purposes) would help to identify higher-risk entities for CRA review. Notes to these forms could also be used to communicate the filing requirements to those entities that are filing Canadian tax returns.

Ultimately, measures such as the UHT should be implemented or retained only where the impact on housing costs justifies the administrative burden imposed by the measure. In our view, the UHT misses this mark, and requires reconsideration. ■

The FHSA: Do We Really Need Another Plan?

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The Canadian tax system, as currently structured, is designed to pursue two primary governmental goals: revenue collection and social policy. One implied social policy, aided by the ITA, is the widely accepted goal of home ownership.

Several tax preferences assist Canadians in buying and improving their own homes. The most substantial of these tax preferences is the principal residence exemption (PRE), which generally exempts from taxation the entire capital gain on the disposition of a principal residence, without limit. Other tax preferences include the GST/HST new housing rebate, the first-time home buyers' tax credit (which was recently doubled), the home accessibility tax credit, and the proposed new multigenerational home renovation tax credit.

When it comes to funding the purchase of a home, many taxpayers buying their first home use the home buyers' plan (HBP). Launched in 1992, the HBP allows limited, tax-free access to RRSP funds when a first home is purchased. The popularity of the HBP as a primary funding vehicle decreased somewhat with the introduction of TFSAs in 2009; TFSAs provide an alternative to RRSPs as a source of tax-preferred funds that may be used for a down payment.

With the rapidly rising residential real estate prices of recent years affecting housing affordability, the government felt that first-time homebuyers needed more support. That's why the government proposed in its April 2022 budget a new registered plan—namely, the first home savings account (FHSA)—to help homeowners save for a new home. A consultation draft of the implementing legislation was released on August 9, 2022, with comments accepted until September 30, 2022.

Is this new account needed? Or does it just add more unnecessary complexity? Taxpayers already have an alphabet soup of specialized, targeted savings accounts for a variety of needs: the RRSP for retirement, the TFSA for virtually anything, and other plans targeted at post-secondary education and disabled individuals. And now, on top of these, we have a new registered account, limited in size and time frame, targeted at saving for first-time home ownership.

It is worth considering the features of both the existing HBP and the proposed FHSA, in order to see how the plans work and whether there may be a simpler alternative solution.

The HBP

Within limits, the ITA allows individuals to invest before-tax earned income on a tax-sheltered basis through an RRSP. While RRSP withdrawals are generally taxable, the HBP provides an exception by allowing qualifying individuals to withdraw up to $35,000 from their RRSPs tax-free, provided that the funds are used to purchase or build a first home. Amounts withdrawn must be returned to the RRSP over no more than 15 years, with repayment to start the second year following the year of the withdrawal. Amounts not repaid on schedule in a particular year are included in income.

As noted above, the HBP requires that the individual be a first-time homebuyer. Someone is considered a first-time homebuyer if, in the current year or four years prior to purchasing a home, the individual did not occupy either a home that the individual owned or one that the individual's current spouse or common-law partner owned.

Since the introduction of TFSAs, prospective buyers have had an additional option and, in some cases, have used both the HBP and TFSAs to help fund a down payment.

Main Features of the FHSA

The government now proposes to create a new type of registered plan, starting in 2023, to assist people in saving for a first home. To open an FHSA, an individual must be at least 18 years of age and a resident of Canada. In addition, the individual must not have lived in a home that the individual owned either in the current year up to the time the FHSA is opened or during the previous four calendar years. Individuals are limited to making non-taxable withdrawals for a single property in their lifetime.

Like RRSP contributions, FHSA contributions made in a year are tax-deductible in that year; unlike RRSP contributions, FHSA contributions made within 60 days after the end of a particular year cannot be deducted in that year. Income (including gains) arising in an FHSA, as in an RRSP, is tax-exempt. As with the HBP, amounts withdrawn from an FHSA for a qualifying first home purchase are tax-free. Annual contributions are limited to $8,000, with a lifetime contribution limit of $40,000, beginning in 2023. Unlike RRSP limits, the annual limit on an FHSA contribution is not linked to earned income.

As with RRSPs, individuals can carry unused portions of their annual contribution limit forward and can contribute those amounts to the FHSA (and deduct them) in later years. Carryforward amounts start accumulating only after an individual opens an FHSA. Although individuals can have multiple FHSAs, the total amount they can contribute to all of their FHSAs cannot exceed the annual and lifetime limits. As with RRSP contributions, individuals won't be required to claim the FHSA deduction in the year in which a contribution is made; they can deduct unclaimed contributions in a future tax year.

Individuals may transfer funds from their FHSAs to their RRSPs or RRIFs. Amounts transferred are not taxable at the time of transfer, but those amounts will be taxed when withdrawn from the RRSP or RRIF, in the usual manner. Transfers will not affect, or be limited by, the individual's RRSP contribution room. Individuals may also transfer funds from an existing RRSP to an FHSA on a tax-free basis, subject to the $8,000 annual and $40,000 lifetime contribution limits. But these transfers will not restore RRSP contribution room with respect to the amount transferred.

If the individual hasn't used FHSA funds for a qualifying first home purchase within 15 years of first opening the FHSA or by the end of the year in which they turn 71 (whichever comes first), the account must be closed, and any remaining funds can be either transferred into an RRSP or RRIF or withdrawn on a taxable basis.

The HBP isn't going away. Although no changes are being made to HBP rules, taxpayers must choose which plan to use when they buy a first home; they may not make both an FHSA withdrawal and an HBP withdrawal for the same home purchase.

Comments on the FHSA

One may criticize the FHSA's lifetime contribution limit of $40,000 per person (or $80,000 per couple) as being too low, given that average residential home prices nationally are about $630,000 (Canadian Real Estate Association [CREA], National Statistics, July 2022), and much higher than that in some markets, such as Toronto and Vancouver. In fact, the national average residential home price for all markets, excluding Toronto and Vancouver, is $526,000 (CREA, National Statistics, July 2022). Minimum down payments for average homes outside these hot markets are frequently much less than $40,000. That said, the $40,000 limit may prove inadequate for first-time homebuyers in more expensive markets—the very people most in need of assistance in funding a down payment.

Unintended planning opportunities could be available under the proposed FHSA regime. Consider lifelong renters who intend to continue renting their homes. These individuals qualify as potential first-time homebuyers. Provided that they have sufficient funds to make their maximum RRSP, TFSA, and (as of 2023) FHSA contributions, they could begin contributing $8,000 annually to their FHSA for up to five years, for a tax-deductible contribution totalling $40,000. Then, at the end of 15 years, they could simply transfer the accumulated FHSA balance to their RRSP or RRIF. Effectively, they could access an extra $40,000 of RRSP room, and a corresponding tax deduction. This could be useful for individuals who otherwise have maximized their contributions or have been unable to contribute to an RRSP because they have insufficient earned income.

That said, the government is presumably aware of this planning opportunity but perhaps chose to ignore it on the well-founded assumption that it affects few taxpayers (wealthy lifelong renters who maximize their RRSP and TFSA contribution room). A possible fix would be to limit the ability to transfer unused FHSA balances to an RRSP to the individual's available RRSP contribution room. A similar rule exists for income and growth in RESPs if the beneficiaries don't use the funds for post-secondary education.

The government hopes to have these plans available in 2023, but that will depend on whether plan providers are able to launch this new registered plan that quickly. Implementing legislation for FHSAs is unlikely to be enacted before November 2022, leaving a very compressed timeline for providers to establish systems for this new, complex arrangement.

The introduction of FHSAs raises other compliance issues. Presumably, the implementing legislation will amend regulation 9006 by adding FHSAs to the list of accounts excluded from due diligence and reporting requirements under the common reporting standard—although such an amendment is not included in the August 9, 2022 draft legislation. Of greater concern is that any measure to exempt FHSAs from cumbersome FATCA due diligence and reporting requirements would require US concurrence, presumably in the form of a mutual competent authority agreement under the Canada-US Enhanced Tax Information Exchange Agreement Implementation Act. This presents further challenges, and in any event would likely take some time to complete. Since RRSPs are already exempt from both of these compliance regimes, these difficulties could be avoided if, instead of the introduction of an entirely new plan, appropriate amendments were made to existing RRSP rules, as described below.

An Alternative?

The main attractions of the FHSA are tax-deductible contributions, tax-free growth, and tax-free withdrawals. But can't this be accomplished by allowing individuals who qualify as first-time homebuyers to withdraw a prescribed amount each year, tax-free, from their RRSP?

For 2023, for example, a qualified buyer could be allowed to withdraw $8,000 toward the purchase of a first home. The permitted tax-free first-home withdrawal amount could be increased by $8,000 annually until it hits the $40,000 targeted in the FHSA plan design. In 2028, the amount that one could withdraw tax-free from one's RRSP to buy a home could be bumped up annually on the basis of an assumed level of plan growth. Income and gains exceeding the assumed growth built into the prescribed withdrawal limits would remain in the RRSP.

As with the FHSA, taxpayers would enjoy the deduction on the way in, pay no tax on the way out (assuming a qualifying home is purchased), and enjoy tax-free growth inside the RRSP. There would be no need to establish an entirely new type of plan, with all of its complexities. Of course, there would be tradeoffs. One simplifying feature of this proposal is that the amount investors could withdraw tax-free to buy a first home would be subject to the prescribed withdrawal limit. Under the current FHSA plan design, in contrast, all income and gains—which, depending on investment performance, could be more or less than the prescribed amount—can be withdrawn tax-free.

Qualifying individuals without RRSP room, either because of no earned income or because of a significant pension adjustment, could attest annually on their T1 tax return that they meet the criteria for a first-time homebuyer and could thus accumulate $8,000 annually up to a maximum of $40,000 of additional RRSP room.

While not replicating all features of the proposed FHSA, the simpler alternative I have proposed above would avoid many complexities arising from the creation of an entirely new registered arrangement. It should be carefully considered by the government. ■

Unaffordable Housing: Is Property Tax the Villain?

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Recent concerns about housing affordability in major cities across Canada have resulted in the federal, provincial, and local governments scrambling to find measures to reduce housing prices and rents. New tax measures introduced to address the problem have included vacant home taxes, foreign buyer taxes on residential real estate transfers, and speculation taxes. Is the property tax another place to look to increase affordability? To answer that question, we begin by looking at the unique role that the property tax plays in Canada's fiscal framework and at how the tax treats residential housing—owner-occupied as opposed to rental.

The Role of the Property Tax

Accounting for almost half of all local government revenues, on average, across the country, the property tax is the principal field of taxation open to local governments. It generates significant revenues. These revenues fund local services including roads, public transit, police and fire protection, parks, recreation and culture, and (in some provinces) schools. This link—between the taxes paid and the benefits received—is a major strength of the property tax. To the extent that the benefits of services and the taxes are capitalized into property values, the cost of the services is borne by those who are using them, including owners and tenants. It is especially appropriate that residential property taxes pay for local government spending because they are largely borne by residents who use the services; non-residential property taxes can be exported to taxpayers in other jurisdictions, severing the connection between taxes paid and benefits received. To the extent that investments in public infrastructure increase property values, the property tax is one way to capture the increment in property values arising from that investment to ensure that the increased value is used for the public benefit.

The property tax has other attributes that make it a good tax for local governments. It is visible: taxpayers receive a property tax bill and therefore know what they pay in property taxes. Unlike the income taxes of employees, property taxes are not deducted at source, and, unlike sales taxes, they are not collected in small, inconspicuous amounts with each purchase. The visibility of property taxes makes local governments accountable to taxpayers. Property taxes are stable and predictable, which is important for municipalities that use them to pay for services. Property taxes are said to be more efficient than other taxes because they do not distort economic decisions to work, save, or invest to the same extent as personal and corporate income taxes do. Indeed, in a July 2022 report, the OECD concluded, among other things, that the property tax is one of the most economically efficient forms of taxation (see *Housing Taxation in OECD Countries*, 2022).

It is also said that the property tax is the least detrimental to economic growth (see the OECD's *Making Property Tax Reform Happen in China*, 2021). Finally, given that municipalities levy most of the property taxes in the country, property taxes give local governments autonomy (within some provincial constraints) in making decisions about taxes and spending.

When considered as part of the overall tax system in Canada, the property tax can compensate at least to some extent for deficiencies in the income tax system, which is heavily biased in favour of home ownership. One obvious bias is the principal residence exemption, which exempts taxpayers from tax on any capital gains realized upon the disposition of a principal residence. This bias is compounded by the nontaxation of the return generated by owner-occupied housing in the form of imputed rent. Owners of rental property pay tax on their rental income, but owner-occupiers pay no tax on the notional rent that they pay themselves as landlords. This subsidy to owner-occupiers has long been recognized as a major tax preference for home ownership. Overall, these measures encourage home ownership over renting or investing in other assets. By taxing residential property, the property tax can be seen as correcting, at least partially, for the home ownership bias in the income tax system. Finally, some have argued that the absence of a wealth tax in Canada can partly be filled by the property tax.