

LAW NO. 14,990, OF SEPTEMBER 27, 2024

Establishes the Low-Carbon Hydrogen Development Program (PHBC); and amends Law No. 14,948, of August 2, 2024.

Article 1. The Low-Carbon Hydrogen Development Program (PHBC) is hereby established to constitute a source of resources for the energy transition based on the use of low-carbon hydrogen.

Article 2. The objectives of the PHBC are:

- I – to develop low-carbon hydrogen and renewable hydrogen;
- II – to support energy transition actions;
- III – to set targets for the development of the low-carbon hydrogen internal market;
- IV – to apply incentives to decarbonize by using low-carbon hydrogen in hard-to-abate sectors, such as fertilizers, steel, cement, chemical, and petrochemical industries; and
- V – to promote the use of low-carbon hydrogen in heavy transport.

Article 3. The PHBC shall grant tax credits for the trading of low-carbon hydrogen and its derivatives produced in the national territory, in accordance with the guidelines of this Law, under the terms of regulations.

§ 1. The tax credit referred to in the main section of this article will be equivalent to up to 100% (one hundred percent) of the difference between the estimated price of low-carbon hydrogen and the estimated price of substitute products, under the terms of regulations.

§ 2. The percentage of the tax credit may be inversely proportional to the intensity of greenhouse gas (GHG) emissions of the produced hydrogen.

§ 3. The amount of the tax credit referred to in the main section of this article shall result from the competitive process provided for in § 7 of Article 4 of this Law.

§ 4. Projects that meet at least one of the following requirements shall be eligible for the tax credit referred to in the main section of this article:

- I – contribute to regional development;
- II – contribute to climate change mitigation and adaptation measures;
- III – encourage technological development and diffusion;
- IV – contribute to the diversification of the Brazilian industry.

Article 4. The granting of the tax credit referred to in Article 3 of this Law shall comply with the provisions of this article.

§ 1. Between 2028 and 2032, the tax credits mentioned in this article shall be limited to the following overall amounts for each calendar year:

- I – 2028: BRL 1,700,000,000.00 (one billion, seven hundred million Brazilian reais);
- II – 2029: BRL 2,900,000,000.00 (two billion, nine hundred million Brazilian reais);
- III – 2030: BRL 4,200,000,000.00 (four billion, two hundred million Brazilian reais);
- IV – 2031: BRL 4,500,000,000.00 (four billion, five hundred million Brazilian reais);
- V – 2032: BRL 5,000,000,000.00 (five billion Brazilian reais).

§ 2. The Executive Branch shall determine the value of tax credits to be granted, considering fiscal goals and PHBC’s objectives.

§ 3. The amounts referred to in § 2 shall be included in the annual budget bill submitted by the Executive Branch to the National Congress.

§ 4. Subject to the provisions of § 3, the tax credits within the limits set in § 1 of this article not used in the respective calendar year may be used in subsequent years.

§ 5. Without prejudice to the provisions of § 3 of this article, the Executive Branch shall disclose the amounts of granted and utilized tax credits and their beneficiaries.

§ 6. The tax credit referred to in the main section of this article shall be granted to producers or purchasers of low-carbon hydrogen.

§ 7. The granting of tax credits shall be preceded by a competitive process to be defined in regulations.

§ 8. The competitive process referred to in § 7 of this article shall select the projects that will be able to receive the tax credits referred to in the main section of this article and shall at least observe, as a criterion for judging proposals, the lowest value of the credit per unit of measurement of the product.

§ 9. Companies or consortia of companies that are the winners of the competitive process are eligible for the tax credits referred to in the main section of this article, under the terms of this article and its regulation, and that:

- I – are or have been beneficiaries of the Special Regime of Incentives to the Low-Carbon Hydrogen Production (Rehidro), in the case of producers; or
- II – acquire low-carbon hydrogen produced by a company or consortium of companies that are beneficiaries of Rehidro, in the case of purchasers.

§ 10. Failure to implement the project or its implementation in violation of the laws or regulations shall subject its owner to:

- I – a fine limited to 20% (twenty percent) of the value of the tax credit that would have been allocated to the project, under the terms of regulations; and
- II – the payment of the amount equal to the tax credits unduly reimbursed or offset, or the cancellation of such credits, by the last business day of the month following the month in which the project has violated the laws or regulations.

§ 11. The procedure for granting the tax credit referred to in the main section of this article may provide for, among others:

- I – the granting of tax credits in decreasing amounts over time;
- II – priority to projects that:
 - a) have the lowest intensity of GHG emissions from the hydrogen produced or consumed; and
 - b) have the greatest potential for developing the national value chain;
- III – the determination of the value of the tax credit based on the difference between the price of the hydrogen and the price of substitute products;
- IV – the requirement to present a guarantee to secure the implementation of the project to produce or consume low-carbon hydrogen and its derivatives; and
- V – the imposition of penalties, including the fine referred to in § 10 of this article.

§ 12. Only projects that have been previously qualified under the terms of regulations may participate in the procedure referred to in § 7 of this article.

§ 13. The beneficiary is guaranteed the right to make full use of the tax credits granted, subject to the deadlines and conditions established in the procedure referred to in § 7 of this article.

§ 14. The regulations for the procedure referred to in § 7 of this article shall set a deadline for the qualification of projects limited to 90 (ninety) days.

Article 5. The tax credits referred to in Article 3 of this Law shall correspond to credits from the Social Contribution on Net Profit (CSLL).

§ 1. The calculated amount of the tax credits shall be recognized in the operating income.

§ 2. Subject to specific legislation, the tax credits may be:

- I – offset against debts, due or overdue, related to taxes imposed by the Ministry of Treasury’s Special Secretariat for Federal Revenue of Brazil; or
- II – reimbursed in cash.

§ 3. If the tax credit has not been offset, the Special Secretariat for Federal Revenue of Brazil shall reimburse the beneficiary within 12 (twelve) months from the date of the request.

§ 4. The Special Secretariat of the Federal Revenue of Brazil may issue normative instructions to regulate the provisions of this article.

Article 6. The tax credits referred to in Article 3 of this Law may be granted only for transactions involving the trading of low-carbon hydrogen and its derivatives produced in the national territory from January 1, 2028 to December 31, 2032.

Article 7. The Executive Branch shall publish an annual report with the evaluation and results of the National Policy of Low-Carbon Hydrogen, the PHBC, the Brazilian Hydrogen Certification System (SBCH2), and Rehidro.

Sole paragraph. The report referred to in the main section of this article shall also include a list of projects that have claimed for the authorization referred to in Article 4 of this Law, the authorized projects and the results of the monitoring and inspection actions of the PHBC and the National Policy of Low-Carbon Hydrogen, as well as any imposed administrative penalties and fines.

Article 8. Article 6 of Law No. 14,948, of August 2, 2024, is amended as follows:

“Article 6.

Sole paragraph. The direct federal public administration body responsible for the conduction of energy policy shall propose to the National Energy Policy Council (CNPE):

- I – the technical and economic parameters to prepare the foundations of the National Policy of Low-Carbon Hydrogen; and
- II – the work plan to the implementation, supervision and evaluation of the instruments referred to in Article 5 of this Law.”

Article 9. The work plan referred to in item II of the sole paragraph of Article 6 of Law No. 14,948, of August 2, 2024 shall be prepared within 90 (ninety) days counted from the date of the publication of this Law.

Article 10. This Law shall enter into force on the date of its publication.

Brasília, September 27, 2024.

(This text, prepared by Rolim Goulart Cardoso, is a non-official translation of the version published in the Brazilian Official Gazette).