

Unjust Property Tax Coalition
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Department of Finance, Canada
Tax Policy Branch
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Attention: Policy Reviewers

We are a coalition of homeowners impacted by the current property vacancy taxes both within British Columbia (BC Speculation and Vacancy Tax Act) and Vancouver (Vacancy Tax Bylaw 11674,) both of which have been imposed within the past 4 years. As such, we represent about 150 participants comprising Canadians and non-Canadians, resident and nonresident, who own residential property in British Columbia. Over these years we have made submissions and presentations at the municipal and provincial level against the imposition of these taxes.

We submit this letter to highlight arguments against these types of taxes and to offer constructive suggestions should the federal government decide to proceed with an Underused Housing Tax (UHT).

Fundamental Issues:

1. Is this a national problem or restricted to a select few 1/2 dozen cities? For an initiative as the UHT, is there sufficient national data on foreign ownership of Canadian residential property and how the properties are used? Is there data on Canadian ownership of foreign residential properties and how they are used? Is it not how an owner uses a secondary home the most fundamental aspect of the issue, rather than who owns it?
2. The introduction on the Government of Canada website, states that the tax is “to ensure that foreign, non-resident owners who use Canada to passively store their wealth in housing, pay their fair share...” This is a broad subjective statement on usage, funnelled down to “storing wealth” when Canadian resident homeowners fundamentally do the same thing. The purchase of a home is the average Canadian’s largest investment in their productive career. Is there any information on how most foreign owners use their property? Are they not paying their “fair share” already through regular property taxes, and specifically capital gains tax on liquidating a secondary residence? Is it really simply to passively store wealth? The exemptions and exclusions to the tax as currently constructed are too limited to fairly exclude legitimate use. Further, similar municipal taxes

do not use citizenship as a distinguishing feature when defining property owners underutilizing their secondary home.

3. A significant factor on housing acquisitions is intergenerational repositioning of housing needs within families. This can cross both interprovincial and national boundaries, and requires flexibility and time, at least a decade or more (consider 20 years as a benchmark) It can impact how housing is restructured within generations amongst family, and how family supports are structured such that for example, young family is helped with temporary housing in pursuit of academics, and seniors residences are not the only or default avenue of housing for the elderly.
4. It remains unproven that such punitive taxes have actually made a significant impact on housing cost, availability, or the affordable rental market. Global real estate markets are multifactorial, such that these taxes have not been major influencers. The most recent data from the Vancouver Vacancy Tax experience over 3 years shows that foreign ownership is not the problem. Related articles can be found at:
<https://theorca.ca/resident-pod/playing-the-villain/>.
<https://www.bloomberg.com/news/features/2021-08-16/taxing-the-rich-do-housing-prices-fall-when-empty-second-homes-are-taxed>
5. The constitutionality of these types of taxes is questionable and will in all likelihood be challenged.
6. There is the likelihood of reprisals from other countries, particularly the USA, for Canadian owners of US recreational property. This is already being threatened by US lawmakers.

Suggestions:

1. If the federal government is going to impose such a tax, it should do so without narrowing the base to “foreigners” only, contrary to similar municipal taxes. Should it retain this limited tax base, it is better to remove any populist bias, a more accurate name would be something like the “Foreign Non-Resident Residential Property Tax” or “FNRRPT”. Names given to Vancouver and BC’s taxes are misleading, as many of these homes currently subject to tax are neither vacant, purchased for speculation nor purchased for parking investment. The UHT should be given a name that reflects its true nature and purpose.
2. Is it reasonable to assume that a taxation system can sustain a tax aimed at the same purpose from three different jurisdictions (municipal, provincial and federal) without consolidation of purpose or taxation use? This tax initiative begs a harmonization amongst jurisdictions.
3. There should be no retroactive tax application. People have bought their properties for use as they see fit, legally and in good faith, without

knowledge of the tax. They should not now be penalized. We suggest that there should at least be a 10-year relaxation on the application of such a tax to eligible purchases of property prior to 2022.

4. Appeal process: While there is as yet no defined mechanism of appeal other than possibly the usual channels within CRA, it is worth considering the city of Vancouver's approach where an arms length body adjudicates a final appeal.
5. Care should be taken to ensure transparency. It has taken us 3 years to have the city of Vancouver audit manual released and even so, despite appeal through the Office of Freedom of Information of BC, significant sections remain redacted.
6. Exemptions: There are any number of legitimate reasons why a foreign non-resident individual might use a secondary residence in Canada which are not captured in the limited list of exemptions to the proposed UHT. As examples, a person may use a secondary residence in order to regularly spend time supporting relatives who need child care or health care support and assistance, or allow another supporting relative to do so. The concept of family being limited to the individual, spouse, children, and parents is based more on a limited view of what comprises a supporting family, whereas in an era of aging demographics, intergenerational family supports should be fostered. The proposed tax exemption currently excludes grandparents and grandchildren of the registered owner, and cousins aunts/uncles, and nieces/nephews. Similarly, a secondary residence, though used intermittently but regularly for reasons related to employment (whether paid or unpaid), may fall short of an arbitrary 6 months of the calendar year. In our view, any proposed UHT should be carefully drafted to ensure that the tax captures only those circumstances truly intended and does not unfairly sweep into its net, unintended circumstances.

The City of Vancouver approach should be avoided. It received advice from its consultant Ernst and Young, in a report dated November 4, 2016, that "Any provision of tax discounts or exemptions designed to ensure that the tax is equitable and fair would have the unintended effect of incentivizing and risking an increase in the incidence of tax avoidance as well as an increase in associated administrative costs to the City." That is, administrative efficiency and ease of application for City staff is more important than fairness. Not only is it astounding that Ernst and Young would give that advice, it is more astounding that the City would cite the Ernst and Young report to justify the City's unwillingness to consider fair exemptions for secondary home owners. A carefully drafted UHT that operates to provide exclusions for unintended or unfair consequences would be welcome as it would likely form the model for other Canadian

jurisdictions contemplating a similar tax and may also have the benefit of leading to tax harmonization rather than a patchwork of laws.

Examples of expanding exemptions:

- decrease the time frame of use to 30 or 60 days aggregate of the calendar year
- expand the term “exemptions” to include any bona fide family member of the registered owner or spouse (example: children, grandchildren, parents, grandparents cousins, nephews and nieces, aunts and uncle)

Should you wish to discuss any of these matters with us we would be pleased to do so

Respectfully Submitted

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Cc:

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