



Province of Alberta
Order in Council

O.C. 237/2018
JUL 09 2018

ORDER IN COUNCIL

Approved and ordered:

Lieutenant Governor
or
Administrator

The Lieutenant Governor in Council makes the Interactive Digital Media Tax Credit Regulation set out in the attached Appendix.

CHAIR

FILED UNDER
THE REGULATIONS ACT
as ALBERTA REGULATION 139/2018
ON July 10 20 18

REGISTRAR OF REGULATIONS

For Information only

Recommended by: Minister of Economic Development and Trade

Authority: Interactive Digital Media Tax Credit Act
(section 20)

APPENDIX

Interactive Digital Media Tax Credit Act

INTERACTIVE DIGITAL MEDIA TAX CREDIT REGULATION

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Interpretation

1(1) In this Regulation,

- (a) “Act” means the *Interactive Digital Media Tax Credit Act*;
- (b) “cutscene” means an animated or live action scene or series of scenes relating to a video game
 - (i) that is included in or distributed with the video game,
 - (ii) over which the user of the video game has limited or no control, and
 - (iii) that is used to advance the plot or provide character development, background information, a story line, context or clues.

(2) For the purposes of the Act and this Regulation,

- (a) “eligible activity”, in relation to an interactive digital media product, means an activity attributable to the development of the interactive digital media product, but does not include the following:
 - (i) marketing;
 - (ii) human resource services;
 - (iii) administrative support services;



- (iv) management services;
 - (v) an activity attributable to the development of an animated or live action scene or series of scenes relating to an interactive digital media product, other than a cutscene, over which the user of the interactive digital media product has limited or no control;
- (b) “salary and wages” has the same meaning as salary or wages in section 248(1) of the federal Act, but does not include
- (i) an amount described in section 7 of the federal Act,
 - (ii) in relation to a corporation, remuneration based on profits or a bonus, if the remuneration or bonus is in respect of a specified employee of the corporation, or
 - (iii) in relation to a corporation for a taxation year, expenses incurred by the corporation in the taxation year in respect of salary or wages, as defined in section 248 of the federal Act, of a specified employee of the corporation to the extent that those expenses exceed the amount determined by the formula in subsection 37(9.1) of the federal Act, as modified by subsection (3) of this section, for the taxation year;
- (c) “specified employee” means a specified employee as defined in section 248(1) of the federal Act;
- (d) “under-represented employee” means an employee who identifies as a member of a disadvantaged group, including
- (i) a female,
 - (ii) a person who identifies as a member of a sexual or gender minority,
 - (iii) a person of Canadian Indigenous ancestry,
 - (iv) a person with a long-term or recurring physical or mental disability, and

(v) a person of a visible minority.

(3) For the purposes of subsection (2)(b)(iii), the formula in subsection 37(9.1) of the federal Act is modified by replacing “5 times the Year’s Maximum Pensionable Earnings” with “3 times the Year’s Maximum Pensionable Earnings”.

Interactive digital media product

2 For the purposes of the definition of “interactive digital media product” in section 1(d) of the Act, the following products are prescribed as not included in the meaning of interactive digital media product:

- (a) operating system software;
- (b) a product designed to be used by individuals for interactive communication;
- (c) a product classified by the Entertainment Software Rating Board as “AO” (adults only);
- (d) a product designed for marketing or promoting an entity, product or idea;
- (e) a product for which public financial support would, in the opinion of the Minister, be contrary to public policy.

Labour plan

3 For the purposes of section 2(1)(b) of the Act, a labour plan must include

- (a) the eligible salary and wages paid by the corporation in the fiscal year preceding the fiscal year in which the application is made,
- (b) a forecast of the corporation’s projected eligible salary and wages during the fiscal year in which the application is made,
- (c) a forecast of the amount of bonuses to be paid by the corporation to employees receiving eligible salary or wages in the fiscal year in which the application is made, and
- (d) any other information specified by the Minister.

Revised conditional approval letter

4(1) For the purposes of section 3(2) of the Act, a corporation may request the Minister to issue a revised conditional approval letter by submitting the following information and documents to the Minister:

- (a) an updated labour plan;
- (b) any other information or records required by the Minister.

(2) The Minister may,

- (a) on receipt of the documents and information referred to in subsection (1), and
- (b) on being satisfied that there are sufficient funds in the budget to carry out the purpose of the Act,

issue a revised conditional approval letter to the corporation.

Eligibility for tax credit certificate

5(1) For the purposes of section 4(1)(c)(ii) of the Act, a corporation is substantially engaged in an activity described in section 4(1)(c)(ii)(A) or (B) of the Act if the result obtained from the following formula is greater than 0.5:

$$\frac{\text{Activity Assets} + \text{Activity Expenses}}{\text{Total Assets} + \text{Total Expenses}}$$

where

Activity Assets = the value of assets of the corporation used in the development of interactive digital media products or the provision of eligible activities to recipient corporations;

Activity Expenses = all expenses incurred during the taxation year with respect to the portion of the development of interactive digital media products or the provision of eligible activities to recipient corporations;

Total Assets = the total value of all assets of the corporation;

Total Expenses = the total of all expenses incurred during the taxation year with respect to all operations of the corporation.

(2) For the purposes of section 4(1)(d) of the Act, additional conditions or requirements that a corporation must meet to receive a tax credit certificate are

- (a) that the corporation is not controlled directly or indirectly in any manner whatever by a corporation that is exempt from tax in the taxation year under the *Alberta Corporate Tax Act* by virtue of section 35 of that Act, and
- (b) any other condition or requirement specified by the Minister.

(3) For the purpose of the calculation in subsection (1), the value of assets and expenses must be determined in accordance with generally accepted accounting principles.

Diversity and inclusion policy

6 For the purposes of section 7(b) of the Act, a corporation must ensure that its diversity and inclusion policy is publicly accessible by posting it on a website.

Calculation of gross-up factor

7 For the purposes of section 7 of the Act, the gross-up factor on the amount of a corporation's eligible salary and wages paid to under-represented employees is 20%.

Designated assistance

8 For the purposes of determining designated assistance under the Schedule to the Act, a prescribed amount to be included as designated assistance is the full amount of the eligible salary and wages to which any grant given by the Government of Alberta to the corporation in respect of a taxation year on or after April 1, 2018 relates.

Revocation of tax credit certificate

9(1) The Minister must revoke and issue a new tax credit certificate where information on the original tax credit certificate is incorrect or has changed since the date the original tax credit certificate was issued or for any other similar reason the Minister considers appropriate.

(2) A tax credit certificate issued under subsection (1) shall replace the original tax credit certificate.

(3) A tax credit certificate issued under subsection (1) is deemed to have been issued on the same date that the original tax credit certificate was issued under section 5 of the Act.

(4) If the Minister revokes and issues a new tax credit certificate under subsection (1), the Minister must promptly give notice to the Finance Minister of the revocation and re-issuance.

Collection of information

10 The personal information that the Minister may collect indirectly under section 19 of the Act about an employee of a corporation is as follows:

- (a) the employee's name;
- (b) the employee's job description, including position title;
- (c) the percentage of the employee's time dedicated to eligible activities;
- (d) the employee's salary or wages, including bonuses;
- (e) the employee's unique identification number;
- (f) the employee's work e-mail address;
- (g) the employee's work address;
- (h) the employee's work phone number;
- (i) the amount of designated assistance the corporation has received in respect of the employee after April 1, 2018;
- (j) the employee's place of residence at the end of December 31 in any year.

Coming into force

11 This Regulation comes into force on the coming into force of section 20 of the Act.