



Public Notice CAVCO 2009-01

Gatineau, April 6, 2009

Policy on Documentation Demonstrating that Certain Individuals are Canadian

The Canadian Audio-Visual Certification Office (CAVCO) has adopted a new policy for verifying that key creative personnel and producers identified as Canadian are Canadian, as required by the Canadian Film or Video Production Tax Credit (CPTC) program.

Background

1. To be eligible to receive a tax credit under the CPTC program, production companies must, among other things, staff “Canadians” as producers and in a minimum number of key creative positions. “Canadian” is defined in subsection 1106(1) of the Income Tax Regulations (Regulations) to include Canadian citizens and permanent residents. The current practice for confirming whether an individual is Canadian is to have that person sign a “Declaration of Citizenship or Permanent Residency.”
2. In her report tabled to the House of Commons on November 22, 2005 (Chapter 5 – Support to Cultural Industries), the Auditor General of Canada reviewed the Department’s policies and programs supporting the film and video sector, including the CPTC program. The Auditor General concluded that CAVCO’s current practice was not rigorous enough to ensure that Canadian content requirements were being met.
3. In response, CAVCO will implement a policy whereby the applicant is responsible and held accountable for ensuring and demonstrating that the key creative positions identified for Canadian content points and all producers are Canadian.

The Policy

4. Starting on the effective date, the applicant must obtain and keep a copy of documentation (such as a birth certificate, permanent resident card, or passport) sufficient to demonstrate that all producers and the key creative positions identified for Canadian content points satisfy the Regulation’s definition of Canadian.

5. CAVCO reserves the right to request a copy of some or all of the documentation from the taxpayer at any time during the application process or during any subsequent audit.
6. CAVCO will implement risk-based verifications by conducting spot-checks throughout the course of a year. These spot-checks will consist of asking producers for copies of the documentation for some or all relevant personnel. They will be used to confirm that the producer has hired, paid and credited an individual who is Canadian for the key creative position for which a Canadian content point was allotted.
7. Cases where the documentation is not supplied by the applicant will result in the reduction of the corresponding number of Canadian content points allocated to the production during the certification process, and the possible denial or revocation of a certificate if the production no longer has the required number of Canadian content points. Further, pursuant to paragraph 125.4(6)(a) of the *Income Tax Act*, the Minister has the authority to revoke the certificate when an omission or incorrect statement was made for the purpose of obtaining the certificate.

Effective Date

8. This policy will come into force on June 1, 2009, and will apply to all productions whose principal photography begins on or after that date.

Enquiries

9. Any questions respecting this public notice can be made by calling CAVCO at 1-888-433-2200 or by email at bcpac_cavco@pch.gc.ca with PUBLIC NOTICE 2009-01 written in the subject line. Information may also be requested by mail at the address below:

Canadian Audio-Visual Certification Office
9th Floor, 25 Eddy Street
Gatineau, Quebec
K1A 0M5

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