

**Written Submission for the Pre-Budget
Consultations in Advance of the 2022
Federal Budget**

By: Screen Composers Guild of Canada

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Recommendation 1: That section 125.4 of the *Income Tax Act* be amended to require no less than 'predominant' use of original Canadian music within a film and video production, before a point for 'music composer' can be awarded to that production for the purposes of tax credit eligibility.

1. The Screen Composers Guild of Canada (SCGC) is the national association certified under the Federal *Status of the Artist Act* to represent all professional Anglophone composers and music producers for audiovisual media productions in Canada.
2. SCGC is pleased to provide this recommendation, to ensure that the intent of the Canadian Film and Video Production Tax Credit (CPTC) can be fully realized. At present, a loophole within the wording of 'key creative' requirements permits undue exploitation of Government of Canada tax credits designed to promote the development of an active domestic independent production sector.

The CPTC is designed, in part, to ensure opportunity for the development of Canadian independent screen composers.

3. The CPTC is a refundable corporate tax credit designed to encourage the creation of Canadian film and television programming, and the development of an active independent production sector in Canada. The CPTC program is jointly administered the Department of Canadian Heritage (PCH) through the Canadian Audio-visual Certification Office (CAVCO), and by the Canada revenue Agency, under section 125.4 of the *Income Tax Act*.
4. The CPTC provides eligible productions with a fully refundable tax credit, available at a rate of 25% of the qualified labour expenditure. To be eligible for CPTC certification, a production must meet requirements related to the staffing of Canadian 'key creative' and producer-related personnel on the production.
5. For example, for live action productions, key creative roles undertaken by Canadians qualify the productions for a series of 'key creative' points. A minimum of 6 points makes a production eligible for the CPTC (and for other regulatory qualifications, such as CRTC Canadian Content certification). Animated productions and documentary productions operate under a similar framework for determining tax credit eligibility.
 - Director = 2 points
 - Screenwriter = 2 points
 - First and Second lead performers (live, or voice) = 1 point each
 - Production Designer = 1 point
 - **Music composer = 1 point** (emphasis added)
 - Picture editor = 1 point

6. An applicant for CPTC eligibility must demonstrate to CAVCO that individuals occupying these key creative roles, are Canadian. Under CAVCO guidelines for the CPTC, the point for 'music composer' is only awarded if "all original music created for a production" is Canadian.

Some applicants for the CPTC are exploiting the wording of the requirement that "all original music created for a production" must be Canadian

7. As currently worded, the requirement that "all original music" in a production must be Canadian in order for to generate the 'music creator' point can be met commissioning a miniscule amount of "original Canadian music" from a Canadian composer.
8. Often, SCGC's members are commissioned to provide a minute or two of original music to a two-hour production, whose producer then licenses pre-existing music (i.e. non-original music) for the rest of the production, from non-Canadian music libraries, while still claiming the full 'music composer' point for the purposes of triggering CAVCO tax credits.
9. Put another way, whether the amount of original music being commissioned is 1% or 100%, the production still qualifies for 100% of the 'music composer' point, and by extension, for full tax benefits under the CPTC.

The Income Tax Act should be amended to require a minimum amount of original Canadian music within production, before a point for 'screen composer' can be awarded to that production

10. SCGC respectfully submits the objective of the CAVCO points system is not for the Canadian taxpayer to underwrite producers who license non-Canadian music from low-cost music libraries. It was to generate maximum opportunity for Canadian creators, including screen composers, who should not be limited to a token role on a production.
11. SCGC therefore strongly recommends that the *Income Tax Act* be amended to require that a minimum of 50% of music within a production must be (i) original, and (ii) composed by a Canadian, before the 'music composer' point can be awarded under the CAVCO points system, for the purposes of determining eligibility for the CPTC.
12. SCGC appreciates the opportunity to provide these comments, as part of this important proceeding, and respectfully requests the opportunity to appear in person before the House of Commons Standing Committee on Finance, as part of its pre-budget hearings, at the Committee's convenience.

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