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Tax Policy Branch
Department of Finance Canada
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Submitted electronically via Department of Finance Pre-Budget Consultations Long-Form Submission Portal

Re: Deloitte's comments with respect to Pre-Budget Consultations prior to the release of the 2026 Federal Budget (Clean Economy ITCs)

Dear Sir or Madam:

We are writing to provide our comments on select legislation relating to the Income Tax Act and the Income Tax Regulations as part of the Pre-Budget Consultations which were announced by the Department of Finance on July 6, 2026 in advance of the 2026 Federal Budget.[1] We are limiting our comments to various refundable clean economy investment tax credits, as further described below.

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 multinational corporations, to advise and support them in meeting their compliance obligations under *the Income Tax Act*.[2]

Canada needs to accelerate investment and continue to build critical infrastructure which will enable a stronger and more diversified economy and enable all Canadians to benefit from increasing standards of living. The government's focus on enabling the accelerated development of major projects by the private sector is welcome, including in areas involving continued reduction of carbon emissions to transform our economy. The Government of Canada has taken important steps to support this transition through its Clean Economy Investment Tax Credit regime, which has helped encourage investment in clean energy and low-carbon technologies across Canada. These measures have advanced Canada's progress toward its net-zero objectives and include the following five fully refundable investment tax credits (ITCs):

a. Clean Technology Investment Tax Credit (CTITC)
b. Clean Electricity Investment Tax Credit (CEITC)
c. Clean Technology Manufacturing Investment Tax Credit (CTMITC)
d. Clean Hydrogen Investment Tax Credit (CHITC)
e. Carbon Capture, Utilization and Storage Investment Tax Credit (CCUS ITC)

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[1] Canada, Department of Finance, "Government of Canada launches consultations ahead of 2026 Budget," *News Release*, July 6, 2026.
[2] R.S.C. 1985, c. 1 (5th Supp.), as amended, herein referred to as "the Act." Unless otherwise stated, statutory references in this submission are to the Act.

which are hereinafter collectively referred to as the "Clean Economy ITCs."

These measures were first announced in various federal budgets[3] and economic statements and have since been incorporated into legislation, including the *Fall Economic Statement Implementation Act, 2023*,[4] the *Budget Implementation Act, 2024, No. 1*,[5] and the *Budget 2025 Implementation Act, No. 1*.[6]

Deloitte previously provided comments and recommendations to the Department of Finance ("Finance") as part of previous technical consultations for draft legislation, most recently through a submission made on September 11, 2024, regarding the application of the Clean Economy ITCs. Based on our ongoing experience advising participants in clean economy projects across Canada, we continue to observe practical challenges that create uncertainty, restrict access to these tax credits, and reduce their effectiveness in supporting investment. In our view, targeted legislative amendments would enhance the administration and accessibility of the Clean Economy ITCs while preserving the integrity of the tax system and advancing Canada's policy objective of accelerating investment in clean economy projects.

This submission focuses on legislative provisions that may have a disincentive effect and hinder the growth of the investments needed to decarbonize Canada's economy. To facilitate consideration of our recommendations, we have organized them under key themes and priorities, distinguishing broader policy concerns from more technical issues. We also expand on certain aspects of the Clean Economy ITCs where clarifications or refinements could improve the efficiency of the regime. Collectively, these recommendations are intended to strengthen the Clean Economy ITCs' ability to attract investment and support Canada's transition to a net-zero economy.

These recommendations have been developed with consideration of the measures proposed in Bill C-31.[7] Although Bill C-31 has not received Royal Assent at the time of this submission, we acknowledge the proposed measures and have taken them into account in formulating our recommendations.

SUMMARY OF RECOMMENDATIONS

The recommendations set out in this submission are summarized below. Additional details and supporting analysis are provided in the Appendices.

1. General considerations

a. ***Extend the Clean Economy ITCs to 2040:*** To provide long-term investment certainty and maintain Canada's competitiveness in attracting clean economy investment, we recommend extending the phase-out dates of the Clean Technology, Clean Electricity, Clean Hydrogen, and Clean Technology Manufacturing ITCs to 2040, consistent with the current timeline for the CCUS ITC (see Appendix 1a).

b. ***Issue partial refunds or assessments to taxpayers prior to the review or audit of the related return:*** To support timely project financing and capital deployment, we recommend allowing taxpayers to receive a partial refund of their claimed tax credits prior to the completion of a review or audit of Clean Economy ITC claims (see Appendix 1b).

c. ***Develop a national Clean Economy supply chain roadmap:*** See Appendix 1c.

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[3] References to various federal budgets are used throughout the document and incorporate references to the related Tax Measures: Supplementary Information annexes.

[4] *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.

[5] *An Act to implement certain provisions of the budget tabled in Parliament on April 16, 2024* (Bill C-69), S.C. 2024, c. 17.

[6] *An Act to implement certain provisions of the budget tabled in Parliament on November 4, 2025* (Bill C-15), S.C. 2026, c. 3.

[7] *A second Act to implement certain provisions of the budget tabled in Parliament on November 4, 2025* (Bill C-31), second reading June 3, 2026.

2. Labour requirements

a. ***Exempt smaller-scale installations from labour requirements:*** To reduce the administrative burden associated with compliance, we recommend exempting smaller-scale installations with capital costs below $2 million from the prevailing wage and apprenticeship requirements, such as projects below a prescribed expenditure threshold (see Appendix 2a).
b. ***Apply apprenticeship requirements on a project-wide basis for multi-year installations*:** To better reflect the realities of multi-year clean economy projects, we recommend allowing taxpayers to elect to satisfy the apprenticeship requirements on a cumulative project-wide basis rather than annually, while maintaining ongoing compliance obligations throughout the project (see Appendix 2b).
c. ***Clarify the application of the reasonable effort requirement for apprenticeships in reviews:*** See Appendix 2c.
d. ***Introduce a reasonable efforts standard for prevailing wage compliance:*** See Appendix 2d.
e. ***Align the labour requirement rate reduction under the CEITC with other Clean Economy ITCs****:* See Appendix 2e.

3. Limited partnerships

a. ***Modernize the at-risk amount rules for Clean Economy ITCs:*** To improve access to Clean Economy ITCs for commercially financed projects, we recommend modernizing the at-risk amount rules to ensure that ordinary, non-circular intercompany financing does not unduly restrict the allocation of credits to limited partners (see Appendix 3a).
b. ***Address unintended tax shelter consequences:*** To ensure bona fide commercial financing arrangements are not inadvertently excluded from the Clean Economy ITC regime, we recommend targeted amendments to the tax shelter rules that would allow project sponsors to disclose anticipated Clean Economy ITCs benefits to investors and lenders without triggering unintended tax shelter concerns (see Appendix 3b).
c. ***Clarify partnership filing requirements and deadlines:*** To improve certainty and reduce compliance risk, we recommend clarifying the filing requirements and prescribed deadlines applicable to partnerships claiming Clean Economy ITCs, including the interaction between partnership-level reporting obligations and partner-level credit claims (see Appendix 3c).
d. ***Modernize the Clean Economy ITC recapture deferral rules:*** To facilitate bona fide internal reorganizations and better align with common project financing structures, we recommend expanding the Clean Economy ITCs recapture deferral rules to include transfers involving partnerships and other non-arm's-length entities where the property remains within the same economic group and continues to be used for a qualifying purpose (see Appendix 3d).

4. Technical: CTITC and CEITC

a. ***Expand qualifying entities under the CEITC*:** To encourage greater investment in clean electricity generation and storage, we recommend expanding the list of qualifying entities under the CEITC to include municipalities, hospitals and health authorities, school boards, and post-secondary institutions. This would allow eligible public sector organizations to access the tax credit directly, rather than only through corporate structures they may own (see Appendix 4a).
b. ***Increase the tax credit rate for non-taxable entities:*** See Appendix 4b.
c. ***Include natural gas generation in the CTITC and reliance on emission intensity*:** See Appendix 4c.
d. ***Revise waste biomass systems: eligibility conditions, by-products, and industrial applications:*** See Appendix 4d.
e. ***Amend hydroelectric installation refurbishment restrictions:*** See Appendix 4e.
f. ***Amend Class 56 property and associated charging equipment under the CTITC***: See Appendix 4f.
g. ***Revise the territorial nexus for mobile (Class 56) clean technology property***: See Appendix 4g.

h. ***Expand eligibility for heat pump systems: ancillary equipment and water-source systems***: See Appendix 4h.
i. ***Revise transmission equipment ownership requirements under the CTITC and CEITC***: See Appendix 4i.
j. ***Expand eligible transmission and interconnection equipment under the CEITC (intra and inter provincial transmission lines)***: See Appendix 4j.
k. ***Update grid connection costs for nuclear generating facilities***: See Appendix 4k.
l. ***Include stationary fuel cells under the CEITC and CTITC***: See Appendix 4l.
m. ***Include fusion energy systems under the CTITC***: See Appendix 4m.
n. ***Remove the construction commencement date under the CEITC***: See Appendix 4n.

5. Technical: CTMITC

a. ***Expand QZETMA eligibility for stationary power applications:*** To support investment in clean power manufacturing, we recommend expanding qualified zero-emission technology manufacturing activities (QZETMA) eligibility to include the manufacturing of fuel cells and batteries for stationary power applications, rather than limiting eligibility to zero-emission vehicle end uses (see Appendix 5a).
b. ***Include CCUS technology manufacturing as an eligible activity***: See Appendix 5b.
c. ***Align the definition of critical minerals across incentive regimes***: See Appendix 5c.
d. ***Permit the prorated application of the output test for clean technology manufacturing (CTM) use***: See Appendix 5d.
e. ***Replace the "all or substantially all" threshold for CTM use with a "primarily" test***: See Appendix 5e.

6. Technical: CHITC

a. ***Expand CHITC eligibility to include "refurbishment"***: See Appendix 6a.
b. ***Align the CHITC with phased project timelines:*** See Appendix 6b.
c. ***Include additional eligible pathways:*** See Appendix 6c.
d. ***Introduce intermediate tax credit-rate tiers***: See Appendix 6d.
e. ***Recognize renewable energy certificates under the CHITC framework***: See Appendix 6e.

7. Technical: CCUS ITC

a. ***Expand eligible use pathways for captured carbon under the CCUS ITC***: See Appendix 7a.
b. ***Revise Enhanced Oil Recovery (EOR) use per proposed legislation***: See Appendix 7b.
c. ***Broaden the definition of dual-use equipment under the CCUS ITC***: See Appendix 7c.
d. ***Include drilling costs associated with injection well development as eligible expenditures***: See Appendix 7d.

Retroactive application of recommendations

To ensure taxpayers fully benefit from any adopted measures, we recommend that all legislative and administrative changes arising from this submission be applied retroactively, where appropriate, to the date the relevant Clean Economy ITC provisions came into force. Given that taxpayers may need to amend previously filed returns or to submit claims for prior taxation years, consideration should also be given to extending applicable filing deadlines, including the December 31, 2026 deadline, where necessary. This would provide sufficient time to implement any retroactive changes and help prevent taxpayers from being disadvantaged by existing filing restrictions.

CONCLUSION

Achieving net-zero emissions by 2050 will require significant and sustained investments from governments and the private sector. To reach this goal, the Government of Canada has taken important steps through the introduction of its Clean Economy ITC regime, which is playing a crucial role in encouraging investment in clean

energy and low-carbon technologies across Canada at a time when greater investments are needed in the short to medium term to accelerate the transition to a low-carbon economy.
While the Clean Economy ITCs have advanced Canada's progress toward its net-zero objectives, certain aspects of the current regime may inadvertently discourage investment or limit the effectiveness of these incentives. The recommendations outlined in this submission are intended to enhance the efficiency, accessibility, and certainty of the various Clean Economy ITCs. If adopted, these measures would help strengthen Canada's competitiveness, encourage additional investment in clean technologies and infrastructure, and further advance the country's path toward a net-zero economy.

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We hope that our specific comments are helpful in your further development of the Clean Economy ITCs. 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.

Yours very truly,

Deloitte, LLP

Rob Jeffery, FCPA, FCA
National Tax Policy Leader
Deloitte LLP

cc: Trevor McGowan, Associate Assistant Deputy Minister (Legislation), Tax Policy Branch

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Appendix 1: General considerations

a. *Extend the Clean Economy ITCs to 2040*

Currently, four of the five Clean Economy ITCs are scheduled to begin phasing out after 2034.[8] While these tax credits have encouraged investment in clean energy and decarbonization projects, ongoing economic uncertainty, changing trade conditions, increased tariff pressures, and supply chain challenges continue to influence capital allocation decisions across North America. These factors may delay investment decisions or reduce the attractiveness of certain projects, particularly where substantial upfront capital commitments are required.

At the same time, changing policy support in competing jurisdictions, such as the United States, may create an opportunity for Canada to attract a greater share of clean economy investment and strengthen its leadership in North American decarbonization. Continued growth in global demand for clean technologies, including electric vehicles and related exports, further demonstrates the need for a stable, long-term incentive framework. Extending the availability of the Clean Economy ITCs would help Canada capitalize on these opportunities and increase its competitiveness as a destination for clean economy investment and provide greater certainty for businesses evaluating long-term projects.

Our recommendation: We recommend extending the Clean Economy ITCs to 2040, consistent with the current timeline of the CCUS ITC. This extension would provide greater investment certainty during a period of economic uncertainty and geopolitical volatility, improve Canada's competitiveness as a destination for clean economy capital investment, and support continued progress toward Canada's long-term emissions reduction objectives.

b. *Issue partial refunds or assessments to taxpayers prior to the review or audit of the related return*

Timely access to refundable Clean Economy ITCs is critical to supporting project financing and capital deployment. Allowing claimants to receive a portion of refundable credits before the completion of a review or audit would enhance the effectiveness of the Clean Economy ITCs by improving access to capital and supporting timely project development.

The Act currently permits the pre-assessment refund of certain tax credits,[9] including Scientific Research and Experimental Development (SR&ED) ITCs, and the Canada Revenue Agency's (CRA) SR&ED Financial Claim Review Manual confirms that refundable SR&ED credits may be paid before the completion of a financial review, with the review continuing thereafter.[10] This approach supports timely access to incentives while preserving the CRA's ability to audit claims and make subsequent adjustments where necessary.

No comparable mechanism currently exists for the Clean Economy ITCs. As a result, taxpayers may experience significant delays in accessing refundable credits while claims are under review, creating uncertainty for cash flow forecasting, investment planning, and additional financing costs for large projects. Allowing claimants to receive a limited portion of an anticipated refund before the completion of a review or audit would better align the administration of the Clean Economy ITCs with their policy objective of encouraging investment, while preserving the CRA's ability to audit claims and make any subsequent adjustments where necessary.

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[8] Pursuant to subsection 127.44(1), the CCUS ITC phases out after 2040.
[9] Pursuant to paragraph 164(1)(a).
[10] Canada Revenue Agency, *Financial Claim Review Manual – Review procedures for financial reviewers*, Section 6.10, "Pre-assessment refund."

Our recommendation: We recommend expanding the refund framework in paragraph 164(1)(a), or introducing a comparable legislative provision, to enable the CRA, at the Minister's discretion, to issue a partial refund of refundable Clean Economy ITCs claimed on an original or amended return before the completion of the CRA's review process.

c. *Develop a national Clean Economy supply chain roadmap*

The Clean Economy ITCs are intended to stimulate investment in Canada's low-carbon economy. However, the long-term effectiveness of these incentives depends not only on the availability of investment, but also on the ability of project developers to access reliable domestic supply chains, critical materials, equipment, skilled labour, and supporting infrastructure. Supply chain constraints can increase project costs, lengthen development timelines, and reduce the effectiveness of the incentives in attracting capital investment to Canada. A coordinated national supply chain strategy would help identify opportunities and bottlenecks across the clean economy value chain and support the effective deployment of capital encouraged through the Clean Economy ITCs.

The importance of coordinated supply chain planning has previously been recognized by the Government of Canada through initiatives such as the National Supply Chain Office and the National Supply Chain Task Force.[11] Given that the Clean Economy ITCs are intended to support significant long-term investment in clean energy, manufacturing, and critical mineral projects, a similar coordinated approach could help identify supply chain risks, critical dependencies, and opportunities to strengthen domestic clean economy value chains.

We are supportive of the government's exploration of domestic content incentives as a means of strengthening Canadian clean economy supply chains. In our view, measures that encourage the use of Canadian-produced equipment, materials, critical minerals, and manufactured components could complement the existing Clean Economy ITC regime by supporting domestic value creation while reducing supply chain vulnerabilities.

Our recommendation: We recommend that the federal government, in consultation with industry stakeholders, develops a national clean economy supply chain roadmap that identifies priority technologies, critical mineral requirements, workforce needs, infrastructure gaps, domestic content incentives (in the form of a bonus or adder), and supply chain bottlenecks affecting the deployment of projects incentivized through the Clean Economy ITCs. Such a roadmap would improve investment certainty, support domestic value creation, and enhance Canada's competitiveness in attracting clean economy investment.

[11] Government of Canada, "National Supply Chain Office and Strategy," Briefing on Infrastructure in Canada, March 21, 2024.

Appendix 2: Labour requirements

a. *Exempt smaller-scale installations from labour requirements*

The prevailing wage and apprenticeship requirements (collectively, the labour requirements) under section 127.46 generally apply to a broad range of projects claiming a Clean Economy ITC, including certain smaller-scale installations such as electric vehicle charging infrastructure, battery energy storage systems, and potentially certain rooftop solar installations. Although subsection 127.46(15) provides a limited exception from the labour requirements for certain property, there is currently no broader relief available for smaller-scale installations. For smaller-scale installations, the labour compliance framework may create a disproportionate administrative burden relative to the size and value of the project. Compliance with labour requirements can involve significant recordkeeping, monitoring, and certification, even where project costs are relatively modest and construction periods are short. These administrative costs may reduce the economic viability of certain smaller projects and discourage investment in technologies that the Clean Economy ITCs are intended to support.

Our recommendation: We recommend exempting smaller-scale installations of specified property, as defined in subsection 127.46(1), where the aggregate capital cost of all specified property comprising the installation is less than $2 million, from the prevailing wage and apprenticeship requirements set out in subsections 127.46(3) and (5). This approach would maintain the policy objectives of the labour requirements for larger installations while reducing administrative complexity and compliance costs for taxpayers undertaking smaller installations. The determination of an installation would require administrative guidance from the CRA.

b. *Apply apprenticeship requirements on a project-wide basis for multi-year installations*

Under subsection 127.46(2), taxpayers may elect to meet the prevailing wage requirements and apprenticeship requirements for each installation taxation year when claiming a Clean Economy ITC claim. This election allows taxpayers to access the *regular tax credit rate*, as defined in subsection 127.46(1). To satisfy the apprenticeship requirements in paragraphs 127.46(5)(a) and (b), taxpayers must demonstrate that they have made reasonable efforts to ensure that apprenticeship hours represent at least 10% of total hours worked during the installation taxation year.

Multi-year projects may experience temporary labour shortages, contractor changes, construction delays, or changing skillset needs and, as a result, apprenticeship availability and participation can vary over the span of the project. Such fluctuations may affect a taxpayer's ability to demonstrate compliance with the apprenticeship requirements in a particular installation taxation year despite meaningful apprentice participation over the life of the project.

Our recommendation: We recommend allowing taxpayers undertaking multi-year projects to elect to satisfy the apprenticeship requirements at the end of the project as an alternative to the existing annual installation taxation year election. Under this proposal, taxpayers making this election would claim the regular tax credit rate, as defined in subsection 127.46(1), and would remain subject to ongoing compliance obligations throughout the project, including maintaining records and making reasonable efforts (or deemed reasonable efforts pursuant to subsection 127.46(16)) to satisfy the apprenticeship requirements.

Under this approach, compliance would be assessed using cumulative project-wide apprenticeship hours upon completion of the project. Where a taxpayer fails to satisfy the apprenticeship requirements on a project-wide basis, any resulting adjustments, penalties, or additions to tax could be determined at the project level rather

than by installation taxation year. This approach would reflect meaningful apprentice participation throughout a project while encouraging taxpayers to take proactive compliance measures during installation.

c. *Clarify the application of the reasonable effort requirement for apprenticeships in reviews*

When attempting to satisfy the labour requirements, taxpayers may be assessed against requirements or interpretations that were not known with certainty during the relevant installation taxation year. Unlike prevailing wage deficiencies, which may be rectified through retroactive compensation,[12] an apprenticeship shortfall generally cannot be remedied retroactively once work has been completed. This limits a taxpayer's ability to make "reasonable efforts" under paragraphs 127.46(5)(a) and (b) or "deemed reasonable efforts" under subsection 127.46(16) to address a deficiency once the relevant work has been completed. As a result, taxpayers may be exposed to adverse tax consequences despite having made significant efforts to satisfy the apprenticeship requirements.

A particular concern arises where the labour requirements become relevant after the end of an installation taxation year. For example, taxpayers claiming the Clean Electricity ITC (which was enacted in 2026) for property installed in 2024 and 2025 may be required to demonstrate compliance with labour requirements in situations where the relevant work was completed before the Clean Electricity ITC was enacted. In such cases, taxpayers may not have had the opportunity to implement compliance procedures or take additional steps to influence apprentice participation with the labour requirements in mind.

Our recommendation: We recommend clarifying how the reasonable efforts requirement under paragraphs 127.46(5)(a) and (b) applies in situations where compliance is reviewed retrospectively, particularly where the installation activities occurred prior to the enactment of the applicable Clean Economy ITC and taxpayers are no longer in a position to influence apprentice participation. Additional administrative guidance could be provided regarding the application of the labour requirements to installation taxation years that predate the enactment of applicable Clean Economy ITCs, including illustrating how reasonable efforts will be evaluated in such circumstances. Such an approach would encourage the continued hiring and training of apprentices while recognizing good-faith compliance efforts in situations where retrospective correction is not possible.

d. *Introduce a reasonable efforts standard for prevailing wage compliance*

To elect under subsection 127.46(2) to claim the regular tax credit rate in respect of a Clean Economy ITC, taxpayers must satisfy the labour requirements. In the context of the prevailing wage requirements under subsection 127.46(3), minor administrative errors, payroll discrepancies, or isolated instances of non-compliance may arise despite taxpayers undertaking significant compliance measures throughout a project. Under the current framework, such deficiencies may result in disproportionate consequences relative to the magnitude of the non-compliance. This uncertainty may affect project planning and financing decisions, particularly where taxpayers substantially comply with the prevailing wage requirements but fall marginally short due to inadvertent errors or circumstances outside their control.

Our recommendation: We recommend introducing a reasonable efforts or materiality standard for prevailing wage compliance. Under this approach, taxpayers who have implemented appropriate compliance procedures and undertaken reasonable efforts to satisfy the prevailing wage requirements would not be considered non-compliant solely because of minor or inadvertent deficiencies or other isolated instances of non-compliance.

[12] Subsection 127.46(11) allows for corrective measures to be taken to satisfy the prevailing wage requirements if the taxpayer receives a notification from the Minister of National Revenue permitting the payment of a top-up amount pursuant to subsection 127.46(12).

Administrative guidance could also identify circumstances in which taxpayers will be deemed to satisfy the reasonable efforts standard despite minor deficiencies. Such an approach would reduce uncertainty and disproportionate outcomes while preserving the policy objectives of the labour requirements.

e. *Align the labour requirement rate reduction under the CEITC with other Clean Economy ITCs*

Taxpayers that do not satisfy the labour requirements are generally subject to a reduced credit rate. However, the magnitude of the rate reduction varies significantly among the available credits. For example, the Clean Technology ITC is reduced from 30% to 20% where labour requirements are not met, representing a one-third reduction in the available credit. In contrast, a qualifying entity claiming the Clean Electricity ITC experiences a reduction from 15% to 5%, representing a two-thirds reduction in the available credit.

As a result, the consequences of non-compliance are significantly more severe under the CEITC than under other Clean Economy ITCs.

Our recommendation: We recommend increasing the reduced tax credit rate for the CEITC from 5% to 10% where the labour requirements are not satisfied. This change would align the relative impact of labour requirement non-compliance more closely with the treatment applicable under other Clean Economy ITCs while continuing to maintain a meaningful incentive for taxpayers to satisfy the labour requirements.

Appendix 3: Limited partnerships

a. Modernize the at-risk amount rules for Clean Economy ITCs

The Clean Economy ITC partnership rules currently restrict the amount of a Clean Economy ITC that may be allocated to a limited partner to that partner's at-risk amount (ARA) under subsection 127.47(3). For this purpose, subsection 127.47(1) defines ARA by reference to the meaning assigned in subsection 96(2.2). While these rules serve an important tax integrity function by preventing taxpayers from creating ARA through circular financing arrangements between a partner and a limited partnership, their current application can produce inappropriate results in the context of modern large-scale clean economy projects financed through limited partnerships. A particular concern arises under paragraph 96(2.2)(c), which may reduce a limited partner's ARA where non-circular non-arm's length debt exists between the partnership, the partner, or related entities. The broad application of paragraph 96(2.2)(c) may cause ordinary non-circular intercompany financing to be treated similarly to circular financing for ARA purposes.

For example, ordinary intercompany loans from a parent to a subsidiary to support the acquisition by the subsidiary of an interest in a limited partnership developing clean economy projects may reduce a subsidiary's ARA even where the parent is using funds from sources totally independent from the limited partnership (i.e., non-circular funds), thereby remaining fully exposed to the economic risks and returns of the project. For capital-intensive projects that rely heavily on project financing, this can result in a disproportionate reduction in available Clean Economy ITCs relative to the underlying economic risk borne by investors.

Our recommendation: For purposes of all Clean Economy ITCs, we recommend modifying the definition of *at-risk amount* to align with the definition currently applicable to limited partnership resource expense pools under paragraph 66.8(3)(a.1), which excludes amounts owing to the parent corporation from the ARA calculation. Specifically, subsection 127.47(1) should be amended to refer to the ARA definition in paragraph 66.8(3)(a.1), rather than the definition in subsection 96(2.2).

By reducing the impact of paragraph 96(2.2)(c) on non-circular intercompany financing arrangements, the paragraph 66.8(3)(a.1) approach would mitigate inappropriate reductions to ARA where meaningful economic risk remains at the corporate group level. In our view, this would improve access to the Clean Economy ITCs while maintaining the integrity objectives of the at-risk amount regime.

b. Address unintended tax shelter consequences

The Clean Economy ITC regime contains rules that deny access to the tax credits where eligible property, or an interest in an entity holding that property, constitutes a "tax shelter investment" for the purposes of section 143.2. This restriction is expressly incorporated in each of the Clean Economy ITC provisions through references to the tax shelter rules. For these purposes, subsection 143.2(1) generally determines whether an investment is a "tax shelter investment" by reference to the definition of *tax shelter* in subsection 237.1(1).

While these rules serve an important tax integrity function, they were not designed with modern project-finance structures in mind and may produce unintended outcomes for large-scale clean economy projects. Partnerships are a common and commercially necessary vehicle for developing and financing major renewable energy, clean technology, hydrogen, CCUS, and manufacturing projects. As part of a typical capital raising process, project sponsors must provide investors with information regarding expected project economics, including the anticipated value of refundable Clean Economy ITCs, given the significant role that these ITCs can play in project economics.

Under the existing tax shelter framework, the disclosure of expected tax benefits may be relevant in determining whether the tax benefits represented within the applicable four-year period equal or exceed an investor's acquisition cost. Where that threshold is met, an otherwise commercial investment may be characterized as a tax shelter investment, potentially resulting in the denial of the very credits intended to support the project.

Illustrative example:
A limited partnership project is financed with 30% investor equity and 70% third-party debt from banks, which is a common financing structure for large-scale clean economy projects. If the project qualifies for a 30% Clean Technology ITC, an investor contributing 30% equity may expect to receive refundable tax credits equal to 100% of its investment within the four-year testing period. As a result, the investment may satisfy the tax shelter test in subsection 237.1(1), even before considering any other tax attributes such as losses, and notwithstanding that the arrangement reflects a bona fide commercial project financing structure.

This outcome appears inconsistent with the policy objective of the Clean Economy ITC regime. The concern does not stem from aggressive tax planning or abusive arrangements; rather, it arises in the context of bona fide commercial projects that rely on private capital and where refundable tax credits form an integral part of the project's economics. As currently drafted, the rules may create uncertainty for investors, lenders and project sponsors and could discourage the use of conventional financing structures needed to fund large-scale clean economy investments.

Our recommendation: We recommend amending paragraph (b) of the definition of *tax shelter* in subsection 237.1(1) to provide that the disclosure of anticipated Clean Economy ITCs as part of bona fide project financing, lender due diligence, capital-raising activities, offering documents, or investor communications does not, in and of itself, constitute a representation of tax benefits for the purposes of the tax shelter rules.

This targeted amendment would ensure that project sponsors can disclose the expected value of legislated Clean Economy ITCs to investors and lenders as part of ordinary commercial financing activities without creating an unintended risk that an otherwise commercial investment will be characterized as a tax shelter investment. Importantly, the broader tax shelter regime would continue to apply to arrangements involving represented tax benefits arising from aggressive tax planning or tax-motivated investment structures. In our view, this is a targeted and administrable amendment that preserves the integrity objectives of the tax shelter regime while ensuring that the legislated Clean Economy ITCs operate as intended.

c. *Clarify partnership filing requirements and deadlines*

The Clean Economy ITC regime lacks clear legislative and administrative guidance regarding the filing deadlines applicable when Clean Economy ITCs are earned through a partnership. Although the legislation and CRA guidance generally require partnerships to calculate the applicable Clean Economy ITC at the partnership level, file the prescribed Clean Economy ITC information with the partnership information return, and allocate the credit to members through the T5013 reporting process, there is no explicit confirmation of the filing deadline applicable to the prescribed partnership-level Clean Economy ITC information.

Using the Clean Technology ITC as an example, subsection 127.45(3) provides an extended filing deadline for prescribed ITC information. However, the partnership information return (T5013) remains subject to the filing deadlines in Regulation 229(5). Neither the legislation, the CRA's published Clean Economy ITC guidance, nor the T5013 reporting instructions clearly address whether the extended Clean Economy ITC filing deadlines apply to prescribed partnership-level Clean Economy ITC schedules filed with a T5013 return. As a result, it is unclear whether a partnership must file the relevant Clean Economy ITC schedule by the general T5013 deadline,

generally five months after the end of the partnership's fiscal period, or, whether the extended Clean Economy ITC filing deadline is also available in respect of partnership-level reporting.

This uncertainty applies across the Clean Economy ITC regime and creates compliance risk for partnerships and their members, particularly in tiered partnership structures and where fiscal periods may not be aligned. In our view, clearer legislative or administrative guidance is required to confirm the applicable filing requirements and deadlines for partnership-level Clean Economy ITC claims and to ensure that otherwise valid credits are not jeopardized due to uncertainty in the filing process.

Our recommendation: We recommend amending Regulation 229(1) to expressly require partnerships that incur expenditures that may give rise to a Clean Economy ITC to file prescribed ITC information with their partnership information return, similar to the existing reporting requirement applicable to SR&ED expenditures under paragraph 229(1)(e). This amendment would provide a clear legislative foundation for the filing of prescribed Clean Economy ITC schedules and supporting information at the partnership level and would better align the partnership reporting framework with the manner in which Clean Economy ITCs are calculated and allocated through partnerships.

We further recommend that Finance, in consultation with the CRA, consider publishing administrative guidance clarifying the filing deadlines applicable to prescribed partnership-level Clean Economy ITC information and the corresponding impact on the filing obligations of corporate partners claiming allocated credits. In our view, the most practical approach would be to adopt guidance similar to the CRA's existing SR&ED Claims for Partnership Policy,[13] which expressly recognizes the interaction between partnership-level reporting and partner-level claim deadlines.

Providing a clear legislative framework and corresponding administrative guidance would improve certainty for taxpayers and the CRA, reduce compliance risk, and help ensure that otherwise valid Clean Economy ITC claims are not prejudiced by uncertainty regarding the applicable partnership filing deadlines.

d. Modernize the Clean Economy ITC recapture deferral rules

The Clean Economy ITCs generally contain recapture rules that apply where eligible property is disposed of, exported, or converted to an ineligible use within a prescribed recapture period. Several of the Clean Economy ITCs also include relieving provisions intended to defer recapture where eligible property is transferred within the same economic group and continues to be used for a qualifying purpose. For example, subsection 127.45(13) permits a deferral of Clean Technology ITC recapture where clean technology property is transferred between taxable Canadian corporations and continues to qualify in the hands of the transferee.

The explanatory notes to Bill C-59 indicate that these relieving provisions were intended to facilitate bona fide transfers of clean technology property within a corporate group and are comparable to the recapture deferral mechanisms available under other investment tax credit regimes. However, the recapture-deferral provisions are not applied consistently across the Clean Economy ITC regime and generally appear to be limited to transfers between related taxable Canadian corporations. The CRA's administrative guidance for both the Clean Technology ITC and the Clean Technology Manufacturing ITC expressly states that the related-party recapture deferral is not available where the transfer involves a partnership.

As a result, ordinary internal reorganizations involving partnership-owned eligible property may trigger recapture even where the property remains within the same economic group and continues to be used exclusively in a

[13] Canada Revenue Agency, *SR&ED Claims for Partnerships Policy*, April 28, 2022.

qualifying activity. In our view, this outcome does not align with the policy intent underlying the recapture-deferral provisions and may create unnecessary tax costs and administrative complexity for commercial clean economy projects.

Our recommendation: We recommend harmonizing the Clean Economy ITC recapture-deferral provisions with the existing non-arm's-length transfer exception in subsection 127(33) applicable to SR&ED ITCs. Under the SR&ED regime, qualifying property may generally be transferred to a non-arm's-length purchaser, including a partnership, without immediate recapture, provided that the qualifying use of the property continues and future recapture obligations transfer to the purchaser. The CRA's SR&ED administrative guidance[14] expressly confirms that this relief is available in partnership contexts.

Accordingly, we recommend adopting a similar approach for the Clean Economy ITCs so that recapture relief is available for transfers between related corporations, partnerships, and combinations thereof, provided that the property remains within the same economic group and continues to be used for a qualifying purpose. Such an approach would provide a consistent and well-understood model for taxpayers and the CRA, eliminate uncertainty regarding partnership reorganizations, and ensure that recapture is deferred—not eliminated—where the property remains within the same economic group and continues to be used for the purpose that originally supported the Clean Economy ITC claim.

Alternatively, we recommend that all Clean Economy ITCs adopt a related-party transfer election mechanism similar to subsection 127.48(23) for the Clean Hydrogen ITC and the comparable provisions in the CCUS ITC regime. The election would permit recapture to be deferred where eligible property is transferred within the same economic group and continues to be used for a qualifying purpose, with the transferee assuming the transferor's recapture history. Importantly, the election should be available to all entities eligible to claim the applicable Clean Economy ITC, including partnerships.

In our view, either of these approaches would provide a consistent and administratively efficient framework for deferring Clean Economy ITC recapture on bona fide internal transfers while preserving future recapture obligations. They would also eliminate unintended disparities between corporate and partnership ownership structures and better align the Clean Economy ITC regime with the financing realities of large-scale clean economy projects.

[14] Canada Revenue Agency, *Recapture of SR&ED Investment Tax Credit Policy*, Section 10.0, "Partnerships."

Appendix 4: Technical – Clean Technology and Clean Electricity Investment Tax Credits (CTITC and CEITC)

a. *Expand qualifying entities under the CEITC*

The definition of *qualifying corporation* in subsection 127.491(1) includes taxable Canadian corporations, designated provincial Crown corporations, corporations described in paragraphs 149(1)(d.5) and (d.6) owned by municipalities or Indigenous governments, pension corporations under paragraph 149(1)(o.2), the Canada Infrastructure Bank, Canada Growth Fund, and any prescribed entity.

While the definition extends to certain corporations owned by public sector bodies, it generally does not extend to the public sector bodies themselves. As a result, a municipality that operates through an incorporated utility may qualify, whereas a municipality that owns and operates its facilities directly may not. Similarly, municipalities, universities, schools and hospitals (MUSH sector) are excluded from the definition entirely despite owning substantial building and land holdings suited to on-site generation and storage.

Many of these organizations are actively pursuing clean energy investments, including rooftop and ground-mounted solar installations, battery storage projects, and district-scale energy systems. Because these entities are generally exempt from tax under Part I, refundable tax credits represent one of the few federal mechanisms available to support such investments. However, unlike certain public-sector corporations, these institutions are currently unable to access the CEITC directly.

The reference to a "prescribed entity" in paragraph (i) of the definition of *qualifying corporation* is significant here, because it means the gap can be closed by regulation rather than by amendment to the Act.

Our recommendation: We recommend that municipalities, hospitals and health authorities, school boards, and universities and colleges be prescribed as qualifying entities under paragraph (i) of the definition of *qualifying corporation* in subsection 127.491(1). This would allow eligible clean electricity property acquired directly by these institutions to qualify on the same basis as property acquired through corporations they own.

Providing access to the CEITC for these entities would support broader deployment of clean electricity infrastructure, encourage investment in public-sector decarbonization initiatives, and promote neutrality between direct ownership structures and incorporated ownership models.

b. *Increase the tax credit rate for non-taxable entities*

The maximum rate under the CEITC is 15%, half the maximum 30% rate available under the CTITC. That differential overstates the actual gap in value, but it does so in the wrong direction.

Taxable entities claiming the CTITC do not retain the full 30%. Subsection 127.45(6) deems the credit to have been deducted from tax otherwise payable for purposes of subsection 13(7.1), which reduces the capital cost of the property and eliminates capital cost allowance (CCA) on the credited amount. The credit is therefore effectively taxed at the claimant's combined corporate rate, leaving a net benefit of approximately 21% to 23% of eligible costs depending on the province.

By contrast, non-taxable entities claiming the CEITC receive 15% as a direct payment under paragraph 127.491(2)(b), with no corresponding reduction in value. Accordingly, the real comparison is not 15% versus 30%, but rather 15% versus 21% to 23% (i.e., the approximate after-tax value of the CTITC).

The consequence is a distortion in favour of private ownership. Where the same property qualifies under both credits, as it does for solar, wind, and electrical energy storage, the identical asset attracts materially more federal support when owned by a taxable corporation than when owned by a municipal utility, a provincial Crown corporation, or an Indigenous-held entity. The emissions outcomes are identical; the difference arises solely from the tax status of the owner.

Our recommendation: We recommend increasing the specified percentage under the CEITC for qualifying entities that are not subject to tax under Part I to a rate that delivers a benefit equivalent to the after-tax value of the CTITC to taxable claimants. Based on current combined corporate rates, this would suggest a rate in the range of approximately 21% to 23%.

Aligning the effective value of the CEITC and CTITC would improve neutrality between taxable and non-taxable ownership models, reduce biases in investment structuring, and better support federal clean electricity objectives across the public, Indigenous, and broader non-taxable sectors.

c. *Include natural gas generation in the CTITC and reliance on emission intensity (CTITC/CEITC)*

Natural gas generation currently qualifies for the CEITC at a rate of 15% but is excluded from the CTITC. The emission intensity threshold of 65 tonnes per gigawatt hour is a demanding one, effectively mandating capture systems that add costs well beyond what a 15% credit can offset, and the legislation prevents that capture system from being supported under the CCUS ITC where the electricity credit is claimed. A 15% credit, exposed to full repayment if performance falls short over the first five years and to annual recapture without tolerance for a further fifteen, does not carry a project to financial close. That gap has become more consequential as load growth from artificial intelligence and data centre development arrives faster than firm low-carbon supply can be built. In grids without hydroelectric or nuclear resources, the practical choice is between abated and unabated natural gas generation, and the credit should be calibrated to secure the former.

A second related concern is narrower and more readily corrected. The credit is built around the equipment installed rather than the emissions produced. Integration with capture equipment is a standalone eligibility requirement, so a system cannot qualify without a capture system even where it independently meets the 65-tonne threshold. The emission intensity test is the substantive standard, and the equipment requirement adds nothing to it. The same applies to measurement: the formula counts combustion emissions at the point of generation and does not accommodate environmental attributes a project has procured and retired against its fuel supply. Both are matters of internal consistency rather than requests for additional support.

Our recommendation: We recommend extending CTITC eligibility to natural gas generation projects that satisfy the same emission-intensity threshold applicable under section 127.491, such that a system meeting the 65-tonne threshold qualifies at the CTITC rate. The existing performance standard would remain unchanged; only the level of support would move, to reflect the costs and risks associated with achieving that standard at this point in the deployment curve and the demand pressure now bearing on firm capacity.

We further recommend that eligibility rest on measured emission intensity rather than on the presence of particular equipment. Subparagraph (a)(iv) of the definition of *qualified natural gas energy equipment* should be amended so that integration with capture equipment is not required where the system independently satisfies the prescribed threshold. The definition of *emission intensity* in subsection 127.491(1) should be amended to permit verified and retired environmental attributes in respect of the project's fuel supply to be reflected in the calculation, on conditions addressing traceability and double counting.

d. *Revise waste biomass systems: eligibility conditions, by-products, and industrial applications (CTITC and CEITC)*

The current eligibility conditions for waste biomass systems describe a single archetype: a dedicated plant, fuelled exclusively by biomass, generating electricity or heat for on-site consumption, and producing no other commercially valuable outputs. A project must meet every condition and very little of how waste biomass is actually used in Canada survives the exercise.

Several of the existing conditions may unintentionally exclude commercially viable projects that achieve significant emissions reductions. For example, the heat-rate condition is the least defensible. The condition is also unattainable for the technology it governs. Waste biomass electricity generation runs at thermal efficiencies well below those of the fossil-fired plant the heat rate test was calibrated against, because the fuel is wet, variable, and low in energy density. A system can be well designed, well operated, and delivering exactly the abatement the credit exists to secure, and still fail a threshold it was never physically capable of meeting. In addition, many systems require natural gas for startup, flame stabilization, and periods of low biomass availability, all ordinary operating necessities, and a ratio test may penalize systems that nonetheless achieve substantial emissions reductions.

The "solely used to generate" condition similarly limits eligibility to a narrow set of project configurations. In particular, it excludes the highest-value application outright: where waste biomass is used directly as a fuel substitute rather than for electricity or heat generation. For example, a cement kiln substituting waste biomass for coal or petroleum coke can deliver substantial abatement in a sector with few alternatives, but the kiln produces clinker, not energy, and no amount of substitution will bring it inside a test framed around generation.

The remaining conditions follow the same pattern and can exclude projects despite their ability to displace fossil fuels and to reduce lifecycle emissions. Co-location tests plant layout. The chemicals restriction and the treatment of by-products push proponents to destroy value the credit should reward, biochar being the clearest case since it sequesters carbon for centuries and has established markets. Similarly, renewable natural gas is excluded for producing a fuel that reaches loads the project never could directly.

In our view, the common feature of these restrictions is that they focus on the form of the project rather than its environmental outcome. Where waste material is diverted from decomposition or landfill and displaces fossil fuel, the abatement is the same whether it happens in a power plant, a kiln, or a gas upgrader.

Our recommendation: We recommend redesigning the eligibility conditions for waste biomass systems to focus on the use of waste biomass and the displacement of fossil fuels, rather than on a particular plant configuration.

Specifically, we recommend:

- replacing the condition that a system be "solely used" to generate electricity or heat with a requirement that it be "primarily used" for that purpose, thereby allowing systems that produce secondary valuable output to remain eligible;
- eliminating the heat-rate condition in its entirety, including for electricity generation systems;
- removing the co-location condition so that eligibility does not depend on thermal energy being consumed at the same site where electricity is generated;
- confirming that the sale of by-products generated in the course of biomass processing, including but not limited to biochar, does not affect the eligibility of the system; and
- extending eligibility to industrial systems using waste biomass as a fuel substitute, including cement kilns and comparable high-temperature processes, with respect to the equipment required to receive, handle, and fire the biomass.

We further recommend recognizing systems producing renewable natural gas or upgrading landfill gas as a distinct eligible output, without a requirement to demonstrate co-located electricity or heat generation, including systems that solely produce renewable natural gas for sale.

Finally, we recommend that the same treatment apply under the CEITC. Since subparagraph (e)(vi) of the definition of *clean electricity property* in subsection 127.491(1) incorporates the definition of *waste biomass electricity generation equipment* set out in subsection 127.45(1), amendments made to the CTITC regime would generally flow through automatically to the CEITC framework as well.

These changes would better align the credits with how waste biomass systems are deployed in practice, improve neutrality among different technology pathways, and support a broader range of projects capable of delivering meaningful emissions reductions.

e. *Amend hydroelectric installation refurbishment restrictions (CTITC)*

A significant portion of Canada's hydroelectric facilities was commissioned more than fifty years ago and is reaching a stage where major refurbishment determines whether capacity is retained or lost. The CEITC recognizes the importance of these refurbishment activities by extending eligibility to certain property described in subparagraph (d)(ii) of Class 43.1 when the provision is read without reference to clause (A). However, the CTITC does not, and the difference in treatment is not explained by any difference in the emissions outcome. Refurbishing an existing installation preserves non-emitting capacity at a fraction of the cost and lead time of new build.

The same misalignment affects property described in subparagraph (d)(iii.1) of Class 43.1, where acquisition date limitations may exclude property that is otherwise identical in function and emissions performance to property that qualifies for the credit. Time-based restrictions of this kind bear no relationship to the abatement delivered and operate as arbitrary cut-offs against assets whose refurbishment cycles run on decades rather than budget years.

Our recommendation: We recommend amending the CTITC eligibility criteria so that property described in subparagraph (d)(ii) of Class 43.1 qualifies where that subparagraph is read without reference to its clause (A). This would align the CTITC with the wording already adopted in the CEITC.

We further recommend that property described in subparagraph (d)(iii.1) of Class 43.1 qualify without regard to the acquisition date restrictions currently embedded in that provision. This would ensure that eligibility is based on the character of the property rather than on the date of acquisition.

These changes would promote consistency between the CTITC and CEITC, support the continued operation of Canada's existing non-emitting hydroelectric infrastructure, and encourage cost-effective investments that preserve clean electricity capacity while advancing Canada's decarbonization objectives.

f. *Amend Class 56 property and associated charging equipment under the CTITC*

The current treatment of charging equipment creates an unintended barrier for non-road zero-emission vehicles. Charging stations with a capacity between 10 and 90 kilowatts are generally included in Class 43.1 rather than Class 43.2. The 90-kilowatt threshold excludes the depot and overnight charging solutions that most off-road and fleet operations actually install. As a result, a taxpayer can claim the vehicle itself but not the equipment without which the vehicle cannot operate based on a threshold designed to distinguish CCA rates rather than to identify what supports a zero-emission fleet.

Our recommendation: We recommend that the 90-kilowatt threshold not apply for CTITC purposes. Instead, charging equipment acquired to serve one or more CTITC-eligible vehicles owned by the taxpayer should qualify on that basis rather than on a standalone power-capacity test.

g. *Revise the territorial nexus for mobile (Class 56) clean technology property*

The CTITC currently requires clean technology property to be "situated in Canada (including the exclusive economic zone of Canada) and intended for use exclusively in Canada." For fixed property such as solar, wind, and storage, this territorial nexus is appropriate. However, it is structurally incompatible with the self-propelled zero-emission equipment in Class 56, which includes zero-emission aircraft, watercraft, locomotives, and off-road mobile equipment. By design, this equipment does not remain in a single location. A Canadian-owned zero-emission coastal vessel, ferry or aircraft will routinely operate in the exclusive economic zone, in international waters, or across a border, and can therefore fail the "situated in and used exclusively in Canada" test despite being owned, controlled, and based in Canada.

This result denies the credit to precisely the Canadian operators the program is meant to support, purely because their assets are mobile rather than fixed. The legislation already recognizes that a strict "within Canadian territory" approach is too narrow, having carved out Class 43.1 property installed within Canada's exclusive economic zone. Mobile zero-emission transport equipment presents the same issue and warrants the same accommodation.

Our recommendation: We recommend that, for Class 56 and other self-propelled clean technology equipment, the requirement that property be "situated in and intended for use exclusively in Canada" be replaced with a test based on Canadian ownership and control. Under this approach, mobile assets owned and controlled by a qualifying Canadian taxpayer would remain eligible for the CTITC even where their operation necessarily extends into Canada's exclusive economic zone, international waters, or other jurisdictions. Such a change would preserve the territorial nexus for fixed property while ensuring the credit reflects the operational reality of Canadian-owned mobile clean technology property, consistent with the existing exclusive economic zone accommodation for offshore property.

h. *Expand eligibility for heat pump systems: ancillary equipment and water-source systems (CTITC)*

Eligibility under the CTITC focuses primarily on the heat pump itself and does not clearly extend to equipment without which the system cannot deliver its rated performance. A clear example is energy recovery ventilators (ERVs). In a modern building system, the ERV conditions the ventilation air the heat pump serves, and removing it degrades both efficiency and the ability to meet design conditions. Treating it as outside the system understates the capital genuinely deployed in the installation and creates classification disputes over equipment that is functionally inseparable from the heat pump installation.

Water-source-heat pumps also present a straightforward gap. These systems operate on the same principle as air-source and ground-source heat pumps, achieve comparable or superior coefficients of performance where a suitable water body or process loop is available, and their exclusion does not appear to reflect any meaningful distinction in emissions performance outcomes.

Our recommendation: We recommend expanding the definition of *eligible property* to include ancillary equipment that is necessary for the full operation of a heat pump system, including ERVs and equivalent ventilation heat-recovery equipment that is physically and functionally integrated with the heat pump system.

We further recommend including water-source heat pump systems as eligible CTITC property on the same basis as air-source and ground-source systems.

i. *Revise transmission equipment ownership requirements under the CTITC and CEITC*

Eligibility for transmission property under both the CTITC and CEITC is currently conditioned on the line and the connected generation system being owned by the same taxpayer. However, this requirement does not reflect how interconnections are commonly built in Canada.

In many provinces, an independent power producer developing a clean generation project will ordinarily fund the interconnection. However, the line is constructed, owned, and operated by the regulated transmission utility because provincial regulation requires utility ownership of transmission infrastructure. The generator bears the cost typically through a contribution in aid of construction but never acquires legal title to the assets.

The result is that the same asset, performing the same function and connecting the same generation, may qualify where a vertically integrated utility builds both the generation and transmission assets, but fail to qualify where an independent producer builds the generation assets. Neither the emissions outcome nor the capital deployed differs between the two. This outcome creates a structural preference for one ownership model over another, and it falls hardest on the independent power producers which account for a significant share of new clean generation across Canada.

Our recommendation: We recommend removing the requirement that eligible transmission equipment[15] and the connected eligible generation system be owned by the same taxpayer. Instead, eligibility should be determined based on the eligible transmission equipment being constructed to connect eligible clean electricity generation/clean technology rather than on who holds title to it. Under this approach, utility-owned, developer-owned, and jointly owned interconnections would qualify on the same terms, with different rates based on the structure of the entity.

We further recommend that, where the cost of the interconnection is borne by the generation proponent through a contribution in aid of construction or equivalent arrangement, the legislation should clarify which party is entitled to claim the credit. This would ensure that the credit is available once and to the taxpayer that has actually incurred the relevant expenditure, while avoiding duplication or uncertainty in administration.

j. *Expand eligible transmission and interconnection equipment under the CEITC (intra and inter provincial transmission lines)*

The CEITC currently recognizes transmission only through qualified interprovincial transmission equipment. To qualify, the property must be used primarily to transmit or manage electrical energy originating in, or destined for, a province other than the one in which the property is located and must be rated for at least 69 kilovolts. As a result, the vast majority of Canada's transmission network falls outside the scope of the credit.

This framework does not align with the scale or nature of the investments required to support Canada's electrification objectives. Canada's electricity systems must at least double in size by 2050, requiring more than $1 trillion in investment across generation, transmission, distribution, and storage infrastructure.[16] The great majority of the transmission component of that build is intraprovincial. Major projects currently in development, including BC Hydro's North Coast Transmission Line, are intraprovincial by design and would not qualify for support under the CEITC as presently drafted.

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[15] Regulation 1104(13).
[16] Natural Resources Canada, "Powering Canada Strong: A National Strategy for an Electrified Canadian Economy," May 2026.

The Government of Canada has acknowledged this gap and has indicated its intention to extend the CEITC to certain major high-voltage intraprovincial transmission projects and is seeking input on how that extension should be designed. The design questions matter as much as the commitment, because intraprovincial transmission does more than connect new generation. It relieves the congestion that curtails existing clean output and reduces the line losses that translate directly into avoidable emissions, and reinforcement and reliability projects delivering those benefits should not turn on whether a new generating asset happens to be attached.

Our recommendation: For CEITC purposes, we recommend:

- expanding eligibility to include intraprovincial transmission equipment, structures, and related equipment used to transmit or manage electrical energy within a province, subject to a minimum rating of 30 kilovolts;
- removing the requirement that the eligible property be used primarily to transmit electrical energy originating in, or destined for, another province, as well as any restriction based on the origin or type of electricity transmitted, so that eligibility does not depend on what the line carries; and
- permitting transmission equipment to qualify regardless of whether it is connected to a particular eligible generation system, so that reinforcement, congestion-relief, and reliability projects are recognized on their own terms.

k. *Update grid connection costs for nuclear generating facilities (CTITC and CEITC)*

Both the CTITC and the CEITC exclude the equipment that connects a nuclear generating facility to the grid. Paragraph (c) of the definition of *nuclear energy property* in subsection 127.491(1) excludes transmission equipment and distribution equipment, and the definition of *small nuclear energy property* in subsection 127.45(1) does the same. A nuclear facility cannot deliver output without a transmission connection, and its cost is as integral to the project as the reactor itself. Because the exclusion is express in both definitions, project proponents have no alternative pathway through which these expenditures can qualify, whether the project is a small nuclear installation or a large one.

The asymmetry with other non-emitting technologies is evident on the face of the Regulations. Under Regulation 1104(13), *eligible transmission equipment* is defined by reference to *eligible electrical generation equipment*, which is defined as generating equipment described in specified subparagraphs of Class 43.1, being hydro, wind, solar photovoltaic, geothermal, and wave and tidal generation, together with subparagraphs (e)(i) and (e)(iii) of the definition of *clean electricity property* in subsection 127.491(1). Nuclear generation is not included within that framework. Every other non-emitting generation technology has a recognized pathway for the transmission equipment that connects it. Nuclear alone is expressly excluded, and the distinction is not based on emissions performance of the technology. Rather, it raises the effective capital cost of the firmest low-carbon supply available to the system.

Our recommendation: We recommend two complementary amendments.

First, the exclusion of transmission equipment should be modified so that it does not apply to equipment used to connect an eligible nuclear generating facility to the electricity grid.

- For the CEITC, this amendment would be made to paragraph (c) of the definition of *nuclear energy property* in subsection 127.491(1).
- For the CTITC, a corresponding amendment should be made to the definition of *small nuclear energy property* in subsection 127.45(1).

The remaining exclusions would be unaffected in both credits, including those relating to distribution equipment, nuclear fission fuel, property used in nuclear waste disposal or storage, vehicles, and buildings.

Second, the definition of *eligible electrical generation equipment* in Regulation 1104(13) should be expanded to include nuclear generation.

Paragraph (b) of that definition currently refers only to subparagraphs (e)(i) and (e)(iii) of the definition of *clean electricity property* in subsection 127.491(1). It should be extended to subparagraph (e)(iv), being nuclear energy property, and a corresponding reference should be added in respect of *small nuclear energy property* described in subsection 127.45(1). Transmission equipment connecting a nuclear generating facility would then qualify as *eligible transmission equipment* on the same basis as transmission equipment serving hydro, wind, solar, geothermal, and wave and tidal generation, subject to the existing 75% tests in that definition.

These amendments would align the treatment of nuclear generation with that of other non-emitting technologies, remove an unintended barrier to investment, and ensure that the tax credits support the full range of infrastructure required to bring clean electricity onto the grid.

l. *Include stationary fuel cells under the CEITC and CTITC*

Load growth driven by artificial intelligence and data centre development is arriving faster than the grid can be built to serve it, with interconnection queues in several provinces now measured in years and demand from this sector alone is projected to reach three to five gigawatts by 2030.[17]

Stationary fuel cells are increasingly being deployed internationally to meet these needs. They can often be sited and commissioned within months rather than years; they operate at electrical efficiencies materially above combustion generation, and because there is no flame, they produce negligible emissions of nitrogen oxides, sulphur oxides, and particulate matter.

Hydrogen fuel cells can deliver zero-emission power directly. Similarly, solid oxide fuel cells fuelled by renewable natural gas release biogenic carbon and deliver firm dispatchable power at an emission intensity comparable to or below the standard the CEITC already applies to abated natural gas generation.

The same characteristics make stationary fuel cells well suited to remote and rural communities, including many Indigenous communities, that depend on diesel generation. High energy density, quiet operation, and reliable performance in extreme cold make them a practical option for both primary and backup power where diesel is currently the only alternative.

Despite these attributes, stationary fuel cells are excluded from both the CEITC and the CTITC. This exclusion is definitional rather than a judgment about performance or system benefits. Both credits enumerate eligible generation by technology, and fuel cells appear in neither list. Canada has more than twenty-five years of leadership in fuel cell technology, and neither credit supports its use for the application now in greatest demand.

Our recommendation: We recommend expanding both the CEITC and the CTITC to include fuel cells used for stationary electricity generation, including primary, backup, and emergency power applications.

Eligibility should extend to hydrogen fuel cell systems, as well as solid oxide and other fuel cell systems operating on renewable natural gas, with eligibility determined by the measured emission intensity of the system rather than

[17] Natural Resources Canada, "Powering Canada Strong: A National Strategy for an Electrified Canadian Economy," May 2026.

by the manner in which it converts fuel. Fuel cell systems should therefore be assessed using the same outcome-based framework that applies to other forms of electricity generation.

We further recommend that where a solid oxide fuel cell system operates on renewable natural gas, eligibility not be conditioned on integration with carbon capture equipment. This approach would be consistent with the amendment proposed elsewhere in this submission that biogenic CO_2 attributable to renewable natural gas be excluded from the determination of emission intensity.

m. *Include fusion energy systems under the CTITC*

The current clean economy tax credit framework is drafted around nuclear fission technologies. Both the definition of *small nuclear energy property* in subsection 127.45(1) and the definition of *nuclear energy property* in subsection 127.491(1) require that the system generate electrical or heat energy through nuclear fission. Fusion energy systems fall outside these definitions, not because of their emissions profile or the nature of the capital deployed, but solely because they rely on a different nuclear reaction.

This exclusion is difficult to reconcile with the policy objectives the credits pursue. Fusion produces no CO_2, no long-lived high-level waste, and no fissile material, and carries no risk of runaway reaction. It performs at least as well as fission against the criteria the credits actually test, and better against several that sit outside them.

There is also a strategic dimension for Canada. Tritium recovered from CANDU reactors heavy water operations represents a substantial share of the world's civilian inventory and is the fuel on which near-term deuterium-tritium systems depend, and Canadian developers and national laboratories hold expertise in tritium handling that few jurisdictions can match. These capabilities position Canada to play a meaningful role in the emerging fusion industry. Excluding fusion energy from the tax credit framework, while other jurisdictions move to attract investment and commercialization activity, puts that position at risk for no fiscal saving, since the credit only attaches to property that is acquired and available for use.

The treatment of fusion fuel-cycle warrants particular attention. In a fission plant, fuel is a consumable purchased in bundles, which is why the definitions exclude nuclear fission fuel. A fusion plant is different in kind. Tritium breeding blankets, tritium extraction and isotope separation plant, fuel injection systems, vacuum and cryogenic systems, and plasma heating equipment are capital assets, are integral to the generating system, and account for a substantial share of project cost. Carrying the fission fuel exclusion across to fusion without adjustment would remove much of the plant from eligibility and substantially limit the effectiveness of the credit.

Our recommendation: We recommend expanding the definition of *small nuclear energy property* in subsection 127.45(1) to include equipment used all or substantially all to generate electrical energy, or a combination of electrical energy and heat energy, from nuclear fusion as well as from nuclear fission.

We further recommend that eligible property expressly includes the fuel cycle and ancillary systems that are integral to fusion generation, including:

- tritium breeding and blanket systems;
- tritium extraction, recovery, and isotope separation equipment;
- fuel storage and injection systems;
- vacuum systems;
- cryogenic and magnet systems;
- plasma heating and current drive equipment; and
- other equipment that is physically and functionally integrated with any of the foregoing and used solely to support its operation.

Finally, the existing exclusion for nuclear fission fuel should not be interpreted as extending to these fusion-related systems, which constitute core elements of the capital plant rather than a consumable fuel.

n. *Remove the construction commencement date under the CEITC*

Paragraph (a) of the definition of *clean electricity property* in subsection 127.491(1) excludes any property that is part of a project the construction of which started before March 28, 2023. This exclusion applies broadly across the credit's eligible asset classes, including generation, storage, transmission, and nuclear projects alike. As a result, a project that began construction prior to that date, by even a short margin, is entirely excluded from the CEITC, regardless of the amount of capital subsequently invested or the timing of those expenditures.

The policy objective underlying this restriction appears largely to be addressed through the CEITC's other eligibility requirements. Eligibility is confined to property acquired on or after April 16, 2024, and available for use before 2035, and to property that has not previously been used or acquired for use. These requirements already limit the credit to new equipment placed in service within the intended window. The commencement test introduces an additional condition, keyed to when a project began construction rather than to when the capital was committed, and in practice it screens out expenditures that the other conditions would treat as eligible.

Major generation and transmission assets are built over five to ten years. For example, a project that broke ground in 2021 or 2022 will still be acquiring the bulk of its equipment well into the 2030s. However, the project is completely ineligible for the credit as it stands. Long-lead projects are also the ones least able to have anticipated the credit, since it was announced in Budget 2023 and not enacted until March 2026, so the exclusion penalizes proponents for having moved before a measure existed. The result is that the credit does not support several nation-building projects in plans for decades, often delayed due to financing complications.

Our recommendation: We recommend removing paragraph (a) of the definition of *clean electricity property* in subsection 127.491(1), which excludes property forming part of a project the construction of which started before March 28, 2023.

Removing this restriction would better align eligibility with the credit's existing acquisition and available-for-use requirements, focus support on eligible capital expenditures incurred during the intended investment period, and ensure that major clean electricity projects are treated consistently regardless of when initial construction activities commenced.

Appendix 5: Technical – Clean Technology Manufacturing Investment Tax Credit (CTMITC)

a. Expand QZETMA eligibility for stationary power applications

The CTMITC, through the definition of *qualified zero-emission technology manufacturing activities* (QZETMA), currently limits eligibility to the manufacturing of batteries, fuel cells, recharging systems, and hydrogen refuelling systems for zero-emission vehicles only. This narrow, vehicle-focused scope excludes other critical applications, most notably stationary power systems using fuel cells, despite their critical role in supporting energy resilience and Canada's broader clean energy transition.

The distinction is based solely on end use rather than the manufacturing activity itself. The same underlying technology may qualify when destined for a vehicle but not when intended for stationary power systems. This outcome creates an artificial eligibility gap that does not reflect the underlying technology, production processes, or economic activity being incentivized.

This narrow scope places Canada at a competitive disadvantage relative to jurisdictions whose incentives already capture stationary clean-power manufacturing. Without expanding QZETMA to match that broader eligibility, Canada risks discouraging investment, limiting the growth of domestic manufacturers, and weakening its competitiveness in the rapidly expanding global clean energy market.

Our recommendation: We recommend expanding the QZETMA definition to include the manufacturing of fuel cells and batteries for stationary power applications under the CTMITC on the same footing as their manufacturing for zero-emission vehicles, with fuel cells for stationary power expressly recognized as eligible activities. This would align the credit with the reality of modern clean-energy manufacturing, eliminate an arbitrary end-use distinction, and better support areas where Canada has established technical expertise and competitive advantage.

b. Include CCUS technology manufacturing as an eligible activity

Canada has committed to reducing greenhouse gas (GHG) emissions by 40% to 45% below 2005 levels by 2030 and to achieving net-zero emissions by 2050. Meeting these targets will require large-scale deployment of advanced CCUS technologies, particularly in hard-to-abate sectors such as cement, steel, pulp and paper, and other heavy industries that are foundational to the Canadian economy.

As a global leader in developing and commercializing CCUS technology, especially in direct air and point-source capture, Canada is well positioned to drive substantial emissions reductions at home and abroad with made-in-Canada solutions.

The current CTMITC, however, does not explicitly support Canadian CCUS technology and equipment manufacturers. This omission risks eroding Canada's leadership, slowing the scale-up and deployment of domestic CCUS technology, and driving talent, intellectual property, and high-paying jobs to other jurisdictions.

Our recommendation: To preserve Canada's competitive edge and advance its climate goals, we recommend two amendments to the CTMITC:

- **Expanding the definition of *clean technology manufacturing property*** to include property used to manufacture components for the capture, removal, use, or sequestration of CO_2 emissions. This would cover manufacturing and ancillary equipment used all or substantially all to produce:

- **Carbon capture equipment and inputs**: advanced sorbent and solvent synthesis, and equipment to compress, treat, process, liquefy, pump, or otherwise physically act on captured CO_2, including solvents, membranes, sorbents, chemical processing equipment, compressors, monitoring equipment, and injection equipment.
- **Storage well components**: packers, casing strings, CO_2-resistant concrete, steel tubulars, wellheads, valves, and sensors suitable for dedicated geological storage.
- **CO_2 transportation equipment**: gathering and distribution infrastructure, including pipelines, temporary and transport-related CO_2 storage tanks, valves, sensors, and control panels used to collect and move CO_2 captured from one or more industrial facilities.
- **CO_2 utilization equipment**: equipment that converts CO_2 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, and equipment that converts waste biomass through comparable processes into the same product categories.

- **Expanding the definition of *qualified clean technology manufacturing activities*** to include the design and construction of equipment used all or substantially all to manufacture CCUS equipment. This would ensure the CTMITC reflects the technical realities of developing carbon management technology and is aligned with Canada's broader decarbonization objectives.

c. Align the definition of critical minerals across incentive regimes

The CTMITC currently recognizes 11 critical minerals for purposes of eligible extraction and processing activities: the original six (lithium, cobalt, nickel, copper, rare earth elements, and graphite) as well as antimony, indium, gallium, germanium, and scandium which were added in Budget 2025. In contrast, Canada's own Critical Minerals List, maintained by Natural Resources Canada, identifies 34 minerals and metals,[18] and is the standard used across the Canadian Critical Minerals Strategy and other federal programs.

This misalignment leaves federally designated critical minerals outside the scope of the CTMITC, including potash and others such as manganese, molybdenum, niobium, tantalum, tungsten, high-purity iron, silicon metal, and zinc, all of which play important roles in the same clean technology and supply chains the credit is meant to support.

The need for a more comprehensive approach is particularly acute in today's geopolitical and trade environment. Global critical mineral supply chains are increasingly exposed to disruption, concentration risk, and trade restrictions. China's expanding use since 2023 of export controls on strategic minerals has heightened concerns about supply security, while recent US trade measures affecting Canadian critical mineral exports underscore the vulnerability of even well-established trading relationships. A credit that supports domestic extraction and processing of the full 34-mineral list would directly strengthen Canada's ability to onshore value chains and reduce exposure to both Chinese export controls and US trade measures.

Our recommendation: We recommend replacing the current list of 11 eligible minerals under the CTMITC with a direct reference to Natural Resources Canada's Critical Minerals List of 34 minerals and metals. This approach would align the credit with the broader federal standard and allow eligibility to evolve automatically as the list is updated.

[18] Canada, Natural Resources Canada, "Government of Canada Releases Updated Critical Minerals List," News Release, June 10, 2024.

Aligning the CTMITC with Canada's broader critical minerals strategy would provide businesses with a single, consistent standard across federal programs, remove an artificial eligibility gap, and position the CTMITC as a direct instrument of supply-chain security, incentivizing domestic production of the minerals most exposed to Chinese export controls and US trade risk at precisely the moment where resilience matters most.

d. Permit the prorated application of the output test for CTM use

The definition of *CTM use* currently relies on threshold-based output tests to determine eligibility for qualifying mineral activities. Under paragraph (b), a property must produce "primarily" qualifying materials, while under paragraph (c), it must produce "all or substantially all" qualifying materials, in each case determined by the value of all commercial outputs. Where a property's commercial output falls short of the applicable threshold, it is excluded from CTM use entirely and earns no credit, even where a substantial portion of its output consists of qualifying materials. This all-or-nothing approach penalizes polymetallic mines and creates pressure for taxpayers to structure operations or allocate outputs in ways designed to satisfy a threshold, increasing the potential for disputes at audit over how output value is measured.

The current framework produces outcomes that are both under-inclusive and administratively fragile. For example, a property whose commercial output is 45% qualifying materials earns nothing, while one at 55% earns full credit. This cliff effect does not reflect the actual extent of qualifying activity undertaken and may distort investment and structuring decisions across the mineral value chain.

Our recommendation: We recommend that, where a property does not meet the "primarily" or "all or substantially all" output threshold, Finance apply a prorated approach. Under this approach, CTM use would be determined based on the value of commercial outputs, rather than denying eligibility altogether, so that the credit reflects the proportion of qualifying materials the property actually produces. This would link the credit directly to the actual qualifying output produced, remove the cliff effect, and reduce threshold-driven disputes, while retaining the existing commercial-output valuation mechanism already embedded in the definition.

e. Replace the "all or substantially all" threshold for CTM use with a "primarily" test

The definition of *CTM use* begins by requiring that a property be used "all or substantially all" (generally interpreted as 90% or more) in the eligible activities that follow. Because this threshold appears in the opening language of the definition, it applies across all qualifying activities that follow, including QZETMA in paragraph (a) and qualifying mineral activities in paragraphs (b) and (c). The result is a single high bar layered on top of separate output tests within paragraphs (b) and (c), so a property must clear a 90% use threshold before it can even qualify as CTM use, regardless of which eligible activity it supports.

This requirement may be difficult to satisfy for genuinely mixed-use equipment across both the manufacturing and mineral streams. A property substantially dedicated to zero-emission technology manufacturing or to producing qualifying materials may fall outside CTM use because a relatively small portion of its use is directed elsewhere. This cliff effect bears no relationship to the eligible activity being supported and may discourage investment in exactly the integrated manufacturing and processing capacity the credit is meant to build.

Our recommendation: We recommend replacing the "all or substantially all" threshold in the opening language of the definition of *CTM use* with a "primarily" (more than 50%) test, such that a property used primarily in eligible activities qualifies as CTM use.

Because this threshold applies across the whole definition, the change would benefit both QZETMA under paragraph (a) and qualifying mineral activities under paragraphs (b) and (c). Adopting a *primarily* test would establish a consistent, more attainable eligibility standard and eliminate a cliff effect that can currently disqualify mixed-use equipment throughout the clean technology and critical minerals value chains.

Appendix 6: Technical – Clean Hydrogen Investment Tax Credit (CHITC)

a. Expand CHITC eligibility to include "refurbishment"

Canada retains a meaningful position in the development of a low-carbon hydrogen economy, and the CHITC continues to be the principal fiscal instrument supporting clean hydrogen production. In the current environment, where capital is constrained and proponents are disciplined about which projects advance, the value of the credit lies increasingly in enabling the pathways that deliver verifiable volumes at the lowest cost and on the shortest timeline. Those pathways are largely brownfield. Electrolysis fleets can be upgraded to restore or increase output, existing reforming capacity can be retrofitted to materially lower carbon intensity, and hydrogen arising within existing industrial operations can be recovered through modifications of plants that are already built, permitted, and operating.

The CHITC is nonetheless framed around the acquisition of new eligible property and does not explicitly recognize expenditures incurred to refurbish, upgrade, or convert existing equipment. This treatment contrasts with other Clean Economy ITCs, including the CTITC and the CTMITC, which expressly contemplate refurbishment expenditures. The practical effect is that a proponent can access support only by building new, even where optimizing an existing asset would produce equivalent or greater volumes of clean hydrogen sooner, at lower capital cost, and at lower fiscal cost to the Crown. This outcome is increasingly difficult to reconcile in a period of tighter investment appetite and likely to result in projects proceeding at all.

Our recommendation: We recommend expanding the definition of *eligible clean hydrogen property* in section 127.48 to include expenditures incurred to refurbish, upgrade, or convert existing property where those expenditures result in the production of clean hydrogen or a reduction in the carbon intensity of hydrogen produced.

Such expenditures should remain subject to the existing carbon intensity determination, validation, compliance period, and recapture framework on the same basis as new property. Eligibility should be assessed against the carbon intensity achieved following completion of the refurbishment, upgrade, or conversion work, and the language should align with the treatment of refurbishment expenditures already adopted for other Clean Economy ITCs to minimize interpretive uncertainty.

b. Align the CHITC with phased project timelines

Under section 127.48, the CHITC is available based on the expected carbon intensity of the hydrogen produced. For hydrogen produced via natural gas reforming, a qualifying low carbon intensity can only be achieved once the associated CCUS system is operational. In practice, hydrogen production assets and their supporting CCUS systems are often developed and commissioned on different timelines. CCUS projects are larger in scale and take longer to build, so the hydrogen property is often available for use several years before the CCUS system that makes the hydrogen "clean" is operational.

The legislation contemplates deferring the start of the compliance period, but the current mechanism allows only a limited deferral and lacks prescribed election rules. This does not reflect the realities of major industrial projects, where the gap between hydrogen production and CCUS commissioning can exceed the deferral currently available. As a result, otherwise eligible, genuinely low-carbon projects risk being disqualified purely on timing grounds, contrary to the credit's policy intent to accelerate clean hydrogen investment.

Our recommendation: We recommend extending the compliance period deferral election to a maximum of five years, with prescribed election rules, to accommodate phased project development. This would allow proponents to align the start of carbon intensity reporting with the in-service date of the associated CCUS system, ensuring that integrated hydrogen-plus-CCUS facilities may claim the CHITC based on a schedule that reflects real construction sequencing. The integrity of the credit is preserved through the existing recapture mechanism, which claws back the credit if the planned carbon intensity is ultimately not achieved.

c. Include additional eligible pathways

1. 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 serve key sectors including 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[19] identifies the chlor-alkali industry as a key opportunity for low-carbon hydrogen production. The industry currently generates approximately 190 tonnes of hydrogen per day as a by-product, much of which is vented to the atmosphere. This hydrogen stream represents an underutilized output from assets that are already built, permitted, and operating.

Canada is uniquely positioned to capitalize on its mature chlor-alkali sector by developing projects that recover this by-product stream and co-produce hydrogen alongside other core chlor-alkali products. Capturing and purifying this hydrogen offers an economical route to low-cost, low-carbon supply, requiring only modest capital investment to modify existing processes rather than greenfield construction. Optimizing what these facilities already produce advances Canada's hydrogen economy while maximizing the value from existing industrial infrastructure and capital investments.

Our recommendation: We recommend including the chlor-alkali and sodium chlorate by-product hydrogen pathway as an eligible option for hydrogen production under the CHITC. This inclusion would align with the pathways identified in Canada's Hydrogen Strategy.

2. Ethanol

Ethanol is a practical hydrogen carrier. As a liquid fuel with high hydrogen content, ethanol is stable at ambient conditions, carries low toxicity compared with alternative liquid carriers, and can be stored and transported using existing infrastructure. In Canada, biomass conversion to ethanol is a core component of the bioenergy strategy, drawing on agricultural and forestry residues. The country's advances in bioethanol production, particularly in the conversion of lignocellulosic feedstocks, position it to apply those technologies to hydrogen production at low carbon intensity.

The CHITC already accepts non-fossil carbon as a legitimate feedstock. Specifically, the definition of an eligible hydrocarbon includes renewable hydrocarbons produced from non-fossil carbon. The policy principle is therefore settled, and what remains is a terminological limitation that appears unintended.

While ethanol is produced from renewable, non-fossil carbon sources, it is technically classified as an oxygenated hydrocarbon (C_2H_5OH) rather than a hydrocarbon which, using the ordinary chemical meaning,

[19] Canada, Natural Resources Canada, *Hydrogen Strategy for Canada*, December 2020.

comprises carbon and hydrogen only. As a result, renewable ethanol may fall outside the existing definition based on its chemical composition rather than any assessment of the carbon intensity of the hydrogen produced.

Reforming of ethanol relies on many of the same process technologies already contemplated within the Act, including reformers, shift reactors, purification systems, compression equipment and storage infrastructure, so the exclusion is difficult to reconcile with the structure of the credit. Its practical effect is to narrow the set of projects able to reach the lower carbon intensity tiers, limiting investment and putting ethanol-to-hydrogen development at risk.

Our recommendation: We recommend expanding the definition of *eligible hydrocarbon* in subsection 127.48(1) to include renewable oxygenates produced from non-fossil carbon, including renewable ethanol.

Eligibility should extend to production using any established or emerging conversion method, including but not limited to, steam reforming, partial oxidation, autothermal reforming, catalytic decomposition, aqueous phase reforming, electrochemical reforming, and solar-assisted photocatalytic reforming, consistent with the existing eligible pathway definition.

d. *Introduce intermediate tax credit-rate tiers*

In practice, many electrolysis-based projects in Canada are effectively unable to access the 40% tax credit rate because the carbon intensity of grid electricity available in most provinces prevents them from meeting the required threshold.

Currently, only projects using selected provincial grids, such as the Prince Edward Island grid, have the potential to meet this threshold based on preliminary carbon intensity calculations. The gap between the 40% and the next available tax credit rate, which applies to projects with a carbon intensity between 0.75 and 2 $kgCO_2/kgH_2$, 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% tax credit rate, as it is largely unattainable without significant investment in new renewable energy generation systems.

This outcome is inconsistent with the original objective of the CHITC, which is 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 recommend introducing intermediate tax credit-rate tiers within the existing carbon intensity bands to smooth the transition between eligibility thresholds and better align support with actual environmental performance. Specifically:

- Projects achieving a carbon intensity of 0.75 or greater but less than 1.25 kg $CO_2e/kg\ H_2$ would be eligible for a tax credit rate of 32.5%, with the balance of that band, from 1.25 to less than 2 kg $CO_2e/kg\ H_2$, continuing to qualify for the existing 25% credit rate.
- Projects achieving a carbon intensity of 2 or greater and less than 3 kg $CO_2e/kg\ H_2$ would be eligible for a tax credit rate of 20%, with the balance of that band, from 3 to less than 4 kg $CO_2e/kg\ H_2$, continuing to qualify for the existing 15% tax credit rate.

These intermediate rates represent the midpoint between the existing tiers and preserve the current structure and its incentive to pursue lower carbon intensity while reducing the cost of narrowly missing a threshold.

e. Recognize renewable energy certificates under the CHITC framework

Paragraph 127.48(6)(e) establishes three treatments for electricity, and they are exhaustive.

1. Electricity the taxpayer generates itself aligns with a technology-specific carbon intensity under subparagraph (e)(i).

2. Electricity purchased under an eligible power purchase agreement (PPA) aligns with a technology-specific carbon intensity under subparagraph (e)(ii).

3. All other grid-sourced electricity falls to subparagraph (e)(iii) and aligns with the input carbon intensity of the provincial grid. For an electrolysis project, electricity is the dominant contributor to carbon intensity, so a project without on-site generation or a qualifying PPA is effectively required to use the provincial grid average with no mechanism to improve on it, however much clean generation it procures.

Only the first two treatments allow a project to reflect the carbon intensity of the underlying electricity source, and both generally require the project to carry the capital cost of new generating capacity. Building on-site generation does so directly, while a long-term PPA does so indirectly, since the contract price reflects the full build cost of the facility over its term. Requiring hydrogen producers to fund generating assets in order to substantiate the carbon intensity of electricity it consumes can add costs that are unrelated to hydrogen production itself and may not be necessary to achieve the policy objectives of the credit.

Renewable energy certificates (RECs) offer an alternative mechanism for attributing renewable electricity consumption at a small fraction of that cost. They are issued against identified generating facilities, tracked through third-party registries, and retired upon use to prevent double counting. Recognizing RECs would allow projects to be sited where industrial demand and infrastructure are strongest rather than only where the provincial grid average happens to fall below a threshold.

Our recommendation: We recommend that subparagraph 127.48(6)(e)(iii) be amended to permit taxpayers to attribute a lower carbon intensity to grid-sourced electricity where they acquire and retire RECs or equivalent environmental attribute instruments that:

- are sourced from renewable electricity generation facilities located in Canada;
- correspond in quantity to the grid electricity consumed by the project during the period;
- are generated in the same calendar year in which that electricity is consumed; and
- are tracked and retired through a recognized provincial, federal, or regional registry.

Where these conditions are satisfied, the contribution of that electricity to the project's carbon intensity should be deemed to correspond to the input carbon intensity of the underlying generation technology under the Fuel Life Cycle Assessment Model, for the quantity and period covered by the certificates.

We further recommend a consequential amendment to paragraph 127.48(6)(h), which currently deems carbon intensity to exceed 4.5 $CO_2e/kg\ H_2$ where a taxpayer disposes of environmental attributes associated with electricity described in subparagraph (e)(i) or (e)(ii). This rule should be extended to attributes relied upon under subparagraph (e)(iii), ensuring that taxpayers who have claimed the benefit of retired certificates cannot subsequently monetize them.

Appendix 7: Technical – Carbon Capture, Utilization and Storage Investment Tax Credit (CCUS ITC)

a. *Expand eligible use pathways for captured carbon under the CCUS ITC*

The definition of *eligible use* in subsection 127.44(1) focuses on a limited number of prescribed end-use pathways, i.e., dedicated geological storage and storage in concrete. As a result, eligibility turns on which product a technology happens to make rather than on whether the carbon is permanently stored. A broader set of pathways would give the industry greater scope to invest in technologies that incorporate CO_2 into usable products while still meeting the underlying objective of the regime: ensuring that captured carbon is removed from the atmosphere permanently.

Research[20] indicates that, among carbon utilization routes, storing CO_2 as carbonates sits at the highest technology readiness level, and these technologies have been developed across Canada. Mineral carbonation meets the original intent of the legislation, being CO_2 mineralization and permanent storage, albeit through a different mechanism than direct injection at the concrete plant. The permanence of storage, however, is a property of the carbonate itself rather than of the product it ultimately ends up in. Calcium and magnesium carbonates are thermodynamically stable and do not release their carbon under normal conditions of use, whether they are used in cement and cement-like materials, as fillers in paper, coatings, plastics, and rubber, as construction aggregates, or as industrial mineral products. Recognizing carbonation only where the output is concrete draws a distinction the underlying chemistry does not support and excludes opportunities in markets that are considerably larger than concrete alone.

Bill C-31, which had not been enacted as of the date of this submission, proposes replacing references to carbon being "injected" to being "incorporated," moving the statutory test away from a single method of introducing captured carbon. While this is a positive step, it does not address the treatment of cementitious materials since the provision remains tied to the production of concrete and does not confirm whether carbon mineralized upstream into a supplementary cementitious material, filler, aggregate, or precursor would qualify. Yet that is the route on which most Canadian development is proceeding, and it also enables significant emissions reductions in the cement industry, a major contributor to Canadian and global GHG emissions and a sector with few alternatives.

The same structural gap affects other durable carbon utilization pathways. Canadian companies are converting captured CO_2 into solid elemental carbon, producing carbon fibre and carbon nanofibre for use in composites and other manufactured products, where the carbon is reduced to elemental form and is not released absent deliberate combustion. Likewise, chemical, thermochemical, catalytic, and electrochemical routes are producing polyols, polycarbonates, and other polymeric materials in which the carbon remains chemically bound throughout the service life of the product.

These pathways are currently excluded from the CCUS ITC not because they fail to provide permanent or durable carbon retention, but because no permanence test exists for them. A definition organized around demonstrated carbon retention would accommodate existing and emerging technologies, without requiring a legislative amendment each time a new application is developed and without extending the credit to pathways in which captured carbon is ultimately released back to the atmosphere.

[20] Ning Li, Liwu Mo and Cise Unluer, "Emerging CO2 utilization technologies for construction materials: A review," (2022) 65 *Journal of CO_2 Utilization* 102237.

Our recommendation: We recommend expanding the definition of *eligible use* in subsection 127.44(1) to include the use of captured carbon in product development, particularly in hard-to-abate sectors, where the carbon is demonstrably secured and is not released under normal conditions of use. Specifically:

- eligible use should include the mineralization of captured carbon into carbonate minerals, where the carbon is retained in carbonate form in the end product, irrespective of the application in which that product is used;

- the "incorporation" amendment proposed in Bill C-31 should be enacted and clarified to confirm that captured carbon is considered incorporated where it is stored as carbonates in cement, cementitious materials, supplementary cementitious materials, fillers, aggregates, or precursors subsequently used in the production of concrete;

- eligible use should extend to the conversion of captured carbon into solid elemental carbon products, including carbon fibre and carbon nanofibre;

- eligible use should extend to the chemical, thermochemical, catalytic, and electrochemical conversion of captured carbon into materials in which the carbon is chemically bound and retained for the service life of the product; and

- eligibility should be determined on the basis of demonstrated carbon retention and permanence, rather than by reference to an exhaustive list of qualifying products or end uses.

In all cases, eligibility should be subject to minimum retention thresholds and independent third-party verification that are consistent with the framework currently applicable to the concrete storage process under the CCUS ITC.

b. *Revise Enhanced Oil Recovery (EOR) use per proposed legislation*

The proposed legislation[21] released in July 2026 applies six separate mechanisms to address a single risk: ensuring the permanent storage of carbon used in EOR.

1. The definition of *designated EOR jurisdiction* requires the Minister of the Environment to determine that the jurisdiction has sufficient environmental laws and enforcement mechanisms governing permanent storage.
2. The definition of *dedicated EOR storage* requires the relevant geological formation to be authorized and regulated for the storage of captured carbon under those laws.
3. Proposed paragraph (b.1) of the definition of *project plan* requires the plan to set out a method for capturing and reinjecting carbon mixed with the produced oil.
4. Proposed paragraph (c.1) of the definition of *qualified CCUS project* requires that at least 95% of carbon intended for eligible EOR use be expected to be permanently stored.
5. The descriptions of A.1 and the definition of *qualified EOR storage expenditure* reduce the credit rates to 30%, 25%, and 18.75%.
6. The description of B in the proposed definition of *actual eligible EOR use* deducts carbon actually emitted, less a 5% allowance.

The two project-level tests do not provide additional protection beyond that already established by other mechanisms. Proposed paragraph (b.1) prescribes an engineering method in a regime that is otherwise outcome-based. It duplicates the regulatory oversight the two jurisdictional definitions (*designated EOR jurisdiction* and

[21] Canada, Department of Finance, "Legislative Proposals Relating to the Income Tax Act and the Income Tax Regulations (Budget 2025 and other proposals)," released July 23, 2026.

dedicated EOR storage) already require, and, because it forms part of the project plan, it may require proponents to amend and resubmit their plans whenever operational changes are made to recycle configurations.

Proposed paragraph (c.1) raises more significant concerns because it is embedded in the definition of a *qualified CCUS project* rather than in the credit calculation mechanism. A shortfall against a projection developed years before injection does not reduce merely the EOR-related portion of a claim, it removes the project from the credit altogether, including capture and transportation expenditures that are unrelated to EOR activities.

The proposed legislation already demonstrates that these additional qualifications are unnecessary. Under proposed subparagraph 127.48(6)(d)(ii.1), carbon subject to eligible EOR use is deemed to be permanently stored, other than captured carbon actually emitted into the atmosphere in connection with EOR, without requiring any prescribed injection method or qualification test. Similarly, the amended description of E in subsection 127.491(1) recognizes dedicated EOR storage without imposing any equivalent test.

Our recommendation: We recommend removing proposed paragraph (b.1) of the definition of *project plan* and proposed paragraph (c.1) of the definition of *qualified CCUS project*, both in subsection 127.44(1), such that eligibility rests on measured storage performance rather than on a prescribed engineering method or on a binary test based on projected outcomes.

We recommend retaining the 50% inclusion, the description of B in the definition of *actual eligible EOR use*, and proposed paragraph 127.44(9)(k). Together, these provisions ensure that actual releases are appropriately deducted from the credit, and operators are not losing credit entitlement for events occurring for bona fide reasons outside their control. This approach allows the recovery mechanism in section 211.92 to prorate the credit to reflect carbon that is genuinely stored, aligns the CCUS ITC with the treatment Finance has already adopted for the same risk in subparagraph 127.48(6)(d)(ii.1), and removes both an unnecessary design constraint and a qualification cliff without reducing the protection afforded to the Crown.

c. *Broaden the definition of dual-use equipment under the CCUS ITC*

The definition of dual-use equipment in subsection 127.44(1) qualifies energy generation equipment only where more than 50% of either the electrical or heat energy expected to be produced over the total CCUS project review period is expected to directly support a qualified CCUS project or a qualified clean hydrogen project, and it does so "not including equipment that supports the CCUS project indirectly by way of an electrical utility grid." Each of these conditions restricts access to the credit without protecting the outcome it was designed to secure.

The 50% threshold operates on top of a mechanism that already limits recognition to actual use. The definition of *qualified carbon capture expenditure* prorates the capital cost of dual-use equipment based on the proportion of energy expected to be used in the qualified CCUS project. As a result, the fiscal cost is bounded by the CCUS factor, irrespective of where the threshold is set. The threshold instead creates a cliff effect: equipment supplying 51% of its output to a CCUS project is recognized at 51% of its cost, while equipment supplying 49% is recognized at zero cost. This distinction bears no relationship to the amount of emissions abated or capital deployed in support of carbon capture. In practice, it can discourage the use of right-sized and shared infrastructure, since generation assets serving both a CCUS project and its industrial host will frequently fall below the threshold, particularly in retrofit projects where the host facility's energy demand is already established. This may incite proponents to install dedicated and oversized equipment or to forgo the credit on equipment that genuinely supports carbon capture activities.

The grid exclusion imposes a comparable constraint on siting. By requiring generation to directly support the project and disqualifying support delivered by way of a utility grid, the rule effectively favours behind-the-meter or

physically dedicated generation. This can limit opportunities for shared generation serving several industrial hosts, compels duplicate infrastructure where transmission capacity already exists, and bears no relationship to whether the energy consumed by the capture process is low-emitting. Restricting the pathway to non-emitting generation supplied under a contractual arrangement that identifies the quantity would address the fungibility concern the exclusion was written to answer, without requiring a physical connection that adds cost and no abatement.

Our recommendation: We recommend three amendments to the definition of *dual-use equipment* in subsection 127.44(1) and to the related provisions of Class 57.

First, the requirement in subparagraph (a)(i) that more than 50% of the electrical or heat energy supports a qualified CCUS project or qualified clean hydrogen project should be removed. Eligibility would instead be determined solely by the proportional CCUS factor already provided for in the definition of *qualified carbon capture expenditure*. Equipment would be recognized to the extent that it supports a qualified project, from the first unit of energy supplied, without any changes to the calculation methodology or to the verification and recovery framework.

Second, the requirement of direct support in subparagraph (a)(i) should be amended to permit energy delivered to a qualified CCUS project through a provincial electricity grid, where:

- the generation source is an *eligible electricity generation source* as defined in subsection 127.48(1);
- the source is located in the same province as the qualified CCUS project and connected to the electricity grid of that province;
- the electricity is supplied under a written agreement that identifies the quantity supplied to the project; and
- the agreement grants the purchaser the sole and exclusive right to the environmental attributes associated with that electricity.

The existing exclusion would be retained for all other forms of generation. Accordingly, equipment supporting a qualified CCUS project indirectly by way of a grid would remain outside the definition unless these conditions are met, and energy placed on the grid without an identified contractual offtake would continue not to be counted.

Third, the binary "solely" requirement applicable to ancillary equipment should be removed and replaced with a proportionate test modelled on the CCUS factor methodology already used in the CCUS ITC calculation, under which property qualifies to the extent it supports qualifying property. This approach would align with the allocation principles already embedded in subsection 127.44 for dual-use equipment. Corresponding amendments could be considered for:

- Class 57(d);
- Class 57(e);
- paragraphs (b) and (c) of the definition of dual-use equipment; and
- related provisions of subsection 127.44(1).

d. *Include drilling costs associated with injection well development as eligible expenditures*

Qualified CCUS expenditures are confined to the cost of acquiring property described in Class 57 or Class 58, or property falling within the definition of dual-use equipment. Expenditures eligible for inclusion in Class 59 or Class 60 are expressly excluded. Class 60 includes expenditures incurred in drilling, converting, or completing wells used in connection with the storage of captured carbon. As a result, the intangible cost of creating the

wellbore attracts no credit, while the tangible equipment installed within that wellbore is recognized under Class 57.

This distinction does not reflect how sequestration infrastructure is developed. An injection well cannot exist without being drilled. The wellbore is not merely preparatory to the storage asset; it is the mechanism used to introduce captured carbon into the storage asset, and the hardware placed inside it has no function independent of it. Recognizing the casing string and wellhead while excluding the cost of drilling the well they occupy separates what is, in practice, a single indivisible asset along a line drawn for other purposes. Given that drilling is typically the largest single component of total well cost, the effect is not marginal. It materially understates federal support for the storage component of the CCUS ITC, which already attracts the lowest rate in the regime at 37.5%.

The exclusion appears to be inherited from the resource extraction framework rather than designed for carbon storage projects. Accelerated write-off of intangible drilling expenditure exists because a producer is developing a resource that will generate future production revenue, and the tax system trades a faster deduction against that expectation. A CO_2 injection well solely used for the CO_2 sequestration does not develop a resource and produces nothing. It is capital deployed solely to place emissions permanently underground, and its economics depend entirely on the abatement it delivers. Applying an expenditure characterization developed for extraction activities to infrastructure designed for sequestration produces an outcome the policy did not intend, and it does so at the point in the value chain where Canada most needs to support carbon storage capacity.

Our recommendation: We recommend a targeted amendment to the exclusion of Class 60 expenditures from qualified CCUS expenditures in subsection 127.44(1), such that the exclusion does not apply to expenditures incurred in drilling a well intended for use solely for the injection of captured carbon into dedicated geological storage. These expenditures would remain in Class 60 for CCA purposes while also qualifying as eligible carbon storage expenditures for the purposes of the CCUS ITC.

The amendment should be limited to drilling costs associated with the injection well itself and should not alter the treatment of any other Class 60 expenditure. The proposed amendment is narrow in scope. Exploration and appraisal expenditures would continue to fall within Class 59, while expenditures to acquire rights, licences, or privileges relating to exploration or permanent storage, as well as expenditures for testing, evaluation, or other pre-development activities, would remain ineligible. Similarly, expenditures in respect of any well not intended for use solely for injecting captured carbon into dedicated geological storage would continue to fall outside Class 57.

The existing “solely” test that governs Class 57 property could be applied to the drilling expenditures on the same basis, ensuring that wells intended to serve any other purpose would remain ineligible. All existing conditions of the CCUS ITC would continue to apply, including the eligible use percentage, project plan and verification requirements, and the recovery mechanism under Part XII.7 of the Act.