



# GMS Flash Alert



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## Canada - Underused Housing Tax Obligations and Interplay with Provincial, Local Taxes

The Canadian government has advanced legislation for a new 1% “Underused Housing Tax” (hereinafter, “UHT”) that is intended to (retroactively) come into effect on January 1, 2022.<sup>1</sup> This new tax will require certain owners of residential property in Canada to file annual UHT returns with the Canada Revenue Agency starting with calendar year 2022 by April 30, 2023.

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### WHY THIS MATTERS

In addition to the UHT at the federal level, some localities and provinces (see below) have similar taxes. While each tax has its own set of rules and exemptions, it is possible that multiple taxes can be assessed on a single property. A nonresident of Canada that owns a residential property in Vancouver which doesn’t qualify for exemptions at the city, regional, or federal level could be subject to the Vancouver empty homes tax, British Columbia speculation and vacancy tax, and the federal UHT, resulting in cumulative taxes of 6% in 2022.

Since these taxes are based on the fair-market-value assessment and not income, these taxes can represent a significant cost to residential homeowners that are subject to the taxes. Individuals who own residential real estate and will be absent from Canada (e.g., on international assignment) will need to understand these rules, and particularly the exemptions, and determine whether they are able or willing to make arrangements that can allow them to meet the exemptions.

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## Background

The Canadian government's budget for 2021 announced a new 1% UHT. The Department of Finance Canada released details of the proposed UHT by issuing a consultation paper in August 2021 and requesting written submissions from interested parties (which were due by September 17, 2021). The Department of Finance released draft legislative proposals to implement the UHT in Bill C-8, which received a first reading in the House of Commons on December 15, 2021. The legislation includes references to certain "prescribed" entities and property and therefore there is an expectation that the Department of Finance will eventually issue Regulations providing further details.

The Canadian federal government UHT is the latest tax imposed in recent years on housing that is considered underused or vacant. The first vacant home tax was introduced at the city level by the city of Vancouver in 2017<sup>2</sup>. This was followed by a regional tax imposed by the province of British Columbia in 2018<sup>3</sup>. More recently, another city level tax is being introduced by Toronto, also effective January 1, 2022<sup>4</sup> (communications to property owners rolled out in early 2022). All the taxes are assessed as a percentage of the fair market value of the property which is usually based on the higher of the most recent property tax assessment or purchase price of the property. The Vancouver tax is assessed at 3% of fair market value, the British Columbia tax is assessed at a rate from 0.5% to 2% (with 2% applied to foreign owners), and the Toronto tax is assessed at 1%.

## Exemptions

The UHT is subject to exemptions as provided for in legislation and importantly exempts Canadian citizens or permanent residents of Canada.

The UHT does not apply to "excluded owners" which include:

- individuals who are Canadian citizens or permanent residents of Canada (unless they hold the property interest as a partner in a partnership or as a trustee of a trust);
- corporations incorporated in Canada whose shares are listed on a Canadian stock exchange for which a designation is in effect under section 262 of the Income Tax Act;
- registered charities;
- cooperative housing corporations, municipalities, colleges, and universities;
- trustees of mutual fund trusts, real estate investment trusts (REITs), or specified investment flow-through (SIFT) trusts (as these terms are defined in the Income Tax Act).

The rules provide additional exemptions from the UHT and we highlight the ones we currently view as being most likely to be applicable (for a complete list of exemptions, see ["Underused Housing Tax – New Legislation, More Exclusions Coming"](#) in *TaxNewsNow*, January 18, 2022, a publication of the KPMG International member firm in Canada):

- Where the owner meets a minimum "qualifying occupancy" test (property occupied by the qualifying occupant in periods of at least one month that total 180 days or more in the calendar year);
- Where the owner died during the calendar year or the prior calendar year;
- Where the dwelling unit within the property is uninhabitable for a period of at least 120 consecutive days in the calendar year as a result of renovation without unreasonable delay, and this exemption was not used for any of the nine prior calendar years;

- Where construction of the property is not substantially completed before April of the calendar year;
- Where construction is substantially completed after March of the calendar year, the property is offered for sale to the public during the calendar year and has never been occupied by an individual during the calendar year;
- Where the owner newly acquired the property in the calendar year and was never an owner of the property in the prior nine calendar years;
- Property that is not suitable for year-round use as a place of residence (e.g., not winterized);
- Property that is the primary place of residence of:
  - the owner;
  - the owner's spouse or common-law partner; or
  - the child of the owner or the owner's spouse or common-law partner if the child occupies the property.

## Filing Obligation

Impacted homeowners are required to file an annual prescribed form with the CRA for each residential property they own. The return and any tax payable calculated based on the ownership percentage are due by April 30 of the following calendar year.

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## KPMG NOTE

From a global-mobility perspective, in general we find that while it is relatively rare for taxpayers, whether on assignment or residing abroad permanently, to leave a home vacant versus selling or renting – it is not unheard of. There are more jurisdictions looking to introduce similar taxes and the real concern is where the taxes stack on each other and the impact this can have on assignment policies and tax liability.

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## FOOTNOTES:

- 1 For the legislation, see Parliament of Canada: <https://www.parl.ca/DocumentViewer/en/44-1/bill/C-8/royal-assent> .
- 2 Vancouver empty homes tax – see <https://vancouver.ca/home-property-development/empty-homes-tax.aspx> .
- 3 British Columbia speculation and vacancy tax – see: <https://www2.gov.bc.ca/gov/content/taxes/speculation-vacancy-tax> .
- 4 Toronto vacant home tax – see <https://www.toronto.ca/legdocs/municode/toronto-code-778.pdf> .

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