

# **TAX CREDIT FOR THE PRODUCTION OF MULTIMEDIA TITLES – GENERAL COMPONENT**

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**INVESTISSEMENT QUÉBEC**

Tax Measures Department

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# Tax Credit for the Production of Multimedia Titles – General Component

## CAUTION

Investissement Québec's role is to validate compliance with the sectoral parameters set out in the *Act respecting the sectoral parameters of certain fiscal measures*. Moreover, where applicable, it is responsible for issuing an initial qualification certificate confirming that the title referred to therein is recognized as an eligible multimedia title or as an eligible related title, and issuing a certificate confirming that the work carried out in the year, in respect of the title referred to in the certificate, is recognized as eligible production work.

Revenu Québec alone is responsible for determining whether the corporation's tax expenditure is recognized for the purposes of the *Taxation Act*. Consequently, it is the responsibility of the corporation to ensure that it complies with all fiscal parameters, including those mentioned under subparagraph b of section 1029.6.0.1 of the *Taxation Act*.

The Tax Credit for the Production of Multimedia Titles is intended, among other things, to foster development of the video game industry and titles for which the conditions governing the user's participation in the action of the title are met for all or substantially all of the action.

## NATURE OF THE TAX MEASURE

The Tax Credit for the Production of Multimedia Titles – General Component is a refundable tax credit, meaning that the amount of the credit, less income taxes payable, will be paid to the eligible corporation. The amount of the tax credit is determined on the basis of the amount of the eligible labour expenditures incurred in the production of eligible multimedia titles. The rate ranges from 26.25% to 37.5%, depending on the category to which each eligible multimedia title belongs.

## ELIGIBLE CORPORATIONS

An eligible corporation for a taxation year is a corporation that has an establishment in Québec where it operates an eligible business. The corporation does not have to be Québec-controlled.

Under the *Taxation Act*, the following corporations cannot be considered eligible corporations for a given taxation year:

- a corporation that is tax-exempt for the year;
- a Crown corporation or a subsidiary wholly owned by such corporation;
- a corporation benefiting from the Tax Credit for the Production of Multimedia Titles – Specialized Corporations.

In addition, to qualify for this tax credit, the corporation must obtain the following certificates from Investissement Québec:

- an initial qualification certificate certifying that the title produced or to be produced complies with the rules in effect;
- a production work certificate for production work carried out in respect of an eligible multimedia title.

The application for an initial qualification certificate may be submitted to Investissement Québec before or simultaneously with the application for the production work certificate. The initial qualification certificate does not have to be renewed.

The production work certificate must be obtained for each taxation year for which the corporation wishes to obtain the tax credit.

## **ELIGIBLE MULTIMEDIA TITLES<sup>1</sup>**

To be eligible, a multimedia title must satisfy the following conditions:

- it is **produced** by the corporation;
- it includes an appreciable quantity of three of the following four types of data in digital form: text, sound, fixed images and animated images. However, a title will be deemed to satisfy this condition if it is intended for customers with a disability. Video images alone cannot be considered to constitute an appreciable quantity of sound and animated images for the purpose of qualifying a multimedia title;
- it is produced on electronic media and controlled by software that allows for interactivity.

### *PRODUCED BY THE CORPORATION*

Only the producer of a title may claim the credit. A title produced at the request of another corporation (or to order) is not deemed to have been produced by the corporation. A corporation (subcontractor) that produces part of a title for the title's producer may only claim a tax credit (General Component or Specialized Corporations Component) for its eligible labour expenditures in respect of that part of the multimedia title if the corporation producing the title has no establishment in Québec. The eligibility of the part of a title in relation to an "eligible multimedia title" is determined on the basis of the multimedia title and not the part of the title.

### *APPRECIABLE QUANTITY*

The quantity of an element is considered appreciable when the absence of that element would compromise the proper functioning of a title (or part of it) or substantially affect the relevance of the title.

The following kinds of titles cannot be considered eligible titles:

- titles that are essentially interpersonal communication services (e.g., videoconferencing, electronic bulletin boards, chat rooms, etc.) and online transactional services (e.g., teleshopping, virtual shopping centres, electronic ticketing, online payment systems, etc.);
- titles intended to present a for-profit business, publicize its activities or promote its products and services;
- titles that encourage violence, sexism or discrimination;
- titles that comprise explicit sex scenes or graphic representations of such scenes.<sup>2</sup>

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<sup>1</sup> Eligible multimedia titles include eligible related titles that qualify for the Tax Credit for the Production of Multimedia Titles – General Component or Specialized Corporations Component. For more information on eligible related titles, please refer to the "Tax Credit for the Production of Multimedia Titles – Specialized Corporations" detailed fact sheet.

<sup>2</sup> Budget tabled by the Ministère des Finances on March 25, 2021.

## RATE OF THE CREDIT AND CATEGORIES

The credit rate varies with the category to which each eligible multimedia title produced by the corporation belongs.

The rate for each category is presented in the following table:

Category of eligible titles	Eligible labour expenditures incurred <sup>3</sup>
Eligible multimedia titles intended for commercial markets and available in French, <b>excluding vocational training titles</b>	37.5%
Eligible multimedia titles intended for commercial markets and not available in French, <b>excluding vocational training titles</b>	30%
Other titles, <b>including vocational training titles</b>	26.25%

For a title to be considered as intended for commercial markets, the following two criteria must be met:

- the title must be available to the general public, that is, it must not be restricted to a limited clientele; and
- genuine efforts to market it must be undertaken. For example, merely making a title available on a website would not constitute evidence of a genuine marketing effort.

A title's availability in French is evaluated using the following criteria:

- the French version of the title must be at least equivalent to the versions produced in another language; and
- the producer must be able to demonstrate that the consumer can or will be able to obtain the French version of the title through the usual marketing channels from the first day it is marketed. This version must therefore be advertised or distributed.

## PRODUCTION WORK CERTIFICATE

A production work certificate issued to a corporation lists the work performed during the taxation year that is recognized as eligible production work in respect of the title in question. The certificate also indicates the names of the individuals who worked directly to perform this work during the year while being employed by the corporation or a non-arm's-length subcontractor.

In addition, it sets out the functions that each employee carried out in the course of this work, the period during which he or she carried them out, the number of hours he or she spent on the work and, where applicable, the name of the non-arm's-length subcontractor for which the individual worked.

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<sup>3</sup> A \$100,000 cap applies to an eligible labour expenditure incurred in the year and paid to an eligible employee of the corporation or of a non-arm's-length subcontractor. The cap does not apply to the consideration that the corporation paid to an arm's-length subcontractor. The maximum credit for such employees is \$37,500, \$30,000 or \$26,250, as applicable. However, the cap on assistance will not apply to 20% of such eligible employees.

Finally, the certificate provides the names of any persons or partnerships, other than a non-arm's-length subcontractor, with which the corporation has entered into a subcontract, identifies the eligible production work that was executed under the subcontract and indicates the proportion, expressed as a percentage, that the services related to this work represent in relation to all of the services that the person or partnership provided for the corporation.

#### *ELIGIBLE PRODUCTION WORK*

"Eligible production work" related to a title refers to the work carried out to complete the production stages of the title, commencing with the beginning of the design stage and continuing indefinitely thereafter.

Eligible production work on a title includes the following activities:

- writing of the scenario;
- development of its interactive structure;
- acquisition and production of its constituent elements;
- its computer and online development;
- its system architecture;
- activities related to the community of users;
- analysis of quantitative, operations-related data with a view to optimizing the title;
- technological activities related to its updating.

Further information on certain activities that constitute eligible production work can be found below.

#### *SYSTEM ARCHITECTURE*

Activities related to system architecture include the design, installation, development and maintenance of infrastructure that hosts a multimedia title, including the network and servers required for its operation; the development of tools aimed at optimizing the operation, management and maintenance of such infrastructure; and the management of system security and data access.

#### *ACTIVITIES RELATED TO THE COMMUNITY OF USERS*

Activities related to the community of users of a given title include the following:

1. activities related to the development of the community of users, which include activities related to the establishment and maintenance of a link between the community and the online multimedia title development team to ensure the attraction and retention of users;
2. activities related to the position of game master, which include activities related to the leadership and guidance of users in the community and seek the enhancement of users' experience;
3. technical service to the community, which includes activities to coordinate and optimize relationships with users.

#### *TECHNOLOGICAL ACTIVITIES RELATED TO ITS UPDATING*

Technological activities related to the updating of a title include activities related to the installation of new versions, the updating of its contents, the optimization of computer infrastructure in operation and the attendant regular or urgent maintenance tasks.

In addition, when an individual works for the corporation or for a non-arm's-length subcontractor and dedicates at least 90% of his or her work time to executing eligible production work for an eligible title, that individual is deemed to dedicate all of his or her time to executing eligible production work.

### *INELIGIBLE PRODUCTION WORK*

Activities related to a title's mastering, the multiplication of media, the acquisition of copyright, and its promotion, dissemination and distribution, except for work that is related to system architecture or constitutes technological activities related to its updating, are not recognized as eligible production work in respect of a title.

### **DATE OF THE INITIAL MARKETING OF A TITLE**

The "date of the initial marketing of a title" is one of the following dates.

1. In the case of a multimedia title distributed on the Internet, it is the date on which the title is put online.
2. In the case of a multimedia title that is intended to be used with a game console or a computer, it is the date on which the master copy is ready to be reproduced for marketing purposes.
3. In all other cases, it is the title's distribution date.

The date of the initial marketing of a title that was produced by a corporation under a subcontract is the date on which the title is delivered to the corporation's client.

### **DEFINITION OF TERMS**

#### *INTERACTIVITY*

The term "interactivity" is used to describe communication between a human being and a computer. This being said, interactivity can range from "technical" interaction on a primary level (menus, cursors, etc.) to verbal exchanges with a computer.

An interactive multimedia title must enable the user to become a participant, not simply a reader or spectator. The whole multimedia title must be interactive, not just part of it.

Three characteristics are used to determine whether a multimedia title is interactive: feedback, control and adaptation.

#### 1. Feedback

Feedback is a response given to the user of a program.

#### 2. Control

The user has a degree of control over a multimedia title when he or she is able to influence the way it proceeds. For example, the user can make choices, implement a strategy, move objects, use logical reasoning, reconstitute a whole, or modify or create an image.

#### 3. Adaptation

A title adapts to the user's needs when it offers the user a choice of actions that varies according to a number of specified situations. A program may include several scenarios that take into account the user's skill level. It can also include decision trees or databases enabling the user to search for and process information.

Note: These characteristics are not absolutely essential conditions for interactivity. However, they do serve as an important guide in the evaluation of this criterion.

Examples of multimedia titles that generally include more of these characteristics are as follows:

- video games;
- educational software;
- edutainment titles;
- simulators (e.g., for driving a car).

Thus, a multimedia title that allows users solely to choose content using buttons, panel displays, menus or cursors but does not allow them to interact with the content (e.g., a slide show, video presentation or PowerPoint presentation) is not an eligible multimedia title. Similarly, hyperlinks that give users access to websites, whether interactive or not, are insufficient for a title to be considered interactive.

Furthermore, a clarification of the concept of interactivity in respect of the Credit for the Production of Multimedia Titles was announced in the Budget Speech of March 10, 2020.

In this announcement, the Ministère des Finances du Québec specifies that a title may be considered to be controlled by software allowing interactivity if the conditions respecting the user's participation in the action of the title are met for **all or substantially all** of the action.

#### **ELIGIBLE LABOUR EXPENDITURES<sup>4</sup>**

Assistance for eligible multimedia titles is determined according to a producer's "eligible labour expenditures" in a given taxation year. These expenditures include the total of the following, less the amount of any government or non-government assistance attributable to the labour expenditures:

- salaries and wages for the production of eligible multimedia titles incurred by the corporation during the year to its eligible employees at an establishment in Québec for eligible production work carried out during the year in respect of those titles;
- the portion of the consideration that the corporation paid, under a contract, for eligible production work carried out on its behalf during the year in respect of eligible multimedia titles, to a person or partnership that executed all or part of this eligible production work and that was not at arm's length at the time the contract was entered into, that can be reasonably attributed to salary or wages chargeable to those titles that the person or partnership incurred and paid to its eligible employees at an establishment in Québec, or that could have been so attributed if that person or partnership had such employees;<sup>5</sup>
- 50% of the portion of the consideration that the corporation paid, under a contract, for eligible production work related to eligible multimedia titles, to a person or partnership with which it was at arm's length at the time the contract was entered into, that can be reasonably attributed to eligible production work executed on its behalf during the year by the employees at an establishment in Québec belonging to that person or partnership, or that could have been so attributed if that person or partnership had such employees.<sup>6</sup>

It should be noted that the portion of the consideration paid to a person or partnership under a contract that may be part of the "qualified labour expenditures" includes only first-tier subcontractors. For

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<sup>4</sup> The term "qualified labour expenditure" is defined in the first subparagraph of section 1029.8.36.0.3.8 of the *Taxation Act* (CQLR, chapter I-3). Revenu Québec is responsible for applying and interpreting this term.

<sup>5</sup> The phrase "or that could have been so attributed if that person or partnership had such employees" covers the situation of a self-employed person who has no employees to execute the contract. In that case, the amount of salaries or wages that would have been paid if the person who executes the contract had had employees to execute the contract must be determined.

<sup>6</sup> See above.



example, if Qualified Corporation A entrusts the execution of the eligible production work to Corporation B, and Corporation B entrusts a portion of this production work to Corporation C (second-tier subcontractor), only the portion (or half the portion) of the consideration paid to Corporation B can be part of the “qualified labour expenditures.” The portion of the consideration paid to Corporation B but attributable to the production work carried out by Corporation C is not eligible for the credit in this situation.

## **APPLICATION FOR REVIEW**

A corporation that disagrees with a decision made by Investissement Québec may file an application for review within 60 days of the notification of the contested decision. To do so, it must send Investissement Québec the Application for Review form, which is available at [www.investquebec.com](http://www.investquebec.com). To be admissible, the application for review must be accompanied by the applicable fees.

## **AMENDMENT OR REVOCATION OF A CERTIFICATE**

Investissement Québec may amend or revoke a certificate if information or documents justifying such action are brought to its attention.

In this case, Investissement Québec will inform the corporation in writing of its intention to amend or revoke the certificate and will list the reasons on which its decision is based. The corporation has 30 days as of the date of the notification to present its arguments and file relevant documents, if applicable.

Note that it is important to inform Investissement Québec of any change likely to result in an amendment or a revocation.

Moreover, in the event that a corporation receives a tax credit, all or part of which it should not have received, Revenu Québec will recover the amount of the overpayment by means of a special tax.

## **PENALTIES**

Any person who provides false or incorrect information or who obstructs the work of an Investissement Québec representative is guilty of an offence. In such cases, the person shall be subject to a fine of a minimum of \$2,000 and a maximum of \$25,000.

## **ELIGIBILITY APPLICATION AND CLAIMING OF TAX CREDIT**

The application for the credit and calculation thereof are done at the end of the taxation year, when the corporation files its income tax return with Revenu Québec.

To receive this tax credit for a taxation year, an eligible corporation must enclose with its tax return:

- the form prescribed by Revenu Québec (CO-1029.8.36.TM) regarding the tax credit for multimedia titles;
- the production work certificate issued by Investissement Québec regarding the eligible production work.

To apply for a production work certificate, the corporation must complete the appropriate form, which is available on Investissement Québec’s website. However, issuance of a certificate does not guarantee that the refundable tax credit will be obtained. Under the *Act respecting the sectoral parameters of certain fiscal measures*, the corporation must file its application for an eligibility certificate with Investissement Québec by the end of the 15th month following the end of the corporation’s fiscal year.

If the application for an eligibility certificate is filed after that date, but before the expiration of the 18-month period following the end of the corporation's fiscal year, Investissement Québec may, at its discretion, grant an eligibility certificate if it deems the reasons for the delay to be reasonable and to justify late filing.

Consequently, we strongly recommend that you submit the application for a production work certificate **before the end of the 15th month** following the end of the corporation's fiscal year.

Moreover, only complete applications will be processed. To be considered complete by Investissement Québec, the application for a production work certificate must be duly signed and completed, including all appendices. It must contain all the required information and be accompanied by all the documents listed in the appendices.

### ➤ **Filing of Documents with Revenu Québec**

The corporation must submit its application for a tax credit and the associated eligibility certificates by the later of the following dates:

- the last day of the 18th month following the end of the corporation's fiscal year in question;
- the last day of the three-month period following the date on which the eligibility certificates were issued by Investissement Québec.

### **SITE VISIT**

Investissement Québec reserves the right to visit an eligible corporation's facilities at any time during the eligibility period. The corporation must give Investissement Québec representatives access to its facilities and provide any information that may be required during the visit.

### **JOINT ADMINISTRATION**

The management of tax measures is carried out under the joint responsibility of Investissement Québec and Revenu Québec.

Issuing certificates and ensuring compliance with eligibility requirements is the sole responsibility of Investissement Québec. In addition, issuance of a certificate by Investissement Québec does not guarantee that the corporation will qualify for the tax measure concerned. The certificate merely confirms that the non-fiscal requirements set out in Schedule A of the *Act respecting the sectoral parameters of certain fiscal measures*, which are under the responsibility of Investissement Québec, have been met. The other eligibility requirements prescribed by the *Taxation Act*, which are the responsibility of Revenu Québec, must also be met for the corporation to receive the benefits associated with the tax measures in question.

### **FINANCING OF THE REFUNDABLE TAX CREDIT**

If you qualify for this tax credit, you could receive minimum financing of \$20,000 to help you put your cash to work sooner. Please visit the "Financial Products" section of the Investissement Québec website for more information.

## INTERACTION WITH OTHER TAX CREDITS, ASSISTANCE OR BENEFITS

The tax legislation contains rules designed to prevent the aggregation of tax assistance for expenditures that may give rise to more than one tax credit for one or more taxpayers. These rules also apply to corporations eligible for the Tax Credit for the Production of Multimedia Titles – General Component.

In addition, the amount of the labour expenditures incurred by an eligible corporation during a given taxation year must be reduced by the amount of any government or non-government assistance and any benefit or advantage attributable to such labour expenditures, according to the usual rules.

## RATE SCHEDULE

Investissement Québec charges fees for processing eligibility applications or applications for review related to the tax measures it administers. For more information, contact an Investissement Québec advisor or consult the [rate schedule](#) on its website.

## PRECEDENCE OF LAWS

*This detailed fact sheet provides a summary of the main rules set out in Budget 2020–2021,<sup>7</sup> Budget 2021–2022,<sup>8</sup> the section providing additional information on the fiscal measures of the Québec Economic Plan and Chapter V of Schedule A of the Act respecting the sectoral parameters of certain fiscal measures and of certain provisions contained in the Québec Taxation Act.*

*Other conditions may apply in certain cases. Accordingly, this fact sheet does not constitute an interpretation by Investissement Québec of the legislative provisions relating to this tax measure. For more information, please consult the official texts of the laws.*

January 2022

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<sup>7</sup> Budget tabled by the Ministère des Finances on March 10, 2020.

<sup>8</sup> Budget tabled by the Ministère des Finances on March 25, 2021.