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UNDERUSED HOUSING TAX – WATCH OUT!

The Underused Housing Tax (UHT) came into effect in June 2022 and covers the 2022 calendar year. Legal owners of residential property in Canada should be aware of it. The UHT imposes a 1% tax on the value of residential properties that are vacant or underused which are owned by entities other than permanent residents or Canadian citizens.

However, the filing obligations under the UHT will affect many Canadian individuals, corporations, partners, trustees, and others who hold **legal title** to residential real estate in Canada. These affected persons **need to file a UHT return by May 1, 2023 or will face a penalty starting at \$5,000 per return.**

HOW IS THE UHT RELEVANT TO ME?

The filing requirements are extensive and catch many owners of residential property who are Canadian citizens and permanent residents. **Failure to file each return by the deadline would result in a penalty starting at \$5,000 for an individual or \$10,000 for a corporation.** For example, if the filing deadline is missed (regardless of whether any UHT tax is owed):

- A **Canadian corporation owned 100% by a Canadian citizen** with 3 rental properties would **owe \$30,000 in penalties, even if the returns are filed on May 2, 2023 and no UHT is payable.**
- A child who is on title on their parents' home would be required to file a return by the deadline and would be subject to a \$5,000 penalty if the return is filed late or not filed.

YOU NEED TO FILE A UHT RETURN TO AVOID PENALTIES IF:

- 1) Your corporation holds legal title to residential property in Canada;
- 2) You are a partner of a partnership which holds residential property in Canada, including residential rental partnerships, farm partnerships, and short-term rental business partnerships;
- 3) You are a trustee of a trust that holds residential property in Canada, including informal trust arrangements where you hold legal title only for financing or administrative purposes, or to avoid a merger of properties.
- 4) You are not a citizen or permanent resident of Canada and hold legal title to residential property in Canada

YOU MAY NOT NEED TO FILE A RETURN IF:

- 1) You did not own residential property on December 31, 2022, or
- 2) You are a Canadian citizen or permanent resident of Canada and own residential property individually or as a co-owner

Note: The distinction between co-owners and partners of a partnership holding residential property are complex and require careful analysis. **We recommend an analysis be performed** to determine if you are subject to UHT, especially **if you own a rental property** with another entity.

In general, two Canadian citizens or permanent residents **who co-own a property** are unlikely to be required to file a return. However, **scenarios exist where a return would have to be filed** by those co-owners and we encourage you to contact us for clarification.

A **separate UHT return** will need to be **filed for each residential property owned** for almost all other individuals, private corporations, partners, and trustees. **Every legal entity on title must file a separate UHT return**. The filing obligation exists **even if no tax is payable**. We have published a [blog](#) and a [quick reference chart](#) to assist you in determining whether you need to file a UHT return and whether you could be subject to the 1% tax on the property's value.

The **responsibility for filing the UHT return lies with each legal owner** of the property and the **return filed** by each owner must **indicate the name and ownership percentage of all owners of the property**.

WHEN AND HOW TO FILE THE UHT RETURN

The UHT return is due April 30 each year, regardless of the owner's income tax filing due date. That is because **the UHT is a separate tax and is not part of the Income Tax Act**. As April 30 falls on a Sunday this year, the filing deadline will be May 1. **The UHT return is a separate form and is not filed as part of any personal, corporate, or trust tax return.**

The [UHT return \(UHT-2900\)](#) is quite complex and 6 pages in length. Each affected owner must file a UHT return for each property that they legally own. For example, if 4 corporations each own 25% in 4 different residential properties then, 16 UHT returns need to be filed – 4 for each corporation.

After requesting a [digital access code](#), you can complete the UHT return online through [CRA's online tool](#). For corporations, a new RU program account must be opened with CRA before filing the form. This can be done by calling the CRA at 1-800-959-5525 or using CRA's [Business Registration Online](#) service. The return can then be filed through My Business Account. Returns may also be mailed or faxed to CRA as directed on the return by the due date.

PREPARATION OF UHT RETURNS BY RITCHIE SHORTT & TULLY LLP

We will only prepare UHT returns if you engage us to do so. **The preparation of UHT returns is not included in any other services provided by us.**

If you would like us to prepare a UHT return for you, **please request a UHT engagement letter from our office**. Our fees for preparation of UHT returns start at \$700 plus HST for the first UHT return. Fees may differ depending on your circumstances. Additional fees will be billed for each return relating to the same property, at our regular hourly rates. **Each legal owner must engage us to prepare their respective UHT returns separately.**

To allow us to prepare your returns in a timely fashion, **we require that you provide us with all relevant information, as outlined below, before March 31, 2023.** As the filing deadline is May 1, 2023, we cannot guarantee the returns will be filed on time unless information is received by

our deadline, and penalties of up to \$10,000 per registered owner per return may be levied by CRA.

INFORMATION NEEDED TO PREPARE YOUR UHT RETURNS

For **each residential property** owned on **December 31, 2022**:

1. Confirm whether you are a **Canadian citizen or permanent resident** of Canada, or indicate your country of citizenship if not Canada
2. Provide your **most recent final property tax statement**, including:
 - a. Full address of the property
 - b. Property tax roll number
 - c. Name of each owner on title
 - d. Assessed value of the property
3. **Provide land title documents**, including all the following details:
 - a. Property Identification Number (PIN) under Land Titles or Land Registry
 - b. Ownership type (sole, joint tenancy, tenants in common, etc.)
 - c. Name and percentage ownership of each owner on title
 - d. Year of purchase
 - e. Most recent purchase / sale price
4. If owned in your capacity as a partner or trustee, the partnership or trust account number
5. **Detailed description of the property** type and number of units (e.g., detached house, duplex, triplex, townhouse, condo, etc.)
6. **Confirmation that all owners are Canadian citizens or permanent residents**, or details of what other exemption you may meet as outlined on our [quick reference chart](#)
7. If you are subject to the UHT and the market value of the residential property is less than the greater of the assessed value and most recent purchase price, **it may be advantageous to obtain a formal appraisal supporting the lower fair market value of the property**. Note that the savings would be 1% of the difference in assessed value.

We appreciate the opportunity to be of service to you in navigating the UHT.

Yours very truly,



Ritchie Shortt & Tully LLP

Chartered Professional Accountants

Summary of Key Points

Who is affected?	Legal owners (anyone on title) of residential property who do not meet the definition of excluded owner
What is an excluded owner?	An excluded owner includes public corporations, registered charities, co-operative housing corporations, municipalities, and Canadian citizens or permanent residents (<u>unless</u> they hold title as a partner of a partnership or trustee of a trust – then a UHT return is required).
What is residential property?	A home in Canada, including a detached or semi-detached house, row-house, or condominium unit. [Properties with more than 3 units (e.g., fourplex) are excluded. Commercial property is excluded. Mobile homes are excluded.]
How many returns need to be filed?	One per residential property per legal owner that is required to file.
When is the return due?	May 1, 2023 (because April 30, 2023 is a Sunday)
What is the penalty for not filing?	For each return not filed on time, \$5,000 for an individual and \$10,000 for a corporation, not including penalties on the balance owing.
What is the tax rate?	1% of the assessed value of the property
Do I have to file even if I don't owe the tax?	Yes, the filing obligations are extensive and all affected owners must file even if not UHT is owing.

There are many nuances with this new legislation and limited guidance from CRA. If you are unsure of whether you must file, we encourage you to contact us.