ONTARIO MEDIA DEVELOPMENT CORPORATION AND MINISTRIES OF CULTURE AND FINANCE

3.13–Media Tax Credits

BACKGROUND

The Ontario Media Development Corporation (OMDC) was established in 2000 as an agency of the Ministry of Culture and is a continuation of the Ontario Film Development Corporation. Its mandate is to "stimulate employment and investment in Ontario" through the use of business innovation, marketing, provincial tax credits, and other initiatives in support of Ontario's cultural media industries.

One of the ways the OMDC fulfills its mandate is by offering refundable tax credits through Media Tax Credits. Such tax credits reduce the amount of Ontario corporations tax that the taxpayer owes. If no Ontario taxes are payable, the full amount of the tax credit is paid to the taxpayer. The Media Tax Credits operate under the provisions of Section 43 of the *Corporations Tax Act*.

The first Media Tax Credit instituted was the Ontario Film and Television Tax Credit, introduced in 1996. Media Tax Credits now comprise six different types of tax credits covering film and television, sound recording, book publishing, computer animation and special effects, and interactive digital media. The OMDC, the Ministry of Finance, and the Ministry of Culture share the responsibility for the Media Tax Credits.

Specifically, the OMDC assesses applications for the purpose of certifying that expenditures are eligible for tax credits and issues to approved applicants certificates of eligibility, which the applicants include with their tax returns when claiming the tax credit. The Ministry of Finance processes claims and conducts audits as necessary. The OMDC and the Ministry of Finance are thus jointly responsible for ensuring that the tax benefits of the Media Tax Credits are granted only to qualifying corporations for eligible expenditures. The Ministry of Culture oversees the research and development of policy proposals for the Media Tax Credits.

The six tax credits and types of eligible expenditures are identified in the following table.

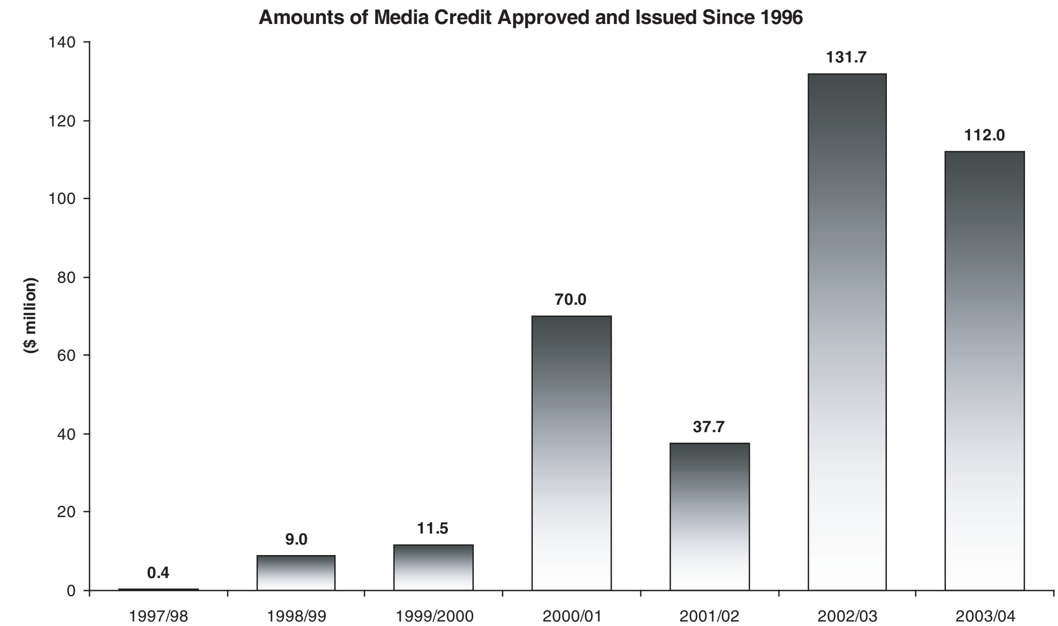
Media Tax Credits

Name of Credit	Expenditures Credited
Ontario Film and Television Tax Credit (OFTTC)	20% of eligible Ontario labour expenditures by Canadian-owned production corporations located in Ontario
Ontario Production Services Tax Credit (OPSTC)	11% of eligible Ontario labour expenditures by Canadian-owned or foreign-owned production corporations located in Ontario
Ontario Computer Animation and Special Effects Tax Credit (OCASE)	20% of eligible Ontario labour expenditures for digital animation or digital visual effects for film and television production by Canadian or foreign-owned corporations located in Ontario
Ontario Book Publishing Tax Credit (OBPTC)	30% of eligible Ontario pre-press, printing, marketing, and book publishing expenditures—up to a maximum tax credit of $30,000 per book—by Canadian corporations located in Ontario
Ontario Sound Recording Tax Credit (OSRTC)	20% of eligible Ontario production, marketing, and distribution expenditures by Canadian-owned corporations that either have been located in Ontario for at least 24 months or were sole proprietorships or partnerships prior to incorporation
Ontario Interactive Digital Media Tax Credit (OIDMTC)	20% of eligible Ontario labour, marketing, and distribution expenditures incurred on or after July 1, 1998 by Canadian-owned or foreign-owned corporations located in Ontario

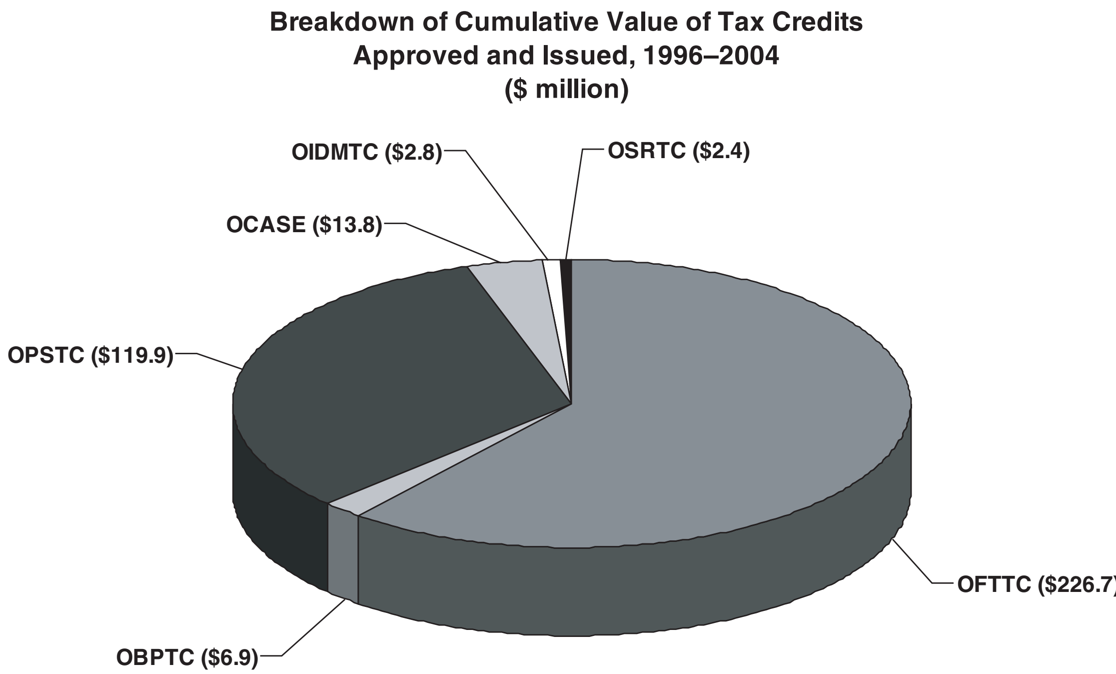
Prepared by the Office of the Provincial Auditor

The six tax credits are "refundable credits," which means that they are used to reduce the amount of any Ontario taxes payable, with any remaining balance paid to the taxpayer.

Ontario corporations have claimed these tax credits in increasing numbers over the past few years, reaching around $130 million in the 2002/03 fiscal year. As at March 31, 2004, approximately $372 million of tax credits had been approved and issued since the inception of the Media Tax Credits. The following bar graph and pie chart show the increases in credits approved and the breakdown of tax credits approved since the Media Tax Credits began.



Source of data: Ministry of Finance



Source of data: Ministry of Finance

As the pie chart shows, the OFTTC and the OPSTC represent the two largest amounts of tax credit dollars approved (approximately 61% and 32%, respectively, of the total). Typically, a credit such as the OFTTC finances about 8% of a project such as a prime-time television drama series, as shown in the following table.

Typical Production Budget for a Television Drama Series

Source of Financing	Amount Contributed ($ million)	% of Total
broadcaster	2.9	29
Telefilm Canada	2.2	22
distributor	2.1	21
Federal Film & Television Tax Credit	1.0	10
Ontario Film & Television Tax Credit	**0.8**	**8**
Canadian Television Fund	0.6	6
Independent Production Fund	0.3	3
producer	0.1	1
Total	**10.0**	**100**

Source: Ontario Media Development Corporation

Eight of the other nine Canadian provinces, the federal government, and some jurisdictions outside of Canada also provide tax incentives of various scopes and sizes to encourage cultural industries to invest in their jurisdictions.

AUDIT OBJECTIVES AND SCOPE

The objectives of our audit were to assess whether the Ontario Media Development Corporation (OMDC), the Ministry of Finance, and the Ministry of Culture—which share the responsibility for Media Tax Credits—had collectively established adequate procedures to:

- ensure tax credits were provided only for eligible expenditures actually incurred by corporations located in Ontario; and
- measure and report on the effectiveness of the Media Tax Credits in meeting their stated goals and objectives.

The scope of our audit included an examination and analysis of a random sample of eligibility and claim files, as well as interviews with appropriate staff at the OMDC and at the head office of the Ministry of Finance and a review of the administrative procedures of each. We also reviewed relevant information and held discussions with key staff at the Ministry of Culture.

Prior to the commencement of our audit, we identified the audit criteria that would be used to address our audit objectives. These criteria were reviewed and agreed to by senior management of the OMDC and the two ministries.

Our audit work covered applications processed during the period from April 1, 2002 to December 31, 2003. Our audit was performed in accordance with the standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

We did not rely on internal auditors, because no internal audit reports had ever been issued relating to the Media Tax Credits by either the Ministry of Culture or the Ministry of Finance.

OVERALL AUDIT CONCLUSIONS

A number of constructive steps have been taken in recent years to mitigate the potential risk of tax credits being incorrectly determined as a result of fraud or abuse with respect to Media Tax Credits. For example, we noted that improvements in tax credit administration have been identified and implemented as a result of work done with other Canadian jurisdictions. In particular, policies and processes that reduce risks of tax-credit abuse —such as those identified in a 2001 review of similar media tax credits in Quebec—have been strengthened. However, improvements could be made in measuring and reporting on the effectiveness of the Media Tax Credits in achieving their objectives. Some of our major observations and findings were as follows:

OMDC

The OMDC had put in place reasonable procedures for assessing the eligibility of tax credit applications for the six tax credits.

However, eligibility applications were not processed in a timely manner, which resulted in delays in the issuing of certificates of eligibility and a significant backlog in tax credit applications. About one-quarter of the applications we reviewed were approved more than 12 months after receipt. Excessive delays in approving applications can be detrimental to many production companies—which often depend on financing from tax credit refunds to complete their projects—and could ultimately discourage production companies from investing in Ontario. Furthermore, the significant backlog in tax credit applications increases the risk that OMDC staff will rush to review and approve applications and issue certificates of eligibility and be less thorough as a result.

MINISTRY OF FINANCE

The delays at the OMDC in determining eligibility were compounded by delays at the Ministry of Finance in processing tax credit claims. In some cases, companies waited for their full refunds for over a year after filing their corporations tax returns.

We also noted that there was no documented evidence that the Ministry selected claims for audit verification using a risk-based approach, where those claims with the highest assessed risk would be targeted for audit.

MINISTRY OF CULTURE, MINISTRY OF FINANCE, AND OMDC

While these three parties, which are responsible for the Media Tax Credits, had developed some general high-level performance measures, we noted that the establishment of more specific indicators of economic and cultural performance would better measure the effectiveness of the media tax credits in achieving their objectives. Each party's responsibilities with respect to performance measurement should also be more clearly defined.

DETAILED AUDIT OBSERVATIONS

THE TAX CREDIT CLAIM PROCESS

Obtaining a Tax Credit

The sequence of steps whereby a corporation obtains a cultural tax credit is as follows:

- A qualifying corporation must apply to the OMDC for a "certificate of eligibility," which certifies that both the corporation and the activities being claimed are eligible. For film and television productions, eligible corporations can apply for the two applicable tax credits—the OFTTC and the OPSTC—either during or at the end of production. Applying for these credits during production is allowed primarily because film and television productions can take more than a year to complete. The other four credits can be applied for only once the project has been completed and there is a tangible finished product.
- When the OMDC receives an application, its Tax Credit Department evaluates the corporation's eligibility based on criteria established by legislation. The OMDC either approves the application, in which case it issues a certificate of eligibility to the applicant and a copy of the certificate to the Ministry of Finance, or notifies the applicant that the application has been rejected.
- If the application is approved, the eligible corporation claims the tax credit when filing its Ontario corporations tax return with the Ministry of Finance, including with it the certificate of eligibility and a claim form.
- If the Ministry of Finance has received a matching copy of the certificate of eligibility from the OMDC, it processes the claim, including conducting a desk or field audit if necessary, to verify evidence supporting the claimed expenditures.
- If the Ministry of Finance accepts the claim, it issues a refund cheque or applies the credit to income taxes payable. In the case of the OFTTC and the OPSTC, the Ministry's intent is that up to 85% of the estimated refund can be issued on a "fast

track"—within six weeks of a company's filing of its tax return—provided that certain criteria are met.

Effects of Credits Obtained

Whether a tax credit results in a refund or a reduction in taxes payable depends on the amount of taxes a company owes the government. Three scenarios for a company applying for an $800,000 tax credit are shown in the following table.

Effect of Tax Credit on Taxes Payable

	Scenario 1	Scenario 2	Scenario 3
	Company owes nil in taxes ($)	Company owes $100,000 in taxes ($)	Company owes $1,000,000 in taxes ($)
Media Tax Credit allowed	800,000	800,000	800,000
taxes payable	– 0	– 100,000	–1,000,000
refund issued/(taxes payable)	800,000	700,000	(200,000)

Prepared by the Office of the Provincial Auditor

According to data from the Ministry of Finance, since the Media Tax Credits began approximately 93% of all claims have resulted in cash refunds. The reason the percentage is so high relates to a common industry practice whereby corporations undertaking television or film productions usually create a separate company for each production undertaken in order to limit liability. During production, the production company accumulates production costs but has little or no offsetting revenues—revenue generated from the finished product usually goes to the distributor or broadcaster holding the distribution rights. Thus, most of the companies applying for tax credits are not in a taxable position, and tax credits granted generally result in a direct payment of cash.

OMDC'S ASSESSMENT OF ELIGIBILITY

Internal Controls

Strong internal controls are essential for efficiently and effectively administering these tax credits. Such controls ensure that only eligible taxpayers that incur eligible expenditures receive a tax credit. Without them, the risk of losses arising from fraud or abuse is greatly heightened.

The OMDC is responsible for assessing the eligibility of tax credit applications based on criteria specified in the legislation. The OMDC bases its assessment on documented eligibility information provided by the applicant. For film and television production companies, the key documentation to be provided includes: an audited statement of production costs prepared by an independent accountant or—for productions costing below an established threshold—a review engagement report (a report that provides moderate, but not audit-level, assurance); and a complete, detailed listing of production costs, including the names and addresses of all individuals or companies that participated in the production, as well as the salaries, fees, and other payments made to those individuals or companies. A number of documents are also required from non-production companies, including publishing and distribution agreements and residency declarations.

The OMDC issues to approved applicants certificates of eligibility that assert the product's eligibility and state the estimated amount of the tax credit.

We noted that the OMDC had developed policies and procedures to minimize the risk that tax credits could be incorrectly determined as a result of abuse and to ensure consistency in evaluating tax credit applications. These include detailed checklists for each tax credit that must be completed for all applicants; review of completed applications to ensure the reasonableness of the evaluation of eligibility and tax credit calculation; "precedent binders" that contain claim examples to help staff evaluate applications consistently; and a formal policy whereby the eligibility certificates must be issued before a tax credit can be claimed. Another prudent policy is that the corporation must spend its own funds before it can apply for a tax credit.

Notwithstanding such policies, we observed the following:

- The OMDC did not have criteria in place for identifying high-risk applications. Rather, all applications were simply placed in a queue and picked up for processing by the next available assessment officer. There was no guideline on what is the appropriate knowledge or experience level that is required to process the more complex or high-risk applications. Sound, risk-based analysis would be useful to determine the level of expertise required for identifying and processing high-risk applications.
- Applicants for the OFTTC were requested to provide audited financial information, while applicants for the OPSTC were not, even though the amount of OPSTC tax credit being applied for was similar to, and in some cases higher than, the amount of OFTTC tax credit applied for; and in the 2002/03 fiscal year, OPSTC claims amounted to $112 million, which represented more than 30% of total claims.

Timeliness of Processing

Timeliness is also a key characteristic of an efficient tax administration system. Excessive delays in approving applications could be detrimental to many production companies, which often depend on financing from the government to complete their projects—as illustrated previously, federal and provincial tax credits taken together account for nearly 20% of a typical production budget. We found the following:

- The OMDC had not processed eligibility applications in a timely manner. For example, approximately half of the sample of files we reviewed were approved more than six months after the OMDC had received the application, and about one-quarter of these applications were approved more than 12 months after receipt. According to management, delays in processing eligibility applications were the result of delays caused by applicants not sending in all the required documentation, an increasing volume of applications, and limited staff resources.
- The OMDC was making a concerted effort to reduce its backlog. For example, even though the number of applications received by the OMDC increased from 307 in the 1999/2000 fiscal year to 1,086 in the 2002/03 fiscal year and the number of assessment officers remained fairly constant, management indicated that the application processing cycle had been reduced from 27 weeks in the 2002/03 fiscal year to about 19 weeks at the time of our audit. However, we noted that in a number of other Canadian jurisdictions, the average standard for completing the eligibility assessment process is approximately 12 weeks. We further noted that, based on client satisfaction surveys that the federal government conducted on the federal tax credit program, this average processing time of 12 weeks was in line with industry expectations.

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.**

Ontario Media Development Corporation Response

The OMDC ensures that the risk of non-compliance is low by making certain that all analysts are capable of assessing complex files. OMDC analysts are all at the same job classification level and are required to meet the skills and knowledge requirements of the job classification. Through performance planning and regular monitoring of performance goals, analysts maintain knowledge of current industry practices and trends.

The OMDC previously conducted an initial review to "stream" more complex files to different analysts. However, the system was ineffective, as it proved impossible to determine in a cursory review if a file was complex. There are no consistent indicators for the complexity of files. For instance, budget size was not a reliable indicator, as low-budget films can have very complex financing arrangements.

Although the OMDC's turnaround has been reduced significantly since the introduction of the tax credits, the OMDC has not sacrificed due diligence in order to streamline processing. As well, there have been no fraudulent claims due to OMDC oversight or error.

The files sampled for the Provincial Auditor's report include taxpayer delays in submitting necessary documentation to support the claim. In many cases, the OMDC must wait for weeks for applicants to substantiate their claim. OMDC's turnaround time has decreased since the audit was completed as a result of internal streamlining and measures taken to address inadequate staffing resources. For the first three months of the 2004/05 fiscal year, the average turnaround time for the 262 projects that were issued certificates was 15.5 weeks, as compared to 27 weeks in 2002/03 and 19 weeks at the time of the audit.

The OMDC plans to continue to reduce the queue through internal streamlining and co-operative efforts with the Ministry of Finance and federal agencies. One of the improvements will be to adopt better risk assessment procedures. Better risk assessment will help to focus efforts on the key issues in each application without causing risk that a fraudulent claim would be certified.

MINISTRY OF FINANCE'S PROCESSING OF CLAIMS

Timeliness of Processing

The Special Assessment Unit (SAU) of the Ministry of Finance's Corporations Tax Branch has overall responsibility for ensuring that eligible claims that comply with the rules set out in the legislation are appropriately verified and paid on a timely basis. Ministry policy requires that interest be paid to taxpayers on amounts to be refunded.

The SAU typically processes a corporation's tax credit claim only if the corporation has attached to its Ontario corporations tax return a schedule outlining its cultural media tax credit claim; and a matching certificate of eligibility has been received from OMDC. The SAU reviews or audits reported labour and production costs (to support the actual payments made by the corporation for eligible activities); and reviews the residency of the cast and production crew (to ensure that production is based in Ontario).

Recognizing the serious backlogs and the growing number of complaints from the industry, in April 2002 the Ontario government announced a new, faster, and easier process designed to make Ontario more attractive to film and television producers. Under the new system, film and television producers are to receive their tax credits earlier, thus minimizing high interim capital and financing costs. Both domestic and foreign film and television producers are to be issued up to 85% of their estimated refund within six weeks of filing their tax return and certificate of eligibility. Similar standards were not established for the other tax credits. The amount of the tax credit refund advanced under this fast-track system is at the discretion of the SAU auditor after performing a preliminary assessment of certain risk factors (discussed in the next section).

Our review of a sample of tax credit claims processed by the SAU over the last two years revealed that the processing backlogs at the OMDC, described in the preceding section, are compounded by processing and payment delays at the Ministry of Finance. For example, significant delays in receiving certificates of eligibility from the OMDC had resulted in even greater delays in processing tax credit claims. About 65% of the claims we reviewed had not received the full refund more than six months after they were filed. In some cases, corporations waited more than a year after filing their tax return to get the full refund. According to ministry officials, only about 25% of those of our samples that were eligible under the fast-track system received partial refunds within the fast-track six-week time frame.

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.

Ministry of Finance Response

Partial refunds were introduced in May 2002. At that time, there was a backlog of claims. The Ministry put processes in place to issue partial refunds and clear the backlog.

Currently, the Ministry is issuing 75% of the partial refunds within the target six-week period and 87% in eight weeks. In addition, the Ministry and the OMDC are discussing concurrent reviews of tax credit claims to enhance procedures and further expedite tax credit refunds.

Audit Selection

In the cultural media industry, low profits and lack of tangible assets often deter private investment and lead to low company valuations. In addition, companies may—either deliberately or inadvertently—misrepresent their labour and production costs to take advantage of the provincial tax credits. Furthermore, the production companies receiving refund cheques usually have little or no taxable income and are often dissolved shortly after production ends (having been established for each new project solely to limit liability for the production). These factors make the Media Tax Credits inherently risky to administer.

Therefore, to ensure that tax credits are allowed only for eligible expenditures, the Ministry of Finance's audit function should have a process in place to rank all the claims filed on the basis of risk, targeting those claims with the highest assessed risk.

We were advised that SAU managers assess all claims for risk when the claims are filed. Risk assessment criteria include the size of the claim; the results of audits in prior years; whether the claim is from a first-time or an existing corporation; and whether the production cost statement has been audited. On the basis of the risk assessment, claims are accepted as filed, assigned for desk audit, or assigned for field audit, and audit staff resources are allocated accordingly. "Accepted as filed" means that the Ministry performs only a cursory review of the claim, consisting of ensuring that the required supporting schedules are attached, the information in the schedules agrees with the financial statements, and there is a matching certificate of eligibility. A "desk audit" is a detailed verification of additional selected information requested from the taxpayer and is performed on the Ministry's premises. A "field audit" is conducted at the taxpayer's premises and includes a more detailed examination of selected records. Once the claim is categorized, the auditor further reviews the documentation in the file and completes a Preliminary Assessment Form, resulting in either a confirmation of the initial allocation or a re-assignment of the claim.

According to our review of SAU audit coverage, as of March 31, 2004, the Ministry had received approximately 2,100 claims, for taxation years from 1996 (when the Media Tax Credits began) to 2003, involving approximately $420 million in tax credits. Our analysis of the level of review of the 2,100 claims revealed that the percentage of claims accepted as filed had more than doubled from the 2001/02 fiscal year to the 2002/03 fiscal year. We were advised that the primary factor contributing to the Ministry decreasing the level of audit activity was the maturity of the Media Tax Credits, which has led to better knowledge of the Media Tax Credits both by the industry and by ministry auditors.

Based on our review of a sample of completed claim files, we concluded that ministry auditors performed sufficient work to support payments for most of the claims we reviewed that were either field- or desk-audited. However, we did have the following concerns with the Ministry's claim verification processes.

- We found no documented evidence of risk assessment by senior managers in the sample of files we reviewed, nor could we determine the basis for allocating audit resources to the different types of tax credits. Almost half of the files we reviewed did not contain the required Preliminary Assessment Form.
- There was often insufficient documented analysis or support for accepting claims as filed. For example, on several occasions, SAU auditors noted that because production cost schedules agreed with the financial statements, no further work was

necessary on their part before releasing payment on a claim. However, we noticed that the statements were in fact unaudited financial information and therefore full reliance on them was not justified. Although many of the claims that were accepted as filed were for smaller dollar amounts, we believe that some audit coverage of smaller claims is necessary to encourage broad compliance throughout the industry—a principle that has been accepted by the Ministry for years in administering its taxation programs.

- There was little information summarizing the results of field audits. Such summary information—which is gathered for other taxation programs administered by the Ministry—might indicate that certain types of expenditures or tax credits are higher risk than others.

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.**

Ministry of Finance Response

The Ministry has implemented a process using assessed risk and established policies to determine which files are selected for audit. A working paper is now contained in all files to document this process.

The Ministry is setting up a process for identifying possible trends based on audit results.

PERFORMANCE MEASUREMENT

Good performance information is an essential management tool that strengthens accountability for results, informs public officials and other decision-makers, influences policy and expenditure decisions, identifies areas needing attention and improvement, and highlights the differences that a program or service has made. Performance information enables decision-makers to assess the efficiency and effectiveness of government initiatives.

Key to successful performance management is the establishment of performance standards and targets against which to measure progress towards the achievement of objectives and performance expectations. These two elements of performance management can be characterized as follows:

- Standards are predefined, quantifiable levels of performance that are commonly understood and agreed upon and are the basis for judging or comparing actual performance. Standards may derive from legislation, regulations, the results of comparisons with other jurisdictions, or commitments made to improve year-over-year results.
- Targets indicate whether program management proposes to meet or exceed the standards of performance. Targets should be clear and quantifiable and should define the time frame in which commitments will be achieved. They are used as a key tool to drive, measure, improve, and control performance.

Once standards and targets have been established, a system is needed to collect, analyze, and report the required performance information.

The six media tax credits were each designed to meet different policy objectives. As refundable tax credits, they are akin to a spending program delivered through the tax system. Since the introduction of the Media Tax Credits in 1996, over $372 million in tax credit payments had been approved and issued. Typically, the general objectives of tax credits are announced in the budget and include specific economic and cultural contributions to be made. However, we observed that, in the case of the Media Tax Credits, no specific performance standards or targets had been established that would enable the determination of whether the stated objectives were being met.

For example, a budget-update press release in 1997 announced: "to build on initiatives introduced in the 1996 Ontario Budget and attract highly-paid, leading-edge jobs and investments to Ontario, the 1997 Ontario Budget introduced a number of tax measures in support of artistic activity and excellence in the Province." However, no clear, quantifiable performance expectations have been established to determine the degree of success in attracting jobs and investments and supporting artistic activity and excellence. Such standards might have included a specific number of jobs to be created and specific cultural benefits to be achieved.

We did note that the competitiveness of the Media Tax Credits relative to tax credits offered in other jurisdictions inside and outside Canada was monitored. In addition, some general industry statistics—such as the number of workers employed in the Ontario film and television production industry—were compiled, using industry and Statistics Canada data. Also, OMDC data were used to compile statistics on the number of certificates of eligibility issued and the value of productions utilizing tax credits. However, no statistics were compiled to demonstrate the impact caused specifically by the tax credit initiatives as opposed to other factors, such as the value of the Canadian dollar or the availability of production facilities.

We also observed that it was not clear how the responsibilities associated with establishing and monitoring performance standards and targets were to be shared among the OMDC, the Ministry of Finance, and the Ministry of Culture. Nor was there consensus as to what should be measured. For example, the Ministry of Finance tended to emphasize measuring the achievement of economic objectives, such as those relating to value of production, while the Ministry of Culture emphasized measuring the cultural contributions of the tax credits. Effective performance measurement was also hampered by legislation that limits the Ministry of Finance's ability to share confidential taxpayer information.

While the OMDC, Ministry of Finance, and the Ministry of Culture finalized a new Memorandum of Understanding that sets out the statutory and administrative responsibilities of the three parties, the memorandum does not address our concerns relating to performance measurement and information-sharing.

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.**

Response from the Ministries of Culture and Finance and the Ontario Media Development Corporation

As part of its overall commitment to increase fiscal transparency and accountability, the Ontario government has introduced the **Fiscal Transparency and Accountability Act,** ***which, subject to passage by the Legislature, will require the government to annually publish information about the estimated cost of expenditures made through the tax system.***

While it may be difficult to isolate and measure the impact of a specific tax credit, especially since there are many external factors (such as the value of the Canadian dollar) that may influence the activity targeted by a particular tax credit, the Ministry of Finance, the Ministry of Culture, and the Ontario Media Development Corporation (the parties) will work together to explore ways in which this recommendation can be implemented.

The parties currently work collaboratively to monitor the media tax credits, including take-up of the credits, reviewing Ontario's competitiveness and employment growth in the targeted industries.

The parties will update the Memorandum of Understanding to clarify respective roles and to ensure they work collaboratively to optimize the level of monitoring of the media tax credits.

OTHER MATTER

Mitigating the Risk of Abuse of the Media Tax Credits

In recent years, there has been concern expressed in the media about the administration of media tax credits. For example, in 2000, more than 100 film and television companies were selected for audit by Revenue Quebec following the discovery of widespread misuse and abuse of that province's tax credit subsidies.

The Quebec investigation resulted in a report containing a number of recommendations for reducing the risk involved in administering Quebec's cultural media tax credits. In the following table, we compare Ontario's current situation to the more significant recommendations in the Quebec report relevant to Ontario.

Quebec Recommendation	How Ontario Compares
• Have le ministère du Revenu[1] (MRQ) and la Société de développement des enterprises culturelles[2] (SODEC) develop an information kit for production companies to ensure that companies are well informed of their rights and obligations. The kit could contain, among other things, the current MRQ and SODEC forms.	Comparable process in place.
• Have MRQ and SODEC develop an audit guide to set the presentation standards for reporting film and television production costs and give specific directives to external auditors.	Comparable process in place.
• Evaluate the feasibility of instituting an early audit procedure for refundable tax credits for film and television production.	Comparable process in place.
• Require that production companies that request refundable tax credits for film and television production submit detailed statements of expenditures to MRQ to allow establishment of better pre-payment controls.	Comparable process in place.
• Require that production companies issue statements for all of their productions listing the amounts paid to persons who occupy key positions described in the Regulations.	Comparable process in place.
• Give MRQ the power to audit compliance with conditions of certification and set up agreement for the exchange of information between MRQ and SODEC to facilitate the exercise of this power.	Comparable process in place.
• Amend the *Loi sur le ministère du Revenu*[3] to cover refundable tax credits for film and television production and give MRQ the power to communicate tax information to SODEC for certification purposes.	Comparable measure in place.
• Establish a network of multidisciplinary teams within MRQ—combining auditors, information specialists, and immediate assessment staff—that specialize in tax credits affecting the cultural sector.	Comparable process in place.
• Require that companies submit a request for final certification to SODEC within 18 months after the date of recording the master track or trial print.	Measure in place somewhat comparable (a certificate of eligibility must be issued within 30 months of the end of the fiscal year in which principal photography began).
• Establish an exchange committee between MRQ and SODEC to resolve, as they arise, problems related to administration of the refundable income tax credit for film and television production. Where applicable, professional associations concerned could be invited to participate in the work of the committee.	Comparable process in place.

[1] Revenue Quebec
[2] The Corporation for Development of Cultural Enterprises
[3] Department of Revenue Act

Prepared by the Office of the Provincial Auditor

Our review of Ontario's Media Tax Credits also indicated that, for the most part, the OMDC and the Ministry of Finance had taken appropriate steps over the years to address internal control issues. For example, in 2000, the OMDC's predecessor—the Ontario Film Development Corporation—commissioned an independent review by an external consultant of its existing policies and procedures in an effort to minimize the risk of abuse of the Media Tax Credits. We noted that the key recommendations made by the consultant had generally been implemented.

We also noted that the OMDC and the Ministry of Finance had developed positive relationships with the federal cultural tax credit and tax authorities with a view to making the administration of the Media Tax Credits more effective through more extensive co-operation, mutual assistance, and information-sharing. We noted that in some cases, joint audits and collaborative client information sessions were being planned and executed and that audit information involving the OFTTC was being exchanged.