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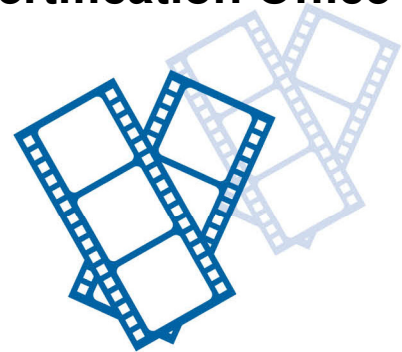
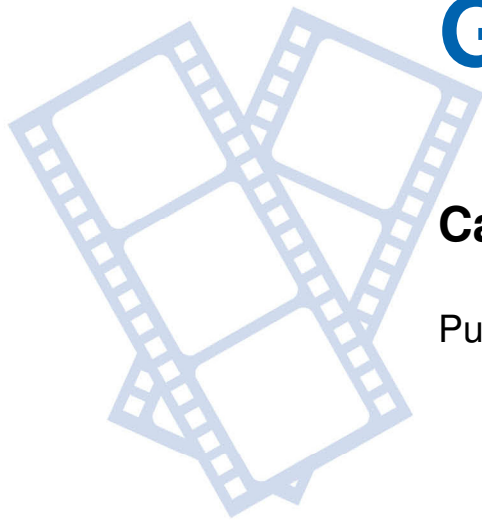
Canada



PSTC Program Guidelines

Canadian Audio-Visual Certification Office

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PREAMBLE

The Film or Video Production Services Tax Credit (PSTC) is a refundable tax credit designed to encourage the employment of Canadians by a taxable Canadian corporation or a foreign-owned corporation (the “eligible production corporation”), the activities of which in the year are primarily the carrying on, through a permanent establishment in Canada, of a film or video production business or a film or video production services business. In return for hiring Canadian residents to perform work in Canada, the corporation may be entitled to a credit against taxes payable in Canada. The PSTC program is jointly administered by the Department of Canadian Heritage, through the Canadian Audio-Visual Certification Office (CAVCO), and by the Canada Revenue Agency (CRA).

These guidelines provide general information on the PSTC program requirements and will assist in the completion of an application to CAVCO for an “accredited film or video production certificate” (Accreditation Certificate). The “Part I – Requirements” section outlines the various requirements for a production to be eligible and provides an overview of CAVCO’s administration of the PSTC program. Applicants should also review “Part II – How to Apply” of this guide when completing an application. For definitions of genres and other relevant program terms, please refer to CAVCO’s CPTC program guidelines. These definitions are used by CAVCO for the purpose of the PSTC, when applicable.

The legislation governing the PSTC is set out in section 125.5 of the *Income Tax Act* (the “Act”) and section 9300 of the *Income Tax Regulations* (the “Regulations”). The Act and the Regulations take precedence over these guidelines. Links to the full text of the Act and Regulations are available on CAVCO’s Web site, at www.pch.gc.ca/cavco.

An Accreditation Certificate is issued by CAVCO where a production is an “accredited production”; such a production meets the requirements of section 9300 of the Regulations. While services to a production may be provided by any number of eligible production corporations, CAVCO issues a single certificate for the production to the copyright owner, whether or not this entity itself is an eligible production corporation. All service providers should ensure that the copyright owner applies to CAVCO and provides them with a copy of the certificate so that they may claim the applicable portion of the PSTC with the CRA. Note that the term “copyright owner” is intended throughout these guidelines to refer both to a single copyright owner and to multiple copyright owners where ownership in a production is jointly held (see section 2.02).

The Accreditation Certificate, along with CRA Form T1177 “Claiming a film or video production services tax credit” and any prescribed documentation, must be filed with the corporate tax return for the year of an eligible production corporation. The CRA will then review the claim by the corporation, ensure that it continues to meet all the eligibility requirements of the program and determine the amount of the PSTC which the corporation is entitled to receive.

The PSTC is available at a rate of 16% of the “qualified Canadian labour expenditure” incurred by an eligible production corporation for services provided in Canada by Canadian residents or taxable Canadian corporations (for amounts paid to employees who are Canadian residents) for the production of the accredited production. The qualified Canadian labour expenditure for a production includes all amounts which are “Canadian labour expenditures” less assistance received (such as other provincial tax credits) for these expenditures. There is no cap on the amount of PSTC which can be received for a production. The PSTC is not available where a production has received the Canadian Film or Video Production Tax Credit, under section 125.4 of the Act.

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

1. The corporation applying for the PSTC must be an eligible production corporation. (s. 2.01)
2. The production must meet a prescribed cost minimum requirement. (s. 4.03)
3. The production must not fall under any of the excluded genre categories. (s. 4.02)

Part I

Requirements



ADMINISTRATION

1.01 Contacting CAVCO

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

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

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

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

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

1.02 Administration of PSTC Program

CAVCO confirms that a production is an “accredited production” that meets the requirements of the PSTC program under section 9300 of the Regulations. The eligible production corporation must then submit a claim to the CRA as part of its T2 Corporation Income Tax Return to receive a tax credit.

1.03 Responsibilities of CAVCO

It is the responsibility of the Department of Canadian Heritage (through CAVCO) to issue an Accreditation Certificate in respect of a production, confirming that it initially meets all the requirements of Section 9300 of the Regulations, and confirming the name of the copyright owner(s) of the production, for purposes of the PSTC, at the time it is issued. CAVCO may require that the producer provide any necessary records or financial documents for audit by a third party. The producer must ensure that adequate space and time are provided and that all relevant documents are made available for this audit. CAVCO also reserves the right to require that its

representatives be present during the principal photography for a production and to require any additional information, affidavits or sworn statements that it deems necessary to issue a certificate.

1.04 Responsibilities of the CRA

The role of the CRA is to:

- interpret and apply section 125.5 of the Act and all other provisions of the Act and Regulations that may have an impact on the PSTC;
- review and audit the PSTC claim;
- assess the T2 Corporation Income Tax Return filed by each eligible production corporation; and
- issue refund cheques, where appropriate.

a) Verify continuing eligibility of the production

It is the responsibility of the CRA to confirm that a corporation which applies for the PSTC remains an eligible production corporation throughout the year for which a tax credit is claimed; that the production budget continues to meet the regulatory minimums; and, where a production is completed, that it continues to be of an eligible genre. Where there is any concern relating to a production's genre, the CRA will seek the expertise of CAVCO. In these instances, a DVD or VHS tape of the production (or three representative episodes in a series) must be made available to the CRA or directly to CAVCO for this purpose.

b) Filing of PSTC Claim

To claim a PSTC for an accredited production, the following must be included with the T2 Corporation Income Tax Return for the tax year:

- a copy of the CAVCO Accreditation Certificate for each accredited production; and

- a completed Form T1177, Film or Video Production Services Tax Credit, for each accredited production.

The CRA reviews PSTC claims once they are complete. A PSTC claim is considered complete when the documents outlined above are filed with the CRA.

As part of its review of a tax credit claim, the CRA may also request any additional information it deems necessary, including through a full audit of the production. Where a production is chosen for an audit, the CRA may ask for supporting documentation such as the books and records of the corporation and the full application filed with CAVCO.

More information on the CRA's administration of the PSTC program, as well as copies of its Form T1177 and its publication *Claiming a Film or Video Production Services Tax Credit – Guide to Form T1177*, can be found on its Web site at www.cra-arc.gc.ca/filmservices.

c) Issuing a refund cheque, if any

Any PSTC receivable by a corporation for a particular year will be reduced by any other taxes owing by the corporation, including corporate income tax, payroll source deductions and Goods and Services Tax/Harmonized Sales Tax (GST/HST). Where there is a surplus credit, a refund cheque will be issued in this amount.

If CRA Form T1177 and the CAVCO Accreditation Certificate are attached to the T2 Return, the file is considered complete and the Tax Centre will immediately forward your file to the contact person in your Film Services Unit to be selected for review or audit.

1.05 Submitting an Application to CAVCO

The copyright owner(s) for a production must apply to CAVCO. For administrative convenience, a copyright owner may appoint an agent known as the "Official Designee", e.g. a Canadian service provider, a law firm, etc., to apply for accreditation on its behalf. More information on the official designee is available in section 2.02 below.

The copyright owner may apply to CAVCO any time after the budget for the production or series is locked and a detailed synopsis of the production or series can be provided. Note that where a sale of copyright ownership is contemplated, it may be advisable to wait until after the sale to apply for an Accreditation Certificate, to minimize any administrative inconvenience. However, an Accreditation Certificate is required before an eligible production corporation may apply for the tax credit from the CRA.

Applicants must apply to the PSTC program through CAVCO's online eSubmission application system, which is available on CAVCO's Web site at www.pch.gc.ca/cavco. Applicants should also review "Part II – How to Apply" of this guide, which provides more detail on the PSTC application process.

1.06 Required Documentation

In support of an application for an Accreditation Certificate, the following documentation must be submitted to CAVCO:

a) **Administration Fee:** a cheque in the amount of C\$5,000 made payable to the Receiver General for Canada;

b) Chain of Title Documentation or a Legal Opinion in respect of Copyright Ownership:

(i) Documents such as option agreements, transfer agreements, or writers' agreements, which identify the copyright owner at the time of the application; or

(ii) A legal opinion of copyright ownership. This may be provided in lieu of the chain of title documentation. It must be detailed and refer to all those documents which would otherwise be submitted to CAVCO for review. CAVCO reserves the right to require the submission of all chain of title documentation where the legal opinion is deemed unsatisfactory or incomplete;

c) **Budget for a Single Production:** summary of the locked budget or, where the production is already completed, the final cost report summary. A full summary budget for the worldwide production costs need not be submitted where it can be shown that the production costs in Canada of the accredited

production will exceed the minimum requirement (see section 4.03). In this case, only the Canadian portion of the budget need be submitted. However, a total for the global estimated cost of production will still be required in the application.

or

Budgets for a series: summary of the locked budget for the entire series, and summary of a locked episodic budget, or where the series has been completed, a final cost report summary for the entire series, and for an episode. Model episodic budgets with Canadian portions only may be submitted, where costs spent in Canada exceed the minimum requirements. Since each episode in a series must meet the minimum requirements of the Regulations, CAVCO may request in certain cases that a summary episodic budget be provided for all episodes.

d) **Official Designee Affidavit:** a signed and notarized CAVCO affidavit, where required (CAVCO Form 02F14). It is essential that all sections of the affidavit be completed; as well, the contents of the affidavit should not be modified. While the applicant may include a copy of an affidavit as part of an application, the original should be kept on file, as it may be requested by CAVCO.

The following additional documentation must be submitted to CAVCO where an Amended Accreditation Certificate is requested:

a) **Administration Fee:** a cheque in the amount of C\$1,000 made payable to the Receiver General for Canada;

b) **Sale Documentation in respect of Copyright Ownership or a Legal Opinion in respect of Copyright Ownership:**

(i) Any agreements relating to the sale and chain of title transfer since time of the original application; or

(ii) A legal opinion in respect of copyright ownership. This may be provided in lieu of sale documentation, but must be detailed and reflect any changes since the time of the original application. CAVCO reserves the right to require the submission of sale documentation where the legal opinion is deemed unsatisfactory;



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

An amendment to an accredited film or video production certificate is required primarily where there is a change in the copyright owner(s) listed on the certificate, or where other significant changes to information are made, such as to the number of episodes listed.

Where an amendment is required based on information not provided at the time of initial application, a C\$1,000 amendment fee is required.

c) **Budgets:** same as original application but only where this has changed significantly; and

d) **Official Designee Affidavit:** an original (signed and notarized) of the CAVCO-approved affidavit, where required.

CAVCO reserves the right to require any additional information, affidavits or sworn statements that it deems necessary to issue an Accreditation Certificate or an Amended Accreditation Certificate.

Applicants should attach all required supporting documents to their application in electronic format.

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

1.07 Application Review Process

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

1.08 Compliance Reviews

If a CAVCO tax credit officer's review of a file indicates that a production is not eligible under the PSTC program, the file is submitted to CAVCO's Compliance Committee for further review. Based on this review, additional information or clarification may be requested from the producer, or the file may be recommended for denial. For further information regarding the process for denials or revocations, see section 1.11.

1.09 Preliminary Opinions of Eligibility

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

1.10 Application Fees

An administration fee of C\$5,000 is payable for each application for an Accreditation Certificate for a production or a series of episodes. An application for a series of episodes generally includes only those episodes produced for one broadcast season. If a pilot episode is applied for under a separate application, an application for the remainder of the episodes in that broadcast season is subject to an additional application fee. Similarly, if episodes for one season are split among applications, a separate fee is payable for each application made.

As only the copyright owner (or an Official Designee) can apply for the certificate, this entity is responsible for paying the fee. Please note that no analysis will be done until the required fee is paid in full.

Where the aggregate tax credit received in respect of an application is less than C\$25,000 (excluding amounts which may reduce the tax credit receivable, such as taxes owing), the applicant may be entitled to a partial

rebate of the administrative fees payable to CAVCO for accreditation. The rebate entitlement is based on the table below. To access the rebate, the applicant must pay the full fee at the time of application. Once all of the tax credit has been claimed in respect of a production or a series of episodes, the applicant may make a written request for a rebate to CAVCO; the applicant must include a copy of all CRA tax assessments of the production or series. CAVCO will then confirm the rebate amount.

Aggregate Tax Credit	Final Fee	Rebate
\$25,001 +	\$5,000	\$0
\$20,001 - \$25,000	\$4,000	\$1,000
\$15,001 - \$20,000	\$3,000	\$2,000
\$10,001 - \$15,000	\$2,000	\$3,000
\$0 - \$10,000	\$1,000	\$4,000

An additional amendment fee of C\$1,000 is required where copyright ownership has changed after an Accreditation Certificate has been issued and an Amended Accreditation Certificate is required. This amount is not subject to the rebate provision. See sections 1.06 and 3.03 for more information on the amendment process.

Cheques for the application fee should be made **payable to the Receiver General for Canada**.

An additional fee of C\$100 is also required for a certified copy of a previously issued certificate (this is not applicable where the certificate was initially issued via the online system).

1.11 Denials and Revocations

An Accreditation Certificate may be revoked by the Minister of Canadian Heritage in accordance with subsection 125.5 (6) of the Act, if an omission or incorrect statement was made for the purpose of obtaining the certificate, or if the production is not an "accredited production". Where an Accreditation Certificate has been revoked, it is deemed never to have been issued and any tax credits already received by an eligible production corporation for a revoked production must be repaid.

A notification letter will be sent to the CRA for all denials or revocations for which a final determination has been made by CAVCO.

Before CAVCO recommends to the Minister that an application be denied or that an Accreditation Certificate be revoked, the company receives a notification. It then has up to 30 days from the date of the notification to provide additional information that may impact the evaluation of the file and CAVCO's recommendation to the Minister. If CAVCO concludes that the

production does not meet the requirements of the Act and the Regulations after consideration of the representation made by the production company, or if no further information is provided before the deadline, it will recommend that the accreditation be denied or revoked. The production company will be sent a notification of the Minister's final decision.

CORPORATE INFORMATION

2.01 Eligible Production Corporation

The CRA is charged with the legislative requirement of determining if the corporation claiming the PSTC is an eligible production corporation throughout the taxation year in which production occurs. It must be a taxable Canadian corporation or a foreign-owned corporation, the activities of which in the year are primarily the carrying on through a permanent establishment (as defined by regulation) in Canada of a film or video production business or a film or video production services business. "Primarily" is generally determined to mean more than 50%.

It is important to note that the corporation's primary activity must be in relation to the production of "films or videos" or the provision of "film or video production services". If the business of a corporation includes other activities such as the distribution of films and videos, it may not be considered an eligible production corporation for the PSTC. Thus, a corporation may be denied the tax credit by reason of its activities in the year. Production companies should seek to ensure that they are eligible for the PSTC program by contacting their regional Film Services Unit of the CRA, in advance of submitting an application to CAVCO.

Furthermore, to be an eligible production corporation, the corporation cannot be:

- exempt from tax under Part I of the Act (i.e. a non-profit corporation or a charitable corporation),

- controlled directly or indirectly in any manner whatsoever by one or more persons, all or part of whose taxable income is exempt from tax under Part I of the Act, or
- a prescribed labour-sponsored venture capital corporation for the purpose of section 127.4 of the Act.

Note that the eligible production corporation must either own the copyright in the accredited production throughout the period during which the production is produced in Canada, or have contracted directly with the copyright owner of the production to provide production services for the production. Where the copyright owner is an eligible production corporation, it must claim the PSTC.

2.02 Official Designee

Where an Official Designee is appointed, the copyright owner must sign and have notarized the Official Designee Affidavit and provide the required documentation confirming copyright ownership to the Official Designee, for transmission to CAVCO.

Note that in the case of multiple copyright owners, one affidavit from one of the copyright owners (where this entity has received written permission from all other copyright owners) will be sufficient to fulfill the requirements of the PSTC program.

COPYRIGHT OWNERSHIP

3.01 General Definition

CAVCO is responsible for confirming the copyright owner(s) of an accredited production. For the purposes of the PSTC, the copyright owner will be the person or entity which has the rights to produce the accredited production (based on the acquisition of underlying rights sufficient to produce the production) and which will retain legal copyright ownership of the production once it is completed.

Note that for the purposes of Canadian copyright law, there may be several copyright owners of various aspects of a production from literary rights to music rights. Where, for example, a character previously exists, the owner would not have to acquire all the rights to that character. To be the copyright owner for the PSTC, one would, at minimum, have to acquire a licence to produce a production based on that character and retain legal copyright ownership of the finished production.

3.02 Chain of Title Documentation

CAVCO requires documentation which demonstrates chain of title ownership from the time of initial development of the story idea to the writing of the final script. The types of documents required include option agreements, transfer agreements, licence agreements, script purchase agreements or script writing agreements.

A detailed legal opinion (citing the relevant documents, their contents and the dates on which they were entered into) may be provided in lieu of the chain of title documentation. This legal opinion may be provided by independent or in-house counsel licensed to practice in any jurisdiction where the copyright owner (or Official Designee) carries on business. However, CAVCO reserves the right to request that all chain of title documentation be submitted where the legal opinion is deemed unsatisfactory or incomplete.

3.03 Changes to Copyright Ownership

a) Before Accreditation

The sale of the copyright ownership, after final script stage but before the completion of production in Canada, may pose some complications in applying for the PSTC; the effect of such a transfer will vary depending on the nature of the ownership.

Where the copyright owner is also an eligible production corporation, copyright ownership must remain with this entity during the production in Canada. However, the eligible production corporation may sell ownership in the production (after the time at which production in Canada is completed) without affecting its eligibility for the PSTC.

Where the copyright owner is not an eligible production corporation, an eligible production corporation(s) must have contracted directly with the copyright owner. For CAVCO purposes, the copyright owner at the time of the application must apply to CAVCO. Any changes in ownership up to this time will be evidenced in the chain of title documentation or detailed legal opinion submitted with the application.

The Accreditation Certificate will be issued with the name of the copyright owner(s) at the time of application. Any previous copyright owner who contracted with an eligible production corporation will also be noted on the certificate, where this information is provided at the time of application.

b) After Accreditation

If ownership has changed after the Accreditation Certificate has been issued, and where work on the production is continuing in Canada, work on the production has not yet begun in Canada or the new copyright owner has entered into additional contracts with eligible production corporations, an amendment application must be made to CAVCO by the new copyright owner (or its Official Designee). The original Accreditation Certificate and any sale documentation should be included with this application. An Amended Accreditation

Certificate will be issued and the CRA will be advised of the change of ownership. The original Accreditation Certificate continues to be valid up to the change of ownership date, after which an Amended Accreditation Certificate will be required.

Where work is continuing in Canada or work has not yet begun in Canada, but the work is to be done by the same service provider(s) as contracted by any previous copyright owner, the

new copyright owner should enter into a new contract with the service provider(s) or arrange for an assignment of any previous contracts, for the service provider(s) to claim a tax credit for work performed after the change in ownership. This action should be considered whether the change of ownership has occurred before or after accreditation by CAVCO.

ACCREDITED PRODUCTION

4.01 General Definition

To qualify as an "accredited production", the film or video production or series must meet the two requirements of Section 9300 of the Regulations: it must meet a prescribed cost minimum and must be an eligible genre.

Note that each episode in a series is treated as an individual production and must qualify with respect to meeting the cost minimum and being an eligible genre.

4.02 Excluded Genres

To be an eligible genre, the production cannot be one of the following:

- a) news, current events or public affairs programming, or a program that includes weather or market reports;
- b) a talk show;
- c) a production in respect of a game, questionnaire or contest;
- d) a sports event or activity;
- e) a gala presentation or an awards show;
- f) a production that solicits funds;
- g) reality television;
- h) pornography;
- i) advertising; or

j) a production produced primarily for industrial, corporate or institutional purposes.

For definitions of these genres and other relevant program terms, please refer to CAVCO's CPTC program guidelines. These definitions are used by CAVCO for the purpose of the PSTC, when applicable. Please note that while the CPTC program contains an exception allowing game shows directed at minors, this exception does not exist under the PSTC. All game, questionnaire or contest productions, regardless of target audience age, are ineligible under the PSTC.

4.03 Cost Minimums

The cost for a production for the period ending 24 months after principal photography has begun must exceed C\$1,000,000, except in the case of a series consisting of two or more episodes or a pilot for such a series. The cost for each episode in a series, which has a running time of less than 30 minutes, must exceed C\$100,000 per episode. The cost for episodes with a longer running time must exceed C\$200,000 per episode.

To establish the applicable cost minimum for a production, CAVCO may request additional information such as confirmation of a production's running time based on the form in which it is actually being exploited. CAVCO may also request information such as a series outline where it is necessary to confirm that a production is a pilot episode for a proposed series.

FINANCIAL INFORMATION

5.01 Canadian Labour Expenditure

It is the responsibility of the CRA to confirm the “qualified Canadian labour expenditure” of an eligible production corporation, in respect of an accredited production.

The first step in determining the qualified Canadian labour expenditure of a corporation is to determine the amount of “Canadian labour expenditure” incurred. To qualify as a Canadian labour expenditure, an amount incurred by an eligible production corporation must be:

- a) reasonable in the circumstances;
- b) directly attributable to the production;
- c) incurred after October 1997;
- d) incurred for the stages of production from the final script stage to the end of the post-production stage;
- e) paid in the year or within 60 days after the end of the year;
- f) paid to persons who were resident in Canada at the time the payments were made; and
- g) paid for services provided in Canada.

5.02 Types of Canadian Labour Expenditure

The total Canadian labour expenditure for an eligible production corporation is the total of the following three amounts:

- Salary or wages paid to employees of the corporation;
- Remuneration, other than salary or wages, paid to a person or partnership; and
- Reimbursement by a wholly-owned corporation to its parent.

a) Salary or Wages Paid to Employees of the Corporation

Salary or wages paid to employees of the eligible production corporation must meet all of the requirements listed in section 5.01.

Salary or wages are defined in section 248(1) of the Act, e.g. income from an office or employment. Only benefits that are taxable in the employees' hands would qualify, e.g. 4% vacation pay, Registered Retirement Savings Plans, but not company pension plans. Specifically excluded from the definition of salary and wages are amounts described in section 7 of the Act, e.g. stock options; an amount determined by reference to profits or revenues; and other benefits paid by the employer but not taxed to the employee, e.g. catering, transportation, employer's portion of payroll source deductions. Eligible production corporations may consult their regional Film Services Unit for more information.

b) Remuneration (other than salary or wages)

The portion of the remuneration that meets all of the requirements listed in section 5.01, and that is paid to a person or partnership carrying on business in Canada through a permanent establishment, is considered to be a Canadian labour expenditure where the amount is paid to:

(i) An individual resident in Canada at the time the amount is paid and who is not an employee of the corporation, to the extent that the amount paid either is attributable to services personally rendered by the individual in Canada for the accredited production, or is attributable to and does not exceed the salary or wages of the individual's employees, at the time they were resident in Canada for personally rendering services in Canada for the accredited production.

Note that if a payment to non-employees includes a non-labour component, e.g. goods provided by the service provider, profit margin or the employer's share of government deductions, this portion does not form part of the remuneration. Only the labour component is eligible for the calculation of the labour expenditure.

(ii) Another taxable Canadian corporation to the extent that the amount paid is attributable to and does not exceed the salary or wages of the other corporation's employees at a time when they were resident in Canada for personally rendering services in Canada for the accredited production.

Only the labour portion of the invoice sent to the production company, net of any profit margin, materials or the employer's share of government deductions, may be included as a labour expenditure. Technically, the salary or wages must be paid to the corporation's employees. The corporation must be Canadian and taxable. Some Canadian broadcasters are not taxable corporations, e.g. Radio-Québec, TVOntario, Knowledge Network, SCN.

(iii) Another taxable Canadian corporation all the issued and outstanding shares of the capital stock of which (except directors' qualifying shares) belong to an individual who was resident in Canada and the activities of which consist principally of the provision of the individual's services, i.e. a loan-out corporation or personal services corporation, to the extent that the amount paid is attributable to services rendered personally in Canada by the individual in respect of the accredited production.

(iv) A partnership carrying on business in Canada, to the extent that the amount paid is either attributable to services personally rendered for the accredited production by an individual who is resident in Canada and who is a member of the partnership, or is attributable to and does not exceed the salary or wages of the partnership's employees at a time when they were resident in Canada for personally rendering services in Canada for the accredited production.

c) Reimbursement by a Wholly-Owned Corporation to its Parent

To qualify for the reimbursement provision, the eligible production corporation must be a wholly-owned subsidiary of another taxable Canadian corporation (referred to as a "parent"), and the eligible production corporation and the parent must have filed an agreement with the CRA that the reimbursement provision applies. The reimbursement must be made by the

eligible production corporation in the year, or within 60 days after the end of the year. The expenditure that was incurred by the parent in that taxation year must be in respect of the production and would otherwise qualify as a Canadian labour expenditure in the same manner as noted above for individuals, taxable Canadian corporations, loan-out corporations and partnerships. The expenditure incurred by the parent would also have to have been incurred by the eligible production corporation for the same purpose as it was incurred by the parent.

If all the criteria of the reimbursement provision are not met, payments to the parent company will become payments to another taxable Canadian corporation (as described above). Consequently, only the Canadian labour expenditure with respect to the salary or wages of the parent corporation's employees will qualify. The Canadian labour expenditure that has been paid to a subcontractor will not qualify. Where the provision does not apply, the eligible production corporation also would not be entitled to include costs paid by the parent, other than eligible Canadian labour expenditures, in the total cost of production for Capital Cost Allowance purposes.

Labour Expenditure during Post-Production

The Act provides a specific rule governing the eligibility of Canadian labour expenditures of a corporation incurred during the post-production stage. Eligible production corporations may only include those services that are rendered by a person who performs a function during post-production that is listed in paragraph 125.5(2)(b) of the Act.

Eligible production corporations should request that post-production service entities break down the labour component of their invoices, as this information may be requested by CRA auditors.

5.03 Qualified Canadian Labour Expenditure

The "qualified Canadian labour expenditure" for an eligible production corporation for a taxation year is the total of all Canadian labour expenditures for that year and preceding taxation years less:

- Assistance received, or reasonably expected to be received, in respect of those expenditures;
- Amounts that are part of the qualified Canadian labour expenditure that are for a preceding taxation year; and
- Where the corporation is a parent, amounts that are the subject of a reimbursement agreement with a subsidiary wholly-owned corporation.

incurred by each.

5.04 Calculation of the PSTC

To determine the amount of PSTC which an eligible production corporation is entitled to receive for an accredited production in a particular year, the corporation need only determine its "qualified Canadian labour expenditure" for the year and multiply the subtotal by 16%.

(a) Assistance means financial assistance from any source, including grants, subsidies, provincial tax credits, forgivable loans, contributions, services or certain advances and any other similar forms of assistance. The CRA has the responsibility to determine whether an amount received or reasonably expected to be received by the eligible production corporation represents assistance that should reduce the tax credit to which it is entitled. Note that the Act provides for the repayment of assistance under certain conditions. Assistance is defined in paragraph 12(1)(x) of the Act.

(b) The calculation of the PSTC is done on an annual basis, according to the fiscal year end of the eligible production corporation. Consequently, any amounts claimed in previous years for the Canadian labour expenditures will not be eligible for the year.

(c) Where there has been a reimbursement by a wholly-owned subsidiary to its parent, the parent may not then claim such amounts as "qualified Canadian labour expenditures" to the extent that those same amounts are claimed by the wholly-owned subsidiary.

The copyright owner of a production may contract with a number of different eligible production corporations for the provision of services to the production. In such a situation, each eligible production corporation may claim the portion of the tax credit related to the amount of qualified Canadian labour expenditure

Part II

How to Apply

INTRODUCTION

This section will assist producers in completing an application for the Film or Video Production Services Tax Credit (PSTC). Producers should also review “Part I – Requirements” of this guide, before applying to CAVCO.

Applicants must complete applications through CAVCO’s online eSubmission application system. To complete an application, select the “Register” link on the eSubmission page of CAVCO’s Web site at www.pch.gc.ca/cavco.

What You Need to Fill Out an Application

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

- **Corporate information** (name and contact information of all copyright owners, name and contact information for the primary contact for the application, whether this is a representative of the official designee or the copyright owner);
- **Financial information** (budget, final cost report or top-sheet with total production costs, total Canadian expenditures);
- **Production details** (synopsis, genre, production type, target market, production format, running time, number of shooting days in Canada, principal photography dates, production medium);
- **Chain of title documents** (ownership history, percentage of ownership of each copyright holder, via agreements or a legal opinion letter);
- **Cycle number, episode titles, episode numbers (for Series)**
- **Official Designee affidavit**, where applicable
- **Attestation**, printed and signed (must be mailed to CAVCO for online applications)
- **Application Fee**, for C\$5000, made out to the Receiver General for Canada

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

SUBMITTING AN ONLINE APPLICATION

Step 1: Register for an Account

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

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

If you don't already have an Access Key, click on the "**Register**" link on the eSubmission page of CAVCO's Web site at www.pch.gc.ca/cavco. Agree to the terms and conditions of Access Key and then follow the instructions to create a User ID and password. Click on **Continue**.

If you already have an Access Key, click on "**Sign In**" on the homepage of CAVCO's Web site, and enter your Access Key User ID and Password.

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

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

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

Your User Registration is now complete and you will see your **My Applications** page, where you

can enroll in a tax credit program. Click on the **Program List** button at the top of the page. Click on **Programs** beside "CAVCO – Tax Credit Programs". Then click on **Enroll** beside the PSTC program description to register for the Film or Video Production Services Tax Credit program. Go back to your **My Applications** page.

Step 2: Complete the Application

Click on **New Application** and then click on **Form** beside **PSTC**. Complete the form and attach all applicable supporting documents identified in the section "What You Need to Fill Out an Application" on page 17 of this guide.

Step 3: Submit the Application

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

Once this information is received the status of your application will be listed as **In Queue**. Your file will then be reviewed by a tax credit officer on a first come, first served basis.

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

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

Step 4: Provide Any Required Documentation or Information

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

Where a change is required to the application, the applicable section will be unlocked by the tax credit officer, so that the applicant can make the

change and resubmit the amended version of the section.

Step 5: Check Status of Submitted Application

At any time, you may review the status of an active application under the “Status” column on your **My Applications** page. Once the review of a file is complete and a final decision has been made regarding certification of the project, you will be notified through the **Message Centre** of the decision. When a production is certified, you will receive an Accreditation Certificate.

If the production is either denied or revoked you will receive notification. Please see s. 1.11 in “Part I – Requirements” of this guide for further information.

WORKING WITH YOUR ESubmission ACCOUNT

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

My Applications

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

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

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

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

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

Message Centre

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

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

Delegate Access

This feature allows you to transfer access to a project to other users of the eSubmission system. You can submit transfer requests by selecting specific projects and delegates. You will also be able to receive transfers delegated to you by another eSubmission account holder.

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

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

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

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

Privacy Statement

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

PCH Services

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

End of Document