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Canadian Home Builders Association
141 Laurier Ave. West
Suite 500
Ottawa ON K1P 5J3

Case Number: 245419
Business Number: N/A

Attention: Kevin Lee
Chief Executive Officer

March 10, 2023

Dear Kevin Lee:

Subject: INTERPRETATION
Underused Housing Tax

Thank you for meeting with us on February 22, 2023 to discuss the challenges faced by your members with regards to the underused housing tax (UHT). We provide the following interpretation to confirm our understanding of the matters discussed in the meeting.

All legislative references are to the *Underused Housing Tax Act* (UHTA) unless otherwise specified.

INTERPRETATION REQUESTED

You would like to know the Canada Revenue Agency's (CRA) position concerning the following matters:

- at what point in the construction process does a property become a residential property for UHT purposes; and
- in the case where person's ownership of a residential property is exempt from the UHT for a calendar year, is the person required to report the taxable value of the residential property when filing a UHT-2900 return for the residential property for the calendar year.

INTERPRETATION GIVEN

Based on our discussion, we provide our interpretation below.

Substantially Completed

The term “residential property” is defined in section 2, as follows:

residential property means property (other than prescribed property) that is situated in Canada and that is

(a) a detached house or similar building, containing not more than three dwelling units, together with that proportion of the appurtenances to the building and the land subjacent or immediately contiguous to the building that is reasonably necessary for its use and enjoyment as a place of residence for individuals;

(b) a part of a building that is a semi-detached house, rowhouse unit, residential condominium unit or other similar premises that is, or is intended to be, a separate parcel or other division of real or immovable property owned, or intended to be owned, apart from any other unit in the building together with that proportion of any common areas and other appurtenances to the building and the land subjacent or immediately contiguous to the building that is attributable to the house, unit or premises and that is reasonably necessary for its use and enjoyment as a place of residence for individuals; or

(c) a prescribed property.

The CRA considers a property to become a residential property for UHT purposes when construction of the property is substantially completed (generally, 90% or more) so that an individual could reasonably inhabit the property. A residential property may be considered to be substantially completed even if there are outstanding minor repairs, adjustments or upgrades, since this will not reasonably impair the use and enjoyment of the property as a place of residence. Whether the construction of a property is substantially completed on a particular day is a question of fact, and builders/owners of properties will have to make that determination on a case-by-case basis.

The above position applies to both paragraphs (a) and (b) of the definition of “residential property.”

Also, to be clear, a builder/owner of a property does not have an obligation to file a UHT-2900 return for a property for a calendar year if the construction of the property is not substantially completed on December 31 of the calendar year.

We would like to clarify that a condominium complex does not necessarily have to be registered as a condominium in order for the units situated therein to be regarded as residential condominium units, and thus to be regarded as property for purposes of paragraph (b) of the definition of “residential property.” However, the construction of a particular unit does have to be substantially

completed on December 31 of a calendar year in order for the builder/owner to then have an obligation to file a UHT-2900 return for the property for the calendar year.

Please note, the term “substantially completed” is used in the exemptions found in paragraphs 6(7)(k) and (l). These exemptions apply only to residential properties where both of the following conditions are met:

- the construction was substantially completed as of December 31 of a calendar year; and
- substantial completion actually occurred in the calendar year, at the particular time described in the applicable exemption.

Reporting the taxable value of a residential property on the UHT-2900 return

The UHT information requirements were explained in the Background Paper that Finance Canada released on August 6, 2021, as part of its consultation on the proposed tax on vacant homes owned by non-resident, non-Canadians.

The CRA has received requests from Canadians asking for relief from having to report the assessed value and most recent sales price of a residential property in situations where no tax is payable in respect of the residential property. We understand from our discussion that in certain circumstances with new housing developments, the builders/owners may also not yet have a property assessment notice at the time of the UHT-2900 return filing deadline.

The CRA’s position is that a person is not required to report the amounts on Lines 280 and 285 of the UHT-2900 return with respect to the taxable value of the residential property in situations where both of the following conditions are met:

- no tax is payable in respect of the residential property for a calendar year due to the person’s ownership of the residential property being exempt from the UHT for the calendar year; and
- the person files the UHT-2900 return by December 31 of the following calendar year. For example, the return for the 2022 calendar year is filed by December 31, 2023.

If either of these two conditions **is not** met, then the person will be required to report those amounts on Lines 280 and 285 of the UHT-2900 return. The CRA will be publicly announcing this position shortly.

When completing a UHT-2900 return online, a person is required to report an amount on Lines 280 and 285 in order to proceed with completing other sections of the return. In these limited circumstances as described above, a person may enter zeros on Lines 280 and 285 in order to complete the return.

DISCLAIMER

In accordance with the qualifications and guidelines set out in GST/HST Memorandum 1-4, *Excise and GST/HST Rulings and Interpretations Service*, the interpretation(s) given in this letter, including any additional information, is not a ruling and does not bind the Canada Revenue Agency (CRA) with respect to a particular situation.

CONTACT

If you require clarification with respect to any of the issues discussed in this letter, please call Chris Lewis (Manager, Real Property – Specialty Tax Unit) directly at 343-571-0204.

Sincerely,

Lloyd McMaster

Lloyd McMaster
Director
Financial Institutions and Real Property Division
GST/HST Rulings Directorate
Legislative Policy and Regulatory Affairs Branch
Canada Revenue Agency / Government of Canada