Entertainment Law

February 9, 2010

BC Ministry of Finance Announces Increased Tax Credits For Film and Interactive Digital Media

On February 3, 2010 the British Columbia Ministry of Finance announced a proposed new tax credit for digital media, combined with changes to the British Columbia Production Services Tax Credit ("**BCPSTC**"). Subject to approval by the legislature, the planned tax measures include:

- New BC Interactive Digital Media tax credit for video game development of 17.5% of qualifying B.C. labour costs.
- BCPSTC on labour costs for foreign productions increased to 33% from 25%.
- Qualified B.C. labour expenditures cap for the BCPSTC increased to 60% from 48% of production costs.
- Digital Animation or Visual Effects (DAVE) tax credit bonus increased to 17.5% from 15%.

The B.C. government has proposed that the changes to the BCPSTC will be effective for productions beginning principal photography after February 28, 2010. The BC Interactive Digital Media tax credit will be effective for qualifying video game development projects beginning after August 31, 2010.

It is anticipated that these enhancements to the film tax credits and the new interactive digital tax credit will help British Columbia continue to compete internationally and boost video game production in the province.

While the increased BCPSTC should assist B.C. in remaining among the top jurisdictions in North America for film and television production, the B.C. Ministry of Finance chose not to adopt the "all spend" concept introduced by the Ontario and Quebec governments in the summer of 2009 with regard to the Ontario Production Services Tax Credit ("**OPSTC**") and the Quebec Refundable Tax Credit for Film Production Services. Therefore, for example, although the new BCPSTC tax rate is 33% while the OPSTC is only 25%, the BCPSTC only applies to qualifying labour costs (often accounting for only about 50% of total production spend) whereas the OPSTC applies to all qualifying production costs incurred in Ontario, including both qualifying labour and non-labour related costs (i.e., expenditures for studio rentals and equipment purchases, et cetera).

For example, in the case of a production with a cost of $1 million, comprised of $500,000 of qualified labour costs and $500,000 of non-labour costs, the respective tax credits would be calculated as follows:

1. BCPSTC 33% x $500,000 = $165,000
2. OPSTC 25% x $800,000*= $200,000

(* i.e., assuming that the total qualified production costs were 80% of $1,000,000 with $200,000 of ineligible production costs.)

Of course, the eligible and ineligible labour and non-labour production costs will vary on each production and producers are advised to consult their legal and tax advisors for tax credit advice and estimates in respect of any particular production.

For further information, links to the announcements are provided below:

British Columbia tax credit announcement:

http://www2.news.gov.bc.ca/news_releases_2009-2013/2010FIN0005-000125.htm

Recent Ontario and Quebec tax credit announcements:

http://www.fin.gov.on.ca/en/publications/bulletins/2009_09_10_filmtax.html

http://www.sodec.gouv.qc.ca/english/documents/BULEN_2009-3-a-b.pdf

If you would like further information about this matter or have any questions with respect to the foregoing, please do not hesitate to contact any member of our Entertainment Law Group:

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