

NEW DEADLINES FOR THE CPTC

On May 18th, 2005, the *Regulations Amending the Income Tax Regulations (Film and Video Productions)* (“Regulations”) in respect of the Canadian Film or Video Production Tax Credit (CPTC) were published in the Canada Gazette Part II, accessible on-line at <http://canadagazette.gc.ca/partII/2005/20050518/html/sor126-e.html>. This publication signals the enactment of the Regulations by the Government of Canada.

There are some significant changes in the Regulations that affect applicants to the CPTC program. Primarily, there are now deadlines **to apply** to CAVCO for a certificate of completion (Part B certificate) and new deadlines for the Part B certificate **to be issued** to the applicant.

Importance of corporate fiscal year end dates

The deadlines are calculated based on the fiscal year end of the production corporation. The onus is on the production corporation to inform CAVCO of any change in, or final determination of, the fiscal year end **at the time such change in, or determination of, the fiscal year end occurs**. CAVCO will not be responsible for any failure of the production company to comply with this requirement. Please be aware that an incorrect fiscal year end may adversely affect the calculation of these deadlines for the production corporation.

Part B application deadlines

An “**application for a certificate of completion**” for productions with its first fiscal year end following commencement of principal photography being any date from January 1, 2004 and thereafter **must be received at CAVCO by:**

- (a) the 24-month date from the first fiscal year end date following commencement of principal photography;

OR

- (b) the 42-month date from the first fiscal year end date following commencement of principal photography, as long as the application is accompanied by a completed [Declaration re Waiver \(CAVCO form\)](#) attesting that: (1) a [Waiver in Respect of the Normal Reassessment Period \(CRA Form T2029\)](#) has been filed with the Canada Revenue Agency (CRA) within the normal reassessment period for the first fiscal year end (and second, if applicable) following commencement of principal photography; or (2) the first fiscal year end (and second, if applicable) following commencement of principal photography has/have not yet been assessed by the CRA.

For either application deadline, **the certificate of completion must be issued within 6 months** of the corresponding application deadline.

Therefore, for productions with a first **fiscal year end** following commencement of principal photography being any date from **January 1, 2004** or thereafter:

Part B Application deadline	Declaration re Waiver needed?	Must be Certified by:
24 months	NO	30 months
42 months	YES	48 months

[Waiver in Respect of the Normal Reassessment Period \(CRA Form T2029\)](#)

If applying for the Part B certificate after the 24-month deadline but by the 42-month deadline, the production corporation must file with the CRA a waiver, described in subparagraph 152(4)(a)(ii) of the *Income Tax Act*, within the normal reassessment period for the corporation (i.e. three years from the date of the Notice of Assessment; four years in the case of a public company) for the first fiscal year end (and second, if applicable) following commencement of principal photography.

To obtain a [Waiver in Respect of the Normal Reassessment Period \(CRA Form T2029\)](#), visit the CRA Web site at <http://www.cra-arc.gc.ca/E/pbg/tf/t2029/README.html>.

Please send your completed waiver to:

**Manager, Film Industry Services
Small and Medium Enterprises Directorate
112 Kent Street, 19th Floor
Place de Ville, Tower B
Ottawa, Ontario
K1A 0L5**

In order for a waiver to be valid, the matters being waived must be specified in the space provided on the Form T2029. To assist you in this regard, we provide you with the following example:

“...in respect of: the Canadian Film or Video Production Tax Credit
(section 125.4 of the *Income Tax Act*) for the following production(s):

Title: _____

PCH number: _____

(PCH number assigned by CAVCO at the Part A application stage, if applicable)

2000 to 2003 Productions

For productions with a first **fiscal year end** following commencement of principal photography being any date from **January 1, 2000 to December 31, 2003**, there is no official deadline to file an **“application for a certificate of completion”** with CAVCO. However, **there are deadlines** for the Part B certificate to be **issued** to the applicant.

If the Part B certificate is issued by the 30-month deadline, it is not necessary for the production corporation to file a [Waiver in Respect of the Normal Reassessment Period \(CRA Form T2029\)](#) with the CRA.

Once the 30-month deadline has elapsed, the production may be issued a Part B certificate up to the 48-month deadline if a completed [Declaration re Waiver \(CAVCO form\)](#), attesting to the status of the waiver, is submitted to CAVCO.

Therefore, for productions with a first **fiscal year end** following commencement of principal photography being any date from **January 1, 2000 to December 31, 2003**:

Certification Deadline	Declaration re Waiver needed?
30 months	NO
48 months	YES

The onus is on the production corporation to apply to CAVCO for a certificate of completion in plenty of time to allow CAVCO the necessary lead-time to process, analyze, and recommend the issuance of the Part B certificate by the applicable certification deadline. CAVCO will not be responsible in cases where the certification deadline elapses as a result of insufficient lead-time to complete its analysis of an application for a certificate of completion. Six months' lead-time is a guideline to follow.

NEW

DEFINITION of an “application for a certificate of completion”

EFFECTIVE JANUARY 1st, 2006

An **application for a certificate of completion** constitutes the following:

- ❑ fully completed, dated, and signed Part B application form
- ❑ applicable fee payable to the Receiver General for Canada
- ❑ [Declaration re Waiver \(CAVCO form\)](#) (if applicable)
- ❑ executed copies of financing agreements
- ❑ Final Cost Report
- ❑ accurately completed Breakdown of Costs Form 6 (live action) / Form 7 (animation)
- ❑ original notarized affidavit for productions with a final cost under \$200,000; Review Engagement Report for productions with a final cost from \$200,000 to \$499,999; or an audited Schedule of Production Costs for productions with a final cost of \$500,000 or more. The audit must be prepared and signed by an independent third party Chartered Public Accountant in Canada.
- ❑ fully completed Declaration of Citizenship forms for producer-related and key creative personnel
- ❑ notarized Solemn Affirmation (for animation productions only)
- ❑ DVD (VHS acceptable) copy of production (three representative episodes of a series) and corresponding list of the final screen credits

Please submit all the above documentation together in one package. If any of the above requirements are not submitted, the package will not constitute an **application for a certificate of completion** and will not proceed for analysis.