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September 11, 2024

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Department of Finance Canada  
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Via email: [consultation-Legislation@fin.gc.ca](mailto:consultation-Legislation@fin.gc.ca)

**Re: Deloitte's comments with respect to legislative proposals relating to the Income Tax Act and the Income Tax Regulations contained in the August 12, 2024, draft legislation**

Dear Sir or Madam:

We are writing to provide our comments on select proposals contained in the *Legislative Proposals Relating to the Income Tax Act and the Income Tax Regulations* released on August 12, 2024.<sup>1</sup>

Deloitte and its affiliated entities constitute one of the largest professional services firms in Canada. We work with many taxpayers, ranging from individuals and private businesses to Canadian and global multinationals, to advise and support them in meeting their compliance obligations under the *Income Tax Act*.<sup>2</sup>

First, let us emphasize that it is well known that achieving net-zero emissions by 2050 will require massive investments from governments and the private sector. However, investment in clean energy is currently insufficient and will necessarily need to be scaled up and accelerated in the short to medium term. To achieve this goal, the Canadian government's strategy relies heavily on the following five fully refundable investment tax credits (ITCs):

1. Clean Hydrogen Investment Tax Credit (CHITC)
2. Carbon Capture, Utilization and Storage Investment Tax Credit (CCUS)
3. Clean Technology Investment Tax Credit (CTITC)
4. Clean Electricity Investment Tax Credit (CEITC)
5. Clean Technology Manufacturing Investment Tax Credit (CTMITC)

which are hereinafter collectively referred to as the "Clean Economy Investment Tax Credits."<sup>3</sup>

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<sup>1</sup> [Government consults Canadians on Budget 2024 measures to deliver fairness for every generation.](#)

<sup>2</sup> RSC 1985, c. 1 (5th Supp.), as amended, herein referred to as "the Act".

<sup>3</sup> In Budget 2024, the government of Canada announced an additional tax credit for electric vehicle manufacturers in the form of the EV Supply Chain ITC (EVITC). In brief, this 10% investment tax credit will be available for businesses that invest in three different segments of the electric vehicle supply chain: (i) electric vehicle assembly, (ii) electric vehicle battery production, and (iii) cathode active material production. Additional criteria and implementation details for the EVITC are expected to be announced in the 2024 Fall Economic Statement.

These measures were first announced in either the 2023 or 2024 Budget,<sup>4</sup> or the 2022 or 2023 Fall Economic Statement, and have since been incorporated into legislation: *Fall Economic Statement Implementation Act, 2023*<sup>5</sup> and *Budget Implementation Act, 2024, No. 1*.<sup>6</sup>

We have focused our comments in this submission on components of the August 12, 2024, Draft Legislation that pertain to the Clean Economy Investment Tax Credits that could have a disincentive effect and hinder the growth of the investments needed to decarbonize Canada's economy. We are also broadening our comments to include recommendations on certain aspects of the Clean Economy Investment Tax Credits in the hope that it will improve the efficiency of these tax credits and contribute to making Canada carbon neutral.

## RECOMMENDATIONS

### 1. Clean Hydrogen Investment Tax Credit (CHITC)

#### a) *Inclusion of various eligible pathways*

##### (i) Chlor-alkali/sodium chlorate by-product hydrogen

The chlor-alkali industry is vital to Canada's economy, producing essential chemicals such as chlorine and caustic soda that are used in key sectors such as water treatment, pulp and paper, mining, and manufacturing. These chemicals support the production of plastics, pharmaceuticals, and other industrial goods, while also playing a crucial role in ensuring clean drinking water and efficient wastewater treatment. Canada's Hydrogen Strategy<sup>7</sup> identifies the chlor-alkali industry as a key opportunity for the production of low-carbon hydrogen. Currently, this industry produces approximately 190 tons of hydrogen per day as a by-product, much of which is vented into the atmosphere. Canada is uniquely positioned to capitalize on its mature chlor-alkali industry by developing projects that utilize this by-product pathway to co-produce hydrogen with other key chlor-alkali products. Capturing and purifying this wasted hydrogen provides an economical solution for producing low-cost, low-carbon hydrogen that requires minimal capital investment to modify existing processes within the industry and supports the development of a low-carbon hydrogen economy by efficiently and cost-effectively leveraging existing industrial infrastructure.

Our recommendation: We propose that the chlor-alkali/sodium chlorate by-product hydrogen pathway be included as an eligible option for hydrogen production under the CHITC. This inclusion aligns with the pathways identified in Canada's Hydrogen Strategy by Natural Resources Canada (NRCan).

##### (ii) Pyrolysis of hydrocarbons

Pyrolysis, as recognized in Canada's Hydrogen Strategy, is a commercially viable hydrogen production pathway. Both thermal and plasma pyrolysis offer significant advantages in scalability and project siting flexibility. Unlike other hydrogen production methods, pyrolysis captures carbon in a solid form, eliminating

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<sup>4</sup> The term Budget 2024 or Budget 2023 is used throughout the document and incorporates references to the Tax Measures: Supplementary Information.

<sup>5</sup> *An Act to implement certain provisions of the fall economic statement tabled in Parliament on November 21, 2023 and certain provisions of the budget tabled in Parliament on March 28, 2023* (Bill C-59), S.C. 2024, c. 15.

<sup>6</sup> *An Act to implement certain provisions of the budget tabled in Parliament on April 16, 2024* (Bill C-69), S.C. 2024, c. 17.

<sup>7</sup> Natural Resources Canada (NRCan), *Hydrogen Strategy for Canada – Seizing the Opportunities for Hydrogen: A Call to Action*, December 2020.

the need for extensive carbon sequestration infrastructure. In addition, NRCan highlights that pyrolysis has the potential to achieve higher system efficiency compared to electrolysis-based hydrogen production because it converts hydrocarbons directly into hydrogen and solid carbon without requiring large amounts of electricity. Excluding this already commercialized pathway from the CHITC could delay numerous projects across Canada and deter vital investments.

Our recommendation: We propose that the pyrolysis of hydrocarbons (specifically methane and natural gas) be included as an eligible pathway for hydrogen production under the CHITC.

(iii) Ethanol

Ethanol, with its high hydrogen content, is non-toxic, easy to store and process, and can be derived from renewable bioenergy feedstocks. In Canada, biomass conversion to ethanol is a core component of the bioenergy strategy, using resources such as agricultural and forestry residues. With the country's advances in bioethanol production technologies, particularly in the conversion of lignocellulosic feedstocks, Canada is well positioned to capitalize on these technologies for hydrogen production. However, the ethanol-based hydrogen production pathway is not fully recognized under the current CHITC. Excluding this viable pathway limits Canada's ability to scale up clean hydrogen production and may result in missed opportunities for large-scale investments and the cancellation of key ethanol-to-hydrogen projects.

Our recommendation: We propose that hydrogen production from ethanol, coupled with carbon dioxide (CO<sub>2</sub>) capture systems where applicable, be included as an eligible pathway for the CHITC. This would cover a wide range of methods including steam reforming, partial oxidation, autothermal reforming, catalytic decomposition, pyrolysis, aqueous phase reforming, electrochemical reforming, and solar-assisted photocatalytic reforming to efficiently produce clean hydrogen from this renewable feedstock.

(iv) Eligible clean hydrogen property to be prescribed by regulation

Given the rapidly evolving nature of the technology involved in hydrogen projects, we recommend that technical definitions such as the "eligible clean hydrogen property" definition be prescribed by regulation to allow for more flexibility.

*b) Introduction of an intermediate tier*

A significant number of electrolysis projects in Canada are struggling to meet the 40% credit rate threshold due to the carbon intensity (CI) of grid electricity in most provinces. Currently, only projects using selective provincial grids, such as the Prince Edward Island grid, have the potential to meet this threshold based on preliminary CI calculations. In addition, the complexities and long development cycles of carbon capture and storage (CCUS) projects make it difficult for hydrogen production projects from eligible hydrocarbons to reduce their CI below 0.75 kgCO<sub>2</sub>/kgH<sub>2</sub>, which is required for the higher credit rate. The gap between the 40% and the next available credit rate, which applies to projects with a CI between 0.75 and 2 kgCO<sub>2</sub>/kgH<sub>2</sub>, is substantial, resulting in a steep 15% reduction in the tax credit for projects that just miss the threshold. This substantial discrepancy discourages developers from pursuing the 40% credit rate, as it is largely unattainable without significant investment in new renewable energy generation systems. This result contradicts one of the original goals of the CHITC, which was to incentivize capital investment in clean hydrogen and ammonia production across Canada, and places unnecessary constraints on projects that already face challenges with available energy sources.

Our recommendation: We propose the introduction of an intermediate tier for projects with a CI between 0.75 kgCO<sub>2</sub>/kgH<sub>2</sub> and 1.25 kgCO<sub>2</sub>/kgH<sub>2</sub>, offering a 32.5% credit rate. This tier would help narrow the gap between the 40% and 25% credit rates, providing more balanced incentives for clean hydrogen projects in provinces with relatively low CI grid electricity, while not unfairly penalizing them for using the grid electricity there. Additionally, this intermediate tier would encourage project developers to make incremental improvements to reduce CI levels, recognizing and rewarding their efforts without the significant reduction rate associated with narrowly missing the top threshold.

*c) Changes to the definition of “eligible power purchase agreement”*

The CHITC should incentivize early adopters, as these projects are key to catalyzing the growth of Canada’s hydrogen industry and addressing the “chicken-and-egg” issue in the sector. Canada’s Hydrogen Strategy, released in late 2020, positioned the country as a leader in this space through strategic policies and investments across the hydrogen value chain. Following its release, many project developers launched hydrogen-related initiatives, interpreting the government’s interest as a signal to invest. Renewable energy projects designed to lower grid CI and support the hydrogen value chain were part of this early response. Given the typical 1 to 1.5 year timeline for developing renewable energy generation projects, some of these projects could be in operation since as early as May 2022. However, the current November 3, 2022, cut-off for renewable electricity generation unnecessarily disadvantages these early-start projects.

Our recommendation: We propose that the definition of “eligible power purchase agreement” be amended to accommodate early-start projects that have been unduly disadvantaged by the current November 3, 2022, cut-off date. The definition should allow electricity from eligible electricity generation sources to commence (i) on or after May 1, 2022, for projects available for use before January 1, 2027; (ii) on or after November 3, 2022, for projects available for use on and after January 1, 2027; or (iii) the earlier of either 24 months before the first clean hydrogen project plan is filed with the Minister of Natural Resources, or 36 months before the day on which hydrogen is first produced by the relevant clean hydrogen project. This amendment would ensure fair treatment for early starters while encouraging the development of renewable energy and clean hydrogen projects across Canada.

## **2. Carbon Capture, Utilization and Storage Investment Tax Credit (CCUS)**

*a) Expansion of the eligible use pathways for captured CO<sub>2</sub>*

Canada’s current CCUS is overly restrictive, focusing primarily on CO<sub>2</sub> storage in geological formations and concrete processes during mixing and curing as eligible use pathways. Its narrow scope fails to recognize the significant advances in carbon utilization technologies in which Canadian companies are leading the way. These technologies provide pathways to convert CO<sub>2</sub> into valuable products through chemical, thermochemical, catalytic, and electrochemical processes. These technologies can transform CO<sub>2</sub> into stable compounds such as carbonates, formic acid, formates, and other chemicals that not only sequester CO<sub>2</sub>, but also drive economic growth by producing valuable materials used across various industries.

By supporting these innovative carbon utilization technologies, Canada can reap the benefits of both carbon sequestration and a circular economy. Without broadening the scope of the CCUS to include these pathways, Canada risks missing out on significant investment opportunities and falling behind in global competitiveness. Expanding the tax credit will drive innovation, attract investment, and ensure Canada remains at the forefront of the global clean energy transition.

Our recommendation: We propose the expansion of eligible pathways for the use of captured CO<sub>2</sub> in order to include the chemical and electrochemical conversion of captured CO<sub>2</sub> into commercially valuable compounds such as formic acid, methanol, carbonates, urea, formates, acetic acid, polyols, and olefins.

b) *Inclusion of CO<sub>2</sub> mineralization*

Current CCUS legislation imposes overly restrictive eligible use pathways for captured carbon, limiting the industry's ability to invest in innovative technologies that incorporate CO<sub>2</sub> into usable products. This restricts the potential to create a sellable ecosystem of CO<sub>2</sub>-inclusive products that could decarbonize several hard-to-abate sectors. Research<sup>8</sup> suggests that one of the most promising technologies, with the highest technology readiness level (TRL), involves storing CO<sub>2</sub> as carbonates in cement and cement-like materials, also known as fillers. These technologies, which have been developed across Canada, meet the CCUS legislation's original intent, that is CO<sub>2</sub> mineralization and permanent storage, albeit through a different mechanism. In addition, this pathway allows for significant reductions in emissions from the cement industry, a major contributor to global and Canadian greenhouse gas (GHG) emissions.

Our recommendation: To address this issue, we propose the expansion of the definition of the eligible use for captured carbon under the CCUS in order to include technologies that use CO<sub>2</sub> in product development, particularly in hard-to-abate sectors. Specifically, technologies that store CO<sub>2</sub> as carbonates in cement-like materials to enable the production of concrete should be included. Provided that the stored CO<sub>2</sub> is demonstrably secured and will not be released under normal conditions, these innovative solutions should qualify under the legislation.

### 3. Clean Technology Investment Tax Credit (CTITC)

a) *Inclusion of natural gas energy generation*

Natural gas power generation is currently included in the CEITC but excluded from the CTITC. Natural gas generation is widely viewed as a critical "bridge" technology to facilitate Canada's transition from a fossil fuel-based economy to a clean, net-zero economy. It plays an essential role in meeting both baseload and peak electricity demand, particularly given the intermittent nature of renewable energy sources. This challenge is particularly acute in provinces such as Alberta, Saskatchewan, and Nova Scotia, which lack the geographic conditions necessary for large-scale hydroelectric power generation for seasonal renewable energy storage and remain dependent on fossil fuels. While the inclusion of natural gas generation in the CEITC is a positive step, its exclusion from the CTITC limits private sector investment in advancing grid reliability to their greatest potential. In addition, the integration of carbon capture technology in natural gas plants is still in the development phase and cannot move forward without substantial government support, further delaying the deployment of cleaner natural gas power plants. Natural gas will likely remain an important part of Canada's energy mix for decades to come, ensuring grid reliability during the transition to renewable energy sources.

Our recommendation: We propose that natural gas energy generation be included in the CTITC. Special provisions should also be made for provinces that cannot support hydroelectric power generation or nuclear energy generation and are heavily dependent on fossil fuels, such as increasing the emission intensity cut-off to 150 tons of CO<sub>2</sub> per gigawatt-hour of gross electrical energy generated. This approach will encourage

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<sup>8</sup> Ning Li, Liwu Mo and Cise Unluer, "Emerging CO<sub>2</sub> utilization technologies for construction materials: A review," (2022) 65 *Journal of CO<sub>2</sub> Utilization* 102237.

private sector investment in natural gas projects, support the development of carbon capture technologies, and enhance the reliability of Canada's energy grid during the ongoing transition to a net-zero economy. A reasonable sunset date can be included so that project proponents will know and provinces with carbon-intensive grids can develop clean technologies that will reduce carbon emissions as grids become cleaner.

*b) Changes to the definition of "clean technology property"*

Heat recovery water heaters, which efficiently capture waste heat from various sources to provide hot water, are not eligible for the CTITC. This exclusion limits the adoption of these systems, which play a key role in reducing energy consumption and carbon emissions. By using waste heat that would otherwise be lost, these heaters reduce GHG emissions and provide a sustainable solution for residential use, space heating, and applications such as pools and hot tubs.

Our recommendation: We propose that heat recovery water heaters be included in the definition of "clean technology property" for purposes of the CTITC.

*c) Inclusion of zero-emission vehicles*

As noted in the 2022 Fall Economic Statement, the goal of the CTITC is to help Canadian companies adopt clean technologies that will allow them to remain globally competitive while reducing Canada's emissions.

Our recommendation: To achieve this objective, we propose that a zero-emission vehicle should be considered a clean technology property, as already defined in the Act (subsection 248(1)). This would also be consistent with the previous definition of clean technology property, as it was stated prior to the proposals released on August 12, 2024. In addition, it would help expand the vehicle fleet and increase the likelihood of reducing Canada's emissions. Therefore, a zero-emission vehicle that is a plug-in hybrid that meets prescribed conditions or is fully electric or hydrogen powered could be considered as a clean technology property.

Furthermore, a gasoline vehicle that is converted to remove its gasoline engine and becomes fully electric or hydrogen powered could qualify as a clean technology property, provided all otherwise applicable conditions are met, if it was not for the requirement that the vehicle be new. As with the previous recommendation, allowing such a vehicle to qualify for the CTITC would help expand the vehicle fleet and increase the likelihood of reducing Canada's emissions more quickly and efficiently considering the current state of zero-emission vehicle technology.

#### **4. Clean Electricity Investment Tax Credit (CEITC)**

*a) Inclusion of intraprovincial transmission equipment*

Canada's electrical grid infrastructure, including transmission systems, is aging and inefficient. Many transmission lines and generating units are reaching the end of their life cycle, with some being over 30 years old. This outdated infrastructure leads to energy inefficiencies and losses, which contribute to higher carbon emissions. Studies estimate that Canada will need to invest between \$240 billion and \$294 billion by 2030 to modernize its electricity grid, including the transmission systems that move power between provinces and within provincial boundaries.<sup>9</sup> Focusing only on interprovincial transmission equipment in the CEITC overlooks

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<sup>9</sup> Electricity Canada, [The Strategic Importance of Electricity to the Canadian Economy](#), June 16, 2011.

the vital role of intraprovincial transmission in connecting local grids, supporting regional energy resilience, and reducing energy losses. Investment in both interprovincial and intraprovincial transmission systems is essential to Canada's energy future.

Our recommendation: We propose that the CEITC be expanded to include intraprovincial transmission equipment, ensuring that both interprovincial and intraprovincial systems are eligible for support.

*b) Qualifying corporations*

Entities that will be considered as "qualifying corporations" under the CEITC include some non-taxable entities, such as Crown corporations and corporations held by municipalities or Indigenous communities.

Our recommendation: Considering that other public sector entities, such as hospitals, school boards, and universities have significant decarbonization challenges – particularly with respect to heating their buildings –, we propose that the list of qualifying corporations be expanded to include these entities, and that the definition of "clean electricity property" should also be expanded to specifically include heating equipment (geothermal, air source heat pumps) for these entities. An alternative would be to include these entities among those eligible for the CTITC.

*c) Tax credit rate for non-taxable entities*

The maximum tax credit rate for the CEITC (15%) is half the maximum rate applicable for the CTITC (30%). One might think that this distinction was made to reflect the fact that most CEITC claimants will be non-taxable entities that will pay no tax on this government assistance. However, the after-tax amount that a taxable entity claiming the CTITC will receive will be greater than 15% of the capital expenses. In fact, depending on the province, the after-tax amount of the CTITC would rather be closer to 22% or 23% of the eligible costs.

Our recommendation: For equity considerations, we propose that the CEITC rate for non-taxable entities should be increased to match the after-tax amount as described above that a taxable entity could receive.

*d) CEITC and CTITC*

With more than 25 years of expertise and leadership in hydrogen and fuel cell technology, Canada might be overlooking an opportunity by not subsidizing the use of fuel cells for stationary power, especially for backup power in remote and rural areas. These regions, including many Indigenous communities, rely heavily on diesel for power generation, contributing to higher carbon emissions and environmental impacts. Hydrogen, with its high energy-to-mass ratio, can be converted to clean electricity by fuel cells, making it an ideal solution for these areas where extreme weather is common. Without support for the use of fuel cells for stationary power, Canada risks not only falling behind other jurisdictions in clean energy innovation but also missing the opportunity to help remote communities, including Indigenous communities, transition away from diesel and reduce carbon emissions.

Our recommendation: We propose that the CEITC and CTITC be expanded to include fuel cells for stationary power applications, including backup power.

*e) Fuel produced as an integrated part of the system*

The proposed inclusion of biomass as an eligible input for the CEITC and CTITC will promote the removal and beneficial use of waste forest residues and increase the production of firm, low-carbon electricity and heat. Proposed guidance on the eligibility of fuel used in the system was provided in the 2023 Fall Economic Statement. The proposals released on August 12, 2024, reiterate this guidance and indicate that specified waste material may render the system ineligible for the generation of investment tax credits if the fuel was not produced as an integrated part of the system. This aspect of the proposals is problematic because the CEITC and CTITC would exclude most of the pulp and paper sector, as they purchase waste wood chips and hog fuel from third-party sawmills and independent chipping facilities. This would create unintended consequences and minimize the effectiveness of this measure to catalyze the removal of residual wood waste from our forests.

Our recommendation: In this regard, we propose the removal of the requirement that fuel must be produced using equipment that is part of the system.

**5. Clean Technology Manufacturing Investment Tax Credit (CTMITC)**

*a) Expansion of eligibility criteria*

The current CTMITC limits eligibility to the manufacturing of batteries, fuel cells, recharging systems, and hydrogen refuelling systems for zero-emission vehicles only. This narrow focus excludes other critical applications, such as automotive uses and stationary power systems, especially for fuel cells, which are essential for energy resilience and to support Canada's broader clean energy transition. This limited scope places Canada at a competitive disadvantage compared to other jurisdictions. Without expanding the CTMITC to match this broader eligibility, Canada risks missing out on investment opportunities and future expansion of Canadian manufacturers and falling behind in the global clean energy race.

Our recommendation: To address this gap, we propose that the CTMITC be expanded to include the manufacturing of batteries, fuel cells, recharging systems, and hydrogen refuelling systems for general purposes, such as automotive applications and stationary power at the same time (fuel cells specifically).

*b) Qualified technology manufacturing activities*

Canada has committed to reducing GHG emissions by 40-45% below 2005 levels by 2030 and achieving net-zero emissions by 2050. Achieving these goals will require the large-scale deployment of advanced carbon capture, utilization, and storage (CCUS) technologies, especially in hard-to-abate sectors such as cement, steel, pulp and paper, and other heavy industries that are the backbones of the Canadian economy but contribute significantly to GHG emissions.

As a global leader in the development and commercialization of CCUS technologies, particularly in air and point source carbon capture, Canada is well positioned to drive significant emissions reductions nationally with its made-in-Canada technology. However, the current CTMITC does not explicitly include support for Canadian-based CCUS technology and equipment manufacturers. This omission could hinder Canada's ability to maintain its leadership in this critical area, to rapidly scale and deploy Canadian CCUS technologies across Canada and globally, and potentially result in the loss of talent, intellectual property, and high-paying jobs to countries with more robust support programs, such as the United States.



Our recommendation: To maintain Canada’s competitive edge and ensure progress towards its climate goals, we propose the following amendments to the CTMITC:

- Under the “clean technology manufacturing property,” we propose the addition of the following as eligible property: property used for manufacturing components associated with the capture, removal, use, or sequestration of CO<sub>2</sub> emissions. Examples of eligible property include manufacturing equipment and related ancillary equipment used all or substantially all for the manufacturing of the following: advanced sorbent and solvent synthesis, carbon capture equipment or other property necessary to compress, treat, process, liquefy, pump, or perform any other physical action to capture CO<sub>2</sub> emissions, including solvents, membranes, sorbents, chemical processing equipment, compressors, monitoring equipment, and injection equipment. This also extends to well components such as packers, casing strings, CO<sub>2</sub>-resistant concrete, steel tubular, wellheads, valves, and sensors suitable for use in dedicated geological storage.

Furthermore, transportation equipment such as gathering systems and distribution infrastructure, including pipelines, temporary or transportation-related CO<sub>2</sub> storage tanks, valves, sensors, and control panels used to collect CO<sub>2</sub> captured from an industrial facility or multiple facilities for the purpose of transporting that CO<sub>2</sub>, should also be considered. Equipment used to convert CO<sub>2</sub> through mineralization, thermochemical, electrochemical, photochemical, plasma-assisted, or other catalytic processes into carbon-based products such as synthetic fuels, chemicals, solid carbon products, and inorganic materials should also be included. Additionally, equipment that converts waste biomass through thermochemical or other processes into carbon-based products such as synthetic fuels, chemicals, solid carbon products, and inorganic materials should be deemed eligible.

- Under the “qualified clean technology manufacturing activities,” we propose the inclusion of the design and construction of equipment that is all or substantially all used for the manufacturing of carbon capture, utilization, and storage equipment as an eligible activity under the eligible uses for the CTMITC. This is crucial to ensuring that the credit aligns with the technical requirements for developing carbon management technologies that support the broader goals of carbon reduction and sustainability.

*c) Changes to the definition of “qualifying material”*

Since its announcement in Budget 2023, the list of qualifying materials that are eligible for the CTMITC has been a selection of some “critical minerals,” which are mainly those that are used specifically for the energy transition, namely lithium, cobalt, nickel, copper, rare earth elements, and graphite.

Our recommendation: We propose that the definition of qualifying materials be expanded to reflect the government’s recent updates to the “critical minerals” list<sup>10</sup> to include high-purity iron, phosphorus, and silicon metal, which are also crucial to the country’s energy transition.

## **6. Clean Economy Investment Tax Credits – Limited partnerships**

A taxable Canadian corporation that is a member of a partnership may be eligible for a Clean Economy Investment Tax Credit. However, a taxable Canadian corporation that is a member of a limited partnership is

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<sup>10</sup> Canada, Natural Resources Canada, “[Government of Canada Releases Updated Critical Minerals List](#),” *News Release*, June 10, 2024.

limited to its at-risk amount. The allocation of its share of a Clean Economy Investment Tax Credit, that is not allocated to it due to the application of the at-risk amount, cannot be reallocated to another partner, such as the general partner of the limited partnership.

For the purposes of the application of the Clean Economy Investment Tax Credits, the meaning of the term “at-risk amount” shall be as otherwise provided in the Act.

However, the at-risk amount rules for limited partnerships were introduced decades ago to address tax planning strategies involving artificial tax losses and income sheltering and may not be adequately adapted for the purposes of the Clean Economy Investment Tax Credits. Furthermore, the era of the introduction of the at-risk amount concept and the era of the fight against climate change are two eras with very different realities. While this concept may still adequately serve the integrity of the tax system, it is ill suited in the context of financing clean economy projects and the urgency of achieving net-zero emissions in the 21<sup>st</sup> century.

It is worth noting that the Clean Economy Investment Tax Credits already contain integrity rules to address situations involving partnerships that do not meet the objectives of integrity and fairness of the tax system. On the one hand, they provide that the reasonable allocation of a Clean Economy Investment Tax Credit among the members of a partnership should consider the capital invested and the work performed by the partners. On the other hand, it is not possible to benefit from these tax credits if, for example, a clean technology property under the CTITC is a tax shelter investment for the purposes of section 143.2 of the Act.

Our recommendation: In this context, in order to ensure that the objective pursued by the Clean Economy Investment Tax Credits prevails, and that these tax credits can effectively play their catalytic role in incentivizing and supporting the completion of energy transition projects, we propose that the at-risk rules should not apply to the Clean Economy Investment Tax Credits.

## Conclusion

Achieving net-zero emissions by 2050 will require massive investments from governments and the private sector. To reach this goal, the Canadian government’s strategy relies heavily on the Clean Economy Investment Tax Credits at a time when investments in clean energy are insufficient and will necessarily need to be scaled up and accelerated in the short to medium term.

While the Clean Economy Investment Tax Credits are clearly a step in the right direction, some aspects of these tax credits could have a disincentive effect and hinder the growth of the investments needed to decarbonize Canada’s economy. Therefore, the recommendations outlined above with respect to each of the Clean Economy Investment Tax Credits are made with the objective that, if adopted, they will improve the efficiency of these tax credits and contribute to making Canada carbon neutral.

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We hope that our specific comments are helpful in your further development of the Clean Economy Investment Tax Credits. We would be pleased to meet with you or other officials to discuss our submission as Deloitte is committed to making a significant contribution to help shape Canada’s tax policy and its application to the future of our country.

We consent to the disclosure of our comments under the *Access to Information Act* and have made a copy of our submission available on our website at [www.deloitte.ca](http://www.deloitte.ca).

Yours very truly,

A handwritten signature in blue ink that reads "Deloitte, LLP".

**Rob Jeffery, CPA, CA**  
National Tax Policy Leader  
Deloitte LLP