



UNDERUSED HOUSING TAX

If you own a residential property in Canada, you should be concerned.

Canada has a new Underused Housing Tax for 2022, and if you are affected [your UHT return](#) must be filed by May 1, 2023. Late filing by even one day can be subject to a penalty of \$5,000 or more, even if no UHT is actually payable.

Update March 28, 2023

On March 27, 2023 the Canada Revenue Agency made the following announcement: "To provide more time for affected owners to take necessary actions to comply, the Minister of National Revenue is providing transitional relief to affected owners. The application of penalties and interest under the UHTA for the 2022 calendar year will be waived for any late-filed underused housing tax (UHT) return and for any late-paid UHT payable, provided the return is filed or the UHT is paid by October 31, 2023.

This transitional relief means that although the deadline for filing the UHT return and paying the UHT payable is still April 30, 2023, no penalties or interest will be applied for UHT returns and payments that the CRA receives before November 1, 2023."

The filing deadline for 2023 and subsequent years' UHT returns will remain at April 30 of the following year.

Who is affected?

It is perhaps easier to describe who is **not** affected.

If you do not have title to any residential property (defined below), you are **not** affected.

You are an excluded owner and are **not** affected if you are the registered owner of a residential property and are:

- An individual who is a Canadian citizen or permanent resident of Canada (immigration status, not just tax residency), unless you are an owner of the residential property as:
 - A trustee of a trust (except if the individual is the personal representative of a deceased individual, in which case the individual is an excluded owner)
 - A partner of a partnership

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- An owner of a residential property as a trustee of any of the following trusts:
 - A mutual fund trust for Canadian income tax purposes
 - A real estate investment trust (REIT) for Canadian income tax purposes
 - A specified investment flow-through trust (SIFT) for Canadian income tax purposes
- A Canadian corporation whose shares are listed on a Canadian stock exchange designated for Canadian income tax purposes
- A registered charity for Canadian income tax purposes
- A cooperative housing corporation, hospital authority, municipality, para-municipal organization, public college, school authority, or university for GST/HST purposes
- An Indigenous governing body or a corporation wholly owned by an Indigenous governing body
- The government of Canada or a province, or an agent of the government of Canada or a province

If you own a residential property through a private corporation, that corporation is affected. If you own a residential property through a partnership or are the trustee of a trust that is not excluded above, you are affected.

What is a residential property?

For purposes of the Underused Housing Tax Act, a residential property is property situated in Canada that is either of the following:

- A detached house or similar building that contains not more than three dwelling units, along with any appurtenances and the related land
- A semi-detached house, rowhouse unit, residential condominium unit, or other similar premises, along with any common areas or appurtenances and the related land

I'm affected, or my corporation is. What now?

If you or your corporation is affected, you must file the new Underused Housing Tax Return and Election Form UHT-2900 by October 31, 2023 in order to avoid penalties. A separate return is required for each property, by each person or corporation that owns an interest in the property.

As noted above, there are significant penalties for late filing or not filing at all. The minimum penalty for each return that is filed late by an individual is \$5,000, and the minimum penalty for a corporation is \$10,000.

A corporation that is affected will need to obtain a new “RU” account under its Business Number. We have been told that you or your authorized representative can obtain this number online through My Business Account or Represent a Client, respectively. The CRA has not yet activated the process to obtain an RU number.

What information does an affected owner have to provide on the return?

An affected owner will need to provide their:

- Legal name
- Identification number (Social Insurance Number, Individual Tax Number, or Business Number RU)
- Mailing address and telephone number
- Contact information for an authorized representative (optional)
- Citizenship for an individual who is neither a Canadian citizen nor permanent resident of Canada
- Additional information if you own the property as a partner in a partnership or as trustee of a trust

More information is then needed regarding the residential property:

- Physical address
- Property ID used in the land registry system
- Property tax assessment roll number
- Type of residential property
- Type of ownership (Sole, Joint tenancy or Tenants in common)
- Year of purchase
- Ownership percentage and, if less than 100%, the ownership percentage for each other owner
- The assessed value of the property from the most recent assessment
- The most recent sale price on or before December 31, 2022 (for a 2022 return)

All of the information above is required to complete the return whether the affected owner is exempt from paying the Underused Housing Tax or must pay the UHT. If you are an affected owner you should start gathering the information **as soon as possible**.

Will I, or my corporation, have to pay UHT?

Fortunately, there are many exemptions from an affected owner having to pay UHT (just not from having to file an annual return). The full list of exemptions is lengthy and complex, so only a brief description of them is provided here. Each situation needs to be examined in detail before an exemption is claimed.

The exemptions include:

- Primary place of residence if the individual owner of the residential property or certain members of the owner's family occupied the property as their primary place of residence in the year
- Qualifying occupancy when the property has been occupied in a qualifying manner for at least 180 days in the year
- Canadian corporations if they are more than 90% owned by Canadian citizens or permanent residents (a Specified Canadian corporation)
- A partnership if all of the partners are an excluded owner or a specified Canadian corporation
- A trust if all of the beneficiaries are an excluded owner or a specified Canadian corporation
- Location-based exemptions
- Property under construction during the year

Based on the design of the form, it appears that CRA wants the taxpayer to determine whether the primary place of residence or qualifying occupancy exemption applies before considering any of the other possible exemptions.

If you or your corporation are not exempt, you or it will have to pay UHT.

How much UHT will I have to pay if not exempt?

If you are an affected owner and do not qualify for any of the exemptions, the UHT is calculated as 1 per cent of the **greater** of the assessed value of the property or the most recent sale price. There is an option to elect at fair market value. To make that election you must obtain a written appraisal prepared by an accredited real estate appraiser operating at arm's length from you with an effective date for FMV that is between January 1 of the calendar year and April 30 of the following year.

To give some perspective, the **annual** UHT on a property with a base value of \$1,000,000 would be \$10,000.

Remember the Penalties

If you are an affected owner, it is essential to remember that significant penalties can be assessed on late-filed returns, even if you claim an exemption and thus have no tax payable when you get around to filing. Those penalties **start** at \$5,000 per return for individuals and \$10,000 per return for corporations. The penalty will be based on an alternative calculation if the alternative gives a higher amount, and is calculated as the amount that is the total of:

- 5% of your UHT payable for the residential property for the calendar year
- 3% of your UHT payable for the residential property for the calendar year, multiplied by the number of complete calendar months that the return is past due

For an individual with a property valued at \$2,000,000 the alternative penalty could cut in at 7 full months late in filing. Note that there is no limit on the number of months for which the 3% penalty can be assessed.

It's further worth noting that if your return is filed after the end of the year during which it was due to be filed, the alternate penalty calculation will be based on a notional UHT calculation that ignores many of the exemptions from paying the UHT.

Vine Can Help

We can assist you in preparing and filing your UHT returns, but only if you make us aware that you are, or your corporation is, an affected owner. The rules are complex, and it can be expensive to ignore the need to file your UHT returns by the due date.

If you have any questions, please contact us at (905) 549-8463.