October 21, 2021

Department of Finance
90 Elgin St
Ottawa, ON K1A 0G5
UHT-TLSU@fin.gc.ca

SENT VIA EMAIL.

Re: CALU submission to consultation on the Underused Housing Tax

Dear sirs/madams:

On behalf of the Conference for Advanced Life Underwriting (CALU), we are writing to provide our comments to the Department of Finance (Finance Canada) on its consultation relating to the underused housing tax (UHT) announced in Budget 2021[1] and supplemented by a Finance Canada consultation paper.[2]

CALU is the only national professional organization dedicated to advanced planning issues related to life underwriting, tax planning and wealth management. CALU's industry leading members include insurance and financial advisors as well as accounting, tax, legal and actuarial experts. Through a strategic partnership with Advocis, we advocate on behalf of more than 17,000 member-clients in support of fair and competitive public policies to grow and preserve the financial well-being of Canadian families and businesses.

Policy background

In the 2020 Fall Economic Statement[3] the government announced it was "committed to ensuring that foreign, non-resident owners, who simply use Canada as a place to passively store their wealth in housing, pay their fair share." This was to be accomplished by implementing a national, tax based measure targeting the unproductive use of domestic housing which removes these assets from the domestic housing supply.

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[1] Budget 2021 dated April 19, 2021 at pp. 305 and 739. Herein referred to as Budget 2021.
[2] Released on August 10, 2021. Herein referred to as the UHT Consultation Paper.
[3] 2020 Fall Economic Statement dated November 30, 2020 at page 114.

Conference for Advanced Life Underwriting
Suite 600 - 170 Laurier Avenue West
Ottawa, ON K1P 5V5
Tel: 613-505-9632 • www.calu.com

Budget 2021 subsequently announced the government's plans to implement an annual 1% tax on the value of non-resident, non-Canadian owned residential real estate that is considered to be vacant or underused, effective January 1, 2022. It is estimated that this measure will increase federal revenues by $700 million over four years, starting in 2022-23. The government indicated these revenues would be used to support other investments to make housing more affordable for all Canadians.

Following Budget 2021, the Office of the Parliamentary Budget Officer ("PBO") released a Legislative Costing Note to provide an independent cost estimate (in this case tax revenues) for the UHT.[4] It estimated that the total revenues over four taxation years would be in the range of $510 million. However, the PBO also identified "sources of uncertainty" relating to its costing estimate as follows:

> Information on foreign ownership of residential real estate in Canada is poor and incomplete. Therefore, the assumed shares of foreign ownership may be severely biased upwards or downwards. In addition, the behavioral response is taken from an increase in the SVT[5] in British Columbia. However, the province also introduced a property transfer tax directed at foreign buyers in specific geographic areas within the province. Thus, the measured response may be a combination of both tax instruments and could overestimate the response to the property tax.
>
> Furthermore, the government plans to have further consultations which may lead to changes in the parameters of the proposed tax on unproductive use of housing. These changes could also materially change the revenues raised by the tax.
>
> Finally, administrative costs linked to the review of the declarations as well as enforcement of the tax has not been included in this costing.

Finance Canada released a consultation paper on August 10, 2021, which provided more comprehensive information on the design of the proposed UHT and stakeholders were invited to provide written submissions.

CALU's position on the proposed UHT

CALU is concerned with the federal government proceeding with the proposed UHT for the following reasons:

1. **The legislation is not properly targeted to those regions or geographic areas where access to affordable housing is a significant issue.** Unlike similar provincial and municipal vacant tax legislation which applies to specific residential areas with a demonstrated higher proportion of "speculator owned" properties, the proposed UHT applies on a national basis to all non-resident, non-Canadian owners ("NRNC owners") of residential property. Discouraging NRNC owners who are "part-time" occupants of residential property could result in other unwelcome economic impacts in areas where affordable housing is not a significant concern.

[4] PBO Legislative Costing Note 2021-05-13.
[5] British Columbia Speculation and Vacancy Tax.

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2. **The legislation only applies to NRNC owners of residential property.** Limiting this tax to NRNC owners is also dissimilar to existing provincial and municipal vacant tax legislation which applies to all owners of vacant residential property. As noted by the PBO, while data on the number of "vacant" Canadian residential property is poor, a report by the Canadian Housing Statistics Program (CHSP) indicates, for example, that more than 90 per cent of non-owner occupied properties in Ontario are owned by Canadian residents rather than NRNC owners.[6] Thus, if the goal is to ensure the owners of vacant residential properties make those properties available for rental purposes (or otherwise occupy those homes on a regular basis), it would appear this can only be truly effective if this type of tax is imposed on both resident and NRNC owners.

3. **Auditing for compliance with the UHT will be expensive.** An NRNC owner is required to file an annual declaration relating to ownership of their residential property and any exemption being claimed in respect of the property to avoid paying the tax. The UHT Consultation Paper outlines eleven different exemptions to the UHT, many of which are highly fact dependent. It appears to us that that auditing exemptions being claimed by NRNC owners will be a very time consuming and hence a costly process for the Canada Revenue Agency.

4. **The UHT proposals would require Canadian private corporations, trustees of Canadian trusts and partners of Canadian partnerships to make annual declarations.** Although the UHT only applies to NRNC owners of residential properties, the mandatory declaration requirement also applies to Canadian private corporations, partners in a Canadian partnership and trustees of Canadian trusts.[7] While these types of residential property owners can qualify for an exemption from paying the UHT, the filing of the annual declaration (and related audits) represents an additional layer of costly "red tape" for many of these entities. In addition, to the extent that provincial and municipal governments do not "harmonize" with the federal legislation, it will create additional compliance costs for those owners who are potentially impacted by these various types of taxes.

Summary and recommendations

While CALU supports the government's underlying goal of increasing the productive use of residential real estate in Canada, we believe the federal government has other policy and economic tools to accomplish this. We are therefore recommending that the federal government not proceed with the UHT but instead work with the provinces to implement their own targeted vacancy and speculation taxes (similar to those implemented in the City of Vancouver and by the British Columbia government) to ensure such taxes are focused on the affected

[6] See also the Canadian Mortgage and Housing Corporation (CMHC) summary report entitled "Results from the 2020 Condominium Apartment Survey" dated May 14, 2021 which indicates that non-resident ownership is in the low single digits in most of Canada's largest centres and remains "low and stable". https://www.cmhc-schl.gc.ca/en/blog/2021/results-2020-condominium-apartment-survey.

[7] Presumably this is to prevent these types of entities being used by NRNC owners to avoid paying the UHT.

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regions and apply to a broader range of residential property owners. In turn, the federal government can focus on other proposals put forward in Budget 2021 to increase affordable housing for working Canadians including young families.

Thank you for your consideration of our submission and we would be pleased to discuss it further with you.

Your truly,

Guy Legault
President & CEO

Barry Pascal
Chair, Board of Directors

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