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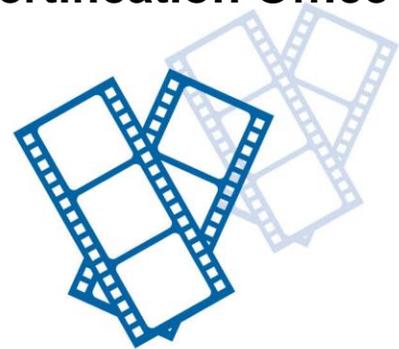
Canada



CPTC Program Guidelines

Canadian Audio-Visual Certification Office

Published April 2, 2012



Cette publication est également offerte en français.

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

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Catalogue No. CH44-141/1-2012E-PDF
ISBN 978-1-100-20191-7

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PREAMBLE

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. 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).

These guidelines provide general information on the CPTC program requirements and will assist producers in completing an application to CAVCO for a “Canadian film or video production certificate” (Part A certificate) and a “certificate of completion” (Part B certificate). The “Part I – Requirements” section outlines the various requirements for a production to be eligible and provides an overview of CAVCO’s administration of the CPTC program. Applicants should also review the “Part II – How to Apply” section of this guide when completing an application. Specific definitions of production genres and other terms can be found in the “Part III – Definitions” section of this guide.

The legislation governing the CPTC is set out in section 125.4 of the *Income Tax Act* (Act), and section 1106 of the Income Tax Regulations (Regulations). Links to the full text of the Act and Regulations are available on CAVCO’s Web site, at www.pch.gc.ca/cavco. These sections of the Act and Regulations, to the extent of any inconsistency, take precedence over these guidelines.

The CPTC is only available to qualified corporations. A qualified corporation is one that is throughout the year a prescribed taxable Canadian corporation that has a permanent establishment in Canada and primarily carries on the activities of a Canadian film or video production business. A “Canadian film or video production” is a production which meets the requirements of section 1106 of the Regulations.

The CPTC is available at a rate of 25% of the qualified labour expenditures for an eligible production. The qualified labour expenditures may not exceed 60% of the cost of the production net of assistance. Therefore, the tax credit will not exceed 15% of the total cost of production net of assistance. The total cost of production will be reduced by any assistance received, as defined in paragraph 12(1)(x) of the Act.



What are CAVCO’s Production Control Guidelines?

In 2007, CAVCO released Public Notice 2007-01, which set out Canadian Heritage’s position on issues raised in previous public consultations. The notice included, among other things, revised positions on non-Canadian “showrunners” and screen credits, and included the new Production Control Guidelines. The intent of the guidelines is to ensure Canadian control over productions.

The CPTC program is a complex, tax-based incentive with many rules and regulations. At times, producers form business relationships with foreign distributors or financiers to finance their productions. Productions with significant foreign involvement may raise concerns regarding the producer’s ultimate creative and financial control over the production. For this reason, producers may experience delays in the processing of their applications by CAVCO. In some circumstances, this has resulted in certification of the production being denied or revoked.

For this reason, we urge you to thoroughly read s. 4.09 to 4.11 in “Part I – Requirements” of this guide before entering into any agreement with non-Canadian entities.

OVERVIEW OF PROGRAM ELIGIBILITY REQUIREMENTS

For a production to be eligible under the CPTC program, it must meet all requirements set out below; each is further described in the noted sections of this guide.

1. A Part B application must be received within 24 months of the first fiscal year end following the commencement of principal photography, and the Part B certificate must be issued by CAVCO within six months of this date. An 18-month extension to these deadlines may be granted where a Waiver Declaration for a Part B application is completed. (s. 1.14)
2. The production company must be a qualified corporation as defined in the *Income Tax Act*, and a prescribed taxable Canadian corporation as defined in the *Income Tax Regulations*. (s. 2.01 and 2.02)
3. The production cannot fall under any of the excluded genre categories that render a production an “excluded production.” (s. 3.03)
4. The production company must be the exclusive worldwide copyright owner (whether alone, with one or more domestic co-producers, or jointly with other prescribed persons) in the production for the 25-year period that begins at the earliest time after the production was completed that it is commercially exploitable. (s. 3.04)*
5. A production must meet CAVCO’s minimum key creative point requirements. (s. 4.02 and 4.03)*
6. All producer-related personnel (other than those receiving exemptions permitted in limited circumstances) must be Canadian. For productions involving non-Canadian development, financing or distribution, the producer should read s. 4.09 and s. 4.10 thoroughly before entering into any agreements with non-Canadians.*
7. Not less than 75% of the total of all costs for services provided toward producing the production (other than excluded costs) must be payable for services provided to or by individuals who are Canadians, and not less than 75% of the total of all costs incurred for the post-production must be incurred for services provided in Canada. (s. 5.06)*
8. The production company must control the initial worldwide exploitation rights over the production. (s. 6.01)*
9. There must be confirmation in writing from a Canadian distributor or a CRTC-licensed broadcaster that the production will be shown in Canada within the two-year period following its completion. (s. 6.02)
10. The production cannot be distributed in Canada by an entity that is not Canadian within the two-year period that begins when the production first becomes commercially exploitable. (s. 6.03)
11. The production company or a related taxable Canadian corporation must retain an acceptable share of revenues from the exploitation of the production in non-Canadian markets. (s. 6.04)*

***Please note that requirements 4, 5, 6, 7, 8 and 11, above, do not apply to treaty co-productions. Treaty co-productions must conform to the guidelines published by Telefilm Canada (see s. 3.05).**

Part I

Requirements

ADMINISTRATION

1.01 Contacting CAVCO

You can contact CAVCO by mail, phone, fax or email. You can also find useful information on our Web site.

Canadian Audio-Visual Certification Office
8th Floor, 25 Eddy Street
Gatineau, Quebec
K1A 0M5

Telephone: 1-819-934-9830
Telephone (toll-free): 1-888-433-2200
Fax: 1-819-934-9828
Teletypewriter: 1-888-997-3123
E-mail: bcpac-cavco@pch.gc.ca

Web site: www.pch.gc.ca/cavco

When sending information to CAVCO by courier, please note that **FEDEX clients must use the postal code J8X 4B5**.

1.02 Administration of CPTC Program

CAVCO provides certification for an eligible production, confirming that it meets the requirements of the CPTC program. The production company must submit a tax credit claim to the CRA as part of its T2 Corporation Income Tax Return, to receive a tax credit.

1.03 Responsibilities of CAVCO

CAVCO is responsible for determining if a production meets the CPTC program requirements as set out in section 125.4 of the *Income Tax Act* and section 1106 of the Regulations. CAVCO then recommends to the Minister of Canadian Heritage to issue a Canadian film or video production certificate (known as a "Part A Certificate"). Upon completion of the production, CAVCO is responsible for determining if the production continues to meet the requirements of the *Income Tax Act* and the Regulations. CAVCO must then recommend to the Minister to issue a certificate of completion (known as a "Part B certificate"). A production that does not receive a certificate of completion within the prescribed period is deemed to be an "excluded production" and thus is not a Canadian film or video production.

A Canadian film or video production 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 certificate that has been revoked is deemed never to have been issued.

CAVCO may require that the producer provide any necessary records or financial documents for audit by a third party. The producer must ensure that adequate space and time are provided and that all relevant documents are made available for this audit. CAVCO also reserves the right to have representatives present during the principal photography for a production and to request any additional information, affidavits or sworn statements that are necessary to issue a certificate.

Canadian film or video production certificate (Part A certificate)

This certificate confirms that the production is a Canadian film or video production. The certificate also provides an estimate of the production's qualified labour expenditures, for calculating the tax credit.

The certificate is based on an analysis of detailed cost estimates, financing plans, including amounts deemed assistance, and the Canadian content requirements of the CPTC program. It is generally provided before or during production, to help film financing and to enable production companies to claim a tax credit at the end of the first year of production.

In circumstances where it is difficult for CAVCO to conclusively determine the nature of all the financing for a production, CAVCO will issue a conservative estimate of the qualified labour expenditure for the production. A final determination of this amount is made by the CRA during its review of a tax credit claim.

Certificate of completion (Part B certificate)

A Part B certificate will be issued where the production is completed and continues to meet the requirements of the CPTC program. In the event that a Part B certificate is not issued within the prescribed time frame, the CRA will refuse any tax credit claimed in the year and reassess the corporation for any tax credit previously allowed.

Producers may apply for both the Canadian film or video production certificate and the certificate of completion once a production is completed. In this instance, the Part A certificate and the Part B certificate will be issued at the same time.

1.04 Responsibilities of the CRA

The CRA verifies the qualified labour expenditure used in determining the CPTC and is responsible for: helping CPTC claimants, interpreting and applying the relevant sections of the *Income Tax Act* and Regulations that may have an impact on the CPTC, reviewing and auditing CPTC claims within a reasonable time frame, assessing the corporation's T2 income tax return and issuing timely refund cheques.

The CRA is also responsible for ensuring that corporations claiming the tax credit are qualified corporations and that the amounts claimed comply with the Act and Regulations.

To claim the tax credit for a CAVCO-certified production, a qualified corporation must file with its T2 income tax return to the CRA:

- a) A Canadian film or video production certificate (Part A certificate) issued in respect of a Canadian film or video production of the corporation;
- b) A CRA Form T1131 "Claiming a Canadian Film or Video Production Tax Credit"; and
- c) A certificate of completion (Part B certificate), once the production is completed.

The CPTC is a refundable tax credit. Where no tax is payable for a given fiscal year, the corporation will be reimbursed by the amount of the tax credit, subject to the right of the CRA to offset any other amount owed by the corporation.

As part of its review of a tax credit claim, the CRA may request any additional information it deems necessary, including pursuant to a full audit of the production. In the event that a production is chosen for an audit, the CRA may ask for supporting documentation including, but not limited to, the books and records of the corporation and the full application filed with CAVCO.

More information on the CRA's administration of the CPTC program, as well as copies of its Form T1131 and its publication *Claiming a Canadian Film or Video Production Tax Credit – Guide to Form T1131*, can be found on its Web site at www.cra-arc.gc.ca/filmservices.

1.05 Certification of Treaty Co-productions

The Minister of Canadian Heritage certifies treaty co-productions. However, Telefilm Canada (Telefilm) is responsible for the evaluation of treaty co-productions

according to the criteria set out in its guidelines. If eligible, the production will receive a Preliminary Recommendation and a Final Recommendation from Telefilm, which are sent directly to CAVCO. (See also s. 3.05 and 3.06)

Please note that the Canadian corporation co-producing a treaty co-production must apply to Telefilm Canada for a Recommendation and to CAVCO for a "Canadian film or video production certificate" and a "certificate of completion", for the production to be considered a "Canadian film or video production."

1.06 Submitting an Application to CAVCO

Producers must apply to the CPTC program through CAVCO's online eSubmission application system, which can be accessed through CAVCO's Web site at www.pch.gc.ca/cavco. Producers should also review "Part II – How to Apply" of this guide, which provides more detail regarding the entire CPTC application process, and completing an application.

1.07 Required Documentation for Part A and Part B Applications

In addition to the actual application, supporting documentation is required as part of a complete Part A or Part B submission to CAVCO. A list of this documentation can be found in section 14 of "Part II – How to Apply" of this guide. Applicants should attach all required supporting documents to their applications in electronic format.

Please note that incomplete applications will not proceed for analysis until all required documents are received.

1.08 Application Review Process

Once a complete file is assigned to a tax credit officer, the production company will be contacted where additional information or clarification is required. Notifications are sent to the applicant's Message Centre in the online system. Once the tax credit officer's review is complete, a recommendation is made to certify, deny or revoke a production.

1.09 Compliance Reviews

If a CAVCO tax credit officer's review of a file indicates that a production is not eligible under the CPTC program, the file is submitted to CAVCO's Compliance Committee for further review. Based on

this review, additional information or clarification may be requested from the producer, or the file may be recommended for denial (at the Part A or Part A/B review stage) or revocation (at the Part B stage). For further information regarding the process for denials or revocations, see section 1.16.

1.10 Internal Audits

Throughout each year, CAVCO performs risk-based verifications, on selected productions, of information submitted for an application. As part of this internal audit, producers may be required to submit additional documentation relating to the file. To issue a certificate, CAVCO reserves the right to request any additional information necessary for a complete review of the application. Note that the total processing time for an application may increase when it is subjected to an internal audit.

1.11 Canadian Content Certification Audit

A certification audit consists of a review by the CRA of specific files previously certified by CAVCO to ensure



In what circumstances do I need to obtain an amendment to a previously issued certificate?

An amendment to a Canadian film or video production certificate is required primarily in the following situations:

- Where there is a change to the number of episodes listed on the certificate;
- Where the producer requests an amendment to any of the production cost or labour amounts reflected on the certificate;
- Where there is a change to the name(s) of the production company listed on the certificate.

Where an amendment is required based on information not provided at the time of the Part A review, a \$300 amendment fee is required.

that a production has met all the requirements of the CPTC program. This detailed examination is generally performed through an on-site field audit of the production company. Interviews with company personnel and further examination of source documents are made, to confirm the certification by CAVCO. CRA auditors conduct approximately 60 audits per year, based on files identified by CAVCO.

1.12 Preliminary Opinions of Eligibility

A producer may request that CAVCO provide a preliminary opinion regarding the eligibility of a production on a specific issue, at no charge. Note that this opinion is only preliminary, and is based strictly on the information received at the time by CAVCO. A full application for a production must ultimately be received for CAVCO to provide a final determination regarding its overall eligibility. Contact CAVCO for more information on the process for requesting a preliminary opinion.

1.13 Application Fees

A fee is required for each application to CAVCO, based on the Eligible Production Cost amount for the production. The fee is calculated as follows:

- a) Part A: 0.15% of Eligible Production Cost
- b) Part B: 0.15% of Eligible Production Cost
- c) Part A/B: 0.30% of Eligible Production Cost (minimum fee of \$200)

Cheques for the application fee should be made **payable to the Receiver General for Canada**. An additional fee may be required pursuant to the review of the file by a tax credit officer, where it is determined that the Eligible Production Cost amount has increased.

Additional fees are also required in the following circumstances:

- a) \$300 for amending a previously issued certificate, at the request of the producer;
- b) \$100 for a certified copy of a previously issued certificate (This is not applicable where the certificate was initially issued via the online system).

1.14 Part B Application Deadlines

There are deadlines to apply to CAVCO for a certificate of completion (Part B certificate), and for the certificate to be issued by CAVCO to the applicant. A Part B application must be received by

CAVCO no later than 24 months from the first fiscal year end date following the commencement of principal photography of the production.

Where the 24-month deadline cannot be met, the application deadline may be extended to 42 months from the first fiscal year end date if the applicant has filed a valid Waiver (CRA Form T2029) within the normal re-assessment period for the corporation. The corporation must also complete the Waiver Declaration (CAVCO Form 01F15), as part of a Part B or Part A/B application.

A Part B certificate must be issued within 6 months of the applicable application deadline.

Failure to meet the final application deadline of 42 months will result in the revocation of a previously issued Part A certificate or the denial of a Part A/B application.

The Waiver in Respect of the Normal Reassessment Period (T2029) is available on the CRA's Web site at www.cra-arc.gc.ca. The completed waiver should be sent to:

Manager, Film & Media Tax Credits Section
Canada Revenue Agency
16th Floor, Canada Building
344 Slater Street
Ottawa, Ontario, K1A 0L5

1.15 Corporate Fiscal Year End Dates

Part B application and certification deadlines are based on the applicant's, or in the case of a domestic co-production, the primary applicant's first fiscal year end following the commencement of principal photography. However, CAVCO recognizes that, under certain circumstances, the fiscal year end of a production company may change after a CPTC application has been submitted. In such a case, the corporation must immediately inform CAVCO of any change, to ensure that the applicable deadlines for a

production are correctly calculated.

1.16 Denials and Revocations

Where an application is made for a Part A certificate or a Part A and Part B certificate simultaneously, and the production does not meet the requirements of the *Income Tax Act* and Regulations, the production will be deemed ineligible and denied certification.

Where a Part A certificate has already been issued, 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.

A certificate that is revoked is deemed never to have been issued. A notification letter will be sent to the CRA for all denials or revocations for which a final determination has been made by CAVCO.

When an application is either denied or revoked, you will receive a notification of the intent to deny or revoke the production. You will then have up to 30 days from the date of the notification to provide additional information that may impact the evaluation of the application. If CAVCO concludes that the production does not meet the requirements of the Act and the Regulations after consideration of the representation you make, or if you failed to provide any further information before the deadline, you will be sent notification that the production has been denied or revoked. That decision is final.

CORPORATE INFORMATION

2.01 Qualified Corporation

A qualified corporation for a taxation year means a corporation that is throughout the year a prescribed taxable Canadian corporation (see s. 2.02), the activities of which are primarily the carrying on through a permanent establishment in Canada of a business that is a Canadian film or video production business. Where the **primary** business of a corporation includes other activities such as the rental of equipment or studios, the distribution of films and videos, or the production of films or videos that would not qualify as Canadian film or video productions, the corporation will not be considered a "qualified corporation" for the purposes of the tax credit program.

Where a corporation engages in more than one business, the assessment of the company's primary activity is based on evaluating such factors as the revenues realized by each business, the capital employed in each business, and the time spent by employees, agents or officers over each business.

Note that the CRA is charged with the legislative requirement of determining whether a production company is a qualified corporation. In circumstances where production companies are unsure whether they would be deemed a "qualified corporation" for tax credit purposes, they may wish to contact their regional Film Services Unit of the CRA, in advance of submitting an application to CAVCO.

2.02 Prescribed Taxable Canadian Corporation

Canadian Heritage, through CAVCO, is charged with the regulatory requirement of determining that a company is a prescribed taxable Canadian corporation. It must be Canadian-controlled according to the requirements of sections 26 to 28 of the *Investment Canada Act*, which can be found at laws.justice.gc.ca.

To qualify for the CPTC, the applicant production company, and if applicable, the Canadian distribution company through which it will distribute the production in Canada, must be owned and controlled, either directly or indirectly, by Canadian citizens or permanent residents in accordance with definitions found in a combination of the *Citizenship Act*, the *Immigration and Refugee Protection Act* (which replaces the *Immigration Act*) and the *Investment Canada Act* (ICA). This requirement is set out in



Do I have to incorporate to apply to the CPTC? How do I incorporate?

To be eligible for the CPTC, the applicant organization must be incorporated. For information on federal incorporation, visit the Web site of the Corporations Canada division of Industry Canada at www.ic.gc.ca or contact them at 1-866-333-5556. For provinces or territories, contact the applicable government ministry in the jurisdiction of incorporation.

subsection 1106(1) of the Regulations of the *Income Tax Act*.

By virtue of s. 1106 of the Income Tax Regulations, CAVCO must determine, among other things, whether a corporation's shareholders are "Canadian" within the meaning of s. 3 of the ICA. According to the ICA, 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 for not more than one year after the time at which he or she first became eligible to apply for Canadian citizenship;
- (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 for which there has been no determination made under subsection 26(2.1) or (2.11) or declaration made under subsection 26 (2.2).

For greater clarity, an individual is "Canadian" for the purpose of determining Canadian control of a corporation if it can be established that he or she is:

- 1) a Canadian citizen; or
- 2) a permanent resident, within the meaning of subsection 2(1) the *Immigration and Refugee Protection Act*, who i) is ordinarily resident* in Canada and ii) is not eligible to apply for Canadian citizenship

or has not been eligible to apply for Canadian citizenship for more than one year.

*To be considered "ordinarily resident" in Canada, an individual must demonstrate that he or she has taken residence in Canada in his or her usual day-to-day routine.

As stated, a corporation must demonstrate that it is a Canadian-controlled entity. Control extends beyond *de jure* control to include control in fact. Determining when a production or distribution company meets the ownership and control requirements is carried out on a case-by-case basis as each situation may raise particular issues or special concerns. In some cases,

CAVCO may require additional information to confirm the eligibility of the corporation.

Please note that a corporation that is controlled directly or indirectly in any manner whatsoever by one or more persons, all or part of whose taxable income is exempt from tax under Part I of the *Income Tax Act*, or a prescribed labour-sponsored venture capital corporation referred to in s. 6701 of the Regulations, is not considered to be a "prescribed taxable Canadian corporation", as defined by regulation. A production produced by such a corporation is ineligible for the Canadian film or video production tax credit.

CANADIAN FILM OR VIDEO PRODUCTION

3.01 General Definition

To be eligible for the CPTC, a production must be certified by CAVCO as a "Canadian film or video production". A Canadian film or video production means a film or video production, other than an "excluded production", produced by a prescribed taxable Canadian corporation, and that is either a treaty co-production or a film or video production that meets the requirements of the Income Tax Regulations.

3.02 Excluded Production

As set out in subsection 1106(1) of the Regulations, an excluded production is one where:

- a) A Part B application has not been submitted within the prescribed application deadline, or a Part B certificate has not been issued by the certification deadline;
- b) Except where a production is a treaty co-production, neither the corporation nor another prescribed taxable Canadian corporation related to it is the exclusive worldwide copyright owner of the production, or controls the initial licensing of commercial exploitation of the project;
- c) There is no confirmation from a Canadian distributor or CRTC-licensed broadcaster that the production will be shown in Canada within two years of it being completed;
- d) There is distribution made in Canada, within the 2-year period after completion, by an entity that is not Canadian; or
- e) The production falls within the list of genres which are ineligible.

3.03 Excluded Genres

The following genres of production are not eligible for the CPTC program:

- a) news, current events or public affairs programming, or a program that includes weather or market reports;
- b) talk show;

- c) production in respect of a game, questionnaire or contest (other than a production directed primarily at minors);
- d) sports event or activity;
- e) gala presentation or an awards show;
- f) production that solicits funds;
- g) reality television (see surveillance TV);
- h) pornography;
- i) advertising;
- j) production produced primarily for industrial, corporate or institutional purposes;
- k) production, other than a documentary, all or substantially all of which consists of stock footage.

The definitions of each of these types of productions are as follows:

a) News, current events or public affairs programming, or a program that includes weather or market reports:

News: includes newscasts, newsbreaks, and headlines, programs reporting on local, regional, national, and international events. Such programs may include weather reports, sportscasts, community news, and other related features or segments contained within news programs.

Current Events: Includes the reporting on any subject of timely and current interest, consisting primarily of news analysis, in-depth reviews, investigative journalism, infotainment, event analysis, discussions or presentations of subjects relating to local, national or international issues or events, or information relating to public policies, services, or programs. Such programming may feature a variety of formats, including live or pre-recorded news reporting, interviews, debates, round-table discussions, documentary segments, open forums and panel discussions.

Public Affairs Programming: A production that consists of live or pre-recorded presentations, interviews or discussions about public policies or programs, or social, political and/or economic issues.

b) Talk show: Programming which primarily consists of one or more hosts and guests who provide personal, ad lib, unscripted viewpoints, opinions or experiences. Such programming may incorporate elements of other genres, including but not limited to live or recorded variety shows and musical acts and is typically, but not necessarily, shot in one location and may include experts and audience members.

c) Production in respect of a game, questionnaire or contest (other than a production directed primarily at minors): A program featuring games of skill and chance, as well as quizzes. **Note:** Productions of this genre directed at minors are eligible; however, programming that uses or features copyrighted and commercially available goods, such as games or other products directed primarily at minors, whether sponsored or not, are ineligible.

d) Sports event or activity: Programs of live or live-to-tape sports events and competitions including coverage of professional and amateur tournaments. Also includes programs reviewing and analyzing professional or amateur competitive sports events/teams, i.e. pre- and post-game shows, scripted sports, call-in and talk shows, etc.

e) Gala presentation or an awards show: Programming which consists of one or more hosts and one or more nominees and/or featured guests who receive awards or recognition for their performance, work, services or other function.

f) Production that solicits funds: A production that, irrespective of content, includes a portion aimed at raising funds or soliciting contributions.

g) Reality television: A production that consists of scenes recorded on private or public authority surveillance equipment. This program television category also includes programming currently known as court television and similar formats. (Also known as "surveillance television")

h) Pornography: refers to a production that contains explicit depictions or descriptions of a sexual nature, without regard to artistic merit.

i) Advertising: A production which includes:
(a) any commercial intended to sell or promote goods, services, natural resources or activities and includes an advertisement that mentions or displays in a list of prizes the name of the person selling or promoting these goods, services, natural resources or activities (also "commercial message"); (b) any infomercial, promotional, or corporate video program exceeding 12 minutes, which combines information and/or entertainment with the sale or promotion of goods or services into a virtually indistinguishable whole. This includes videos and films of any length produced by individuals, groups and businesses for public relations, recruitment, etc.

Advertising also means any commercial message and programming that promotes a station, network or program, but does not include: (a) a station or network identification; (b) the announcement of an upcoming program that is voiced over credits; (c) a program that consists exclusively of classified announcements, if the program is broadcast not more than once during a broadcast day and lasts not more than one hour; or (d) a promotion for a Canadian program or a Canadian feature film, notwithstanding that a sponsor is identified in the title of the program or the film or is identified as a sponsor of that program or that film, where the identification is limited to the name of the sponsor only and does not include a description, representation or attribute of the sponsor's products or services.

j) Production produced primarily for industrial, corporate or institutional purposes:

Industrial or Institutional Production: A production made to meet the specific industrial, corporate or institutional needs of the commissioning entity. Such productions are usually, but not exclusively or necessarily, instructional, educational, descriptive of the commissioning group's activities and/or internal organization, or promotional in scope. They may employ fictional sequences or documentary techniques as a means to illustrate or emphasize specific points. Such productions are not generally suitable for theatrical distribution or television broadcast. This kind of production may also include curricula-based programming.

Corporate Production: A production that combines information and/or entertainment with the sale or promotion of goods or services into a virtually indistinguishable whole. This television program category includes videos and films of any length produced by individuals, groups and businesses for public relations, recruitment, etc.

k) Production, other than a documentary, all or substantially all of which consists of stock footage:

A production, other than a documentary, that consists of repackaged or adapted versions of previously produced programs, and which is not linked by an original narrative and visual construction, unless such footage originated with the same production entity and constitutes a series' "best-of" production.

3.04 Copyright Ownership

Other than where a production is a treaty co-production, the Canadian producer(s) must retain the exclusive worldwide copyright ownership in the production for all commercial exploitation purposes for the 25-year period beginning at the time the production becomes commercially exploitable.

Such ownership must be exclusive, except to the extent of an interest in the production held by a prescribed taxable Canadian corporation acting as a co-producer of the production, or by a prescribed person. As defined in the Income Tax Regulations, a prescribed person includes:

- 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 Canadian Radio-television and Telecommunications Commission;
- c) a person to whom paragraph 149(1)(l) of the Act applies 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 where the person’s interest in the production is acquired to comply with the certification requirements of a treaty co-production twinning arrangement; and
- f) a person
 - (i) to which paragraph 149(1)(f) applies,
 - (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 in those productions, and
 - (iii) that, after 1996, has received donations only from persons described in paragraphs (a) to (e).

The production company must have the right to produce the production, evidenced through a clear chain-of-title. To claim the CPTC, the corporation must also have incurred any claimed labour expenditures. Once the tax credit has been claimed, the copyright may be assigned to a related prescribed taxable Canadian corporation.

3.05 Administration of Treaty Co-productions

CAVCO will certify eligible productions that are treaty co-productions as recommended by Telefilm Canada. Telefilm’s review of a treaty co-production replaces many of the functions of a standard CAVCO review of

a domestic production. Note that there are different requirements for supporting documentation and for eligibility.

The Government of Canada has entered into numerous co-production treaties with other countries. Telefilm administers all international agreements governing treaty co-productions. It reviews applications for the eligibility of productions as treaty co-productions, and recommends to the Minister of Canadian Heritage either approval or denial of the applications. Details regarding Telefilm’s policies and requirements are available on its Web site at www.telefilm.gc.ca.

Co-productions between Canada and another country are eligible for the CPTC only when co-produced under a treaty. Treaty co-productions must continue to comply with the requirements outlined in the Income Tax Regulations, unless otherwise specified. A producer must apply directly to CAVCO to obtain a certificate to access the tax credit program. At the Part A review stage, a Preliminary Recommendation is submitted by Telefilm directly to CAVCO. At the Part B review stage, Telefilm sends its Final Recommendation directly to CAVCO.

3.06 Recognition of Treaty Co-productions Outside of the Certification Process

A CPTC certificate is used by many Canadian funding programs and regulatory authorities as recognition that a production has been granted treaty co-production status by the Minister of Canadian Heritage. However, there may be cases where a project is not eligible for the Canadian film or video production tax credit, despite conforming to a treaty in force. This may occur, for instance, where regulatory deadlines were not met for applying to, or being certified under, the CPTC program.

If a production is eligible as a treaty co-production but does not qualify for a federal tax credit, CAVCO may, upon request by the producer, issue a letter in lieu of a CPTC certificate confirming that the project has achieved treaty co-production status. This letter may then be filed with other authorities according to their procedures and requirements. For instance, the CRTC requires that a producer or broadcaster file the letter issued by the Minister (bearing a new identification number) to the CRTC in lieu of the certificate numbers normally issued by CAVCO.

3.07 Domestic Co-productions

A domestic co-production is one where more than one Canadian production company holds copyright ownership in and incurs expenses in relation to a production. Note that for domestic co-productions, (which generally involve inter-provincial partnerships) CAVCO issues a single certificate number for a production. Each co-producer must claim the relative portion of the tax credit with the CRA.

Note that where two or more partnering Canadian production companies incorporate a subsidiary company as the sole copyright owner in a production, the production should not be reflected as a domestic co-production in an application to CAVCO.

3.08 Co-ventures

Co-ventures do not qualify for the Canadian film or video production tax credit.

Co-ventures are defined by the CRTC in Public Notice CRTC 2000-42 and are, generally, international co-productions not included under treaties administered by Telefilm Canada. Co-ventures are productions where, among other things, co-producer functions are performed by non-Canadians, co-producers have equal measures of decision-making responsibility on creative elements, and co-producers share responsibilities in the administration of the production budget.

PRODUCTION PERSONNEL

4.01 Proof of Canadian Citizenship or Permanent Residency

4.01.1 Requirements

Other than where a production is a treaty co-production, a production company must provide proof that individuals for whom key creative points are being requested, as well as individuals occupying producer-related positions, are Canadian. With respect to producer-related or key creative personnel for a production, the term "Canadian" is defined as a person who is, at all relevant times, 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 he or she performs any duties in relation to the production.

Note that the preceding definition of “Canadian” is different from the definition of “Canadian” referenced within the *Investment Canada Act*, used for CAVCO’s evaluation of whether a production company is Canadian-controlled.

As announced in CAVCO’s Public Notice 2010-01, individual producers and key creative personnel eligible for Canadian content points under the CPTC must send a copy of their proof of Canadian citizenship or permanent residency directly to CAVCO using the secure online eSubmission application system or by mail. These individuals may ask the CPTC applicant (the producer) to send this documentation to CAVCO by mail, on their behalf.

Each person confirmed by CAVCO as a Canadian citizen or permanent resident will be assigned a unique CAVCO Personnel Number. Canadian citizens do not need to resubmit proof of citizenship for future productions. Permanent residents will need to resubmit proof of permanent residency status only when their permanent resident card expires. CAVCO Personnel Numbers issued to permanent residents have a zero as the first number in the numerical portion of the number (e.g. ABCD0654).

CPTC applicants are responsible to ensure that any Canadian filling a producer-related or key creative role in their production has obtained a CAVCO Personnel Number. Producers are encouraged to put wording to this effect in their contracts with key personnel. Where a CAVCO Personnel Number provided to a producer identifies an individual as a permanent resident, the producer should ensure that the individual is able to demonstrate, with a valid permanent resident card, that he or she has permanent resident status at the time he or she provides services to the production.



When is someone a “permanent resident” of Canada?

A permanent resident is someone who has acquired permanent resident status in Canada 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.

A permanent resident may apply for Canadian citizenship once he or she has been ordinarily resident in Canada for at least three years.

For more information on permanent residency status or Canadian citizenship, applicants may consult the Citizenship and Immigration Canada Web site at www.cic.gc.ca or contact them at 1-888-242-2100.

Producers are strongly encouraged to submit CAVCO Personnel Numbers at the time of their Part A application. The numbers are mandatory for all Part A/B or Part B applications.

Please note that the CAVCO Personnel Number may also be referred to as a CAVCO ID; these terms should be considered synonymous.

4.01.2 Application Process for CAVCO Personnel Number

To access the online eSubmission application system, the individual occupying the key creative or producer-related position must register for an Access Key account through CAVCO’s Web site at www.pch.gc.ca/cavco, by clicking on “CAVCO Personnel Number” and then following the instructions.

Once this process is complete, the individual can scan his/her proof of Canadian citizenship or permanent residency and send it electronically through the eSubmission system.

Upon receipt, CAVCO will input the name of the individual in its tracking system of key personnel. The individual will be assigned a unique CAVCO Personnel Number that will be confirmed to him/her

through a return email stating that he/she has been registered in CAVCO's database of key personnel. The individual must provide this number to producers applying to the CPTC for productions in which they have a key creative role.

CAVCO encourages individual producers and key creative personnel to apply online. However, should individuals choose to send a copy of their proof of citizenship or permanent residency by mail, it must be accompanied by a standard declaration for each individual (see CAVCO's "CAVCO Personnel Number" form (Form 01F17)). This form may be downloaded from CAVCO's Web site. The form and required documentation may be sent by mail to CAVCO.

The following documents will be 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)

4.02 Key Creative Personnel – Live Action Productions

To be recognized as a Canadian film or video production, a live action production must (other than where it is a treaty co-production) be allotted a total of at least six points according to the scale below. Points will only be awarded if the person(s) who rendered the services is/are Canadian.

In addition, a production must obtain two of the four points allotted for the director and the screenwriter positions (one of the two positions must be filled by a Canadian). A production must also obtain one of the two points allotted for lead performers (one of these two positions must be filled by a Canadian), other than in circumstances where the production would not have a lead performer, as defined in section 4.05.

Live action productions

Director	2 points
Screenwriter (see s.4.06)	2 points
Lead performer for whose services the highest remuneration was payable (see s.4.05)	1 point
Lead performer for whose services the second highest remuneration was payable	1 point
Director of photography	1 point
Art director	1 point
Music composer (see s.4.07)	1 point
Picture editor	1 point

Note that there are ten possible key creative points available for a production. In circumstances where all key creative points are not applicable, the total number of available points will be reduced accordingly. For example, where a production has only one lead performer, and all other positions are occupied by Canadians, it will receive 9 out of 9 points.

4.03 Key Creative Personnel – Animation Productions

To be recognized as a Canadian film or video production, an animation production must (other than where it is a treaty co-production) be allotted a total of at least six points according to the following scale. A point will be allotted only if the person(s) who rendered the services is/are Canadian.

In addition, the following conditions must be fulfilled: either the director, or the screenwriter and storyboard supervisor must be Canadian; the lead voice for which the highest or second highest remuneration was payable must be Canadian (other than in circumstances where there are no lead voices, as defined in section 4.05); and the key animation must be done in Canada.

Animation Productions

Director	1 point
Screenwriter <u>and</u> storyboard supervisor (see s.4.06)	1 point
Lead voice for which the highest or second highest remuneration was payable (see s.4.05)	1 point
Design supervisor (art director)	1 point
Camera operator (in Canada)	1 point
Music composer (see s.4.07)	1 point
Picture editor	1 point

The following points will be allotted if the work is performed solely in Canada.

Layout and background	1 point
Key animation (must be in Canada)	1 point
Assistant animation and in-betweening	1 point

4.04 General Rules for Evaluating Key Creative Points

- Regardless of the specific position title given, the head individual(s) for each key creative department will be the individual(s) evaluated for the purposes of awarding the applicable key creative point(s) for a production. For example, for video-based 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”.
- 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.

- No points will be allotted for a Canadian who shares the functions of a key creative position with one or more non-Canadians. Where the functions of a position are carried out by more than one Canadian, only the number of points provided for in the Regulations will be allotted, regardless of the number of individuals named in the credits for this position.
- For television series or a collection of films, each of the episodes in the series or each of the films in the collection is considered a separate production, for CPTC certification by CAVCO. As such, producers should provide a complete list of individuals occupying all applicable key creative positions for any and all episodes. If key creative positions or locations vary from episode to episode or from film to film in a collection, it is therefore possible that different episodes may receive a different number of points; in these instances, CAVCO accordingly reflects a range of points for the overall cycle of a series.
- The point awarded for the camera operator position in animation productions will only be awarded for a Canadian where the work is done in Canada.
- Where a production consists of both live action elements and animation elements, the production’s key creative points will be evaluated according to the criteria of the predominant production type.

4.05 Lead Performers / Voices

CAVCO will use the following criteria to determine which individuals are lead performers or voices in live action and animation productions:

- remuneration;*
- billing (for live action productions); and
- time on screen, or, for animation, the length of time that the individual’s voice is heard in the production.

*Note that for the purpose of its evaluation of lead performers or lead voices, CAVCO will consider remuneration, as well as any additional benefits, residuals, travel or living expenses and all similar expenses incurred in relation to an individual.

A performer is an individual engaged to speak lines of dialogue or mime a scene, or whose performance consists of interpreting a character, even where there is no dialogue. When there is no actor or actress, an individual who performs one of the following functions

may be considered equivalent to the lead performer: dancer, singer, specialty act performer, host (a performer who introduces or links segments of a program, such as a master of ceremonies, moderator, quiz master or interviewer), narrator or commentator (a performer engaged to perform narrative material or commentary on- or off-camera), a featured performer or subject in a production within the lifestyle/human interest genre, off-camera performer (a performer other than the narrator or commentator engaged to perform a role in a dramatic work off-camera), or the actor who performs or reads the voice of a character in a film or animated production. Guests on a magazine program, as well as interviewees in or subjects of documentaries are not considered performers for certification purposes.

4.06 Screenwriters

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

- a) Each individual involved in the preparation of the screenplay for the production must be Canadian. This means that all the individuals engaged 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.

4.07 Music Composer

The point for the function of music composer is allotted only if the music created for the production is original. Note that where original music created for the first cycle of a TV series continues to be used for subsequent cycles 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.

4.08 Exceptions

Where a documentary production does not involve performers or other functions such as art director or music composer, a production may meet the creative services criteria even if the production has not been allotted the minimum six points required and/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 information regarding key creative personnel for

treaty co-productions, please consult Telefilm Canada's guidelines on its Web site at www.telefilm.gc.ca.

4.09 Producer-related Personnel

A "producer" is defined as an individual:

- who controls and is the central decision maker for the production;
- who 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
- who is identified in the production as being the producer.

All positions related to the producer function must be held by Canadians, unless the production is a treaty co-production, or where a request for an exemption for a foreign courtesy credit has been granted by CAVCO. **Note that no exemption will be granted for the functions of producer, co-producer, line producer, or production manager, as these positions must be held by Canadians.**

For information regarding the producer-related personnel in treaty co-productions, refer to the co-production guidelines issued by Telefilm Canada.

4.10 Production Control

The following five indicators, as published in CAVCO Public Notice 2007-01, provide further guidance in the determination of the eligibility of productions for the CPTC, based on the preceding definition of "producer". Note that where submitted documentation or other circumstances suggest that a production may not meet the requirements of a given indicator, the producer will have the onus of establishing, to the satisfaction of CAVCO, that the situation will not or did not interfere with the producer's responsibilities and ultimate creative and financial control over the production.

4.10.1 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 upon which the producer has secured the underlying rights.

- (i) CAVCO will review the chain-of-title documentation to confirm that the producer is responsible for the development of the project. Provision will be made for industry-standard third-party approval rights (distributors, broadcasters, financiers,

completion bonders, etc.).

- (ii) CAVCO will assess chain-of-title documentation against all relevant documents concerning creative decision-making and the hiring of creative talent (writer, director, consultants, script editors, etc.).
- (iii) The producer must affirm that all documentation affecting his/her decision-making authority has been disclosed and submitted to CAVCO as part of the application.

(b) Prior development of a project by non-Canadians is permitted. However, 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 in terms of consultation rights only.

4.10.2 The Canadian producer must have and maintain full responsibility and control over all creative and financial aspects of the production of the project.

(a) Documentation must demonstrate that, with the exception of standard approval rights from broadcasters, distributors, financiers or completion-bonders, it has exercised 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 (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.

4.10.3 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, without limitation, 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 (i.e. production 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 constitute a contravention of 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 parties with common ownership and/or control);
- (ii) a single non-Canadian party (or multiple 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.

4.10.4 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 terms pursuant to which any other party acquires rights to the initial exploitation of the project, 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. such 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 more than one significant territory, 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.

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



What is the difference between a production being certified by CAVCO and being certified by the CRTC?

The CRTC has a Canadian content certification program which is similar in many respects to CAVCO's CPTC program. However, there is no tax credit provided through the CRTC.

The CRTC will generally accept proof from broadcasters of CAVCO certification of a production, in lieu of a certification ("C") number issued by the CRTC.

For more information, visit the Web site of the CRTC at www.crtc.gc.ca or contact them at 1-877-249-2792.

4.11 Courtesy Credit Exemptions for Non-Canadian Producer-Related Personnel

An exemption for a foreign courtesy credit may be granted only where the functions of the individual 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, or the provision of services to the production under the strict supervision and control of the producer.

Permitted exemptions for non-Canadian producer-related screen credits are limited to those in Group A or Group B, as set out below. While courtesy credits may be chosen from either group, they must not 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.

Group A:

Executive Producer
Senior Executive
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

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 - see section 4.13), is limited to being on set for a maximum of 25% of principal photography.

With the exception of a lead performer, any non-Canadian individuals accorded a producer-related courtesy credit will be required to file a CAVCO affidavit (CAVCO Form 01F12), outlining the duties performed and declaring that those duties have been or will be carried out only under the direction and control and with the full knowledge of the Canadian producer. No non-Canadian producer-related screen credit will be allowed without an affidavit. See also section 4.13 for information on non-Canadian showrunners.

Other than for treaty co-productions, under no circumstance can a non-Canadian receive a “producer” or “co-producer” credit.

4.12 Format Programs

Format programs, based on popular concepts or formats initially produced and exploited in a territory outside of Canada, and intended to be produced in Canada by a Canadian producer under a licence issued by the non-Canadian owner of the underlying rights, are eligible for the CPTC. However, the Canadian producer must clearly demonstrate that he or she controls the initial exploitation of the Canadian version of the production. Where the licensing of rights permits the exploitation of the Canadian version of a format program outside of the Canadian territory,

no one other than the Canadian producer can control its initial exploitation outside of the Canadian territory.

4.13 Non-Canadian Showrunners

Any non-Canadian commonly referred to as a “showrunner” for a production, regardless of the actual credit given to the individual, must submit a non-Canadian showrunner affidavit (CAVCO Form 01F13) declaring that any work performed is done under the direction and control and with the full knowledge of the Canadian producer. In addition, the producer must submit to CAVCO the contract entered into with this individual, outlining the work to be performed and the conditions of employment.

4.14 Additional Screen Credit Requirements

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

The Canada Wordmark logo must appear in all domestic and international versions of each production and in all related advertising, publicity and promotional materials. The specific requirements in terms of formats and wording can be found on CAVCO’s Web site at www.pch.gc.ca/cavco.

Additionally, the Canadian copyright notice must appear in the tail-end screen credits.

FINANCIAL INFORMATION

5.01 Expenditures

The determination of the qualified labour expenditure for a production is based on a production's eligible cost of production and its net labour expenditures. A CAVCO Part A certificate provides an estimate of both of these amounts. Note that where the ownership of a production is shared, each copyright owner will calculate its respective production costs and labour expenditures to determine their respective tax credit.

5.02 Eligible Cost of Production

The CPTC may not exceed 15% of the cost of production after deduction of any assistance. Production costs are limited to those amounts which have been incurred in respect of the production. Where a production is a treaty co-production, eligible production costs include only those incurred by the Canadian production company.

Any assistance received in respect of an eligible production will reduce the cost of production that is eligible for the tax credit. Assistance refers to any financial assistance from public or private Canadian sources or from foreign sources, where it is in the form of grants, subsidies, provincial tax credits, forgivable loans, services and any other similar form of assistance. Note that an amount paid or payable under the Licence Fee Program of the Canada Media Fund (formerly the Canadian Television Fund) is deemed to be a "prescribed amount" which is not considered assistance. See section 1106(11) of the Regulations.

For calculating the eligible production cost for a production, deferrals and non-deductible expenses (expenses not allowed as business expense deductions, such as a portion of catering, meal or entertainment expenses) are not included in the eligible cost of production. Assistance is defined in paragraph 12(1)(x) of the *Income Tax Act*.

5.03 Labour Expenditures

The eligible labour expenditures of a corporation, for a Canadian film or video production, must meet four basic criteria:

- (a) They must be reasonable in the circumstances;
- (b) They must be included in the cost or, in the case of depreciable property, the capital cost to the corporation, of the property;

(c) They must be incurred for the stages of production of the property from the **production commencement time** (see inset) to the end of post-production stage; and

(d) They must be directly attributable to the production of the property.

Only the labour expenditures 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, will qualify as labour expenditures for the production when applying to the CRA for the tax credit.

Any corporation identified as a domestic co-producer must own at least some portion of copyright where they may have incurred expenses for the production.

5.04 Types of Labour Expenditures

The labour expenditures of a corporation are equal to the total of three categories: salaries or wages, remuneration other than salary or wages, and reimbursement by a wholly-owned corporation to its parent.



How is the "production commencement time" determined?

"Production Commencement Time" is defined as the earlier of:

- (a) The commencement of principal photography / key animation; or
- (b) The latest of :
 - (i) First script labour expenses
 - (ii) Rights acquisition
 - (iii) Two years before commencement of principal photography / key animation.

5.04.1 Salaries or wages

Salaries or wages (as further defined in section 248 of the Act) must be paid to Canadian citizens and/or residents of Canada (as the latter is defined for taxation purposes). As well, amounts such as vacation pay, statutory holiday pay, or benefits that are taxable in the hands of an employee, (such as the employer contribution to the employee's RRSP), may be included. Producers may consult with their regional Film Services Unit office of the CRA for further information regarding which amounts would qualify.

5.04.2 Remuneration, other than salary or wages

The portion of the remuneration, other than salary or wages, is a labour expenditure where 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 individual for the production, or to the salary and wages of the individual's employees who are rendering services for the production.

Where a payment to non-employees includes a non-labour component, (e.g. goods provided by the service provider, 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 other corporation's employees for rendering services for the production.



Is there a labour breakdown template that I can use in determining the amount I will include as labour?

As part of an application to CAVCO, only the labour expenditure total is required. In certain circumstances, including pursuant to an internal audit, additional documentation may be requested, which reflects how this amount was calculated.

While CAVCO does not have a labour breakdown form, producers may choose to add additional columns, reflecting labour expenses, to their standard budget or cost report templates.

Only the labour portion of an invoice sent to the production company, net of any profit margin, materials or the employer's share of government deductions, may be included as a labour expenditure. If an exact amount for net labour expenditures is not known, CAVCO will accept 65% of the labour portion of the invoice as being a reasonable estimate of the labour expenditures directly attributable to the production, subject to the CRA's analysis of particular circumstances. Note that the salary or wages must be paid to the corporation's employees.

(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. If the recipient corporation meets all of these criteria, the whole remuneration qualifies as a labour expenditure.

(d) A partnership that is 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.

5.04.3 Reimbursement by a wholly-owned corporation to its parent

Where a production company is a wholly-owned subsidiary company of another taxable Canadian corporation, and it reimburses expenditures incurred for the production by the parent company that would be included in the labour expenditures of the production company based on subsections 5.04.1 and 5.04.2 above if:

- a) the corporation had such a particular taxation year; and
- b) the expenditures were incurred by the corporation for the same purpose as it was by the parent and were paid at the same time and to the same person or partnership as it was by the parent,

then expenses covered by such reimbursements will be eligible labour expenditures. Note that where all the criteria in subsection 5.04.3 are not met, payments to the parent company will become payments to another taxable Canadian corporation.

5.05 Labour Expenditures during Post-production

Where post-production labour is done in-house, payments are made in the form of salary or wages. Where labour expenditures are paid to another taxable Canadian corporation, producers may only include those services that are rendered by a person performing one of the post-production duties set out in paragraph 125.4 (2)(b) of the *Income Tax Act*. These include most post-production roles such as an assistant colourist, an assistant mixer, a sound-effects technician, a colourist, a computer graphics designer, an optical effects technician, or a special effects editor.

Producers should request that post-production service entities break down the labour component of their invoices, as this information may be requested by CRA auditors. Where non-labour amounts are included in a payment to a post-production service provider (for instance, where a service involves both labour and the cost of a supply), but no breakdown is provided on the invoice, the production company must estimate the labour part of the invoice before applying the 65% rate applicable for payments to corporations.

Description	Account	%
Voice-over recording and post-synchronization (recording technician and sound engineer)	63.10	100
Foley track (recording technician, Foley technician)	63.35	50
Negative cutting	64.05	100
Original Effects Recording (labour cost for sound engineer and boom operator)	65.01	100
Post-sync Dialogue (ADR) (detection, transcription, work plan, sound engineer and recording technician)	65.25	100

CAVCO generally allows producers to claim these services at an initial rate of 20%, apart from the exceptions set out above. Note that this percentage rate is to be used for reference purposes only, and claimed amounts are potentially subject to a more detailed CRA review.



How can I tell whether a given source of financing will be treated as assistance or not?

Financing amounts that are received from a government entity, including Crown corporations or film agencies, will be treated by the CRA as assistance where the funding is given outright, or in the form of an equity investment. Funding through provincial tax credits or from Telefilm Canada are examples of amounts that will be treated as assistance. Note that licence fees received from public broadcasters, such as CBC / Radio-Canada or TV Ontario, or the Licence Fee Top-up provided by the Canada Media Fund (formerly the Canadian Television 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.

Please note that the CRA makes the final determination as to whether any source of funding will be deemed to be assistance.

5.05.1 Exceptions

Higher labour rates are permissible for certain work performed during post-production. Please note that the above account numbers correspond to CAVCO's Breakdown of Costs form for live action productions.

5.06 Canadian Expenditures

To qualify as a Canadian film or video production (other than where a production is a treaty co-production), a production must meet the two following requirements relating to Canadian expenditures:

- 1) Not less than 75% of all costs for services provided toward producing the production (other than excluded costs) is payable for services provided to or by individuals who are Canadians.

Excluded costs include:

- a) costs determined by reference to the amount of income from the production;
- b) remuneration payable to, or in respect of, the producer or key creative services personnel. Only

fees paid to a Canadian producer or co-producer are excluded. All other fees paid to producer-related positions are calculated as services. For an animation production, the costs associated with positions which entitle the production to a point based on the place where the work is done are not considered to be excluded costs;

- c) amounts payable in respect of insurance, financing, brokerage, legal and accounting fees, and similar amounts; and
 - d) costs for the post-production stage.
- 2) Not less than 75% of the total of all costs incurred for post-production of the production, including laboratory work, sound rerecording, sound editing and picture editing (other than costs determined by reference to the amount of income from the production and remuneration payable to the producer and key creative services personnel) must be incurred toward services provided in Canada.

As part of a Part B application, a producer must submit a copy of CAVCO's Breakdown of Costs form (CAVCO Form 01F21 for live action productions or CAVCO Form 01F22 for animation productions). More information regarding the completion of the form, including the categorization of different expenses, is available in section 15 of "Part II – How to Apply" of this guide.

5.07 Financing Sources

5.07.1 Proof of Financing

As funding deemed assistance will affect the estimate of eligible expenses and the tax credit to be received for a production, CAVCO will not issue a Canadian film or video production certificate until all the components of a production's financing plan are in place, and it has received copies of all financing agreements. A production must be fully financed, even at the time of a Part A application. Note that producers should continue to list the full amounts of

all financing sources even if they exceed the total production budget when combined.

Where a production is a treaty co-production, producers should reflect financing sources required to cover the Canadian production company's production costs.

The producer is required to report any assistance that is known or anticipated at the time of submitting an application. The CRA has the final authority to determine whether an amount received by the corporation represents assistance that would reduce the eligible production cost amount for the production.

The production company must provide copies of all documents on the financing sources listed in an application. Note that in circumstances where the producer is investing a proportionately high amount of its own funds (generally more than 15% of the budget, excluding federal or provincial tax credit amounts to be received), additional documentation may be requested, in the form of loan agreements, bank statements covering the applicable period of production, shareholder agreements, or other similar forms of documentation. Documentation reflecting interim financing is not generally needed, although it may be requested by CAVCO in certain situations.

5.07.2 Bona fide loans versus forgivable loans

An agreement respecting a bona fide loan should reflect a fixed maturity date and contain repayment terms that are not contingent on a future event such as projected revenues. Such loans should also be interest-bearing at a reasonable rate. A forgivable loan, where repayment is contingent upon the occurrence of a possible future event such as profit generation, is an amount deemed assistance, which reduces the eligible production cost for the production. The CRA provides additional guidance regarding its review of this issue on its Web site at www.cra-arc.gc.ca/filmservices.

EXPLOITATION

6.01 Exploitation Rights

The Regulations require that the production company has control over the initial exploitation of the production, within all territories. Regulation 1106(1) states that a production is an “excluded production” where the production company does not “control the initial licensing of commercial exploitation.”

Producers must submit copies of all major distribution or broadcast agreements for a production. This should include any sub-distribution or licence agreements for major territories, particularly where they represent, directly or indirectly, a source of financing for the production, and/or where the terms of the agreement need to be known to confirm that sufficient net revenues are ultimately being remitted to the production company or related party.

Where a production is a treaty co-production, it is generally only necessary to include exploitation agreements where they are in respect of Canadian territory and/or where they represent a source of financing for the Canadian production company's production costs.

6.02 Canadian Distribution and Broadcast Rights (Two-year Clause)

At least one of the Canadian agreements must contain a commitment to show or broadcast the production in Canada within the two-year period following its completion. Distribution agreements should also contain a clause indicating that the distributor is a Canadian company, within the meaning prescribed by regulation. Note that where a distribution company is not previously confirmed by CAVCO as a Canadian-owned and Canadian-controlled corporation, the producer must arrange to have a Private Company Declaration (CAVCO Form 01F16) for the distributor submitted to CAVCO. A copy of this form is available on CAVCO's Web site.

The agreement must be for consideration at the fair market value with:

- a) a corporation that is a Canadian and is a distributor of film or video productions; or
- b) a corporation that holds a broadcasting licence issued by the CRTC for television markets;

to have the production shown in Canada within the two-year period that begins at the earliest time after

the production was completed that it is commercially exploitable.

6.03 Exploitation by a Non-Canadian Entity in Canada

A production may become an “excluded production” if it is distributed in Canada by a non-Canadian entity within the two-year period that begins after the production was completed and commercially exploitable.

As published in CAVCO Public Notice 2006-03, the use of non-Canadian service agents for the exploitation of videograms, such as VHS cassettes and DVDs, in Canada, for productions certified under the CPTC program, is permitted in limited circumstances.

The provision of services provided by non-Canadian service agents acting under the control of a Canadian-owned and -controlled distribution corporation may include, but is not limited to:

- a) The procurement and manufacturing of videograms and their packaging;
- b) Storage of the videograms;
- c) Order entry and order processing through computer and inventory control systems;
- d) Shipping of the videograms to customary sales and retail outlets;
- e) Accounting to distributor respecting all videogram sales to customers.

A Canadian-owned and -controlled distribution corporation is permitted to enter into an agreement with a non-Canadian service agent for the provision of services in Canada for the exploitation of videograms of certified productions, provided that, within the two-year period following completion of the production:

- a) There is a contract between a Canadian producer and a 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, including for each production:

- (i) Preparing the marketing plan;
- (ii) Setting the release date;
- (iii) Approving the wholesale and/or retail selling price;
- (iv) Setting the promotion and marketing budget;
- (v) Approving the packaging artwork and all promotional material; and
- (vi) Maintaining approval rights over all aspects of the exploitation of each release.

The agreement between the Canadian distributor and the non-Canadian service agent is limited, in Canada, to the provision of services respecting videograms.

The agreement must be concluded for a standard service fee.

Where a Canadian distributor intends to use the services of a non-Canadian service agent for the exploitation of videograms in Canada, the agreement between the production corporation and the Canadian distributor must conform to the policy above. The producer may also be required to submit to CAVCO the agreement between the Canadian distributor and the non-Canadian service agent.

6.04 Acceptable Share of Revenues

CAVCO must be satisfied that, except where the production is a prescribed treaty co-production, 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 corporations described in (a) and (b).

The expression “acceptable share of revenues” is interpreted to mean that producers 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 as 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.

Please note that the producer must also retain an acceptable share of revenues in Canada.

Part II

How to Apply

INTRODUCTION

This section will assist producers in completing an application for the Canadian film or video production tax credit (CPTC). Producers should also review “Part I – Requirements” of this guide, before applying to CAVCO.

Applicants must complete applications through CAVCO’s online eSubmission application system. If you do not already have an eSubmission account, you may create one by visiting the eSubmission page of CAVCO’s Web site at www.pch.gc.ca/cavco, and following the instructions.

All applicants who have submitted a Part A paper application for a production must submit the Part B application through the online system. Once you have an eSubmission account, and prior to beginning your Part B application, please call CAVCO at 1-888-433-2200 so that we may transfer the Part A application to your account.

What You Need to Fill Out an Application

To fill out a complete application for the CPTC program you will need the following:

- **Corporate information** (incorporation number, business number, fiscal year end, shareholders, officers and directors of the production company, as well as the corporate structures of any and all corporate shareholders of the production company);
- **Financing and exploitation documentation** (All agreements from entities providing financing to the production and any distribution or broadcast agreements);
- **Expenditures documentation** (A locked budget with totals for A,B,C and D costs, and the total eligible labour expenditures amount);
- **Personnel documentation** (The names, remuneration, citizenship and CAVCO Personnel Numbers of all key creative personnel and producer-related personnel);
- **Production details** (Synopsis, target markets, shooting format, delivery medium, running time, genre, principal photography and completion dates, and number of shooting days);
- **Chain-of-title documents** (not required for treaty co-productions)
- **Episode titles**, if applicable
- **Courtesy credit documentation**, if applicable (Affidavits and contracts for non-Canadian producer-related personnel (Form 01F12) and showrunners (Form 01F13));
- **Waiver Declaration**, if applicable (Form 01F15, for productions submitting a Part B application after the 24-month application deadline);
- **DVD or VHS copy of the production**, for Part A/B or Part B applications (or three representative episodes for a series);
- **Breakdown of Costs**, for Part A/B or Part B applications (Form 01F21 for live action productions or Form 01F22 for animation productions);
- **Review Engagement Report or Audit**, for Part A/B or Part B applications (A review engagement report for production budgets between \$200000 and \$499999, or an audit for production budgets of \$500000 or more);
- **Attestation**, printed and signed (must be mailed to CAVCO for online applications)
- **Application Fee**, made out to the Receiver General for Canada (see section 18.03 for fee rates)

Please note that incomplete applications will not proceed for analysis until all required documents are received.

SUBMITTING AN ONLINE APPLICATION

Step 1: Register an Account

A Government of Canada Access Key provides a secure environment that identifies the applicant and ensures that messages or documents sent to CAVCO are kept confidential and secure. You must have an Access Key to submit an online application to CAVCO.

Note that if you have an existing Government of Canada ePass, your new Access Key will automatically be created when you next log in through eSubmission. The User ID, Password and Recovery Questions you used with ePass will remain the same.

If you don't already have an Access Key, click on the "Register" link on the eSubmission page of CAVCO's Web site at www.pch.gc.ca/cavco. Follow the instructions to create an Access Key User ID and Password. Enter your personal security information and agree to the terms and conditions of Access Key. Click on **Continue**.

If you already have an Access Key, click on "Sign in" on CAVCO's homepage, and enter your Access Key User ID and Password.

You will be brought to a PCH Service Registration page. Select "CAVCO – Tax Credit Programs". You will then be directed to the CAVCO Privacy Statement. You must click **I Agree** to continue.

You will be directed to the **Registration** page. Enter your personal information in the form provided. Click **Register**. Log out of the system.

After your User Registration has been confirmed by CAVCO, you will be sent a Personal Identification Number (PIN) by email within one business day. Once you receive your PIN, either click on the link in the email or go to the eSubmission page of CAVCO's Web site at www.pch.gc.ca/cavco and click on "Sign in". You will be redirected to the Access Key Web site. Enter your Access Key User ID and Password. After you log in, enter your PIN.

Your User Registration is now complete and you will see your **My Applications** page, where you can enroll in a tax credit program. Click on the **Program List** button at the top of the page. Click on **Programs** beside "CAVCO – Tax Credit Programs". Then click on **Enroll** beside the CPTC program description to register for the Canadian Film or Video Production Tax Credit program. Go back to your **My Applications** page.

Step 2: Complete the Application

Click on **New Application** and then click on "Form" beside the CPTC program. You will be prompted to provide more details regarding your production to ensure that you will be required to complete only the applicable sections of the online application. Click **Start Form**. Complete the form and attach all applicable supporting documents identified in the section "What You Need to Fill Out an Application" on page 30 of this guide.

If incorrect information is provided when initially selecting the type of application to complete (ex. the production is identified as an animation production as opposed to a live action production), you can modify the type of application by clicking on **Change Form** at the top of the **Summary** page for the application. Note that this must be done prior to the submission of an application.

Step 3: Submit the Application

After filling out the appropriate fields and attaching all relevant **supporting documents** on the Attachments page, click **Next** to go back to the **Summary** page. After reviewing your application click **Proceed to Official Submission**. The **Attestation** form must then be completed. Read all the statements to ensure you comply and then click the **Submit Project Application** button. The **Attestation** form will be generated in a printable format. Print it out, sign it, and send it to CAVCO with your application fee.

Please note that once you submit the application it becomes locked and you cannot make further changes to the application without permission.

To make a change to the application you must make a request to CAVCO to amend it. Once the necessary changes are made, you will need to resubmit the amended application.

In addition, the applicable administrative fee must be sent for a Part A and a Part B application, as well as a copy of the production (in DVD format) for Part B applications. Once this information is received the status of your application will be listed as **In Queue**. Your file will then be reviewed by a tax credit officer on a first come, first served basis.

Step 4: Provide Any Required Documentation or Information

Once an application has been assigned to a tax credit officer, the status of your application will be listed as **Under Review**. After completing the initial review of an application, a tax credit officer will contact you if additional information is needed for the file. Requests for information can be viewed by selecting the **Message Centre** link in the left hand menu. Note that under the “Notes” column on your My Applications page, a message icon will appear adjacent to an application where a new message has been sent to the Message Centre; an e-mail is also sent to your regular e-mail address to notify you of the message.

Where a change is required to the application, the applicable section will be unlocked by the tax credit officer, so that the applicant can make the change and resubmit the amended version of the application.

Step 5: Check Status of Submitted Application

At any time, you may review the status of an active application under the “Status” column on your **My Applications** page. Once the review of a file is completed, and a final decision has been made regarding certification of the project, you will be notified through the **Message Centre** as to the decision. When a production is Part A certified, “Part A Granted” will appear in the Status column and you will receive a copy of your Part A certificate. When a production is Part B certified, “Certified” will appear in the Status column, and you will receive a copy of your Part B certificate.

If the production is either denied or revoked you will receive notification. Please see s. 1.16 in “Part I – Requirements” of this guide for further information.

WORKING WITH YOUR ESUBMISSION ACCOUNT

Once you have completed your User Registration, you will have access to the following sections in your eSubmission account. A section can be accessed at any time by clicking on the applicable link in the left pane menu.

My Applications

This section provides a list of all current and past applications, including information regarding their original submission date and status. You may click on **View** or **Print** beside a production title to review information for that production.

You will also have the option of clicking on one of the following buttons:

New Application: Once you are enrolled in the CPTC program, select this button when you are initiating a new application.

Program List: Select this button only when you have not yet enrolled for the CPTC program.

Project Archive: Select this button if you want to delete a project which has not yet been submitted to CAVCO through the eSubmission system. You may also choose to archive projects which have received Part B certification.

Message Centre

This section allows you to send and receive messages relating to specific applications which have been submitted through the eSubmission system.

You will receive notifications in your Message Centre inbox when additional information for an application is requested, when a certificate has been issued, or for any other correspondence from the tax credit officer reviewing your application. An e-mail is also sent to the regular e-mail address indicated in your application, to indicate that a new message has been sent to your Message Centre.

Delegate Access

This feature allows you to transfer access to a project to other users of the eSubmission system, prior to the submission of an application. You can submit transfer requests by selecting specific projects and delegates. You will also be able to receive transfers and view, accept or refuse such transfers.

Under the heading "Transfer Projects", you will have the option of clicking on one of the following buttons:

Previous Owner: Select if you are transferring access to an application back to the previous owner associated with the application.

My Delegates: Select a delegate to whom you will transfer access to an application from your current list of delegates.

New Delegate: To add a new delegate who may have access to an application, select this button and enter the name and e-mail address associated with the transferee's eSubmission account.

Privacy Statement

This section summarizes the privacy policy and practices of the Department of Canadian Heritage, including as they apply to the use of the eSubmission system.

PCH Services

The PCH Services registration page allows you to select whether you want to apply to CAVCO's tax credit programs or for a CAVCO Personnel Number.

COMPLETING AN APPLICATION

The following information corresponds to the sections of the CPTC application. When completing an application, only some of the following sections will appear, as determined by the applicant's answers to a series of questions asked when initiating a new application. For example, the treaty co-production information section will appear only when the production is identified as a treaty co-production.

Note that mandatory fields in the application are marked with red asterisks.

1. Production Title

1.01 Production Title

Enter the current title of the production. If the application is in respect of a series, the cycle (season) number must be included as part of the title, in the form of a Roman numeral. For example, the fifth season of a production must be entered as "Production (V)". Note that cycle and episode information must also be entered in the "Series" section of the application.

1.02 Start of Principal Photography / Key Animation

Provide the date on which principal photography (live action productions) or key animation (animation productions) for the production began. For series, list the date on which principal photography for the first episode began.

1.03 Production Completion Date

Provide the date on which the production was completed. Generally, this refers to the date on which an answer print (for productions finished to film) or a video master (for productions finished to video) of the production is completed. For series, list the date on which the final episode was completed.

1.04 Previous Production Titles

List any previous production titles. Note that any such titles will be reflected as "aka" titles on all certificates issued by CAVCO.

When applying for a production for which CAVCO previously issued a PCH reference number, list the PCH number in this section.

2. Contact

The production company is considered to be the primary applicant for an application. The contact is the specific person responsible for filling out and submitting the application to CAVCO. This can be a representative of either the production company or another entity such as an accounting or legal firm.

In this section, enter the name and contact information of the person who will be the primary individual in charge of administering the application. If the corporation wishes to change or add contact persons in this section, CAVCO must receive a written request from the initial contact person or an officer or director of the corporation. For domestic co-productions, only the primary contact is listed in this section of the application form.

For information on the process for delegating access to an application prior to it being submitted, see the "Working with your eSubmission Account" section on page 33 of this guide.

If the production company uses a third party to submit their applications, the production company will not have access to the third party's online account to view applications once they have been submitted. The third party may print out and send the application to the production company for their records, if required.

3. Organization

The information entered here is for the actual applicant corporation (the production company).

Applicants will have access to a list of organizations associated with any previous applications they have submitted, by clicking on "Copy from". Where an organization from this list is selected, the following sections will be filled automatically.



Who can access my file? Who can contact CAVCO with questions regarding my file?

The contact person identified in the application is the only individual with whom CAVCO can discuss a file, until such time as additional contacts are added by the original contact person or by a director or officer of the corporation. When contacting CAVCO by phone, please have the file's Case File (CF) Number available.

3.01 Legal Name

Enter the full registered name of the corporation that is applying to CAVCO. In the case of a domestic co-production, enter the corporate names of all Canadian co-producers in the "Domestic Co-Production" section of the application.

3.02 Other Business Name

Where applicable, enter any alternate names under which the corporation carries on business.

3.03 Business Number

Enter the 9-digit business number (BN #) assigned to the corporation by the Canada Revenue Agency.

3.04 Incorporation Number

Enter the incorporation number assigned to the company pursuant to federal, provincial or territorial incorporation.

3.05 Incorporation Date

Enter the date on which the company was incorporated.

3.06 Fiscal Year End

Enter the month and day of the corporation's fiscal year end. Note that a fiscal year end date (even if tentative) must be listed, even where a final date has not been established at the time of a Part A application. Where the listed fiscal year end date in a Part B application is different from the date reflected in a Part A application, CAVCO may request additional clarification regarding the reason for, and timing of, the change. The onus is on the production company to inform CAVCO of any changes.

3.07 Corporate Affiliation

Indicate whether or not the company is broadcaster-affiliated.

3.08 Applicant Organization Address / Phone Numbers

Enter all requested contact information for the corporation.

4. Domestic Co-productions

Where an application is made for a domestic co-production, full organization information (as set out in the "Organization" section above) must be entered in this section for each additional co-producer. Note that information on the primary applicant organization should not be repeated for the purposes of this section.

A domestic co-production occurs when more than one Canadian producer jointly owns copyright in a production. Where two or more Canadian production companies incorporate a subsidiary company as the sole copyright owner in the production, it should not

be reflected as a domestic co-production in the application.

Note that a signed Attestation must be submitted for each production company in a domestic co-production. See section 18.01 of "Part II – How to Apply" of this guide.

5. Treaty Co-productions

Where a production is a treaty co-production (as recognized by Telefilm Canada) between the Canadian producer and one or more foreign co-producers, the information in this section must be completed for each foreign co-producer.

5.01 Country

Indicate the name of each country with which the Canadian producer has entered into a treaty co-production agreement.

5.02 Organization Name

List the full legal name of the foreign co-producer(s).

5.03 Percentage of Ownership

Indicate the percentage of copyright ownership in the production held by the foreign co-producer(s) according to the terms of the co-production agreement.

5.04 Amount of Financing

Indicate the total amount of the financing being provided by the foreign co-producer(s).

6. Shareholders

Information regarding a production company's shareholders is required, primarily to confirm that a corporation applying under the CPTC program is Canadian-controlled, as determined by sections 26 to 28 of the *Investment Canada Act*. A corporation must be both *de jure* and *de facto* Canadian-controlled respecting voting shares, subject to CAVCO's review of the shareholder information. CAVCO may request additional agreements relating to the decision-making authority of the various individual or corporate shareholders.

Additional supporting documents for publicly traded companies may be requested including, but not limited to, the articles of incorporation, a notice of registered office, and a certified list of shareholders. As well, supporting documents may be required where a shareholder is an entity such as a sole proprietorship, a partnership or a trust.

Note that any corporate or other business shareholder that owns a majority of voting shares in the production company must also be confirmed as being Canadian-

controlled. As well, where there are several minority shareholders which are corporations or other business entities, it must be established that a majority of shares are owned by Canadian-controlled entities.

6.01 Type

Indicate whether the shareholder is an individual, a private company, a publicly traded company or a trust. Privately-held corporations, as well as other business entities such as partnerships or sole proprietorships, should be listed under "Private Company".

Where a corporation is identified as a shareholder, applicants will have access to a list of corporate shareholders from any previous applications they have submitted. Where a shareholder from this list is selected, the following two sections will be filled automatically.

6.02 Name

Provide the name of the individual or the full legal name of the corporation or other business entity, as well as its business number. For corporations, enter the incorporation number.

6.03 Citizenship

For individual shareholders, select their country of citizenship. For Canadian citizens, select "Canada". For permanent residents of Canada, select the country of their citizenship. You will be prompted to click on a box which will indicate whether or not the individual is a permanent resident of Canada. When selected, the applicant must enter the date on which the individual became a permanent resident of Canada. For corporate or other types of shareholders, select "Canada" where the entity is Canadian, as this term is defined in the *Investment Canada Act*.

6.04 Number of Shares

For each shareholder, list the number of shares held.

6.05 Class of Shares

For each shareholder, identify the class of shares held. Note that where a shareholder holds more than one class of shares, applicants should create a new shareholder profile, and reflect all information regarding any additional type of shares.

6.06 Value of Shares

List the value of the shares held (in Canadian dollars per share).

6.07 Votes per Shares

List the number of votes held per share.

6.08 Officers and Directors

Enter the names and citizenship of all directors and officers for a corporation.

7. Production

7.01 Production ISAN

Where available, enter the ISAN number for the production. For more information on obtaining an ISAN number, visit ISAN Canada's Web site at www.isan.ca.

7.02 Production Type

The type of production – live action or animation – is selected during the initiation of an application, and is reflected automatically in this section.

7.03 Production Genre

Select the predominant genre of the production from the following categories: Action / Adventure, Comedy, Docudrama, Documentary, Drama, Educational, Fantasy, Historical Drama, Horror, Instructional, Lifestyle / Human Interest, Magazine, Musical, Performing Arts, Religion, Science Fiction, Thriller, Variety.

7.04 Production Form

Select the production form from the following categories: Anthology, Feature, MFT/MOW, Mini-Series, One-off or Special, Pilot, Series.

7.05 Production Medium

Select the primary medium used for the production, from among the following choices: 16mm film, 35mm film, 70mm film, DV, HD, Video, Other.

7.06 Delivery Medium

Select the primary medium used for initial distribution of the production, from among the following choices: 16mm film, 35mm film, 70mm film, DV, HD, Video, Other.

7.07 Total Duration (in minutes)

List the total running time for a single production, or the total combined running time for all episodes of a series. For a series, the duration of each episode should be listed in the "Series" section of the application.

7.08 Synopsis

Provide a brief synopsis of the production summarizing the content or story of the production.

7.09 Primary Market

Select the primary exhibition market for which the production is intended: Theatrical, Non-Theatrical (e.g. educational markets), HV/DTV (direct-to-video), Conventional TV (e.g. CBC / Radio-Canada, CTV), Specialty TV (e.g. Canal D, Showcase), Pay TV (e.g. The Movie Network, Super Écran), VOD/PPV (e.g. Viewers Choice, Canal Indigo).

7.10 Primary Language

Select the primary language in which the production was created: English, French, Other.

7.11 Primary Target Audience

Select the primary audience for whom the production is intended: Preschool (1-5), Child (6-12), Youth (13-17), Adult (18+).

7.12 Production Principal Photography

List all locations (by selecting the country or countries) where principal photography or key animation for the production occurred, and the number of shooting days at each location.

8. Chain of Title

8.01 Project History

Provide a summary of the development history of the production. Where the production is not an in-house production created by the production company, fill in the Chain of Title Agreements section and attach all listed agreements in the “Attachments” section of the application.

The production company must provide documentation demonstrating the chain of title from the time of creation of the concept to the time of the acquisition of all rights necessary to create the production, by the present copyright owner (the applicant). The company must have the rights necessary to produce the production and maintain full copyright ownership in the production (subject to an interest held by a prescribed person or a domestic co-producer) for a period of 25 years following the completion of a project. This is not applicable to treaty co-productions.

8.02 Chain of Title Agreements

For each chain of title document, the following information must be listed:

- (a) Agreement Type: List the type of agreement. For example, the agreement may be in the form of an assignment agreement, an option agreement, a writer’s agreement, etc.
- (b) Effective date of agreement: List the date on which the parties to the agreement have mutually determined that it will take effect.
- (c) Names of Assignor and Assignee: List the names of the individuals or entities providing or acquiring rights under the chain of title agreement.
- (d) Rights transferred to assignee: Indicate the nature and extent of the rights transferred to the assignee through the referenced agreement. The final assignee listed must be the production company.

9. Series

9.01 Production Cycle Number

Enter the production cycle number (season) of the series.

9.02 Episode Number

For each episode, list the episode number.

9.03 Episode Title

Where applicable, provide the episode title for each episode. If a title has not been finalized, or the episode will be untitled, indicate “Untitled”.

9.04 ISAN

Where available, provide the ISAN number for each episode.

9.05 Duration

Provide the running time (in minutes) for each episode.

To provide episode information for multiple additional episodes, click on the box “Duplicate for” and indicate the total number of episodes for the series.

10. Personnel

In this section, applicants will list all Canadian or non-Canadian individuals occupying key creative or producer-related positions. To claim Canadian content points for individuals filling key creative positions, the production company must confirm and attest to whether each such individual is Canadian, as this term is defined in section 1106(1) of the Income Tax Regulations.

A CAVCO Personnel Number must be included for each Canadian individual occupying a key creative or producer-related position. For more information on the process by which individuals may apply for this number, see section 4.01 of “Part I – Requirements” of this guide.

Note that for animation productions, three points are awarded based on whether or not the work is performed in Canada. For these three functions (key animation, assistant animation, and in-betweening and layout and background), indicate the location where it was performed by selecting the applicable country from the list of countries in the Location section.

Note that both the key creative points system and the rules regarding producer-related personnel (including the requirement for CAVCO Personnel Numbers) do not apply in the case of a treaty co-production. As well, exemption affidavits are not required for non-Canadian producer-related personnel for treaty co-

productions. Please consult Telefilm Canada regarding the requirements for treaty co-productions.

10.01 Key Creative Positions

Applicants should adhere to the following rules in completing this section:

(a) Where the person is performing a function equivalent to one of the key creative categories, but is being credited under a different position title, select the equivalent key creative position from the list. For instance, someone being credited as “Production Designer” should be included under the position “Art Director”.

(b) All individuals related to the screenwriter function must be listed (see Part I - Requirements, s. 4.06).

(c) Where there is more than one person performing a specific key creative role, ensure that all individuals are listed.

(d) For live action productions, list the top two lead performers by remuneration. For animation productions, list the individual occupying the position for which a point is being granted, whether this is the first or second lead voice by remuneration. See section 10.01.6 to determine whether performer agreements need to be submitted.

(e) In a series where the key creative personnel vary from episode to episode, ensure that all individuals occupying all key creative positions, for any and all episodes, are listed. Note that once numbers and titles of multiple episodes have been identified in the “Series” section of an application, applicants may select which episodes should be linked to each individual.

(f) The point for the camera operator position in animation productions will only be awarded for a Canadian where the work is done in Canada.

10.01.1 CAVCO Personnel Number

Enter the individual’s CAVCO Personnel Number, where he or she is Canadian. Click on “Search”. If the individual has been assigned a CAVCO Personnel Number, his or her first and last names will automatically appear in the “Name” fields directly below the number.

10.01.2 Name

These fields will be automatically filled in where an applicant has provided a CAVCO Personnel Number. In all other cases, list the name of the individual occupying the position. Where more than one person occupies a given position, a new entry should be started for each additional person.

10.01.3 Position

Select the key creative role occupied by the individual.

10.01.4 Remuneration

List the projected or final remuneration (in Canadian dollars) that the individual will receive.

10.01.5 Citizenship

Select the individual’s country of citizenship. For permanent residents of Canada, select the country of their citizenship. You will be prompted to click on a box which will indicate whether or not the individual is a permanent resident of Canada. When selected, the applicant must enter the date on which the individual became a permanent resident of Canada. Note that this field will not appear if a CAVCO Personnel Number has been entered for the individual.

10.01.6 Agreements

For live action productions where the first or second lead performer based on remuneration is non-Canadian, performer agreements for the top 3 lead performers must be included in the Attachments page of the application. For animation productions where the first or second lead voice based on remuneration is non-Canadian, performer agreements for the top 3 lead voices must be included in the Attachments page of the application.

10.02 Producer-related Positions

Applicants should adhere to the following rules in completing this section:

(a) Individuals occupying the positions of producer, co-producer, production manager and line producer **must be Canadian**.

(b) Where a non-Canadian occupies a producer-related role for which an exemption is permitted, an exemption affidavit and contract must be submitted. In addition, there must be an equal or higher number of Canadians occupying positions in the same or higher group, as set out in section 4.11 of “Part I –Requirements” of this guide.

(c) Where more than one person is performing a given producer-related role, ensure that all individuals are listed.

(d) In a series where producer-related personnel vary from episode to episode, ensure that all individuals occupying all such positions, for any and all episodes, are listed. Note that once numbers and titles of multiple episodes have been identified in the “Series” section of an application, applicants may select which episodes should be linked to each individual.

10.02.1 CAVCO Personnel Number

Enter the individual’s CAVCO Personnel Number, where he or she is Canadian. Click on “Search”. If the

individual has been assigned a CAVCO Personnel Number, his or her first and last names will automatically appear in the “Name” fields directly below the number.

10.02.2 Producer Name

These fields will be automatically filled in where an applicant has provided a CAVCO Personnel Number. In all other cases, list the name of the individual occupying this position. Where more than one person occupies a given position, a new entry should be started for each additional person.

10.02.3 Position

Select the producer-related role occupied by the individual.

10.02.4 Producer Remuneration

List the projected or final remuneration (in Canadian dollars) that the individual will receive.

10.02.5 Producer Citizenship

Select the individual’s country of citizenship. For Canadian citizens, select “Canada”. For permanent residents of Canada, select the country of their citizenship. You will be prompted to click on a box which will indicate whether or not the individual is a permanent resident of Canada. When selected, the applicant must enter the date on which the individual became a permanent resident of Canada. Note that this field will not appear if a CAVCO Personnel Number has been entered for the individual.

10.02.6 Producer and Showrunner Agreements

All non-Canadian courtesy credit affidavits or non-Canadian showrunner affidavits must be included in the Attachments page of the application.

As well, other than in circumstances where an individual is clearly acting solely as the representative of a non-Canadian distributor, broadcaster or financier, an agreement must be provided for any non-Canadian occupying a producer-related position.

11. Exploitation

Applicants must provide information for all distribution or broadcast agreements relating to a production. This should include any sub-distribution or licence agreements, particularly where they represent, directly or indirectly, a source of financing for the production, and/or where the terms of the agreement confirm that the production company retains an acceptable share of revenues from the production.

For treaty co-productions, it is generally only necessary to include information on exploitation agreements where they relate to Canadian territory and/or where they represent a funding source for the Canadian production company’s production costs.

11.01 Company Name

List the full registered name of each entity with exploitation rights for the production.

11.02 Company Type

Select the type of company that each entity is: a broadcaster, a distributor, a sales agent or other.

11.03 Exhibition Markets

For each company, select the exhibition format rights it has acquired, from the following list: Theatrical, Non-Theatrical (e.g. educational markets), HV/DTV (direct-to-video), Conventional TV (e.g. CBC/Radio-Canada, CTV), Specialty TV (e.g. Canal D, Showcase, History TV), Pay TV (e.g. The Movie Network, Super Écran), VOD/PPV (e.g. Viewers Choice, Canal Indigo).

11.04 Territorial Markets

For each company, select all the applicable territories for which it has acquired rights, from the following list: Canada, United States, Europe, Asia, Rest of World, World, or any individual country.

11.05 Advance Amount / Licence Fee

Where applicable, list the amount (in Canadian dollars) of the distribution advance or licence fee being given to the production company. Where a broadcaster or distributor has significant exploitation rights, but is remitting an advance or licence fee to an entity other than the production company, such as another distributor, please provide a note clarifying the nature and amount of the transaction in the “Comments” field of this section.

11.06 Date Rights Commence

Provide the date on which the granted exploitation rights begin.

11.07 Term

List (in months) the length of the term for which the rights are granted.

11.08 Comments

If necessary, provide any additional clarification regarding an entity’s exploitation rights.

11.09 Agreements

A copy of the agreement for each listed entity must be included as an attachment with the application.

12. Funding

In this section, applicants should list all financing sources for the production. Note that the CPTC itself should not be included for the purpose of this section.

The full amount of all funding directly attributable to the production should be listed, even where the funding sources combined exceed the total production budget.

For treaty co-productions, list only financing sources required to cover production costs incurred by the Canadian production company.

12.01 Source

List the name of the entity providing the funding. If the production company is providing funding directly, or is reflecting non-deductible expenses or deferrals, enter the production company's name.

12.02 Type

Indicate the type of funding provided. Select from among the following choices: provincial tax credit, services, grant, forgivable loan, government equity, distribution advance, broadcast licence fee, Canada Media Fund-Equity Investment Program, Canada Media Fund-Licence Fee Program, minimum guarantee, operating capital, sponsorship, gap financing, share purchase or bona fide loan.

Non-deductible expenses, labour deferrals and non-labour deferrals should also be reflected in this section.

12.03 Amount

Enter the total amount being received, in Canadian dollars.

12.04 Status

Indicate whether the amount is deferred, pending or secured.

12.05 Description

If necessary, provide additional clarification regarding the nature of the funding being received.

12.06 Agreements

A copy of the agreement with each entity must be included in the "Attachments" section of the application.

Please note that all listed amounts in sections 12 and 13 should be in Canadian dollars, and should not include tax.

13. Costs (Production and Labour Expenses)

In this section, the applicant will provide the total production cost and the total labour expenditures for the production. Amounts may be based on projections where the production is not completed (as is normally the case at the time of a Part A application), or final amounts for productions that have been completed (as will be the case at the time of a Part B application).

For treaty co-productions, only costs incurred by the Canadian production company should be reflected.

13.01 A, B, C and D Costs

Provide the budgeted or final production costs for each of these sections. The four categories should correspond to (A) Above-the-Line costs, (B) Production costs, (C) Post-production costs, and (D) Other costs for the production. Ensure that budget amounts such as "Contingency", which may not be included in the "D" section of a budget, are included in the "D Costs" of this section.

A copy of the finalized budget must also be included with a Part A application.

13.02 Labour Expenditure

Enter the total eligible labour expenditure amount for the production.

13.03 Canadian Cost Summary

For Part B applications only, enter the total Canadian cost of the production as calculated from the Breakdown of Canadian Costs form (see s. 15).

14. Attachments

As part of an application to CAVCO, the following attachments are required:

14.01 Part A applications

- Chain-of-Title Agreements (not required for treaty co-productions)
- Locked Budget
- Financing Agreements
- Exploitation Agreements
- Courtesy credit / Showrunner exemption affidavits (where applicable)
- Agreements for producer-related personnel (where applicable)

14.02 Part B applications

- Review Engagement Report or Audit (where final costs are respectively, between \$200 000 and \$500 000; or more than \$500 000)
- Breakdown of Canadian Costs (Live Action or Animation) (not required for treaty co-productions)
- DVD or VHS copy of the production (sent by mail) (three representative episodes in the case of a series)
- Waiver Declaration Form 01F15 (where applicable)

Please note that for treaty co-productions, the Preliminary and Final Recommendations issued by Telefilm Canada are sent directly to CAVCO.

Where information provided as attachments to the Part A application has changed since the time of the Part A submission, updated documentation must be

provided as part of the Part B submission. Part A/B applications should include all applicable documents found in the two preceding lists.

15. Breakdown of Canadian Costs

This form must only be completed and submitted with Part B applications. There is a separate version for live action productions and for animation productions. A copy of each form is available on CAVCO's Web site at www.pch.gc.ca/cavco. This form is not required for treaty co-productions.

The Breakdown of Costs form must be completed to ensure that the expenses incurred for the production of a film or video meet the requirements of subsection 1106(4) of the Income Tax Regulations regarding the minimum overall Canadian spend relating to certain production and post-production services. Production costs are divided into four categories: Producer / Key creative personnel expenses, Services costs, Laboratory / Post-Production costs, and Other expenses. Only in the Services and Laboratory categories is the breakdown required based on costs being Canadian or non-Canadian.

For a television series or a collection of films, although only one Breakdown of Costs form is generally required, each of the episodes in the series or each of the films in the collection must meet the minimum cost requirements of the Regulations. In certain cases, CAVCO may ask that a Breakdown of Costs form be completed for each episode.

15.01 General Categories of Expenses

(a) Producer

This category includes the remuneration, including travel and living expenses and fringe benefits, of the Canadian producer(s) and co-producer(s). All other individuals occupying producer-related functions, such as an associate producer or an executive producer, should be listed in the Services category.

(b) Key creative personnel

This category includes the remuneration, including travel and living expenses and fringe benefits, for all individuals occupying key creative positions for the production (see Part I, s. 4.02). Payments to assistants to these individuals, or to those acting in subordinate roles in the same key creative department, must be included in the Services or Laboratories category, as the case may be.

(c) Services

Not less than 75% of the total of all costs for services provided toward producing the production (other than excluded costs) must be payable to, and for services provided to or by individuals who are Canadian. Excluded costs are: (a) costs determined by reference to the amount of income from the production; (b) remuneration payable to, or in respect of, the

producer or key creative personnel; (c) amounts payable for insurance, financing, brokerage, legal and accounting fees, and similar amounts; and (d) costs for the post-production stage. Note that for an animation production, the costs associated with positions entitling the production to a point based on the place where the work is done are not considered to be excluded costs.

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

A travel or living expense is Canadian when it is incurred for a Canadian individual. If, for instance, expenses are incurred for a Canadian to travel on a non-Canadian airline and stay in a hotel abroad, these expenses will be treated as Canadian. If these same expenses are incurred for a non-Canadian – even if paid to a Canadian airline or hotel, for instance – they are deemed to be in the non-Canadian category, as they are incurred for a non-Canadian.

The Services category also includes royalties paid for story rights, music rights or stock footage, as well as costs related to equipment rentals or location and office expenses. Also included in this category are purchases of raw stock, videotape and magnetic tape 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.

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

(d) Laboratories

Not less than 75% of the total of all costs incurred for the postproduction of the production, including laboratory work, sound rerecording, sound editing and picture editing must be incurred for services provided in Canada. Excluded costs are: (a) costs determined by reference to the amount of income from the production; (b) remuneration payable to, or in respect of, the producer or key creative personnel; (c) costs for services; and (d) amounts payable for insurance, financing, brokerage, legal and accounting fees, and similar amounts.

This category includes all expenses for laboratory and postproduction work and which is paid in the form of remuneration for services rendered in Canada. It also includes all services provided by individuals and companies during the post-production work, as well as associated rental costs.

All such services provided in Canada, whether or not they are provided by a Canadian, are categorized as "Canadian." All such services provided outside Canada, even where provided by a Canadian, are categorized as "non-Canadian."

(e) Other expenses

Included in this category are all expenses excluded from the preceding categories, such as insurance, legal services, auditing, corporate overhead, interim financing and interest fees.

15.02 Completing the Breakdown of Costs Form

All remuneration and/or expenses incurred for a given account should be entered in the correct column(s) as designated by the clear cells within the row. Note that grayed-out areas on the form must not be filled in. All service or laboratory costs must be divided into either Canadian or non-Canadian costs and entered in the appropriate column.

Where one account provides for the possibility of entries being made within both the Producer / Key Creative column and an additional column, costs related to claimed 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.

15.03 Exceptions

For other account items which allow for entries in more than one column, the following additional guidance is provided:

(a) Live Action Productions:

27. Fringe benefits

- Producer/Key Creative column for amounts paid to Director of Photography (Lines 21 or 22)
- Services column for amounts paid to all other personnel in accounts 12 to 26

33. Travel and living expenses

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

50. Videotape stock

- Services column for videotape and magnetic master stock used for principal photography, dailies screenings and continuity/production stills
- Laboratory column for materials used to transfer film to video, sub-masters with time code, viewing copies, etc.

51. Production laboratory

- Services column for purchase of raw film stock, magnetic master stock for principal photography, rushes/dailies screenings and continuity/production stills
- Laboratory column for costs related to negative processing, vacuumate, work print, video cassettes (rushes), take selection, magnetic transfer, synchronization, edge coding, etc.

69. Amortization (series)

- Costs related to the amortization of television series should be entered in the Producer/Key Creative, Services, Laboratories or Other columns, according to the nature of the expenses. CAVCO reserves the right to require a full itemized breakdown of the amortized expenses.

(b) Animation Productions:

27. Fringe benefits

- Producer / Key Creative column where fringe benefits paid to the storyboard supervisor, first or second voice (or first or second performers), design supervisor, picture editor, and camera operator.
- Services column where fringe benefits paid to personnel of accounts 10 to 26 [excluding accounts 15, 16, 17, and benefits already included at item 27(i) above]
- Laboratory column where fringe benefits paid to personnel of accounts 15, 16, and 17 [excluding benefits related to the picture editor already included in item 27(i)]

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, 16, 17, and expenses already included in 28(i)]
- Laboratories column where related to personnel of accounts 15, 16, and 17 [excluding expenses related to the picture editor already included at item 28(i)]

33. Production laboratory

- Services column, for purchase of raw stock, master videotape and magnetic master stock for shooting of principal photography, rushes/dailies screenings and continuity/production stills
- Laboratory column where costs related to negative processing, vacuumate, work print, video cassettes (rushes), take selection, magnetic transfer, synchronization, edge

coding, transfer of film to video, sub-masters with time code, viewing copies, etc.

52. Amortization (series)

Enter costs related to the amortization of television series in the Producer/Key Creative, Services, Laboratories or Other column(s), according to the nature of the expenses. CAVCO reserves the right to require a full itemized breakdown of amortized expenses.

16. Audits and Review Engagement Reports

An audited Schedule of Production Costs is required at the Part B stage for all productions with a final cost of \$500 000 or more, while a Review Engagement Report – as defined in sections 8100 and 8200 of the Canadian Institute of Chartered Accountants (“CICA”) Handbook – is required for productions with a final cost of \$200 000 to \$499 999. For productions with a final cost of less than \$200 000, the producer will confirm the final production cost amount as part of the Attestation made for an application.

Note that audits and review engagement reports must be included with an application and must contain the required information, including explanatory notes, set out below. Reports which do not conform to the guidelines outlined herein will not be accepted.

16.01 General

The auditor must be a Licensed Public Accountant in Canada and must be an independent third party, not related to the producer.

The auditor's report must be addressed to the party which has engaged the auditor - that is, to the directors of the production company and/or the specific producer(s) of the production. The auditor's name, address and telephone number must be listed and the auditor's 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 have sufficient knowledge of accounting principles and practices generally recognized in the film and television industry.

16.02 Identification of the Production

The title of the production and, where applicable, the episode numbers, must be disclosed. The title of the schedule must indicate the type of costs reported: "Schedule of Production Costs" means the standard schedule of negative costs. The period during which the costs were incurred must be disclosed.

16.03 Cost Report

The cost report included as part of either a full audit or a review engagement report must be in Canadian dollars and should generally conform to the line items in the standard Telefilm budget template as much as possible. Alternatively, CAVCO will accept that the auditor present the results of the audit on CAVCO's Breakdown of Costs form as long as the audited Breakdown of Costs is accompanied by the required standard disclosures and explanatory notes as set out herein.

Only expenditures which were incurred for the specific production can be recorded as production costs; these must be charged to the proper budgetary 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 amount reported must be net after rebate). As well, amortization of series costs must be allocated to specific cost categories.

16.04 Notes Requirements for the Cost Report

As supporting notes for either an audit or a review engagement report, producers should include the following items:

(a) Sources of funds

All sources of funds used to finance the production must be disclosed, including any non-monetary transactions (as defined in section 3831 of the CICA Handbook) included in the cost of the production. 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 that effect.

(b) Non-Canadian costs

The notes to the Schedule of Production Costs must provide a breakdown of all non-Canadian costs, including the budget item and the amount of the transaction. Production costs incurred in foreign currencies must be converted into Canadian dollars at the rate of exchange in effect at the time of transaction.

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

(c) Accounts payable, accrued charges and deferrals
All accounts payable, accrued charges and deferrals must be presented separately. If there are no accounts payable, accrued charges or deferrals, the cost report must include a note to that effect.

(d) Related party transactions

The notes to the Schedule of Production Costs must provide a breakdown of all related party transactions (as defined in section 3840 of the CICA Handbook), and include:

- a) the name of the related party;
- b) the nature of the relationship between the related party and the production company;
- c) the nature of the transaction; and
- d) the amount of the transaction.

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

17. Exemption Affidavits

Where required, a copy of each notarized exemption affidavit for non-Canadian producer-related personnel and Showrunners must be included as an attachment with the application.

It is essential that all sections of each affidavit be completed; as well, the contents of the affidavit should not be modified. While the producer may include a copy of an affidavit as part of an application, the original should be kept on file, as it may be requested by CAVCO.

18. Additional Requirements

18.01 Attestation

As part of both a Part A and Part B submission, the applicant organization must provide a signed Attestation confirming the accuracy of all information

provided in the application. It includes confirmation that the corporation is a qualified corporation, and that the production will comply or has complied with the requirements of the *Income Tax Act* and Income Tax Regulations related to the CPTC program.

The attestation page must be sent to CAVCO with a cheque for the required fee (and a DVD/VHS copy of the production at the Part B stage) as soon as possible after completing an application.

Note that a signed Attestation must be submitted for each production company in a domestic co-production.

18.02 Proof of Production Completion

As part of a Part B submission, a final copy of the production must be submitted in DVD format. If DVD is not available, VHS format is acceptable. Note that the submitted version must contain head and/or tail on-screen credits.

18.03 Fee

A fee is required for each application to CAVCO. It is based on the Eligible Production Cost amount for the production. Note that once an application is completed, the Eligible Production Cost amount can be found in the "Financial Summary" section of the "Costs" page in the application.

The application fee is calculated as follows:

- a) Part A: 0.15% of the Eligible Production Cost amount
- b) Part B: 0.15% of the Eligible Production Cost amount
- c) Part A/B: 0.30% of the Eligible Production Cost amount (with a minimum fee of \$200)

* * *

Part III

Definitions

Action/Adventure: A production genre in which the story revolves around or emphasizes danger and unknown risks, and in which physical force predominates. It is a genre that tends to have broad international appeal.

Adult: A target audience consisting of individuals aged 18 and older.

Advertising: A production which includes: (a) any commercial intended to sell or promote goods, services, natural resources or activities and includes an advertisement that mentions or displays in a list of prizes the name of the person selling or promoting these goods, services, natural resources or activities (also "commercial message"); (b) any infomercial, promotional, or corporate video program exceeding 12 minutes, which combines information and/or entertainment with the sale or promotion of goods or services into a virtually indistinguishable whole. This includes videos and films of any length produced by individuals, groups and businesses for public relations, recruitment, etc.

Advertising also means any commercial message and programming that promotes a station, network or program, but does not include: (a) a station or network identification; (b) the announcement of an upcoming program that is voiced over credits; (c) a program that consists exclusively of classified announcements, if the program is broadcast not more than once during a broadcast day and lasts not more than one hour; or (d) a promotion for a Canadian program or a Canadian feature film, notwithstanding that a sponsor is identified in the title of the program or the film or is identified as a sponsor of that program or that film, where the identification is limited to the name of the sponsor only and does not include a description, representation or attribute of the sponsor's products or services.

Animation: A production type that consists of the creation of a sequence or series of graphic images or frames together to give the appearance of continuous movement.

Anthology: A group of several television programs (three or more) whose continuity is shown by at least two of the following characteristics: a single writer or theme (a specific topic, not just a narrative genre), a single setting (the same type of character interaction or background where the action takes place), or one or more principal characters.

Art Director: The head of the art department for a production, the individual is in charge of a production's artistic design, which consists of everything that appears on the screen, including sets, costumes and properties, and is generally

responsible for the conception, planning and supervision of the overall visual design of the production. An individual performing this function may also be known as a Production Designer.

Assistance: Refers to financial assistance received from a public or private Canadian source, or from a private foreign source, where it is in the form of a grant, subsidy, provincial tax credit, forgivable loan, contribution, service, advance or similar source of funding. Funding deemed assistance is deducted from the total production cost in calculating the eligible production cost for a production (see *Income Tax Act* s. 12(1)(x)).

Bona Fide Loan: A production loan which includes a clear maturity date and fixed repayment obligations which are not contingent on a possible future event, such as revenues from exploitation of the production.

Canada Wordmark Screen Credit: A credit composed of both the official "Canada Wordmark", and the wording "The Canadian Film or Video Production Tax Credit". The credit, acknowledging the financial participation of the Government of Canada through the CPTC program, should appear on all domestic and international versions of a production, and in all related advertising, publicity and promotional materials.

"Canadian" (for producer / key creative points assessment): An individual who, at all relevant times, is a Canadian citizen as defined in the *Citizenship Act*, or a permanent resident within the meaning assigned by the *Immigration and Refugee Protection Act* (see *Income Tax Regulations* s. 1106(1)).

"Canadian" (for production company control assessment): 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 for not more than one year after the time at which he or she first became eligible to apply for Canadian citizenship, (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 for which there has been no determination made under subsection 26(2.1) or (2.11) or declaration made under subsection 26(2.2). (see pt. I, s. 2.02)

Canadian Citizen: An individual who is Canadian by birth or naturalization, as further defined in subsection 2(1) of the *Citizenship Act*.

Canadian Content Certification Audit: An audit jointly administered by the Canada Revenue Agency and CAVCO. It consists of a more detailed review by the CRA of selected productions previously certified by CAVCO, to ensure that the production meets the requirements of the CPTC program.

Canadian Content Points: Points awarded when a key creative position is occupied only by one or more individuals who are Canadian. Other than for a treaty co-production, or for a documentary where fewer than the minimum number of points are available, a production must obtain a minimum of 6 points to be eligible under the CPTC program.

Canadian Film or Video Production: A film or video production, other than an excluded production as defined by regulation, of a prescribed taxable Canadian corporation, and that is either a treaty co-production or a film or video production that meets the requirements of the Income Tax Regulations (see s. 125.4(1) of the *Income Tax Act* and ss. 1106(4) to (9) of the Income Tax Regulations.)

Canadian Film or Video Production Certificate: Also known as a Part A certificate, confirms that a production is a Canadian film or video production, and estimates the qualified labour expenditure of a production, for the purpose of calculating the tax credit. A Part A certificate is generally issued prior to, or during the early phase of the production of a film or video (see s. 125.4(1) of the *Income Tax Act*.)

Certificate of Completion: Also known as a Part B certificate, confirms that a CPTC-eligible production was completed within the prescribed time frame for Part B certification (30 months from the corporation's first fiscal year end following commencement of principal photography, or 48 months from this date where the Waiver Declaration for a Part B application has been completed in respect of the production). (see section 1106(1) of the *Income Tax Regulations*.)

Chain-of-title: The documentation establishing that the copyright owner in a film or video production has acquired the underlying rights to the extent necessary to create the production, and will be the exclusive worldwide copyright owner in the production for the 25-year period beginning at the earliest after the production was completed and commercially exploitable.

Children: A target audience consisting of individuals between the ages of 6 and 12.

Comedy: A work in which the overall intent is to

amuse the audience. Although many works in many genres may contain humorous moments, a production is considered to be a comedy when the intent and the expression of the plot itself is humorous, or when the tone of the entire work is overwhelmingly comic (ex: romantic comedy, stand-up, sketches, improvisation, comedy performances, sitcoms).

Completion Date: The date on which a production, or each episode in a series, is completed and commercially exploitable.

Compliance Audit: Occurs where an application is submitted to CAVCO's Compliance Committee, in circumstances where the initial review by an analyst determines that a production may not be eligible under the CPTC program.

Corporate Production: A production that combines information and/or entertainment with the sale or promotion of goods or services into a virtually indistinguishable whole. This television program category includes videos and films of any length produced by individuals, groups and businesses for public relations, recruitment, etc.

CRTC: or, the Canadian Radio-television and Telecommunications Commission, is an independent public organization that regulates and supervises the Canadian broadcasting and telecommunications systems. One of its roles is to perform Canadian content certification of productions in a manner similar to CAVCO. Information regarding the CRTC's certification process and eligibility requirements is available on the CRTC's Web site at www.crtc.gc.ca.

Current Events Programming: Includes the reporting on any subject of timely and current interest, consisting primarily of news analysis, in-depth reviews, investigative journalism, infotainment, event analysis, discussions or presentations of subjects relating to local, national or international issues or events, or information relating to public policies, services, or programs. Such programming may feature a variety of formats, including live or pre-recorded news reporting, interviews, debates, round-table discussions, documentary segments, open forums and panel discussions.

Deferral: A production cost, whether labour or non-labour related, which represents a contingent liability for a production company – i.e. the eventual payment is contingent upon the occurrence of a possible event, such as revenue generation from a production's exploitation. Deferrals are excluded from the production's eligible production cost.

Denial of Certification: Occurs where a production is not a Canadian film or video production, pursuant to either a Part A or Part A/B review by CAVCO.

Director (of a film or video production): Overall head of a work; person in charge of all technical and artistic aspects involved in making an audiovisual production.

Director (of a corporation): An individual elected by the shareholder(s) of a corporation to supervise the management of the corporation.

Director of Photography (DOP): The individual(s) in charge of the camera and lighting crews working on a film and is responsible for achieving artistic and technical decisions related to the image. When there is no DOP, the Technical or Lighting Director takes precedence as the key creative position over Camera Operator.

Docudrama: A type of documentary that deals with a subject by including fictional elements. Docudramas are usually made for television.

Documentary: An original work of non-fiction, primarily designed to inform but which may also educate and entertain, providing an in-depth critical analysis of a specific subject or point of view.

Domestic Co-production: A Canadian film or video production in which two or more prescribed taxable Canadian corporations jointly own copyright. Generally, each domestic co-producer is based in a different Canadian province or territory.

Drama: A production of a fictional nature, including dramatizations of real events. They must be comprised primarily of dramatic performances.

Editor: The individual(s) responsible for synchronizing and cutting together a work's various visual and sound elements recorded at different times, whether in a studio or elsewhere.

Educational: A production genre which is generally a non-theatrical work intended for teaching and related informational purposes. Educational work includes classroom films and videos, historical recreations and dramatizations primarily intended to educate rather than entertain.

Eligible Production Cost: An amount equivalent to 60% of the total production cost net of assistance, deferrals and non-deductible expenses. One of two amounts (the other being

the net labour expenditure) used as the basis for calculating the tax credit to which an eligible production is entitled.

Excluded production: A production where:

- a) A Part B application has not been submitted within the prescribed time frame;
- b) A Part B certificate has not been issued within the prescribed time frame;
- c) Except where a production is a treaty co-production, neither the corporation nor another prescribed taxable Canadian corporation related to it is the exclusive worldwide copyright owner of the production, or controls the initial licensing of commercial exploitation of the project;
- d) There is no confirmation from a Canadian distributor or CRTC-licensed broadcaster that the production will be shown in Canada within two years of it being completed;
- e) There is distribution made in Canada, within the two-year period following its completion, by an entity that is not Canadian; or
- f) The production falls within the list of genres which are ineligible under the CPTC program.

(See section 1106(1) of the Income Tax Regulations.)

Fantasy: A production genre generally set in a netherworld where events trespass physical laws and the bounds of human possibility, mixing the otherwise separate worlds of the natural and the supernatural, where the protagonist often undergoes mystical experiences.

Feature: A production that is feature-length (75 minutes or more).

Forgivable Loan: A loan provided to the production company, where there is not a fixed obligation for re-payment; it is generally contingent upon a possible future event such as revenues through exploitation of the production. Forgivable loans are normally treated as assistance.

Form: Refers to the exhibition slot and duration of a production, such as Feature Film, MOW and series.

Gala Presentation / Awards show: Programming which consists of one or more hosts and one or more nominees and/or featured guests who receive awards or recognition for

their performance, work, services or other function.

Game Show: A program featuring games of skill and chance, as well as quizzes. **Note:** Productions of this genre directed at minors are eligible; however, programming that uses or features copyrighted and commercially available goods, such as games or other products directed primarily at minors, whether sponsored or not, are ineligible.

Genre: Recognizable pattern of storytelling that is readily understood by audiences. Genres are recognizable primarily by content, and to a lesser degree by style. They contain conventions of narrative strategy and organizational structure, using similar themes, motifs, settings, situations, and characterizations.

Historical Drama: A production genre which is a fictionalized work set in a certain specified time in the past.

Horror: A production genre portraying the dark side of life, the unknown, the forbidden and the supernatural, with the primary aim of frightening the audience in an entertaining, cathartic manner.

Industrial or Institutional Production: A production made to meet the specific industrial, corporate or institutional needs of the commissioning entity. Such productions are usually, but not exclusively or necessarily, instructional, educational, descriptive of the commissioning group's activities and/or internal organization, or promotional in scope. They may employ fictional sequences or documentary techniques as a means to illustrate or emphasize specific points. Such productions are not generally suitable for theatrical distribution or television broadcast. This kind of production may also include curricula-based programming.

Instructional: A production genre involving programs which present information on recreation, hobby and skill development, recreational sports and outdoor activities, travel and leisure, employment opportunities, and talk shows of an information ("how-to") nature.

ISAN Number: The International Standard Audiovisual Number is a unique international identifier for audiovisual works, which provides a permanent reference number for each registered work. More information is available on ISAN Canada's website at www.isan.ca.

Labour Expenditure: refers to the production costs of a qualified corporation which relate to eligible labour expenses. A labour expenditure must be reasonable in the circumstances; be

included in the cost or, in the case of a depreciable property, the capital cost to the corporation, of the property; be incurred for the stages of production of the property from the production commencement time to the end of post-production stage; and be directly attributable to the production of the property. It also must be incurred in respect of a Canadian citizen and/or Canadian resident (See s. 125.4(1) of the *Income Tax Act*.)

Lead Performer: The individual(s) with a leading role in a production having regard to the performer's remuneration, billing and time on screen; or, for an animation production, 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. A performer engaged to speak lines of dialogue or mime a scene, or whose performance consists in interpreting a character, even where there is no dialogue. Performers, singers, dancers, etc. can also be considered lead performers depending on the genre of production. In some productions, the lead will usually be the host, the moderator, the quizmaster, the narrator, the commentator and/or the interviewer (a performer engaged to perform narrative material or commentary on- or off-camera), a featured performer or subject in a production within the lifestyle/human interest genre, off-camera performer (a performer other than the narrator or commentator engaged to perform a role in a dramatic work off-camera), or the actor who performs or reads the voice of a character in a film or animated production. (See Part I section 4.05)

Lifestyle / human interest: A non-fiction production genre which includes the presentation of real situations or events in a manner which is generally contrived or dramatized; productions of this genre may be competitive or non-competitive in nature.

Line Producer: The line producer ensures that all production unit members apply the predetermined creative and technical parameters, in compliance with the schedule and production budget. The line producer reports to the producer on the progress of the shooting so that the producer can make the necessary decisions. This person is accountable only to the producer.

Live Action: A production type, in broadcasting and filmmaking, involving the use of real people or animals (as opposed to an animated production).

Magazine: A production genre covering disparate but contemporary topics that may

include lifestyle programming, culture, instruction and entertainment.

Market: A geographical and/or technological area of demand for an audio-visual work that includes **exhibition market** (television, theatrical, etc.), **linguistic market** (English, French, etc.), and **territorial market** (Canada, United States, United Kingdom, etc.)

Medium: The technological medium on which the production is recorded or delivered, such as 16mm, 35mm, 70mm, HD, DV or Video.

Mini-Series: A form of production generally defined as six or fewer episodes, handling a subject matter in its entirety and in a manner resulting in some conclusion. Differing from a series, the intention is that the mini-series will not be renewed.

MOW: An individual fictional work of feature length presented on television, and which is not part of a regular series or mini-series, also known as a Made for Television Movie (MFT).

Musical: A production genre whose plot is structured around segments featuring combinations of music, song, and dance.

Music Composer: The individual(s) responsible for composing the original music used in a production.

Net Labour Expenditures: Refers to the labour expenditures once any deferred labour amounts are deducted from the total labour expenditures. The lesser of this amount and the eligible production cost is the amount used as the basis for calculating the tax credit to which an eligible production is entitled.

Net Production Cost: Refers to the total production cost, once amounts deemed assistance, as well as deferrals and non-deductible expenses, are deducted. The eligible production cost amount is calculated by multiplying the net production cost amount by 60%.

News: includes newscasts, newsbreaks, and headlines, programs reporting on local, regional, national, and international events. Such programs may include weather reports, sportscasts, community news, and other related features or segments contained within news programs.

News, current events or public affairs programming, or a program that includes weather or market reports: See definitions for

“News”, “Current Events Programming” and “Public Affairs Programming”.

Non-deductible Expenses: Costs that are not allowed as business expense deductions for a corporation. Examples of these are (a portion of) catering, meal or entertainment expenses.

Officer (of a Production Company): An individual appointed by the director(s) of a corporation to manage its day-to-day business.

One-off: is a television program that is a stand-alone, single production, other than a pilot, that is not part of a series or any other type of production. Also referred to as a “Special”.

Performing Arts: A production genre composed of live or pre-recorded performances of traditional and popular music, opera, operetta, musicals, taping of live stage plays, ballet and other forms of dance or performing art.

Permanent Resident: An individual as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*.

Pilot: A production, similar to a “special,” that is produced as a forerunner to a television series. It is produced to secure the interest and eventual financing of broadcasters and other participants for the production of a series or anthology.

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

Post-Production: refers to the set of activities that follow the shooting of a film, television program or video, including editing, special effects, mixing of soundtracks and dubbing.

Pre-Production: refers to the step that precedes the shooting and that includes writing the final version of the script, hiring performers and crew, choosing settings, scouting locations and determining the shooting schedule and final budget.

Pre-School: A target audience consisting of individuals aged 2 to 5.

Prescribed Amount: An amount paid under the Licence Fee Program of the Canada Media Fund. Such an amount is not treated as assistance in the calculation of the eligible production cost of a production (see section 1106(11) of the Income Tax Regulations.)

Prescribed Person: includes a corporation holding a CRTC-issued broadcasting or broadcast-undertaking licence, a non-profit

organization with a fund used to finance Canadian film or video productions, a Canadian government film agency, a non-resident person whose interest in a production is acquired to comply with the certification requirements of a treaty co-production twinning arrangement, or a registered charity that has a fund used to finance Canadian film or video productions. These are generally the only entities, other than the production company or a domestic co-producer, that can have an ownership interest in a production, and/or who can provide investments directly in a production. See s. 3.04 of the guide and s. 1106(10) of the Income Tax Regulations.

Prescribed Taxable Canadian Corporation: A corporation that is Canadian-controlled per the requirements of sections 26 to 28 of the *Investment Canada Act*, and that is not controlled directly or indirectly in any manner whatsoever by one or more persons, all or part of whose taxable income is exempt from tax under Part I of the *Income Tax Act*, or a prescribed labour-sponsored venture capital corporation, as defined in section 6701 of the Income Tax Regulations. A production company applying to the CPTC program must be a prescribed taxable Canadian corporation (see section 1106(2) of the *Income Tax Regulations*.)

Principal Photography: The phase of film production during which the movie is actually shot, as distinct from pre-production and post-production. Principal photography begins with the first day of shooting of significant scenes which involve the main photography unit, e.g. in drama, scenes with actors rather than simple establishing shots. For animation, it is specified as being the beginning of key animation.

Producer: is the individual(s) who
(a) controls and is the central decision maker in respect of a production;
(b) 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
(c) is identified in the production as being the producer of the production.

The head producer(s) for a production must be Canadian, for a production to be eligible under the CPTC program (See s. 1106(1) of the Income Tax Regulations.)

Production: refers to the activities involved in making a television program / series, or a feature film. Production includes pre-production, principal photography and all subsequent shooting, post-production and follow-up once the production has been completed. The term

“production” also refers to a product such as a television program / series or a feature film.

Production Company: A company whose main activity is developing, producing and completing audiovisual productions.

Production Commencement Time: The date which is the earlier of:

(a) The commencement of principal photography / key animation; or, (b) The latest of: (i) the first script labour expenses; (ii) rights acquisition; (iii) 2 years before commencement of principal photography / key animation.

Production in respect of a game, questionnaire or contest (other than a production directed primarily at minors): Please see “Game Show.”

Production Manager: The specialist in charge of the management and administration of a production. The production manager updates the shooting schedule on a daily basis and takes care of renting locations, equipment and properties, hiring extras and organizing transportation, hotel reservations and catering services.

Production, other than a documentary, all or substantially all of which consists of stock footage: A production, other than a documentary, that consists of repackaged or adapted versions of previously produced programs, and which is not linked by an original narrative and visual construction, unless such footage originated with the same production entity and constitutes a series’ “best-of” production.

Production produced primarily for industrial, corporate or institutional purposes: See definitions for “Industrial or Institutional Production” and “Corporate Production”

Production that solicits funds: A production that, irrespective of content, includes a portion aimed at raising funds or soliciting contributions.

Public Affairs Programming: A production that consists of live or pre-recorded presentations, interviews or discussions about public policies or programs, or social, political and/or economic issues.

Qualified Corporation: as determined by the CRA, is a corporation that is, throughout a given taxation year, a prescribed taxable Canadian corporation, the activities of which are primarily the carrying on through a permanent establishment (as defined by regulation) in

Canada of a business that is a Canadian film or video production (as defined by regulation) business (See s. 125.4(1) of the *Income Tax Act*.)

Qualified Labour Expenditure: is equivalent to the lower of the following two amounts in respect of a production: (a) the eligible production cost; and (b) the net labour expenditure. This amount is multiplied by 25% to determine the tax credit amount the corporation will receive in respect of an eligible Canadian film or video production (See s. 125.4(1) of the *Income Tax Act*.)

Reality Television: See **Surveillance Television**.

Religion: A production genre dealing with religion and religious teachings, as well as discussions of the human spiritual condition.

Revocation: can occur at either the Part A or Part B certificate, where CAVCO determines that an omission or incorrect statement was made for obtaining the certificate(s) originally, or where for any reason, the production is found not to be a Canadian film or video production.

Science Fiction: A production genre involving a work that relies on some type of advanced technology, scientific development, or encounter with alien life to make the narrative possible.

Screenwriter: An individual who writes a script. See **Script**.

Script: A script, whether an original work or an adaptation, is a written work detailing the story, ideas, setting, characters' actions and development, and dialogue, as well as technical instructions for the shots, scenes and sequences or, in the case of a documentary, the chronology of relevant facts and events, as well as any narration. It may be altered in shooting. Terms used to describe different types of scripts vary within the television and film industries. It may be known as a screenplay for a feature film script or as a teleplay for a television script.

Scripts are generally developed in several stages: a) synopsis (summary of the script); b) treatment or step outline; c) script (description of all scenes, with dialogue); d) shooting script (detailed instructions for shooting the script); e) storyboard (drawings illustrating the script).

Series: A production form consisting of two or more episodes shown on television on a daily or weekly schedule. The episodes may have in common the same cast and crew or the same environment or background to all episodes. In

contrast to a "mini-series," the intention is that the series can be renewed.

Shareholder: An individual or entity that is an owner in a corporation by virtue of holding shares in it. There may be more than one class of shares, with differing conditions and rights attached to each class. CAVCO requires that a production company provide proof regarding the citizenship of each shareholder, due to the fact that the company must have the majority of its voting shares held by Canadians.

Showrunner: generally refers to an individual who is responsible for the day-to-day operations of a television series at a financial and/or creative level. Under the CPTC program, a non-Canadian individual is permitted to perform showrunner services in limited circumstances; it must be established that all duties are carried out under the direction and control and with the full knowledge of the Canadian producer.

Sports / Sports event or activity: Programs of live or live-to-tape sports events and competitions including coverage of professional and amateur tournaments. Also includes programs reviewing and analyzing professional or amateur competitive sports events/teams, i.e. pre- and post-game shows, scripted sports, call-in and talk shows, etc.

Stock footage: Includes footage originally shot for other purposes and may include archive footage, library pictures, and file footage.

Surveillance Television: A production that consists of scenes recorded on private or public authority surveillance equipment. This program television category also includes programming currently known as court television and similar formats.

Talk Show: Programming which primarily consists of one or more hosts and guests who provide personal, ad lib, unscripted viewpoints, opinions or experiences. Such programming may incorporate elements of other genres, including but not limited to live or recorded variety shows and musical acts and is typically, but not necessarily, shot in one location and may include experts and audience members.

Target Audience: A group of people for which a product was initiated, e.g. pre-school children, children, youth, adults.

Thriller: A work frequently related to the crime genre in that the subject is usually some aspect of criminal activity with the narrative concentrating on suspense as an individual or

group is placed in a dangerous situation whose outcome hinges on sudden reversals of fate.

Total Production Cost: refers to all costs which have been incurred for the production owned by the corporation.

Treaty Co-production: A co-production between a Canadian producer and one or more foreign producers, which is produced under the terms of a treaty. Telefilm Canada administers international agreements governing treaty co-productions (see s. 1106(3) of the Income Tax Regulations).

Type: refers to a production process that uses either live action or animation techniques.

Variety: A production genre containing primarily performances of mixed character (not exclusively music or comedy performances) consisting of one or more artistic acts or performances, such as singing, dancing, acrobatic exhibitions, comedy sketches, monologues, magic, or stand-up comedy.

Version: implies that more work is done to modify the original production. This may include an alternate foreign version or linguistic version. The act of creating another version is called "versioning."

Youth: A target audience consisting of individuals aged 13 to 17.

End of Document