

March 13th, 2023

The Honourable Chrystia Freeland
Deputy Prime Minister and Minister of Finance
House of Commons
Ottawa, ON K1A 0A6

Subject Line: CFIB's Concerns about the Federal Underused Housing Tax and its impact on small businesses

Dear Minister Freeland:

As you know, the Canadian Federation of Independent Business (CFIB) is a non-profit, non-partisan business association. With over 97,000 members across Canada, we are the largest organization exclusively representing the interests of small and medium-sized independent businesses to all levels of government. Today we write to you with concerns about the Underused Housing Tax (UHT).

The UHT is a 1% annual tax on the ownership of vacant or underused residential housing in Canada that took effect on January 1, 2022. While the tax aims to target non-residents and non-Canadian owners, the list of affected and excluded owners is not clear and many will not be aware of their new filing responsibilities. Canadian corporations, trusts, and partnerships who own residential property will be required to file a 6-page form (UHT-2900) for each residential property they own before April 30, 2023, and, if not filed by then, they could be subject to significant penalties of \$10,000 or more even if they do not owe any tax. Below we have identified several concerns regarding the UHT tax and its rollout and its potential impact on small businesses.

Most small businesses are unaware of UHT

With the UHT filing deadline approaching, we are greatly concerned that small business owners are unaware of the UHT and the penalties for filing late. There seems to be very little outreach to small business owners from the Canada Revenue Agency (CRA) about the UHT and the information contained in notifications, resources, and portals to educate small businesses is limited. The Business Enquiries line and the Dedicated Telephone Service for income tax service providers are only able to redirect to the website and are ill-equipped to provide clarifications to business owners. In addition, electronic filing will not be available through the My Business Account (MyBA) or Represent a Client (RAC) portals until after March 14, 2023. The alternative filing method through CRA's website requires applicants to wait for a digital access code which can take two weeks or longer to receive.

The lack of resources and access to clear and timely information puts small business owners in a difficult position as many do not know if they should file a return and if they might be subject to penalties. Examples of specific situations that need more clarity include rules around partnership, mixed-use property, recreational property, and Temporary Foreign Workers (TFW) housing. CFIB has also tried to seek clarity on these situations from CRA on behalf of our members, but we have yet to receive a clear response.

To address this issue, CFIB recommends that CRA develop better UHT resources to share with the small business community. This could include clear guidance on whether an owner is required to pay the UHT, whether they need to file the UHT-2900 form and how, and whether any special elections apply to their situation. By increasing awareness and providing better support, the government can help ensure that small businesses are able to comply with the UHT requirements and avoid any undue penalties.

Penalties are excessive for small businesses

The penalties for a corporation failing to file can be \$10,000 or more. These are extremely high consequences for a small business. As small businesses have not been provided with sufficient notice to prepare for the new filing

requirements, penalties for late submissions in the tax's inaugural year would be unnecessarily harsh. Therefore, we recommend that a more lenient approach be adopted, with an emphasis on education and support to assist small businesses in complying with the new regulations before any monetary penalty is applied.

Adds to small business' administrative burden

Small businesses will find it challenging to comply with the filing requirements for the UHT-2900 form, especially if they own multiple residential properties. Determining if they are required to file the return and then filling out a separate 6-page return for every residential property, will be time-consuming and costly, and will impose a significant administrative burden on small businesses and their tax preparers. Considering that CRA already collects certain information on every form, we recommend that they review the UHT form and consider including a section where corporations can list all the residences they own, rather than requiring multiple submissions. This would reduce the administrative burden, and help small businesses more easily comply with the new rules.

Puts small business at a competitive disadvantage to large publicly traded companies

Canadian-controlled private corporations (CCPCs) (generally smaller companies) are required to file the UHT-2900 form, while publicly traded companies (generally larger firms) are excluded from this obligation. This places CCPCs at a competitive disadvantage by imposing an additional administrative burden on small businesses grappling with the complexities of complying with the new tax. To address this issue, CFIB recommends that the government consider excluding CCPCs from the list of required filers, which would help to reduce their filing responsibilities and level the playing field for all businesses.

Recommendations

- Exclude CCPCs from the list of required UHT-2900 filers.
- Eliminate the \$10,000 penalty and adopt a more lenient approach for late filing of the UHT forms, with an emphasis on education and support to assist small businesses in complying with the new regulations.
- Ensure UHT communications and resources use clear and approachable language.
- Ensure that filers have enough time and access to tools, such as the MyBA and RAC, to allow them to file the UHT within a reasonable amount of time to meet the deadline.
- Reduce the number of returns required per taxpayer and ensure tax information being collected from individuals and businesses is absolutely necessary.
- Revise the UHT form to streamline the process for corporations by allowing them to list all their owned residences in a single section, instead of requiring multiple submissions.
- Do more to not only educate and support the small business community but also their business associations (like CFIB) regarding the UHT. Small businesses are more likely to seek assistance from their business associations on complicated issues as they are seen as a trusted source of information. These associations can also help alleviate the call volume on CRA and are a good source of intelligence on how well programs/policies are working.

Thank you for considering our members' concerns and our recommendations. If you have any questions or would like to meet to discuss this issue further, please feel free to contact us at our Ottawa office at 613-235-2373 or via email at rachel.ng@cfib.ca.

Sincerely,

Corinne Pohlmann
Senior Vice President, National Affairs and Partnerships

Rachel Ng
Manager, Member Information & Escalations

C.C.

The Honourable Diane LeBouthillier, Minister of National Revenue of Canada
The Honourable Ahmed Hussen, Minister of Housing and Diversity and Inclusion