

# FILMONTARIO

F I L M · T E L E V I S I O N · I N T E R A C T I V E

28 November 2022

Ernie Hardeman, MPP, Chair  
Michael Bushara, Clerk  
Standing Committee on Finance and Economic Affairs  
Whitney Block, Room 1405  
Toronto, ON M7A 1A2

Sent by email: [scfea@ola.org](mailto:scfea@ola.org)

Dear Standing Committee Members:

FilmOntario is pleased to submit the following comments in support of Bill 36: *Progress on the Plan to Build Act (Budget Measures), 2022*. Bill 36 makes an important change to the Ontario Production Services Tax Credit (OPSTC), one that will make Ontario a more competitive jurisdiction for film and television production, and encourage filming on location throughout the province of Ontario.

The Fall Economic Statement also makes important commitments to the film and television industry, which we will also touch on briefly, that are equally important for the growth and competitiveness of our provincial industry. As the industry strives to reach the Premier's often-stated goal of \$5 billion, these changes will be part of what attracts investment and supports Ontario companies to grow and create jobs in the province.

## Who We Are

Founded in 2003, FilmOntario is a privately-funded industry consortium representing organizations from across the province's screen-based sector. Our membership includes Ontario-based production companies, unions, studio owner/operators, equipment suppliers, production service providers, and other organizations in the province's screen-based industry.

Our emphasis is on marketing Ontario as a screen-based content creation and production jurisdiction, and on working with all levels of government to ensure that their policies and programs continue to support Ontario's competitiveness in the global market. Due to our unique structure and widespread membership, FilmOntario is able to bring everyone to the table so that we can speak with one voice on the issues and opportunities facing the province's film and television industry.

## Ontario's Film and Television Industry

Ontario is home to most of Canada's English-language broadcasters and distributors, as well as a robust independent production sector. In 2021, this independent production sector spent \$2.88 billion in the province, split between shows made by foreign (mostly U.S.) producers who

choose to film here and by domestic producers who own and exploit their own intellectual property.<sup>1</sup>

These Ontario-based producers have created long-running audience favourites such as *Murdoch Mysteries*, which just aired its 250<sup>th</sup> episode and is available in 110 countries and territories around the world, as well as more recent hits like *Schitt's Creek*, *Sort Of* and *Workin' Moms*. The province also produces critically-acclaimed TV series and movies from outside our borders, including *The Handmaid's Tale*, *Station 11*, *Star Trek: Discovery*, and *What We Do in the Shadows*.

The \$2.88 billion spent on these and many more independent productions translates into 48,135 full-time jobs. These numbers do not include commercial production or broadcaster in-house production, which are estimated at \$1 billion for 2021, bringing Ontario's production spending close to \$4 billion for the year.<sup>2</sup> While the majority of this activity takes place in the GTA, we are seeing the growth of the industry all across the province of Ontario.

For example, the second season of *Umbrella Academy* supported more than 980 Ontario-based businesses, generating a total contribution of \$111 million for Ontario's GDP in communities from Southwestern Ontario to Sault Ste. Marie.<sup>3</sup> The City of Hamilton had its biggest filming year ever in 2021, with 152 productions spending almost \$70 million.<sup>4</sup> And in Northern Ontario, Sudbury saw 12 production shoot in the city, spending \$11 million, and the wider economic impact across Northern communities was \$200 million.<sup>5</sup> As production spreads across the province, the number of employment opportunities will also increase, along with the spin-off impacts that a production has on the economy.

## **Legislative Changes to the OPSTC**

Ontario's film and television tax credits were created by the Conservative government in 1997 and at the time were a unique financing tool. Since then, Ontario's independent production spending has increased from \$635 million to today's level of \$2.88 billion.<sup>6</sup> Major filming jurisdictions across the globe, including California and New York, have introduced tax credit programs to maintain and attract film and television production in their jurisdictions.

While the tax credits have been successful in attracting production to Ontario and creating job and economic growth, it is important to ensure they remain current with global market conditions and competitive with other jurisdictions. As noted in the Fall Economic Statement, the current OPSTC legislation severely limits the eligibility of costs paid for location fees. This makes Ontario less competitive than other jurisdictions with a similar credit, which allow such costs.

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<sup>1</sup> Ontario Creates Production Statistics, <https://www.ontariocreates.ca/research/statistics>.

<sup>2</sup> *Ibid.*

<sup>3</sup> Motion Picture Association – Canada, “Second Season of ‘The Umbrella Academy’ Floods Ontario Economy with \$77.3 Million in Spending,” (<https://www.mpa-canada.org/>) 20 June 2022.

<sup>4</sup> Daniel Nolan, “Number of film projects Slated for Hamilton point to a banner 2022,” *The Hamilton Spectator* (<https://www.thespec.com/>) 21 April 2022.

<sup>5</sup> “Sudbury, Ont., film industry rebounds after pandemic slowdown, says city,” CBC ([www.cbc.ca](http://www.cbc.ca)) 23 September 2022.

<sup>6</sup> Ontario Creates Production Statistics.

The proposed changes to the OPSTC in Bill 36 will address this gap, bringing the OPSTC on par with other similar credits and making Ontario more competitive. Our members and stakeholders have long noted this discrepancy between Ontario and other jurisdictions, and have cited it as one reason they may choose not to film a production in the province. FilmOntario is very pleased to see this change in Bill 36.

Encouraging productions to get out of the studio and into the community will widen the potential impact of a film production. Productions will have a greater incentive to use properties owned by individuals and businesses throughout a community, not just standing sets and studio lots. In turn, local businesses that serve the film and television industry can themselves become tourist attractions and receive ongoing benefit from their use as a location. We have seen this in communities such as Goodwood, the small municipality north of Toronto which was a primary location for the Emmy-Award winning international hit *Schitt's Creek*. Small businesses, such as Annina's Bakeshop and Café in the town, benefit directly from the revenue generated by providing catering for the show, as well as benefitting indirectly from the increased interest and tourist activity that came from the show's success.<sup>7</sup>

### **Other Budget 2022 Commitments**

We were also pleased to see the Government re-commit to expanding Ontario's film and television tax credits to professional film and television productions distributed exclusively online in the Fall Economic Statement. We look forward to reviewing the proposed regulatory amendments in the coming months, and would like to offer some suggestions for what they could look like at this time.

In the Ontario Film and Television Tax Credit (OFTTC), this change can be achieved simply by removing s. 27(1), paragraph 2 and s. 27(2)(f) of the *Taxation Act, 2007*, Regulation 37/09, which currently require that productions conform to a traditional linear television time slot length and air during traditional broadcast prime time hours. While Budget 2022 suggested there would be additional eligibility requirements needed to ensure that online productions eligible for the tax credit are professional film and television productions, we respectfully submit that there are already eligibility requirements in the credit which accomplish this goal.

For example, in order to qualify for the OFTTC, your company must be incorporated and must file a tax return. The regulations exclude certain genres from eligibility, including news, reality television and productions made for educational or institutional purposes. And most importantly, in order to receive the tax credit, you have to hire people – without eligible labour expenditures, there is no tax credit to be claimed. These requirements are sufficient to ensure that tax credit applicants are in the business of film and television production. There is no need for additional regulations which will have the effect of increasing red tape for the small- and medium-sized Ontario companies that benefit from this credit, while at the same time lengthening the amount of time it takes to receive the credit, which in turn drives up financing costs for businesses.

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<sup>7</sup> Case Study, Economic Impacts of *Schitt's Creek* – Prepared for the Canadian Media Producers Association in April 2020 by MNP LLP (<https://cmpa.ca/wp-content/uploads/2020/04/CMPA-2020-Economic-Impacts-of-Schitt%E2%80%99s-Creek-Factsheet-Web.pdf>).

Applying a similar change to the OPSTC is a much simpler process and in our opinion does not require a regulatory change. As per the Ontario Creates FAQs<sup>8</sup>, OPSTC eligibility for online productions is limited to subscription services only. Expanding this definition to include ad-supported services would introduce the needed flexibility for this credit while upholding the requirement that the tax credit support professional productions.

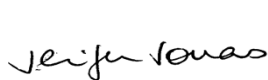
Budget 2022 also committed to exploring ways to simplify the Ontario Computer Animation and Special Effects (OCASE) tax credit and reviewing the regional bonus in the OFTTC. As we noted above, effective and competitive tax credits are a key tool in Ontario's success as a film and television production jurisdiction, and we look forward to assisting the government in these consultations in any way we can.

Finally, Budget 2022 noted that the government had received the report of the Film and Television Advisory Panel that was constituted as part of Budget 2019. Several FilmOntario members had the opportunity to serve on this Panel, and found it a very useful tool for communicating with government and ensuring a productive exchange of ideas. Should the government wish to reconstitute the Panel, we would be happy to participate in any way that is appropriate.

As noted above, the OPSTC changes proposed in Bill 36 will benefit the province's film and television industry, making the Ontario tax credits more competitive with jurisdictions with similar incentives. It will also encourage greater use of filming locations across the province, increasing the economic impact of production in local communities. We support these changes and would like to thank the government for their ongoing commitment to stable and effective film and television tax credits in the province of Ontario.

Should you require further information or clarification on any of the comments submitted here, please do not hesitate to be in touch with FilmOntario.

Sincerely,



Jennifer Jonas  
Co-Chair, FilmOntario



Jayson Mosek  
Co-Chair, FilmOntario



Cynthia Lynch  
Managing Director and Counsel,  
FilmOntario

cc: The Honourable Peter Bethlenfalvy  
Minister of Finance

The Honourable Neil Lumsden  
Minister of Tourism, Culture and Sport

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<sup>8</sup> <https://www.ontariocreates.ca/tax-incentives/opstc>