

Entertainment Law

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Improvement to the Québec Tax Credit for Film Production Services

In an effort to stimulate job creation and encourage more foreign service production in the province of Québec, the Québec Minister of Finance, Raymond Bachand, announced on February 5, 2010 that the government is further improving the Québec tax credit for film production services, to better assist productions with a significant computer-aided special effects or animation component.

Prior to the announcement, the “all-spend” production costs directly attributable to computer animation and vfx expenditures incurred in Québec were eligible for a combined 30% tax credit rate (i.e. 25% of the qualifying “all spend” production costs incurred in Québec, plus an additional 5% bonus).

Effective as of June 12, 2009 (i.e. the date that the government introduced its new “all spend” tax credit), the tax credit rate will no longer apply on “all spend” production costs incurred in Québec, but rather, the rate will apply on the total of the qualified labour cost and the cost of qualified properties. Since the base of the improvement now consists solely of the “qualified labour cost” component, the government has raised the rate from 5% to 20%.

Significantly, these changes now allow producers to deduct “qualified labour costs” (a concept that is broader than the “qualified labour expenditures” that previously represented the tax credit base). “Qualified labour costs” means, in general, wages or salaries, including the associated payroll taxes, incurred by the corporation, in

the year, regarding employees, service suppliers and independent contractors (i.e. scriptwriters, directors, production designers, directors of photography, composers, editors, visual effects supervisors, etc.), in relation to a qualified production, provided that: (i) they relate to services provided in Québec, in the course of the year, in relation to the production stages running from screenplay to postproduction; (ii) they are directly attributable to the completion of the qualified production; and (iii) they are reasonable in the circumstances.

However, a wage or salary, including the associated payroll taxes, or a cost of a service contract will be qualified only if such person is an individual who resides in Québec at the time when the services are provided in the course of the completion of the qualified production.

On February 5, 2010, the Québec Minister of Finance also released the Information Bulletin 2010-3 entitled, *Adjustment to the improvement for computer-aided special effects and animation applicable to productions qualified for the Tax Credit for Film Production Services*. The Information Bulletin provides additional details with respect to the tax credit improvement and is available at: www.finances.gouv.qc.ca.

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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