

## Entertainment Law

April 10, 2012

### The Saskatchewan Film Employment Tax Credit is Eliminated

The recent announcement by the provincial government of Saskatchewan that it will no longer offer a film tax credit has raised alarm over the future of the film and TV industry in Saskatchewan.

Still, the Saskatchewan Premier, the Honourable Brad Wall, is not backing down.

On March 21, 2012, Saskatchewan Finance Minister Ken Krawetz announced in the government's 2012-13 budget statement that the province will no longer offer the Film Employment Tax Credit which has been in place since 1998.<sup>1</sup> As of July 1 of 2012 – an extension from the original April 1 deadline – applications for the tax credit will no longer be accepted, though the province will continue to honour productions which have previously applied and issue the relevant tax credits, according to Bill Hutchinson, the Honourable Saskatchewan Minister of Tourism, Parks, Culture and Sport.

Most Canadian provinces, as well as the federal Canadian government, offer refundable tax credits to the film and TV industry to encourage local production. As in other provinces, the Saskatchewan Film Employment Tax Credit was originally introduced to encourage the development of the province's domestic film and TV industry. It was a refundable tax credit set at the generous rate of 45% of a film's eligible labour

costs (limited to a maximum of 50% of the film's total production cost), with bonuses for rural production and using Saskatchewan personnel in key positions.

According to the Saskatchewan government, the Saskatchewan Film Employment Tax Credit has cost the province approximately \$100 million since its introduction in 1998. Eliminating the credit is anticipated to save the government \$3 million this year and \$8 million annually once it is fully phased out by the end of 2014. According to Minister Hutchinson, the cut is part of the Saskatchewan government's efforts to "ensure provincial finances remain sustainable".<sup>2</sup>

The recent Saskatchewan budget announcement provoked an immediate outcry of shock and disappointment in both the local Saskatchewan and the Canadian film industry over the news of the cut. Being the home of such iconic Canadian TV productions as "Corner Gas" and "Little Mosque on the Prairie", many now fear that Saskatchewan will lose its market share if it is one of the only provinces without a film tax credit.<sup>3</sup> For example, according to Norm Bolen, the President and CEO of the Canadian Media Production Association: "eliminating the SFETC without introducing an alternate incentive jeopardizes over 15 years of hard work to build the province's independent production sector into an international success story".<sup>4</sup>

After the cut was announced, members of the Canadian film industry, including several prominent Canadian actors and directors, spoke out against the cut publicly, using social media such as Facebook to express their discontent. The group "Save the Saskatchewan Film Employment Tax Credit" organized meetings and lobbying efforts centred on bringing back the tax credit. In addition to the adverse impact on production in Saskatchewan, some also expressed con-

<sup>1</sup> Information, unless otherwise referenced, was found in the *Budget 2012-13: Keeping the Saskatchewan Advantage* (Government of Saskatchewan News Release, March 21, 2012) and *Premier Wall to Meet with Film Industry to Discuss Tax Credit* (Government of Saskatchewan News Release, March 26, 2012).

<sup>2</sup> *Tourism, Parks, Culture and Sport News Release* dated March 21, 2012 (2:15pm).

<sup>3</sup> CBC, "Hunger Games Star Supports Sask. Film Tax Credit" (March 26, 2012, available at: <http://www.cbc.ca/news/canada/saskatchewan/story/2012/03/26/sk-hunger-games-sask-tax-credit.html>).

<sup>4</sup> Vlesing, Etan, "Film Tax Credit Cut Raises Alarm Bells in Saskatchewan" in *The Hollywood Reporter* (March 23, 2012, available at: <http://www.hollywoodreporter.com/news/film-tax-credit-cut-raises-303807>).

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cern about the effects the cut may have on the film industry in Canada more generally, particularly if other provinces were to follow suit.

Unfortunately, notwithstanding the foregoing outcry, the Saskatchewan government proceeded to approve the provincial budget and Premier Wall made clear in a subsequent statement that that the existing Film Employment Tax Credit will not be reinstated.

However, he did leave open the possibility of introducing some other form of financial assistance to the domestic Saskatchewan film industry at some point in the future.

In Canada, it is extremely unusual for a film tax credit to be eliminated by a provincial government. The provinces of Ontario, Quebec and British Columbia, which together account for the vast majority of Canadian film production activity, have never reduced or eliminated their respective film tax credits. Rather, only the relatively small provinces of Prince Edward Island and New Brunswick have previously eliminated their film credits.

And the federal Canadian government has likewise never eliminated either of its two film tax credits. In fact, in many cases, the rates of various Canadian film credits have been increased over the years and, in the provinces of Quebec and Ontario, the bases of their respective production services film tax credits were recently increased to cover “all spend” as opposed to only eligible labour spending.

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:

<b>Tara Parker</b> tparker@goodmans.ca	416.597.4181
<b>Jaclyn Seidman</b> jseidman@goodmans.ca	416.849.6911
<b>Carolyn Stamegna</b> cstamegna@goodmans.ca	416.597.6250
<b>David Zitberman</b> dzitberman@goodmans.ca	416.597.4172