

**NOVA SCOTIA
DIGITAL ANIMATION TAX CREDIT
GUIDELINES**

**Nova Scotia Department of Finance and Treasury Board
Taxation and Federal Fiscal Relations Division**

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Nova Scotia Digital Animation Tax Credit Guidelines

What is it?

The Nova Scotia Digital Animation Tax Credit (DATC) is a refundable provincial corporate income tax credit for qualifying labour expenditures directly related to the development of eligible digital animation productions in Nova Scotia.

The credit first reduces the income tax payable and any excess amount will be paid to the corporation.

The legislative authority for the credit is contained in Section 47B of the [Income Tax Act](#) (Nova Scotia) and the [Digital Animation Tax Credit Regulations](#).

Where there is a conflict between the information contained in these Guidelines and the Legislation and Regulations, the Legislation and Regulations governing the DATC will take precedence over the Guidelines, application forms, advance ruling or any other published information.

How much is the tax credit?

The DATC is the sum of the basic tax credit and the animation bonus.

The basic tax credit is the lesser of

- (a) 50% of the eligible NS labour expenditure less the value of any assistance received;
- (b) 25% of eligible NS labour expenditure plus eligible overhead expenditure (calculated as 65% of the eligible NS labour expenditure) plus 65% of eligible remuneration less twice the value of any assistance.

In formula, the basic tax credit is the lesser of

- (a) $50\% * (NSLE - TA)$
- (b) $25\% * (NSLE + EO + (65\% * ER) - 2 * TA)$

where

NSLE = eligible NS labour expenditure

TA = total value of assistance received

EO = eligible overhead expenditure

ER = eligible remuneration

The animation bonus is 17.5% of eligible NS animation labour expenditure.

Who is eligible?

To be eligible for the DATC, the applicant must be an “eligible corporation”. An “eligible corporation” is a corporation that satisfies all of the following requirements:

- It was incorporated in Canada either federally or in one of provinces and is a taxable Canadian corporation. A “taxable Canadian corporation” is defined in subsection 89(1) of the [Income Tax Act \(Canada\)](#).
- The corporation must have a “permanent establishment” in Nova Scotia. This normally refers to a fixed place of business in the Province, assets in the Province and personnel in the Province who can contract on behalf of the corporation. Whether a corporation has a “permanent establishment” in Nova Scotia will be determined in accordance with Subsection 400(2) of the [Income Tax Regulations](#) and associated [Interpretation Bulletin IT-177R2](#) from the Canada Revenue Agency (CRA).
- The corporation must be Canadian-controlled and primarily engaged in film or video production. “Primarily” means more than 50%.
- The corporation cannot be a labour-sponsored venture capital corporation or registered as an Equity Tax Credit company or a Community Economic Development Investment Fund under subsection 3(2) or 11(2) of the [Equity Tax Credit Act](#).

To be eligible for the credit, the applicant corporation must demonstrate that it owns the property rights of the production. If a corporation developed an eligible production but does not own the property rights, it may be eligible for the credit if the owner authorizes it to claim the DATC. This is normally done by completing the Certificate of Election form.

What productions are eligible?

To be eligible for the DATC a digital animation film must be an “eligible production”. Eligible productions must:

- have a minimum viewing time of 20 minutes;
- be broadcast, distributed or available for viewing no later than 24 months after it is completed; and
- have a production services agreement or a written agreement between the production’s eligible corporation and 1 of the following for consideration at fair market value: (i) a corporation that is a distributor of film or video productions, (ii) a broadcaster that is not associated, within the meaning of Section 256 of the [Income Tax Act](#) (Canada), with the eligible corporation.

Ineligible productions include those:

- prohibited for use or exhibition under the *Theatres and Amusements Act*;
- eligible to receive a grant from the Nova Scotia Film and Television Production Incentive Fund;
- designed for fundraising, or produced primarily for industrial, corporate or institutional purposes;
- deemed to be contrary to public policy;
- related to video game production;
- consisting of news, current events or public affairs programming, talk shows, games or questionnaires, contests, sport events, award shows, reality television, pornography or advertising.

What are eligible NS labour expenditures?

Eligible NS labour expenditures are salaries or wages incurred and paid by an eligible corporation and must be:

- paid to NS eligible employees. NS eligible employees must be residents of Nova Scotia on the last day of the calendar year immediately before the tax year for which salaries or wages are claimed for the credit. Eligible employees must normally report to a permanent establishment of the eligible corporation in Nova Scotia;
- reasonable in the circumstances and conforming to general industry standards;
- directly attributable to the production of the digital animation film and essential to the production, excluding expenditures for advertising, marketing or market research;
- incurred between June 30, 2015 and July 1, 2020;
- paid by the eligible corporation in the tax year, within 60 days of the end of the tax year or no later than 60 days following the end of the subsequent tax year;
- not part of the NS labour expenditure claimed for a preceding tax year;
- not the amounts determined with reference to profits or revenues;
- not the amounts claimed under the Research and Development Tax Credit;
- unrelated to another film or video production.

Salaries and wages include:

- salaries;
- vacation pay;
- statutory holiday pay;
- sick leave pay; and
- taxable benefits, for example, a corporation's contribution to the employees' RRSP, group insurance plan, or meals.

Salaries and wages do not include:

- dividends, stock options;
- employer part of payments to the Canada Pension Plan, or the Employment Insurance; and

- employer part of payments to Worker’s Compensation Board, or any approved employee pension plan, dental care plan, medical care or optical care plan for the employee unless it is a taxable benefit to the employee.

For an eligible employee, only the amount of salaries or wages less than \$150,000 is eligible for the DATC. Further, salaries and wages cannot be paid with in kind payments.

What is eligible remuneration?

Eligible remuneration is salaries or wages of third party employees or owners who provide services for the eligible production, which was incurred and paid by an eligible corporation to arm’s length entities or individuals. The meaning of “arm’s length” is set out in Section 251(1) of the [Income Tax Act](#) (Canada). Eligible remuneration must be:

- reasonable in the circumstances and conforming to general industry standards;
- directly attributable to the production of the digital animation film and essential to the production, excluding expenditures for advertising, marketing or market research;
- incurred between June 30, 2015 and July 1, 2020;
- paid by the eligible corporation in the tax year, within 60 days of the end of the tax year or no later than 60 days following the end of the subsequent tax year;
- not part of the eligible remuneration claimed for a preceding tax year;
- not the amounts claimed under the Research and Development Tax Credit;
- unrelated to another film or video production.

Only salaries or wages of third party expenditures, excluding any profit margin and materials, can be counted as eligible remuneration. If the exact amount of salaries or wages is unknown to the applicant company, the Department of Finance and Treasury Board generally accepts

- 65% of the invoiced labour as an estimate of third party salaries or wages of corporation and partnership employees for personally providing services on the production; and
- 100% of the invoiced labour as an estimate of third party salaries or wages of individuals and owners for personally providing services on the production.

In kind payments are not considered eligible remuneration.

What is assistance?

The value of assistance received by an eligible corporation will be deducted in the calculation of the basic tax credit. Assistance includes:

- assistance from a government or other public authority whether as a grant, subsidy, forgivable loan, deduction from tax, investment allowance or as any other form of assistance other than a federal film tax credit or a DATC; and
- funds from a specified issue made after April 9, 2015 by a corporation registered as an Equity Tax Credit company or a Community Economic Development Investment Fund.

A public authority is generally an entity that:

- has a duty to the public,
- is subject to a significant degree of government control, and
- uses its profits for the benefit of the public.

Whether an assistance is considered from a government or other public authority is determined in accordance with the [Interpretation Bulletin IT-273R2](#) from the CRA.

What are eligible NS animation labour expenditures?

Eligible NS animation labour expenditures are the expenditures eligible for the animation bonus and must be:

- eligible NS labour expenditures;
- amounts paid for technical activities to produce animation, including designing, modeling, rendering, lighting, painting, animating, rigging, storyboarding and compositing;
- not paid for animation created by post-production activities or primarily used for promotional material for the eligible production;
- incurred and paid by the eligible corporation in the tax year, within 60 days of the end of the tax year or no later than 60 days following the end of the subsequent tax year.

Eligible NS animation labour expenditures must be related to employee time spent on technical activities and salaries/wages paid for technical activities. There must be a direct link between the animation labour expenditures and technical activities. As a rule of thumb, only hands-on roles can be eligible for the animation bonus. Generally, supervisors and coordinators would not be eligible.

If the duties performed by an eligible employee include some activities that are not related to the technical activities, the company should allocate only a portion of that individual's salaries or wages to the effect. For example, if an employee works 70% of the time on non-technical activities, then only 30% of the individual's salaries or wages would be considered paid for technical activities. The allocation method used must be reasonable, clearly documented and applied consistently. Applicant companies must keep time sheets for its employees to prepare for audits by the Department of Finance and Treasury Board.

The animation bonus applies to activities such as:

Designing – digitally creating a graphic representation, especially a detailed plan for construction or manufacture;

Storyboarding – a hand-drawn version of the production serving as the blueprint for action and dialogue;

Modeling – for the purposes of painting, drawing and photography, giving a three-dimensional appearance to an object (for example by shading or highlighting or representing something, usually on a smaller scale);

Rigging – a technique that enables a character/object to be represented in two parts: a

surface representation used to draw the character and a hierarchical set of interconnected bones used to animate;

Rendering – converting a high-level object-based description into a graphical image for display;

Painting – the act of filling in the colours to add life and texture to the image;

Lighting – creating the illusion of reflection, lights or shadows in the image to enhance the mood and emotion of a scene;

Animating – creating animation as defined under industry terms;

Compositing – combining or layering computer graphic elements resulting in a completed composition or scene.

The animation bonus does *not* apply to activities including:

Audio effects – including sound effects added during post-production by the sound crew. However, voice-overs, the narration or non-synchronous dialogue that takes place over the action onscreen, are not excluded activities;

In camera effects – including an effect that is achieved using single or multiple passes of film through a camera;

Credit rolls – a sequence of text credits that roll up the screen at the end of the production. However, title sequences, in which the title of the movie is displayed on screen and which appear at the beginning of a production or in another manner, are not excluded activities;

Subtitles – words which are superimposed over a film which mirror the dialogue that is heard at the time;

Animation or visual effects, all, or substantially all, of which are created by editing activities.

How does the application process work?

The DATC is administered by the Nova Scotia Department of Finance and Treasury Board - Taxation and Federal Fiscal Relations Division (TFFRD). An application has two stages, Part A application for an Eligibility Certificate and Part B application for a Tax Credit Certificate. Both Part A and Part B applications are mandatory and must be submitted electronically.

Part A Application - Obtain an Eligibility Certificate

Applicants must submit a Part A application before principal photography or key animation of the digital animation production begins and receive an Eligibility Certificate before the application for the Tax Credit Certificate can be made.

Corporations are required to submit the following documentation in support of the Part A application:

- a. Completed Part A application form. The entire spreadsheet must be completed in full and emailed to the TFFRD with all necessary supporting documents;
- b. A signed and dated copy of the form must be emailed to the TFFRD;
- c. Synopsis & Script/Treatment of the production;

- d. Detailed locked budget signed and dated by the Producer with a breakdown of
 - the estimated eligible NS Labour Expenditures – Employees
 - the estimated eligible NS Labour Expenditures – Third Party
 - the estimated eligible NS Animation Labour Expenditures
 - the estimated NS Production Costs;
- e. Certificate of Incorporation for the applicant company;
- f. Shareholder Registers (for both the applicant and parent company);
- g. Production Service and/or Co-production agreements, if applicable;
- h. Certificate of Election, if applicable. If the applicant corporation does not own the property rights of the eligible production, the corporation must provide a Certificate of Election signed by the entity who owns the property rights;
- i. Broadcaster/Distribution agreement, if applicable.

Applicants whose Part A applications are approved will receive an Eligibility Certificate (also called Part A letter) from the Department of Finance and Treasury Board, stating that the proposed production appears to be an eligible production and an estimated amount of the DATC is provided. The Eligibility Certificate is only intended to give the applicant a preliminary indication and does not constitute a guarantee of production eligibility and the issuance of a credit. A final decision will be made after the full Part B application is submitted.

Part B Application - Obtain a Tax Credit Certificate

An application for a Tax Credit Certificate must be submitted no later than 30 months after the end of the taxation year in which the expenditures for the eligible production were made by the corporation.

Applicants are required to submit the following information in support of their Part B application:

- a. Completed Part B application form. The entire spreadsheet must be completed in full and emailed to the TFFRD with all necessary supporting documents;
- b. A signed and dated copy must also be emailed to the TFFRD;
- c. Producers Affidavit, Review Engagement Report or Audit Report (dependent on production costs). These are statements detailing the expenditures of the eligible digital animation production. Estimated budgets above \$500,000 require an Audited Report; budgets in excess of \$100,000 but equal to or less than \$500,000 require a Review Engagement Report; and budgets equal to or less than \$100,000 require a notarized Affidavit to certify the final cost.

Both the Audit and Review Engagement Reports must show:

- a detailed list of Accounts Payable
- a breakdown of NS Production Costs (by Telefilm Code)
- a breakdown of NS eligible labour costs (by Telefilm Code)

These Reports must be signed by a qualified officer of the applicant. The Audit or Review Engagement Report must be completed by a qualified arm's length business. The Department of Finance and Treasury Board has the right to request an Audited Report on any production and the applicant is obligated to provide the Report at their cost;

- d. Production Service and/or Co-production agreements, if applicable;
- e. Eligibility Certificate;
- f. Certificate of Election, if not provided in the Part A application;
- g. Broadcaster/Distribution agreement, if applicable.

After Part B applications are approved, applicants will receive a Tax Credit Certificate. The Certificate contains information about the eligible corporation, certifying that the corporation is eligible for the DATC and the value of the credit by tax year.

To claim the credit, the eligible corporation must file a T2 and Schedule 5 to the CRA and provide a copy of the Tax Credit Certificate. The CRA will assess the T2 return, use the credit to reduce tax payable and refund excess amount to the corporation.

In some cases, the Department of Finance and Treasury Board may also require additional documentation or information in order to issue an Eligibility Certificate or a Tax Credit Certificate. All documentation or information received from an applicant will be maintained in strictest confidence by the Department of Finance and Treasury Board.

After an applicant provides a written consent, some specific information on the tax credit will be published by the Department on a public website for accountability purposes. Published information includes the name of the Corporation, the parent company of the Corporation, the name of the production, and the amount of the DATC.

What is the reporting requirement for corporations?

Applicant corporations are responsible for the maintenance of all records pertaining to their DATC claims, for example, employee time sheets and invoices from third parties. Applicant companies are subject to audits at the discretion of the Department of Finance and Treasury Board.

The Minister of Finance and Treasury Board may, at any time after a Tax Credit Certificate has been issued, revoke the Tax Credit Certificate if the corporation has provided false or misleading information or fails to disclose a material fact. If the Minister determines that any amount paid did not qualify as a DATC, that amount is recoverable from the corporation.