UNDERUSED HOUSING TAX (UHT) REFERENCE CHART

What is the UHT?

The UHT is designed to impose a 1% annual tax on the value of residential properties in Canada that are both "foreign-owned" and "underused." The "owner" of residential property -- the person (or persons) registered on the title on December 31st -- has (have) an obligation to file a return by April 30th (though penalties and interest have been waived until October 31st, 2022). While the tax is supposedly limited in scope, it can have serious implications for some individuals—even when there is no tax to pay.

What is Considered Residential Property?

1) Houses and similar buildings (and the surrounding land) are residential properties if they have 1-3 residential units, each with its own kitchen, living area, and bathroom.

2) Units within a building may be their own residential property if they are intended to be owned separately.

Filing Obligation

The UHT imposes a broad obligation to file a form with the CRA even where no tax is payable. Every owner of residential property who is not an "excluded owner" must file.

Failure to file penalties are severe, with a minimum penalty of $5,000 for individuals, and $10,000 for others. This penalty applies even when there is no tax.

Step 1: Are You Required to File an Annual UHT Return?

"Excluded owners" do not need to file. These include:

> Canadian citizens or permanent residents that DO NOT hold title as a partner in a partnership, or as a trustee for a trust (other than an estate)

> Canadian public companies

> The Government of Canada and government of a province, or an agent of either

> Registered charities

> Indigenous governing bodies

If you own residential property and are not an excluded owner you must file a return by April 30th (though penalties and interest have been waived until October 31st, 2022). – even if there is no tax payable. Proceed to Step 2

Step 2: Are You Required to Pay the UHT?

If you meet any of the exemptions below, you will not have to pay UHT. Note, if even you meet an exemption, you will still have to file a return.

1) Occupancy Exemptions

> The property is a primary place of residence for you or your spouse, or for your child(ren) if they are studying at a designated learning institution.

Or one of the following individuals continuously occupies the property for a total of at least 180 days in the year:

> An arm's length individual who occupies the property under a written agreement (e.g. a tenant)

> A non-arm's length individual who occupies the property under a written agreement and pays at least fair rent (5% of the value of the property)

> You or your spouse or your common-law partner for the purpose of pursuing authorized work under a Canadian work permit

> You or your spouse, common-law partner, parent or child, who is a Canadian citizen or permanent resident of Canada

2) Owner Exemptions

> You are an owner of the residence solely in your capacity as a partner in a specified Canadian partnership or a trustee in a specified Canadian trust

> You a specified Canadian corporation

> You became an owner of the residence in the calendar year and were never an owner in the previous nine calendar years

> The owner died during the calendar year or the year prior

> You are the personal representative of a deceased owner who died during the calendar year or the year prior and you were not an owner during either of those years

> You co-owned the property with an individual who died in the calendar year or the year prior with 25% ownership at the time of death

3) Property Availability Exemptions

> The property is not suitable to be lived in year-round

> The property is inaccessible for parts of the year because public access is not maintained year-round

> The property was uninhabitable for 60 consecutive days due to disaster or hazardous conditions (this exemption can only be used for two years for a single disaster)

> The property was uninhabitable for 120 consecutive days due to renovations (this exemption can only be used once every 10 years)

4) Vacation Property Exemption

> The property is used as a vacation property (in an eligible area of Canada) and was used by the owner or their spouse or common-law partner for at least 28 days in the year (this exemption only applies to individuals)

If you do not meet any of the above exemptions you must pay UHT.

Please Note: This chart is intended to be a general reference for understanding the scope and obligations of the UHT. It should not be used in place of legal or financial advice.