# Canada's clean economy ITCs

**March 26, 2025**

The Canadian government's ambitious strategy to reshape Canada's economy towards a 2050 net-zero objective includes two major pillars: directives to the Canada Infrastructure Bank to provide over $20 billion of strategic financing to the clean growth sector, and five "clean economy" investment tax credits (ITCs) to encourage the transition to a cleaner and greener economy.

In general, these ITCs are available only to a taxable Canadian corporation, on qualifying expenditures made by such a corporation (or by a partnership of which it is a member) to purchase (not lease) new property for use in Canada. The ITC is computed as a percentage of such qualifying expenditures, and is payable directly by the government whether or not the recipient has taxes owing (*i.e.*, it is refundable). A taxpayer can only claim one clean economy ITC for the same expenditure if more than one could apply, *viz*., they are not "stackable". However, different ITCs could be claimed on separate expenditures that are part of the same project if ITC eligibility requirements are otherwise met.

The discussion below provides an overview of Canada's clean economy ITCs. The 2024 federal budget included three significant updates on these clean economy ITCs:

- further details on the Clean Electricity ITC (the only one for which some tax-exempt are eligible;
- elaboration on certain aspects of the Clean Technology Manufacturing ITC as it relates to key critical minerals within the scope of this ITC; and
- announcement of a new EV Supply Chain ITC on the cost of buildings used in key segments of the electric vehicle supply chain.

On June 20, 2024, the Clean Technology ITC, Clean Technology Manufacturing ITC, Clean Hydrogen ITC, and Carbon Capture, Utilization and Storage (CCUS) ITC were formally enacted into law as s. 127.44-49 of the *Income Tax Act* (Canada).

In August 2024, draft legislation was released providing a first version of the Clean Electricity ITC and technical amendments to the others (primarily to reflect changes announced in the 2024 federal budget). A revised version of this draft legislation has been delayed by the prorogation of Parliament on January 6. In addition, the Fall Economic Statement of December 16, 2024 included certain proposed changes to the Clean Electricity, Clean Hydrogen and EV Supply Chain ITCs. Draft legislation for the EV Supply Chain ITC was released for consultation on February 21, 2025.

The Canada Revenue Agency (CRA) has set up a new web page to provide administrative guidance on these ITCs, including contact information for the relevant CRA office handling queries and detailed supporting technical information on eligibility from Natural Resources Canada (NRCan).

## Clean Technology ITC

The 30 per cent Clean Technology ITC is available for pre-2035 capital investments in equipment used in generating various forms of clean energy, including from wind, solar, water and geothermal sources, as well as small modular nuclear reactors, air or ground source heat pumps, and certain stationary electricity storage equipment that does not use fossil fuels in operation. Non road zero-emission vehicles (ZEVs) also qualify, as does certain concentrated solar energy equipment that generates heat or electricity exclusively from concentrated sunlight. The CRA has provided technical guidance on equipment eligibility online.

The August 2024 draft legislation contains provisions addressing the government's previous undertaking to expand eligibility to include equipment that produces electricity, heat, or both from waste biomass, if acquired after Nov. 20, 2023. Various technical requirements apply to the definition of such qualifying waste biomass equipment, and buildings and other structures are excluded. This draft legislation also:

- denies ITC eligibility to any otherwise-eligible Clean Technology ITC property if there is substantial non-compliance by the taxpayer with the requirements of any environmental laws, by-laws and regulations that apply to the property at the time it becomes available for use; and
- excludes expenditures on "preliminary work activity" (e.g., front-end design or engineering work) from the cost of ITC-eligible property, thereby preventing such expenditures from generating Clean Technology ITCs.

## Clean Technology Manufacturing ITC

The 30 per cent Clean Technology Manufacturing ITC is directed further up the supply chain at producers of clean economy equipment and critical minerals. It applies to pre-2035 expenditures on manufacturing and processing machinery and equipment that is used in either of two qualifying activities performed in Canada. The first of these activities is extracting, processing or recycling key critical minerals (lithium, cobalt, nickel, copper, rare earth elements and graphite): for example, ore-crushing equipment or processing vats or kilns will qualify. The second qualifying activity is activity in connection with the manufacturing or processing of machinery and equipment used in the production of various kinds of clean energy equipment such as:

- electrical energy storage equipment for renewable energy or grid scale storage;
- equipment used to generate renewable (solar, wind, water or geothermal) or nuclear energy, or to produce hydrogen by electrolysis;
- air-source or ground source heat pumps;
- ZEVs, including powertrain components (e.g., batteries) and equipment used to charge or dispense hydrogen to them; or
- various upstream components and materials for such above noted activities.

The August 2024 draft legislation includes provisions to enact the 2024 federal budget statement expanding eligibility with respect to critical mineral activities where a project involves multiple minerals (polymetallic mining). Specifically, under this draft legislation, when determining whether property meets the qualifying use test necessary for Clean Technology Manufacturing ITC eligibility:

- eligible property at mine or well sites used for mineral *extraction* or *processing* need only be expected to produce *primarily* (not "all or substantially all") eligible critical minerals (measured by the value of commercial output), when supported by a certification in prescribed form from an independent engineer or geoscientist (other activities must continue to meet the higher "all or substantially all" threshold); and
- valuation rules for mine output are established to help taxpayers manage swings in mineral prices, including the option to use a "safe harbour price" computed using a five-year historical average spot price of the relevant mineral.

The 2024 federal budget also announced a new EV Supply Chain ITC, effectively as an adjunct to the Clean Technology Manufacturing ITC. The new EV Supply Chain ITC would be limited to taxpayers who have (or who are part of a related taxpayer group that has) claimed the Clean Technology Manufacturing ITC in each of electric vehicle assembly, electric vehicle battery production and cathode active material production. Such eligible taxpayers would further be able to claim the new EV Supply Chain ITC equal to 10 per cent of the cost of *buildings* (which are not generally eligible for the other clean economy ITCs) used in those same three supply chain segments, starting Jan. 1, 2024. The news release issued by Ontario Premier Ford on April 25, 2024 regarding Honda's $15B EV investment in Alliston, Ontario indicated that this project "could benefit from federal support in the range of $2.5 billion through the proposed EV Supply Chain investment tax credit and the proposed Clean Technology Manufacturing investment tax credit". Draft legislation for this limited-scope ITC was released for consultation on February 21, 2025.

## Clean Electricity ITC

The 15 per cent Clean Electricity ITC will apply to pre-2035 expenditures on eligible property (including refurbishments) that is not part of a project for which construction commenced before March 28, 2023. This is the only clean economy ITC for which some tax-exempt entities are eligible, and as such it will be of particular importance to investors such as First Nations and pension plans.

There is quite a bit of overlap between this ITC and the Clean Technology ITC in terms of which properties qualify. The following types of property are eligible for the Clean Electricity ITC:

- Non-emitting electricity generation systems, i.e., wind, solar, hydro, wave, tidal;
- Equipment generating electricity (or heat and electricity) from nuclear fission, without the capacity limits or pre-assembled component restrictions applicable to the Clean Technology ITC;
- Equipment generating electricity (or heat and electricity) from geothermal energy, when part of a system that exports more electrical energy than heat energy on an annual basis (and not extracting fossil fuels for sale);
- Concentrated solar energy equipment used to generate electricity exclusively from concentrated sunlight;
- Systems that produce electricity (or electricity and heat) from waste biomass;
- Stationary electricity storage systems and equipment not operating on fossil fuels, such as batteries and pumped hydroelectric storage; and

- Inter-provincial electricity transmission equipment and structures (including related equipment used for managing traded electricity), other than buildings or distribution equipment.

The most important difference in property eligibility from the Clean Technology ITC is that emissions-abated natural gas-fired electricity generation equipment qualifies for the Clean Electricity ITC, where certain conditions are met. In particular, such systems may qualify when (1) they stay below an emissions limit of 65 tonnes $CO_2$/gigawatt of hour of energy produced, (2) captured $CO_2$ is stored permissibly (as under the CCUS ITC), (3) they are used solely to generate electrical energy (or electrical energy and heat energy), and (4) project pre-approval is received from NRCan. Such natural gas-based systems are subject to ongoing verification and reporting requirements to ensure emissions compliance. As with the Clean Electricity ITC, if there is substantial non-compliance by the taxpayer with the requirements of any environmental laws, by-laws and regulations that apply to a property at the time it becomes available for use, eligibility for the Clean Electricity ITC is denied.

As noted, the Clean Electricity ITC is the only one for which some tax-exempts are eligible. In addition to taxable Canadian corporations, the following corporations are also eligible to claim the Clean Electricity ITC:

- a corporation that (1) is at least 90% owned by one or more Canadian municipalities or aboriginal governments, if (2) for the current year that corporation's income from activities carried out beyond its geographic boundaries does not exceed 10% of its total income (special rules apply to this determination);
- a corporation that is a wholly-owned subsidiary of such a corporation;
- qualifying pension corporations (a trust whose beneficiaries are exclusively such qualifying pension corporations may also qualify if the trust is a single-purpose limited partner in a partnership); and
- certain designated provincial Crown corporations.

The 2024 Fall Economic Statement contained new information on the conditions that provincial and territorial Crown corporations must meet to claim the Clean Electricity ITC, as well as extending eligibility to the Canada Infrastructure Bank.

## Clean Hydrogen ITC

The Clean Hydrogen ITC is applicable to pre-2035 expenditures on equipment that produces hydrogen from either electrolysis or $CO_2$ emission-abated reforming or partial oxidation of natural gas or eligible renewable hydrocarbons. Equipment involved in producing clean ammonia (ammonia produced from green hydrogen) is also eligible in some instances. The ITC offered ranges from 15 per cent - 40 per cent, depending on how carbon intensive the hydrogen being produced is (no ITC applies if 4 kg or more of $CO_2$/H kg is produced). The ITC rate is cut in half for property acquired in 2034, and ends entirely after that year.

A formal clean hydrogen project plan must be submitted to NRCan for approval (a pre-screening questionnaire has been posted online), and some or all of the ITC claimed may be reversed if actual carbon intensity (based on the Fuel Life Cycle Assessment Model) achieved is more than .25 CO2 kg / H kg higher than forecast when the ITC was claimed and this would have changed the applicable ITC rate.

The August 2024 draft legislation makes modest technical changes to the Clean Hydrogen ITC legislation. Partial oxidation reactors are explicitly made eligible. The previous "dual-use hydrogen and ammonia equipment" definition is replaced by an expanded new term "oxygen and nitrogen production equipment", which includes oxygen and nitrogen production equipment that may be used in hydrogen or ammonia production, as well as processes that indirectly support hydrogen or ammonia production. Additional rules clarifying how carbon intensity is determined are also added, along with an expansion of the "eligible power purchase agreement" definition to encompass direct connections that do not pass through the provincial grid. The 2024 Fall Economic Statement proposes extending the Clean Hydrogen ITC to clean hydrogen produced from the pyrolysis of natural gas and other eligible hydrocarbons (methane pyrolysis), effective for property that is acquired and becomes available for use in an eligible project on or after December 16, 2024.

Importantly, NRCan has released a number of important technical documents supporting the Clean Hydrogen ITC:

- the Technical and Equipment Guidance Document;
- the Carbon Intensity Modelling Guidance Document; and
- the Validation and Verification Guidance Document.

An updated Carbon Intensity Modelling Workbook is also now available, as is a recording of an information session held by project validators and validation reviewers. These materials constitute an essential source of technical guidance for clean hydrogen projects.

## Carbon Capture, Utilization & Storage (CCUS) ITC

The CCUS ITC is directed at equipment used to capture, transport or store $CO_2$ in an eligible project (dual use heat and/or power equipment may also qualify). The amount of the ITC depends on the particular activity undertaken and the year in which the expenditure is incurred and the property is acquired. NRCan has posted a CCUS ITC Technical Guidance Document, which addresses a number of technical issues as to which properties qualify and under what circumstances.

| | CO2 Capture (From Ambient Air) | CO2 Capture (Other) | CO2 Transportation, Storage or Use |
|---|---|---|---|
| Pre-2031 ITC Rate | 60% | 50% | 37.5% |
| 2031-2040 ITC Rate | 30% | 25% | 18.75% |

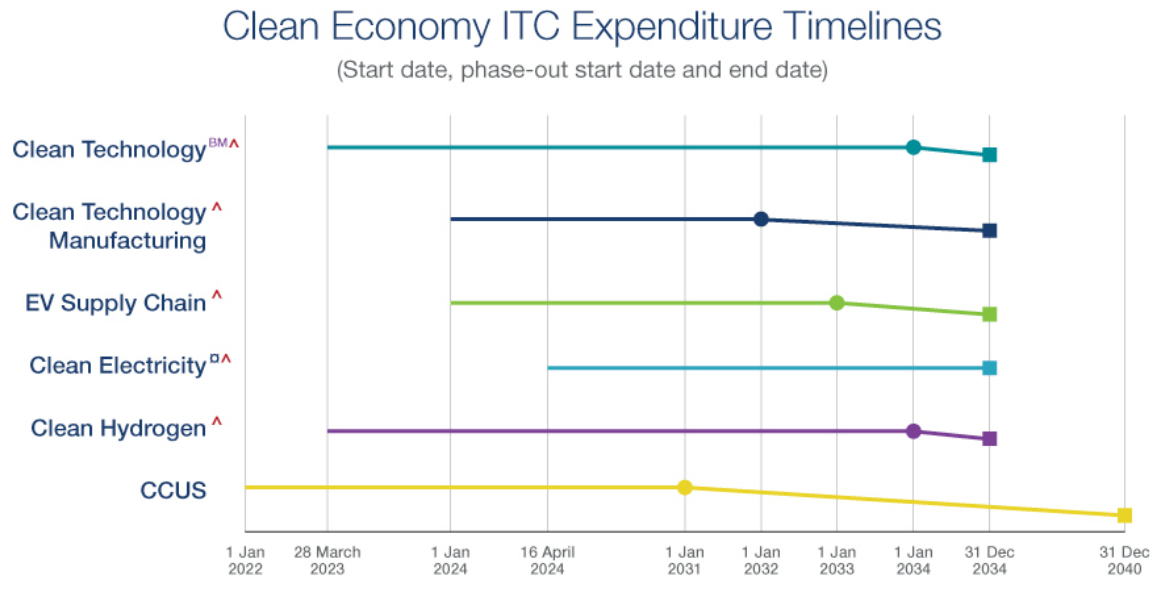
The expenditures that qualify are largely those incurred prior to the "first day of commercial operations" of the taxpayer's CCUS project to capture, transport or use $CO_2$. Qualifying expenditures incurred after that date ("refurbishment") are limited to 10% of the project's total qualifying expenditures. Expenditures on "preliminary CCUS work activity" are ineligible. Unique among the clean economy ITC provisions, if a property used in a CCUS project (or a person with a direct or indirect interest in such a property) is a "tax shelter investment", CCUS ITCs are denied on the entire project, not merely the particular property in question.

The CCUS ITC legislation is the most complex and detailed of the clean economy ITCs. To claim a CCUS ITC, a "qualified CCUS project" must exist, requiring the taxpayer to submit a formal plan (including a front end engineering design study) meeting specified conditions to NRCan. A pre-screening questionnaire has been posted online for this purpose, as has additional guidance as to the documentation required for submitting a CCUS project plan.

Taxpayers claiming the CCUS ITC are subject to various ongoing reporting requirements. In particular, annual reporting is required on project results (i.e., how much CO2 is being captured and used in eligible uses) relative to what the project plan anticipated, and if the deviation is sufficiently large then some or all of the CCUS ITC previously claimed is effectively taxed back. Larger projects are subject to additional "knowledge sharing" reporting obligations to NRCan.

## Eligibility periods

The period during which expenditures may qualify varies amongst the different clean economy ITCs. For some of them, a phase-out period exists where only a reduced ITC is offered. In most cases the taxpayer cannot claim an ITC for an expenditure on ITC-eligible property until that property is actually "available for use", *i.e.*, installed and capable of operating.




BM November 21, 2023 for expansion to support using waste biomass to generate heat and electricity.

^ "Available for use" rules defer ITC claim until year in which property is actually "available for use".

¤ Limited to projects that did not begin construction before March 28, 2023. Separate rules applicable to Crown corporations.

## GREEN ITCs: OVERVIEW

| | Clean Technology | Carbon Capture, Utilization and Storage† | Clean Hydrogen† | Clean Technology Manufacturing | Clean Electricity |
|---|---|---|---|---|---|
| **Maximum ITC Rate Offered** | 30%* | 60%/50%/37.5%* | 40%/25%/15%* | 30% | 15%* |
| **Eligible Taxpayers (directly or through a partnership)** | Taxable Canadian corporations & real estate investment trusts | Taxable Canadian corporations | Taxable Canadian corporations | Taxable Canadian corporations EV | Canadian corporations (taxable and certain tax-exempts) |
| **Expenditure Start Date** | March 28, 2023BM^GA | Jan. 1, 2022 | March 28, 2023^GA | Jan. 1, 2024^GA | 16 April 2024^¤ GA |
| **ITC Phase-out Starts** | Jan. 1, 2034 | Jan. 1, 2031 | Jan. 1, 2034 | Jan. 1, 2032 | N/A |
| **ITC End Date** | Dec. 31, 2034 | Dec. 31, 2040 | Dec. 31, 2034 | Dec. 31, 2034 | Dec. 31, 2034 |
| **Recapture Period** | 10 years | 20 years | 20 years | 10 years | 10 years (20 years for natural gas systems†) |
| **Status as of September 2024** | Enacted (s. 127.45) | Enacted (s. 127.44 and Part XII. 7) | Enacted (s. 127.48) | Enacted (s. 127.49) | Draft legislation released for comment in August 2024 |

† Submission of project plan and certification by NRCan required.
* Labour requirements applicable to attain highest ITC rate.
BM November 21, 2023 for expansion to support using waste biomass to generate heat and electricity.
^ "Available for use" rules defer ITC claim until year in which property is actually "available for use".
GA Cost of ITC-eligible property reduced by "government assistance" received, receivable or expected.
¤ Limited to projects that did not begin construction before March 28, 2023. Separate rules applicable to Crown corporations.
EV Claimants involved in electric vehicle assembly and battery production and cathode active material production may also be eligible for 10% EV Supply Chain ITC on the cost of buildings (5% for 2033-34; nil thereafter).

# Rules generally applicable to clean economy ITCs

All of these clean economy ITCs have now been formally enacted into law as Bill C-59 and Bill C-69, except for the Clean Electricity ITC (draft legislation for which was released for comment in August 2024) and the EV Supply Chain ITC (draft legislation for this limited-scope ITC was released for consultation on February 21, 2025).

A number of detailed technical rules apply to various aspects of these clean economy ITCs, the most important of which are summarized below.

## Partnerships

Clean economy ITCs can be claimed by eligible taxpayers who directly make qualifying expenditures, or who are members of a (fiscally transparent) partnership that does so. Where the partnership makes qualifying expenditures, the ITC is generally computed as if the partnership were a taxpayer and is then allocated out amongst the partners. The August 2024 draft legislation has clarified that where a partnership makes expenditures that qualify for more than one clean economy ITC, the partners are not required to all choose the same ITC; rather, different partners may choose which ITC to claim based on their circumstances. Where a particular project includes expenditures that qualify for both the Clean Electricity ITC and another clean economy ITC (most likely the Clean Technology ITC), this will allow taxable and non-taxable members of the project partnership to each choose the ITC that is most favourable to it (e.g., the 30% Clean Technology ITC for taxable members and the 15% Clean Electricity ITC for tax-exempts).

While partnerships are commonly used in clean energy projects, the government is clearly concerned with inappropriate results occurring in cases involving them. As such, the government has created a number of anti-avoidance rules to police ITCs claimed by taxpayers through partnerships that will require very careful consideration and planning by those considering using them. In particular, these rules deal with how ITCs on expenditures incurred by a partnership are allocated amongst its partners and the extent to which ITCs may be allocated to partners whose exposure is (or is deemed to be) limited.

Projects carried on within a partnership will need to navigate several restrictions applicable to partnerships generally. In particular, "at-risk" rules restrict the extent to which partners whose liability is effectively limited or who benefit from certain protections can claim ITCs, deduct losses from partnership activities, or avoid certain adverse tax consequences. The result is that the government is grudgingly allowing projects eligible for clean economy ITCs to be carried on within a partnership, but has made doing so riskier and more difficult than doing so in a corporation.

## Labour Requirements

Except for the Clean Technology Manufacturing ITC, taxpayers wanting the full clean economy ITC rate must formally commit to meeting certain standards ("labour requirements") as to prevailing wages and the use of apprentices with respect to workers engaged in the preparation or installation of property on which an ITC has been claimed. Failure to do so results in a 10 per cent reduction in the applicable ITC rate (*i.e.*, a 30 per cent ITC becomes a 20 per cent ITC), and taxpayers who so commit but fail to achieve the necessary standards are subject to penalties. The Explanatory Notes accompanying these provisions provide useful insight into how the government intends them to operate in practice, which the relevant CRA webpage supplements to some degree.

## Government Assistance

Various forms of "government assistance" received, receivable or expected to be received by a taxpayer and that reasonably relate to a property are deemed to reduce the taxpayer's cost of that property for tax purposes. This has the effect of reducing the amount of the taxpayer's clean economy ITC generated by that property (since it is computed as a percentage of cost), as well as the amount of tax depreciation that may be claimed. Recent amendments to the ITC rules exclude from the ambit of "government assistance" non-forgivable loans for which bona fide repayment arrangements within a reasonable time were made at the time of the loan

(although such loans may still be problematic under “tax shelter investment” prohibitions). ITC claims can also be reduced by “non government assistance”, a comparable but less frequently encountered phenomenon.

Taxpayers must very carefully consider the impact of any government assistance received or expected to be received in relation to a project on which clean economy ITCs are being claimed. This rule on “government assistance” (broadly defined as a grant, subsidiary, forgivable loan or any other form of assistance received from a government or other public authority) does not apply to the CCUS ITC. Note that government (or non government) assistance received, receivable or expected to be received by a member of a partnership is attributed to the partnership for purposes of computing ITCs in respect of partnership expenditures, meaning one partner’s entitlement to such assistance can affect the amount of every partner’s clean economy ITC. This rule can be particularly troublesome where projects include tax-advantaged participants such as First Nations.

## Recapture Provisions

All of the clean economy ITCs contain “recapture” provisions that apply when the property that is the subject matter of the ITC claim is disposed of, exported out of Canada or ceases to be used in a qualifying manner during a prescribed period of time (either 10 or 20 years) following the year the ITC is claimed. In general terms, where applicable these “recapture” rules may cause some or all of the clean economy ITCs claimed on such property to be taxed back. The application of the recapture provisions to partnerships and its members must be carefully considered to avoid inappropriate results from occurring.

## First Nations

Many projects involving clean economy ITCs benefit from the inclusion of one or more First Nations as project participants. Bands themselves are essentially tax-exempt on all forms of income, while corporations wholly-owned by a First Nation may be tax-exempt on some forms of income and taxable on others (e.g., most types of off-reserve income). In these circumstances, project participants will need to work collaboratively to achieve the best overall tax result and in particular maximize the amount of clean economy ITCs claimable.

If you have any questions about any of the clean economy investment tax credits, reach out to BLG’s tax group or any of the key contacts below.

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