

Entertainment Law

May 4, 2016

B.C. Reduces Production Services and Digital Animation or Visual Effects Film Tax Credits

On May 2, 2016, following a lengthy consultation process, B.C.'s Finance Minister Michael de Jong released a *statement* announcing proposed reductions to the respective rates of the B.C. Production Services Tax Credit (PSTC) and the B.C. Digital Animation or Visual Effects Tax Credit (DAVE). The proposed reductions are subject to the approval of the B.C. legislature and implementation legislation and regulations.

Background

The recent boom in the B.C. film and TV production industry, which accounted for approximately CDN\$2B in expenditures in fiscal year 2014-15, has placed increasing pressure on the B.C. Government to contain the costs of its film tax credit program. The aggregate cost of B.C. film tax credits jumped from CDN\$343 million in fiscal 2014-15 to an estimated CDN\$491 million in fiscal 2015-16.

In February, in conjunction with the 2016 provincial *budget* the B.C. Government announced that it was creating a government/film industry working group to address the rising cost of the Province's film tax credits. The proposed reductions are intended to address that concern.

Reductions to PSTC and DAVE

Presently, the PSTC is equal to 33% of qualified B.C. labour expenditures and the DAVE is equal to 17.5% of qualified B.C. digital animation and VFX expenditures. Assuming legislative approval, effective October 1, 2016:

- the PSTC will be reduced to 28%, a reduction of 5%; and
- the DAVE will be reduced to 16%, a reduction of 1.5%.

According to Minister de Jong:

We are proud of the success we've seen in this industry, but we also need to safeguard the interests of B.C. taxpayers, who ultimately pay for subsidies, and ensure there is equity with other industries that drive B.C.'s economy.... We've settled on these numbers after working with the industry and believe they represent, for the short and medium term at least, a reasonable balance.

Transition Provisions

The current PSTC rate of 33% and the current DAVE rate of 17.5% will continue to apply to any production that commences principal photography before October 1, 2016. In the case of a television series, all the episodes produced for the applicable season will be "grandfathered" if principal photography of the series' initial episode commences before October 1, 2016. Minister de Jong's statement did not specify an equivalent benchmark for animated productions (although there is industry speculation that similar "grandfathering" rules will likely be introduced based on the first day of key animation occurring before October 1, 2016, rather than the first day of principal photography for a live action production, but this is yet to be confirmed).

No Reduction to Domestic B.C. FIBC Tax Credit and/or Regional and Distant Location Incentives

In addition to the PSTC and DAVE, B.C. has a film tax credit called the Film Incentive British Columbia Tax Credit ("FIBC"), at the rate of 35% of qualified B.C. labour expenditures, available only to B.C.-controlled "Canadian content" productions.

Goodmans^{LLP} Update

B.C. will not reduce the FIBC, nor will it reduce any of the additional distant location and/or regional incentives tied to the FIBC.

If you have any questions about the proposed reductions to B.C.'s film tax credits, please contact any member of our Entertainment Law Group.