

TAX TALK

UNDERUSED HOUSING TAX (UHT)

On June 9, 2022, the **Underused Housing Tax (UHT)** Act received Royal Assent and is now law and applies on a calendar basis beginning in 2022.

The government declared in the 2021 Federal Budget that, beginning January 1, 2022, it will impose a national, annual 1% tax on the value of non-resident, non-Canadian owned residential real estate that is considered vacant or unused.

The first UHT returns for the calendar year 2022 have to be filed with the Canada Revenue Agency (CRA) on or before April 30, 2023, and any tax due will have to be paid by that date. The same deadline applies to the following years.

Overview

The UHT will apply to underused housing in Canada owned directly or indirectly by non-resident, non-Canadians, whether in whole or in part.

The UHT will apply to an owner of residential property in Canada as of December 31 of that calendar year if:

1. They are required to file an annual declaration for the property for the calendar year; and
2. They are not eligible to claim an exemption for the property for the calendar year.

Further, the UHT will be calculated by multiplying the determined value of the property by the 1% rate of the UHT. An owner will be liable for the UHT based on their percentage ownership in the property. If a property has many owners, each owner is responsible for their share of the tax.

A residential property owner who is not a Canadian citizen or permanent resident will have to file an annual declaration with CRA for each residential property they own. In order to file a declaration, the owner may be required to register with CRA. CRA will charge an owner penalties and interest if the declaration is not filed on time.

Exemptions

If you are not a Canadian citizen or permanent resident for a calendar year, you will be subject to UHT for that calendar year. The following exemptions will apply to a non-resident owner who is an individual and to some corporations, partnerships and trusts:

1. Qualifying Occupancy
2. Specified Canadian Corporations
3. Property held by Partner of Specified Canadian Partnership
4. Property held by Trustee of Specified Canadian Trust
5. Property not Suitable for year-around use
6. Property Uninhabitable due to a Disaster or Hazardous Conditions
7. Property Undergoing Major Renovations
8. Year of Acquisition of an Interest in Property
9. Personal or Other Legal Representative of Diseased Individual
10. Death of other Owner
11. Newly Constructed Property
12. New Property held by a Developer as inventory for sale

Payment, Enforcement & Penalties

You have to remit UHT to CRA on or before April 30 of the year following the reporting calendar year.

You have to file a declaration even if you are eligible for one of the above exemptions for a residential property on or before April 30 of the following calendar year.

If you fail to file the declaration on time, you will be liable for a penalty equal to the greater of the following amounts:

- \$5,000, if the owner is an individual, or \$10,000 if the owner is not an individual; and
- The amount that is the total of
 - 5% of the UHT applicable for the owner's interest in the property for the calendar year; and
 - 3% of the UHT applicable for the owner's interest in the property for the calendar year for each calendar month the declaration is past due.

Further, if the declaration for a calendar year is not filed by December 31 of the following calendar year, the UHT will be determined without reference to any available exemptions.

Summary

There are some provinces, like British Columbia, that already have in place an annual speculation and vacancy tax that applies on foreigners and domestics property owners who don't pay any taxes in British Columbia. The tax rates ranges from 0.5% to 2% of assessed value that depend on the ownership and location of the property.

We Can Help

This new tax will very complex to apply thus an MG advisor can help you review your situation and guide you in developing a plan to deal with the your specific tax situation.

A memorandum of this nature cannot be all-encompassing and is not intended to replace professional advice. Its purpose is to highlight tax planning possibilities and identify areas of possible concern. Anyone wishing to discuss the contents or to make any comments or suggestions about this TaxTalk is invited to contact one of our offices.

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