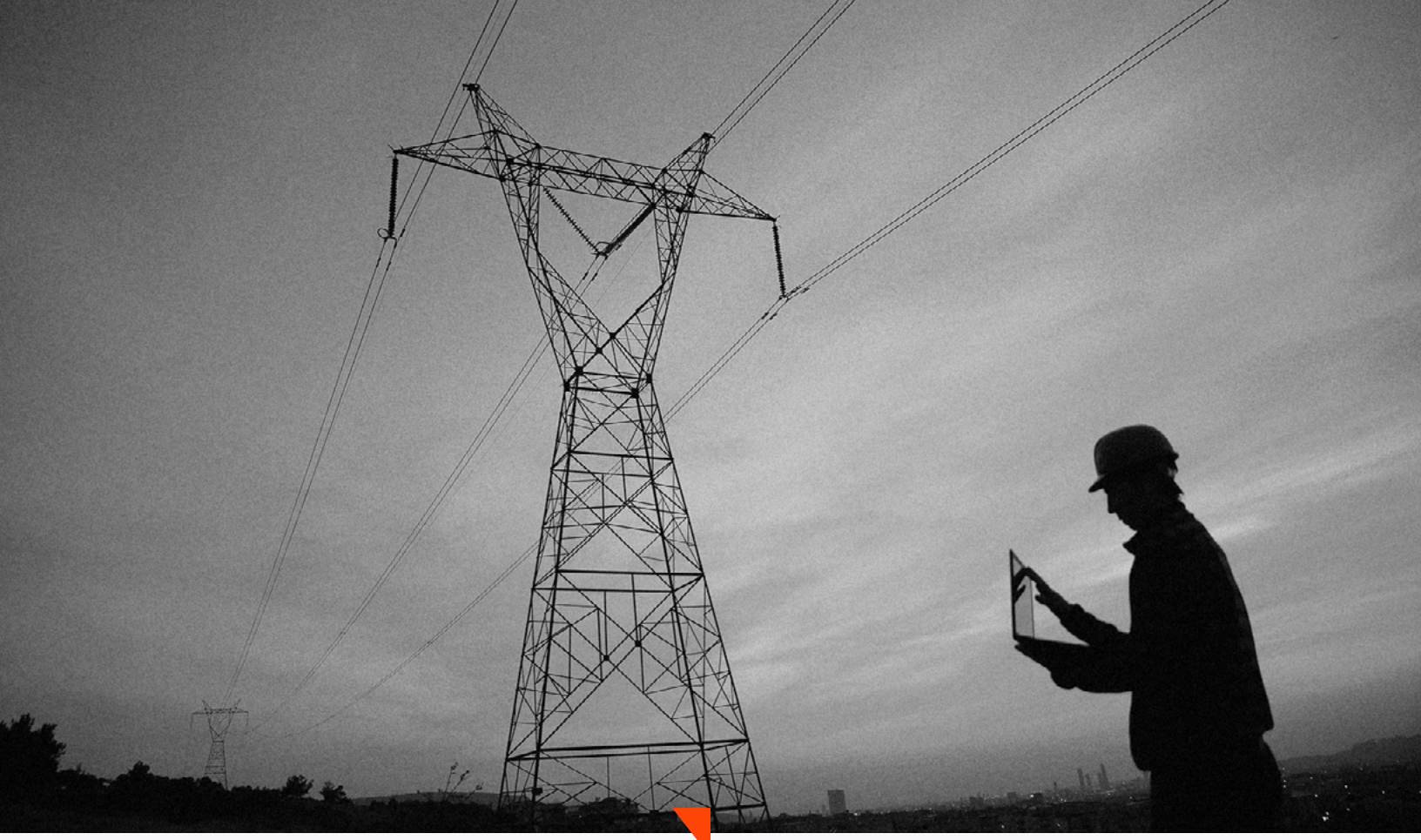

Canada's Clean Electricity Investment Tax Credit

A COMPREHENSIVE GUIDE

MAY 2026

FASKEN

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Canada's Clean Electricity Investment Tax Credit became law on March 26, 2026. The purpose of the Clean Electricity Investment Tax Credit is to encourage the investment of capital in the deployment of clean electricity property in Canada. This property includes electricity generation, storage and transmission infrastructure.

This guide provides a comprehensive summary of this newly enacted investment tax credit.

The Canadian government has enacted five refundable investment tax credits ("ITCs") designed to grow Canada's clean economy and keep Canada competitive in attracting investment in clean energy projects:

The Clean Electricity ITC	A refundable tax credit of up to 15% of investments in equipment relating to low-emitting electricity generation systems, stationary electricity storage systems that do not use fossil fuels in operation, or the transmission of electricity between provinces and territories. This tax credit is available as of April 16, 2024 for projects that did not begin construction before March 28, 2023. No tax credit is available after 2034.
The Clean Technology ITC	A refundable tax credit of 30% of investments in eligible property acquired and available for use on or after March 28, 2023 and before 2034. For property that becomes available for use in 2034, this tax credit is up to 15%. No tax credit is available after 2034.
The Clean Hydrogen ITC	A refundable tax credit of up to 40% of investments in projects that produce clean hydrogen and become available for use on or after March 28, 2023 and before 2034. For investments that become available for use in 2034, this tax credit is up to 20%. No tax credit is available after 2034.
The Clean Technology Manufacturing ITC	A refundable tax credit of up to 30% of investments in eligible property to be used in clean technology manufacturing and critical mineral extraction and processing that is acquired and available for use in 2024 to 2031. This tax credit reduces to 20% for 2032, 10% for 2033 and 5% for 2034. No tax credit is available after 2034.
The Carbon Capture, Utilization and Storage ("CCUS") ITC	A refundable tax credit for expenditures incurred between January 1, 2022 and December 31, 2035 of: (i) up to 60% of qualified carbon capture expenditures incurred to capture carbon from ambient air; (ii) up to 50% of qualified carbon capture expenditures incurred to capture carbon other than directly from ambient air; and (ii) up to 37.5% of qualified carbon transportation expenditures, qualified carbon storage expenditures and qualified carbon use expenditures. For the period January 1, 2036 to December 31, 2040, this tax credit is reduced by one-half. No tax credit is available after 2040.

The Canadian government has also proposed:

The Electric Vehicle Supply Chain ITC	A tax credit of 10% of the cost of buildings and other structures used in the following supply chain segments: (i) electric vehicle assembly; (ii) electric vehicle battery production; and (iii) cathode active material production. The Electric Vehicle Supply Chain ITC would apply to property that is acquired and becomes available for use on or after January 1, 2024. The tax credit would reduce to 5% for 2033 and 2034, and would no longer be in effect after 2034.

> *The most expensive of these ITCs – by far – is the Clean Electricity ITC. In its 2026 Spring Economic Update, the Canadian government estimated that the Clean Electricity ITC will provide **$27.3 billion of support** over its lifetime.*

This bulletin provides a comprehensive summary of the Clean Electricity ITC.

The topics addressed are as follows:

- Clean Electricity Property
- Qualifying Entities
- Dates and Rates
- The Labour Requirements
- The Capital Cost of Clean Electricity Property
- The Partnership Allocation Rules
- How to Claim the Clean Electricity ITC
- Consequential Income and Tax Attribute Adjustments
- Recapture
- Tax Shelter Investments
- Project Structuring Considerations
- Recent Developments

I.
Clean Electricity Property

To be eligible for the Clean Electricity ITC, property must be "clean electricity property". Clean electricity property of a "qualifying entity" (discussed below) must meet four general conditions:

Construction started after March 27, 2023	The property must not be part of a project the construction of which started before March 28, 2023. For this purpose, construction does not include obtaining permits or regulatory approval, conducting environmental assessments, community consultations or impact assessment studies, or similar activities. If a major project is undertaken in discrete phases for *bona fide* business or engineering reasons, the Canada Revenue Agency may determine that each phase is a separate project.
Situated and used exclusively in Canada	The property must be situated in Canada and intended for use exclusively in Canada.
The property must be new	The property must not have been used, or acquired for use or lease, for any purpose whatever before it was acquired by the entity.
Limitation for leased property	If the property is to be leased by the qualifying entity to another person, the lessee must also be a qualifying entity (or a partnership all the members of which are qualifying entities) and the lease must be made in the ordinary course of carrying on a business in Canada by a lessor whose principal business is leasing property, lending money or certain other specified activities.

In addition to these general conditions, the property must also be one of the following specific types of property:

Hydro-electric installations	Eligible property for hydro-electric installations includes electrical generating equipment and plant (including generators, water turbines, step-up transformers and structures); related canal, dam, dyke, overflow spillway, penstock; fishways and fish bypasses; a powerhouse (including electrical generating equipment and related ancillary equipment); control equipment, including devices for phase synchronization and voltage regulation; and eligible transmission equipment. Eligible property does not include electrical distribution systems, vehicles, telephone and related equipment, access roads, sidewalks, parking areas or similar surface construction. Unlike the small-scale hydro-electric installations that are eligible for the Clean Technology ITC, the Clean Electricity ITC does not have a 50 megawatt rated capacity limitation.
Wind energy conversion systems	A wind energy conversion system is a system that includes a fixed location device that is used primarily for the purpose of converting wind energy into electrical energy, but excludes a test wind turbine. Eligible property includes wind-driven turbines, electrical generating equipment (including control and power conditioning equipment), support structures (e.g., foundations and towers), a powerhouse (e.g., a tower mounted nacelle of wind turbine generators), and eligible transmission equipment. Eligible property does not include distribution equipment, auxiliary electrical generating equipment, vehicles, telephone and related equipment, access roads, sidewalks, parking areas or similar surface construction.
Fixed location photovoltaic equipment	Photovoltaic electrical generation equipment includes fixed location photovoltaic equipment that is used primarily for the purpose of generating electrical energy from solar energy. Eligible property includes solar cells or modules; related equipment including inverters, control and conditioning equipment; support structures, and eligible transmission equipment. Eligible equipment does not include distribution equipment, a building or part of a building (other than a solar cell or module that is integrated into a building), auxiliary electrical generating equipment, vehicles, telephone and related equipment, access roads, sidewalks, parking areas or similar surface construction.
Water-current, tidal or wave energy equipment	Water-current, tidal or wave energy equipment includes equipment that is used primarily for the purpose of generating electrical energy from the kinetic energy of flowing water, tidal currents or wave energy. Eligible property includes support structures (e.g., mooring equipment, anchors, foundations and cable supports); water-current, tidal or wave energy conversion equipment; electrical energy generation equipment; electric power conditioning equipment (e.g., AC/DC converters, DC/DC step-up and step-down converters and inverters); control equipment; submerged cables and undersea collector hubs; and eligible transmission equipment. Eligible equipment does not include equipment that generates electrical energy by diverting or impeding the natural flow of water or by using physical barriers or dam-like structures, buildings, distribution equipment, auxiliary electrical generating equipment, vehicles, telephone and related equipment, access roads, sidewalks, parking areas or similar surface construction.

Concentrated solar energy equipment	Concentrated solar energy equipment is equipment that is used solely for the purpose of generating electrical energy exclusively from concentrated sunlight. Eligible property includes reflectors and related solar tracking systems, thermal receivers, thermal energy storage equipment, electrical generating equipment, heat transfer fluid systems, electrical energy storage equipment, eligible transmission equipment, equipment for the distribution of heat energy, structures whose sole function is to support or house concentrated solar energy equipment, and ancillary instrumentation and controls including weather monitoring systems. Eligible property does not include auxiliary heating or electrical generating equipment that uses any fossil fuel, buildings or other structures (other than structures whose sole function is to support or house concentrated solar energy equipment), distribution equipment, vehicles, telephone and related equipment, access roads, sidewalks, parking areas or similar surface construction.
Nuclear energy property	Nuclear energy property is property that is used all or substantially all to generate electrical energy, or a combination of electrical energy and heat energy, from nuclear fission. The property must be part of a system that exports more electrical energy than heat energy on a net annual basis. Eligible property includes reactors, reactor vessels, reactor control rods, moderators, cooling equipment, heat generating equipment, nuclear fission fuel handling equipment, containment structures, electrical generating equipment and equipment for the distribution of heat energy within the system. The equipment cannot be nuclear fission fuel, property used for nuclear waste disposal or storage, transmission equipment, distribution equipment, vehicles, telephone and related equipment, access roads, sidewalks, parking areas or similar surface construction.
Geothermal electrical generation equipment	Geothermal electrical generation equipment is equipment that is part of a system that exports more net electrical energy than heat energy on an annual basis, does not extract fossil fuels for sale, and is used exclusively for the purpose of generating electrical energy, or a combination of electrical energy and heat energy, solely from geothermal energy. Eligible property includes piping (including above- or below-ground piping and the cost of completing a well, and trenching, for the purpose of installing that piping), pumps, heat exchangers, steam separators, and ancillary equipment used to collect geothermal energy, electrical generating equipment and eligible transmission equipment. Eligible property does not include buildings, distribution equipment, back-up generating equipment, vehicles, telephone and related equipment, access roads, sidewalks, parking areas or similar surface construction.

Waste biomass electricity generation equipment	Waste biomass electricity generation equipment is equipment that is part of a system that exports more net electrical energy than heat energy on an annual basis where: **(i)** the system is used solely to generate electricity, or a combination of electrical energy and heat energy; **(ii)** the material consumed by the system derives all or substantially all of its energy content from "specified waste material" (wood waste; plant residue, municipal waste, sludge from an eligible sewage treatment facility, spent pulping liquor, food and animal waste, manure, pulp and paper by-product and separated organics); **(iii)** the system is located on a single site, or on contiguous or adjacent sites that function as a single integrated site; and **(iv)** the system does not exceed a heat rate of 13,000 BTU per kilowatt-hour. Eligible equipment includes electrical generating equipment, heat generating equipment that is used primarily to produce heat energy to operate electrical generating equipment, heat recovery equipment, and equipment used to produce solid biofuel, liquid biofuel or gaseous biofuel (all or substantially all from specified waste material) used to operate the equipment described above. Eligible equipment does not include buildings or other structures, transmission equipment, distribution equipment, equipment used to export heat energy from the system, equipment for the handling or storage of feedstock or fuel, pollution abatement equipment, vehicles, or property that is part of a carbon capture, utilization and storage project.
Fixed location energy storage property	Fixed location energy storage property is property that is used primarily for the purpose of storing and discharging electrical energy including batteries, compressed air energy storage, flywheels, ancillary equipment (including control and conditioning equipment) and related structures – but not including buildings, pumped hydroelectric storage, hydro electric dams and reservoirs, property used solely for backup electrical energy, batteries used in motor vehicles or other automotive equipment, property used to charge vehicles or other automotive equipment, or fuel cell systems where the hydrogen is produced via steam reformation of methane. Also excluded are vehicles, telephone and related equipment, access roads, sidewalks, parking areas and similar surface construction. However, the electrical energy to be stored and discharged must be from certain types of electrical generation systems or meet certain efficiency targets. Equipment that uses any fossil fuel in operation is excluded.
Pumped hydroelectric energy storage installation	A pumped hydroelectric energy storage installation includes equipment that is used to store and discharge electrical energy including reversing turbines, eligible transmission equipment, dams, reservoirs and related structures, but not including buildings or property used solely for backup energy. However, the electrical energy to be stored and discharged must be from certain types of electrical generation systems or meet certain efficiency targets. Equipment that uses any fossil fuel in operation is excluded.

Qualified natural gas energy equipment	Qualified natural gas energy equipment is equipment that is part of a system that meets the following conditions: **(i)** the system is fueled all or substantially all by the combustion of natural gas and is not fuelled by anything other than the combustion of gaseous fuels; **(ii)** the system is used solely to generate electrical energy, or a combination of electrical energy and heat energy; **(iii)** the system exports more electrical energy than heat energy on an annual basis; **(iv)** the system is physically and functionally integrated with equipment that captures and compresses carbon dioxide for transportation; **(v)** less than 50% of the gross electrical energy generated by the system is used to power the equipment that captures and compresses carbon dioxide for transportation; **(vi)** the system is not expected to exceed an emission intensity of 65 tonnes of carbon dioxide per gigawatt hour of gross electrical energy generated; and (vii) a system evaluation has been issued by the Minister of Natural Resources. The types of property that are eligible include: **(i)** electrical generating equipment; **(ii)** heat generating equipment to operate the electrical generating equipment; **(iii)** equipment that generates both electrical and heat energy; **(iv)** equipment that is used to capture carbon dioxide that is generated by the system; **(v)** equipment that is used to prepare or compress carbon dioxide that is captured by the system for transportation; and **(vi)** heat recovery equipment. Property that is ineligible includes: buildings, transmission equipment, distribution equipment, equipment used to export heat energy from the system, and fuel storage and fuel handling equipment.
Qualified interprovincial transmission equipment	Interprovincial transmission equipment is equipment that is primarily used to transmit or manage electrical energy that originates in, or is destined for, a province other than the province in which the property is located. Eligible property includes: **(i)** equipment for the transmission of electrical energy, including cables and switches, that is rated for voltages of at least 69 kilovolts; **(ii)** electrical transmission structures, including towers and lattices; and **(iii)** related equipment used to manage electrical energy, including transformers, electrical power conditioning equipment and control equipment. Buildings and distribution equipment are not eligible property.
Refurbishment property	Refurbishment property is property that is incorporated into a property described above, as part of a refurbishment of the other property, provided that on completion of the refurbishment the other property remains a property described above.

A property that would otherwise be clean electricity property of a qualifying entity is deemed not to be a clean electricity property if, at the time the property becomes available for use by the entity, there is substantial non-compliance by the entity with the requirements of any environmental law that is applicable in respect of the property.

II.
Qualifying Entities

To be eligible for the Clean Electricity ITC, the claimant must be a "qualifying entity". The following entities are qualifying entities for the purposes of the Clean Electricity ITC:

Taxable Canadian corporations	A corporation is a taxable Canadian corporation if it is (i) resident in Canada; (ii) incorporated in Canada (or resident in Canada continuously since June 18, 1971); and (iii) not exempt from Canadian income tax.
Designated provincial Crown corporations	A corporation is a designated provincial Crown corporation if: **(i)** 90% or more of its shares are owned by one or more provinces; **(ii)** it is Northwest Territories Power Corporation, Qulliq Energy Corporation or Yukon Energy Corporation; or **(iii)** it is a wholly-owned subsidiary of a corporation described in (i) or (ii).
Municipally-owned and First Nation-owned corporations	A corporation 90% of the shares or capital of which is owned by one or more of (i) a Canadian municipality, or (ii) an "Aboriginal government" provided, generally speaking, that the income of the corporation from activities outside of the geographical boundaries of the corporation does not exceed 10% of its income. Certain subsidiaries are also "qualifying entities".
Pension investment corporations	A corporation described in paragraph 149(1)(o.2) of the *Canadian Income Tax Act*.
Canada Infrastructure Bank	The Canada Infrastructure Bank is a qualifying entity for property that is acquired and becomes available for use after December 15, 2024.
Canada Growth Fund	Canada Growth Fund and its wholly-owned subsidiaries are qualifying entities for property that is acquired and becomes available for use after November 3, 2025.

The corporations listed above (other than taxable Canadian corporations) will only be qualifying entities, however, if they agree in writing to be subject to the provisions of the Canadian Income Tax Act relating to the Clean Electricity ITC.

In addition to the above corporations, a trust may be a qualifying entity for the purposes of the Clean Electricity ITC if:

(i) each beneficiary of the trust is a pension corporation described in paragraph 149(1)(o.2) of the Canadian Income Tax Act;

(ii) the trust is a limited partner of a partnership; and

(iii) the sole undertaking of the trust is the holding of an interest in the partnership.

The 2024 federal budget proposed that provincial and territorial Crown corporations would only be eligible to claim the Clean Electricity ITC in respect of eligible property situated in an "eligible jurisdiction". As announced in the 2025 federal budget, the concept of an "eligible jurisdiction" – and the related administrative burden – have been removed from the Clean Electricity ITC legislation.

III.
Dates and Rates

A qualifying entity is generally entitled to the Clean Electricity ITC in an amount equal to 15% of the capital cost to the qualifying entity of clean electricity property that is acquired and available for use by it in the year . This general rule is subject to the following:

- clean electricity property acquired before April 16, 2024 (Budget Day 2024) is not eligible for the Clean Electricity ITC; and
- clean electricity property acquired or available for use after December 31, 2034 is not eligible for the Clean Electricity ITC.

The 15% rate is reduced to 5% if the claimant does not elect to meet the labour requirements (discussed immediately below).

IV.
The Labour Requirements

A qualifying entity must elect to meet certain labour requirements to be eligible to receive the Clean Electricity ITC at the regular 15% rate. A qualifying entity that does not elect to meet these labour requirements is limited to claiming the Clean Electricity ITC at a 5% rate. The labour requirements include:

(i) a prevailing wage requirement; and

(ii) an apprenticeship requirement.

The Prevailing Wage Requirement

The prevailing wage requirement requires the following three conditions to be met:

- **Compensation in accordance with a collective agreement:** Each "covered worker" at a "designated work site" of a qualifying entity must be compensated for their work on the preparation or installation of "specified property" either (i) in accordance with the terms of an "eligible collective agreement"; or (ii) in an amount that is at least equal to the amount of the regular wages (not overtime) and benefits as specified in the "eligible collective agreement" that most closely aligns with the covered worker's experience level, tasks and location. For these purposes:
  - A "**covered worker**" is an individual who is engaged in the preparation and installation of specified property at a designated worksite as an employee; whose work is primarily manual or physical in nature; and who is not an administrative, clerical or executive employee or a "business visitor to Canada".
  - A "**designated work site**" is generally a work site where specified property of a qualifying entity is located in the year.
  - An "**eligible collective agreement**" in Quebec means a collective agreement negotiated in accordance with applicable provincial law (or a prescribed agreement). Elsewhere, an "eligible collective agreement" is (i) the most recent multi-employer collective bargaining agreement negotiated with a trade union affiliated with Canada's Building Trades Union that may reasonably be considered the industry standard for a given trade; (ii) a project labour agreement negotiated with a trade union in accordance with applicable provincial law that covers the work associated with the investments eligible for the relevant ITCs and provides for wages and benefits for covered workers that are at least equal to the regular wages (not overtime) and benefits provided for covered workers in an agreement described in (i) above; or (iii) a prescribed agreement. No agreements have yet been prescribed for these purposes.

- **Attestation**: The qualifying entity must attest, in prescribed form that it has met the prevailing wage rates described above for its own employees at the designated work site and that it has taken reasonable steps to ensure that covered workers employed by others at the designated work site are so compensated.
- **Communication to covered workers**: The qualifying entity has communicated, in a manner readily accessible to covered workers, a notice confirming that the work site is subject to prevailing wage requirements, including information on how to report to the Canada Revenue Agency if covered workers are not being paid the prevailing wage.

The Apprenticeship Requirement

The apprenticeship requirement requires a qualifying entity to make reasonable efforts to ensure that apprentices registered in a Red Seal trade (or equivalent for provinces that do not use the Red Seal program for the particular trade) work at least 10% of the total hours that are worked by Red Seal workers at a designated work site of the qualifying entity on the preparation or installation of specified property. However, if the applicable law or collective agreement restricts the number of apprentices that may be employed at a designated work site, then the qualifying entity must make reasonable efforts to ensure that the highest possible percentage of labour hours are performed by apprentices. In any event, the qualifying entity must attest in prescribed manner that it has met the apprenticeship requirement. A qualifying entity is deemed to have made reasonable efforts with respect to the apprenticeship requirements if it meets certain conditions relating to the posting of apprenticeship job advertisements, communications with trade unions, and review of apprenticeship applications – and attests in prescribed manner that it has done so.

Consequences of a Failure to Meet the Labour Requirements

Where failure to meet the labour requirements is done knowingly or in circumstances amounting to gross negligence, the qualifying entity (i) is not entitled to claim the Clean Electricity ITC at the regular tax credit rate; and (ii) is subject to a penalty of 50% of the difference between the Clean Electricity ITC claim at the regular tax credit rate and the Clean Electricity ITC claim at the reduced tax credit rate.

Where the failure to meet the labour requirements is not done knowingly or in circumstances amounting to gross negligence,

- the qualifying entity is subject to a tax of $20 (indexed) per day for each covered worker who was not paid the prevailing wage and is also subject to pay each covered employee a “top-up” amount resulting in the covered worker receiving the prevailing wage (failure to pay the “top-up” amount results in penalties); and
- the qualifying entity is liable to pay a tax of $50 (indexed) for each required apprenticeship hour that was not actually performed or in respect of which reasonable efforts were not made to employ the required number of apprentices.

V.
The Capital Cost of Clean Electricity Property

A Clean Electricity ITC claim is based on the "capital cost" of clean electricity property that is acquired and available for use by the qualifying entity in the year. This raises the question of which amounts should be included in the capital cost of the clean electricity property.

A taxpayer's capital cost of a property is more than the direct purchase price of the property and is generally understood to include the taxpayer's full cost of acquiring the property and making it operational. These additional costs might include (i) legal, accounting, engineering or other fees incurred to acquire the property; (ii) site preparation, delivery, installation, testing or other costs incurred to put the property into service; and (iii) in the case of a property a taxpayer manufactures for their own use, material, labour and overhead costs reasonably attributable to the property.

The capital cost of a clean energy property is modified for the purposes of the Clean Electricity ITC. These modifications include the following:

Unpaid Amounts	Any part of the capital cost of clean electricity property that is unpaid 180 days after the end of the taxation year in which the Clean Electricity ITC would otherwise be available is excluded from the capital cost of the clean electricity property for the year and, instead, is generally added to the capital cost in the year in which the amount is paid.
Multiple claims	The capital cost of clean electricity property does not include any amount in respect of which any other "clean economy tax credit" was deducted by any person.
Capitalized interest and similar expenses	Taxpayers may be entitled to elect to add otherwise deductible interest in respect of borrowed money used to acquire depreciable property to the capital cost of the depreciable property. Any such additions are not included in the capital cost of clean electricity property for the purposes of the Clean Electricity ITC.
Preliminary work activity	Expenditures in respect of preliminary work activity cannot be added to the capital cost of clean electricity property. Preliminary work activity includes, but is not limited to, obtaining a right of access to a project site or obtaining permits or regulatory approvals, performing front-end design or engineering work, clearing or excavating land, constructing a temporary access road to the project site, and drilling of a well.

Mark-up on non-arm's length acquisitions	Where clean electricity property is acquired from a non-arm's length person, no mark-up of the transferor is included in the transferee's capital cost of the property.
Government assistance and non-government assistance	Also excluded from the capital cost of clean electricity property is the amount of "government assistance" and "non-government assistance" received (or entitled to be received or can reasonably be expected to be received) by the qualifying entity in the taxation year in which the clean electricity property was acquired. Amounts received or receivable from the Canada Infrastructure Bank are excluded. Government assistance excludes the amount of the Clean Electricity ITC itself. Amounts that are repaid in a subsequent year (or no longer expected to be received in a subsequent year) may be eligible for the Clean Electricity ITC in the subsequent year.

VI.
The Partnership Allocation Rules

A qualifying entity may be entitled to the Clean Electricity ITC for projects conducted by a partnership of which the qualifying entity is a member. The general rule is that the partnership is treated as if it were a taxable Canadian corporation and the amount that would be the Clean Electricity ITC of the notional taxable Canadian corporation is then allocated to its partners each year based on the portion of the Clean Electricity ITC that can reasonably be considered to be the partner's share.

This general rule is subject to the following exceptions:

Unreasonable proportions	If the members of the partnership agree to share the amount of a clean economy tax credit and the share of any partner "is not reasonable in the circumstances having regard to the capital invested in or the work performed for the partnership by the members of the partnership or such other factors as may be relevant" that partner's share is deemed to be the amount that is reasonable in the circumstances.
At-risk limitation	If a partner is a "limited partner" at the end of the partnership's fiscal period, the total of all clean economy tax credits allocated to the partner cannot exceed the partner's "at-risk" amount at the end of the fiscal period. The concept of a "limited partner" for this purpose is much broader than it is under partnership law. A partner's "at-risk" amount is the partner's adjusted cost base of its partnership interest, subject to certain adjustments. The computation of a partner's "at-risk" amount is highly complex and technical.
Multiple tax credits	If the cost of a property acquired by a partnership is eligible for more than one clean economy tax credit, the partnership is generally required to compute and allocate each of the clean economy tax credits to the partners, and allow the partner to determine which clean economy tax credit it will claim. For example, a partnership may acquire property that is eligible for both the 30% Clean Technology ITC and the 15% Clean Electricity ITC, partners that are taxable Canadian corporations eligible to claim the 30% Clean Technology tax credit would presumably do so, but tax exempt entities that are eligible to claim the Clean Electricity ITC but not eligible to claim the Clean Technology ITC would claim the Clean Electricity ITC.
Assistance received by a member of a partnership	In computing a clean economy tax credit, a partnership is deemed to have received any government assistance or non-government assistance that any partner has received, is entitled to receive or can reasonably be expected to receive.

VII.
How to Claim the Clean Electricity ITC

A qualifying entity must file a "prescribed form" containing "prescribed information" to be entitled to receive its Clean Electricity ITC for the year. The Canada Revenue Agency ("CRA") has not yet issued the prescribed forms for claiming the Clean Electricity ITC. The CRA has provided guidance regarding how to claim the Clean Electricity ITC before this form is available. A claim must be made no later than the later of: (i) one year after the filing due date of the claimant's corporation income tax return or trust income tax and information return; and (ii) December 31, 2026.

If the Clean Electricity ITC is claimed in connection with a qualified natural gas energy system, the qualifying entity is required to file a compliance report within 180 days after the end of each of the first 20 operating years. The information to be provided includes the actual emission intensity of the electrical energy produced by the system, the quantity of electrical energy produced by the system, any shutdown time of the system in respect of the year, and any information required by guidelines published by the Miniter of Natural Resources. The compliance report for the fifth operating year must include an emissions intensity report prepared by a qualified verification firm. This information is necessary to determine whether any recovery tax is payable by the qualifying entity (a recovery tax may apply if actual carbon intensity exceeds 65 tonnes of carbon dioxide per gigawatt hour of electrical energy).

There is no regular post-filing reporting required in respect of Clean Electricity ITC claims in respect of the other types of clean electricity property.

VIII.

Consequential Income and Tax Attribute Adjustments

A Clean Electricity ITC claim will generally reduce the "capital cost" of the clean electricity property in the year subsequent to the year in which the Clean Electricity ITC claim is made. This reduction in "capital cost" will generally also (i) reduce the undepreciated capital cost (and therefore the available capital cost allowance) in respect of the clean electricity property; and (ii) reduce the adjusted cost base (relevant in determining any capital gain arising on a subsequent disposition) of the clean electricity property. To the extent that such reductions do not take place, the Clean Electricity ITC is generally included in the income of the recipient in the following taxation year.

The reductions in undepreciated capital cost and adjusted cost base generally apply in a similar manner for clean electricity property held in a partnership. Moreover, the adjusted cost base of the partner's interest in the partnership is reduced by the amount of the Clean Electricity ITC claimed by the partner in the prior year.

IX.

Recapture

The Clean Electricity ITC regime contains a "recapture" mechanism that may "claw back" Clean Electricity ITCs claimed in prior years.

For a Clean Electricity ITC claimed in connection with qualified natural gas energy equipment, this recapture may apply to property acquired in the year (or the year in which the property becomes available for use, if later) or in any of the preceding 20 calendar years. For all other types of clean electricity property, this recapture may apply to property acquired in the year (or the year in which the property becomes available for use, if later) or in any of the preceding 10 calendar years.

A recapture event occurs in a year if one of the following events occurs:

- **Property is converted to an ineligible use:** A recapture event occurs if the property is converted to an ineligible use. For clean electricity property other than qualified natural gas energy equipment, an ineligible use is a use of the property that would, if the property were acquired at that time, result in the property not being clean electricity property at that time (but for the requirement that the property be new). A similar test applies for qualified natural gas energy equipment. However, a recapture event can also occur for qualified natural gas energy equipment if the actual emissions intensity of the system exceeds 65 tonnes of carbon dioxide per gigawatt hour of electrical energy for any of the sixth through twenty-first operating years.
- **Property is exported from Canada:** A recapture event occurs if the property is exported from Canada.
- **The property is disposed of:** A recapture event occurs if the property is disposed of. Recapture of the Clean Electricity ITC will be deferred, however, if the property is disposed of by a qualifying entity to a related qualifying entity in circumstances where the property would be clean electricity property to the purchaser (but for the requirement that the property must be new).

If a recapture event occurs in a particular year (including on a related party transfer to which the deferral applies), the qualifying entity is required to notify the Canada Revenue Agency using a prescribed form.

If a recapture event occurs, the recapture amount is effectively calculated based on the proportion of the value of the property that has not been used by the qualifying entity prior to the recapture event.

Analogous rules apply to partnerships that have acquired clean electricity property. The recapture amount is to be allocated to the members of the partnership "reasonably", unless an election is made for one partner to pay the total recapture amount.

X.
Tax Shelter Investments

A Clean Electricity ITC is not available where a clean electricity property – or an interest in a person or partnership that has, directly or indirectly, an interest in such property – is a "tax shelter investment". A "tax shelter investment" includes a property that is a "tax shelter". A "tax shelter", very simplified, is a property in respect of which it can be reasonably considered - having regard to statements or representations made in respect of the property - that if a person were to acquire an interest in the property, within four years the person would have losses, deductions or credits equal to or greater than the cost of the property. For this purpose, the cost of the property is reduced by "prescribed benefits". The "tax shelter investment" rules are extremely complex. The potential application of the "tax shelter investment" rules must be very carefully considered in the context of an investment in clean electricity property.

XI.
Structuring Considerations

The structuring of a clean electricity project is bespoke. Nevertheless, there are certain structuring issues that arise repeatedly. These are discussed below.

Tax exempt entities may consider participating through a taxable Canadian corporation

As described above, the Clean Electricity ITC is one of six clean economy ITCs introduced by the Canadian government. If a claimant is eligible to claim more than one clean economy ITC in respect of a particular property, the claimant is generally allowed to pick the clean economy ITC that is most advantageous to it – but generally not more than one ITC in respect of the same property. Similarly, the partnership allocation rules generally allow a partner to pick the clean economy ITC that is most beneficial to it.

A potential claimant may not be entitled to the most favourable clean economy ITC that is available in respect of a project, or may not be entitled to the relevant clean economy ITC at all. For example:

- A tax-exempt entity may not be a qualifying entity for the relevant clean economy ITC.
- A tax-exempt entity may be eligible for the 15% Clean Electricity ITC in connection with a project, but the property may also be eligible for the more favourable 30% Clean Technology ITC.

These examples raise the question of whether it would be advantageous for a potential claimant to not invest in the project directly, but rather to invest through a taxable Canadian corporation. Of course, the advantage of obtaining the clean economy ITC (or obtaining a clean economy ITC at a higher rate) must be weighed against the fact that, unlike a tax-exempt entity, a taxable Canadian corporation subsidiary would be subject to Canadian income tax on income earned by the project.

Maximizing "at-risk" amounts

As described above, if a partner is a "limited partner" at the end of the partnership's fiscal period, the total of all clean economy tax credits allocated to the partner cannot exceed the partner's "at-risk" amount at the end of the fiscal period. The concept of a "limited partner" for this purpose is much broader than it is under partnership law. A partner's "at-risk" amount is the partner's adjusted cost base of its partnership interest subject to certain adjustments. The computation of a partner's "at-risk" amount is highly complex and technical.

The placement of project financing – and its affect on limited partners' "at-risk" amounts and thereby on limited partners' entitlements to clean economy ITCs – should be modelled and monitored. For example, financing incurred by the partners and not incurred by the partnership may result in an increased "at risk" amount for the partners and thereby an increased entitlement to ITCs. Consideration may be given to using a corporation instead of a partnership if the "at-risk" limitation is material.

Ensuring that clean electricity property is not a tax shelter investment

As described above, a Clean Electricity ITC is not available where a clean electricity property – or an interest in a person or partnership that has, directly or indirectly, an interest in such property – is a "tax shelter investment". The "tax shelter investment" rules as extremely complex. It is possible for the actions of one partner to negatively impact all partners. The potential application of the "tax shelter investment" rules should be monitored.

Partnerships and recapture

As described above, the Clean Electricity ITC regime contains a "recapture" mechanism that may "claw back" Clean Electricity ITCs claimed in prior years. The recapture amount is to be allocated to the members of the partnership "reasonably", unless an election is made for one partner to pay the total recapture amount. Entities that become members of a partnership after a Clean Electricity ITC is claimed will need to address how to prevent an inappropriate economic result should a recapture event occur in respect of a previously claimed Clean Electricity ITC.

Risk mitigation with insurance

It is possible that that the Canada Revenue Agency may not agree with a claimant's claim for a clean economy ITC. For example, the CRA might challenge whether the acquired property is the type of property that is eligible for the clean economy ITC. Where a project has been undertaken by a limited partnership, the CRA might challenge whether the allocation of the clean economy ITCs to the partners meets the reasonable allocation test, whether the clean economy ITCs should be denied by virtue of the "tax shelter investment" rules, or even whether the general anti-avoidance rule could apply. It is possible to obtain insurance in connection with certain tax risks inherent in projects designed to obtain clean economy ITCs.

Transferability

A question often arises as to whether a taxpayer can assign its clean economy ITC to a creditor to obtain bridge financing. The short answer is that a corporation may assign any amount payable to it under the ITA. However, such an assignment is not binding on the CRA: (i) the CRA is not required to pay the assigned amount to the assignee; (ii) the assignment does not create any liability on the part of the CRA to the assignee; and (iii) the rights of the assignee remain subject to the CRA's right to set-off amounts owing by it to the taxpayer against amounts owing by the taxpayer to the CRA. It is understood that although the assignment is not binding on the CRA (and the CRA will not change the name of the payee), the CRA may be willing to send payments to a third party address if directed to do so by the taxpayer.

XII.
Recent Developments

The Clean Electricity ITC draft legislation was introduced in Bill C-15, *An Act to implement certain provisions of the budget tables in Parliament* on November 18, 2025. Bill C-15 received royal assent on March 26, 2026. Events affecting the Clean Electricity ITC since the introduction of Bill C-15 are described below.

2026 Federal Spring Economic Update

The 2026 Spring Economic Update was presented on April 28, 2026. The Economic Update proposes to expand the list of eligible uses for captured carbon for the purposes of the CCUS ITC to include enhanced oil recovery, generally effective as of April 28, 2026. Related adjustments will be made to recognize enhance oil recovery as a storage method for qualified gas energy systems for the purposes of the Clean Electricity ITC.

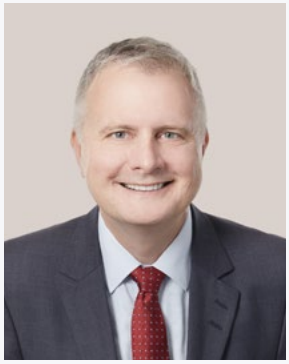
The Economic Update also announced that the CRA will prioritize requests for advance income tax rulings related to large-scale, nation building projects, as well as projects of national importance. Specifically mentioned were projects that strengthen critical sectors of Canada's economy, including clean economy initiatives and projects that may benefit from Canada's suite of clean economy ITCs.

Finally, the Economic Update noted the 2025 Budget increase to the CRA's resources by $146 million over five years, starting in 2025-26, for the administration of the clean economy ITCs. With this additional funding, the Economic Update stated, the CRA is expected to increase processing of claims by more than 4.5-fold by July 2026 and help the CRA reduce the backlog of claims over the course of 2026 and ensure a more timely delivery of these credits going forward.

Domestic Content Consultations

In Budget 2025, the government committed to consult on the possibility of introducing domestic content requirements under the Clean Electricity ITC and the Clean Technology ITC. This consultation was launched on February 13, 2026 and responses were requested by March 13, 2026. The results of this consultation have not yet been released.

The Author



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Alex's practice focuses on Canadian tax issues that affect multinationals with operations in Canada, including international tax planning (inbound structuring, transfer pricing, foreign affiliate taxation, cross-border employee mobility, withholding tax, tax treaty issues), M&A, reorganizations and financings. Alex is both a lawyer and a Chartered Professional Accountant.

Alex advises clients in the digital economy, infrastructure, resource, healthcare, consumer product and retail spaces. He represents clients before the Canada Revenue Agency (audits, appeals, ruling requests, waiver applications, voluntary disclosures). He also represents clients who seek legislative amendments from the Department of Finance.

Highly regarded for his in-depth knowledge in tax law, Alex is ranked by Chambers Canada, Best Lawyers, Lexpert and ITR World Tax. He is a frequent speaker on international tax matters. He is a frequent speaker on international tax and clean energy tax matters.

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Fasken is an innovative and forward-thinking full-service business law firm, founded in Canada in 1863. As one of the largest law firms in Canada, our team of over 900 lawyers provides solutions in every sector, including complex and high-profile matters across more than 130 practices and industry specialties. We are a bilingual firm, operating in both English and French and practising both common and civil law. We bring a practical, innovative and cost-effective approach to the practice of law in order to provide exceptional legal and strategic advice to our clients.

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