Intelligence MEMOS

From: Guy Legault and Keith Brown

To: Finance Minister Chrystia Freeland

Date: December 8, 2021

Re: **Four Design Flaws in Ottawa's Underutilized Housing Tax**

Last April's federal budget contained a number of announcements relating to future tax changes. One tax proposal that did not attract much media attention or scrutiny was the government's plan (originally announced in the 2020 Fall Economic Statement) to impose a 1-percent tax on the value of non-Canadian owned residential real estate that is vacant or underused, with an effective date of January 1, 2022.

The stated purpose of the Underutilized Housing Tax (UHT) was to ensure non-resident owners "who simply use Canada as a place to passively store their wealth in housing, pay their fair share" and that "Canada's housing market is a place to grow for Canadians starting their families and building their future." The federal government provided more details on the UHT as part of a consultation document released in August.

The objective of increasing the productive use of residential real estate is certainly a worthy goal for any level of government, particularly in these times of rapidly escalating home prices. But based on UHT details set out in the consultation document, it appears this tax is not the best way to accomplish this goal for the following four reasons:

The legislation is not properly targeted – Unlike similar provincial and municipal vacant tax legislation, which apply to specific residential areas with higher levels of "speculator owned" residential properties, the UHT would apply on a national basis to all non-resident, non-Canadian owners. Applying this tax to non-resident foreign owners who are "part time" occupants of residential property in areas where affordable housing is not an issue could have unintended and unwelcome economic impacts in those communities.

The legislation does not target all owners of vacant residential properties – While Canadian data on the number of vacant properties and resident vs. non-resident ownership is limited, there is growing evidence that a large chunk of non-owner occupied properties are in fact held by Canadian residents. Existing municipal and vacant tax legislation recognizes this fact by imposing the tax on both residents and non-residents. Thus, if one of the main goals is to free more properties for Canadians who are being priced out of the market, it would appear the UHT needs to be broadened to also include Canadian resident owners.

Auditing compliance with the UHT will likely be expensive – Revenue projections for the new tax – the Finance Department estimates $700 million over four years, while the Parliamentary Budget Officer projects $510 million over the same span – do not appear to include related compliance or other administration costs. The August UHT consultation paper indicates there will be up to 11 different exemptions, most of which would require an extensive review of the facts to determine if they apply in a particular year. It would therefore appear that auditing exemptions from the UHT would be a costly process for the Canada Revenue Agency that could substantially offset related tax revenues.

The new rules will affect Canadian resident private corporations and trusts – Even though the UHT only applies to non-resident, non-Canadian owners, Canadian private corporations and trusts would be required to file annual declarations to confirm whether they own residential property and attest they are exempt from paying the UHT. This represents another layer of red tape for these entities, which will be further exacerbated in those regions and provinces which have their own version of a vacancy tax which includes similar filing requirements.

Given the above, rather than pursue implementation of the UHT – there have been no recent signals about whether the January 1 date still stands – the federal government should focus its efforts on other proposals set out in Budget 2021 to increase affordable house for working Canadians.

In addition, the federal government should encourage other regional and provincial governments to implement their own vacancy and speculation taxes (similar to those put in place in the City of Vancouver and by the BC government) to encourage more owners of "underused" residential property to make them available for longer term residential use.

Guy Legault is President & CEO of The Conference for Advanced Life Underwriting, where Keith Brown is Chair, Tax Policy Committee.

To send a comment or leave feedback, email us at blog@cdhowe.org.