



December 21, 2023

Department of Finance
90 Elgin St
Ottawa, ON
K1A 0G5

Via email: Consultation-Legislation@fin.gc.ca

Re: Consultation on draft legislative proposals related to the Underused Housing Tax

The Conference for Advanced Life Underwriting (CALU) is a national professional membership association of leaders in the life insurance and financial advisory industry. Along with our partner organization, Advocis, we speak for more than 7,500 insurance and financial advisors in every part of Canada and, in turn, the interests of millions of Canadians.

On behalf of CALU, we are writing to provide our comments on the effective date of one change included in the draft legislative proposals relating to the Underused Housing Tax Act¹ (the “draft UHT proposals”) released by the Department of Finance as part of the 2023 Fall Economic Statement.

Changes to the Definition of Excluded Owner²

CALU is pleased that the draft UHT proposals will amend the definition of excluded owner to include a trustee of a trust that is a specified Canadian trust, a partner of a partnership that is a specified Canadian partnership and a specified Canadian corporation.³ The stated reason for this change is to reduce the compliance burden for these entities, and follows recommendations made by CALU in our [submission](#) to the Department of Finance in 2021 prior to the enactment of the UHT.⁴

However, we are concerned that this change will not take effect until January 1, 2023. This means that exempt Canadian entities will continue to be required to file a UHT return⁵ for the 2022 taxation year. While the Explanatory Notes released with the draft UHT proposals do not provide an explanation for delaying the effective date to 2023, we understand the rationale is to be “fair” to similar entities that have already satisfied their filing requirements in 2022.

We believe it is inappropriate to maintain this reporting requirement for 2022, given the government has recognized by proposing this amendment that such obligation imposes an unnecessary regulatory burden on

¹S.C. 2022, c.5, s. 10 (herein referred to as the “UHT”). Unless otherwise stated all statutory references are to the UHT.

² As defined in section 2.

³ These terms are also defined in section 2 as modified by the draft UHT proposals. Herein referred to as “exempt Canadian entities”.

⁴ We also understand that a number of other organizations made similar recommendations.

⁵ Form UHT 2900.



exempt Canadian entities. We also do not believe this may increase taxpayer non-compliance in the future, given the lack of compliance arose primarily from a reasonable belief that Canadian resident taxpayers would not be subject to the UHT.

We would also note there are proposed changes to the Underused Housing Tax Act Regulations⁶ which have the effect of excluding a residential condominium unit that is part of a building containing four or more residential units from the definition of “residential property”⁷ where certain conditions are satisfied.

This exemption operates somewhat similarly to the changes proposed for exempt Canadian entities, and effectively creates a new class of exempt owners who are not required to file a return or pay the UHT. However, unlike the change for exempt Canadian entities, this change is deemed to be effective December 31, 2023 and therefore exempts the owners of these properties from filing requirements in both 2022 as well as subsequent years. The rationale for differentiating the 2022 filing requirements for exempt Canadian entities and qualifying owners of residential condominium units is difficult to discern.

Based on the foregoing discussion, we recommend that the exemption from UHT filing requirements for exempt Canadian entities should be made effective for 2022.

Thank you for the opportunity to comment on the draft UHT proposals as part of this consultation process. Should you have any questions or comments relating to our submission please contact CALU’s Tax Advisor, Kevin Wark (kwark@calu.com), (416) 843-5418).

Yours truly,

Robert McCullagh

Robert McCullagh, CFP, CLU, CH.F.C, RHU
Chair of the Board of Directors

Guy Legault

Guy Legault, MBA, FCGA, FCPA, CAE
President & CEO

cc. Trevor McGowan, Associate Assistant Deputy Minister (Legislation), Tax Policy Branch

⁶ The UHT Regulations.

⁷ Proposed section 2 of the UHT Regulations.