



interactive ontario

November 6 2023

## MODERNIZATION OF THE ONTARIO INTERACTIVE DIGITAL MEDIA TAX CREDIT (OIDMTC)

### PART 1 – INTERACTIVE ONTARIO RECOMMENDATIONS

[Interactive Ontario](#) (IO) and the [video game/interactive digital media \(IDM\) member companies](#) it represents, fully support the Ontario Government’s commitment to modernize the OIDMTC<sup>1</sup>. We share the government’s goals to increase Ontario’s competitiveness, attract investments, and offer great career opportunities in Ontario by creating jobs in the IDM sector.

IO’s [Advocacy Committee](#) is consulting with industry leaders on Red Tape and Modernization recommendations for the OIDMTC. This submission, “*Part 1-Interactive Ontario Recommendations*,” includes Red Tape Recommendations #1 and #2 and Modernization Recommendation #1 below. “*Part 2-Interactive Ontario Recommendations*” will address the importance of annual filing, marketing and collaboration, and will be submitted and presented in a few weeks.

#### Red Tape Recommendations

1. Eligibility of remote work for all Ontario IDM labour.
2. Service standard for OIDMTC processing time aligned with leading jurisdictions.

#### Modernization Recommendations

1. Support for talent acquisition from other jurisdictions (residency requirement).
2. Upcoming recommendations that will address the importance of annual filing, marketing and collaboration (*Part 2-Interactive Ontario Recommendations*).

As the IDM industry continues to grow worldwide, Ontario has the opportunity to create significantly more highly-paid jobs for its diverse and highly-educated workforce, and also to attract talent from other jurisdictions.

The implementation of Red Tape and Modernization Recommendations provides the foundation to realize this vision.

---

<sup>1</sup> 2022 Ontario Economic Outlook and Fiscal Review, p:149

## **RED TAPE RECOMMENDATIONS**

### **1. Eligibility of remote work for all Ontario IDM labour**

#### ***Current Situation***

The Government of Ontario clarified the eligibility of work from home in its *2022 Ontario Budget* to keep up with the new realities of work, but created unintended confusion by using the term “employees” in its Budget statement.

#### ***Why it Should be Addressed***

The IDM labour force is composed of employees and contractors, both already eligible to the OIDMTC. They are critical to project completion and must have the flexibility to work in any region of Ontario under remote arrangements.

#### ***Solution: Official Letter of Clarification***

Government to issue an official letter of clarification to confirm that, under the current legislation, eligible labour expenditures for labour working remotely can be claimed under the Ontario Interactive Digital Media Tax Credit, provided the work is undertaken in Ontario by an Ontario resident who reports to and is under the direction of an eligible tax credit applicant with a permanent establishment in Ontario.

### **2. Service standard for OIDMTC processing time aligned with leading jurisdictions**

#### ***Current Situation***

Ontario Creates has endeavoured to reduce processing time since the onset of the pandemic. However, the OIDMTC processing time can still be significantly higher than in other Canadian jurisdictions, with reported cases from reputable companies taking between 6 months to over one year to go through Ontario Creates. Add to this, the CRA processing of the files for additional months. All in all, the OIDMTC processing time is generally lengthy and highly unpredictable.

Studios reported to IO that their tax credit claims in Quebec often take 2-3 months to process at Investissement Quebec, before moving to Revenu Quebec. Others reported pre-CRA processing times of 2 months in Manitoba, 4 months in Nova-Scotia and a few months in BC.

#### ***Why it Should be Addressed***

The unpredictability and length of the OIDMTC processing time impacts a company’s ability to effectively manage cash flow, and hence their ability to maintain and create jobs in Ontario.

***Solution: Development of Service Standard***

Development of a service standard for Ontario Creates aligned with leading jurisdictions.

Such a service standard would also line up with Ontario Creates’ new 2023-2027 Strategic Plan committed to delivering exceptional customer experiences<sup>2</sup>.

**MODERNIZATION RECOMMENDATIONS**

**1. Support for talent acquisition from other jurisdictions (residency requirement)**

***Current Situation***

The current ODMTC Residency Requirement requires that eligible labour expenditures must be paid to individuals resident in Ontario on December 31st of the calendar year that precedes the calendar year in which the individual rendered the services. Consequently, companies that bring talent to Ontario from other jurisdictions cannot claim them until the year after they have established residency in Ontario. For example, a company hiring a Technical Director from another province or country who starts residing in Ontario and working for the company on January 1, 2023, cannot claim the compensation paid to that employee during 2023.

***Why it Should be Addressed***

There is a talent shortage in the IDM sector especially at the senior level. Senior talent is essential to delivering and commercializing world-class IDM products. Moreover, they are crucial in coaching and accelerating the development of more junior talent, providing opportunities to young graduates coming out of Ontario’s post-secondary institutions.

Companies spend a considerable amount of money to recruit, relocate, and onboard immigrating talent (including bringing back expats into the province). These people are highly qualified and well paid, and hence are also highly valuable to the province’s economy.

***Solutions: Change the Residency Requirement***

The IDM industry shares common goals with the government in wanting to attract highly skilled individuals contributing to the growth of the Ontario economy.

The current residency requirement negatively impacts the IDM sector. IO understands that this issue has also been raised to government by our peers in the Animation/VFX and Film/TV sectors. We align with our peers in urging the government to allow companies to claim immigrating labour from day 1 of their employment in Ontario.

---

<sup>2</sup> Ontario Creates, Powering Ontario’s Creative Economy: Strategic Plan 2023-2027, p:24

## **2. Upcoming recommendations that will address the importance of annual filing, marketing and collaboration (*Part 2-Interactive Ontario Recommendations*)**

### ***The Importance of Annual Filing***

Annual filing is not available under the “non-specified products” and “specified products” streams of the OIDMTC. These streams apply to IDM products whose primary purpose is to entertain or educate children under 12. Producers of such IDM products must wait until the product is completed before submitting it to the OIDMTC.

The production cycle of IDM products is often 2-3 years. Hence, it can take over 3-4 years before a producer receives the OIDMTC. Consequently, it delays the reinvestment of the OIDMTC into labour for the production of additional products, stymieing economic growth and innovation in Ontario. It also pressures IDM producers into unfavourable financing options – exacerbated when interest rates are high – further impeding economic growth.

### ***The Importance of Marketing***

Marketing expenditures are not eligible for Ontario-produced IP under the OIDMTC stream *s.93.2 - eligible digital games developed by a specialized digital games corporation*. They are only eligible under the “non-specified” products (Ontario IP) OIDMTC stream.

It is no longer an option for IDM studios to produce great IP in Ontario and assume that it will be successful without investing in marketing. Competition is fierce worldwide and marketing is a key success factor.

With better support for marketing IP produced in Ontario, companies would generate more export revenue, grow faster, and increase their economic impact. Moreover, it would encourage the creation and retention of highly valued marketing jobs in the IDM industry.

### ***The Importance of Collaboration***

Collaboration with other companies is not available under the “non-specified products” and “specified products” streams of the OIDMTC. Products developed under these streams must pass the 80/25 labour test (80%+ Ontario labour, 25%+ Ontario employees of the company). The only eligible labour under the 80%+ rule are individuals, personal corporations (one-person companies), or sole proprietorships that do not have employees.

IDM product development is inherently collaborative. Highly specialized expertise is not always found in every studio. Co-production or hiring of service providers is normal and a desirable way to complete projects.

The 80/25 rule implemented by the prior government is counterproductive to economic growth within Ontario. IO has not been made aware of any IDM tax credit worldwide that puts such a stranglehold on innovation and productivity.

### ***Next Steps***

IO's Advocacy Committee and leaders of the IDM industry will finalize and submit recommendations addressing the importance of Annual Filing, Marketing, and Collaboration, in a few weeks.

In the interim, we are looking forward to working with the government on our Red Tape Recommendations (remote work for all Ontario labour and service standard for processing time) as well as our first Modernization Recommendation (support for talent acquisition from other jurisdictions – residency requirement).

IO and its members are fully committed to the Red Tape reduction and Modernization processes, and are looking forward to contributing our insights.

We appreciate the opportunity to present our recommendations.

Best regards,

Lucie Lalumière on behalf of the IO Advocacy Committee  
President and CEO  
Interactive Ontario