.ca)  
Website: [canada.ca/cavco](http://canada.ca/cavco)

## 1.02 Overview

On behalf of the Minister of Canadian Heritage, CAVCO issues certificates for productions meeting all certification requirements under the CPTC program. (See section [1.03](#))

Production companies submit these certificates to the Canada Revenue Agency (CRA), as part of their T2 Corporation Income Tax Returns, to receive the tax credit. (See section [1.04](#))

## 1.03 Role of CAVCO

### 1.03.01 General

CAVCO is responsible for assessing whether a production meets the requirements for CPTC certification set out in section 125.4 of the Act and section 1106 of the Regulations. CAVCO then recommends to the Minister of Canadian Heritage whether or not to issue a “Canadian film or video production certificate” (a “Part A certificate”) for the production.<sup>2</sup>

Once a production is completed, CAVCO is responsible for assessing whether the production continues to meet the requirements of the Act and Regulations. CAVCO recommends to the Minister whether or not to issue a “certificate of completion” (a “Part B certificate”) for the production. A production for which a certificate of completion is not issued loses its status as a Canadian film

or video production. More information on each certificate can be found in sections [1.03.02](#) and [1.03.03](#).

A previously issued Part A certificate may be revoked by the Minister of Canadian Heritage if an omission or incorrect statement was made for the purpose of obtaining the certificate, or where, for any reason, the production is found not to be a Canadian film or video production. A revoked certificate is deemed never to have been issued. See section [1.11](#) for more information on revocations.

### 1.03.02 Canadian film or video production certificate (Part A certificate)

This certificate confirms that a production is a “Canadian film or video production.”

The certificate also provides estimates of the production costs and labour expenditures associated with a production, as well as the tax credit applicable to the production. These estimates are based on an analysis of budget and financing information for the production.

The Part A certificate is generally issued before or during production, to help production companies secure other production financing and to allow them to claim a tax credit at the end of the first year of production. Note that it is not necessary for a production company to have received both the Part A and Part B certificates before applying for the tax credit with the CRA. A claim can be filed with just the Part A certificate.

If CAVCO cannot conclusively determine whether one or more types of financing for a production are assistance (see section [7.06](#)), this financing will be treated as assistance for the purpose of CAVCO's estimate of the tax credit for the production.

The estimate provided by CAVCO is not binding on the CRA, and is not a commitment as to the final value of the tax credit. A final determination of the qualified labour expenditure and tax credit for a production is made by the CRA during its review of a tax credit claim for a given year.

### 1.03.03 Certificate of completion (Part B certificate)

A Part B certificate is issued where a production is completed and continues to meet the requirements for being certified under the CPTC program. If this certificate is not issued within the prescribed time frame (see section [1.09](#)), the CRA will refuse any tax credit claim for the

---

<sup>2</sup> The Director General of the Cultural Industries Branch in the Department of Canadian Heritage has been delegated the authority to certify productions on behalf of the Minister.

production and reassess the corporation's tax returns for any tax credit previously allowed.<sup>3</sup>

An applicant may apply at the same time (with a "Part A/B application") for both the Canadian film or video production certificate and the certificate of completion, once a production is completed.

### 1.03.04 Certification of episodes in a series

For the purpose of CPTC certification, each episode in a series or mini-series, or film in an anthology of short films, is considered a distinct production.<sup>4</sup> If an application to CAVCO is for a series, only one certificate is issued, with the suffix of the certificate number indicating the total number of eligible episodes. For example, 45678-010 means that 10 episodes have been certified.

## 1.04 Role of the CRA

### 1.04.01 General

The CRA is responsible for:

- applying the sections of the Act relevant for determining the CPTC (this includes confirming the qualified labour expenditure amount, calculating the tax credit amount, and confirming that a corporation is a qualified corporation);
- reviewing and auditing CPTC claims within a reasonable time frame;
- assessing the company's [T2 Corporation income tax return](#); and
- issuing timely refund cheques where applicable.

To claim the tax credit for a certified production, a qualified corporation must file with its T2 Corporation Income Tax Return:

- a) the Part A certificate issued for the production; and
- b) a CRA T1131 "[Canadian Film or Video Production Tax Credit](#)" form.

CAVCO informs the CRA if, for any reason, a Part B certificate is not subsequently issued for the production. As previously noted, the CRA will in these cases refuse any new tax credit claim for the production and reassess the

corporation's tax returns for any tax credit previously allowed.

The CPTC is a refundable tax credit. This means that the qualified corporation will be refunded the amount of the tax credit, to the extent that it exceeds the total of any tax payable for the year, and subject to the CRA's right to offset any other amount the corporation owes.

Note that under subsection 164(1) of the Act, a tax credit for a given taxation year can only be issued in the form of a refund if the T2 Corporation Income Tax Return for that year was filed within three years of the end of that year.

As part of its review of a tax credit claim, the CRA may request any additional information it deems necessary, including in the course of a full fiscal audit of the production. This may include, but is not limited to, the books and records of the corporation and the full applications filed with CAVCO.

More information on the CRA's role in co-administering the CPTC program, as well as its [Form T1131](#) and its publication [Canadian Film or Video Production Tax Credit – Guide to Form T1131](#), can be found on its [website](#).

### 1.04.02 Claiming a capital cost allowance for a CPTC-certified production

A CPTC-certified production is a Class 10(x) property under Schedule II of the Regulations, and is eligible for an accelerated Capital Cost Allowance (CCA). For more information, see the [CRA website](#) or contact the applicable regional CRA [Film Services Unit](#).

## 1.05 Certification of Treaty Coproductions under the CPTC Program

Treaty coproductions involving a Canadian production company can be eligible for the CPTC.

For a treaty coproduction to be considered a Canadian film or video production, the Canadian production company coproducing it must apply to Telefilm Canada (Telefilm) for Preliminary and Final Recommendations, as well as to CAVCO for a Part A certificate and a Part B certificate.

Telefilm is the administrative authority responsible for evaluating whether a production meets the criteria set out in the relevant coproduction treaty. It provides CAVCO

---

<sup>3</sup> This would occur after the CRA has received notice from CAVCO that a previously issued Part A certificate is being revoked, or, in the case of combined Part A and B applications, that the applications are being denied.

<sup>4</sup> Subsequent references in these guidelines to "series" will be deemed to include "mini-series" and "anthology". "Episode" will be deemed to include a film in the case of an anthology of short films.

with both a Preliminary Recommendation and a Final Recommendation as to whether a production meets treaty requirements.

CAVCO makes a recommendation to the Minister of Canadian Heritage as to whether or not the coproduction should be certified under the CPTC program.

See [Chapter 5](#) for more information on treaty coproductions.

## 1.06 Submitting an Application to CAVCO

### 1.06.01 Complete application

Applicants are responsible for submitting complete CPTC applications to CAVCO.

Production companies must file complete applications through the CAVCO Online application system, accessible through [CAVCO's website](#).

Supporting documentation must be included as part of a complete Part A or Part B application to CAVCO. A list of this documentation can be found in the “How to apply” section of the CPTC page on [CAVCO's website](#). Note that CAVCO does not accept redacted documents.

Incomplete applications will not proceed for analysis with a tax credit officer unless all required information and documents are received.

If information or documentation required to determine the eligibility of a production is not provided to CAVCO upon request, CAVCO could recommend the file for denial or revocation at any time. For more information on the process for denial or revocations, see section [1.11](#).

### 1.06.02 Requests for additional information

CAVCO reserves the right to request any additional information, affidavits or sworn statements necessary to ensure that a CPTC certificate should be issued for a production.

CAVCO may also ask the production company to provide any necessary records or financial documents for auditing purposes. The production company must ensure that adequate space and time are provided, and that all relevant documents are made available, for an audit.

While a copy of a production (three representative episodes for a series) is always required at the Part B application stage, CAVCO may also request a copy at the Part A stage (a rough cut is acceptable) where necessary. This may occur, for example, where there is a potential

concern related to the production meeting genre or lead performer eligibility requirements.

Where a copy of the production is requested at the Part A stage, note that a final copy of the production is still required with the Part B application for the production.

CAVCO also reserves the right to request more episodes of a series at any stage of analysis. This may occur, for example, where there is a concern with the eligibility of one or more of the episodes submitted originally. In rare cases, CAVCO may ask to see all episodes in a series.

## 1.07 Application Fees

A fee is required for each application to CAVCO.

The fee amount for an application may be adjusted by CAVCO prior to certification, where a change to the production budget or production financing affects the eligible production cost. In the event this results in an additional fee being owed by the applicant, the outstanding amount must be paid before the certificate is issued. Overpayments will be refunded after Part B certification for the production.

More information on application fees is available on [CAVCO's website](#).

## 1.08 Application Review Process

When an application is received by CAVCO, it is reviewed for completeness. Once an application is complete, it is placed in a queue to be assigned to a tax credit officer. When the application is assigned to a tax credit officer, they will review it and contact the production company if additional information or clarification is needed.

Once the tax credit officer's review is complete, the file is advanced for further approvals, ending with a final recommendation being made to the Director General of Cultural Industries to either certify the production, or deny or revoke the certification of the production, on behalf of the Minister of Canadian Heritage. The applicant is notified as soon as possible of the decision.

Notifications from CAVCO are sent to the applicant's Message Centre in the CAVCO Online system. It is therefore important for the applicant to check their messages on a regular basis. Applicants should also ensure that all contact information for their applications (including e-mail address, phone number and mailing address) is kept up to date.

See Figure 1 for more details on CAVCO's application review process. For information on CAVCO's service

standards and current processing times, see [CAVCO's website](#).

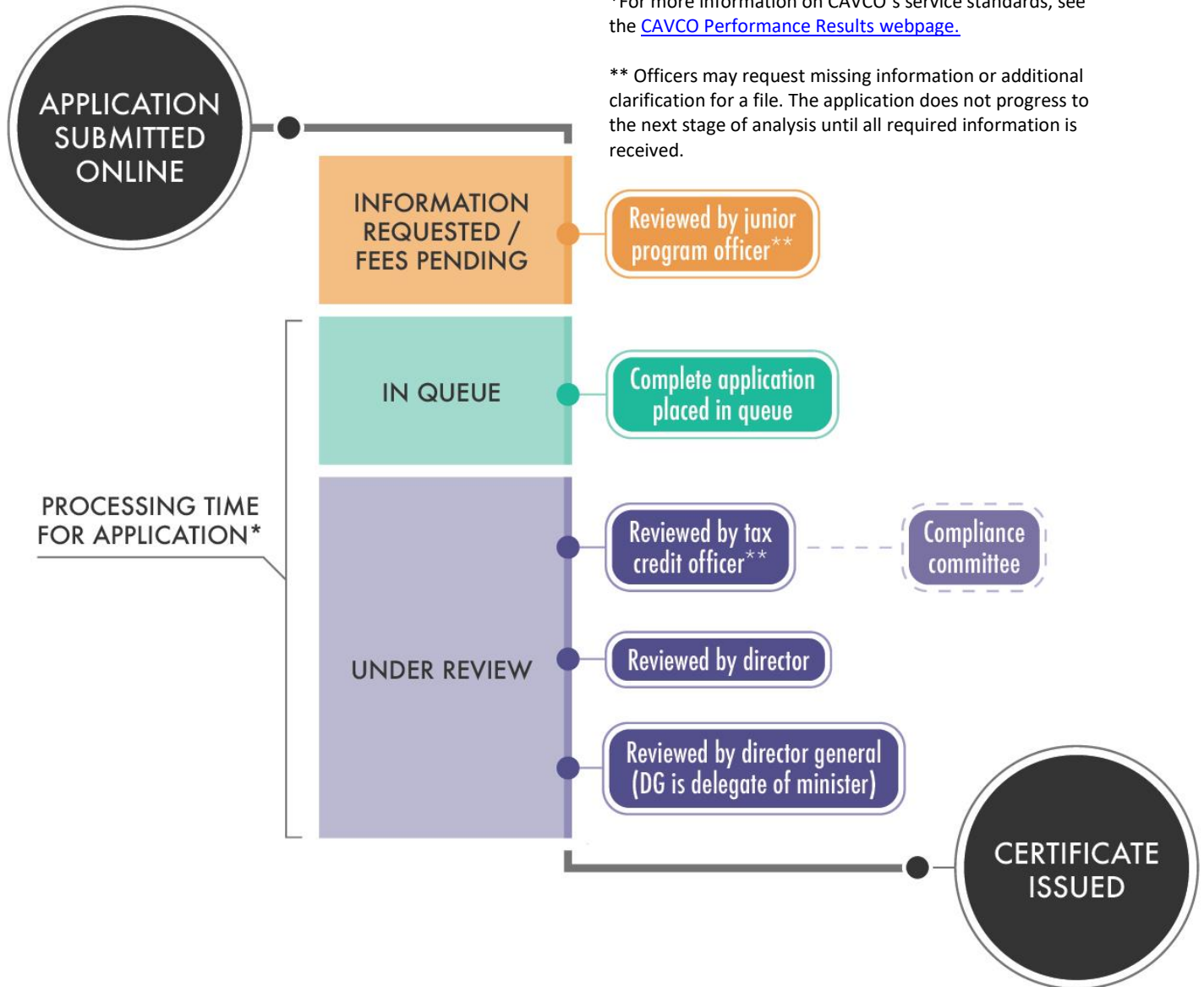
**Figure 1: Stages for review of applications at CAVCO**

**Figure 1: Notes**

The three boxes on the left side of the diagram represent the different file status messages that an applicant sees in the CAVCO Online system.

\*For more information on CAVCO's service standards, see the [CAVCO Performance Results webpage](#).

\*\* Officers may request missing information or additional clarification for a file. The application does not progress to the next stage of analysis until all required information is received.



## 1.09 Part B Application and Certification Deadlines

### 1.09.01 Overview

While there is no deadline for applying to CAVCO for a Part A certificate for a production, there are deadlines for applying for a Part B certificate, and for this certificate being issued by CAVCO to the applicant.

### 1.09.02 Part B application deadline/ CRA waiver requirements

The initial Part B application deadline is 24 months from the end of the corporation's taxation year in which the production's principal photography began (the "24-month deadline").<sup>5</sup>

This deadline can be extended to **42 months** from the first taxation year end date (the "42-month deadline"), as long as the applicant files valid T2029 waivers with the CRA for **both the first and second taxation years ending after principal photography began**. CAVCO verifies directly with the CRA that valid waivers, when required, have been filed. See [CAVCO's website](#) for more information on how to fill out and file these waivers, and to view a sample waiver.

For clarity purposes:

- The Part B application must be filed with CAVCO by the 42-month deadline.
- The two properly completed waivers for the production must be filed with the CRA by the 42-month deadline, and within the normal reassessment period for the two taxation years. A waiver should not be filed for a taxation year if that year has not yet been assessed by the CRA.
- If a waiver is not completed correctly or is submitted when the relevant taxation year has not yet been assessed, the form will be returned to the claimant, causing potential delays with CPTC certification.

The normal reassessment period for a taxation year is three years from the date of the mailing of the notice of assessment for Canadian-controlled private corporations, and four years from this date for public corporations.

A failure to meet the final 42-month deadline, or to file valid waivers when required, will result in a previously issued Part A certificate being revoked, or a Part A/B application being denied.

### 1.09.03 Part B application deadline for domestic coproductions

When two or more Canadian production companies enter into a domestic coproduction arrangement (see section [2.03](#)), the deadlines for applying to the CPTC are determined using the taxation year end of the primary applicant. If the primary applicant is submitting a Part B application after the 24-month deadline, the coproducing partner will also have to file waivers with the CRA.

### 1.09.04 Part B certification deadline

A Part B certificate must be issued within 6 months of a production's application deadline. The 48-month deadline is therefore the final date by which CAVCO must issue a Part B certificate for a production.

An applicant must submit a complete application and respond to all requests for information or clarification from CAVCO in a timely manner, so that CAVCO's analysis can be completed, and a certificate issued, by this final deadline.

If no Part B certificate is issued by the 48-month deadline, a previously issued Part A certificate will be revoked, or a Part A/B application will be denied.

### 1.09.05 Calculation of deadlines – Example

Corporate Taxation Year End	December 31
Start of Principal Photography	February 3, 2015
End of taxation year in which principal photography began	December 31, 2015
End of following taxation year	December 31, 2016
<b>24-month</b> Part B application deadline	December 31, 2017
<b>42-month</b> Part B application deadline	June 30, 2019
<b>48-month</b> Part B certification deadline	December 31, 2019

In this example (see table above), if the Part B application is being submitted after the 24-month deadline:

- The Part B application must be submitted to CAVCO by June 30, 2019; **and**
- Valid CRA T2029 waivers, for each of the taxation years ending December 31, 2015 and December 31, 2016, would need to be filed with the CRA within the

<sup>5</sup> On rare occasions, principal photography for a production may have begun before a production company was incorporated. For greater certainty, the first taxation year end will be the first one following incorporation of the company.

normal reassessment period for each of those two years.

### 1.09.06 Ensuring that the taxation year end date is correct

The applicant is responsible for ensuring that all Part B deadlines are met. As a courtesy to applicants, CAVCO does issue reminder notices of Part B application deadlines at the **22-month, 24-month, 40-month, and 41-month** marks based on dates submitted in the Part A application. When the taxation year end provided by the applicant with a Part A application is incorrect, or is later changed<sup>6</sup> without CAVCO being informed, CAVCO reminder notices may also be incorrect.

Note that once the first taxation year end has been confirmed through a company's first filing of a T2 return for that year, Part B deadlines will continue to be calculated by reference to this date, even if the company later changes its taxation year.

#### Additional extension to Part B application deadline due to COVID-19

Due to the effect of COVID-19 on the Canadian audiovisual sector, the Department of Finance Canada has introduced temporary extensions to various timelines applicable to the CPTC.

Applicants who incurred labour expenses for a production during their taxation year ending in 2020 or 2021 may be eligible for an additional extension to their Part B application and certification deadlines for the production.

See [CAVCO Public Notice 2022-03](#) for more information.

## 1.10 Compliance Reviews

If CAVCO determines that a production may not be eligible under the CPTC program, the file is submitted to CAVCO's Compliance Committee for review of the issue(s) of ineligibility.

Based on this review, additional information or clarification may be requested from the applicant, or the file may be recommended for denial (for a Part A or Part A/B application) or revocation (for a Part B application). For more information on the process for denials or revocations, see section [1.11](#).

## 1.11 Denials and Revocations

If an application is for a Part A certificate, or for both Part A and Part B certificates at the same time, and the production does not meet the requirements for CPTC certification, the production will be denied certification.

Where a Part A certificate has already been issued for a production, it may be revoked by the Minister of Canadian Heritage where:

- a) an omission or incorrect statement was made for the purpose of obtaining the certificate; or
- b) the production is not a Canadian film or video production.

Where a review of an application reveals an issue of ineligibility, CAVCO sends the applicant an advance notice detailing the reasons why the production appears to be ineligible. The applicant is provided the opportunity to submit additional information that may impact the final evaluation of the application.

If, after considering the additional information, CAVCO makes a final recommendation that the production not be certified, or if the applicant fails to provide a response within the allotted time frame, the applicant is sent a final notification of denial or revocation issued by the Director General, Cultural Industries, on behalf of the Minister.

A certificate that is revoked is deemed never to have been issued. CAVCO provides a copy of the final notice to the CRA for all denials and revocations.

Applicants may apply to the Federal Court for judicial review of a final decision within 30 days of being notified by CAVCO of the decision. To apply for judicial review, an applicant must send a completed [Form 301, Notice of Application \(Federal Court website\)](#), with the appropriate filing fee, to the registrar of the Federal Court. For more information on how to file an application for judicial review, or other general enquiries, visit the [Courts Administration Services website](#).

## 1.12 Internal CAVCO Audits

Each year, CAVCO performs a more in-depth review of a select number of applications. CAVCO reserves the right to request any additional information necessary for a complete audit of the application.

---

<sup>6</sup> CAVCO recognizes that a tentative taxation year end date listed in a Part A application may change by the time the production company first files a T2 Corporation Income Tax return with the CRA.



## 1.13 Preliminary Opinions of Eligibility (Pre-assessments)

A production company may ask CAVCO to provide a preliminary opinion on the eligibility of a production for CPTC certification with respect to a specific issue. This opinion is based strictly on the information made available at the time to CAVCO, and is not binding on whether or not the production will ultimately be eligible, including with respect to the specific issue identified in the pre-assessment request. Full Part A and B applications for a production must ultimately be received for CAVCO to provide a final recommendation to the Minister of Canadian Heritage regarding the production's eligibility.

A request for a pre-assessment may be submitted to CAVCO only if a CPTC application for the production has not yet been submitted, and if the production has been substantially developed.

Requests for pre-assessments can be sent to CAVCO's Compliance Committee at [bcpacc-cavcoc@pch.gc.ca](mailto:bcpacc-cavcoc@pch.gc.ca).

All pre-assessment requests must include:

- the name of the production company (or parent company if a production company has not yet been incorporated);
- the title of the production and, where applicable, the number and length of episodes;
- the broadcaster or distributor involved or being contemplated; and
- the specific eligibility issue to be addressed (e.g., a question about lead performer, genre, etc.).

**If no specific eligibility concerns are identified and explained, CAVCO will not be able to proceed with a pre-assessment.**

If the concern relates to whether a production falls under an ineligible genre category, the request must include, in addition to the specific genre(s) of concern:

- a detailed treatment and/or series bible (note that a one-page synopsis or concept is not sufficient);
- for series, a sample episodic breakdown providing the details and length of each segment in the episode, to show what each segment will look like once produced; and
- if available, a copy of the completed production or, for a format production, a copy of the original version of the production it is based on.

CAVCO's pre-assessment letter must be attached to any future CPTC application made to CAVCO for the production.

## 1.14 Confidentiality of Taxpayer Information

### 1.14.01 General

All information provided by an applicant under the CPTC program is subject to the taxpayer confidentiality provisions in section 241 of the *Income Tax Act*. This section restricts how government officials can use or communicate information obtained for the purpose of administering the Act. The [full text of section 241](#) can be found on the Department of Justice website.

### 1.14.02 Publication of titles of certified productions

Subsection 241(3.3) of the Act allows the communication of limited information regarding productions that have been Part A certified under the CPTC program. Accordingly, CAVCO publishes a list of titles and associated production companies for all Part A certified productions. A link to the list is available on [CAVCO's website](#).

### 1.14.03 Sharing information with other federal or provincial government entities

Under section 241 of the Act, CAVCO can share information with:

- a) other entities directly involved with the co-administration of the CPTC, including the CRA and, in the context of treaty coproductions, Telefilm Canada;
- b) any federal or provincial government office or agency whose mandate includes the provision of assistance for film or video productions, to the extent that the information is shared for the purpose of administering or enforcing of the program under which the assistance is offered; or
- c) the CRTC, to the extent that it is being provided for the purpose of the administration or enforcement of a regulatory function of the CRTC.

## 1.15 Screen Credit Requirements

The Canadian production company, as well as the individual(s) occupying the producer position, must be clearly identified and given prominence on screen in the main titles, and in all billing blocks.

The Canadian copyright notice must also appear in the tail-end screen credits.

The “Canada” wordmark logo, accompanied by the wording “Canadian Film or Video Production Tax Credit,” must appear on all domestic and international versions of each certified production, and in all related advertising, publicity and promotional materials. More information can be found on [CAVCO’s website](#).

## 1.16 Canadian Content Certification through the Canadian Radio-television and Telecommunications Commission (CRTC)

The CRTC has a Canadian content certification program that is similar in many respects to the CPTC certification process. However, no tax credit is provided through the CRTC.

For the purpose of CRTC program logs, broadcasters can submit a CPTC certificate number for a production, in lieu of the certification (“C”) number issued through the CRTC’s Canadian Program Certification section.

For more information, visit the [CRTC’s website](#).



## 2. Corporate Eligibility Requirements

### 2.01 Prescribed Taxable Canadian Corporation

#### 2.01.01 Overview

The production company producing a film or video production and applying for CPTC certification must demonstrate that it is a “prescribed taxable Canadian corporation,” as defined in the Regulations.

This means the corporation must be a taxable Canadian corporation<sup>7</sup> that is:

- a) Canadian-controlled, based on sections 26 to 28 of the [Investment Canada Act](#);
- b) not controlled directly or indirectly in any manner by one or more persons, all or part of whose taxable income is exempt from tax under Part I of the *Income Tax Act* (for example, tax-exempt non-profit corporations, charitable organizations, etc.); and
- c) not a prescribed labour-sponsored venture capital corporation, as defined in section 6701 of the Regulations.

For the purpose of sections 26 to 28 of the [Investment Canada Act](#), “Canadian” means:

- (a) a Canadian citizen;
- (b) a permanent resident within the meaning of subsection 2(1) of the [Immigration and Refugee Protection Act](#) who has been ordinarily resident in Canada<sup>8</sup> for not more than one year after the time at which he or she first became eligible to apply for Canadian citizenship;<sup>9</sup>
- (c) a Canadian government, whether federal, provincial or local, or an agency thereof; or
- (d) an entity that is Canadian-controlled, as determined under subsection 26(1) or (2) and in respect of which

*there has been no determination made under any of subsections 26(2.1), (2.11) and (2.31), or declaration made under subsection 26(2.2) or (2.32).*

#### 2.01.02 How CAVCO assesses control of a corporation

For a production company to meet the Canadian ownership and control requirements of the CPTC program, there must be control in law (“*de jure*” control) of the company by Canadians, with respect to shareholders’ voting rights. It must also be clear that this extends to control in fact (“*de facto*” control), having regard for the nature of shareholders’, officers’ or directors’ involvement with, or influence within, the company. In other words, *de facto* control may exist when another corporation, person or group of persons has any direct or indirect influence that, if exercised, would result in control in fact of the corporation.

The assessment of a company’s eligibility is based primarily on information provided by the applicant in the “Shareholders” section of an application.

CAVCO may in some cases request additional information to confirm the control of a corporation based on the rights, privileges and decision-making authority of shareholders (e.g., through articles of incorporation, shareholder agreements, trust agreements, legal opinions, organization charts or similar documentation).

CAVCO may request additional supporting documents for a publicly traded company, such as the company’s articles of incorporation, its notice of registered office, or a certified list of shareholders. Additional documents may also be required if a shareholder is an entity such as a sole proprietorship, a partnership or a trust.

Any corporate shareholder (or a shareholder such as a partnership or a trust) owning a majority of voting shares in the production company must also be shown to be Canadian-controlled.

Where there are several minority shareholders that are corporations or other business entities, it must be shown that a majority of shares are owned by Canadian-controlled entities.

<sup>7</sup> The production company must be incorporated in Canada. For information on federal incorporation, visit the website of the Corporations Canada division of [Innovation, Science and Economic Development](#). For provincial or territorial incorporation, contact the appropriate government ministry.

<sup>8</sup> This means that individuals have taken residence in Canada in their usual day-to-day routine.

<sup>9</sup> This interpretation of permanent resident applies only in the context of assessing Canadian control of a corporation. For other purposes such as the evaluation of producer-related or key creative positions, an individual who has been a permanent resident for any length of time is considered Canadian.

## 2.02 Qualified Corporation

A company applying for the tax credit under the CPTC program must be a “qualified corporation,” as defined in the Act.

Under this definition, a corporation must be one that is, throughout a given taxation year, a prescribed taxable Canadian corporation (see section [2.01](#)) whose activities consist primarily of carrying on a Canadian film or video production business, through a permanent establishment in Canada.

Where the business of a corporation consists primarily of other activities such as the rental of equipment or studios, the distribution of audiovisual productions, or the production of films or videos that are not Canadian film or video productions, the corporation is not considered a qualified corporation.

If a corporation engages in more than one business, the assessment of its primary activity is based on evaluating factors such as the revenues generated by each business, the capital employed in each business, and the time spent by employees, agents or officers on each business.

The CRA determines whether a production company is a qualified corporation. If a production company is unsure whether or not it is a qualified corporation for tax credit purposes, it may contact its regional [Film Services Unit](#) of the CRA prior to submitting an application to CAVCO.

## 2.03 Domestic Coproductions

A domestic coproduction is a production for which more than one Canadian production company incurs expenses.

Only one application for certification is submitted to CAVCO through the company designated by the coproducers as the primary applicant for the application. However, information on all coproducing companies must be included with the application. Each production company must be a prescribed taxable Canadian corporation and a qualified corporation.

For domestic coproductions, CAVCO issues only one CPTC certificate. Each production company may then claim their own portion of the tax credit with the CRA.

Note that where two or more partnering Canadian production companies incorporate a subsidiary company to be the sole production company for a production, the production should not be identified as a domestic coproduction in an application to CAVCO.

## 3. Copyright Ownership

### 3.01 General

Unless a production is a treaty coproduction, only the Canadian production company or a “prescribed person” can be a copyright owner of the production for all commercial exploitation purposes, for the 25-year period beginning when the production is completed and commercially exploitable.

No other person or entity can place any restriction on the ability of the production company or prescribed person to exercise full copyright ownership rights in the production during this period. This is verified by CAVCO through its review of documents such as exploitation, financing and chain-of-title agreements.

### 3.02 Copyright Owner

Under the Regulations, a “copyright owner” for the purpose of the CPTC can be:

- (a) *the maker, as defined in section 2 of the [Copyright Act](#), who at that time owns copyright in relation to the production, within the meaning of section 3 of that Act; or*
- (b) *a person to whom that copyright has been assigned, under an assignment described in section 13 of the Copyright Act, either wholly or partially, by the maker or by another owner to whom this paragraph applied before the assignment.*

For greater certainty, the granting of an exclusive licence within the meaning of the *Copyright Act* (for example, to a broadcaster or a distributor) is not an assignment of copyright.

### 3.03 Prescribed Person

#### 3.03.01 Overview

In the Regulations, a “prescribed person” is defined as:

- (a) *a corporation that holds a television, specialty or pay-television broadcasting licence issued by the Canadian Radio-television and Telecommunications Commission;*
- (b) *a corporation that holds a broadcast undertaking licence and that provides production funding as a*

*result of a “significant benefits” commitment given to the [CRTC];*

- (c) *a person to which paragraph 149(1)(l) of the Act applies<sup>10</sup> and that has a fund that is used to finance Canadian film or video productions;*
- (d) *a Canadian government film agency,*
- (e) *in respect of a film or video production, a non-resident person that does not carry on a business in Canada through a permanent establishment in Canada and whose interest (or, for civil law, right) in the production is acquired to comply with the certification requirements of a treaty coproduction twinning arrangement; and*
- (f) *a person*
  - (i) *to which paragraph 149(1)(f) of the Act applies<sup>11</sup>,*
  - (ii) *that has a fund that is used to finance Canadian film or video productions, all or substantially all of which financing is provided by way of a direct ownership interest (or, for civil law, right) in those productions, and*
  - (iii) *that, after 1996, has received donations only from persons described in paragraphs (a) to (e).*
- (g) *a prescribed taxable Canadian corporation;*
- (h) *an individual who is a Canadian; and*
- (i) *a partnership, each member of which is described in any of paragraphs (a) to (h).*

Note that if an entity other than the Canadian production company is a copyright owner of a production, this may have an impact on how a Capital Cost Allowance for the production is claimed. Production companies may consult with their regional CRA [Film Services Unit](#) office for further information on this issue.

#### 3.03.02 Documentation demonstrating that an individual or entity is a “prescribed person”

- a) **A prescribed taxable Canadian corporation** must provide a “Private Company Declaration” (available on [CAVCO’s website](#)) completed and signed by an authorized representative of the corporation.<sup>12</sup>

<sup>10</sup> This would generally include non-profit organizations.

<sup>11</sup> This would generally include registered charities.

<sup>12</sup> This does not apply if the corporation also falls under another part of the “prescribed person” definition. For example, the form is not required if a corporation is also a Canadian broadcaster.

- b) **Individuals** that are prescribed persons must demonstrate that they are Canadian citizens or permanent residents by either:
- (i) providing a completed and signed “Individual Declaration – Prescribed Person” (available on [CAVCO’s website](#)); or
  - (ii) providing a CAVCO Personnel Number (see section [6.01.03](#)).

For other entities acting as prescribed persons, CAVCO will ask the applicant to provide documentation where necessary.

### 3.03.03 Involvement of an individual or entity that is not a prescribed person

A non-prescribed person may make an investment in a production or participate in profits generated from a production, but cannot be a copyright owner of the production, or have any control over the initial licensing of commercial exploitation rights for the production.

Note that in cases where a non-prescribed person invests in a production without being a copyright owner, CAVCO examines relevant agreements to ensure that their involvement does not raise any concerns related to:

- a) production control (see section [6.10](#)) or
- b) the retention by the production company of an acceptable share of revenues (see section [8.09](#)).

## 4. Ineligible Production Genres

### 4.01 List of Ineligible Genres

There is not a list of production genres that are eligible under the CPTC program. Instead, the Regulations outline ten genres (listed below) that are **not** eligible for the program. Additional clarifications on how CAVCO assesses ineligible genres, including relevant definitions, can be found in section [4.03](#).

- a) news, current events or public affairs programming, or a program that includes weather or market reports;
- b) a production in respect of a game, questionnaire or contest (other than a production directed primarily at minors);
- c) a sports event or activity;
- d) a gala presentation or an awards show;
- e) a production that solicits funds;
- f) reality television;
- g) pornography;
- h) advertising;
- i) a production produced primarily for industrial, corporate or institutional purposes;
- j) a production, other than a documentary, all or substantially all of which consists of stock footage.

### 4.02 How CAVCO assesses whether a production falls under an ineligible genre definition

At the Part A application stage, CAVCO reviews the synopsis for the production.

If the synopsis in the application does not provide sufficient information about a production's genre, CAVCO may also request other script material (for example, a treatment, a screenplay, or an episodic breakdown) or, in some cases, a preliminary copy of the production.

At the Part B application stage, CAVCO reviews a copy of the production.

Note that when CAVCO is reviewing an application for a new season of a series that has been certified in previous seasons, the genre of the new season is still assessed.

See section [1.13](#) for more information on requesting a pre-assessment related to genre eligibility.

### 4.03 Additional clarifications (including definitions) for each ineligible genre

#### 4.03.01 News, current events or public affairs programming, or a program that includes weather or market reports

##### Definition:

A production that:

- presents local, regional, national or international news in the form of a newscast;
- is presented in the form of specialized news programming, including, but not limited to, business news, sports news or entertainment news;
- presents live or pre-recorded coverage of current events;
- presents discussions or analysis of current political or public policy issues in the form of one-on-one, round-table or panel discussions, debates, open forums or town hall meetings;
- includes weather or market reports; or
- includes a combination of any of the above elements.

##### Key things to know:

- 1) Clarification regarding each section of the definition:

**Element 1:** A production that... presents local, regional, national or international news in the form of a newscast.

- This section of the definition captures traditional newscasts and clarifies that it applies to all types of newscasts, regardless of their territorial scope.
- Included within this category are daily news, evening news and 24-hour news channel programming.
- Examples: 6 p.m. news, ABC World News Tonight

**Element 2:** A production that... is presented in the form of specialized news programming, including, but not limited to, business news, sports news or entertainment news.

- This section of the definition covers specialized news programming dealing with a more narrow scope of news than a traditional newscast.
- While this section identifies the most popular types of specialized news programming (business, sports and entertainment), it is not limited to those. For example, a specialized news production focusing on the video gaming industry, or on science-related news, would be included within this section.
- For clarity: To be included within this section, a show has to predominantly present news on a given subject matter. This section does not include lifestyle/human interest shows that deal with a specific subject matter (e.g., fishing, golfing, video gaming) in a broader way.
- Examples: Entertainment Tonight, ESPN SportsCentre

**Element 3:** A production that... presents live or pre-recorded coverage of current events.

- This section of the definition refers to coverage of events that are typically covered by reporters or news divisions of broadcasters, but that are not presented in the form of a traditional newscast.
- This section does not include live performing arts shows.
- Examples: Election coverage, royal weddings, parades, political conventions.

**Element 4:** A production that... presents discussions or analysis of current political or public policy issues in the form of one-on-one, round-table or panel discussions, debates, open forums or town hall meetings.

- This section of the definition is designed to capture “public affairs programming.”
- This includes any production that predominantly consists of discussions of political news or government policy.
- Such productions are typically produced through the news division of a broadcaster.
- Examples: Meet the Press, State of the Union

**Element 5:** A production that... includes weather or market reports.

- Any production that includes a weather or market report, regardless of the length of that segment, will be ineligible. For example, a talk show that includes a weather report will not be eligible.
- Productions with fictional weather or market reports will not be deemed to fall within this section of the definition.
- Example: The Today Show

**Element 6:** A production that... includes a combination of any of the above elements.

- This section of the definition clarifies that a production consisting of a mixture of any of the above elements will also fall under this genre and therefore be ineligible.

#### 4.03.02 A production in respect of a game, questionnaire or contest (other than a production directed primarily at minors)

##### Definition:

A production where individuals or teams participate in a game, quiz, or contest that has an objective outcome (e.g., right/wrong, complete/incomplete, fastest time, highest score) to determine a winner, whether or not a prize is awarded.

A production that combines tasks that are measured objectively with tasks that are measured subjectively is included in this genre.

A production that includes competitive elements but features character development over the course of a series (e.g., by starting with a group of participants who are competing against each other and who are eliminated as the series progresses) is not included in this genre.

##### Key things to know:

- 1) The definition does not apply to productions directed primarily at minors.
- 2) The presence of prizes is not a consideration when deciding whether a production falls under this genre. Whether or not a prize is awarded, or the monetary value of a prize, does not change the basic premise of a show and is not used by CAVCO as a determining factor for eligibility.

### Examples:

Competition-based lifestyle/human interest programs with character development over the course of a series (which can therefore be eligible): Survivor, Amazing Race or American Idol

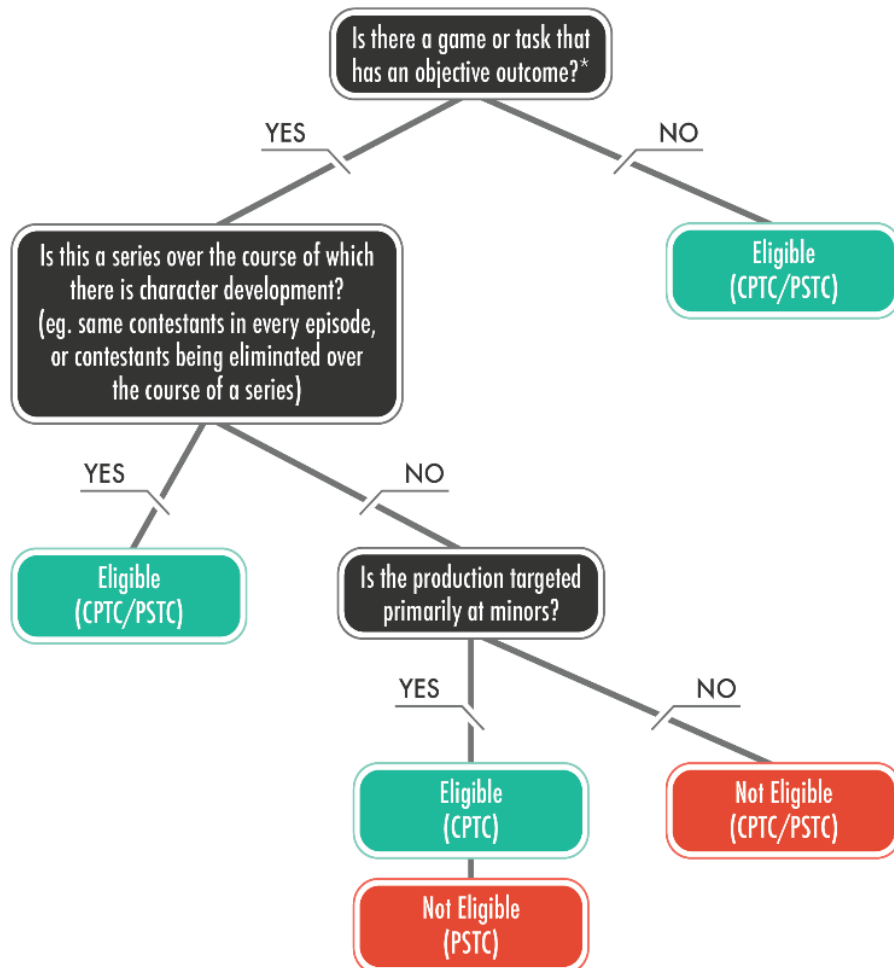
Productions that would be ineligible: Jeopardy, The Price is Right, Who Wants to be a Millionaire, Let's Make a Deal, American Ninja Warrior, Fear Factor, Des chiffres et des lettres

See Figure 2 below for more information on how CAVCO evaluates whether productions fall under this genre.

### Figure 2: Notes:

- \* If there is a mix of objective and subjective outcomes, then choose "YES" for the first question.
- A "subjective outcome" is one determined by a decision-maker such as a judge or the audience.
- An "objective outcome" is one that is right/wrong, complete/incomplete, fastest time, etc.
- Whether or not there is a prize does not factor into the decision.
- Prolonged set-up to a game should still be considered part of the game.
- If the winner of each episode of a series returns in the next episode until they are defeated by a new challenger, the series is still considered to have new contestants in every episode (i.e. not an elimination series), since such a series still wouldn't have the requisite character development.

**Figure 2: A production in respect of a game, questionnaire or contest (other than a production directed primarily at minors)**



### 4.03.03 A sports event or activity

#### Definition:

A production that consists of:

- live or pre-recorded coverage of a professional or amateur game, match, competition, or tournament; and/or
- pre- and post-game shows for sports events or activities.

#### Key things to know:

- 1) This genre includes coverage of traditional sporting events or activities (e.g., hockey, football, tennis, the Olympics, motocross racing, darts, etc.) as well as coverage of other competitive tournaments (e.g., chess, poker, eSports or similar activities commonly known as “mind sports”).
- 2) This genre does not include:
  - documentaries about sports;
  - lifestyle/human interest productions focused on a sport or recreational activity (e.g., skiing, fishing, snowboarding) that are informational, instructional or educational in nature; or
  - a regularly scheduled, stand-alone sports talk show.

### 4.03.04 A gala presentation or an awards show

#### Definition:

A production that consists of:

- live or pre-recorded coverage of a gala presentation or an awards show; and/or
- pre- and post-event coverage of these events.

#### Key things to know:

- 1) An award includes any type of honour or recognition.
- 2) This genre includes all awards shows, whether or not they also contain other elements such as comedy or musical performances.
- 3) This genre includes related pre- or post-event coverage (e.g., the red-carpet Oscar pre-show).

- 4) This genre does not include behind-the-scenes or “making-of” productions about these events.

#### Examples:

Gala presentation: gala dinners, gala screenings, gala performances, Miss America pageant, Kennedy Center Honors

Awards show: The Academy Awards, The Tony Awards, La cérémonie des César, NFL Honors

### 4.03.05 A production that solicits funds

#### Definition:

A production that includes a segment of any length aimed at soliciting funds or other contributions from viewers.

#### Key things to know:

- 1) This genre includes productions that visually or verbally solicit funds for any purpose (including, but not limited to, a charity or social cause) by directing viewers to a website, phone number or address through which they can make donations.
- 2) Verbal requests are generally done by a representative of the show such as a host, announcer or regular panelist. The genre does not include productions featuring incidental soliciting of funds by guests on a show.

#### Examples:

Hope for Haiti Now telethon, Jerry Lewis MDA Labor Day telethon, Le téléthon de l'Association française contre les myopathies

### 4.03.06 Reality television

#### Definition:

A production that consists of:

- scenes recorded on private or public authority surveillance equipment; or
- the recording of any sort of official proceedings such as live or live-to-tape coverage of courtroom trials or governmental proceedings.

#### Key things to know:

- 1) This genre refers to productions assembling pre-existing footage from public or private cameras.



- 2) This genre does not refer to what viewing audiences have generally considered “reality television” since the late 1990’s, subsequent to the naming of this genre (e.g., Survivor, Keeping Up with the Kardashians, etc.).

### 4.03.07 Pornography

#### Definition:

A production that contains explicit depictions or descriptions of a sexual nature, without regard to artistic merit.

### 4.03.08 Advertising

#### Definition:

A production:

- that is a commercial or infomercial;
- that includes a call to action soliciting the viewer to purchase a good or service (e.g., directing the viewer to a store or website other than the production’s website);
- that promotes broadcast schedules or programming; or
- where more than 15% of the running time consists of:
  - extolling the virtues of one or more products, services, events, organizations or businesses, and/or
  - logos or other brand identifiers.

#### Key things to know:

- 1) CAVCO assesses whether a production is “advertising” based on what is on-screen, using the elements set out in the definition. CAVCO does not assess the primary intent or “true nature” of a production in determining whether it is advertising.

In CAVCO’s experience, the presence of an agreement between an advertiser or sponsor and a producer or broadcaster, including where the former provides financing to a production, does not necessarily translate into any overt on-screen promotional content in the production. Similarly, the absence or non-disclosure of such contracts does not mean there will be no advertising on-screen.

- 2) For greater certainty, the following elements do **not** automatically make a production advertising:
- The name of a brand is in the title of the production
  - A brand is involved in the creation of the program
  - A brand has the right to final factual review of the production
  - The production is named after a book, video game or toy
  - The viewer is directed to the production's website for more information
  - There is a link in the tail credits to a sponsor's website or to a website where products can be purchased
  - The production is broadcast with commercial breaks or other promotional content (e.g., on a website) that is related to a brand featured in the production
  - The production is filmed at the brand's place of business
  - The production is partially or fully funded by a brand
- 3) The involvement of any advertiser or sponsor in a production must respect CAVCO’s producer control guidelines. These entities cannot, for example, have final creative or editorial control over a production, and are restricted to having customary consultation and approval rights. For more information on CAVCO’s assessment of producer control, see section [6.10](#).
- 4) Clarification regarding each section of the definition:

**Element 1:** A production... that is a commercial or infomercial.

- This part of the definition refers to the most traditional types of advertising – a television commercial and a longer-form infomercial.
- A commercial may or may not include a “call to action”. In fact, most commercials do not include a clear “buy this” message.

**Element 2:** A production... that includes a call to action soliciting the viewer to purchase a good or service (e.g., directing the viewer to a store or website other than the production’s website).

- This part of the definition refers to an explicit verbal or visual solicitation directed at viewers to purchase a

product or service. Viewers may be directed to a production's website for general information purposes.

**Element 3:** A production... that promotes broadcast schedules or programming.

- This part of the definition includes:
  - a television production including any on-screen visual presentation of upcoming broadcaster schedules; and
  - a television production – whether a stand-alone production, or a special episode of a series – focusing on the promotion of broadcaster schedules or programming throughout the show. An example of this would be a show featuring stars or personalities promoting other programming on the same network.

**Element 4:** A production where more than 15% of the running time consists of:

- extolling the virtues of one or more products, services, events, organizations or businesses, and/or
- logos or other brand identifiers.
- “Extolling the virtues” involves praising the features of the presented products or services, portraying them in an exclusively positive fashion.
- “Extolling the virtues” can be done visually (often in conjunction with verbal messaging) by presenting lingering “glamour” shots of products or services.
- Productions that follow the structure of a “brochure” for a product or service will typically fall within this category. For example, if a large portion of a show dealing with a certain type of product or service is dedicated to highlighting multiple features or amenities of a specific example of that product or service, it is very likely that the production will be considered advertising, because more than 15% of the running time will consist of extolling the virtues of that product or service.
- On-screen logos or other brand identifiers will not be counted towards the 15% threshold where they are presented in an incidental and occasional fashion in the background, and are not focused on visually (e.g., through close-ups, recurring shots, lingering shots, etc.)

5) Clarification regarding review shows:

CAVCO does not consider a bona fide review of a product or service to be “extolling the virtues” of a product or service. To distinguish between these

two situations, CAVCO will consider the following questions:

- (i) Is the product or service presented in a balanced way?
- (ii) Is the product or service compared to any competitors’ products, either within an episode, or over the course of a series?
- (iii) Is there an evaluation of the product or service that goes beyond simply providing a list of all its features?

Affirmative answers to these questions are expected for CAVCO to consider the presentation of a product or service to be a review. If CAVCO determines that a production is a review show, or that a segment within a production features the review of a product or service, the positive references to these products or services, as well as any shots of logos appearing during reviews, will not be counted towards the 15% total in element 4 of the definition.

If, on the other hand, CAVCO determines that the presentation is not a review, it will count towards the 15% evaluation in element 4 of the definition.

#### 4.03.09 A production produced primarily for industrial, corporate or institutional purposes

##### Definition:

A production primarily made to meet the specific industrial, corporate or institutional needs of a business, organization, government entity, or industrial sector.

Productions such as, but not limited to, recruitment videos, corporate training videos, public service announcements and promotional videos are included in this genre.

##### Key things to know:

- 1) Productions in this genre are generally, but not necessarily, commissioned by a corporate entity for internal purposes or for promotional purposes. They are usually informational, instructional or educational with respect to the commissioning group’s activities.
- 2) As there can be some overlap between this genre and the ineligible genre of “advertising,” a production may in some cases be ineligible on the basis of falling under both genres.

#### 4.03.10 A production, other than a documentary, all or substantially all of which consists of stock footage

**Definition:**

A production, other than a documentary, all or substantially all of which consists of pre-existing footage.

## 5. Treaty Coproductions

### 5.01 Overview

An audiovisual coproduction is a production created by pooling the creative, technical and financial resources of coproducers.

Coproductions produced according to the terms of a coproduction treaty between Canada and another country are granted national status in each country, and are eligible for the CPTC where they meet all other applicable requirements under the Regulations.

The recognition of a project as a treaty coproduction must be obtained from the designated authority in each coproducing country.

### 5.02 Roles of Telefilm Canada and CAVCO in Coproduction Certification

**Telefilm Canada:** As the administrative authority for coproduction treaties involving Canada, Telefilm reviews coproduction applications to determine whether they meet the provisions of the applicable coproduction treaty. Telefilm provides CAVCO with a preliminary and a final recommendation on whether or not the production meets the terms of the relevant treaty.

The full text of all current coproduction treaties, as well as Telefilm's policies, guidelines and online application portal, are available on [Telefilm's website](#).

**CAVCO:** CAVCO will assess the production's compliance with the treaty, taking into account the recommendation made by Telefilm. CAVCO recommends to the Minister of Canadian Heritage to certify a coproduction as a "Canadian film or video production" where it meets the requirements of the treaty **and** all other applicable CPTC requirements under the Act and Regulations.

The Minister is responsible for rendering the final decision as to whether a production is a treaty coproduction that can be certified under the CPTC program.

For clarity: **a production company must submit separate applications to both Telefilm and CAVCO** to have a production certified as a treaty coproduction pursuant to the Act and Regulations.

### 5.03 Requirements for CPTC Certification of a Treaty Coproduction

The following requirements in the Act and Regulations do **not** apply to treaty coproductions:

- a) All individuals occupying the producer position must be Canadian.
- b) The production must meet key creative point requirements.
- c) The production must meet minimum Canadian expenditure requirements for prescribed production and post-production costs.
- d) Only the Canadian production company or a prescribed person may own copyright in the production.
- e) Only the Canadian production company or a prescribed person may control the initial licensing of commercial exploitation rights for the production.
- f) The Canadian production company (or a related prescribed taxable Canadian corporation) must retain an acceptable share of revenues from foreign exploitation of the production.

All other CPTC requirements still apply to treaty coproductions.

### 5.04 Treaty Coproduction Attestation Process

A CPTC certificate may be used by Canadian funding programs, broadcasters or regulatory authorities as recognition that a production has been granted treaty coproduction status by the Minister of Canadian Heritage.

However, there may be cases where a production is not eligible for the CPTC, despite conforming to the requirements of a coproduction treaty. This may occur, for example, where a CPTC application or certification deadline is not met, or where the production is an interactive digital media production that is not eligible for the CPTC.

Upon request by the production company, CAVCO may in these cases issue a "coproduction attestation" letter, which provides a "CP" number for the production. This letter from the Director General, Cultural Industries on behalf of the Minister, confirming that the project has achieved treaty coproduction status outside of the framework of the Act, may then be filed with funders, broadcasters or other authorities as necessary.

[Contact CAVCO](#) for details on how to apply for a coproduction attestation letter.

## 5.05 International Co-ventures

Co-ventures are international productions that are not produced in accordance with an audiovisual coproduction treaty. Co-ventures do not qualify for the CPTC.

Additional information on co-ventures can be found in the [Guide to the CRTC Canadian Program Certification Application Process](#).

## 6. Key Creative and Producer-Related Personnel

### 6.01 Requirements for Proof of Canadian Citizenship or Permanent Residency

#### 6.01.01 Overview

To be eligible for CPTC certification, a production must meet requirements related to the staffing of Canadian key creative and producer-related personnel on the production. See sections [6.02-6.12](#) for more information on these requirements.

An applicant must provide proof that individuals for whom key creative points are being requested, as well as individuals occupying producer-related positions, are Canadian. This is demonstrated through the applicant providing CAVCO Personnel Numbers (also known as CAVCO IDs) for these individuals, within their application.<sup>13</sup>

The term "Canadian," in this context, refers to a person who is a Canadian citizen as defined in the *Citizenship Act*, or a permanent resident as defined in the *Immigration and Refugee Protection Act*. The person must be Canadian during the entire time they perform any duties in relation to the production.

Note that this use of the term "Canadian" is different from the definition of "Canadian" found in the *Investment Canada Act*, used for determining whether a production company is Canadian-controlled (see section [2.01](#)).

#### 6.01.02 Permanent residents of Canada

A permanent resident of Canada is a person who has acquired permanent resident status pursuant to the *Immigration and Refugee Protection Act*. To maintain this status, the person must meet certain minimum residency requirements during each five-year period.

Permanent residents may apply for Canadian citizenship once they have been ordinarily resident in Canada for at least three of the previous five years, and have met certain other requirements.

For more information on permanent residency status or obtaining Canadian citizenship, consult the [Immigration, Refugees and Citizenship Canada website](#).

#### 6.01.03 CAVCO Personnel Numbers

To obtain a CAVCO Personnel Number, an individual occupying a key creative or producer-related position must submit an application with a document demonstrating Canadian citizenship or permanent residency. More information on the application process for CAVCO Personnel Numbers is available on [CAVCO's website](#).

Each individual confirmed as a Canadian citizen or permanent resident is assigned a unique CAVCO Personnel Number. Production companies applying to CAVCO for a production must obtain these numbers directly from individuals occupying key creative or producer-related roles. CAVCO does not provide these numbers to production companies.

Canadian citizens need to apply only once for a CAVCO Personnel Number.

Permanent residents need to resubmit proof of permanent residency status when their permanent resident card expires. CAVCO Personnel Numbers issued to permanent residents have a zero as the first digit in their numerical portion (e.g., ABCD0123).

CPTC applicants must ensure that any Canadian filling a producer-related or key creative role in their production has obtained a CAVCO Personnel Number. Production companies are encouraged to obtain the numbers at the time of hiring any individuals occupying these positions.

If the CAVCO Personnel Number provided to a production company identifies an individual as a permanent resident, the production company should ensure that the individual can demonstrate, with a valid permanent resident card, that they have permanent resident status at the time they are providing services to the production.

Applicants are strongly encouraged to submit CAVCO Personnel Numbers at the time of their Part A application. The numbers are mandatory for all Part B or Part A/B applications. Note that the failure of an applicant to submit one or more CAVCO Personnel Numbers with a Part B or Part A/B application will result in fewer points being allotted to the production and, in some cases, in a production being ineligible.

---

<sup>13</sup> Key creative personnel and producer-related personnel requirements are different in the context of treaty coproduction applications. However, the names of all individuals occupying any of these positions (as well as their CAVCO Personnel Numbers, if they are Canadian) must still be included in applications to CAVCO. For information regarding key creative personnel requirements in treaty coproductions, please consult the relevant coproduction treaty and Telefilm Canada's coproduction guidelines on [Telefilm Canada's website](#).

### 6.01.04 Acceptable proof of citizenship or permanent residency

The following documents are accepted as proof of Canadian citizenship or permanent residency:

- a) For Canadian citizens:
  - Birth certificate from a Canadian province or territory (issued under the applicable *Vital Statistics Act*)
  - Canadian Certificate of Registration of Birth Abroad (issued prior to 1977)
  - Certificate of Canadian Citizenship or Certificate of Naturalization (not commemorative issue)
  - Certificate of Indian Status
  - Registered Indian Record (must be certified)
  - Canadian Passport
- b) For permanent residents:
  - Valid Permanent Resident Card (front and back)

### 6.02 Key Creative Personnel – Live Action Productions

To be a Canadian film or video production, a live action production other than a treaty coproduction (see [Chapter 5](#)) or a documentary (see section [6.04](#)) must be allotted a total of at least six points based on the table below. Points are allotted only if all individuals occupying the position are Canadian.

In addition, the following requirements must be met:

- a) Either the director or screenwriter position must be occupied by a Canadian.
- b) At least one of the two highest paid lead performers must be Canadian.<sup>14</sup>

There are 10 possible key creative points available for a production. If some points are not applicable, the total number of available points is reduced accordingly. For example, if a production has only one lead performer, and this person and all others occupying key creative positions are Canadian, the production will receive 9 out of 9 points.

**Table 1: Key creative point system for live action productions**

Key creative position	Number of points	Additional information
Director	2 points	Mandatory (Production must obtain at least two of these four points)
Screenwriter (see section <a href="#">6.06</a> )	2 points	
Lead performer for whose services the highest remuneration was payable (see section <a href="#">6.07</a> )	1 point	Mandatory (Production must obtain at least one of these two points)
Lead performer for whose services the second highest remuneration was payable (see section <a href="#">6.07</a> )	1 point	
Director of photography	1 point	
Art director	1 point	
Music composer (see section <a href="#">6.08</a> )	1 point	
Picture editor	1 point	

<sup>14</sup> In the rare situation where there is no lead performer in a production, this requirement does not apply. See section [6.07](#) for more information on the lead performer position.

## 6.03 Key Creative Personnel – Animation Productions

To be a Canadian film or video production, an animation production must (other than if it is a treaty coproduction – see [Chapter 5](#)) be allotted a total of at least six points based on the table below. A point will be allotted only if all individuals occupying the position are Canadian or, in the case of location-based points, where the work is performed solely in Canada.

In addition, the following requirements must be met:

- a) The director, or the principal screenwriter and storyboard supervisor, must be Canadian.
- b) The lead voice receiving the highest or second highest remuneration must be Canadian.<sup>15</sup>
- c) The key animation must be done in Canada.

## 6.04 Key Creative Point Requirements for Documentaries

For the purpose of the CPTC program, a documentary is defined as an original work of non-fiction, primarily designed to inform but that may also educate and entertain, providing an in-depth critical analysis of a specific subject or point of view.

If a documentary production does not have lead performers or other positions such as art director or music composer, it can still meet the key creative point requirements even if it has not been allotted the six points, or has not obtained one of the two points allotted for lead performers. However, all the filled key creative positions must be occupied by Canadians. For example, a documentary production can receive 5 out of 5 points and be eligible.

**Table 2: Key creative point system for animation production**

Key creative position / Location	Number of points	Additional information
Director	1 point	Mandatory (Production must obtain at least one of these two points)
Principal screenwriter and storyboard supervisor	1 point	
Lead voice for which the highest or second highest remuneration was payable (see section <a href="#">6.07</a> )	1 point	Mandatory
Design supervisor (art director)	1 point	
Camera operator (if work done in Canada) <sup>16</sup>	1 point	
Music composer (see section <a href="#">6.08</a> )	1 point	
Picture editor	1 point	
Points allotted if the work is performed solely in Canada:		
Key animation	1 point	Mandatory
Layout and background	1 point	
Assistant animation and in-betweening	1 point	

<sup>15</sup> In the rare situation where there is no lead voice in a production, this requirement does not apply. See section [6.07](#) for more information on the lead voice position.

<sup>16</sup> For digitally animated productions, CAVCO will generally accept a lead compositor in 3D digital animation or a layout supervisor in 2D digital animation as equivalent positions. Requests for consideration of other individuals occupying a position equivalent to the camera operator position will be examined by CAVCO on a case-by-case basis.



## 6.05 General Rules for Evaluating Key Creative Points

- a) When confirming who is occupying key creative or producer-related roles on a production, CAVCO will take into account information submitted within the application, including relevant supporting documents such as lists of onscreen credits, performer agreements, budgets, and exploitation agreements.
- b) Regardless of the specific position title they are given, the head individual(s) for each department will be the individual(s) evaluated when determining whether the applicable key creative point(s) for a production will be allotted. For example, on some productions, the position of “technical director” or “lighting director” may be equivalent to that of “Director of Photography.” As well, the head of the art department often receives the credit “Production Designer.”
- c) Any individuals grouped under the same position title in a production’s credits will be presumed to be performing the same role for the production.
- d) No points will be allotted for a Canadian who shares the functions of a key creative position with one or more non-Canadians.
- e) Where the functions of a position are carried out by more than one Canadian, only the specified number of points for that position will be allotted. For example, only one point would be awarded for the position of director of photography, even if the position is shared by two Canadians.
- f) For a series, each episode is considered a separate production under the CPTC program. Applicants must therefore provide the names of individuals occupying key creative positions for any and all episodes. If key creative positions or locations vary from episode to episode, different episodes may receive different numbers of points. In these instances, the CAVCO certificate will indicate a range of points for the series (e.g., 7 to 8 out of 10 points).
- g) Where a production consists of both live action elements and animation elements, the production’s key creative points will be based on the point scale for the predominant production type.

## 6.06 Screenwriters

To obtain the two points for the position of screenwriter, a live-action production must meet one of the following conditions:

- a) Every individual involved in the preparation of the screenplay for the production – in other words, everyone, including writers, showrunners, story editors and story consultants, involved in developing the screenplay, from the outline or treatment through the various drafts and dialogue polishes to the final shooting script – must be Canadian; or
- b) The principal screenwriter must be Canadian, and the screenplay for the production must be based on a work authored by a Canadian and published in Canada.

## 6.07 Lead Performers (live action) / Lead Voices (animation)

### 6.07.01 Determination of lead performers and allotment of points – Live action

At least one point must be allotted to either the lead performer with the highest remuneration or the lead performer with the second highest remuneration<sup>17</sup>, for a production to qualify for CPTC certification.

It is rare for a production (other than a documentary) to have no lead performer. If CAVCO reviews a production and concludes that there are no lead performers, the requirement to have a lead performer point will not apply. The production must still meet the requirement of having at least six points or, in the case of documentaries (see section [6.07.09](#)), having all key creative positions occupied by Canadians.

### 6.07.02 Step 1 – Are there lead performers?

Allotting points to lead performers is a two-step process.

The first step is to determine who the lead performers are in a production. There may not be any lead performers, or there could be several. There is no ranking of performers at this step and their citizenship is not taken into account. There is only a determination of which individuals, if any, are giving lead performances.

---

<sup>17</sup> In everyday discussions with CAVCO, and in the CPTC application, the “lead performer with the highest remuneration” is commonly referred to as the “first lead performer”, and the “lead performer with the second highest remuneration” as the “second lead performer.” In the context of the CPTC, the “first lead” and “second lead” designations relate specifically to the allotment of points according to the Regulations, and do not necessarily align with how these expressions may be used in other contexts in the industry.

As indicated in the Regulations:

*A lead performer in respect of a production is an actor or actress who has a leading role in the production having regard to remuneration, billing and time on screen.*

It is important to note that in practice these three elements do not always run in parallel. For example, the performer with the highest remuneration could have the third longest screen time and receive the second highest billing.

While non-fiction productions may not have an "actor or actress," this does not mean there are no performances being given or no leading roles. For example, hosts, narrators, dancers, singers, specialty act performers, featured experts, judges on a panel, and subjects in lifestyle/human interest productions will all be considered performers. The determination that needs to be made in these cases is whether they have leading roles, and are therefore lead performers. See section [6.07.06](#) for more information on lead performers in non-fiction productions.

A lead performer should be an individual (whether performing as a character or not) who carries the story in a fiction or non-fiction production. A performer who has only a minor or peripheral role will not be considered a lead performer by CAVCO. This will be the case even if the character or individual in question may be considered crucial to a pivotal plot point or is otherwise integral to the production.

While this approach means that a Canadian will not be allotted a key creative point for a minor role, it also means that a non-Canadian will not be considered a lead performer when they are in a minor role.

The elements of time on screen, remuneration and billing are not necessarily weighed equally in making a determination of lead performance. See below for more information on the factors that CAVCO considers with respect to each element.

In considering these three elements, CAVCO examines the claims made by the applicant with respect to which performers are leads, while also considering performers not claimed as lead performers, to determine if they should in fact be considered leads.

**Time on screen** - Generally speaking, the "time on screen" element is a very important factor in the determination of whether a performance is a lead performance. While there is no set minimum time on screen for a performer to be considered a lead performer, it should be obvious when viewing the production who the lead performers are, and they must have more than a brief, incidental presence in the

production. Remuneration and billing are expected to be roughly in line with what is seen on screen.

CAVCO considers the total time of the performance (whether on-screen or off-screen) in determining whether the role should be considered a lead performance or a minor role. Time spent by a performer in the background of a scene will not be counted towards the total time.

**Remuneration** - CAVCO takes into account direct and indirect financial compensation, as well as additional benefits, residuals, contingent compensation, travel or living expenses, and any similar expense incurred in relation to an individual. The remuneration for a performance must not be allocated to other duties to make it lower (e.g., by entering into a second contract with the person for consulting or other services).

While there is no minimum threshold for remuneration for a lead performance, and no requirement for lead performers to be paid equally or have similar remuneration, the relative remuneration of performers will be used as an indicator in determining whether or not an individual is a lead performer.

CAVCO recognizes that there are many factors that come into play when production companies determine remuneration for a performer, and remuneration (either relative or absolute) will never be used in isolation to determine whether a given performer is a lead performer. However, it can be looked at in combination with the other two elements to either support or refute the notion that a given performer is a lead performer.

**Billing** - The primary consideration for this element is how the performers are billed in the screen credits. For non-fiction productions in particular, CAVCO will also consider how the claimed lead performers are featured in publicity for the production. For example, if the claimed first lead is promoted heavily in connection with the production and the claimed second lead is only promoted minimally or not at all, this will be used as an indicator that the claimed second lead may not truly be a lead performer. The same principle applies where a claimed first lead is not promoted at all, while other individuals are heavily promoted as being the stars or featured performers in the production.

While it is understood that production companies are not always in control of all publicity surrounding a production, experience has shown that a review of the publicity for a non-fiction production often supports preliminary conclusions based on an evaluation of the time on screen element. Information found in publicity will never be used on its own to conclude that an individual is, or is not, a lead performer.

### 6.07.03 Step 2 – Who are the lead performers with the highest and second highest remuneration?

Once the lead performers in a production have been established, their respective remunerations are used to rank them in order of highest to lowest paid. One point is then allotted if a Canadian is receiving the highest remuneration, and one point is allotted if a Canadian is receiving the second highest remuneration. At this step, the time on screen and billing are no longer considered; only remuneration is relevant.

In cases where a Canadian and a non-Canadian lead performer are remunerated equally, the non-Canadian lead performer will be ranked above the Canadian.

For example, if the total remuneration for Canadian lead performer A is \$50,000, and the remuneration for Canadian lead performer B and non-Canadian lead performer C is \$40,000 each, a point will go to Canadian A as the highest paid, but no point will be allotted for the second highest paid, since the position will be deemed to be occupied by the non-Canadian. Canadian lead performer B will be ranked third.

As another example, if there are three lead performers all being remunerated equally at \$50,000 each but two of them are non-Canadian and one is Canadian, the two non-Canadians will be ranked first and second in remuneration, with the Canadian third. Therefore, no lead performer points will be allotted and the production will be ineligible.

### 6.07.04 Determination of lead performer/lead voice and allotment of point – Animation

For animation productions, there is only one point available for the lead voice. It is allotted if the lead voice that was paid either the highest or second highest remuneration is Canadian. The point must be given for the production to qualify.

In the rare situation where there is no lead voice in an animated production, there is no requirement to have the lead voice point. The production must still have at least six points.

As with live action productions, allotting a point to a lead voice (who can be performing one or multiple characters) is a two-step process.

The first step of determining who the lead voices are is the same as the determination of lead performances for live action productions, except that “billing” is not one of the considerations.

As indicated in the Regulations:

*A lead voice in respect of an animation production is the voice of the individual who has a leading role in the production having regard to the length of time that the individual's voice is heard in the production and the individual's remuneration.*

The allotment of the point is based on the remuneration of the lead voice(s), as with Step 2 for live action productions.

As noted above, there is only one point available for the first or second highest remunerated lead voice; even if both the first and second highest remunerated lead voices are Canadian, only one point can be allotted. As with the approach for live action productions, if a Canadian and a non-Canadian lead voice are remunerated equally, the non-Canadian will be ranked ahead of the Canadian.

### 6.07.05 Guest appearances and cameos

A guest appearance is a substantial role in one episode or a few episodes of a series, performed by someone who is not a part of the regular cast. A guest performer will be evaluated using the same criteria outlined above for other performers, in determining whether the performance in question is a lead performance. If it is a lead performance, the remuneration of that performer will be compared to the remuneration of the other lead performers to determine if they are the first or second lead for the purpose of allotting key creative points.

A cameo is a brief appearance of a known person in a production, generally in a single scene. By definition this would be a minor role, and the individual in question will not be considered a lead performer.

### 6.07.06 Lead performer issues related to non-fiction genres - General

In a non-fiction series, any distinct, recurring individual who carries the story, or upon whom the story is based, will generally be considered a lead performer. This is the case even if the production is unscripted or if the individual is being followed while going about their regular life or doing their job, unless they are the subject of a biographical documentary - see section [6.07.09](#).

In a non-fiction series where different individuals are receiving help from a specialist in each episode (for example, in a home design show), they will not be considered lead performers.

In a competitive lifestyle/human interest series that (a) eliminates participants over the course of the series, or (b) features different participants in each episode, these participants will not be considered lead performers.

### 6.07.07 Lead performer issues related to non-fiction genres – Performing arts productions

The lead performers for live theatre, musicals, opera, dance, and other similar productions are determined in the same fashion as for other live action productions.

In music performances featuring a single solo artist, that artist will be a lead performer. For a performance by a band, the band leader (as determined by contract) will be the lead performer. For performances by an orchestra (with no featured solo artist) the lead is generally the concert master.

If a production is a recording of a live performance that is taking place regardless of the fact that it is being recorded, the remuneration that can be claimed for the production, and considered for the purpose of allotting lead performer points, is the amount that the performer is receiving for being recorded, not for the actual live performance. For example, an actor may be paid a fee for their performance in a play over the course of a two-week run. If one of those performances is recorded, the actor will be paid a supplementary fee for the recording. It is only this additional fee that can be counted as remuneration in the production budget and for the purpose of allotting lead performer points.

### 6.07.08 Lead performer points for productions with different versions

Where two or more versions of a production are produced concurrently (up to the end of the post-production stage), the lead performers for all versions must be Canadian to receive the required lead performer point(s). For example, the narrators of a documentary with both French and English versions must both be Canadian.

### 6.07.09 Clarification of the “documentary exception”

As noted previously, a documentary production obtaining fewer than six points due to certain key creative positions being unoccupied is still eligible for certification, if all occupied key creative positions are held by Canadians.

This applies only to documentary productions that have fewer than six points, and has no bearing on the

requirement for a Canadian lead performer. Documentaries can, and often do, have lead performers. For example, a host, narrator, or other individual who is seen or heard throughout the production and who advances the storyline is usually considered a lead performer. This assessment is carried out in the usual manner for determining lead performers in live-action productions. If there is only one lead performer in a documentary, that person must be Canadian. If there are two lead performers, one of them must be Canadian.

The subject of a biographical documentary will not be considered a performer.

Voice-over by a subject or an interviewee in a documentary (i.e., content from an interview that is heard over other images, rather than in sync) will not be considered narration or a performance. However, if an interviewee is also providing scripted narration for the production, the total time on screen (for on-screen interview, voice-over, and narration) will be considered, along with billing and remuneration, in evaluating whether the individual is a lead performer.

As with all genres of production, if there is no lead performer, there is no requirement to have a lead performer point to be eligible for certification.

### 6.07.10 Examples of performances that are generally not lead performances<sup>18</sup>

- 1) Instances in which a co-host is operating in a minor role of expertise, e.g., the carpenter in a home renovation show, the nutrition expert in a food show, a technical expert on a technology-oriented show, or a clothes/hair/makeup consultant on a fashion or make-over show. These will not be considered lead performances if the individual in question:
  - only appears on screen for a short period of time,
  - does not interact with the individuals being helped,
  - only appears in a short segment, with or without the main host; or
  - does not make any significant contribution.
- 2) A narrator in a minor role that adds little or no additional information or commentary and does not help advance the storyline, e.g., in a television

<sup>18</sup> The examples in sections [6.07.10](#) and [6.07.11](#) are not additional criteria, but an illustration of how the lead performer policy applies in the context of specific situations.

production where a voice-over serves primarily to maintain continuity or to buffer commercial breaks. This type of voice-over does not provide anything in-depth, instead serving only to situate or resituate the viewer within the context of the show. In such cases, the individual is not truly a narrator, and is more like an announcer. Announcers are not lead performers.

- 3) A host of a performing arts, variety, or stand-up comedy production who does nothing more than introduce the performer(s).
- 4) A minor role in a fiction production, even if that character is crucial to the narrative. A minor role is still a minor role even if the character in question is responsible for a pivotal plot point.
- 5) A participant in an elimination-style series.
- 6) Background performers that serve only to add a visual element to a narrated storyline (often in recreations of actual events), particularly when they are not remunerated and billed as lead performers.
- 7) Subjects of a biographical documentary and interviewees in a documentary (see section [6.07.09](#)).

### 6.07.11 Examples of Performances that generally are lead performances

- 1) In a non-fiction series, individuals that are being followed throughout the course of the series while doing their job or going about their daily lives.
- 2) Hosts and judges on elimination-style series.
- 3) Hosts, narrators, or other individuals with a significant on-screen presence in a documentary (e.g., Michael Moore in "Sicko" or Morgan Freeman in "March of the Penguins").

## 6.08 Music Composer

The point for the position of music composer is allotted only if all original music created for a production is composed by a Canadian.

Note that where original music created by a Canadian for the first season of a series continues to be used for subsequent seasons of the series (with no new additional original music by a non-Canadian), the production company may continue to claim the music composer point for later seasons.

## 6.09 Producer-related Personnel

A producer is the individual who:

- *controls and is the central decision maker in respect of the production;*
- *is directly responsible for the acquisition of the production story or screenplay and the development, creative and financial control and exploitation of the production; and*
- *is identified in the production as being the producer of the production.*

All positions related to the producer function must be held by Canadians unless the production is a treaty coproduction, or an exemption for a foreign producer-related credit is granted by CAVCO. **Note that exemptions are not granted for the functions of producer, coproducer or line producer, as these positions must be held by Canadians.**

Sections [6.09-6.13](#) do not apply to treaty coproductions. For information on producer-related personnel requirements for treaty coproductions, refer to the relevant coproduction treaty and Telefilm Canada's coproduction guidelines. See [Chapter 5](#) for more information on treaty coproductions.

## 6.10 Production Control

The following five indicators provide further guidance on how control over a production is assessed, based on the definition of "producer."<sup>19</sup>

Where documentation (e.g., chain-of-title, financing, exploitation or key creative / producer personnel agreements) suggests that a production does not adhere to one of these indicators, the producer will have the onus of establishing, to the satisfaction of CAVCO, that the situation does not interfere with the producer's responsibilities and ultimate creative and financial control over the production.

---

<sup>19</sup> Note that for the purpose of this section, the term "producer" is also deemed to refer to the production company more broadly, as there may be a combination of producer-related personnel performing these functions.

### **6.10.01 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.**

- a) The producer must demonstrate full responsibility for the development of the underlying rights of the project from the date on which the underlying rights were secured.

CAVCO reviews documentation such as chain-of-title (see section 6.11), exploitation and/or financing agreements to confirm that the producer is responsible for the development of the project, including with respect to creative decision-making and the hiring of creative talent (writers, directors, consultants, script editors, etc.). Provision will be made for industry-standard third-party approval rights (for distributors, broadcasters, financiers, completion bonders, etc.).

- b) While initial development of a project by non-Canadians is permitted, the ongoing involvement of prior rights owners in the development, production or exploitation of the project, subsequent to the producer securing the underlying rights, will be presumed to indicate that the prior rights owner retains a degree of responsibility and control.
  - (i) The producer must demonstrate control over the development of the project, and that it was not materially completed by, or with the involvement of, non-Canadians.
  - (ii) Non-Canadian prior rights holders may generally have ongoing involvement in the production through consultation rights only.

### **6.10.02 The Canadian producer must have and maintain full responsibility and control over all creative aspects of the project, and expenditures related to the production of the project.**

- a) Documentation must demonstrate that, with the exception of standard approval rights from broadcasters, distributors, financiers or completion bonders, the producer exercises full control (direct or indirect), and holds final decision-making authority, over creative and financial aspects of the production, including:

- (i) the project budget;

- (ii) the production schedule;
  - (iii) the selection and hiring of above- and below-the-line cast and production personnel and the negotiation of the terms thereof;
  - (iv) the selection and contracting for production services (e.g., camera package, sound package, post-production facilities, etc.) and the negotiation of terms thereof;
  - (v) the negotiation of agreements with unions and guilds; and
  - (vi) the post-production elements.
- b) A non-Canadian individual or entity cannot have the right to overrule any decision by the producer with respect to creative aspects or expenditures for the production.

### **6.10.03 The Canadian producer must have and maintain full responsibility and control over all aspects of production financing.**

- a) Documentation must demonstrate that the producer has exercised full control (direct or indirect) and holds final decision-making authority over the financing plan of the project; the securing of all third-party financing including domestic and foreign equity, domestic and foreign subsidies, domestic and foreign pre-sales and the negotiation of the terms thereof; the securing of interim financing and the negotiation of the terms thereof; the cash-flow schedule of the project; and the management of the banking of the project and sole and unfettered control over the bank account(s) of the project and cheque-signing authority.
  - (i) Where a non-Canadian has the right to overrule any decision by the producer, the producer will have the onus of establishing, to the satisfaction of CAVCO, that the situation does not interfere with the producer's responsibilities and control. Provision will be made for industry-standard third-party approval rights (distributors, broadcasters, financiers, completion bonders, etc.).
  - (ii) Delegation of banking authority by the producer to a person(s) over whom the producer exercises final authority shall not be deemed to contravene this indicator.
- b) Documentation must demonstrate that the producer has assumed and retained the commercial



risks associated with the financing and production of the project.

Where

- (i) a significant share of production financing is provided by a single non-Canadian party (or multiple non-Canadian parties with common ownership and/or control);
- (ii) a single non-Canadian party (or multiple non-Canadian parties with common ownership and/or control) has acquired exploitation rights to territories representing most or all of the exploitable value of the production (with the exception of Canada); or
- (iii) a non-Canadian party has agreed to reimburse or indemnify the producer (e.g. for budget overages).

the producer will have the onus of establishing, to the satisfaction of CAVCO, that the situation does not interfere with the producer's responsibilities and control. Provision will be made for industry-standard completion guarantees.

#### **6.10.04 The Canadian producer must have and maintain full responsibility and control over the negotiation of initial exploitation agreements.**

- a) Documentation must demonstrate that the producer has exercised full control (direct or indirect) and holds final decision-making authority over the initial licensing of exploitation rights to the project to any other party, regardless of territory, media or term.
  - (i) Where there is evidence of any arrangements between third parties for the exploitation of the project (a) that are made prior to the acquisition of rights to the project by the producer; and (b) that are to remain effective following such date (i.e., a third party remains involved with the exploitation of the project subsequent to the producer's acquisition of rights), the producer will have the onus of establishing, to the satisfaction of CAVCO, that the situation does not interfere with the producer's responsibilities and control.
  - (ii) Where the non-Canadian prior owner of the underlying rights retains exploitation rights to one or more significant territories (e.g., United States, Europe, Asia, Latin America) after the producer has acquired the underlying rights,

the producer will have the onus of establishing, to the satisfaction of CAVCO, that the situation does not interfere with the producer's responsibilities and control.

#### **6.10.05 The Canadian producer is entitled to a reasonable and demonstrable monetary participation in terms of budgeted fees and overhead, and participation in revenues of exploitation.**

- a) The production company must retain at least 25% of the net profits from the exploitation of the production in non-Canadian markets.
- b) Where, in addition to acquiring broadcast rights in the production, an entity acquires distribution rights or holds an interest in the production, the producer must demonstrate that amounts advanced for those rights or that interest have been allocated at fair market value as between the non-recoupable broadcast licence fee, the distribution rights and the interest.

### **6.11 Chain-of-title Documentation**

The applicant must ensure that the production company has the full, unencumbered right to develop and produce the production, most often demonstrated through chain-of-title documentation.

Examples of chain-of-title documents include, but are not limited to,

- option and purchase agreements,
- writer's agreements (where these demonstrate the transfer or licensing of underlying rights held by another entity or individual),
- assignment agreements, and
- domestic coproduction agreements.

Applicants may be required to provide, at the request of CAVCO, all such documents covering the time period from the creation of the concept to when the production company acquires all the rights necessary to produce the production.

## 6.12 Exemptions for Non-Canadian Producer-Related Personnel

### 6.12.01 Use of non-Canadian producer-related personnel

An exemption for a credit for a non-Canadian individual occupying a producer-related position is granted only where:

- the person's functions in no way interfere with the financial and creative authority of the Canadian producer, and
- relate either to the arranging of foreign broadcast, distribution or financing for the production, or to the provision of services to the production, under the strict supervision and control of the Canadian producer.

A non-Canadian granted a producer-related screen credit, other than a lead performer or an individual working in the story department (including a showrunner), is limited to being on set for a maximum of 25% of principal photography.

Any non-Canadian individual receiving a producer-related credit must file a CAVCO affidavit (Form 01F12, or Form 01F13 for a showrunner) outlining the duties performed, and declaring that those duties have been or will be carried out only under the direction and control of, and with the full knowledge of, the Canadian producer. Note that Form 01F12 is not required when the individual is also a lead performer in the production.

These forms can be found on [CAVCO's website](#) and should be submitted at the Part A application stage.

See also section [6.13](#) for information on non-Canadian showrunners.

### 6.12.02 Group A and Group B producer-related credits

Permitted exemptions for non-Canadian producer-related screen credits are generally limited to those in Group A or Group B, as set out below. Note that if a credit consists of one of these credits with the addition of the prefix "co-", CAVCO will view this as being equivalent. For example, "Co-Executive Producer" will be considered the same as "Executive Producer."

#### Group A:

Executive Producer  
Senior Executive in Charge of Production  
Executive in Charge of Production

Supervising Producer  
Associate Producer

#### Group B:

Supervising Executive  
Production Supervisor  
Production Executive  
Production Associate  
Executive Consultant  
Production Consultant  
Creative Consultant

While credits for non-Canadians may be chosen from either group, they cannot exceed the number of credits given to Canadians from the same group, or in the case of Group B credits, from the same group or Group A.

For example, if a non-Canadian is given one Group A credit, at least one Canadian must be given a Group A credit. If two non-Canadians are given a Group B credit, at least two Canadians must be given a credit from either Group A or Group B.

### 6.12.03 Use of different producer-related credits

While production companies most commonly use the credits listed above, a non-Canadian can receive a different credit similar to those in the Group A or B lists, as long as the individual's role is consistent with the requirements set out in section [6.12.01](#), and the credit being given is matched by an identical credit, or a Group A credit, given to a Canadian.

### 6.12.04 Credits for representatives of broadcasters / distributors

A production company may be contractually required to give an individual a producer-related credit strictly in relation to their role as a representative of a broadcaster or distributor, even though the individual may have no direct involvement in the specific production. These credits include the name of the broadcaster or distributor (e.g. Executive in Charge of Production, BBC), and appear in the tail credits.

In these cases **only**, CAVCO does not require applicants to list these individuals in their application, or to provide supporting documentation such as CAVCO Personnel Numbers (for Canadians) or affidavits (for non-Canadians). These individuals will also not be taken into account in verifying whether a production meets the matching Group A and Group B credit requirements. CAVCO may ask for additional information where necessary to confirm the nature of the individual's involvement in a production.



Note that representatives of broadcasters or distributors cannot be given the credit “producer” – for example, “Producer, BBC”.

## 6.13 Non-Canadian Showrunners

Any non-Canadian working as a showrunner for a production, regardless of the actual credit they are receiving, must file a CAVCO showrunner affidavit (Form

O1F13) declaring that any work performed is done under the direction and control, and with the full knowledge, of the Canadian producer. The producer must also submit to CAVCO the contract entered into with the individual, outlining the work to be performed and the conditions of employment.

If a non-Canadian showrunner is working on a production, the production will usually not be eligible for the two screenwriter points. See section [6.06](#) for more information.

## 7. Financial Information

### 7.01 Qualified Labour Expenditure

#### 7.01.01 General

The **qualified labour expenditure** for a Canadian film or video production is the lower of the following two amounts:

- a) the **eligible production cost** for the production (see section [7.02](#)); **and**
- b) the **net labour expenditures** for the production (see sections [7.03-7.05](#)).

The tax credit for a production is equal to 25% of the qualified labour expenditure for the production.

The Part A certificate issued by CAVCO for a production provides estimates of the eligible production cost, the net labour expenditures, and the tax credit<sup>20</sup>.

Production costs and labour expenditures are verified by CAVCO through its review of the “Financial Information” and “Breakdown of Costs” sections of an application, including attached documents such as the production budget, the audit report and other relevant documents.

A sample tax credit calculation can be found in section [7.08](#).

#### 7.01.02 Calculation of qualified labour expenditure for different years

CAVCO provides an estimate of the **total** qualified labour expenditure and tax credit, including for productions for which expenses are incurred in more than one taxation year.

For information on the calculation of the tax credit when expenses are incurred in more than one year, consult the CRA’s guide *Canadian Film or Video Production Tax Credit – Guide to Form T1131*, available on the [CRA website](#). The guide also provides additional information on production costs and labour expenditures.

#### 7.01.03 Domestic coproductions

Where two or more Canadian production companies share ownership of a production, only one certificate is issued by CAVCO, with the names of each production company listed. Each company must calculate their respective production costs and labour expenditures to determine their respective tax credits. See section [2.03](#) for more information on domestic coproductions.

#### 7.01.04 Treaty coproductions

For the purpose of the CPTC, only production costs and labour expenses incurred by the Canadian production company are considered when calculating the tax credit for a production.

### 7.02 Eligible Production Cost

#### 7.02.01 Calculation

The eligible production cost is the cap on a production’s labour expenditures that can be claimed for the purpose of the CPTC. It is equal to 60% of the total production costs, once financing source amounts considered “assistance” are deducted. See section [7.06](#) for more information on assistance.

Non-deductible expenses (expenses not allowed as business expense deductions, such as certain catering, meal or entertainment expenses) and deferrals<sup>21</sup> should also be deducted from the total production costs prior to the 60% calculation.

#### 7.02.02 Production costs

Production costs include all amounts incurred by the production company to create the production, including, but not limited to, development costs, the salary, wages or other remuneration of production personnel, costs for the rental of production equipment, and post-production costs. Production costs **do not include** expenses related to advertising, distribution or other types of products associated with a production (e.g., a video game, a website, etc.).

In cases where there is more than one final version of a production, one of which is interactive and one of which is linear and non-interactive, only the linear production is eligible for the CPTC. Production costs tied exclusively to an ineligible version of the project need to be removed from all budget and financing documents submitted to CAVCO as part of an application.

<sup>20</sup> As noted in section [1.03.02](#), these estimates are not binding on the CRA, and not commitments as to the final value of the tax credit. A final determination of the qualified labour expenditure and tax credit for a production is made by the CRA during its review of a tax credit claim for a given year.

<sup>21</sup> A deferral is an amount – whether labour or non-labour related – that is a contingent liability for a production company. In other words, its payment is contingent upon the occurrence of a future event, such as revenue generation from a production’s exploitation.

## 7.03 Net Labour Expenditures

The eligible labour expenditures of a qualified corporation for a Canadian film or video production are those meeting the following criteria:

- a) They must be reasonable in the circumstances;
- b) They must be included in the cost to, or in the case of depreciable property, the capital cost to, the corporation, or any other person or partnership, of the production;
- c) They must be incurred for the stages of production of the property from the production commencement time (see section [7.04](#)) to the end of the post-production stage;
- d) They must be directly attributable to the production of the property; and
- e) They must be incurred in the taxation year, or the preceding taxation year, and paid by the corporation in the taxation year or within 60 days after the end of that year (other than amounts incurred in the preceding year that were paid within 60 days after the end of that year).

The “net labour expenditures” amount is the total of all eligible labour expenditures (based on the above criteria) minus amounts that are labour deferrals.

Applicants must include the labour expenditure total in their application. In certain circumstances, including pursuant to an internal audit, CAVCO may request additional documentation that reflects how this amount was calculated.

## 7.04 Production Commencement Time

The “production commencement time” is relevant for determining the time frame in which eligible labour expenses must be incurred on a production. It is defined as the earlier of:

- a) The commencement of principal photography **and**
- b) The latest of:
  - (i) The first script labour expenses
  - (ii) The time at which rights to a property on which a production is based are acquired
  - (iii) Two years before the commencement of principal photography

### Extension to the “production commencement time” due to COVID-19

Due to the effect of COVID-19 on the Canadian audiovisual sector, the Department of Finance Canada has introduced temporary extensions to various timelines applicable to the CPTC.

Applicants who incurred labour expenses for a production during their taxation year ending in 2020 or 2021 may be eligible to have the production commencement time for the production extended to be as much as **three years** before the commencement of principal photography.

See [CAVCO Public Notice 2022-03](#) for more information.

## 7.05 Types of Labour Expenditures

### 7.05.01 General

The labour expenditure of a qualified corporation on a production is equal to the total of the following three types of payments:

- salaries or wages;
- remuneration other than salary or wages; and
- reimbursements by a wholly-owned corporation to its parent.

### 7.05.02 Salaries or wages

Salaries or wages (defined in subsection 248(1) of the Act) must be paid to Canadian citizens or residents of Canada as the latter is defined for taxation purposes. Vacation pay, statutory holiday pay or other taxable benefits may be included as part of this amount. Salaries or wages in this context do not include share option benefits or amounts determined by reference to profits or revenues.

Production companies may consult with their regional CRA [Film Services Unit](#) office for further information on which amounts qualify as salary or wages.

### 7.05.03 Remuneration other than salary or wages

Remuneration other than salary or wages is a labour expenditure when it is paid to:

- a) **An individual who is not an employee of the corporation**, to the extent that the amount paid relates to services rendered by the person for the production, or to the salary and wages of the person's employees who are providing services for the production.

Where a payment to non-employees includes a non-labour component (e.g., goods provided by a service provider, a profit margin, or the employer's share of government deductions), this portion is not part of the remuneration and cannot be claimed as a labour expenditure.

- b) **Another taxable Canadian corporation**, to the extent that the amount paid is attributable to, and does not exceed, the salary or wages of the corporation's employees for providing services for the production.

If the exact amount paid by the corporation to its employees is unknown, CAVCO and the CRA will generally consider 65% of the labour portion of the invoice to be a reasonable estimate of the labour expenditures paid directly to employees and directly attributable to the production.

Where payments to a service provider are for both labour and non-labour costs, but no breakdown of these amounts is provided, the production company should estimate the labour part of the invoice before applying the 65% rate that applies for payments to corporations, when totaling its labour expenditures.

Note that claimed amounts for labour are potentially subject to a more detailed CRA review. When the CRA is conducting a fiscal audit of a CPTC claim, for example, it may request that the production company obtain from service providers a breakdown of the labour component on their invoices.

- c) **Another taxable Canadian corporation, all the issued and outstanding shares of the capital stock of which (except directors' qualifying shares) belong to an individual and the activities of which consist mainly of the provision of the individual's services**, to the extent that the amount paid is attributable to services rendered by the individual for the production. For these corporations, the whole remuneration qualifies as a labour expenditure.
- d) **A partnership** carrying on business in Canada, to the extent that the amount paid relates to services rendered to the production by an individual who is a member of the partnership, or to the salary or

wages of the partnership's employees rendering services to the production.

Note that for any type of remuneration to be eligible as a labour expenditure, it must be paid in respect of services rendered by Canadian citizens or by individuals who are residents of Canada for taxation purposes.

Remuneration does not include amounts determined by reference to profits or revenues or an amount to which section 37 of the Act (scientific research and experimental development work) applies.

Producers may consult with their regional CRA [Film Services Unit](#) office for further information on which amounts qualify as remuneration.

### 7.05.04 Reimbursements by a wholly-owned corporation to its parent

A production company that is a wholly-owned subsidiary company of another taxable Canadian corporation may, under the terms of a written agreement, reimburse its parent company for labour expenditures incurred by the parent company for a production. These reimbursement amounts have to be amounts that would be eligible under sections [7.05.02](#) and [7.05.03](#) if incurred directly by the production company.

Amounts paid to a parent company that do not qualify under this section are treated as payments to another taxable Canadian corporation. See section [7.05.03 b](#).

## 7.06 Financing Sources

### 7.06.01 General

Various types of public or private financing may be used to fund a production.

As funding considered "assistance" (see section [7.06.02](#)) affects the estimate of a production's eligible production cost (and therefore the estimated qualified labour expenditure), CAVCO does not issue a Canadian film or video production certificate until all the components of a production's financing plan are in place, and copies of all financing agreements have been submitted as part of an application.

Accordingly, a production must be fully financed even at the time of a Part A application. Applicants should list the full amounts of all financing sources for the production, even if they exceed the total production budget when combined.

In applications for treaty coproductions, applicants should only reflect the financing sources that cover the Canadian production company's production costs.

If a production company is covering more than 15% of the production budget with its own operating funds, additional documentation such as a loan agreement, a financial statement, a shareholder agreement, or a similar form of documentation may be requested by CAVCO.

### 7.06.02 Assistance

Assistance refers to any type of production financing received from public or private Canadian or foreign sources, in the form of grants, subsidies, provincial tax credits, forgivable loans or similar types of funding.

Financing received from a federal, provincial, territorial or municipal government entity, including Crown corporations or film agencies, will generally be treated as assistance. This includes funding through provincial tax credits, provincial government grants or equity investments from federal agencies. Note that licence fees received from public broadcasters such as CBC / Radio-Canada or TV Ontario, or licence fee top-ups received from the Canada Media Fund, are not considered assistance.

In addition, funding from a private source will be treated as assistance where it is given in a form such as a grant or a forgivable loan.

Applicants must report any assistance that has been received, or is anticipated, at the time of submitting an application. The CRA, during their review of a CPTC claim, has the final authority to determine whether a source of funding is assistance. Applicants are encouraged to consult the CRA's [Application Policy FMTC 2017-01](#) for more information on assistance.

## 7.07 Financing from the Canada Media Fund (CMF)

### 7.07.01 CMF agreements

CMF funding for a production is considered assistance for the purpose of the tax credit, unless it is in the form of a licence fee top-up. CMF financing agreements indicate funding received as a licence fee contribution (not assistance) and funding received in other forms, including equity investments, repayable advances, recoupable investments or recoupable advances (all considered assistance). CPTC applicants should ensure

that the correct types of CMF funding are selected in their application.<sup>22</sup>

### 7.07.02 Clarification on CMF Digital Media (DM) components

If a production is receiving CMF funding, and an amount is entered in the DM Component section (line 85) of the CMF budget, the applicant should ensure that the separate budget provided to the CMF with details of this line item is included with their application to CAVCO.

If the DM Component reflected in line 85 includes any costs ineligible for the CPTC (e.g., for interactive productions, video games, websites, apps, etc.), these costs must be removed from the total budget amount included in the application to CAVCO.

Any CMF financing received in respect of such costs must also be removed from the application. This can be done by proportionately reducing the total of each type of financing the CMF is providing (licence fee top-up and equity investment). For example, if the cost of an ineligible DM component represents 10% of the total production budget, then the amount of equity investment and license fee contribution should also be reduced by 10% each. Note that these amounts will be verified by CAVCO based on documentation provided in the application.

## 7.08 Sample Tax Credit Calculation

Total production cost	\$1,000,000
Less deferrals, assistance*	- \$200,000
Net production cost	\$800,000
Maximum %	X 60%
Eligible production cost	<b>\$480,000</b>

\*e.g. provincial tax credit or grant

Total labour expenditures	\$550,000
Labour deferrals	- \$50,000
Net labour expenditures	<b>\$500,000</b>

The **qualified labour expenditure** is equal to the lower of the two final numbers: **\$480,000**

The **tax credit** is equal to the qualified labour expenditure X 25%: **\$120,000**

<sup>22</sup> Prior to updates outlined in the CMF's 2019/2020 guidelines, a separate CMF Digital Media Financing Agreement was provided for many productions. This financing, appearing generally as either "Performance Envelope Program", "Convergent Digital Media Incentive," or a combination of both, is treated as assistance.

## 7.09 Audit Requirements

### 7.09.01 General

An audited schedule of production costs is required at the Part B application stage for all productions with a final cost of \$500,000 or more. Note that in the case of a treaty coproduction, this cost threshold is by reference to the total costs incurred by the Canadian production company.

### 7.09.02 Audit requirements – Overview

The auditor must be a Chartered Professional Accountant in Canada and must be an independent third party not related to the production company.

The auditor's report must be addressed to the directors of the production company or the producer(s) of the production. The auditor's name, address and telephone number must be listed and the report must be dated as at the completion of the audit fieldwork.

The audit must be performed in accordance with generally accepted auditing standards and the auditor must be familiar with accounting principles and practices generally recognized in the film and television industry.

Audit reports must include all of the information set out below in sections [7.09.03-7.09.05](#). Reports not conforming to the following guidelines will not be accepted.

### 7.09.03 Identification of the production

The title of the production and, where applicable, the episode numbers, must be indicated. The title of the schedule must indicate the type of costs being reported ("Schedule of Production Costs"). The period during which costs were incurred must also be indicated.

### 7.09.04 Cost report

The cost report included as part of a full audit must be in Canadian dollars, and should conform to the line items in the standard [Telefilm live action budget template](#) as much as possible.

CAVCO will accept audit results being presented on the appropriate Breakdown of Costs form available on [CAVCO's website](#), as long as it is accompanied by the required standard disclosures and explanatory notes.

Only expenditures that were incurred for the specific production can be recorded as production costs, and they must be charged to the proper budget line item.

Refunds and credit notes received for discounts, rebates, invoicing errors and purchase returns must be credited to the production costs. Similarly, proceeds from the sale of props or other production assets must be deducted from the costs presented in the cost report. Where production assets are kept in inventory for future productions, they must also be deducted, at fair market value, from the costs presented in the cost report.

Completion bond expenditures must reflect any "no-claims rebate" received. The amortization of series costs must be allocated to specific cost categories.

### 7.09.05 Notes

The following supporting notes must be included in the audit:

#### a) Sources of funds

All sources of funds used to finance the production must be disclosed, including any non-monetary transactions.<sup>23</sup>

Non-monetary transactions must be disclosed at fair market value. The nature of the services provided and the consideration given in exchange for the services must be disclosed.

If there were no non-cash transactions, the schedule must include a note to this effect.

#### b) Non-Canadian costs

All non-Canadian costs, including the budget line item and the amount, must be disclosed. The determination of whether a cost is Canadian or non-Canadian is based on the rules outlined below in section [7.10](#). For the purpose of "producer / key creative personnel" expenses (see section [7.10.03a](#)) or "other" expenses (see section [7.10.03d](#)) in this context, the Canadian vs. non-Canadian breakdown follows the approach outlined for "services" costs in section [7.10.03b](#).

Production costs incurred in foreign currencies must be converted into Canadian dollars at the rate of exchange in effect at the time of the transaction.

If there are no non-Canadian costs, the schedule must include a note to this effect.

#### c) Accounts payable, accrued charges and deferrals

All accounts payable, accrued charges and deferrals must be presented separately. If there are no accounts

---

<sup>23</sup> Defined in section 3831 of the Chartered Professional Accountants (CPA Canada) handbook.

payable, accrued charges or deferrals, the cost report must include a note to this effect.

#### **d) Related party transactions**

The notes must provide a breakdown of all related party transactions<sup>24</sup>, and include:

- (i) the name of the related party;
- (ii) the nature of the relationship between the related party and the production company;
- (iii) the nature of the transaction; and
- (iv) the amount of the transaction (measured at the carrying amount).

If there are no related party transactions, the schedule must include a note to this effect.

## **7.10 Minimum Canadian Expenditure Requirements**

### **7.10.01 General**

A production (other than a treaty coproduction) must meet the following two requirements related to Canadian expenditures:

- 1) Not less than 75% of all costs for services provided in respect of producing the production (other than excluded costs – see section [7.10.03b](#)) must be payable for services provided to or by individuals who are Canadian. The term "Canadian," in this context, refers to a person who is a Canadian citizen as defined in the Citizenship Act, or a permanent resident as defined in the *Immigration and Refugee Protection Act*.
- 2) Not less than 75% of the total of all post-production costs, including for laboratory work, sound re-recording, sound editing and picture editing (other than excluded costs – see section [7.10.03c](#)) must be incurred in respect of services provided in Canada.

### **7.10.02 Breakdown of Costs**

For Part B applications to CAVCO, applicants must complete the Breakdown of Costs. This section is not applicable to treaty coproduction applications.

The Breakdown of Costs is used by CAVCO to verify that production expenses meet the minimum Canadian spend requirements outlined above.

The Breakdown of Costs in an application for a series should reflect the total cost for the series. Note

however that each episode must meet the minimum cost requirements for that episode to be eligible. In certain cases, CAVCO may ask that a Breakdown of Costs form (available on [CAVCO's website](#)) be completed for each episode.

The Breakdown of Costs divides production costs into four categories:

- a) Producer / Key creative personnel expenses,
- b) Services costs,
- c) Post-Production / Laboratory costs, and
- d) Other expenses.

Only in the Services and Post-Production / Laboratory categories are costs broken down by whether they are Canadian or non-Canadian.

### **7.10.03 Breakdown of Costs – Categories of expenses**

#### **a) Producer / Key creative personnel expenses**

This category includes the remuneration, including travel and living expenses and fringe benefits, of the Canadian producer(s) or coproducer(s). The costs for other producer-related functions, such as associate producer or executive producer, should be listed in the Services category.

The category also includes the remuneration, including travel and living expenses and fringe benefits, for all those occupying key creative positions (see sections [6.02-6.03](#)) on the production. Payments to assistants to these individuals, or to those acting in supporting roles in the same key creative department, must be entered in the appropriate Services or Post-production / Laboratories category.

#### **b) Services costs**

At least 75% of the total of all costs for services provided toward producing the production (other than "excluded costs" as defined below) must be payable in respect of services provided to or by individuals who are Canadian.

Excluded costs are:

- costs determined by reference to the amount of income from the production;
- remuneration payable to, or in respect of, the producer or key creative personnel;

<sup>24</sup> Defined in section 3840 of the CPA Canada handbook.



- amounts payable for insurance, financing, brokerage, legal and accounting fees, and similar amounts; and
- post-production / laboratory costs.

Note that for animation productions, the costs associated with location-based points (i.e., layout and background, assistant animation and in-betweening, and key animation) are **not** excluded costs.

The services category includes the remuneration of those occupying producer-related positions other than a Canadian producer or coproducer, the remuneration of most creative and technical production personnel (other than key creative personnel) and any associated benefits, and travel or living expenses.

A travel or living expense is considered Canadian when it is incurred for a Canadian individual. For example, if expenses are incurred for a Canadian to travel on a non-Canadian airline and stay in a hotel abroad, these expenses are considered Canadian. If these same expenses are incurred for a non-Canadian – even if paid to a Canadian airline or hotel – they are considered non-Canadian.

The Services category also includes amounts paid for story rights or music rights, as well as costs related to equipment rentals, location and office expenses, and purchases of film stock, videotape, cards, hard drives or similar recording media needed for principal photography. The determination as to whether these expenses are in the Canadian or non-Canadian category is based on the nationality of the supplier.

Completion bond expenses are also included in this category. The determination as to whether they are Canadian or non-Canadian is based on the nationality of the individual who makes the decision whether or not to issue the bond.

#### c) Post-Production / Laboratory costs

At least 75% of the total of all costs for post-production, including laboratory work, sound rerecording, sound editing and picture editing, must be incurred for services provided in Canada.

Excluded costs for the purpose of this calculation are:

- costs determined by reference to the amount of income from the production;
- remuneration payable to, or in respect of, the producer or key creative personnel;
- costs for services; and

- amounts payable for insurance, financing, brokerage, legal and accounting fees, and similar amounts.

All post-production services provided in Canada, whether or not they are provided by a Canadian individual or entity, are categorized as Canadian.

All such services provided outside Canada, even where provided by a Canadian, are categorized as non-Canadian.

#### d) Other expenses

This category includes all costs not covered in the preceding categories, including those for insurance, financing, legal services, accounting and auditing, corporate overhead, and stock footage.

#### Entering Stock Footage Costs

Note that for productions starting principal photography on or before October 31, 2022, applicants can choose to enter stock footage costs in either the “Services” or the “Other” column of the Breakdown of Costs.

For productions starting principal photography after October 31, 2022, applicants must enter stock footage costs in the “Other” column.

### 7.10.04 Completing the Breakdown of Costs

All costs incurred within a given budget account (line item) should be entered in the correct column as designated by the clear cells within the row. Grayed-out areas should not be filled in.

All service and post-production / laboratory costs must be divided into Canadian and non-Canadian costs and entered in the appropriate column.

Where one budget account provides for entries being made within both the Producer / Key Creative column and an additional column, costs related to key creative or producer-related personnel should be listed in the Producer / Key Creative column. Costs related to individuals performing supporting roles in the same department should be listed in the other column.

For the following budget accounts allowing for entries in more than one column, the following additional guidance is provided:

#### a) Live Action Productions:

6. Stars / Lead Performers



- Producer/Key Creative column for amounts paid to first and second lead performer
- Services column for amounts paid to all other lead performers (Amounts paid to all other performers should be included in the Services column for account 10 or 11, as appropriate)

#### 27. Fringe benefits

- Producer/Key Creative column for amounts paid to art director / production designer and director of photography (accounts 21 or 22)
- Services column for amounts paid to all other personnel reflected in accounts 12 to 26

#### 33. Travel and living expenses

- Producer/Key Creative column for expenses related to art director / production designer and director of photography
- Services column for expenses related to all other personnel reflected in accounts 10 to 32

### b) Animation Productions:

#### 27. Fringe benefits

- Producer / Key Creative column for fringe benefits paid to the storyboard supervisor, first or second voice, design supervisor, picture editor, and camera operator Services column for fringe benefits paid to personnel in accounts 10 to 26 (excluding accounts 15-17, and benefits included in the producer / key

creative column)

- Laboratory column for fringe benefits paid to personnel of accounts 15-17 (excluding benefits related to the picture editor already included in the producer / key creative column)

#### 28. Travel and living expenses

- Producer / Key Creative column, where related to storyboard supervisor, first or second voice (or first or second performers), design supervisor, picture editor, and camera operator
- Services column, where related to personnel of accounts 10 to 26 (excluding accounts 15-17, and expenses already included in the producer / key creative column)
- Laboratories column where related to personnel of accounts 15-17 (excluding expenses related to the picture editor already included in the producer / key creative column)

## 7.11 Tax Shelter Investments

A production is not eligible for the CPTC if it (or an interest in a person or partnership that has an interest in the production) is a tax shelter investment under section 143.2 of the Act.

The CRA confirms that a production does not involve a tax shelter investment. For more information on this issue, production companies may contact their regional CRA [Film Services Unit](#).

## 8. Exploitation of a Production

### 8.01 Control over Exploitation Rights

#### 8.01.01 General

The production company or a prescribed person (see section [3.03](#)) must control the initial licensing of all commercial exploitation rights related to the 25-year period beginning when the production is completed and commercially exploitable.

#### 8.01.02 Limitation on original exploitation term

At times, an agreement relating to the transfer or licensing to a production company of underlying rights tied to a production may appear to restrict the production company's ability to control its initial licensing of exploitation rights for the 25-year period. It is acceptable for the term to be less than 25 years only where the agreement gives the production company the right to extend the term once the original term has ended. This would occur for example where, on an ongoing basis, the term can be extended automatically upon payment of an agreed-to fee, or where there is a right to negotiate subsequent term renewals, until the end of the 25-year period.

#### 8.01.03 Requirement for exploitation agreements

Applicants must submit copies of all major distribution or broadcast agreements for a production. This includes any sub-distribution/licence agreements for major territories, particularly where they represent a source of financing for the production, or where the terms of the agreements are relevant to confirming that acceptable net revenues (see section [8.09](#)) are ultimately being retained by the production company or a related entity.

For productions involving distribution by a related party, or a distribution agreement related to a series or one-off production not intended for theatrical release, CAVCO may ask for further information about where a production will be shown, and ask for relevant sub-distribution or licence agreements.

For treaty coproductions, it is generally only necessary for applicants to provide exploitation agreements if they are for the Canadian territory, or where they are a source

of financing for the Canadian production company's production costs.

### 8.02 Canadian Distribution and Broadcast Rights (the "Shown in Canada" Requirement)

For each production, there must be an agreement in writing, for consideration at fair market value, with either:

- a) a Canadian distributor (see section [8.04](#)) or
- b) a CRTC-licensed broadcaster<sup>25</sup> (see section [8.05](#))

to have the production shown in Canada within the first two years after it is completed and commercially exploitable. This commitment to show the production is also known as the "two-year clause."

#### Extension to two-year "shown-in-Canada" timeframe due to COVID-19

Due to the effect of COVID-19 on the Canadian audiovisual sector, the Department of Finance Canada has introduced temporary extensions to various timelines applicable to the CPTC.

Applicants who incurred labour expenses for a production during their taxation year ending in 2020 or 2021 may be eligible to have the two-year period for having their production shown in Canada extended to a **three-year** period.

See [CAVCO Public Notice 2022-03](#) for more information.

### 8.03 Platforms that can be used to meet the "Shown in Canada" Requirement

A production is considered to be shown in Canada by being broadcast on television (through conventional, specialty or pay television services, or licensed VOD services), shown in a movie theatre, distributed on DVD, or being made available on an online platform meeting the criteria outlined in section [8.07](#).

---

<sup>25</sup> For ease of reading, "CRTC-licensed broadcaster" in these guidelines means a "corporation that holds a broadcasting license issued by the [CRTC] for television markets", the terminology used in the Regulations.

## 8.04 Using an Agreement with a Canadian Distributor

### 8.04.01 General

A production can be shown on any platform noted in section [8.03](#), if the production company has an agreement in writing, for consideration at fair market value, with a Canadian distributor to have the production shown in Canada within two years of the production being completed and becoming commercially exploitable.

### 8.04.02 What is a distributor?

For the purpose of the CPTC, a distributor is not considered the entity that actually "shows" a production. A distributor functions as an intermediary between the production company and the entity that ultimately makes the production available to audiences, and is responsible for overseeing more broadly all aspects of a production's exploitation, including marketing and promotion, setting release dates, entering into licence agreements, creating sub-distribution agreements where necessary, overseeing pricing, etc.

If a distribution company has not previously been confirmed by CAVCO as a Canadian-owned and -controlled corporation, the applicant must submit a Private Company Declaration (CAVCO Form O1F16, available on [CAVCO's website](#)) for the distributor as part of the application. A new copy of the form is also requested by CAVCO if more than three years have passed since the company was last confirmed Canadian.

While a production company itself cannot act as the distributor for the purpose of providing the two-year clause, note that it is acceptable for the production company to be related to the distribution company.

## 8.05 Using an Agreement with a CRTC-licensed Broadcaster

A production can be shown on any platform (for example, TV, VOD, an online service) offered by a CRTC-licensed broadcaster, if the production company has an agreement in writing, for consideration at fair market value, from that broadcaster to show the production in Canada within two years of it being completed and becoming commercially exploitable.

Note that agreements with broadcasting services falling under CRTC licensing exemption orders cannot be used

for the purpose of meeting the two-year clause requirement.

## 8.06 Fair Market Value

In determining whether a given agreement with a broadcaster or distributor is for "fair market value," CAVCO follows the general principle outlined by the Canada Revenue Agency in its Summary Policy (CSP-F02) dated October 25, 2002:

"Fair market value is the highest price, expressed in dollars, that a property would bring in an open and unrestricted market, between a willing buyer and a willing seller who are both knowledgeable, informed, and prudent, and who are acting independently of each other."

## 8.07 Online-only Productions

### 8.07.01 General

As noted in section [8.05](#), a production can be shown exclusively on an online service of a CRTC-licensed broadcaster.

In all other cases where a production is being shown exclusively on an online video service, the service must:

- be an online video service carrying other content pre-screened or pre-qualified by either (a) the online service or (b) the distributor, under an arrangement with the online service;
- be readily accessible to Canadians in Canada; and
- have Canada as a part of its target audience (i.e., be a service where Canadians would likely look for linear audiovisual content, as opposed to a service primarily intended for foreign territories).

CAVCO will review online video services on a case-by-case basis to determine whether they meet the above criteria. In assessing whether there is an acceptable amount of "other content" as per the first criterion, CAVCO considers various factors such as the number of titles available on the service, and the proportion of titles provided by third parties. Online services consisting substantially or exclusively of in-house or related-party content<sup>26</sup> will not generally meet this criterion.

When applying to CAVCO with an online-only production, applicants should ensure before submitting the application that the online service where the production

---

<sup>26</sup> A related-party supplier of content is one that is related to the online service, whether through ownership, common shareholders, or common board members. Related-party content will also be deemed to include content in which principals of the online service are involved, even if the content is produced by a third-party supplier

will be shown is deemed acceptable; this will avoid delays in the processing of the application. Applicants should not assume that a service they consider similar to a listed service will be approved.

On its website, CAVCO provides a [list of acceptable online services](#) that is updated on an ongoing basis. The list should be consulted often, as services may be added, or removed if the nature of a service changes.

Requests for CAVCO to assess the acceptability of an online service should be sent to [bcprac-cavcoc@pch.gc.ca](mailto:bcprac-cavcoc@pch.gc.ca)

### 8.07.02 Providing agreement with online service

For any production being shown exclusively on a non-broadcaster online platform, the applicant must provide its agreement with the distributor as well as the duly executed exhibition agreement between the distributor and the online service showing the production.<sup>27</sup>

### 8.07.03 Credits for online-only productions

Given that some web-based series do not include on-screen credits in every episode, CAVCO requests that at least one of the episodes submitted with an application have credits, or that the applicant provide a link to where the full credits for all episodes are publicly accessible.

## 8.08 Distribution in Canada by a Non-Canadian Entity

### 8.08.01 General

A distribution cannot be made in Canada by a non-Canadian entity during the two-year period beginning when the production is completed and commercially exploitable.

This includes any situation where a non-Canadian has distribution rights to the Canadian territory, whether acquired under the terms of a primary distribution agreement or a sub-distribution agreement.

CAVCO requires that any entity with distribution rights in Canada during the two-year period be confirmed as Canadian. See section [8.04.02](#) for more information on this requirement.

### 8.08.02 Non-Canadian exhibitors

The entity showing a production (the “exhibitor”) can be non-Canadian if it is exclusively performing this role. Where, based on CAVCO’s examination of the distribution and exhibition agreements for a given production, an exhibitor (such as an online service) also, or alternatively, appears to have been granted rights in line with the traditional functions of a distributor (see section [8.04.02](#)), this may be considered a distribution by a non-Canadian.

In cases where a production company is working with a Canadian distributor, an exhibition agreement (i.e., the agreement to “show” the production) must be directly between the Canadian distributor and the exhibitor. In other words, the involvement of a non-Canadian distributor directly, or as an intermediary by way of a sub-distribution agreement will be considered a distribution by a non-Canadian.

Acceptable:

Production Company → CDN Distributor → Exhibitor

Not Acceptable:

Production Company → CDN Distributor → Non-CDN Sub-distributor → Exhibitor

Production Company → Non-CDN Distributor → CDN Sub-distributor → Exhibitor

### 8.08.03 Using non-Canadian service agents for the exploitation of productions on videograms (DVDs / Blu-rays) or on online platforms

The use of a non-Canadian service agent to prepare productions for exploitation in Canada during the two-year period will not be considered a distribution by a non-Canadian if their services are provided under the control of a Canadian distributor, and are limited to the functions set out below:

- 1) For the purpose of videograms (DVDs or Blu-rays), these services may include:
  - the procurement and manufacturing of videograms and their packaging;
  - the storage of the videograms
  - order entry and order processing through computer and inventory control systems;

<sup>27</sup> An agreement between the distributor and an aggregator may instead be provided, as long as this agreement identifies the specific online service on which the production is being shown, and the service is on the list of acceptable online services on CAVCO’s website. See section 8.08.03 for more information on the use of aggregators.

- the shipping of the videograms to customary sales and retail outlets; and
  - accounting to the distributor for all videogram sales to customers.
- 2) For the purpose of preparing files for digital download or online streaming platforms, these services should be restricted to technical functions including the reformatting, encoding or uploading of files for exploitation on these platforms. This includes industry-standard commercial arrangements made for this purpose with entities commonly known as “aggregators.”

A Canadian distributor may enter into an agreement with a non-Canadian service agent for the provision of these services in Canada provided that, within the two-year period following completion of the production:

- a) There is a contract between the Canadian production company and the Canadian distributor to distribute the production in Canada;
- b) Canadian distribution rights are retained at all times by a Canadian-owned and -controlled corporation;
- c) The Canadian distributor remains at all times responsible for performing the customary functions of a distributor, as outlined above in section [8.04.02](#).

The agreement with the non-Canadian service agent must be made for a standard service fee.

The production company will also be asked to provide CAVCO with any agreement between the Canadian distributor and the non-Canadian service agent and/or demonstrate that the production has been made available.

## 8.09 Acceptable Share of Revenues

Other than where a production is a treaty coproduction, the applicant must demonstrate that an acceptable share of revenues from the exploitation of the production in non-Canadian markets is retained by:

- a) a qualified corporation that owns or owned an interest in the production,
- b) a prescribed taxable Canadian corporation related to the qualified corporation, or

- c) any combination of (a) and (b).

To meet the acceptable revenues requirement, the production company (or a related prescribed taxable Canadian corporation) must retain at least 25% of the net profits from the exploitation of the production in non-Canadian markets. In determining whether this requirement has been met, CAVCO will consider a number of relevant factors, including, among other things:

- a) whether distribution fees and expenses are contracted at rates consistent with established industry standards;
- b) where a broadcasting entity is also granted distribution rights, whether the allocation of funds between the broadcast licence and the distribution licence is commercially reasonable; and
- c) whether the profit participation in any non-Canadian territory granted by the producer to investors is in keeping with established industry standards.

Note that the production company must also retain an acceptable share of revenues in Canada.

## 8.10 Format Programs

### 8.10.01 General

Format programs are based on popular concepts or formats initially produced and exploited in another territory. Format programs produced in Canada by a Canadian production company, under a licence issued by the non-Canadian owner of the underlying rights, are eligible for the CPTC.<sup>28</sup>

### 8.10.02 Clarifications regarding the eligibility of format productions

- a) **Exploitation rights can be restricted to Canada only.**  
The terms of the format license agreement can restrict the exploitation of a format program to the Canadian territory only, or to a specific territory in Canada (one province, for example).
- b) **The length of the exploitation term granted to the Canadian production company cannot be restricted to less than 25 years.**  
The format licence agreement cannot limit the length of time during which the production company can exploit the production in territories granted to it under the terms of the agreement. For example, the format owner cannot indicate that the right to

<sup>28</sup> While section [8.10](#) focuses on format productions created outside Canada, the same principles will apply where rights to a Canadian-originated format production are licensed to a different territory within Canada.

exploitation in Canada is limited to a period of 5 years. See also section [8.01.02](#).

- c) **The Canadian production company must have control over the exploitation rights of its production in any other territories.**  
If the production is being exploited in additional territories outside Canada, the Canadian production company must control the initial licensing of commercial exploitation rights in these territories. In other words, an agreement cannot indicate that the format rights holder has chosen to retain these

foreign exploitation rights as part of the terms of the original licensing of rights.

- d) **The production must continue to meet all the usual requirements for CPTC eligibility.**  
A format program must continue to meet all CPTC requirements, including with respect to copyright ownership, production control and the retaining of an acceptable share of revenues from any exploitation of the production in non-Canadian territories.