

Chapter 4

Section 4.13

Ontario Media Development Corporation and
Ministries of Culture and Finance

Media Tax Credits

Follow-up to VFM Section 3.13, *2004 Annual Report*

Background

The province of Ontario offers six different types of Media Tax Credits covering film and television, sound recording, book publishing, computer animation and special effects, and interactive digital media. The six tax credits are “refundable credits,” which means they are used by qualifying corporations to reduce the amount of any Ontario taxes payable, with any remaining balance paid to the taxpayer. The Ontario Media Development Corporation (OMDC), the Ministry of Finance, and the Ministry of Culture share the administrative responsibilities for the Media Tax Credits.

Since the introduction of the first credit in 1996, over \$590 million in credits have been issued to qualifying corporations for eligible expenditures. Of the six types of credits, the film and television credit and the production services credit together represent over 90% of total credits and are both based on reimbursing a portion of eligible Ontario labour expenditures incurred.

In our *2004 Annual Report*, we concluded that a number of constructive steps had been taken in recent years to mitigate the potential risk of Media Tax Credits being incorrectly determined as a result of fraud or abuse. However, we noted that improvements could be made in the timeliness of processing the Media Tax Credits and in measuring and reporting on their effectiveness in achieving their

economic and cultural objectives. More specifically, we observed the following:

- About one-half of the sample of files we reviewed were approved by the OMDC more than six months after the application had been received, with about half of these being approved by the OMDC more than 12 months after receipt. We were advised that this resulted from an increasing volume of applications, limited staff resources, and incomplete applications. The OMDC’s delays in determining eligibility were compounded by processing delays at the Ministry of Finance. In some cases, companies waited more than a year after filing their tax return to get their full refund.
- Both the OMDC and the Ministry of Finance needed to adopt more risk-based approaches to claims-review and audit processes.
- While the three parties responsible for the Media Tax Credits had developed some general high-level performance measures, more specific indicators of economic and cultural performance were needed to better measure the effectiveness of the Media Tax Credits in achieving their objectives.

We made a number of recommendations for improvement and received commitments from the OMDC and the ministries of Culture and Finance that they would take action to address our concerns.

Current Status of Recommendations

According to information received from the OMDC and the ministries of Culture and Finance, significant progress has been made on the recommendations we made in our *2004 Annual Report*, with the exception of our recommendation regarding enhanced program performance measures, the implementation of which is in process. The current status of action taken on each of our recommendations is as follows.

OMDC'S ASSESSMENT OF ELIGIBILITY

Recommendation

To better manage the risk of non-compliance and improve the turnaround time for applications, the Ontario Media Development Corporation (OMDC) should:

- *consider each application's complexity and the risk of non-compliance when assigning assessment staff to review applications; and*
- *expedite the claim-review and approval process without sacrificing the key verification and approval processes.*

Current Status

With respect to the consideration of complexity and risk when assigning staff to review applications, the OMDC informed us about two initiatives it had undertaken. First, it implemented a risk-assessment system in the 2004/05 fiscal year whereby the level of risk can be assigned at the start of a review. The system aims to ensure that high-risk issues are being addressed and helps to streamline reviews, with time spent on low-risk issues being minimized. The OMDC is also considering the possibility of reducing coverage when reviewing low-risk claims for eligibility. The second initiative aims to ensure that all business officers reviewing appli-

cations have the necessary skills and knowledge to assess the most complex and high-risk claims. Business officers are now required to complete an annual assessment of their skills and knowledge. This assessment is incorporated into a learning plan approved by the OMDC's Director of Tax Credits.

To expedite the claim review and approval process, the OMDC indicated that, in September 2004, it launched a new database to collect information on and monitor tax credit activity. According to the OMDC, use of the database improves the agency's ability to compile aggregate information on the applications the OMDC receives and the certificates of eligibility it issues and has contributed to a decrease in turnaround time. For the period ending December 31, 2005, the OMDC reported an average turnaround time for all credits of 13.9 weeks, an improvement over the 19-week average turnaround period at the time of our audit and approaching industry expectations of 12 weeks.

MINISTRY OF FINANCE'S PROCESSING OF CLAIMS

Timeliness of Processing

Recommendation

To enhance the efficiency and effectiveness of the Media Tax Credits and to encourage corporations that depend on cultural media tax credits to invest in Ontario-based productions, the Ministry of Finance should ensure that eligible claims are processed in a more timely manner.

Current Status

The Ministry of Finance's primary responsibility is to ensure claims comply with legislation and are paid on a timely basis. The Ministry of Finance and the OMDC have modified review procedures for claims for film and television production tax credits, allowing for concurrent reviews to expedite refunds. In other words, Ministry of Finance Corporation Tax audit staff do not wait for the OMDC's

certification procedure to be completed prior to beginning their audit work on an eligible corporation's tax return.

The Ministry of Finance and the OMDC also informed us that OMDC staff and field- and desk-audit staff in the Specialty Assessment Unit of the Ministry of Finance meet regularly to review processes and any issues arising from the review process. We were also informed that the OMDC and the Ministry of Finance have established procedures to eliminate duplication in the review of claims and to share information. The OMDC also meets twice annually with the Canadian Audio Visual Certification Office (CAVCO) and Canada Revenue Agency (CRA), which administer federal film and television tax credit programs, to share information and discuss common issues. In addition to scheduled meetings, agency and ministry staff communicate with each other whenever issues arise.

For the 2005/06 fiscal year, the Ministry of Finance reported an average turnaround time of 13 weeks to issue full refunds. At the time of our audit, about 65% of the claims we reviewed had not received the full refund more than six months after they had been filed.

Audit Selection

Recommendation

To enhance the effectiveness of the Ministry of Finance's audit function, the Ministry should ensure that:

- *claims are selected for audit based on assessed documented risk and stated ministry policy; and*
- *the results of audits are summarized to assist with the identification of possible trends warranting increased vigilance.*

Current Status

The Ministry of Finance informed us that it had implemented a formalized risk assessment process for audit selection for managers in the Specialty Assessment Unit. We were advised at the time of

our follow-up that a preliminary risk-assessment form was being placed in all files to document this audit-selection process. Management was using the formalized risk assessment procedures to allocate audit resources to the different types of tax credits. The procedures direct management to consider various factors and, if changes in these factors so necessitate, reallocate available audit resources to the higher-risk areas.

The Ministry indicated that the results of Media Tax Credit field audits conducted in the 2004/2005 fiscal year had been summarized and analyzed for trends. Where required, field audit programs had been modified to more effectively focus on high-risk areas. The Ministry also indicated that it would continue to record and analyze audit results for the current and future fiscal years and use these data to refine its audit-selection procedures.

PERFORMANCE MEASUREMENT

Recommendation

In order to ensure that the Media Tax Credits are achieving their objectives, the Ontario Media Development Corporation, the Ministry of Culture, and the Ministry of Finance should work collaboratively to:

- *develop specific performance standards and targets for the Media Tax Credits; and*
- *update the Memorandum of Understanding to more clearly define each party's responsibilities with respect to performance measurement and obtaining the information needed to monitor and report on performance.*

Current Status

The OMDC, the Ministry of Culture, and the Ministry of Finance reported that they had worked and would continue to work jointly to monitor the performance and the effectiveness of the Media Tax Credits. For example, the OMDC indicated that it made improvements to its aforementioned new tax-credit database in February 2005 to facilitate the collection of data that can be used for policy

development and analysis. Several indicators have been established that could be used as measures of performance and are in the process of being implemented.

We were advised that the relationships and responsibilities between the parties involved with the Media Tax Credits had been refined in a draft revised Memorandum of Understanding. At the time of our follow-up, a final Memorandum of Understanding had been executed by the three parties that outlines the relationships and responsibilities of the OMDC, the Ministry of Culture, and the Ministry of Finance with regard to updating and public reporting on media-sector performance as follows:

- In accordance with the *Fiscal Transparency and Accountability Act, 2004*, the Minister of Finance shall gather information on the estimated cost of the Media Tax Credit claims and shall publish this information by November 15 annually or as otherwise required by that Act.
- The OMDC shall gather information on an annual basis on the number of tax-credit applications received, the number of tax-credit certificates issued, and the number of media products certified each fiscal year and their value. This information is to be published on the OMDC's website by November 15 annually. In addition to tax-credit certification information, the OMDC shall also gather information on an annual basis on film and television production activity occurring in Ontario each calendar year. This information is to be published on the OMDC's website by March 31 annually.
- The parties agree to share the above information and to do so in a timely manner. The parties also agree to use this information for the purpose of monitoring the progress of the Media Tax Credits.