

Update

Entertainment Law

July 10, 2009

Ontario and Quebec Enhance Production Services Film Tax Credits: Base Increased to Include All Production Costs

The Governments of Ontario and Quebec recently made significant positive changes to their respective production services film tax credits – changes which will directly benefit non-Canadians who choose to produce film and television productions in these provinces. In an effort to encourage more foreign service production in the province of Quebec, the Quebec Minister of Finance, Raymond Bachand, announced on June 12, 2009 that the 25% Quebec Refundable Tax Credit for Film Production Services (“QRTCPS”) would henceforth apply to all qualifying production costs incurred in Quebec with respect to a qualified production, as opposed to only qualifying Quebec labour costs. Ontario was quick to follow Quebec’s lead. On June 29, 2009, Dwight Duncan, the Ontario Minister of Finance, announced that the 25% Ontario Production Services Tax Credit (“OPSTC”) will apply to all qualifying production costs incurred in Ontario after June 30, 2009 including both qualifying labour and non-labour related costs incurred in the province.

These tax credit enhancements recognize the continuing importance of the film industry to the respective Ontario and Quebec economies, and

will facilitate Ontario and Quebec remaining among the top jurisdictions in North America for film and television production. While the QRTCPS and OPSTC rates remain unchanged at 25%, the “all spend” concept introduced by the provinces marks a significant increase in the amounts of the respective tax credits which are available to non-Canadian producers who film in Ontario or Quebec, by broadening the tax base of each respective tax credit to include all of the production costs incurred in the respective province, including expenditures for studio rentals and equipment purchases in addition to labour related expenses. Since labour costs often account for only about 50% of total production spend, these measures will greatly enhance the value of these provincial production services film tax credits to foreign producers who locate their productions in Ontario or Quebec.

In conjunction with the QRTCPS announcement, the Quebec government also introduced a 5% increase in the tax credit rate for computer-aided special effects and animation activities, including the shooting of scenes in front of a chromatic screen (i.e. green screen). All-spend production costs directly attributable to these computer animation and vfx expenditures are now eligible for a combined 30% tax credit rate (i.e. 25% of the qualifying “all spend” QRTCPS costs plus an additional 5% bonus). In Quebec, foreign producers which outsource visual effects or digital animation work to local Quebec animation or special effects houses can claim these expenditures directly under the “all spend” QRTCPS at the enhanced 30% rate. In contrast, the Computer Animation and Special Effects Tax Credit (“OCASE”) in Ontario, which is equal to 20% of qualifying computer animation and vfx labour expenditures, is normally claimed by the visual effects or animation studio that performs the eligible work for the foreign producer. That

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said, a foreign producer producing in Ontario is not precluded from claiming both the 25% OPSTC “all spend” credit and the OCASE credit on any qualifying visual effects expenditures which it incurs directly (e.g. filming in front of a green screen).

For further information, links to the [Ontario](#) and [Quebec](#) announcements are provided. If you would like to know more about this matter or have any questions with respect to the foregoing, please do not hesitate to contact any member of our Entertainment Law Group:

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