Ontario Creates
An Agency of the Provincial Government of Ontario

ONTARIO FILM AND TELEVISION TAX CREDIT
(OFTTC)

GUIDELINES

Updated December 2019
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# Table of Contents

**Introduction** .......................................................................................................................... 4  
  *The Guidelines* ......................................................................................................................... 4  
  *Overview of the OFTTC* ........................................................................................................... 4  
  *What is it?* .................................................................................................................................. 4  
  *How much is the tax credit?* .................................................................................................... 4  
  *What expenditures are eligible?* ............................................................................................... 4  
  *Who is eligible?* ...................................................................................................................... 5  
  *What is an eligible production?* ............................................................................................... 5  
  *Structuring Provincial Co-productions* ..................................................................................... 5  
  *How is the credit administered?* ............................................................................................. 5  
  *Incorporating a Business* ......................................................................................................... 6  
  *Is a screen credit required on the production?* ...................................................................... 6  

**Process** .................................................................................................................................... 6  
  *General* ...................................................................................................................................... 6  
  *Application Deadlines* .............................................................................................................. 6  
  *OFTTC Application and Review Process* ................................................................................ 7  
  *How long does the process take?* ............................................................................................ 7  
  *Claiming the Tax Credit* .......................................................................................................... 7  
  *Assistance in preparing a tax credit application to Ontario Creates* .................................... 8  

**Contact Information** .................................................................................................................. 9  

**OFTTC Administration Fees** ................................................................................................... 9  

**Appendix I – OFTTC Documents Checklist** ......................................................................... 10  

**Appendix II – Links to Legislation, Regulations, and CAVCO Public Notices** ............. 13  
  *Provincial Legislation and Regulation* .................................................................................... 13  
  *Federal Legislation and Regulation* ......................................................................................... 13  
  *CAVCO Public Notices* .......................................................................................................... 13  

**Map of the Greater Toronto Area**

**Producer Residency Declaration**
The December 2019 version of the Guidelines includes updates to our administrative process and new or updated hyperlinks to the Ontario Creates and CRA websites.

The Guidelines
These guidelines have been prepared to assist producers in applying for the Ontario Film and Television Tax Credit (the “OFTTC”).

Please note that the OFTTC legislation (section 91 of the Taxation Act, S.O. 2007) and OFTTC regulation (Ontario Regulation 37/09) take precedence over any provision of these Guidelines.

Overview of the OFTTC
This section sets out the key features of the OFTTC. For a complete list of the applicable requirements, please consult the subsequent sections of these Guidelines and the OFTTC legislation and regulation. Links to the legislation and regulation can be found in Appendix 2.

What is it?
The OFTTC is a refundable tax credit based upon eligible Ontario labour expenditures incurred by a qualifying production company with respect to an eligible Ontario production. The OFTTC is generally “harmonized” with the Canadian Film or Video Production Tax Credit.

How much is the tax credit?
The OFTTC is generally calculated as 35% of the eligible Ontario labour expenditures incurred by a qualifying production company with respect to an eligible Ontario production.

An enhanced credit rate of 40% is available for first time productions. A bonus of 10% is available for regional Ontario productions.

The OFTTC is based only on Ontario labour expenditures, net of assistance reasonably related to these expenditures. Assistance includes grants, subsidies, and forgivable loans.

Productions that are shot in Ontario entirely outside the Greater Toronto Area*, or that have at least five location days in Ontario (or in the case of a television series, is at least equal to the number of episodes in the series), and at least 85% of the location days in Ontario are outside the Greater Toronto Area receive a 10% bonus on all Ontario labour expenditures. Productions eligible for the bonus receive a tax credit rate of 45% on the production’s total eligible Ontario labour expenditures. “Location days” are defined by the Legislation and consist of principal photography days done outside a film studio. Productions which are entirely animated are eligible to receive the regional bonus if at least 85% of their key animation days in Ontario take place outside of the Greater Toronto Area.

*The Greater Toronto Area is composed of the City of Toronto and the regional municipalities of Halton, Peel, York and Durham. The map of the GTA is available here.

What expenditures are eligible?
Eligible Ontario labour expenditures include salaries, wages and remuneration paid for the services of individuals who were resident in Ontario at the end of the calendar year prior to the commencement of principal photography. Productions can claim eligible labour expenditures possibly as early as two years prior to the commencement of principal photography. This may include labour expenditures for script development.
Who is eligible?
A qualifying production company is a Canadian corporation which is Canadian-controlled, maintains a permanent establishment in Ontario, and files an Ontario corporate tax return. In addition, the individual producer of the production must have been an Ontario resident at the end of both of the two calendar years prior to the commencement of principal photography.

What is an eligible production?
An eligible Ontario production is a production:

- which has six Canadian content points (international treaty co-productions are exempt from this requirement but must meet the applicable treaty requirements)
- for which 85% of the total number of days of principal photography or key animation is done in Ontario (documentaries and inter-provincial and international treaty co-productions are exempt from this requirement)
- for which at least 95% of the cost of post-production work for the production is carried out in Ontario (inter-provincial and international treaty co-productions are exempt from this requirement)
- which spends at least 75% of its total final costs on Ontario expenditures (in the case of inter-provincial and international treaty co-productions, 75% of total expenditures is in respect of the Ontario portion of the production)
- for which, in the case of an inter-provincial co-productions, not less than 20% of the cost of producing the production is in respect of the Ontario portion of the production
- which has an agreement with an Ontario-based distributor or a Canadian broadcaster to be shown in Ontario within two years of completion, and if for television, is guaranteed to be shown between 7:00 p.m. and 11:00 p.m. (an exception is made to the prime time requirement in the case of children’s programming)
- which is not in an excluded genre (such as news or current affairs, talk shows*, game shows, sports shows, awards shows, fundraising shows, reality television, pornography, or advertising).

*Please note that talk shows have always been and continue to be ineligible for all Ontario tax credits, including the OFTTC. Talk shows are eligible for the federal credit, the Canadian Film or Video Production Tax Credit administered by CAVCO, where principal photography began after February 16, 2016. CAVCO issued Public Notices 2017-02 and 2017-03 on March 6, 2017. Public Notice 2017-02 sets out definitions for ineligible genres, and Public Notice 2017-03 deals with the definition of advertising. Ontario Creates uses these definitions but we conduct our own assessment of a production’s genre. Links to these CAVCO Public Notices can be found in Appendix 2.

Structuring Provincial Co-productions
There are several corporate structures that can be used to undertake a co-production. Since the OFTTC is based on Ontario expenditures, it is very important that an inter-provincial coproduction distinguish and identify costs on the Ontario side of the coproduction. Coproduction structures in which separate corporations in each jurisdiction incur costs related to that jurisdiction provide a clearer distinction of costs. Although a jointly-owned production company may be eligible for the OFTTC, this structure lends itself to the greatest manipulation and is not encouraged as an acceptable structure.

How is the credit administered?
The OFTTC is jointly administered by the Ontario Media Development Corporation (operating as Ontario Creates) and the Canada Revenue Agency. Application is made by the production company to Ontario Creates for an OFTTC Certificate of Eligibility. In order to claim the OFTTC, the production company then files the OFTTC Certificate of Eligibility with the Canada Revenue Agency. You must file both a Certificate of Eligibility and a corporate tax return to claim an OFTTC for a taxation year.
Incorporating a Business

Only a business that is incorporated - federally in Canada or in any Canadian province - may claim the OFTTC. Advice or information regarding incorporation is available from professional advisors (a lawyer, accountant, etc.); the Ministry of Government and Consumer Services (contact the Companies Branch, 393 University Avenue, Suite 200, Toronto, ON M5G 2M2; (416) 314-8880 or toll free (in Ontario) 1-800-361-3223); or from business services providers (see "Incorporating Companies" in the yellow pages or link from the Ministry of Government and Consumer Services website). To incorporate outside Ontario, contact the relevant government ministry or department in the jurisdiction of incorporation.

Is a screen credit required on the production?

A screen credit recognizing financial support from the Ontario Government is available for the convenience of producers to recognize the Ontario tax credits contribution to their production. Although it is not required, due to the fact that tax credit information is considered confidential, a screen credit for an Ontario tax credit is certainly a welcome and appropriate way to acknowledge taxpayer support. The Ontario Creates logo can be downloaded here.

Process

General

In order to claim an OFTTC, you need to file a Certificate of Eligibility and your corporate tax return with the Canada Revenue Agency. Application for a Certificate of Eligibility must be made to Ontario Creates.

You can apply for a Certificate of Eligibility at any time during the production (from the start of principal photography or key animation) or after production activities have been completed. A Certificate issued before a production is completed can be filed with a tax return to claim an OFTTC for a taxation year. If the production spans more than one fiscal year, the Certificate can be used each year to claim an OFTTC. If a Certificate is issued before a production is completed, the Corporation is required to submit final documents to Ontario Creates to obtain a Letter of Confirmation confirming that all eligibility criteria were satisfied. If a production is determined to be ineligible based on the final documentation, a Certificate of Eligibility previously issued to the Corporation will be revoked and any tax credit paid to the Corporation must be repaid.

Application Deadlines

The applications for a Certificate of Eligibility and Letter of Confirmation must be submitted to Ontario Creates within 24 months from the end of the corporation’s taxation year in which principal photography began. The Certificate of Eligibility and the Letter of Confirmation must be issued by Ontario Creates within six months of the application deadline, or no later than 30 months from the corporation’s first taxation year end following the commencement of principal photography.

If the 24-month application deadline cannot be met, it may be extended by 18 months if the corporation files a valid Waiver in Respect of the Normal Reassessment Period (CRA form T2029 is available here) with the CRA within its normal reassessment period. The completed Waiver should be sent to your local CRA Tax Services Office (mailing addresses are available here). If the corporation's income tax return(s) for the relevant taxation year(s) have not yet been assessed, a valid form T2029 Waiver cannot be filed with the CRA for those years. However, you may still extend the application deadline by 18 months by filing a completed Ontario Creates Waiver Declaration form.

If you extend the application deadline by filing a valid, completed waiver, the applications for the Certificate of Eligibility and Letter of Confirmation must be submitted to Ontario Creates within 42 months from the date of the first taxation year end following the commencement of principal photography. The applications must also include a completed Ontario Creates Waiver Declaration form for each production to confirm whether the corporation was required to file a Waiver in Respect of the Normal Reassessment Period with CRA. The Certificate of Eligibility and the Letter of Confirmation must be issued by Ontario Creates within six months of this application deadline, or no later than 48 months from the corporation's first taxation year end following the commencement of principal photography.

Please note that there is a fee for filing claims that are more than 24 months old.
OFTTC Application and Review Process

Set out below is an overview of the OFTTC application review process, from submission of your application to receipt of a Certificate of Eligibility and/or a Letter of Confirmation.

Stage 1: Online Application

All tax credit applications must be submitted via our Online Application Portal (“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.

Please ensure that your application includes all of the required information and supporting documentation (see Appendix 1). All applications will be reviewed by a tax credit intake officer for completeness. If required documentation is missing, the file will not enter the queue. Applicants will be advised that the file will not move forward until the requested documentation is submitted.

Stage 2: Eligibility Review

The Eligibility Review consists of assessing the applicant and production for compliance with the eligibility requirements of the OFTTC and the Producer Control Guidelines and estimating the tax credit amount. The business officer assigned to your file may contact you with further questions or for additional information and documentation during the Eligibility Review. Although we endeavour to notify clients as soon as possible regarding the ineligibility of a production, in some cases we may not be in a position to determine eligibility until the Eligibility Review is completed.

Stage 3: Issuance of a Certificate of Eligibility and Letter of Confirmation

Ontario Creates will send you an original Certificate of Eligibility and Letter of Confirmation if the production is eligible for an OFTTC.

How long does the process take?

As noted above, the Ontario Creates Tax Credits Department will only review complete applications on a first-come, first-served basis. Processing time will depend on the volume of applications received.

Where significant delays are encountered in obtaining responses from applicants, Ontario Creates reserves the right to close the file after 30 days.

Claiming the Tax Credit

The OFTTC is jointly administered by Ontario Creates and the Canada Revenue Agency (CRA), as described below.

Ontario Creates Role

(i) Issuance of Certificates of Eligibility

Ontario Creates is responsible for issuing Certificates of Eligibility, which the qualifying corporation files with the Canada Revenue Agency with its T2 Corporation Income Tax Return for the applicable taxation year in order to claim the OFTTC. A Certificate of Eligibility sets out (i) the eligibility of an applicant corporation; (ii) the eligibility of an applicant production; and (iii) the estimated amount of the OFTTC, which may be subject to verification by the Canada Revenue Agency as indicated below.

Ontario Creates 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 production may not be relied upon as a guarantee of certification for subsequent filings.

(ii) 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 Ontario Creates. An amended Certificate of Eligibility replaces any Certificate of Eligibility previously issued for the production. If a Certificate of Eligibility is revoked by Ontario Creates, the revoked
Certificate of Eligibility is treated as if it had never been issued and any OFTTC refund previously paid must be repaid. Please note that there is a fee of $100 for amended Certificates.

**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 T2SCH556 which must be filed by the qualifying corporation in order to claim the OFTTC. 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. 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 OFTTC a qualifying corporation must file its T2 return with Schedule T2SCH556 and the Certificate of Eligibility with the CRA. Following its review or audit of the OFTTC 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 is available here and the applicable schedule is available here. For additional information visit this page on the CRA website.

Inquiries should be directed to CRA’s Toronto Film Services Unit at (416) 973-3407 or (416) 954-0542.

(ii) **Payment of an OFTTC Refund**

If the qualifying corporation is owed a tax refund (which may include an OFTTC) 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.)

**Assistance in preparing a tax credit application to Ontario Creates**

Should you require assistance in preparing your tax credit application, the Ontario Creates can provide a list of companies that provide services with expertise in this area. Contact the Tax Credit Programs Officer for a copy of the list.
CONTACT INFORMATION

If you require assistance, please contact the Tax Credits Phone Duty line (416) 642-6659 or mailbox at taxcredits@ontariocreates.ca. Please leave a detailed message including your name, company name, phone number and which tax credit or file you are inquiring about. Phone calls and emails will be responded to within one business day.

For further information please also check out our Frequently Asked Questions.

OFTTC ADMINISTRATION FEES

A non-refundable administration fee is charged with respect to each OFTTC application submitted to Ontario Creates and is used to offset operating costs of the program. Please note that the administration fee is required in order for the application to receive an Eligibility Review.

The administration fee is calculated as 0.15% of the estimate of total paid Ontario labour expenditures for the application. The minimum total administration fee is $500 and the maximum total administration fee is $10,000 per application. Please note that the administration fee is based on the Ontario side of the production budget in the case of co-productions.

For example, if the estimate of total paid Ontario labour expenditures are $4,000,000.00 the administration fee is $6,000.00 (4,000,000.00 x 0.15%).

Applicants now have the option of paying the administration fee through Interac E-Transfer.

Please visit the following pages for more information:

- How to pay your tax credit administration fee via Interac E-Transfer
- FAQ

Please direct inquires to applyhelp@ontariocreates.ca.

The administration fee may also be paid by cheque or money order to Ontario Creates at the time the OFTTC application is submitted.

Please note: There is an additional filing fee of $100 applied to applications for Certificates of Eligibility received more than 24 months after the end of the first fiscal year in which principal photography began. Where a year-end has not been included in the application, the additional fee will be applied to applications submitted more than 24 months after the start of principal photography. There is also a fee of $100 for each Amended Certificate.
APPENDIX I –
OFTTC DOCUMENTS CHECKLIST

The application and all supporting documents must be submitted through the Ontario Creates Online Application Portal.
It is the responsibility of the applicant to ensure that all documentation is current.
Please forward changes as they occur.

1. BOTH:
   a) The completed OFTTC Application
   AND
   b) the completed Canadian Film or Video Production Tax Credit Application
      (the application as submitted to CAVCO, as confirmed by the “submission date” on the front page of the application)

2. Applicant Declaration completed and signed by an authorized signing officer (officer and/or director) of the corporation,

3. Administration Fee payable by Interac e-transfer, or by cheque or money order to Ontario Creates, calculated as 0.15% of the estimate of total paid Ontario labour expenditures for the application. Applies to the Ontario side of the production budget in the case of co-productions.
   There is a minimum fee of $500 per application and a maximum of $10,000 per application.
   Please note: 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 amended Certificates.

4. Ontario Creates Waiver Declaration signed by an authorized signing officer (officer and/or director) of the corporation.

5. Certificate and Articles of Incorporation for the applicant production company and any corporate owners
   Interprovincial co-productions: Submit incorporation documents for the coproduction partner.

6. Corporate Chart including names and citizenship of shareholder(s) with percentage of shares held for applicant company and any corporate owners, if applicable; include names and citizenship of the officers and directors of the applicant company.
   Interprovincial co-productions: Provide shareholder information for the coproduction partner and any corporate owners.

7. Signed Producer Residency Declaration forms for all controlling producers (producers, executive producers and co-producers).

8. Other Related Canadian Producers (not required for line producers and associate producers):
   Provide agreements for all related producers which outline their duties and responsibilities on the production.
9. **CAVCO Part A Certificate** (if available at this stage)
   **NOTE:** If the CAVCO Part A Certificate is not available and there are non-Canadian producer(s)/producer-related personnel which are not identified in the application, written confirmation from CAVCO that they are aware of the courtesy credit exemption request for the individual(s) in question must be provided.
   **NOTE:** Where there are non-Canadian producers and CAVCO’s Part A Certificate was not available prior to the issuance of the OFTTC certificate of eligibility, it must be submitted with the application for the Letter of Confirmation.

10. **CAVCO Personnel Numbers** for all producers, producer-related personnel (including production manager) and key creative personnel.

11. **Chain of Title Documentation** - including any legal opinion, option/acquisition agreements, assignment agreements or writer’s agreement(s), if applicable (for a series, a sample writer’s agreement).
    **NOTE:** Chain of title documentation is not required for international treaty co-productions.

12. **Inter-provincial Co-productions:**
    Signed and dated inter-provincial coproduction agreement and any amending agreement(s), if applicable.

13. **International Treaty Co-productions:**
    Signed and dated international coproduction agreement and any amending agreement(s), if applicable
    **AND**
    Telefilm Canada’s Preliminary Recommendation
    If the production is completed:
    Telefilm Canada’s Final Recommendation and CAVCO Part B Certificate of Completion

14. **Synopsis** – which provides a brief description of the storyline

15. **Episodic Canadian content point breakdown** (for series only) – listing the individual’s name, position and total points per episode.

16. If production is completed, final on camera credit list (head and tail credits – per episode for series).

17. **Production Schedule** including start and end dates of pre-production, shooting days (including location of shooting) and post-production.

18. If applying for the regional bonus, provide a summary of all shooting/animation days with dates and locations and provide supporting documentation such as daily production reports for all shooting days or agreement with the animation facility.

19. **Cast and Crew Lists** (including role and residency addresses).
| 20. Locked production budget in Telefilm (or similar) format |
| International treaty co-productions: Submit breakdown of budgeted costs between the coproduction partners. |
| Interprovincial co-productions: Submit coproduction partner’s budget. |
| If production is completed: |
| Final Cost Report – Must be the detailed cost report upon which the final statement of production costs was based (Audited Statement of Costs or Review Engagement Report) |
| International treaty co-productions: Submit breakdown of final costs between the coproduction partners. |
| Interprovincial co-productions: Submit coproduction partner’s final cost report. |

| 21. Audited Statement of production costs, as per CAVCO’s audit guidelines for productions with a final cost of $500,000 or more; or Review Engagement Report for productions with a final cost of $200,000 to $499,999. |

| 22. Schedule of Ontario labour costs |
| NOTE: To expedite the review of your application, we recommend using the Calculation of Eligible Labour A Expenditures spreadsheet available on the OFTTC webpage. |
| (i) Please submit projected amounts based on the locked production budget if production is not complete. |
| (ii) Please submit final amounts based on the audited statement or review engagement report if production is complete. |

| 23. Schedule of non-Ontario costs |
| (i) If production is not complete: Please submit projected amounts based on the locked production budget. |
| (ii) If production is complete: Please submit final amounts based on the final cost report on which the audited statement or review engagement report is based. |

| 24. Financing and exploitation agreements: Provide signed agreements for all sources of financing and any distribution or broadcast license agreements. |
| NOTE: If only Deal Memos are available, please submit the executed Long Form Agreements once they are available. |

| 25. Financing Plan |

| 26. Guarantee from a Canadian broadcaster that the Production will be shown in Ontario between 7 p.m. and 11 p.m. within two years of completion (or proof that such broadcast has occurred) |
| OR |
| Guarantee from an Ontario distributor that the Production will be released in Ontario within two years of completion (or proof that such distribution has occurred) |
| The guarantee may be included in the license/distribution agreement or in a letter from the broadcaster/distributor. |

| 27. FOR FIRST-TIME PRODUCTIONS ONLY: Please submit: |
| • Curriculum vitae/filmography (listing productions with production year, job title and screen credit) for all producers; and |
| • First Time Producer Declaration signed by all producers |

| 28. Copy of the completed production on DVD or USB stick. If available at this stage. |
| NOTE: For television series, please submit the last episode only. |
APPENDIX II –
LINKS TO LEGISLATION, REGULATIONS, AND CAVCO PUBLIC NOTICES

Provincial Legislation and Regulation

Taxation Act, 2007, s. 91 – OFTTC
Taxation Act Regulation, O. Reg. 37/09, s. 23, s. 26-30 – OFTTC

Federal Legislation and Regulation

Income Tax Act (Canada), s. 125.4 – CPTC
Income Tax Regulations, s. 1106 – CPTC

CAVCO Public Notices

2017-02 Definitions for ineligible genres of production for the purpose of the federal film or video production tax credit programs

2017-03 Definition of “advertising” for the purpose of the federal film or video production tax credit programs