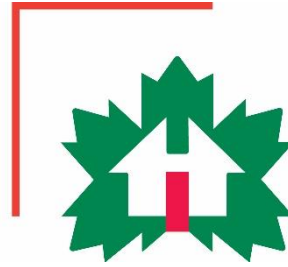


**Canadian
Home Builders'
Association**



Submission to the Consultation on Underused Housing Tax

Introduction and Overview of the Industry

Since 1943, CHBA has been the voice of Canada’s residential construction industry. Representing one of the largest industry sectors in Canada, our membership is made up of some 8,500 member firms from coast to coast, including home builders, renovators, land developers, trade contractors, product and material manufacturers, building suppliers, warranty and insurance providers and related services.

Residential construction, for both new housing and renovation, accounts for 1.5 million jobs across the country—jobs in every community—representing \$107.2 billion in wages, and \$211.3 billion in economic activity. Our members build low-rise, mid-rise, and high-rise homes for both ownership and rental.

In Budget 2022, the government stated that Canada will need an additional 3.5 million homes over the next decade, over and above the 2.3 million the sector would normally build. CHBA concurs with that assessment. To achieve this goal, there needs to be a doubling of housing starts to about 400,000 units per year. However, housing starts are slowing at a time when the opposite is needed to increase housing supply. There are many policy barriers that are getting in the way of achieving this goal – one of which is the ill-considered Underused Housing Tax (UHT).

Impact of the UHT

Our members are largely comprised of small- and medium-sized businesses in the construction and development industry who have been severely impacted by the administrative burden of the UHT in terms of cost and time. It is shocking that our members have been encumbered with exorbitant red tape and accounting expenses to file an estimated tens of thousands of returns on newly built housing units that are not taxable. Given that the UHT does not apply to newly constructed units, this is a complete waste of time and money for Canadian small businesses in the construction and development sector, as well as misuse of taxpayer dollars and Canada Revenue Agency resources that will be used to review them. Appendix A of this submission includes specific examples of the burden and cost the UHT has put upon members.

The *Underused Housing Tax Act* as written requires all private corporations – and therefore all builders and developers that are not publicly owned, which is essentially the entire industry – to file returns for every housing unit. But in the case of new home builders and developers, their newly built homes qualify for an exemption from the tax, making the need to file completely redundant. The [Underused Housing Tax page](#) on the Government of Canada website states: “Even if your ownership of a residential property is exempt from the underused housing tax for a calendar year, as an affected owner, you still have to file a return for the residential property using Form UHT-2900, Underused Housing Tax Return and Election Form.”

The administrative burden and accounting costs are unacceptable and reflect incredibly poorly on your government, given its stated priorities. Since the implementation of the UHT, CHBA has urged the government several times to implement an immediate exemption for our industry. This remains our industry's request.

The costs and lost productivity this will result in will simply add further to the costs of housing. The federal government has already acknowledged that housing affordability is a problem, and homes cannot afford to have more unnecessary costs forced into their sale price. This burden also comes at a time when the industry is facing worker shortages, and this *Act* is causing unnecessary work in businesses that cannot afford to waste any working hours when more housing supply is needed — a stated goal by the federal government.

The impact of this *Act* as currently written is extensive. Tens of thousands of housing units these will be on title of the builder/developer on December 31 of any year, before title is transferred to their owner buyers. This will mean tens of thousands of separate tax filings for builders and developers, for homes that qualify for an exemption under the *Act*, meaning they are being forced to file returns for units which the *Act* already states no tax needs to be paid. Furthermore, in some cases, land titles offices are so far behind that titles are staying with builders and developers long after closings — in other words, even though the builder may have passed on the “keys” to the new owner, the land registry may take months to transfer title. A conservative estimate by our Alberta association is that this will result in over 15,000 individual tax filings in that province alone, all for newly constructed housing units that are exempt from the tax anyway.

When CHBA provided our [submission](#) on the Tax on Unproductive Use of Housing by Non-Resident, Non-Canadian Owners in September 2021, CHBA made it clear that any such action must be undertaken with extreme precision and caution to avoid unintended consequences. Unfortunately, the industry is now facing a very large red tape burden from what appears to be an unintended but severely impactful consequence, and Canadian taxpayers and homebuyers will pay the price.

It should also be emphasized that builders and developers have no interest in keeping units on their books for any length of time as this simply costs them money, making it nonsensical that they are required to file a UHT return for a tax that they are not required to pay.

It also seems completely unjustified that real estate investment trusts (REITs) and publicly traded companies are considered excluded owners — and therefore do not have to file a tax return or pay the tax — but private Canadian corporations, and hence the vast majority of builders and developers who are actively constructing more housing supply, are only considered exempted from pay the tax, but not excluded from filing a return. In other words, large corporations are exempt, but small businesses who can least afford it are being saddled with this senseless red tape. Clearly, builders and developers should be excluded as well.

The time and money needed to file these returns (we must reiterate that builders must file separate returns for each newly constructed unit they have on the books) is causing delays in getting more housing built and adding costs. The timing and impact of this runs counter to the government's acknowledgement that the country is in the midst of housing crisis, in which Canada does not have enough homes, and that 3.5 million additional new homes will need to be built by 2031.

Per the specific recommended changes to the UHT as outlined in the Fall Economic Statement (FES), CHBA has several concerns.

Elimination of Filing Requirement for Certain Owners

Making “specified Canadian corporations”, partners of “specified Canadian partnerships” and trustees of “specified Canadian trusts”, “excluded owners” for UHT purposes is indeed a step in the right direction, and should be implemented as a bare minimum. However, these changes must be implemented for the 2022 calendar year, not just 2023 and subsequent years. Given that the government has recognized this should be changed, and has granted extensions for the 2022 filing year and that date has not yet been reached, it is not too late, and is only fair, that the changes be applicable to the 2022 tax year as well.

However, per below, while adding those entities to the excluded list will be beneficial, this still leaves many development companies who are responsible for building thousands of housing units per year included, though again they will exempt from paying tax, as we saw with the *Prohibition of Residential Property by Non-Canadians Act*, which the government ultimately had to adjust as well to avoid stifling the construction of more housing supply.

Under a “specified Canadian corporation” – the FES states that this is generally a Canadian corporation having less than 10 per cent of its votes or equity value owned by foreign individuals or corporations. This is highly problematic and very similar to the debacle the government created for the home construction industry under the *Prohibition of Residential Property by Non-Canadians Act* and its associated regulations. Regulations prohibited Canadian companies with more than 3% foreign ownership from buying vacant land for residential development. That resulted in the restriction of housing supply. Ultimately, the government realized its grave error and created an exception in the Regulations for the purchase of property for development purposes. This exception allows for all entities, including those with some foreign ownership, to purchase residential property for the purpose of development, which will now enable all business entities in Canada, regardless of ownership structure, to contribute to increasing Canada’s housing supply.

Therefore, the same exemption created under the *Prohibition of Residential Property by Non-Canadians Act* should apply to the UHT. That is, companies that are in the home building business (and may temporarily own show homes or that are for sale but have not been turned over to the owner yet) should be excluded from the tax.

Not exempting the home construction industry from having to file the UHT – for a tax that they do not need to pay – will only result in a similar situation to the foreign buyers prohibition.

Conclusion

In conclusion, CHBA strongly recommends that the entire home building industry be excluded from the UHT, regardless of ownership structure, and that that exemption be effective for the 2022 tax year and beyond.

In order to achieve the goal of building more homes in order to address the supply and affordability crises that are impacting every corner of this country, it is imperative that the federal government stop implementing poorly considered policies. The UHT is only one example of a number of legislative and regulatory burdens that have been levied upon the home building sector of late. The lack of understanding

of the sector, the insufficient pre-consultation with industry, or frankly the blatant disregard for how policies will (negatively) impact the building of more supply needs to end. Bills S-211 on foreign forced labour and C-32 on trust reporting requirements are other examples of ill-conceived government red tape being thrust upon the industry's small businesses, who do not have the capacity to deal with them and whose impact will further delay construction and increase housing costs for consumers. CHBA's some 8,500 members are the firms the federal government needs to depend upon to achieve the goal of building more homes. The sector can no longer be the target of poorly thought-out policies that take away from building more supply. Furthermore, home buyers should not be the ones who ultimately pay for these poorly thought-out policies.

The home construction sector needs to be a partner achieving more housing supply, not a target. While on one hand, in a positive way, the government is targeting red tape in housing at the municipal level, it is at the same time adding its own federal red tape burden on the sector, causing more delays and more costs to Canadians. This needs to stop.

For further information, please contact CHBA Director of Government Relations, Nicole Storeshaw at nicole.storesshaw@chba.ca or 613-230-3060 (ext. 241).

Sincerely,



Kevin Lee, P.ENG., M.ARCH.
CEO
Canadian Home Builders' Association

cc: Hon. Sean Fraser, Minister of Housing, Infrastructure and Communities
Micah Richardson, Deputy Director of Policy for the Hon. Sean Fraser
Hon. Chrystia Freeland, Deputy Prime Minister and Minister of Finance
Yash Nanda, Senior Policy Advisor, for the Hon. Chrystia Freeland
Hon. Marie-Claude Bibeau, Minister of National Revenue
Jerome Côté, Director of Policy for the Hon. Marie-Claude Bibeau

Appendix A

The following are just three examples of the administrative and cost burden placed upon members of the home construction industry. Company names have been removed for privacy purposes.

Company #1:

- Filed 203 returns with \$0 tax payable.
- External consulting /legal costs: \$4,900
- Estimated internal time: 145 hours with (3.625 weeks of time) with an estimated cost of \$15,450 (a lot of senior managers/ executive time); we filed our own returns as it was way too costly to hire a consultant to file 203 returns.
- Had to cancel 2 strategic projects in 2023 to deal with this legislation with no value to our organization

Company #2:

- Hard Costs
 - Accountant Fee - \$1,000
 - No legal fees
 - Internal Costs \$6,400
- Hours Spent – 40 hours (includes gathering the info, discussions and meetings on interpretation, and manually completing the forms)
- 199 returns filed (188 for *name removed for privacy purposes* and 11 for one of our development companies)
- \$0 tax payable
- Other Comments:
 - Physically filing out these forms was tedious. Uploading a data sheet somewhere would have saved most the hours.
 - CRA lost some of our forms and we had to resend causing additional admin time.
 - Still cannot determine if all 199 returns have been received and processed.
 - The CRA portal is experiencing issues so you can't accurately see if your returns have been filed (as noted by a CRA representative)
 - Calling CRA they could not confirm if all the returns had been received.
 - Even when calling they couldn't guarantee that I wouldn't be fined if they couldn't find the forms that were sent.

Company #3:

- Estimated cost associated with having to file the UHT-2900
 - Cost associated with review and interpretations of the legislation
 - *between several team members and consulting costs, on the conservative side, about \$3,000*
 - Cost associated with filing the returns
 - *costs to complete the forms was approximately \$750*
- Estimated hours spent on the filing of the returns (the cost aspect should be captured above)
 - *We estimate that there was approximately 12 hours in total spent completing the filings*
- Number of returns filed

- \$_____ tax payable
 - 136 returns
 - *There was no tax payable on any of these filings*