ONTARIO BOOK PUBLISHING TAX CREDIT (OBPTC)

GUIDELINES

Updated as of FEBRUARY 2017
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The February 2017 version of the Guidelines has been updated to advise of the new tax credit administration fee structure, effective April 1, 2017.

I. INTRODUCTION

THE GUIDELINES

These Guidelines have been prepared to assist applicants in applying for an Ontario Book Publishing Tax Credit (OBPTC). The OBPTC Legislation (Section 95 of the Taxation Act, S.O. 2007) and Regulations (Ontario Regulation 37/09) take precedence over any provision of these Guidelines.

OVERVIEW OF THE OBPTC

This section sets out the key features of the OBPTC. For a complete list of the applicable requirements, please consult the subsequent sections of these Guidelines and the OBPTC Legislation and Regulation.

What Is It?

The OBPTC is a refundable tax credit, which means that the credit will be refunded to the qualifying corporation, net of any Ontario taxes payable by the qualifying corporation. The OBPTC is based upon eligible Ontario pre-press, printing and marketing expenditures, incurred by a qualifying corporation, during a taxation year, with respect to eligible book publishing activities.

How Much Is the Tax Credit?

The OBPTC is calculated as 30% of the eligible expenditures incurred by a qualifying corporation with respect to eligible book publishing activities, up to a maximum tax credit of $30,000 per book. The eligible expenditures are reduced by any government assistance the corporation received, or expects to receive in the taxation year, in relation to the publication of a particular book.

Who Is Eligible?

A qualifying corporation is a Canadian-controlled corporation, as determined under sections 26 to 28 of the Investment Canada Act (Canada), must carry on a book publishing business primarily through a permanent establishment in Ontario, and files an Ontario corporate tax return. A qualifying corporation must allocate more than 50% of its taxable income to Ontario in the taxation year the credit is being claimed and must have published at least two books in the 12-month period immediately before the taxation year. An exception is made regarding the requirement to have published two books in the previous year where an Ontario book publishing company has transferred its business, amalgamated or wound up its company.

What Types of Literary Works Are Eligible?

A literary work is an eligible literary work if:

- it is written by an eligible Canadian author, or if it is written by more than one author, at least 90 per cent of the material is written by eligible Canadian authors;
- 90 per cent or more of the literary work is new material that has not been previously published;
- it belongs to an eligible category of writing;
where it contains pictures, the ratio of the amount of text to pictures is at least 65 per cent (except
in the case of children’s books);

it is at least 48 printed pages in length (except in the case of children’s books) and is bound as a
paperback or a hardcover; and

it is not a prescribed ineligible publication.

Who Is an Eligible Author?

An eligible Canadian author of an eligible literary work is an individual who at the time the contract is
entered into to publish the literary work, is either a Canadian citizen or a permanent resident, and is
ordinarily resident in Canada.

What Categories of Writing Are Eligible?

The eligible categories of writing are: Fiction, Non-fiction, Poetry, Biography, Children’s Fiction,
Children’s Non-fiction, Children’s Poetry and Children’s Biography:

**Fiction** is a book-length work of the imagination in prose including novels and book-length
collections of short stories or novellas.

**Non-fiction** is a work of prose based on factual information including history, travel, social issues
and current events; or is an exposition of ideas including works of philosophy, social and art
criticism, and political enquiry.

Non-fiction educational texts, published for use in educational institutions, such as schools and
universities, are eligible as long as they meet the other eligibility requirements.

A book-length play or a radio or television drama published in book form will be considered under
non-fiction.

**Poetry** is a book-length work of imagination written in rhyme, blank verse, or another recognized
poetic form, either as a book-length poem or a book-length collection of poems.

**A biography** is a book-length work in prose based on fact, telling the story of one (or more) person’s
life (or lives) including an autobiography (the author’s own story told as a factual account), or a
memoir (a selective but factual retelling of events).

**Children’s books** (children’s fiction, children’s non-fiction, children’s poetry and children’s
biography) are books designed for readers under 16 years of age. Children’s books may be less than
48 pages and may be illustrated titles. Young adult titles, specifically designed for readers aged 9 to
18, will be considered children’s books.

What Kind of Expenditures Are Eligible?

Qualifying expenditures include 100 per cent of pre-press costs and marketing and promotional costs
and 50 per cent of production costs paid by the book publishing company in respect of the publishing of
an eligible literary work. Pre-press costs include author advances and salaries for editing. Promotional
costs include marketing salaries and advertising. Production costs include costs incurred for printing,
bounding and assembling in Ontario. Qualifying expenditures include expenditures which relate to
publishing a digital or electronic version of an eligible literary work.
Is an Acknowledgment for the OBPTC Required on the Publication?

Acknowledgement for an Ontario tax credit is not required, due to the fact that tax information is considered confidential. Furthermore, a tax credit is usually not payable until after a title is published and may be subject to reassessment. However, such an acknowledgement is certainly a welcome and appropriate way to recognize taxpayer support. Should you wish to provide a credit for an Ontario tax credit, we would suggest the following wording: “with the assistance of the Government of Ontario – The Ontario Book Publishing Tax Credit”.

How Is the Credit Administered?

The OBPTC is jointly administered by the Ontario Media Development Corporation (OMDC) – an agency of the Ontario Ministry of Tourism, Culture and Sport and the Canada Revenue Agency (CRA). In order to obtain an OBPTC for a taxation year, a qualifying corporation must apply to the OMDC for a Certificate of Eligibility for the taxation year, which certifies eligibility of the book publishing company, the book and author.

LEGISLATIVE REQUIREMENTS

The following is an overview of the legislative requirements for an OBPTC as well as commentary regarding the legislative requirements. The OBPTC legislation and regulation are reproduced in Appendices [1] and [2] respectively.

1. WHAT IS AN ELIGIBLE ONTARIO PUBLISHING COMPANY?

   Legislative Requirements

1.1 GENERAL

A corporation is an eligible Ontario book publishing company for a taxation year if throughout the taxation year,

   (a) the corporation is a Canadian-controlled corporation throughout the taxation year, and

   (b) the corporation is a book publishing company that carries out its business primarily through a permanent establishment of the corporation in Ontario.
1.2 **BOOK PUBLISHING COMPANY**

A corporation is considered to carry on a book publishing business if the corporation meets the following conditions:

(a) it enters into contractual agreements with authors and copyright holders for the publishing of literary works in print form;
(b) it offers for sale into the retail market the literary works that it publishes;
(c) it owns its own inventory or is related to a Canadian-controlled corporation that owns the inventory, or has a contractual arrangement for inventory repurchase or acceptance for book returns; and
(d) it bears the financial risks associated with carrying on the business of publishing, or is related to a Canadian-controlled corporation that bears the financial risks associated with carrying on the business.

1.3 **BUSINESS PRIMARILY CARRIED ON THROUGH A PERMANENT ESTABLISHMENT IN ONTARIO**

A business is considered to be carried out primarily through a permanent establishment in Ontario if the corporation allocates more than 50 per cent of its taxable income to Ontario in the taxation year the tax credit is being claimed.

*Commentary*

A “Canadian-controlled corporation” is generally a corporation that is more than 50% owned by Canadians, as determined under sections 26 to 28 of the *Investment Canada Act* (Canada).

A business is carried on in Ontario if it is allocating more than 50% of its revenues through a permanent establishment (office(s), warehouse) situated in Ontario and reports taxable income in Ontario. A “permanent establishment” generally refers to a fixed place of business (see Appendix 3). However, whether a fixed place of business is a “permanent establishment” is a *question of fact* which must be determined on a case-by-case basis. In interpreting the term “permanent establishment”, the courts have considered factors such as: the degree of the corporation’s control over the place of business, the degree of continuity and permanence of the place of business and the presence of personnel and routine activities.

A “Book Publishing Company” is a company whose principal business is selecting, editing and publishing books. The business of publishing includes creating original literary or scholarly works through contractual agreements with Canadian authors and illustrators and other copyright holders, printing these literary and scholarly works in the form of proper bound books (hardcover or paper/trade paperback), and making them available to the retail and educational markets through industry-recognized sales and distribution channels. It is incumbent upon the book publishing company, if applying for an OBPTC, to support writers through the application of conventional publishing principles. These would include industry standard contracts for the acquisition of intellectual properties, and incurring all costs for undertaking such work as editing, design, printing, marketing, distribution and sales. Soliciting any form of financing for the publishing process from authors or “others” (the subjects of an author’s book), might disqualify a book publishing company in its application for an OBPTC.
2. **ELIGIBLE LITERARY WORK**

2.1 **CATEGORIES**

*Legislative Requirements*

A literary work is an eligible literary work if it satisfies the following conditions:

1. The literary work is written by an eligible Canadian author or, if it is written by more than one author, all or substantially all of the work is the work of eligible Canadian authors.
2. The literary work belongs to an eligible category of writing.
3. At least 90 per cent of the literary work is new material that has not been previously published.
4. If the literary work contains pictures and is not a children’s book, the ratio of the amount of text to pictures in the literary work is at least 65 per cent.
5. The literary work is suitable for publication as a bound book having not less than 48 printed pages, unless the literary work is a children’s book.
6. The literary work is not an ineligible publication.

*Commentary*

There are eight eligible categories of writing:

(a) **Fiction** is a book-length work of the imagination in prose including novels and book-length collections of short stories or novellas.

(b) **Non-fiction** is a work of prose based on factual information including history, travel, social issues and current events; or is an exposition of ideas including works of philosophy, social and art criticism, and political inquiry.

   - Non-fiction educational texts, published for use in educational institutions, such as schools and universities, are eligible as long as they meet the other eligibility requirements.
   - A book-length play or a radio or television drama published in book form will be considered under non-fiction.

(c) **Poetry** is a book-length work of imagination written in rhyme, blank verse, or another recognized poetic form, either as a book-length poem or a book-length collection of poems.

(d) **A biography** is a book-length work in prose based on fact, telling the story of one (or more) person’s life (or lives) including an autobiography (the author’s own story told as a factual account), or a memoir (a selective but factual retelling of events).

(e) **Children’s books** are books designed for readers under 16 years of age. Children’s books may be less than 48 pages and may be illustrated titles. Young adult titles, specifically designed for readers aged 9 to 18 will be considered children’s books. There are four categories for children’s books: children’s fiction, children’s non-fiction, children’s poetry and children’s biography.

There is no cap on the number of eligible literary works written by an eligible author.
In the case of an anthology of contributed literary works (essays or articles), 90% of the literary work must be the work of eligible Canadian authors. In the case of a co-authored literary work, 90% of the work must be created by eligible Canadian authors. If one or more of the co-authors is not an eligible Canadian author, their contribution may be no greater than 10% of the book’s total contents. In the case of illustrated children’s titles, the illustrator is considered a co-author and must meet the same eligibility requirements as any co-author. A co-authored book will be counted as the author’s publication.

### 2.2 Ineligible Publications

*Legislative Requirements*

No tax credit may be claimed by a corporation under this section with respect to the publishing of a literary work if,

(a) the publication date is before May 7, 1997;
(b) the corporation publishes the literary work on consignment or at the expense of another person;
(c) the author of the literary work, a person related to the author or a person who is, or is related to, the subject of the literary work directly or indirectly funds, or guarantees the payment of, any part of the cost of publishing or marketing the literary work;
(d) the corporation is controlled by the author of the literary work, or by a person not dealing at arm’s length with the author;
(e) the publication date of the literary work is before March 27, 2009 and the corporation publishes the literary work other than as a bound hardback, a paperback or a trade paperback book;
(e.1) the publication date is after March 26, 2009 and the corporation publishes the literary work other than as a bound hardback, a paperback or a trade paperback book or as a digital or electronic version of the literary work;
(f) the corporation publishes the literary work in an edition of less than 500 copies of a bound book;
(g) the published literary work is not assigned an International Standard Book Number (ISBN);
(h) the corporation does not offer the literary book for sale through an established distributor;
(i) the corporation published fewer than two books in the 12 month period immediately before the taxation year for which the credit is claimed; or
(j) the literary work is published in a book that also contains one or more other literary works and less than all or substantially all of the literary works contained in the book are by eligible Canadian authors.
A literary work is also an ineligible publication if it is:

a) a publication that is a translation of a previously published literary work;
b) a publication that is a calendar, agenda, almanac, colouring book or comic;
c) a publication that is an instructional book or other printed material that forms part of a children’s product which is primarily a toy or play kit;
d) a publication that is a university or college dissertation, a conference paper or report, a government report or a catalogue of exhibitions;
e) a publication that is an instruction book or manual (such as a computer manual, guidebook, arts and crafts book, recipe book or musical performance method book);
f) a publication primarily containing maps;
g) a publication that is used primarily as learning material (such as a workbook, kit, activity manual or educational game);
h) a publication that is primarily a reference book (such as a directory, index compilation, compilation of statutes, rulebook or bibliography);
i) a publication that is primarily musical notation;
j) a publication that is a combination of any of the publications described in (a) to (i) above;
k) a publication where the identity of the author or authors is unknown to the publisher of the publication;
l) a publication where the pages are typewritten, individually photocopied, mimeographed or handwritten;
m) a publication that is capable of inciting hatred against an identifiable group, including a section of the public distinguished by colour, race, religion, gender, sexual orientation or ethnic origin;
n) a publication the dominant characteristic of which is the undue exploitation of sex or of sex and one or more of crime, horror, cruelty or violence; or
o) a publication for which public financial support would be contrary to public policy.

Commentary

The ineligible publications guideline is designed to help make the distinctions between eligible books that draw attention to original intellectual ideas expressed through literary convention and ineligible books, those which are compiled from information that is in the public domain. Such ineligible books might be “guide books” of a commercial nature (guides to parks and campgrounds, best shopping, dining, etc), furniture assembly manuals, or “how to” books on games and crafts.

Eligibility is measured by the book’s literary content, and is determined by whether at the core of the creative or scholarly process, the book is an author’s original work of ideas.
3. **ELIGIBLE CANADIAN AUTHOR**

*Legislative Requirements*

An eligible Canadian author of an eligible literary work is an individual who at the time the contract is entered into to publish the literary work, is ordinarily resident in Canada and is a Canadian citizen or is a permanent resident within the meaning of the *Immigration and Refugee Protection Act* (Canada).

*Commentary*

A writer who is a Canadian citizen but resides outside of Canada will not be considered an eligible author. A writer may have more than one residence, but must be “ordinarily resident” in Canada, within the meaning of the *Income Tax Act*, in order to be considered an eligible author.

4. **PUBLISHING ACTIVITIES**

*Legislative Requirements*

The following amounts in respect of the publishing of an eligible literary work by an Ontario book publishing company are qualifying expenditures of the company for a taxation year:

1. Non-refundable monetary advances to the eligible Canadian author of the literary work.

   1.1 Expenditures incurred by the company after March 26, 2009 and in the taxation year in respect of activities that reasonably relate to preparing a literary work for publication in one or more digital or electronic formats, if the activities are carried out primarily in Ontario, including,

      i. salaries or wages paid to employees involved in editing, design and project management,

      ii. amounts in respect of fees for freelance editing, design and research, and

      iii. amounts in respect of the cost of art work, developing prototypes, set-up, and

      iv. salaries, wages, fees or other amounts in respect of related activities, including scanning, editing, formatting, indexing, encryption and establishing digital rights management or other technological protection measures.

2. One-half of the expenditures incurred by the company in the taxation year for the printing, assembling and binding of the literary work, if those activities are carried out primarily in Ontario.

   2.1 One half of the expenditures incurred by the company after March 26, 2009 and in the year that reasonably relate to transferring a prepared digital or electronic version of the literary work into or onto a form suitable for distribution, if those activities are carried out primarily in Ontario.
3. With respect to expenditures incurred by the company before March 30, 2011, those expenditures incurred in the year that reasonably relate to the marketing of copies of the published literary work and are incurred by the company within 12 months after the date of publication of the literary work, including,

   i. expenditures in respect of promotional tours by the eligible Canadian author of the literary work, except that only 50 per cent of expenditures for meals and entertainment are qualifying expenditures,

   ii. salaries or wages paid to employees of the company engaged in marketing copies of the published literary work, and

   iii. amounts expended in respect of promoting and marketing copies of the published literary work.

4. With respect to expenditures incurred by the company after March 29, 2011, those expenditures incurred in the year that reasonably relate to the marketing of copies of the published literary work and are incurred by the company within the period that begins 12 months before and ends 12 months after the date of publication of the literary work, including,

   i. expenditures in respect of promotional tours by the eligible Canadian author of the literary work, except that only 50 per cent of expenditures for meals and entertainment are qualifying expenditures,

   ii. salaries or wages paid to employees of the company engaged in marketing copies of the published literary work,

   iii. amounts expended in respect of promoting and marketing copies of the published literary work.

Commentary

Qualifying expenditures include 100% of the costs of preparing a literary work for publication in print and digital or electronic formats, and 50% of the production costs with respect to publishing a printed version of a book, as well as the costs relating to transferring a prepared digital or electronic version of a literary work into a form suitable for distribution.

Qualifying expenditures are reduced by any government assistance received, or expected to be received in the taxation year, in respect of the particular literary work.

Whether an activity is carried out primarily in Ontario is a question of fact. If more than 50 per cent of the costs of an activity are incurred in Ontario, the activity is generally considered to be carried out primarily in Ontario. However, where the printing of a book is done outside of Ontario and the paper is supplied from an Ontario company, this activity is not considered to be carried out primarily in Ontario even if the paper cost is more than 50 per cent of the total cost of the print job.
For expenditures incurred after March 29, 2011, the period for claiming qualifying marketing expenditures has been expanded to begin 12 months before and end 12 months after the date of publication of the literary work. Qualifying marketing expenditures incurred prior to March 30, 2011, are limited to those incurred in the 12 months after the date of publication of the literary work. If a book has received an OBPTC eligibility certificate for pre-press and production costs for the preceding taxation year, the company can re-submit a copy of the original certificate, at the time of its next fiscal year end, to account for a book’s qualifying marketing and promotional expenditures.

“Meals and entertainment” include such expenditures as catering for book launches and per diems for staff and authors during the promotional tour of a book.

Promotional activities include graphic design of advertising, buying advertising space, media planning, scheduling author promotional activities (author events: readings, book signings, media interviews).

5. **GOVERNMENT ASSISTANCE**

*Legislative Requirements*

Government assistance means assistance from a government, municipality or other public authority in any form, including a grant, subsidy, forgivable loan, deduction from tax and investment allowance, but excluding, an Ontario book publishing tax credit, or a grant that is not specific to a particular eligible literary work.

*Commentary*

The total of all qualifying expenditures claimed by a corporation are reduced by the amount received as government assistance.
II. ADMINISTRATIVE PROCESS

The OBPTC is jointly administered by the OMDC and the Canada Revenue Agency.

1. OMDC ROLE

Issuance of Certificates of Eligibility

The OMDC is responsible for issuing Certificates of Eligibility for a corporation’s taxation year, which the qualifying corporation files with the Canada Revenue Agency with its corporate tax return for the applicable taxation year in order to claim the OBPTC.

A Certificate of Eligibility sets out the eligibility of the applicant corporation and the literary work.

The qualifying corporation applies to the OMDC for certification of eligible literary works published in that taxation year. The OMDC completes its review of an application, or multiple applications, determines the eligibility of the submitted books and issues Certificates to the qualifying corporation.

OMDC reserves the right to ask any question necessary to determine eligibility issues. As issues and fact patterns will differ depending on the specifics of any application, so too may the line of inquiry. Please note that receipt of a certificate for one product may not be relied upon as a guarantee of certification for subsequent filings.

Amendment and Revocation of Certificates of Eligibility

A Certificate of Eligibility may be amended to correct an error and, under certain circumstances, may be revoked by the OMDC. An amended Certificate of Eligibility replaces any Certificate of Eligibility previously issued to your company. If a Certificate of Eligibility is revoked by the OMDC, the revoked Certificate of Eligibility is treated as if it had never been issued.

Please note that as of January 1, 2017 there is a fee for requesting an amended Certificate of Eligibility.

Administration Fee

A non-refundable administration fee is payable with respect to each OBPTC application submitted to the Ontario Media Development Corporation. Administration fees are used to offset operating costs of the OBPTC program.

The administration fee is calculated as 0.15 per cent of the Total Estimated Eligible Expenditures for the application. The minimum fee is $50 and the maximum fee is $200 per application. In addition, the total maximum administration fees payable per taxation year is $3,000 per corporation.

For example, where Total Estimated Eligible Expenditures total $40,000, the administration fee is calculated as follows:

\[
\text{Administration Fee} = \text{Total Estimated Eligible Expenditures} \times 0.0015 \\
= 40,000 \times 0.0015 \\
= 60
\]
Fees are payable by cheque or money order made payable to the Ontario Media Development Corporation at the time the OBPTC application is submitted to the OMDC. These fees are required in order for the application to be reviewed.

Please note: Effective April 1, 2017 there is a new administration fee structure for tax credits which will offset the cost of administering the program. The OBPTC administration fee will continue to be calculated as 0.15% of eligible expenditures for the application. The minimum fee of $50 per application and maximum fee of $200 per application will remain the same; however, the corporate maximum per taxation year has been removed.

As previously announced, effective January 1, 2017 there is an additional filing fee of $100 applied to applications for Certificates of Eligibility received more than 24 months after the first year-end of the claim. As well, there is a fee of $100 for each Amended Certificate requested.

2. CANADA REVENUE AGENCY ROLE

The Canada Revenue Agency (CRA) is responsible for the review or audit of the T2 Corporation Income Tax Return (T2 return) along with the Schedule T2SCH564 which must be filed by the qualifying corporation in order to claim the OBPTC. The CRA also processes T2 tax returns and issues notices of assessment and tax refunds.

(i) Filing of a Corporate Tax Return

The Canada Revenue Agency administers both Federal and Ontario corporate taxes for taxation years ending after December 31, 2008. A corporation must file its T2 return for a taxation year with the CRA within six (6) months after the end of the corporation’s taxation year. To claim the OBPTC a qualifying corporation must file its T2 return with Schedule T2SCH564 and the Certificate of Eligibility with the CRA. Following its review or audit of the OBPTC claim, the CRA processes the T2 return and issues a notice of assessment and, if applicable, a refund. The amount of refund may be reduced by any of the qualifying corporation’s outstanding federal and Ontario taxes.

The T2 Corporation Income Tax Return and applicable schedules are available on the CRA website at: http://www.cra.gc.ca/formspubs/menu-eng.html

For additional information, visit the following CRA website: http://www.cra.gc.ca/filmservices

Inquiries should be directed to CRA’s Toronto Film Services Unit at (416) 973-3407 or (416) 952-7349.

(ii) Payment of a Corporate Tax Refund

If the qualifying corporation is owed a tax refund (which may include an OBPTC) for the taxation year, a cheque or direct deposit may be issued by the CRA. The amount of refund may be reduced by any of the qualifying corporation’s outstanding federal and Ontario taxes (such as corporate income taxes, retail sales tax, provincial sales tax, etc.).
3. **Applying for a Certificate of Eligibility**

(i) **Who Applies to the OMDC?**

The qualifying book publisher submits a completed OBPTC Application to the OMDC to have the literary work certified. For administrative convenience, the qualifying corporation may appoint an agent to apply on its behalf, but any Certificate of Eligibility issued will be in the name of the qualifying corporation.

(ii) **When Should Application be Made to the OMDC?**

An application for an OBPTC Certificate of Eligibility can be made to the OMDC at any time. The application must be sent with a copy of the finished book(s).

Please note that as of January 1, 2017 there is a fee for filing claims that are more than 24 months old.

(iii) **What Documentation is Required?**

The applicant must submit to the OMDC a completed Application, the company’s most recent financial statement, a copy of the printed book, and the documents set out in the OBPTC Documents Checklist (see Appendix 4). In some cases the OMDC may require additional documentation or information in order to issue a Certificate of Eligibility. All documentation or information received from an applicant is subject to the confidentiality provisions of the Taxation Act and will be maintained in strictest confidence by the OMDC and the Canada Revenue Agency.

(iv) **How Long Does the Process Take?**

An eligibility review will only be conducted on complete applications on a first-come, first-served basis. Processing time will depend on the volume of applications received. If you file an incomplete application you will be notified about deficiencies with the filing. Where significant delays are encountered in obtaining responses from applicants, the OMDC reserves the right to close the file after 30 days.

(v) **Online Application**

In an effort to streamline our tax credit administration process, the OMDC has a mandatory policy that all OMDC tax credit applications must be submitted via our Online Application Portal (OAP). Please ensure that your application includes all of the required information and supporting documentation as only complete applications can be transmitted through the OAP.

When you start an application on the OAP you can save your work and come back to it before submitting the application online. However, please note that once you have started the application on the OAP you have 90 days to submit it before the application expires.

III. **Estimating Your Tax Credit**

The OBPTC is calculated in respect of each eligible literary work, up to a maximum tax credit per literary work of $30,000 for qualifying expenditures.
IV. CONTACT INFORMATION

Listed below are the members of the Tax Credits Department who work on the OBPTC. For general information, forms or information on the status of an application, please contact the Programs Officer. For specific questions on eligibility, labour expenditure calculations, definitions or any issue concerning a specific project; please contact the Tax Credits Phone Duty line (416) 642-6659 or mailbox at taxcredits@omdc.on.ca. Please leave a detailed message including your name, company, phone number and which tax credit or file you are inquiring about. Phone calls and emails will be responded to within one business day. Policy issues may be addressed to the Director.

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Appendix 1  Ontario Book Publishing Tax Credit Legislation

Section 95 of the Taxation Act, S.O. 2007, CHAPTER 11, Schedule A
(Current to January 1, 2017)

NOTE: This OMDC version is reproduced for purposes of convenience only. The authoritative text of the legislation is set out in the official volumes.

95. (1) A corporation that is an Ontario book publishing company for a taxation year and complies with the requirements of this section may claim an amount for the year in respect of and not exceeding the corporation’s Ontario book publishing tax credit for the year.

Amount of tax credit
(2) The amount of a corporation’s Ontario book publishing tax credit for a taxation year is the sum of all amounts each of which is determined in respect of an eligible literary work and equal to the lesser of,

(a) 30 per cent of the corporation’s qualifying expenditures incurred before the end of the year in respect of the publication of the literary work, to the extent that the expenditures were not included in determining the available credit relating to the publication of the literary work that was included in an amount claimed by the corporation for a previous taxation year under this section or section 43.7 of the Corporations Tax Act; and

(b) $30,000 less the total of all amounts, if any, each of which was claimed in respect of the publication of the literary work under this section or section 43.7 of the Corporations Tax Act.

Same, book containing more than one literary work
(3) A book that contains more than one literary work is deemed to be one literary work for the purposes of subsection (2), and the amount of a corporation’s Ontario book publishing tax credit for a taxation year in respect of the book shall not exceed the amount determined under subsection (2).

Corporate partner
(4) The following rules apply if a corporation is a member of a partnership and the partnership would qualify for a fiscal period ending in a taxation year of the corporation for an Ontario book publishing tax credit if the partnership were a corporation whose fiscal period was its taxation year:

1. Subject to paragraph 2, the portion of the Ontario book publishing tax credit to which the partnership would be entitled if it were a corporation that may reasonably be considered to be the corporation’s share may be included in determining the amount of the corporation’s Ontario book publishing tax credit for the corporation’s taxation year.

2. If the corporation or another member of the partnership bases a claim in respect of the partnership for the fiscal period under subsection (5), no amount in respect of the partnership may be included in determining the amount of the corporation’s Ontario book publishing tax credit for the corporation’s taxation year otherwise than pursuant to subsection (5).

Same
(5) If it is acceptable to the Ontario Minister, a partner’s share of a partnership’s Ontario book publishing tax credit determined under subsection (4) for a fiscal period shall be equal to such amount as the partner claims not exceeding the amount, if any, by which the amount of that credit exceeds the total of all amounts each of which is claimed under this section or section 43.7 of the Corporations Tax Act in respect of the amount of that credit by another partner.
Limited partner

(6) Despite subsections (4) and (5), a limited partner’s share of an Ontario book publishing tax credit to which a partnership would be entitled if it were a corporation is deemed to be nil.

Ontario book publishing company

(7) A corporation is an Ontario book publishing company for a taxation year if it is a Canadian-controlled corporation throughout the year and is a book publishing company that carries out its business primarily through a permanent establishment of the corporation in Ontario.

Application for certificate

(8) In order to be eligible to claim an amount in respect of an Ontario book publishing tax credit under this section with respect to a particular literary work, an Ontario book publishing company shall apply to the Ontario Media Development Corporation or a person designated by the Minister of Culture for certification that the work is an eligible literary work for the purposes of this section.

Same

(9) An Ontario book publishing company that applies for certification shall provide to the designated person the information he or she specifies for the purposes of this section.

Certificate

(10) If the particular literary work is an eligible literary work for the purposes of this section, the designated person shall issue to the Ontario book publishing company a certificate certifying that the work is an eligible literary work for the purposes of this section.

Same

(11) In order to claim an amount under this section for a taxation year in respect of a particular literary work, an Ontario book publishing company must deliver to the Ontario Minister with its return for the year the certificate issued in respect of the work, or a certified copy of the certificate.

Revocation of certificate

(12) A certificate issued under subsection (10) may be revoked if,

(a) an omission or incorrect statement was made for the purpose of obtaining the certificate;

(b) the corporation is not an Ontario book publishing company; or

(c) the literary work is not an eligible literary work for the purposes of this section.

Same

(13) A certificate that is revoked is deemed never to have been issued.

Eligible literary work

(14) A literary work is an eligible literary work if it satisfies the following conditions:

1. The literary work is written by an eligible Canadian author or, if it is written by more than one author, all or substantially all of the work is the work of eligible Canadian authors.

2. The literary work belongs to an eligible category of writing.

3. At least 90 per cent of the literary work is new material that has not been previously published.

4. If the literary work contains pictures and is not a children’s book, the ratio of the amount of text to pictures in the literary work is at least 65 per cent.

5. The literary work is suitable for publication as a bound book having not less than 48 printed pages, unless the literary work is a children’s book.

6. The literary work is not an ineligible publication.
Exception

(15) No amount in respect of a tax credit under this section may be claimed by a corporation with respect to the publishing of a literary work if,

(a) the publication date is before May 7, 1997;

(b) the corporation publishes the literary work on consignment or at the expense of another person;

(c) the author of the literary work, a person related to the author or a person who is, or is related to, the subject of the literary work directly or indirectly funds, or guarantees the payment of, any part of the cost of publishing or marketing the literary work;

(d) the corporation is controlled by the author of the literary work, or by a person not dealing at arm’s length with the author;

(e) the publication date of the literary work is before March 27, 2009 and the corporation publishes the literary work other than as a bound hardback, a paperback or a trade paperback book;

(e.1) the publication date of the literary work is after March 26, 2009 and the corporation publishes the literary work other than as a bound hardback, a paperback or a trade paperback book or as a digital or electronic version of the literary work;

(f) the corporation publishes the literary work in an edition of less than 500 copies of a bound book;

(g) the published literary work is not assigned an International Standard Book Number (ISBN);

(h) the corporation does not offer the literary work for sale through an established distributor;

(i) the corporation published fewer than two books during the 12-month period immediately before the taxation year for which the credit under this section is claimed; or

(j) the literary work is published in a book that also contains one or more other literary works and less than all or substantially all of the literary works contained in the book are by eligible Canadian authors.

Qualifying expenditures

(16) The following amounts in respect of the publishing of an eligible literary work by an Ontario book publishing company are qualifying expenditures of the company for a taxation year:

1. Expenditures incurred by the company in the year in respect of pre-press costs, including,
   i. non-refundable monetary advances to the eligible Canadian author of the literary work, and
   ii. amounts in respect of activities that reasonably relate to the publishing of the literary work, if the activities are carried out primarily in Ontario, including,
      A. salaries or wages paid to employees involved in editing, design and project management,
      B. amounts in respect of fees for freelance editing, design and research, and
      C. amounts in respect of the cost of art work, developing prototypes, set-up and typesetting.
1.1 Expenditures incurred by the company after March 26, 2009 and in the year in respect of activities that reasonably relate to preparing a literary work for publication in one or more digital or electronic formats, if the activities are carried out primarily in Ontario, including,
   i. salaries or wages paid to employees involved in editing, design and project management,
   ii. amounts in respect of fees for freelance editing, design and research,
   iii. amounts in respect of the cost of artwork, developing prototypes and set-up, and
   iv. salaries, wages, fees or other amounts in respect of related activities, including scanning, editing, formatting, indexing, encryption and establishing digital rights management or other technological protection measures.

2. One-half of the expenditures incurred by the company in the year for the printing, assembling and binding of the literary work, if those activities are carried out primarily in Ontario.

2.1 One-half of the expenditures incurred by the company after March 26, 2009 and in the year that reasonably relate to transferring a prepared digital or electronic version of the literary work into or onto a form suitable for distribution, if those activities are carried out primarily in Ontario.

3. With respect to expenditures incurred by the company before March 30, 2011, those expenditures incurred in the year that reasonably relate to the marketing of copies of the published literary work and are incurred by the company within 12 months after the date of publication of the literary work, including,
   i. expenditures in respect of promotional tours by the eligible Canadian author of the literary work, except that only 50 per cent of expenditures for meals and entertainment are qualifying expenditures,
   ii. salaries or wages paid to employees of the company engaged in marketing copies of the published literary work, and
   iii. amounts expended in respect of promoting and marketing copies of the published literary work.

4. With respect to expenditures incurred by the company after March 29, 2011, those expenditures incurred in the year that reasonably relate to the marketing of copies of the published literary work and are incurred by the company within the period that begins 12 months before and ends 12 months after the date of publication of the literary work, including,
   i. expenditures in respect of promotional tours by the eligible Canadian author of the literary work, except that only 50 per cent of expenditures for meals and entertainment are qualifying expenditures,
   ii. salaries or wages paid to employees of the company engaged in marketing copies of the published literary work, and
   iii. amounts expended in respect of promoting and marketing copies of the published literary work.
Restriction

(16.1) An expenditure may not be included under a paragraph of subsection (16) in respect of the publishing of an eligible literary work if the expenditure is also included under another paragraph of that subsection in respect of the publishing of the literary work.

Same

(17) The total of all qualifying expenditures made by a corporation in respect of the publishing of an eligible literary work shall be the amount otherwise determined less the amount of all government assistance, if any, in respect of the qualifying expenditures that, on the corporation’s filing-due date for the taxation year for which the tax credit is claimed, the corporation has received, is entitled to receive or may reasonably expect to receive.

Corporate reorganizations

(18) Subsection (19) applies if, after December 31, 2001, one of the following events occurs:

1. An Ontario book publishing company (the “transferor”) transfers all or part of its business to another corporation (the “transferee”) in accordance with subsection 85 (1) of the Federal Act.

2. A corporation (the “transferee”) is formed as the result of an amalgamation of an Ontario book publishing company (the “transferor”) with one or more other corporations in accordance with section 87 of the Federal Act.

3. An Ontario book publishing company (the “transferor”) is wound up in accordance with subsection 88 (1) of the Federal Act and its assets and liabilities, if any, are transferred to its parent corporation (the “transferee”).

Continuation of corporation

(19) If one of the conditions described in subsection (18) is satisfied, the following rules apply:

1. For the purposes of subsections (2), (8) and (16), the transferee is deemed to be the same corporation as, and a continuation of, the transferor with respect to an eligible literary work or the right to publish an eligible literary work that is transferred to the transferee under paragraph 1, 2 or 3 of subsection (18) and any amount previously claimed under this section or section 43.7 of the Corporations Tax Act by the transferor for a taxation year in respect of the eligible literary work is deemed to have been claimed by the transferee for that previous taxation year.

2. For the purposes of subsections (2), (8) and (16), the transferor ceases, immediately after the eligible literary work is transferred under paragraph 1, 2 or 3 of subsection (18) to be an Ontario book publishing company in respect of the eligible literary work or the right to publish the eligible literary work.

3. For the purpose of clause (15) (i), any books published by the transferor in the 12-month period immediately preceding the taxation year in which the event described in paragraph 1, 2 or 3 of subsection (18) occurs are deemed to have been published by the transferor and the transferee.

Definitions

(20) In this section,

“author” includes, in respect of a literary work that is a children’s book, the illustrator of the literary work; (“auteur”)
“book publishing company” means a corporation whose principal business is selecting, editing and publishing books and that,

(a) enters into contractual agreements with authors and copyright holders for the production of literary works in print form,

(b) offers for sale into the retail market the literary works that it publishes,

(c) owns its own inventory or is related to a Canadian-controlled corporation that owns the inventory, or has a contractual arrangement for inventory repurchase or acceptance of book returns, and

(d) bears the financial risks associated with carrying on the business of publishing, or is related to a Canadian-controlled corporation that bears the financial risks associated with carrying on the business; (“maison d’édition”)

“Canadian-controlled corporation” means a corporation that is determined to be Canadian-controlled under sections 26 to 28 of the Investment Canada Act (Canada) for the purposes of that Act and, in the application of those sections for the purposes of this definition, a reference to the Minister shall be read as a reference to the Minister of Finance; (“société sous contrôle canadien”)

“eligible Canadian author” means, with respect to a literary work, an individual,

(a) who, when the contract is entered into to publish the literary work, is ordinarily resident in Canada and is a Canadian citizen or a permanent resident within the meaning of the Immigration and Refugee Protection Act (Canada), and

(b) who, if the literary work is published before March 27, 2009, has not written more than two literary works of the same eligible category of writing that have been previously published, other than a literary work published in an anthology containing two or more literary works by different authors; (“auteur canadien admissible”)

“established distributor” means a person or partnership that has engaged in the business of selling or distributing books to retail stores and educational institutions for more than one year and does not sell directly by retail to an ultimate consumer; (“distributeur établi”)

“government assistance” means assistance from a government, municipality or other public authority in any form, including a grant, subsidy, forgivable loan, deduction from tax and investment allowance, but does not include,

(a) a tax credit under this section or section 96 of this Act or section 43.3 or 43.7 of the Corporations Tax Act, or

(b) a grant that is not specific to a particular eligible literary work; (“aide gouvernementale”)

“ineligible publication” means a literary work that is an ineligible publication under the prescribed rules. (“publication non admissible”)

Eligible category of writing

(21) For the purposes of this section, the eligible categories of writing are as follows:

1. If the literary work is published on or before May 11, 2005, each of the following is an eligible category of writing:

   i. Fiction.
   ii. Nonfiction.
   iii. Poetry.
   iv. Biography.
   v. Children’s books.
2. If the literary work is published after May 11, 2005, each of the following is an eligible category of writing:

   i. Fiction.
   ii. Nonfiction.
   iii. Poetry.
   iv. Biography.
   v. Children’s fiction.
   vi. Children’s nonfiction.
   vii. Children’s poetry.
   viii. Children’s biography.

**Transitional, eligible Canadian author**

(22) In determining if an individual is an eligible Canadian author of a literary work published after May 11, 2005 that is children’s fiction, children’s nonfiction, children’s poetry or children’s biography and whether the individual has more than two literary works of the same eligible category of writing that have been previously published, any children’s books of which the individual is the author that were published before May 12, 2005 shall be classified according to the eligible categories of writing that would apply if the books had been published after May 11, 2005.
APPENDIX 2  Ontario Book Publishing Tax Credit Regulations

Ontario Regulation 37/09, as amended by Regulation 70/10

(Current to July 20, 2012)

NOTE: This OMDC version is reproduced for purposes of convenience only. The authoritative text of the regulations is set out in the official volumes.

Ineligible publication

37. (1) For the purposes of paragraph 6 of subsection 95 (14) of the Act, the following are ineligible publications:

1. A translation of a previously published literary work.
2. A calendar, agenda, almanac, colouring book or comic.
3. An instructional book or other printed material that forms part of a children’s product which is primarily a toy or play kit.
4. A university or college dissertation, a conference paper or report, a government report or catalogue of exhibitions.
6. A publication primarily containing maps.
7. A publication that is used primarily as learning material, including a workbook, kit, activity manual and educational game.
8. A publication that is primarily a reference book, including a directory, index compilation, compilation of statutes, rulebook and bibliography.
9. A publication that is primarily musical notation.
10. A publication that is a combination of any of the publications described in paragraphs 1 to 9.
11. A publication whose author’s identity is unknown to its publisher.
12. A publication whose pages are typewritten, individually photocopied, mimeographed or handwritten.
13. The publication is capable of inciting hatred against an identifiable group, including a section of the public distinguished by colour, race, religion, gender, sexual orientation or ethnic origin.
14. The dominant characteristic of the publication is the undue exploitation of sex or of sex and one or more of crime, horror, cruelty or violence.
15. Public financial support for the publication would be contrary to public policy.
APPENDIX 3  Ontario Book Publishing Tax Credit Related Provisions

NOTE: This OMDC version of the following section is reproduced for purposes of convenience only. The authoritative text of the following provision is set out in the official volumes.

DEFINITION OF “PERMANENT ESTABLISHMENT”
Subsection 400 (2) of the Federal Income Tax Regulations

For the purposes of this part, “permanent establishment” in respect of a corporation means a fixed place of business of the corporation, including an office, a branch, a mine, an oil well, a farm, a timberland, a factory, a workshop or a warehouse, and

(a) where the corporation does not have any fixed place of business it means the principal place in which the corporation’s business is conducted;

(b) where a corporation carries on business through an employee or agent, established in a particular place, who has general authority to contract for his employer or principal or who has a stock of merchandise owned by his employer or principal from which he regularly fills orders which he receives, the corporation shall be deemed to have a permanent establishment in that place;

(c) an insurance corporation is deemed to have a permanent establishment in each province and country in which the corporation is registered or licensed to do business;

(d) where a corporation, otherwise having a permanent establishment in Canada, owns land in a province, such land shall be deemed to be a permanent establishment;

(e) where a corporation uses substantial machinery or equipment in a particular place at any time in a taxation year it shall be deemed to have a permanent establishment in that place;

(e.1) if, but for this paragraph, a corporation would not have a permanent establishment, the corporation is deemed to have a permanent establishment at the place designated in its incorporating documents or bylaws as its head office or registered office;

(f) the fact that a corporation has business dealings through a commission agent, broker or other independent agent or maintains an office solely for the purchase of merchandise shall not of itself be held to mean that the corporation has a permanent establishment; and

(g) the fact that a corporation has a subsidiary controlled corporation in a place or a subsidiary controlled corporation engaged in trade or business in a place shall not of itself be held to mean that the corporation is operating a permanent establishment in that place.
## Ontario Book Publishing Tax Credit Documents Checklist

It is the responsibility of the applicant to ensure that all documentation is current. Please forward changes as they occur.

**NOTE:** All required documents must be submitted in order for an application to receive a review. All documentation or information received from an applicant is subject to the confidentiality provisions of the *Taxation Act* and will be maintained in strictest confidence by the OMDC and the Canada Revenue Agency.

1. **OBPTC Application** (submitted via the OMDC’s Online Application Portal)

2. **Administration Fee** (0.15 per cent of the Total Estimated Eligible Expenditures. Minimum fee is $50.00 and the maximum fee is $200.00 per application)
   - Effective January 1, 2017:
     - There is an additional filing fee of $100 for applications that are submitted more than 24 months from the company’s relevant year-end; and
     - There is a fee of $100 for requests for amended Certificates.

3. **Applicant Declaration**
   Download Declaration from the OAP, sign and return to the OMDC.

4. **Copy of the Printed Book(s)**

5. **Incorporation Documents for the Qualifying Corporation**
   Note: Please provide the required documents, plus any updates, amendments, or revisions.

6. **All Applicable Financial Statements for Qualifying Book Publisher**

7. **List of Applicant Company’s Shareholders or Corporate Chart for Applicable Fiscal year**
   State name, citizenship and % of shares. If necessary, please provide a corporate chart.

8. **A Copy of Previous Year’s Catalogue(s)**
   Note: Please provide the required documents, plus any updates, amendments, or revisions.

9. **A Copy of Current Year’s Catalogue(s)**
   Note: Please provide the required documents, plus any updates, amendments, or revisions.

10. **Copy of Company’s Distribution Agreement**
    Note: Please provide the required documents, plus any updates, amendments, or revisions.

11. **Company’s Contract with Author(s)**
    Note: these must be provided for each author.

12. **Proof of Citizenship and Residency for Author(s)**
    (i.e. Declaration of Citizenship and Residency which has been completed in full, signed and dated)
    Note: these must be provided for each author.

13. **Copy of Printer’s Invoice**

14. **Copy of the Book in Digital Format (if applicable)**
ONTARIO BOOK PUBLISHING TAX CREDIT
DECLARATION OF CITIZENSHIP AND RESIDENCY
(To be completed by each “Canadian Author and/or Illustrator”)

Instructions: Please complete all sections of this form.

Author Name: ________________________________________________________________

Date of Contract: ______________________________________________________________

Book Title: _________________________________________________________________

Address: _________________________________________________________________
(full address including postal code)

With respect to the above title, I hereby certify and confirm that:

1. I am (please check one of the following):
   - a Canadian citizen by birth
   - a Canadian citizen by naturalization (date of naturalization [dd/mm/yyyy]:
     _______________________
   - a permanent resident of Canada within the meaning of the Immigration and Refugee Protection
     Act (Canada) (date of admission as permanent resident [dd/mm/yyyy]:
     _______________________

2. I was ordinarily resident in Canada at the time the contract to publish the above title was entered
into, and my address at that time was (please check one of the following):
   - same as above
   - ________________________________________________________________
(full address indicating postal code)

3. I understand that the book publishing company will be relying on this Declaration for its application
for an Ontario Book Publishing Tax Credit (OBPTC), which is jointly administered by the Ontario
Media Development Corporation (OMDC) and the Canada Revenue Agency and may be subject to
government audit. I hereby warrant that the above-noted information is true and correct.

4. I authorize the OMDC to disclose any and all of the foregoing information to the Canada Revenue
Agency.

5. The information obtained in connection with this Declaration is collected pursuant to section 95 of
the Taxation Act. The above-noted information shall be used for the purpose of processing the book
publishing company’s application for a tax credit under the OBPTC. Questions about this collection
should be directed to the Director of Tax Credits, OMDC, 175 Bloor St. East, South Tower, Suite 501,
Toronto ON, M4W 3R8, 416-642-6659.

_________________________________________  ____________________________
Signature of Declarant                Date