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Underused housing tax (UHT)

Does this affect you?

Very important to read.

As a part of the 2021 Federal Budget, the Government of Canada announced its intention to implement a national one percent annual tax on the value of residential real estate owned by any non-resident, non-Canadian that is considered vacant or underused. Rules for the Underused Housing Tax (UHT) were enacted on June 9, 2022, and apply to residential properties owned on or after December 31, 2022.

Are you non-resident or non-Canadian – if not then this is not applicable to you.

If you are non-Canadian or non-resident then you need to continue with this process

2022 deadline for filing

The CRA announced on March 27, 2023, that they will provide transitional administrative relief for the 2022 tax year. Although the deadline for filing the UHT return and paying the UHT payable is still May 1, 2023, <u>no penalties or interest will be applied for UHT returns and UHT payments that the CRA receives by October 31, 2023.</u>

Basic rules

Which owners are excluded from the UHT?

An *excluded owner* is not subject to the UHT and is not required to file the annual UHT return.

An *excluded owner* is, on December 31 of a calendar year, one of the following:

- **An individual Canadian citizen or permanent resident of Canada**
- **A publicly traded Canadian corporation.**
- **A person with title to the property in their capacity as trustees of various widely held trusts.**
- **A registered charity**
- **A cooperative housing corporation**
- **A municipal organization or other public institutions and government bodies.**

If you are any of the above owners then you are excluded and do not have to file a UHT return or pay the fees. Stop here. If not excluded, then please continue.

Basic rules

Which owners are not excluded from the UHT?

All other owners, referred to as *affected owners*, are required to file an annual return and pay UHT unless they meet an available exemption.

Specifically

- **all private corporations**
- **partnerships**
- **and trusts which own residential property in Canada.**
- **as well as individuals who are neither a Canadian citizen nor a permanent resident**

are required to file an annual return to either claim an exemption from the tax or to determine the tax payable.

The owner of a residential property is the person identified under the land registration system applicable to where the property is located, as well as certain persons with a life interest or long-term lease (20 years or more) in a residential property or the land it is situated on.

The rules require residential property owners (with some exceptions, as discussed below) to file an annual UHT return (Form UHT-2900), even if only to claim an exemption from the tax.

As a result, many Canadian corporations, partnerships, and trusts — including those with no foreign ownership or foreign beneficiaries — that hold residential property are required to file a return for each property annually even where no tax is payable.

Significant penalties apply if the UHT return is not filed on time.

Again, for 2022, the deadline is………….

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Which properties will be subject to UHT?

Unless an exemption is available, the UHT applies to residential properties **located in Canada. Residential property includes:**

- detached houses (containing up to three dwelling units),
- semi-detached houses,
- rowhouse units,
- residential condominium units, or
- any other similar premises intended to be owned as a separate unit or parcel.

A dwelling unit is generally a single unit within a residential property that contains its own kitchen, bath, and living area. A residential property can include land considered to be necessary for its use and enjoyment.

Exemptions

This is where it gets fun: Please read the next two pages carefully. We have tried to list these in the order that affects most people or corporations. If you meet one of these exemptions, then you do not need to see if the rest apply. But you still need to file form UHT-2900. Penalties are still applicable for not filing form UHT-2900 even if you have exclusions.

Exemptions

For *affected owners*, certain characteristics or use of the property may exempt a residential property from UHT for a given calendar year. An annual return must be filed to claim the exemption.

- **Primary place of residence.** The residential property (or a dwelling unit within) is the primary place of residence for the owner, the owner's spouse or common-law partner, or the owner's child. Special rules apply to owners with multiple properties.
- **Qualifying occupancy.** The property was occupied for at least 180 days in the year, made up of one or more periods that are at least one month by:
    - A third party under a written rental agreement
    - A related person paying fair rent[1] to the owner
    - The owner's spouse or common-law partner in Canada under a work permit
    - The owner's spouse, common-law partner, parent, or child who is a Canadian citizen or permanent resident.
- **Limited seasonal access.** The property was not suitable for year-round use as a place of residence or was inaccessible during part of the year.
- **Disaster or hazardous condition.** The property was uninhabitable for at least 60 consecutive days in a calendar year due to disaster or hazardous conditions (limits apply to how many times an exemption can be claimed for the same disaster/condition).
- **Renovation or construction.** The property was uninhabitable for at least 120 consecutive days in a calendar year due to renovation or where construction of the property was not substantially completed before April of the calendar year.
- **Construction of property for sale.** The property was substantially completed after March of the year, was offered for sale to the public and was not previously occupied.
- **Year of acquisition.** The property was first acquired by the owner during the year (by sale or transfer).
- **Upon death of owner.** This exemption applies to the year in which the owner died as well as the following calendar year. It extends to the personal representative of a deceased individual as well as to surviving owners of jointly owned property of which the deceased owned at least 25 percent.
- **Specified Canadian corporation.** The property was owned by a Canadian corporation with less than ten percent foreign ownership.
- **Partner of specified Canadian partnership.** The property was owned by partners of a partnership where all members were either excluded owners or specified Canadian corporations.

- **Trustee of specified Canadian trust.** The property was owned by a trustee of a trust where all beneficiaries with an interest in the property were either excluded owners or specified Canadian corporations.
- **Prescribed area.** The property was located in a prescribed area based on census data (determined using this **CRA tool** noted below) and the owner, spouse, or common-law partner resided in the property for at least 28 days in the calendar year (not required to be consecutive).

PLEASE CUT AND PASTE THE LINK BELOW TO THE CRA

Underused housing tax vacation property designation tool

https://apps.cra-arc.gc.ca/ebci/sres/ext/pub/ntrUhtExpnTl?request_locale=en_CA

How the UHT is calculated

The UHT payable is calculated as one percent of the property value multiplied by the applicable ownership percentage.

The property value is the greater of (i) the assessed value for the year for property tax purposes, and (ii) the most recent sale price on or before December 31 of the calendar year. Owners can also make an election to use the fair market value where a written appraisal is obtained to support the value. This election must be filed by April 30 following the calendar year in question.

Doug – this appears to be a 1% tax on the fair value of the property.

And the answer is – yes, it is. You must file a return on time (for 2022 deadline is October 31, 2023, and the tax to pay by the same date). For 2023 personal returns the deadline is April 30, 2024.

Link to UHT-2900 (cut and paste from below)

https://www.canada.ca/en/revenue-agency/services/forms-publications/forms/uht-2900.html

And you need to file (even if no balance owing and claiming an exemption as there is an ugly penalty) – exemptions pages 6-7

Failure to file each annual UHT return can result in significant penalties:

- **$5,000 for individuals**
- **$10,000 for owners that are not individuals**.

But you need not file if you are not excluded – per page 2 (no return to file)

If you really need help completing this form for CRA we can be contacted and will be invoicing for these services.

This is not part of the preparation of a T1 personal tax return.

This is an additional form required by CRA for property owners.

Fortunately, it does not affect most of our population but is meant to prompt foreign owners and other groups to use their investments in a manner that opens property up for use.