

BUDGET 2016: EXPANDING TAX SUPPORT FOR CLEAN ENERGY

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Budget 2016 proposes new measures that are intended to encourage investment in technologies that help reduce emissions of greenhouse gases and air pollutants. In particular, the Government proposes to expand the range of property in respect of which accelerated rates of capital cost allowance ("**CCA**") may be claimed.

The CCA regime under the *Income Tax Act* allows for deductions to be claimed in respect of certain depreciable property at rates provided in the *Income Tax Regulations* (the "**Regulations**"). For CCA purposes, property is divided into a series of classes and the rate of CCA that may be claimed in respect of a particular property is dependent on its CCA class.

Under the Regulations, CCA in respect of property in Classes 43.1 and 43.2 may be claimed, on a declining-balance basis, at accelerated rates of 30 per cent and 50 per cent, respectively. Property in Classes 43.1 and 43.2 includes specific clean energy equipment that generates or conserves energy by using a renewable source, using a fuel from waste, or making efficient use of fossil fuels.

Budget 2016 proposes to expand the range of property that is included in Classes 43.1 and 43.2 to include certain electric vehicle charging stations and a broader array of electrical energy storage property.

The new CCA proposals will apply in respect of newly eligible property acquired for use on or after March 22, 2016 that has not been used, or acquired for use, before March 22, 2016.

Electric Vehicle Charging Stations

Currently, electric vehicle charging stations generally fall within Class 8, which provides a CCA rate of 20 per cent, calculated on a declining-balance basis. Budget 2016 proposes that electric vehicle charging stations set up to supply at least 90 kilowatts of continuous power will be eligible for inclusion in Class 43.2 (and, therefore, will attract a CCA rate of 50 per cent). Electric vehicle charging stations set up to supply between 10 kilowatts and 90 kilowatts of continuous power will be eligible for inclusion in Class 43.1 (with a corresponding CCA rate of 30 per cent).

For these purposes, eligible equipment of a taxpayer will include equipment downstream of an electricity meter, including charging stations, transformers, distribution and control panels, circuit breakers, conduits,

wiring and related electrical energy storage equipment, provided that more than 75 per cent of the annual electricity consumed in connection with the equipment is used to charge electric vehicles.

Electrical Energy Storage

Currently, only a limited range of equipment ancillary to eligible generation equipment is included in Classes 43.1 and 43.2. Where storage equipment does not qualify for inclusion in an accelerated CCA class, it is generally included in Class 8 (which qualifies for a CCA rate of 20 per cent).

Budget 2016 proposes to clarify and expand the range of ancillary storage equipment that is eligible for inclusion in Class 43.2 where it is part of an electricity generation system that is itself eligible for inclusion in Class 43.2. Similarly, storage equipment that is part of an electricity generation system that is eligible for inclusion in Class 43.1 will be included in Class 43.1.

Stand-alone electrical energy storage equipment with round trip efficiency of greater than 50 per cent is also proposed to be eligible for accelerated CCA by inclusion in Class 43.1. Fuel cells that use hydrogen produced by electrolysis equipment, where all or substantially all of the electricity used to power the electrolysis process is generated from specified renewable energy sources, will remain eligible for inclusion in Class 43.2 regardless of its round trip efficiency. Moreover, the eligible generation sources will be expanded to include electricity generated by the other renewable energy sources included in Class 43.2, including geothermal, waves, tides, and the kinetic energy of flowing water.

Eligible electrical energy storage property will include batteries, flywheels and compressed air energy storage, as well as any ancillary equipment and structures.

Eligible electrical energy storage property will not include pumped hydroelectric storage, hydroelectric dams and reservoirs, or a fuel system where hydrogen is produced by stream reformation of methane.

Certain uses of electrical energy storage equipment will also be excluded from eligibility for accelerated CCA, including back-up electricity generation, motor uses (e.g., in battery electric vehicles), and mobile uses (e.g., consumer batteries).

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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