

2025-1081341E5 -- Labour Requirements: Consequences of not paying prevailing wages

Date: April 28, 2026

Please note that the following document, although believed to be correct at the time of issue, may not represent the current position of the CRA.

Prenez note que ce document, bien qu'exact au moment émis, peut ne pas représenter la position actuelle de l'ARC.

PRINCIPAL ISSUES

When can an incentive claimant correct a “shortfall” in the prevailing wage requirements in clause 127.46(3)(b)(i)(B), in order to be able to elect to meet the labour requirements, thus benefit from the regular tax credit rate on the CCUS ITC for a taxation year (here, 2025), while avoiding the addition to tax in subsection 127.46(6)?

POSITION

The election to meet the labour requirements in subsection 127.46(2) is made with the incentive claimant's claim for its 2025 CCUS ITC. In the hypothetical scenario described herein, the incentive claimant is aware that it has not met the Compensation Requirement in clause 127.46(3)(b)(i)(B) at the time that it intends to make its claim for the CCUS ITC for its 2025 taxation year. The incentive claimant can wait to make its CCUS ITC claim until it is able to pay the prevailing wage shortfall, within the time period specified in subsection 127.44(17), or, if this is not possible, it should not elect when it makes its claim for the CCUS ITC for its 2025 taxation year, thereby claiming the credit at the reduced tax credit rate. If the latter option is chosen, it may be possible for the incentive claimant to elect under subsection 127.46(2) when it makes its CCUS ITC claim for another taxation year, such as for 2026 or 2027.

REASONS:

Our response is based on a textual, contextual and purposive analysis of the legislation, as it is applied to the hypothetical facts presented in this letter.

XXXXXXXXXXXX 2025-108134

Nicki Verlinden

April 28, 2026

Dear XXXXXXXXXXXX,

Re: Labour Requirements—Various questions about the consequences of not meeting the prevailing wage requirements, including the application of the addition to tax provision in subsection 127.46(6)

I am writing in response to your email inquiry sent on October 15, 2025.

In your email you presented us with a hypothetical fact scenario and a list of questions relating to various interpretive issues pertaining to the Labour Requirements in section 127.46 of the *Income Tax Act* (“*Act*”)¹. We have split-up our response to your questions into two separate letters based on the nature of the interpretive issues raised. This letter mainly deals with the issue of when an incentive claimant can correct a “shortfall” in the prevailing wage requirements in subsection 127.46(3), and the related addition to tax provision in subsection 127.46(6). A separate letter with file reference number 2025-108192 [2025-1081921E5] has been sent to you in response to your question about certain activities captured by the phrase “preparation or installation of specified property” as it appears in section 127.46.

Unless otherwise stated, all references to a statute are to the relevant provision of the *Act* or, where appropriate, the *Income Tax Regulations*, C.R.C., c.945, as amended (“*Regulations*”).

Note: For brevity, many of the specific provisions and definitions in sections 127.44 and 127.46 have not been reproduced herein, therefore this letter should be read in conjunction with the *Act* and the *Regulations*.

Hypothetical fact scenario

- Canco is a *taxable Canadian corporation*, as defined in subsection 89(1).
- Canco has a calendar *taxation year*, as defined in subsection 249(1).
- Canco will undertake a project to construct, own and operate a carbon capture facility in Canada that will meet the definition of a *CCUS project* in subsection 127.44(1).
- Canco’s CCUS project will be a *qualified CCUS project*, as that term is defined in subsection 127.44(1).
- Canco is the *incentive claimant*, as defined in subsection 127.46(1).
- The preparation and installation (“*P&I*”) activities in respect of the *qualified CCUS project* will all take place at a single *designated work site* of the incentive claimant², referred to as “*Canco DWS*”.
- During 2025, Canco will purchase a piece of equipment (“*Property A*”) described in paragraph (a) of Class 57 of Schedule II of the *Regulations* for \$1,000,000, acquiring beneficial ownership of Property A and taking delivery of Property A at the Canco DWS during 2025.
- During 2025, Canco will incur \$200,000 of expenditures for the P&I of Property A.
- During 2026, Canco will incur an additional \$300,000 of expenditures for the P&I of Property A.
- During 2026, Canco will purchase another piece of equipment (“*Property B*”) described in paragraph (a) of Class 57 of Schedule II of the *Regulations* for \$3,000,000, acquiring beneficial ownership of Property B and taking delivery of Property B at the Canco DWS during 2026.
- During 2026, Canco will incur \$400,000 of expenditures for the P&I of Property B.
- During 2027, Canco will incur an additional \$450,000 of expenditures for the P&I of Property B.

- All of the foregoing expenditures will be paid by Canco within 180 days from the end of the taxation year in which they are (or are deemed to be) incurred, such that subsection 127.44(12) will not apply.
- All expenditures referred to in this letter will meet the definition of *qualified carbon capture expenditure* and thus the definition of *qualified CCUS expenditure* in subsection 127.44(1).

The following chart is a summary of the foregoing hypothetical facts:

	2025	2026	2027
<i>Property A</i>	\$1,000,000 (invoice cost) \$200,000 (P&I exp)	\$300,000 (P&I exp)	
<i>Property B</i>		\$3,000,000 (invoice cost) \$400,000 (P&I exp)	\$450,000 (P&I exp)
<i>Total qualified CCUS expenditures</i>	<i>\$1,200,000</i>	<i>\$3,700,000</i>	<i>\$450,000</i>

Labour Requirements³: Shortfall Identified

- For the 2025, 2026 and 2027 taxation years, Canco intends to claim the CCUS tax credit at the *regular tax credit rate*⁴, and therefore intends to elect to meet the Labour Requirements under subsection 127.46(2).
- Property A and Property B each meet the definition of *specified property* in subsection 127.46(1).
- Included in the \$200,000 of expenditures incurred for the P&I of Property A during 2025, \$50,000 was for work performed by employees of a person that was not Canco (referred to as “Contractor”).
- The employees of Contractor are not party to an *eligible collective agreement*, which is defined in subsection 127.46(1).
- Canco became aware that three employees of Contractor, that were *covered workers*, as defined in subsection 127.46(1), were *not* compensated in accordance with the prevailing wage requirement in clause 127.46(3)(b)(i)(B).⁵
- The three covered workers were paid less than the prevailing wage requirement for all 100 days that they worked during 2025. The aggregate amount of this prevailing wage shortfall for

all three covered workers was \$2,600.

- Canco has *no* direct knowledge of the identity of the three short-paid covered workers, nor does Canco possess their contact information. As such, Canco must have the assistance and co-operation of Contractor in order to compensate the three short-paid covered workers or cause them to receive the top-up amount in subsections 127.46(11) and (12), if applicable.
- The apprenticeship requirements in subsection 127.46(5) will be met in 2025, 2026 and 2027.⁶
- At all relevant times, Canco complied with the prevailing wage requirement in subparagraph 127.46(3)(b)(iii)—i.e., the notice confirming that the work site is a work site subject to prevailing wage requirements in relation to covered workers etc.
- Canco wants to avoid paying the addition to tax of \$22 per day⁷ imposed by subsection 127.46(6). Therefore, Canco would like to voluntarily remedy the shortfall by compensating the three short-paid covered workers in order for them to be paid the prevailing wage contemplated by clause 127.46(3)(b)(i)(B).⁸

Your Questions

1. At what point in time is it too late to (i) voluntarily remedy the shortfall in the prevailing wages without the addition to tax in subsection 127.46(6) applying and (ii) validly make the attestation in subparagraph 127.46(3)(b)(ii)?
 2. Assuming that the addition to tax in subsection 127.46(6) applies to Canco, how is it computed based on the hypothetical facts?
 3. Consider the following additional facts:
 - Canco has commenced reasonable good faith efforts to pay the \$2,600 shortfall to the three employees of the Contractor, but at the time it intends to submit its claim for the CCUS tax credit (i.e., in June 2026 when it files its tax return for its 2025 taxation year), it has been unable to do so.
 - The reason that Canco has been unable to do so is because Contractor has not been co-operative.
 - Canco has every intention of paying the \$2,600 shortfall as soon as possible.
- (a) Can Canco validly attest to having met the Labour Requirements for 2025, pursuant to subparagraph 127.46(3)(b)(ii)?
 - (b) What kinds of actions could Canco take that would constitute “reasonable steps” to ensure that the covered workers of Contractor are compensated in accordance with the prevailing wages in subparagraph 127.46(3)(b)(i), as required in the attestation requirement in subparagraph 127.46(3)(b)(ii)?
 - (c) If Contractor is uncooperative, with the result that Canco is unable to compensate the three covered workers in accordance with subparagraph 127.46(3)(b)(i), or to cause the top-up amount to be paid to them, if applicable, is it possible for Canco to pre-emptively pay the CRA the penalty amount described in subsection 127.46(13), without jeopardizing its entitlement to the regular tax credit rate?

4. If Canco failed to meet the Labour Requirements in respect of some element of the P&I performed on Property A in its 2025 taxation year, could it claim the CCUS tax credit at the reduced tax credit rate for 2025 (not elect under subsection 127.46(2)), and then claim the CCUS tax credit at the regular tax credit rate for its 2026 and 2027 taxation years (elect under subsection 127.46(2)), assuming that Canco was in compliance with the Labour Requirements in both of those taxation years?

5. If the CRA determines that the gross negligence penalty in subsection 127.46(9) applies to an incentive claimant that has claimed a specified tax credit at the regular tax credit rate in a particular taxation year (the “claim year”) (e.g., Canco in 2025), does the additional 50% penalty imposed by paragraph 127.46(9)(b) apply only in respect of the claim year, or does it apply to every other claim year for that specified tax credit (e.g., Canco’s 2026 claim year and 2027 claim year)?

Our Comments

This technical interpretation provides general comments about the provisions of the *Income Tax Act* and related legislation (where referenced). It does not confirm the income tax treatment of a particular situation involving a specific taxpayer but is intended to assist you in making that determination. The income tax treatment of particular transactions proposed by a specific taxpayer will only be confirmed by this Directorate in the context of an advance income tax ruling request submitted in the manner set out in Information Circular IC 70-6R12, Advance Income Tax Rulings and Technical Interpretations.

Our Response

Tax Policy

Various documents published by the Department of Finance highlight the Government of Canada’s desire to align certain ITC-eligible clean energy projects with the creation of good jobs and to promote workforce development and skills training in the clean energy sectors. The intention was to achieve this with the Labour Requirements in section 127.46 of the Act, which entitle incentive claimants to an additional 10% ITC rate on eligible expenses.⁹

The Labour Requirements also apply to the recently enacted clean electricity investment tax credit.

Summary of the Relevant Legislation—Section 127.46

For purposes of this response we have separated the Labour Requirements legislation in section 127.46 into three main component parts:

1. The Election Mechanism—Subsection 127.46(2)
2. The Labour Requirements—Subsections 127.46(3) and (5); and
3. The Consequences of not meeting the Labour Requirements- Subsections 127.46(6), (7), (9).

We note that there are other provisions in section 127.46, such as the Corrective Measures in subsections 127.46(11) to (14), but these are not fully re-produced herein.

1. The Election Mechanism

Subsection 127.46(2) applies automatically to reduce the applicable tax credit rate of a specified tax

credit of an incentive claimant by 10 percentage points, *unless* the incentive claimant *elects* in *prescribed form and manner to meet* the Labour Requirements in subsections 127.46(3) and (5) for each installation taxation year in respect of the specified tax credit.

The Minister has determined that the prescribed form and manner for this election is that it is to be made as part of a qualifying taxpayer's claim for a particular specified tax credit¹⁰ or, when the incentive claimant is a partnership, as part of a partnership's computation and allocation of a particular specified tax credit to its members.

Specified tax credit is defined in subsection 127.46(1) and includes the CCUS tax credit in subsection 127.44(1), which states: **"CCUS tax credit"** means an amount deemed under subsection (2) to have been paid by a taxpayer on account of its tax payable under this Part for the year.

According to subsection 127.44(2), the qualifying taxpayer must file a *prescribed form* containing prescribed information on or before its filing-due date for a taxation year. Under subsection 127.44(17), the Minister may accept a late-filed form until the later of December 31, 2026 and one year after the filing-due date in subsection 127.44(2).

The prescribed form for the CCUS tax credit for a corporation is called the T2 Schedule 78—*Carbon Capture, Utilization, and Storage Investment Tax Credit*. The subsection 127.46(2) election to meet the Labour Requirements is included in this prescribed form.¹¹

2. The Labour Requirements

There are two categories of Labour Requirements: (1) three prevailing wage requirements in subsection 127.46(3) and (2) two apprenticeship requirements in subsection 127.46(5).

If the incentive claimant elects to meet the Labour Requirements in subsection 127.46(2), it has to meet all of five of these requirements for each installation taxation year in respect of the specified tax credit.

An installation taxation year is defined in subsection 127.46(1) as follows: **"installation taxation year"** in respect of a specified tax credit, means a taxation year during which preparation or installation of specified property occurs.

Specified property is defined in subsection 127.46(1) as follows: **"specified property"** means property all or a portion of the cost of which qualifies for a specified tax credit.

There are two prevailing wage requirements that are relevant to your questions and have been re-produced here:

"The Compensation Requirement"—clause 127.46(3)(b)(i)(B): For the purposes of this section, the prevailing wage requirements for an incentive claimant for an installation taxation year are [...] the following conditions:

(i) *each covered worker* at a designated work site of an incentive claimant *must be compensated* for their work on the preparation or installation of specified property [...]

(B) in an amount that is at least equal to the amount of the regular wages (without taking into account overtime) and benefits as specified in the eligible collective agreement that most closely aligns with the covered worker's experience level, tasks and location, calculated on a per hour or similar basis;

“The Attestation Requirement”—subparagraph 127.46(3)(b)(ii): For the purposes of this section, the prevailing wage requirements for an incentive claimant for an installation taxation year are [...] the following conditions:

(ii) the incentive claimant attests, *in prescribed form and manner*, that it *has met* the prevailing wage requirement in subparagraph (i) for its own employees who are covered workers, if any, and that *it has taken reasonable steps to ensure* that any covered workers employed by any other person or partnership at the designated work site are compensated in accordance with subparagraph (i); (Emphasis added)

The Minister has determined that the prescribed form and manner for this attestation is that it is to be made as part of a qualifying taxpayer’s claim for a particular specified tax credit. The prescribed form for a corporation is the T2 Schedule 78—*Carbon Capture, Utilization, and Storage Investment Tax Credit*.¹²

3. The Consequences of not meeting the Labour Requirements

There are three primary consequences of not meeting the Labour Requirements. The first two are the addition to tax provisions for: (i) not meeting the prevailing wage requirements in subsection 127.46(3) and (ii) not meeting the apprenticeship requirements in subsection 127.46(5). These consequences are contained in subsections 127.46(6) and (7). They do not apply if the conditions of the third primary consequence, referred to as the “gross negligence penalty”, apply. The gross negligence penalty is contained in subsection 127.46(9).

Subsection 127.46(6) states: Unless subsection (9) applies, if an incentive claimant *claims* a specified tax credit at a regular tax credit rate in a taxation year but *does not meet* the prevailing wage requirements in respect of a covered worker for one or more days in an installation taxation year in respect of that specified tax credit, there shall be added to the tax payable under this Part for the installation taxation year by the incentive claimant an amount equal to \$20¹³ for each day in the installation taxation year on which the covered worker was not paid the prevailing wage. (Emphasis added).

The conditions for its application are summarized as follows:

1. The gross negligence penalty does not apply,
2. The incentive claimant claims a specified tax credit at a regular tax credit rate (i.e., the taxpayer elected to meet the labour requirements in respect of that specified tax credit), and
3. The incentive claimant does not meet the prevailing wage requirements in respect of that specified tax credit.

As noted above, Canco’s election, claim and attestation for a CCUS tax credit will all occur at the same time on the same prescribed form, which in this case is the T2 Schedule 78—*Carbon Capture, Utilization, and Storage Investment Tax Credit*.

Gross negligence penalty—subsection 127.46(9) states: If an incentive claimant *has claimed* a specified tax credit at the regular tax credit rate in a taxation year (referred to in this subsection as the “claim year”) *but has failed to meet* the prevailing wage requirements or the apprenticeship requirements for an installation taxation year in respect of that specified tax credit and the *Minister determines* that the

incentive claimant *knowingly* or in circumstances amounting to gross negligence *failed to meet* those requirements, then

(a) the incentive claimant is not entitled to the regular tax credit rate, and is entitled to not more than the reduced tax credit rate, for the specified tax credit; and

(b) the incentive claimant is liable to a penalty for the claim year equal to the amount determined by the formula $50\% \times (A - B)$ where

A is the amount of the specified tax credit claimed by the incentive claimant at the regular tax credit rate for the claim year, and

B is the amount that the incentive claimant would have been entitled to claim as a specified tax credit at the reduced tax credit rate for the claim year.

(Emphasis added)

Responses to Questions 1 and 2

Canco can *elect* to meet and *attest* that it met the Labour Requirements at the time that it makes its claim for the CCUS tax credit for its 2025 taxation year, provided that, at the time of making the claim, the three short-paid covered workers were compensated in accordance with the applicable Compensation Requirement above, based on the hypothetical facts.

If Canco *knows* that it *did not meet* one or more of the Labour Requirements *at the time that it claims* its CCUS tax credit for its 2025 taxation year, then it should not elect under subsection 127.46(2) in respect of that claim. If it does, Canco could be subject to the gross negligence penalty in subsection 127.46(9), if the Minister determines that it elected to meet the Labour Requirements and knowingly failed to meet those Labour Requirements.¹⁴ If the gross negligence penalty applies, the addition to tax in subsection 127.46(6) will not apply to Canco.

However, assuming that Canco only discovered that it did not meet the Compensation Requirement *after* it elected, claimed and attested for the CCUS tax credit for 2025 (for example, in autumn 2026 assuming it elected, attested and claimed the credit in June 2026), the addition to tax in subsection 127.46(6) would be computed as follows:

Covered worker 1 - $\$22 \times 100$ days in 2025 not paid the prevailing wage = \$2,200

Covered worker 2 - $\$22 \times 100$ days in 2025 not paid the prevailing wage = \$2,200

Covered worker 3 - $\$22 \times 100$ days in 2025 not paid the prevailing wage = \$2,200

Total addition to tax = \$6,600.

Response to Questions 3(a), (b) and (c)

The hypothetical facts state¹⁵ that, at the time of making its CCUS tax credit claim for Canco's 2025 taxation year, the three covered workers were *not* compensated in accordance with subparagraph 127.46(3)(b)(i). Therefore, at that time, Canco is aware that it has not complied with all of the Labour Requirements and should not elect under subsection 127.46(2) in respect of that specified tax credit or it could be subject to the gross negligence penalty in subsection 127.46(9).

Canco may decide to wait to make its claim for the CCUS tax credit for the 2025 taxation year until the prevailing wage requirements are met. Pursuant to subsection 127.44(17), Canco has until June 30, 2027 to make a claim for the CCUS tax credit for its 2025 taxation year.

As stipulated in the Attestation Requirement in subparagraph 127.46(3)(b)(ii), Canco is required to take reasonable steps to ensure that the covered workers employed by Contractor were compensated in accordance with the Compensation Requirement in subparagraph 127.46(3)(b)(i). What constitutes “reasonable steps” in regards to meeting the Attestation Requirement is a question of fact and it depends on all the relevant facts and circumstances of the particular incentive claimant.

There are several ways that Canco could take reasonable steps to ensure covered workers employed by Contractor were compensated in accordance with subparagraph 127.46(3)(b)(i). For example, Canco could undertake the following actions:

- *Contract with Contractor*—in the contract governing the work performed by Contractor for Canco at the Canco DWS, state Canco’s intention to elect and meet the Labour Requirements in section 127.46 and require Contractor to also meet the Labour Requirements with respect to its employees and to include a similar clause in any of Contractor’s contracts with sub-contractors. Clauses could also be included requiring co-operation with Canco to monitor compliance with the Labour Requirements and with the CRA in the event of an audit, as well as remedies for noncompliance. The contract could also include schedules listing the unions that will be used and/or the prevailing wage rates for the different classes or categories of labour that will be used for the preparation or installation of specified property that is the subject of the contract.
- *Monitoring compliance*- Regular monitoring of compliance with the Labour Requirements by Canco, which could include contractually requiring Contractor to provide status updates to Canco at reasonable project intervals in order to facilitate the timely identification and rectification of any potential shortfalls.
- *Obtaining a declaration*- Canco could require that Contractor provide a written declaration that the Labour Requirements were met by Contractor and its subcontractors, at the completion of the work, or at other mutually-agreed project intervals, such as at the end of an installation taxation year.

The “top-up penalty” in subsection 127.46(13) that you referred to in your question is only applicable if Canco receives a notification from the Minister specifying that it did not meet the prevailing wage requirements for a designated work site for a taxation year, pursuant to subsection 127.46(11).¹⁶ This is referred to as a Corrective Measure, and it is initiated by the CRA. There is no mechanism available to Canco to voluntarily pay the top-up penalty without having received this notification from the Minister.

Response to Question 4

Since the subsection 127.46(2) election is made with a claim for a specified tax credit, and the hypothetical facts strongly suggest that Canco will not meet the Labour Requirements in 2025 (specifically the Compensation Requirement), Canco should not elect, and should claim the CCUS tax credit for the 2025 taxation year at the reduced tax credit rate. However, the hypothetical facts state that Canco will meet the Labour Requirements in 2026 and in 2027, therefore Canco can elect under 127.46(2) when it makes its claims for the CCUS tax credits for its 2026 and 2027 taxation years.

Response to Question 5

Assuming that the conditions of subsection 127.46(9) *only* apply to Canco for its claim for the CCUS tax credit for its 2025 taxation year (not the other claim years), the implications imposed under subsection 127.46(9) will only apply to its 2025 claim year (not the other claim years).

We trust that these comments will be of assistance.

Yours truly,

Kimberley Wharram

Manager, Resources Section

for Division Director

Reorganizations Division

Income Tax Rulings Directorate

Footnotes

- 1 R.S.C. 1985 (5th Supp.), c.1, as amended.
- 2 This is a defined term in subsection 127.46(1) and includes the site of a CCUS project of the incentive claimant. For more information regarding the CRA's interpretation of the phrase "designated work site of an incentive claimant", see 2025-1070641E5.
- 3 Throughout this letter the reference to "Labour Requirements" is to the prevailing wage requirements in subsection 127.46(3) and the apprenticeship requirements in subsection 127.46(5), collectively.
- 4 Defined in subsection 127.46(1).
- 5 Note: In this case, clause 127.46(3)(b)(i)(A) was not applicable because there was no eligible collective agreement that applied to the covered workers.
- 6 Note: The purpose of this hypothetical fact is to focus on the prevailing wage requirements in this letter.
- 7 Indexed pursuant to subsection 127.46(8). See For incentive claimants: Avoiding the reduced tax credit rate for Clean Economy ITCs—Canada.ca
- 8 Note: There are currently no prescribed conditions and therefore paragraph 127.46(3)(a) [prevailing wages] is irrelevant.
- 9 Refer to "An Investment Tax Credit for Clean Technologies" in "2.2 Securing Canada's

Competitiveness and Creating Good Jobs for Workers” of Fall Economic Statement 2022, available at: <https://www.budget.canada.ca/fes-eea/2022/report-rapport/chap2-en.html#a7> and Labour Requirements Related to Certain Investment Tax Credits” in the “Tax Measures: Supplementary Information” of Budget 2023, available at: <https://www.budget.canada.ca/2023/report-rapport/tm-mf-en.html#a46> as well as Chapter 3.3 of the 2023 Federal Budget.

- 10 Qualifying taxpayer is a defined term in each of subsections 127.44(1), 127.45(1), 127.48(1), and varies depending on whether the specified tax credit is the CCUS tax credit, the clean technology ITC or the clean hydrogen tax credit. Note, for completeness, the equivalent term in the recently-enacted Clean Electricity ITC regime is qualifying entity and is defined in subsection 127.491(1).
- 11 For incentive claimant’s that are partnerships (not qualifying taxpayers), the prescribed form is the T5013 Schedule 78 Carbon Capture, Utilization, and Storage Investment Tax Credit.
- 12 When the incentive claimant is a partnership (not a qualifying taxpayer), the prescribed form and manner for this attestation is that it is to be made as part of the partnership’s computation and allocation of the particular specified tax credit to its members. The prescribed form for a partnership is the T5013 Schedule 78- Carbon Capture, Utilization and Storage Investment Tax Credit.
- 13 The \$20 per day is indexed pursuant to subsection 127.46(8) after 2023. For more information, see For incentive claimants: Avoiding the reduced tax credit rate for Clean Economy ITCs—Canada.ca
- 14 For more information, see CRA document 2025-108081 (CTF Question).
- 15 Including the additional hypothetical facts included under Question 3 of this letter.
- 16 Subsection 127.46(13) states: For any covered worker in respect of whom a top-up amount is not paid under subsection (11), the incentive claimant shall pay to the Receiver General, as a penalty under this Act, 120% of the amount determined by the formula in subsection (12).

Subsection 127.46(11) states: Unless subsection (9) applies, if an incentive claimant receives a notification from the Minister specifying that the incentive claimant did not meet the prevailing wage requirements for a designated work site for a taxation year, the incentive claimant may within one year after receipt of the notification, or such longer period as is acceptable to the Minister, cause each covered worker to be paid the top-up amount determined under subsection (12).