

Analysis and commentary on the tax treatment of residential Real Estate Investment Trusts (REITs)

September 2022



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Executive Summary

This report provides analysis and commentary concerning potential tax policy changes that would impact residential Real Estate Investment Trusts (REITs) in Canada if they are implemented as proposed in the 2021 election platform of the Liberal Party of Canada, included in the mandate letters from the Prime Minister to Deputy Prime Minister and Minister of Finance Chrystia Freeland and Minister of Housing and Diversity and Inclusion Ahmed Hussen and subsequently reiterated, but with modified and somewhat less specific language, in the 2022 federal budget.

The budget announced a “federal review of housing as an asset class” to include the examination of a number of options and tools, including potential changes to the tax treatment of large corporate players that invest in residential real estate. It promised that further details on the review would be released later this year, with potential early actions to be announced before the end of the year. However, at time of writing this report no further details have been released or early actions announced.

Absent such information, this report considers one potential tax policy option that might be implemented (a new tax at the trust level imposed at the current federal/Ontario combined corporate income tax rate of 26.5%) and examines its likely impacts.

This report also examines criticisms leveled at residential REITs in recent years in public statements by proponents for public housing. These criticisms include accusations that REITs are eroding the supply of affordable housing through their purchases of existing properties; that they have adopted business practices including so-called “renovictions” of tenants and “vacancy decontrol” to unfairly evict tenants for the express purpose of increasing rents; and that their pursuit of profits comes at the expense of renter affordability. The report finds no data or evidence that would support or substantiate the validity of these accusations.

The accusations and government policy proposals come in the context of a serious housing shortage in Canada with rising prices and affordability implications and challenges for all Canadians, but particularly for low-income Canadian families, and this has clearly become a politically charged and emotional public policy issue.

Using available data, the report examines a number of relevant policy questions, including:

- ▶ At a conceptual level, would increasing the tax burden on REITs likely relieve upward pressure on apartment rents or increase this pressure even further?
- ▶ Do REITs constitute a sufficiently large proportion of the rental apartment market that their “market power” allows them to increase rents above levels a more competitive market would accommodate?
- ▶ Would increasing the tax burden on REITs lead to an increased supply of rental units?
- ▶ How much revenue is a new tax on REITs likely to raise for the federal government, given reasonable assumptions concerning the rate and base?

The report concludes that:

- ▶ Increasing the tax burden on REITs would likely put additional upward pressure on rents.
- ▶ REITs do not appear to have sufficient market power to increase rents above competitive market levels and no evidence has been presented by critics that this has in fact been happening.
- ▶ Increasing the tax burden on REITs would not lead to an increased supply of rental units and it could discourage future investment in this sector.

- ▶ A new tax on REITs, if imposed at the trust level at the same rate as the combined federal/Ontario corporate tax rate of 26.5%, would only have a marginal impact on government tax revenues, as outlined in the various scenarios considered in Section 3 of the report. We estimate that it would likely raise no more than \$195 million in incremental revenues over five years and, depending on the assumptions, could result in a reduction of \$93.5 million in revenue over the same timeframe.

Similar to tax regimes in other countries, in Canada a REIT is not taxed on income and gains from its property rental business at the trust level to the extent that such income is distributed to unitholders and is subject to tax in their hands as if they directly held the property rental business.

Canada developed the REIT regime to be competitive with those regimes globally, to encourage real estate investing in Canada and allow Canadian investors to benefit from real estate investment as if they held the investment directly rather than in a corporate vehicle without having to raise the significant capital required to purchase stand-alone real estate investment.

In 2007 when Canada established a new Specified Investment Flow-Through (SIFT) rules for most flow-through entities (FTEs) including business income trusts, ostensibly to level the taxation playing field between corporations and trusts falling within their ambit and stop future conversions of corporate entities into income trusts, REIT FTEs were given an exclusion from the new rules for their real estate income derived in Canada. The current regime for the taxation of distributed REIT income has arguably worked well since then. There is no apparent policy reason to change it in response to the unsubstantiated accusations leveled by some critics at REITs.

If the federal government wants to increase the supply of housing and reduce the affordability crunch being faced by a growing number of Canadians as either homeowners or renters, particularly low-income Canadians, rather than increasing the tax burden on REITs, it might better consider policies in collaboration with the provincial and municipal levels of government that would reduce regulatory burdens on homebuilders, developers and landlords, offer tax or other financial incentives to encourage capital investment in this sector, allocate more funding for public housing or offer income-tested subsidies to low-income renters.

Analysis and Commentary on the tax treatment of residential Real Estate Investment Trusts (REITs)

1. Introduction

This report provides analysis and commentary concerning the potential tax policy changes that would impact residential Real Estate Investment Trusts (REITs) in Canada if they are implemented as proposed in the 2021 election platform of the Liberal Party of Canada, included in the 16 December 2021 mandate letters from the Prime Minister to Deputy Prime Minister and Minister of Finance Chrystia Freeland and Minister of Housing and Diversity and Inclusion Ahmed Hussen and subsequently reiterated, but with modified and somewhat less specific language, in the 2022 federal budget.

The Liberal election platform announced during the 2021 election campaign included the following policy commitment:

Stop Excessive Profits in the Financialization of Housing

Large corporate owners of residential properties such as Real Estate Investment Trusts (REITs) are amassing increasingly large portfolios of Canadian rental housing, making your rent more expensive.

Homes should be for people to live in, not financial assets for investment funds to speculate on.

A re-elected Liberal government will:

- ▶ Review the tax treatment of these large corporate owners.
- ▶ Put in place policies to curb excessive profits in this area, while protecting small independent landlords.¹

The mandate letter from the Prime Minister to Deputy Prime Minister and Minister of Finance subsequently asked that she deliver on a long list of policy priorities including the following commitment:

- ▶ In support of a Fairness in Real Estate Action Plan, work with the Minister of Housing and Diversity and Inclusion to deter “renovictions” and address housing affordability in Canada, including by:
 - ▶ Introducing amendments to the *Income Tax Act* to require landlords to disclose in their tax filings the rent they receive pre- and post-renovation and to pay a proportional surtax if the increase in rent is excessive;
 - ▶ Establishing an anti-flipping tax on residential properties, requiring properties to be held for at least 12 months;
 - ▶ Implementing Canada’s tax on non-resident, non-Canadian owners of vacant, underused housing, and subsequently working to include foreign-owned vacant land within large urban areas;
 - ▶ Reviewing and considering possible reforms to the tax treatment of Real Estate Investment Trusts, reviewing the down payment requirements for investment properties, and developing policies to curb excessive profits while protecting small independent landlords; [emphasis added]²

The Prime Minister's mandate letter to the Minister of Housing and Diversity and Inclusion meanwhile stated:

I ask that you achieve results for Canadians by delivering the following commitments.

- ▶ Work with provinces, territories, municipalities and the Deputy Prime Minister and Minister of Finance to develop a Fairness in Real Estate Action Plan that includes:
 - ▶ Amendments to the *Income Tax Act* to require landlords to disclose in their tax filings the rent they receive pre- and post-renovation and to pay a proportional surtax if the increase in rent is excessive;
 - ▶ An anti-flipping tax on residential properties, requiring properties to be held for at least 12 months;
 - ▶ A temporary ban on foreign buyers of non-recreational residential property in the Canadian housing market so that housing does not sit vacant and unavailable to Canadians;
 - ▶ Supporting the review of, and possible reforms to, the tax treatment of Real Estate Investment Trusts [emphasis added];
 - ▶ Developing policies to curb excessive profits in investment properties while protecting small independent landlords [emphasis added];
 - ▶ Reviewing the down payment requirements for investment properties;
 - ▶ Increased consumer protection and transparency in real estate transactions, including a ban on blind bidding;
 - ▶ Identifying how federal regulators can be better positioned to respond to housing price fluctuations and to help ensure a more stable Canadian housing market; and
 - ▶ Preventing "renovictions" [emphasis added].³

The 2022 federal budget that was subsequently tabled on 7 April 2022, announced:

Housing for Canadians, Not for Big Corporations

Housing should be for Canadians to use as homes.

However, in recent years, the significant increase in housing prices has led to large investors acquiring a larger portfolio of residential housing. There is a concern that this concentration of ownership in residential housing can drive up rents and house prices, and undercut the important role that small, independent landlords play. Many believe that this trend has also led to a rise in "renovictions", when a landlord pressures and persuades their tenants to leave, or is formally permitted to evict them to make extensive renovations in order to raise rents.

To address these concerns:

- ▶ Budget 2022 announces a federal review of housing as an asset class, in order to better understand the role of large corporate players in the market and the impact on Canadian renters and homeowners. This will include the examination of a number of options and tools, including potential changes to the tax treatment of large corporate players that invest in residential real estate. Further details on the review will be released later this year, with potential early actions to be announced before the end of the year.⁴

As can be seen by comparing the above text with the previous public documents, the language was broadened in the budget to refer to large corporate players without specifically singling out REITs in particular.

At time of completing this report in September 2022, no further details on the federal review of housing as an asset class have been announced by the government, nor has it announced any “early actions” pursuant to this statement the budget.

Absent any further details beyond these public pronouncements to date, this report considers one potential tax policy option that might be implemented (a new tax at the trust level imposed at the current federal/Ontario combined corporate income tax rate of 26.5%) and examines its likely impact on REITs, on the achievement of stated housing policy goals and objectives and the amount of tax revenue it would likely generate for the government given certain assumptions that are set out in a series of different tax scenarios.

2. Housing policy context

In recent years, the price of Canadian residential real estate has escalated at a faster pace than either employment income or the general price level making home ownership increasingly unaffordable and beyond the reach of many working Canadians. Upward pressure on housing prices has in turn put upward pressure on residential property rents. Predictably and appropriately, both federal and provincial levels of government have responded with various policies designed to assist potential buyers or renters by providing a measure of relief from rising housing prices and rents.

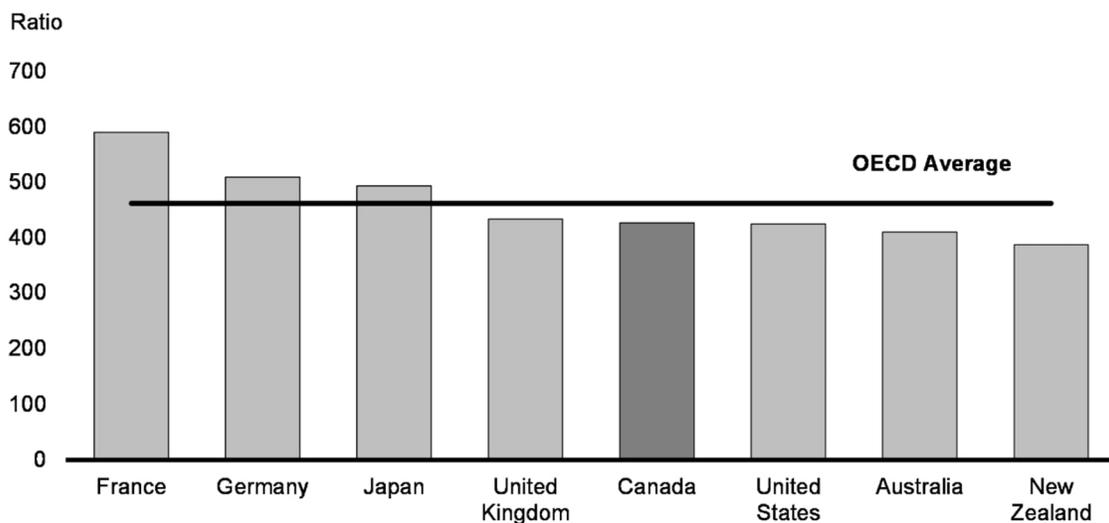
At the provincial level, these policies have included non-resident, foreign buyer speculation taxes designed to reduce speculative demand for housing and authority for municipalities to levy vacant homes taxes designed to better utilize the existing local housing stock by reducing the number of underutilized vacant properties and raise revenue that can be reinvested in public housing.

At the federal level, meanwhile, in the 2022 budget policies included introduction of a Tax-Free First Home Savings Account (FHSA), a doubling of the home buyers' tax credit (HBTC), an extended first-time home buyer incentive, a residential property flipping rule to ensure the profits are subject to full taxation and not eligible for capital gains treatment or the principal residence exemption and the launch of a new Housing Accelerator Fund. In its 2021 budget the federal government also introduced the *Underused Housing Tax Act* to implement an annual 1% tax on the value of vacant or underused residential property directly or indirectly owned by nonresident non-Canadians.⁵

Certain of these policies at the federal level, while designed to assist Canadians to purchase a home and certain to be popular politically, especially with the targetted demographic beneficiaries, will clearly further stimulate demand for housing. This in turn may risk actually exacerbating the already significant current imbalance between existing demand and available supply.

Chart 1

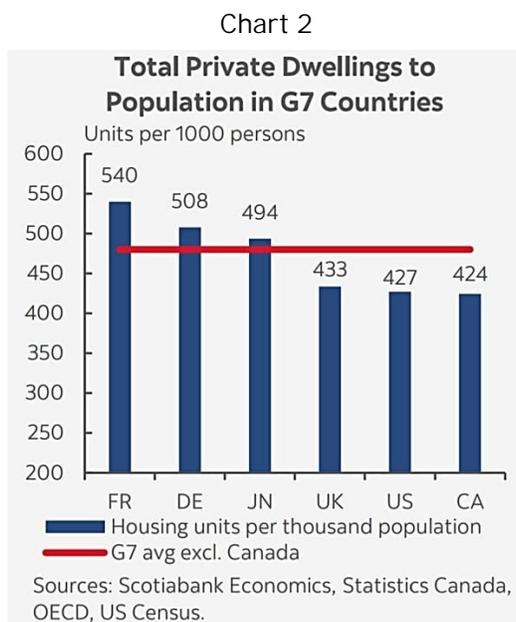
Number of Homes per 1,000 Persons, Selected OECD Countries



Source: 2022 Federal Budget Plan, Chart 1.1, page 33.

As the 2022 federal budget rightly pointed out, “There are a number of factors that are making housing more expensive, but the biggest issue is supply. Put simply, Canada is facing a housing shortage—we have a lower number of homes per person than many OECD countries. Increasing our housing supply will be key to making housing more affordable for everyone.”⁶ See Chart 1.

The housing supply shortage in Canada is even more dire if Canada is compared to other G7 countries as opposed to the budget’s comparison to OECD countries. Canada has the lowest number of private dwellings to population among G7 countries. See Chart 2.



Source: Scotiabank Global Economics, Housing Note, *Which Province Has the Largest Structural Housing Deficit?* January 12, 2022.

At the same time, Canada has the fastest growing population among G7 countries and the seventh fastest among the G20. See Table 1. This population growth is driven almost exclusively by Canada’s aggressive immigration targets.

This immigration policy makes sense in view of Canada’s aging population and its tight labour market, as well as for humanitarian relief reasons in the case of refugees, but in the context of the housing shortage it clearly will be working at cross purposes with the federal government’s commitment, as articulated in the 2022 budget documents and elsewhere, to make housing more accessible and affordable for Canadians.

What demographic projections suggest is that the housing supply shortage relative housing demand will be very difficult to narrow over time and, other things equal, that this will in turn continue to exert upward pressure on both housing prices and rents.⁷

Not surprisingly, there is also a shortage of public housing available for low-income Canadians in most need of public assistance. According to the most recent data from Statistics Canada:

Table 1

Canada's population is growing at the fastest pace in the G7 and ranks seventh in the G20

| | Population growth rate from 2016 to 2021 (%) |
|--------------------|--|
| Saudi Arabia | 8.9 |
| Australia | 7.3 |
| South Africa | 6.8 |
| Turkey | 6.5 |
| Indonesia | 5.7 |
| Mexico | 5.6 |
| Canada | 5.2 |
| India | 5.2 |
| Argentina | 5.0 |
| Brazil | 3.8 |
| United Kingdom | 2.9 |
| United States | 2.6 |
| China | 2.0 |
| France | 1.2 |
| South Korea | 1.1 |
| Germany | 1.0 |
| European Union | 0.5 |
| Russian Federation | -0.2 |
| Japan | -1.3 |
| Italy | -2.0 |

Note(s):

The official name of South Korea is Republic of Korea. The following countries are part of the G7: Canada, France, Germany, Italy, Japan, United Kingdom, United States.

Source(s):

Statistics Canada: <https://www150.statcan.gc.ca/n1/daily-quotidien/220209/cg-a001-eng.htm>

World Bank's DataBank, population estimates and projections, and Census of Population, 2016 and 2021 (3901).

"In 2021, 3.8% of all households in the provinces lived in social and affordable housing (SAH), which represents 11.9% of renter households. About 227,100 renter and owner households were waiting for SAH, compared with 262,000 in 2018. Of those on a waitlist, nearly twice as many households (148,200) reported waiting two years or longer compared with those waiting less than two years (76,000). Social housing programs target populations known to be housing vulnerable. Among the 1.1 million lone parent households, 29,100 were on a waitlist for SAH and two-thirds of these were waiting two years or longer. Meanwhile, 1.0% of the 1.3 million young adult led households were waitlisted in 2021, with over one-third waiting two years or longer. As for senior led households, 1.8% of the 4.1 million such households reported being on a waitlist, with about seven in ten of them waiting two years or longer."⁸

This acute shortage of public housing and its implications for low-income Canadian families has become a politically charged and emotional public policy issue. Some advocates for the homeless have singled out REITs as contributing to an erosion of the supply of "naturally occurring affordable housing (NOAH)" stock through their purchases of existing properties. This has prompted them to call on governments to regulate and place restrictions on the ability of REITs or large capital funds to purchase existing NOAH stock as investment properties for redevelopment.⁹ Other advocates echo this view and have called for stronger rent controls, among other things.¹⁰

REITs and corporate owners have also come under attack for the purported practice of so-called "renovictions". Provincial landlord tenant laws and regulations permit the eviction of tenants for a variety of reasons including defaulting on rental payments, renovations and extensive repairs or intent to demolish the building or convert to non-residential use.

Provincial rent control legislation often also permits an increase in allowable rent above guidelines when there is a change in tenancy resulting in a unit becoming vacant. This is known as "vacancy decontrol".

In Ontario, for example, the rent increase guideline for 2022 is 1.2 per cent. The guideline applies to the majority of rental households under the province's *Residential Tenancies Act*, but it does not apply to vacant units, community housing, long-term care homes or commercial properties. The guideline is increasing to 2.5 per cent for 2023. This guideline is based on Ontario's Consumer Price Index, calculated monthly by Statistics Canada. Because of recent inflation, the province said this would have resulted in a 5.3 per cent guideline for 2023. However, "the guideline is capped to help protect tenants from significant rent increases".¹¹

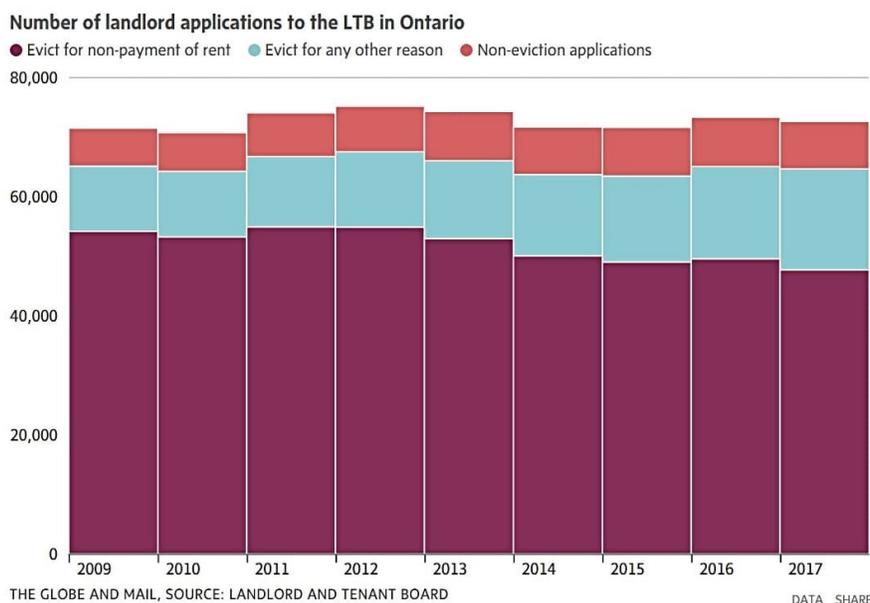
When landlords do renovations, they may make an application to Ontario's Landlord and Tenant Board (LTB) to increase the rent above the guideline in what is called an "above guideline increase" (AGI), which may be granted in whole or in part according to the circumstances. However, the circumstances and types of extraordinary expenses that qualify for AGIs, including renovation expenses, are prescribed in the guideline and they are quite restrictive.¹²

REITs and other corporate players have been accused of adopting an intentional business model policy of proactively using "vacancy decontrol" evictions as a means to circumvent rent control restrictions that prevent them from raising rents.¹³

What is absent in all these various attacks on REITs, ranging from vacancy decontrol to renovictions, is evidence that such practices are actually being followed and that when residential REITs evict tenants they are doing so in circumstances that are not legitimate and provided for in the law, or that they are doing so any more frequently than other landlords.

Evictions are time consuming and costly to both the landlord and the tenant. Other things equal, it is generally in the interest of both parties to minimize the frequency of evictions. From the owner/landlord's perspective, this includes preservation of cash flow and business certainty.

Chart 3



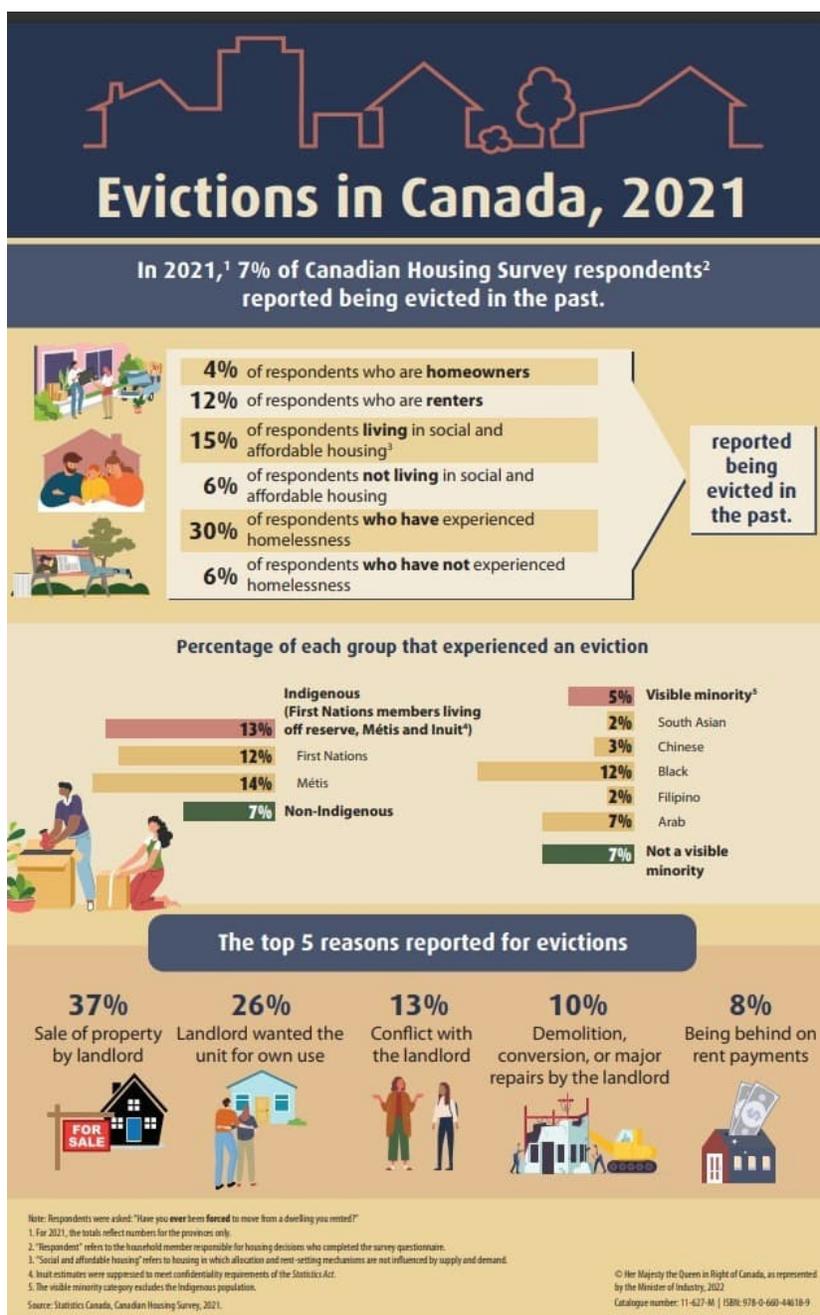
Source: <https://www.theglobeandmail.com/canada/toronto/article-toronto-ontario-housing-rental-eviction-data-landlords-tenants/#:~:text=Eviction%20factories%3A%20How%20Ontario%E2%80%99s%20tenants%20get%20trapped%20in,sy stem%20that%20leaves%20vulnerable%20renters%20in%20the%20lurch>

National data on evictions that is both recent and robust would be useful for analytical purposes, but unfortunately it is difficult to obtain. In Ontario, for example, the LTB is the responsible regulating body for evictions, but it apparently does not track this information (or if it does, it does not make it publicly available).

Chart 3 shows information that was obtained and compiled from sheriff's orders on the public record by the Globe and Mail newspaper from 2009 to 2017.¹⁴ It shows a large majority of the eviction applications during this time period were as a result of non-payment for rent. In other words, they were not "renovictions". The data does not identify and distinguish between the different categories of landlord who filed the applications, nor does it identify the size of the overall apartment stock, but given that the overall rental market in Ontario consists of greater than 700,000 units, the "evict for any other reason" figures are relatively low.

Chart 4 presents more recent national data compiled in the form of an infographic by Statistics Canada. However, this is only survey data asking homeowners and renters if they have ever been forced to move. Once again, the data is not disaggregated to show landlord type, but it demonstrates that the incidence of eviction on illegitimate grounds is extremely low.

Chart 4



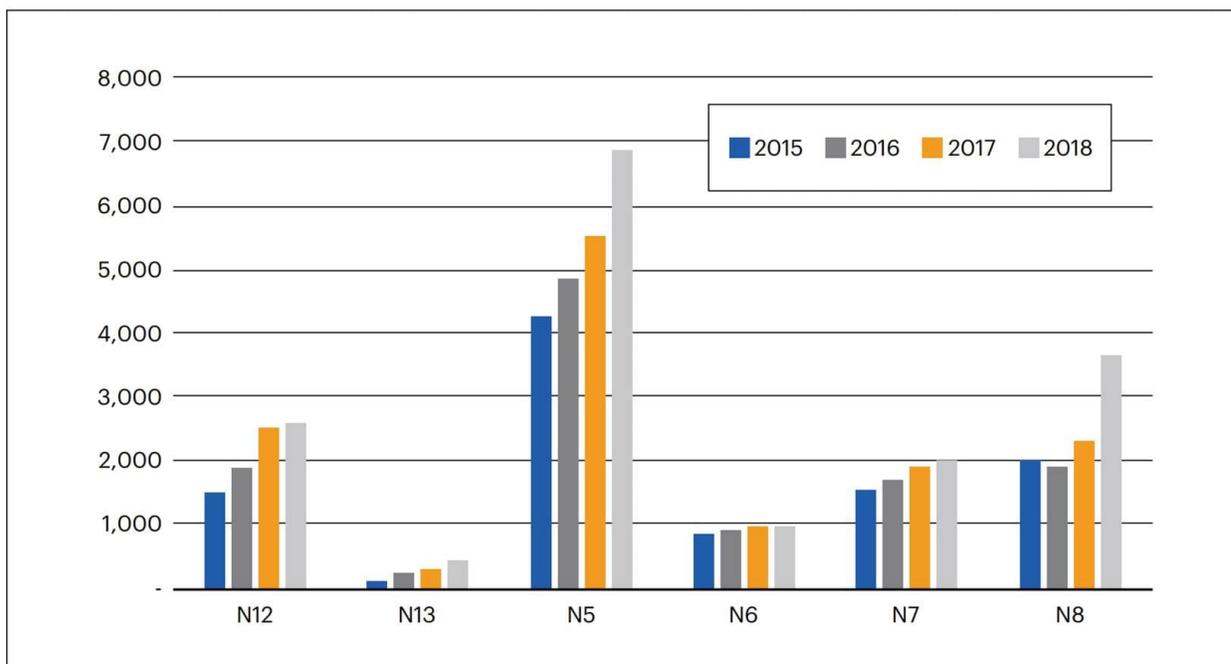
Source: <https://www150.statcan.gc.ca/n1/pub/11-627-m/11-627-m2022046-eng.pdf>

Additional insights may be drawn from data on formal evictions in Toronto from 2015 – 2018 that was published by the Wellesley Institute in March 2021 (see Chart 5). Arrears-related eviction applications have been removed from the data set and it focuses on the remaining reasons for eviction applications during this period. It is interesting to note that applications related to renovations (N13) were extremely low and far lower than any other type of non-arrears related eviction.

A final criticism that has been leveled at REITs relates to the profits they disclose in their publicly reported financial statements. These are seen by some critics as evidence that profit comes at the expense of affordability.¹⁵ This claim appears hard to support in such a heavily regulated sector as Canada's residential apartment market, much of which is covered by provincial rent control legislation. With rent increases restricted to the rate of inflation or lower in most instances, profits are more likely to have come as a result of prudent investment decisions and the adoption of cost-effective management practices by REITs to maintain or enhance the value their properties and return to unitholders rather than by increasing revenues through rent increases at the expense of renter affordability.

Chart 5

Reasons for Non-Arrears Eviction Applications – Toronto 2015 – 2018



Note:

N12 – Landlord’s own-use evictions

N13 – Demolition or renovation evictions

N5 – Conflict with other tenants, disturbance, damage, and/or overcrowding evictions

N6 – Illegal acts or misrepresenting income in a rent-geared-to-income rental unit evictions

N7 – “Causing serious problems in the rental unit or residential complex” evictions

N8 – Notice to end your tenancy at the end of the term (e.g. persistently late rent) evictions

Source: The Wellesley Institute, Evictions Data Brief #2, *Renovictions, demovictions, landlord’s own-use evictions, and more*, March 2021. <https://www.wellesleyinstitute.com/wp-content/uploads/2021/03/Brief-2-Non-Arrears-Eviction-Application-FINAL.pdf>

As for vacancy decontrol, these provisions recognize that depending on local real estate market conditions, rent control legislation invariably results in below-market rents being charged in comparison with identical units not covered by rent controls. To the extent that controlled rents are kept artificially low in relation to competitive market rents, this has a distortionary effect that acts as a disincentive for capital investment in the rental apartment market generally relative to other real estate investments (the market for condominiums, for example).

In that sense, the cumulative effect of many years of rent controls may be a contributor to the current supply shortage of rental properties in Canada. There is a considerable body of economic research that has pointed to the negative market effects and allocative inefficiency consequences of limiting rent increases to below market rates.

The real estate market reacts to price changes in a rational way, as all markets do, and consequently, relative values change in reaction to market conditions or interventions such as rent controls in ways that benefit some homeowners and renters, but hurt others. These changes in value in turn affect the nature, location and scale of future investment decisions. Locations and neighbourhoods that become more attractive to buyers and renters will appreciate in value accordingly over time, while those that become less attractive will depreciate in value (at least in relative if not in absolute terms).

If low-income, affordable rental properties in neighbourhoods that have become or are becoming “gentrified” (meaning they are more attractive to higher income buyers or renters) are offered for sale, they may be purchased because they are priced below the prevailing market and are attractive candidates to upgrade and reoffer at higher prevailing market prices. While critics may accurately identify the potential displacement of low-income renters in these transactions, who are priced out of these markets, they do not acknowledge the potential beneficiaries, or ask why the properties were put on the market in the first place. These properties are not removed from the overall housing stock, they are simply shifted from low-income to higher-income owners or tenants.

To the extent that the mix in the overall stock of public housing is impacted, this may reflect a failure on the part of government to preserve or expand the existing public housing supply through adequate funding arrangements rather than predatory practices of REITs or corporate players.

It also may in part reflect the consequences of using inappropriate public policy instruments that attack the symptoms rather than the root causes of the affordable housing shortage. This brings us back to the imposition and likely impact of rent controls. While dangerous to generalize, an empirical analysis of the economic and social effects of rent control in a San Francisco neighbourhood based on robust data that was published in the *American Economic Review* in 2019 reached the following conclusions:

Incumbent tenants already living in San Francisco who get access to rent control as part of the law change are clearly made better off as indicated by their preference to remain in their rent-controlled apartment. However, this comes at the expense of future renters in San Francisco, who must bear higher rents due to the endogenous reductions in rental supply. In this way, the law served as a transfer from future renters in the city to renters in 1994, creating economic well-being inequality between incumbent and future renters of San Francisco.¹⁶

There is no reason to believe that longstanding rent control regimes in Canada have not had similar impacts over time on local housing markets here.

To summarize, in the context of this overall politically charged housing and rental market and public policy backdrop laid out above, including the federal government’s recently stated government policy objectives and ministerial priorities, a number of relevant key policy questions arise:

- ▶ At a conceptual level, would increasing the tax burden on REITs likely relieve upward pressure on apartment rents or increase this pressure even further?
- ▶ Do REITs constitute a sufficiently large proportion of the rental apartment market that their “market power” allows them to increase rents above levels a more competitive market would accommodate?
- ▶ Would increasing the tax burden on REITs lead to an increased supply of rental units?
- ▶ How much revenue is a new tax on REITs likely to raise for the federal government, given reasonable assumptions concerning the tax rate and base?

We explore possible answers to these questions in the subsections below using available empirical evidence and appropriate analysis and assumptions.

2.1 Would increasing the tax burden on REITs put upward or downward pressure on apartment rents?

The federal review of housing announced in the 2022 budget, including the examination of potential changes to the tax treatment of large corporate players that invest in residential real estate, presumably means that the government intends to implement a new tax measure or measures that would increase the net tax burden on such players, although it has not spelled out what specific measures it intends to use in order to do this.

In principle, any additional tax burden created by a new tax or a rate increase in an existing tax would in all likelihood put additional upward pressure on rents as these players, including REIT property landlords, seek to preserve the pre-tax rates of return on capital for their shareholders by passing the tax on to tenants in the form of higher rents to the extent the market will bear and is permissible under applicable provincial rent control legislation.

It is difficult to envisage any tax policy scenario whereby an additional tax burden on a certain class of landlords and owners of residential rental properties, or even a revenue neutral tax policy change, would put downward pressure on rental prices.

Public policy initiatives that might accomplish this objective all point in the opposite direction from a tax increase. They could involve a lowering of existing regulatory burdens (and associated costs), offering financial incentives or subsidies to builders or landlords, such as targeted investment tax credits, or income-tested rent subsidies to low-income tenants.

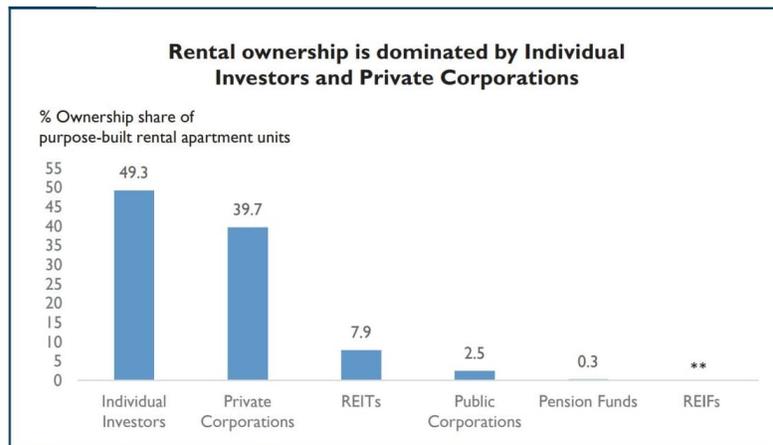
2.2 Do REITs have market power to increase rents above competitive levels?

Most Canadian provinces have some form of rent control or regulation that seeks to limit the frequency and amount by which residential rents may increase or vacancy decontrol (a landlord's ability to re-rent a unit at the market rate once it has been vacated).¹⁷ Landlords large and small are subject to these rules and, in that sense, the ability of REITs to set rents above competitive market levels is seriously restricted in many rental jurisdictions regardless of the degree of ownership concentration in a given local rental market.

In addition, there does not appear to be any empirical evidence that there is a high concentration of REIT owned and managed rental properties in Canada or that they are leading the market when it comes to rent increases.

The most recently available data published by the Canada Mortgage and Housing Corporation (CMHC) on market structure and concentration dates back to 2017 using data from its Rental Market Survey (2016). The CMHC noted at that time that REITs accounted for only 7.9 percent of Canada's purpose-built rental apartment units¹⁸ in contrast to individual investors and private corporations, which represented 49.3 percent and 39.7 percent of the market respectively (see Chart 6).¹⁹

Chart 6



Source: CMHC, Rental Market Survey (2016)

Note: "**" indicates that data is suppressed due to poor statistical reliability

Source: Canada Mortgage and Housing Corporation (CMHC), Housing Market Insight, Rental Ownership Structure in Canada, July 2017. https://assets.cmhc-schl.gc.ca/sf/project/cmhc/pubsandreports/esub/all_esub_pdfs/68469_2017_m07.pdf?rev=0eb4ec8b-75f9-42e3-bb97-3b24513d58b8

The report added some further insights into this data in specific urban centres, or Census Metropolitan Areas (CMAs) as they are called (see Chart 7), including:

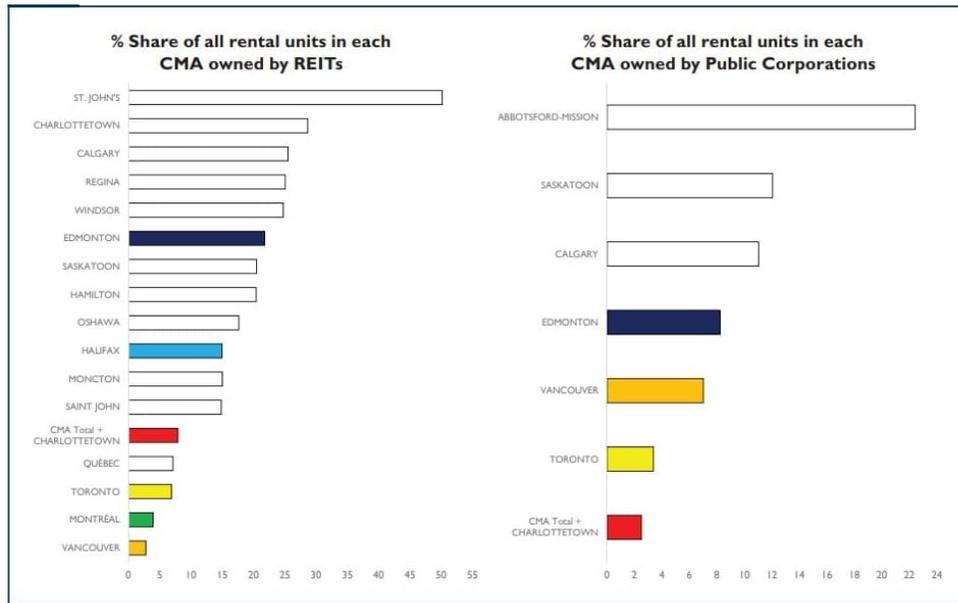
REITs, despite their small share of the overall national purpose-built rental apartment market, are major presences in some centres, particularly in the Atlantic region. For example, REITs own about half of the purpose-built stock of rental apartments in St. John's and nearly 30% of the stock in Charlottetown. It is important to note that the purpose-built rental market of St. John's is the smallest among Canada's major centres, when measured relative to its population. As a result, having even relatively few structures owned by REITs can lead to them being a large share of total ownership.

REITs also own relatively large shares of the rental stock in the Prairies, accounting for over 20% of the stock in Saskatoon, Edmonton, Regina and Calgary, well-above the national average of about 8%. REITs are also present in some Ontario markets, but do not have a major presence in Toronto. Therefore, while REITs are not a major source of purpose-built rental supply at the national level, their geographic concentration in the Atlantic region and the Prairies implies that they are much more consequential in those regions.²⁰

The 2017 CMHC report also examined the average monthly rent for a two-bedroom apartment in purpose-built structures by ownership type across major centres. It concluded that "Nationally, the lowest average rents are associated with units owned by Individual Investors at \$871. Private Corporations follow at \$1,085. The remaining ownership types, which account for about 11% of the market, are associated with higher average rent levels (see Chart 8)."²¹

However, it adds "Markets with the highest overall rent levels show relatively little difference between the average rents associated with Individual Investors and other major ownership types."²² This suggests that high rent levels probably have more to do with tight local market conditions for apartments than they do with landlord type.

Chart 7

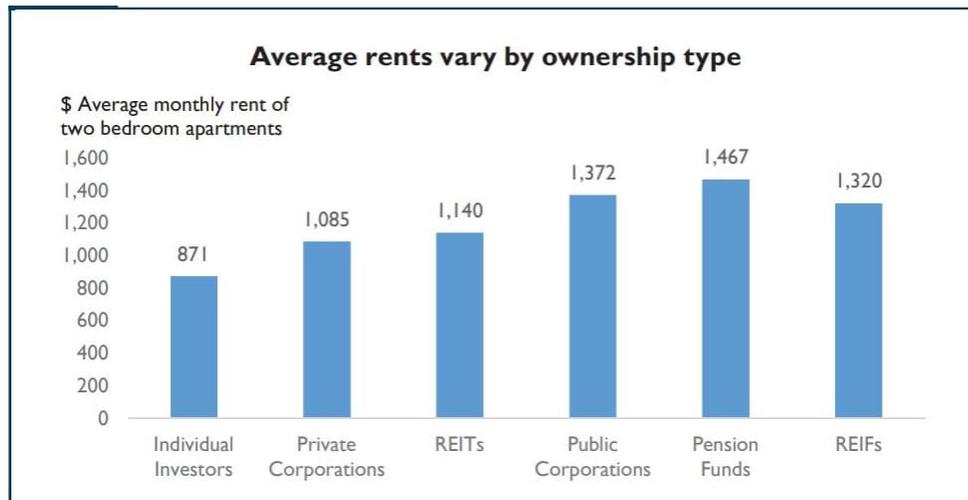


Source: CMHC, Rental Market Survey (2016)
 Note: Centres with data that is repressed due to poor statistical reliability are not shown.

Another explanatory factor, as the report notes, relates to the average year-of-completion by ownership type. “In general, Individual Investors, with the largest market share of all ownership types, tend to own older structures than other owners in most markets. This partly explains why the average rent associated with Individual Investors tends to be lower in most markets. Individual Investors in markets with higher overall rents tend to own newer units than do Individual Investors in markets with lower rents.”

It also points out that in terms of vacancy rates by ownership type “Vacancy rates are broadly similar within the same markets, but in most centres REITs tend to have the lowest vacancy rates. In Toronto, where Pension Funds are most active, units owned by them also have significantly lower average vacancy rates. These low rates imply higher demand for units owned by REITs and Pension Funds. This is an additional factor – in addition to the age of structures – explaining higher average rents associated with these two ownership types in centres where REITs and Pension Funds have a detectable presence.

Chart 8



Source: CMHC, Rental Market Survey (2016)

More recent CMHC data is contained in an Equity Research report published by CIBC Capital Markets in April 2022:

Summarizing the data that follows in this report, we make some general observations about the “average” residential REIT in Canada over the past decade:

The average apartment REIT owns about 30,000 individual rental units (ranging from -12k to -66k) and has grown this ownership rate (by suite count) at a CAGR [compound annual growth rate] of roughly 4% per year. The cumulative ownership of the REIT sector accounts for approximately less than 6% of the purpose-built rental stock in Canada according to CMHC data (significantly less if non-purpose-built stock is included).²³

This is an extremely low concentration ratio in relation to the overall market and it strongly suggests that REITs are “price takers” in most (if not all) markets rather than “price setters”. In analyzing the data, the authors of the CIBC Capital Markets report reached the same conclusion:

If one were to consider that based on CMHC data, the purpose-built rental stock in Canada is some 2.2M units (which we would suggest materially understates the true rental stock as it excludes individually owned condos and houses that are rented) and the sum total of the largest REITs represents less than 6% of the total stock, it would seem entirely reasonable that a relatively small sliver of the overall market can’t easily influence the ultimate pricing that the market will bear.²⁴

Setting aside whether REITs have sufficient market power to influence rental rates, are they earning what might be considered to be excessive profits? In markets characterized by fixed supply, owners can sometimes earn supernormal profits above “normal” profit levels that would result in a competitive market by capturing a share of economic rent. Is there evidence that REITs are able to do so?

Table 2

| Exhibit 1: CAR, BEI, KMP, IIP - Historical "Average" Canadian Domestic Apartment REIT Metrics, 2012 - 2021 | | | | | | | | | | | |
|--|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-------------|
| Average (CAR, BEI, KMP, IIP) | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | CAGR* |
| AMR | \$ 958 | \$ 980 | \$ 1,012 | \$ 1,026 | \$ 1,032 | \$ 1,067 | \$ 1,127 | \$ 1,163 | \$ 1,202 | \$ 1,240 | 2.91% |
| Y/Y growth | | 2.30% | 3.29% | 1.38% | 0.54% | 3.42% | 5.62% | 3.22% | 3.37% | 3.14% | |
| NOI margin | 60.18% | 59.87% | 60.27% | 60.83% | 59.79% | 58.22% | 60.21% | 62.67% | 62.84% | 63.05% | 0.52% |
| Occupancy | 97.45% | 97.29% | 97.05% | 96.15% | 96.22% | 96.82% | 96.96% | 96.83% | 95.40% | 96.49% | -0.11% |
| Average cost of debt | 3.91% | 3.65% | 3.43% | 3.09% | 2.92% | 2.85% | 2.92% | 2.86% | 2.60% | 2.47% | -4.96% |
| IFRS Cap rate | 5.53% | 5.43% | 5.36% | 5.20% | 5.09% | 4.90% | 4.75% | 4.60% | 4.50% | 4.22% | -2.95% |
| Apartments/sites | 24,056 | 25,199 | 25,402 | 26,743 | 27,467 | 28,155 | 28,821 | 31,563 | 32,789 | 34,104 | 3.95% |
| Apartments/sites* | 96,224 | 100,797 | 101,606 | 106,972 | 109,869 | 112,619 | 115,284 | 126,251 | 131,156 | 136,415 | |
| Acquisitions* | 938,030 | 738,750 | 371,206 | 1,210,380 | 687,020 | 774,948 | 1,032,221 | 2,068,967 | 1,351,414 | 2,071,152 | 11,244,088 |
| Dispositions* | (188,815) | (163,140) | (265,795) | (305,208) | (140,980) | (109,601) | (157,475) | (155,290) | (95,264) | (207,555) | (1,789,123) |
| Capex* | 312,627 | 347,913 | 347,393 | 394,090 | 432,804 | 495,727 | 505,069 | 571,162 | 583,969 | 688,387 | 4,679,141 |
| Capex per apartment | 3,249 | 3,452 | 3,419 | 3,684 | 3,939 | 4,402 | 4,381 | 4,524 | 4,452 | 5,046 | |
| FMV Gains* | 1,024,428 | 293,849 | 266,442 | (724) | 58,551 | 803,346 | 1,392,229 | 1,441,182 | 329,883 | 2,017,526 | 7,626,712 |
| Average gain | 10.80% | 2.07% | 1.44% | 0.57% | 0.27% | 5.91% | 7.60% | 8.47% | 0.58% | 7.71% | 4.54% |
| Rental revenue | 258,373 | 285,166 | 298,142 | 314,884 | 327,103 | 339,537 | 366,612 | 405,062 | 442,465 | 469,933 | 6.87% |
| NOI | 155,493 | 170,743 | 179,693 | 191,549 | 195,584 | 197,682 | 220,755 | 253,868 | 278,029 | 296,307 | 7.43% |
| Interest as % of EBITDA | 42.2% | 38.7% | 37.8% | 36.5% | 37.0% | 34.7% | 35.4% | 32.8% | 32.0% | 30.6% | -3.50% |
| Interest coverage | 2.4X | 2.6X | 2.7X | 2.8X | 2.7X | 2.9X | 2.8X | 3.1X | 3.1X | 3.3X | |
| FFO/unit | \$ 1.34 | \$ 1.46 | \$ 1.53 | \$ 1.60 | \$ 1.46 | \$ 1.31 | \$ 1.40 | \$ 1.54 | \$ 1.62 | \$ 1.71 | 2.75% |
| Y/Y growth | | 8.8% | 4.8% | 4.8% | -8.6% | -10.1% | 6.9% | 9.8% | 5.2% | 5.4% | |
| Implied yield | 3.67% | 4.53% | 4.82% | 4.99% | 4.16% | 3.93% | 2.93% | 2.49% | 2.99% | 2.25% | |
| Payout ratio | 66.96% | 67.56% | 78.84% | 73.90% | 69.52% | 76.18% | 59.59% | 57.69% | 57.74% | 55.98% | |
| Implied FFO yield | 5.47% | 6.64% | 6.15% | 6.66% | 5.96% | 5.18% | 4.96% | 4.40% | 5.48% | 4.17% | |

* Acquisitions, Dispositions, Capex and FMV Gains are shown in the aggregate

Source: Company reports and CIBC World Markets Inc.

The same CIBC Capital Markets report captured a simple average of data from four longstanding public REITs in Canada with a domestic focus and more than a ten-year public track record.²⁵ Based on this data, presented in Table 2, the authors state:

Based on the reported results from the sector, we find it hard to explicitly conclude that the apartment REITs are, or have, experienced a level of profitability that could reasonably be defined as "excessive" by even the most draconian measure. If one were to consider that the majority of markets in Canada are indeed rent controlled at the provincial level, the natural constraint on excessive profitability is arguably already in place...we believe that the rental stock held by the Canadian REITs is, in fact, some of the most affordable housing in the country; on this basis, one could easily argue that we need more REITs than less.²⁶

Another way of judging the appropriateness or "fairness" of the profitability of REITs is on the basis of the affordability of the rents they are charging their tenants. As mentioned earlier in this report, the profits of REITs are seen by some critics as evidence that profit comes at the expense of affordability. The CIBC report also tracked average rent charged by REITs as a percentage of median household income from 2012 to 2021 (see Table 3).

On average over this time period these rents amounted to approximately 20% of household income. This compares favourably with the CMHC's suggested budgeting guideline that no more than 30% of household gross income should be allocated to housing cost. The CIBC report concludes:

It's a fair assertion that REIT rents are, on balance, quite affordable and well below "market rents"...we currently estimate that the REITs in Canada are charging rents that are anywhere from 5% to 20% below market rates – we believe "excessive profits" would imply that their in-place rents were above market, not substantially below.²⁷

Table 3

| Exhibit 2: Average Rent As A Percentage Of Household Income, 2022 - 2021 | | | | | | | | | | |
|--|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
| Median HH income* | \$ 66,400 | \$ 66,800 | \$ 68,900 | \$ 68,400 | \$ 67,700 | \$ 69,700 | \$ 70,200 | \$ 70,500 | \$ 75,400 | \$ 75,400 |
| Annual rent as % of Income | 17.31% | 17.60% | 17.63% | 18.00% | 18.28% | 18.37% | 19.26% | 19.80% | 19.13% | 19.73% |
| Implied affordable rent at 30% | \$ 1,660 | \$ 1,670 | \$ 1,723 | \$ 1,710 | \$ 1,693 | \$ 1,743 | \$ 1,755 | \$ 1,763 | \$ 1,885 | \$ 1,885 |
| Average REIT differential | \$ 702 | \$ 690 | \$ 711 | \$ 684 | \$ 661 | \$ 676 | \$ 628 | \$ 600 | \$ 683 | \$ 645 |
| % of average of "affordable" rent | 57.7% | 58.7% | 58.8% | 60.0% | 60.9% | 61.2% | 64.2% | 66.0% | 63.8% | 65.8% |

Source: Statistics Canada and CIBC World Markets Inc. (*defined as Economic families and persons not in an economic family total income)

2.3 Would increasing the tax burden on REITs lead to an increased supply of rental units?

In the same way and for the same reasons that increasing the tax burden on corporate players including REITs would put upward pressure on rental prices, not downward pressure (as was outlined in subsection 2.1 of this report), a greater net tax burden, whether on REITs directly or on unitholders, would also reduce the financial incentive for them to invest and increase the supply of rental units.²⁸

Imposing a tax on REITs, especially one that would coincide with an upswing in interest rates, would very likely dampen capital investment in this sector. Depending on the magnitude of the tax burden, it would discourage capital investment in new construction projects and renovations to maintain the existing aging housing stock. This in turn would slow growth in the supply of available rental units.

As mentioned, levying a corporate tax on REITs would result in reduced post-tax distributions of income or dividends to shareholders that would reduce the attractiveness of this type of investment. This would lead to lower capital invested in the apartment rental market in Canada. It could also trigger a review by taxpayers at both the trust and unitholder level of the REIT structure itself to examine if more tax efficient restructuring options are available or if they should shift their investments to more business-friendly markets. This capital would no doubt migrate to other sectors of the economy, or to markets internationally, seeking higher post-tax returns.

2.4 How much revenue would a new tax on REITs raise for the federal government?

The government's stated policy objective in announcing a review of housing as an asset is to better understand the role of large corporate players in the market and the impact on Canadian renters and homeowners. In that context, its examination of options and tools, including potential changes to the tax treatment of large corporate players that invest in residential real estate, is by extension presumably intended to bring about changes that would benefit renters and homeowners with the goal being to increase rental housing supply and thereby put downward pressure on affordability.

That said, the government would not be indifferent to the impact that any tax changes could have on its own revenues in comparison to the *status quo ante*. In fact, should the government be the beneficiary of a windfall gain in tax revenues that comes at the expense of homeowner and renter affordability, it would run the risk of being accused of a simple "revenue grab". As it turns out, there is little likelihood that would happen given reasonable assumptions around our estimates of the likely impact on tax revenues from a new tax imposed at the trust level on REITs.

As shown in Section 3, we estimate the impact on revenues from this additional tax in comparison to the *status quo* using a variety of assumptions. We conclude that the impact would likely be quite minimal. Over a five-year period, it is estimated to range from a modest decrease of \$93.5 million dollars (see the tax scenario in Appendix D) to a modest increase of \$195.0 million (see the tax scenario in Appendix C) depending on our assumptions concerning the average marginal tax rate of unitholders and whether they hold these investments in a registered or a nonregistered account.

In other words, while there could possibly be a significant tax impact on some individual taxpayers, the overall revenue impact to the government would in all likelihood be very small. This is due to the offsetting nature of a shift in tax burden from individual unitholders to the trust because of the integration of personal and corporate income taxes in Canada, as explained below.

Integration is a concept designed to eliminate or at least minimize any advantages and disadvantages in the application of tax between individuals, corporations and trusts based on the principle that the after-tax cash received by an individual should be the same whether generated directly as salary or paid out by the corporation in the form of dividends.

To achieve integration and avoid double taxation of dividends received by an individual, when computing tax the individual must gross-up the dividends received to reflect the corporate pre-tax income and receive a dividend tax credit (DTC) for the tax deducted at the corporate level.²⁹

3. Tax scenario analysis

As mentioned in the Introduction, no details on the federal review of housing as an asset class or changes in tax treatment of REITs have been announced by the government at time of writing this report.

Accordingly, this report considers the impact of the imposition of a new tax applied at the trust level of a REIT and the aggregate revenue implications that would result at both the trust and unitholder levels given a range of assumptions concerning the composition of the unitholder base (e.g., the average effective marginal tax rate at the unitholder level, the proportion of unitholders who are taxable versus tax exempt, etc.).

We begin by describing the current tax treatment of REITs in Canada and then assume that the government would apply a new income tax at the current combined federal/Ontario corporate tax rate of 26.5% at the trust level. We then set out a simple hypothetical “baseline tax scenario” as an example to illustrate how \$100 of income would be taxed if distributed from a corporation compared to a REIT and how tax on the REIT would be apportioned at the trust and unitholder levels.

This is followed by a series of six “tax scenarios” using actual distribution data obtained from five Canadian REITs for the 2017 to 2021 taxation years. Each tax scenario has somewhat different underlying assumptions to show the impact on overall tax revenues that would likely be collected.

The accuracy of all these results rests on an assumption that there is no “behavioural response” to the imposition of the new tax by the REITs or unitholders. In other words, they continue to operate as before and the composition of the unitholder base does not change.

3.1 Current tax treatment of REITs in Canada

In Canada, similar to the tax regimes in other countries, a REIT is not taxed on income and gains from its property rental business at the trust level to the extent that such income is distributed to unitholders and is subject to tax in their hands as if they directly held the property rental business.

To qualify as a REIT, a trust must meet tests set out in the *Income Tax Act* (ITA) based, among other factors, upon the nature and quantity of real estate assets owned and the sources of trust revenue [see definition of “real estate investment trust” ITA 121.1(1) Definitions].

REITs tend to have higher distributions to its unitholders than corporations do to their shareholders and their distributions are not tax-efficient in the way that dividends are from corporations. However, the after-tax impact of holding a REIT versus a corporation in both a registered and non-registered account should be similar due to the concept of “integration” that is embedded in the income tax rules in Canada under the ITA and the fact that registered accounts such as RRSPs are eventually taxable at a person’s marginal tax rate.

A REIT will generally be subject to tax under Part I of the Act on its income for its taxation year less the portion the REIT deducts in respect of the amounts paid or payable, or deemed to be paid or payable, in the taxation year to its unitholders in the form of distributions. The composition of distributions paid by the REIT, portions of which may be fully or partially taxable or non-taxable, may change over time, affecting the after-tax return to its unitholders. The distributions are characterized as follows, which have different tax implications to unitholders.

- ▶ Capital Gains: The capital gains reported are taxed at one-half the personal marginal tax rate, similar to capital gains from the trading of marketable securities.
- ▶ Dividend Income: To the extent that amounts are designated as having been paid to shareholders out of taxable dividends received or deemed to have been received by the REIT on shares of taxable Canadian corporations, the dividend gross-up and dividend tax credit rules in respect of dividends designated by the corporation as "eligible dividends" will apply to unitholders of REITs with certain exceptions. The gross up is intended to simulate the pre-tax income earned by the corporation and then the tax credit estimates the tax paid by the corporation in order to achieve "integration" under the income tax rules in Canada.
- ▶ Other Income: This amount represents the revenue from the REIT from the ownership of real estate investment properties, including rental or interest income, net of operating and other expenses. The income is taxed at the personal marginal tax rate just like rental or interest income would be taxed to an individual if the property or investment was held directly.
- ▶ Return of Capital: A return of capital generally results in no immediate tax to be paid by a unitholder; however, it reduces an investor's cost base in the REIT units. The reduction in the cost base means an investor will have less cost base and have a higher taxable gain when the REIT units are sold. To the extent that the adjusted cost base of a REIT unit would otherwise be less than zero, the negative amount will be deemed to be a capital gain realized by the unitholder from the disposition of the REIT unit and will be added to the adjusted cost base of the REIT unit so that the adjusted cost base will be reset to zero.

Canada developed the REIT regime to encourage real estate investing in Canada and allow Canadian investors to benefit from real estate investment as if they held the investment directly rather than in a corporate vehicle without having to raise the significant capital required to purchase stand-alone real estate investment.

The REIT regime here in Canada is similar to that of other countries and it allows Canada's real estate sector to be competitive with those regimes globally while allowing Canadian individual taxpayers, including pensioners, to invest in real estate in both non-registered and registered accounts, which will dictate how the income from the REIT is ultimately taxed.

In 2007 when Canada established a new Specified Investment Flow-Through (SIFT) rules for most flow-through entities (FTEs) including business income trusts, ostensibly to level the taxation playing field between corporations and trusts falling within their ambit and stop future conversions of corporate entities into income trusts, REIT FTEs were given an exclusion from the new rules for their real estate income derived in Canada.³⁰ The current regime for the taxation of this REIT income has arguably worked well since then and there is no apparent policy reason to change it in response to the unsubstantiated accusations leveled by some critics at REITs, as was discussed in Section 2.

3.2 Imposition of a new tax at the trust level

Here and in the following subsections, we assume the government applies a new income tax at the REIT trust level at the current combined federal/Ontario corporate income tax rate of 26.5% and the current tax rules and tax treatment would continue to be applied at the unitholder level.

3.3 Baseline tax scenario

The baseline tax scenario presented in the table in Appendix A illustrates in simple conceptual terms how integration works under Canada's income tax system and reflects the various distributions typically made by a REIT, as outlined above. The analysis shows how distributions would be taxed in the hands of the unitholder of a REIT under the current tax rules (see the "REIT" column) compared to how they would be taxed assuming a new corporate-style income tax is applied at the trust level (see the "Corp" column). All significant assumptions are set out in the table, including the corporate tax rate and marginal tax rate of the unitholders.³¹

This simple scenario illustrates that unlike corporations, REITs are not currently taxed on the earnings that are distributed to its shareholders. However, if a new tax is applied at the level of the trust, then the after-tax distributions of REIT income would be comparable to after-tax distributions of dividend income paid by a corporation to its shareholders because REIT unitholders should benefit from the dividend tax credit regime.

As a result, the combined tax burden of the existing REIT tax regime and that of the new regime are quite comparable. The combined tax burden under the existing REIT structure on theoretical distributions of \$100 is \$30 compared to a combined tax burden of \$33 under a new structure. This translates into an "effective" combined tax rate of 30% versus 33% based on certain simplified but realistic assumptions, as set out in Appendix A.

3.4 Tax scenario 1 – Middle Marginal Personal Tax Rate & Non-Registered Accounts

Extending the baseline tax scenario, the table in Appendix B shows how distributions would be taxed under the current REIT tax regime and under the new regime based on actual aggregated data for distributions by five of Canada's largest residential REITs over a five-year period from 2017 to 2021.³² The combined tax burden under the current REIT regime versus a new corporate tax regime as a percentage of total distributions is 23.8% versus 24.8% and the combined tax revenue realized by the government is \$438.6 million versus \$455.7 million, or a difference of only \$17.1 million over these five years.

3.5 Tax scenarios 2 to 6 – Various Personal Marginal Tax Rates & Registered/Non-Registered Accounts

Appendices A and B both assume that the personal tax rate of unitholders is neither at the lowest or highest marginal rate and that the investments are not held in a registered account such as a RRSP. Data is not available to determine the actual personal marginal rates that would apply to REIT shareholders nor whether they hold the investments in a registered or non-registered account.

Appendices C to G illustrate various scenarios with respect to different personal marginal rates and whether investments are held in a registered or a non-registered account and it is assumed that all funds in a registered account are ultimately distributed to the holder.

As shown in the summary provided in Table 4, the net tax revenue impact for tax scenarios 1-6 ranges from a reduction of \$93.5 million over 5 years (outlined in Appendix D based on an assumption that the average marginal tax rate among unitholders is 28.2% and their holdings are in “non-registered” accounts) to an increase of \$195.0 million over 5 years (outlined in Appendix C based on an assumption that the average marginal tax rate among unitholders is 53.53% and that their holdings are in “non-registered accounts”).

Table 4

| Scenario Analysis - 5 Year Sum | | | | | | | | | | | | |
|--------------------------------|----------------|-------|------------|--------------------------------------|----------------|-----------|------------|--------------------|----------------|--------|------------|--------|
| Tax Burden % Distr. | | | | Combined Tax Burden - CA\$ Thousands | | | | Appendix Reference | | | | |
| | Non-Registered | | Registered | | Non-Registered | | Registered | | Non-Registered | | Registered | |
| | REIT | Corp | REIT | Corp | REIT | Corp | REIT | Corp | REIT | Corp | REIT | Corp |
| <i>Low Marg. Rate</i> | 17.6% | 12.5% | 28.2% | 34.3% | \$323,643 | \$230,109 | \$518,880 | \$ 631,044 | App. D | App. D | App. G | App. G |
| <i>Med. Marg. Rate</i> | 23.8% | 24.8% | 37.9% | 43.2% | \$438,648 | \$455,732 | \$697,544 | \$ 794,539 | App. B | App. B | App. E | App. E |
| <i>High Marg. Rate</i> | 33.9% | 44.5% | 53.5% | 57.5% | \$623,651 | \$818,682 | \$984,952 | \$1,057,546 | App. C | App. C | App. F | App. F |

The net tax revenue impact ranges outlined above should be taken in context noting the following:

- ▶ The dividend gross-up and tax credit is designed to work best for the majority of Canadians, and for the sake of simplicity, does work as well at the lowest and highest marginal rates;
- ▶ Most investors avoid holding dividend paying investments in corporate structures in registered accounts due to the dividend gross-up and tax credit benefits being lost in a registered account.

This analysis only considers the difference in gross income tax revenue, rather than the net “fiscal impact” to the government. In other words, it does not include an estimation of the costs the federal government would incur to implement, administer and enforce compliance with the new tax provisions. Nor does it consider or attempt to quantify the administrative burden and cost of compliance to taxpayers.

3.6 Summary

While it is not possible to conclusively determine the amount of tax revenue that would result from a new tax on REITs, this analysis indicates that it likely would not be significant.

4. Conclusions

This report has examined criticisms leveled at REITs in recent years in public statements by proponents for public housing as well as the federal government's 2022 budget announcement of a review of housing as an asset class to include potential changes to the tax treatment of large corporate players including REITs that invest in residential real estate.

These criticisms and the government's budget announcement have come in the context of a politically charged public policy backdrop where housing is in high demand and short supply resulting in rising costs to homeowners and renters, affordability concerns and expectations that governments will respond with policies to help relieve these pressures.

Using available data, the report has aimed to provide answers to a number of relevant policy questions, including:

- ▶ At a conceptual level, would increasing the tax burden on REITs likely relieve upward pressure on apartment rents or increase this pressure even further?
- ▶ Do REITs constitute a sufficiently large proportion of the rental apartment market that their "market power" allows them to increase rents above levels a more competitive market would accommodate?
- ▶ Would increasing the tax burden on REITs lead to an increased supply of rental units?
- ▶ How much revenue is a new tax on REITs likely to raise for the federal government, given reasonable assumptions concerning the rate and base?

The report concludes that:

- ▶ Increasing the tax burden on REITs would likely put additional upward pressure on rents.
- ▶ REITs do not appear to have sufficient market power to increase rents above competitive market levels and no evidence has been presented by critics that this has in fact been happening.
- ▶ Increasing the tax burden on REITs would not lead to an increased supply of rental units and it could discourage future investment in this sector.
- ▶ A new tax on REITS, if imposed at the same rate as the combined federal/Ontario corporate tax rate of 26.5%, would only have a marginal impact on government tax revenues.

To appreciate how much the policy direction of the federal government has shifted over the past twenty years, it is instructive to quote an excerpt from a research report commissioned from three business academics by the Canada Mortgage and Housing Corporation and published in 2002, entitled "Understanding the Relative Underdevelopment of REITs in Canada".

The purpose of the research was to better understand and emulate the performance and success of REITs in the United States compared to Canada and explore policies that would encourage their expansion in Canada. The report identified a number of key success factors for Canadian and U.S. REITs as well as a list of suggested policy changes. Notable in the report's commentary accompanying these policy options is the following statement:

In considering these options, it is important to note certain limitations of REITs. In particular, although it is possible to implement options that will likely be successful in spurring growth in the Canadian apartment REIT industry, it must be remembered that REITs will have little incentive to offer housing that is affordable to lower-income Canadians unless options 16 and 17 are adopted [viz., 16. Creating a system of revenue guarantees for new construction; and 17. Creating a system of rental subsidies].³³

As we state in subsection 2.1 of this report, these suggested policy options point in the opposite direction of the federal government's 2022 budget proposal, purportedly in pursuit of the same public policy objective. There is little doubt that the more appropriate policy course to achieve these objectives was the one charted some twenty years ago in 2002.

If the federal government wants to increase the supply of housing and reduce the affordability crunch being faced by a growing number of Canadians as either homeowners or renters, particularly low-income Canadians, rather than increasing the tax burden on REITs, it might better consider policies in collaboration with the provincial and municipal levels of government that would reduce regulatory burdens on homebuilders, developers and landlords, offer tax or other financial incentives to encourage capital investment in this sector, allocate more funding for public housing or offer income-tested subsidies to low-income renters.

Appendix A

Baseline Tax Scenario

APPENDIX A – Baseline Tax Scenario

Appendix A - Baseline Tax Scenario
Residential REIT Tax Analysis
Theoretical Model Based on Income Characteristics

| | Base Numerical Example | |
|---|------------------------|--------------|
| | REIT | Corp |
| Corporate Tax | | |
| Taxable income before distribution (5) | \$90 | \$90 |
| Other income | (\$60) | (\$60) |
| Capital gains | (\$20) | (\$20) |
| Non-taxable portion capital gains | \$10 | \$10 |
| Non-taxable intercorporate dividends | | (\$20) |
| Return of capital (3) | \$0 | \$0 |
| Eligible dividends Distributed | (\$20) | (\$81) |
| Total Distributions | (\$100) | (\$81) |
| Entity Level Taxable Income after Distributions (4) | \$0 | \$70 |
| Corporate Tax Rate (1) | 26.50% | 26.50% |
| Corporate Tax | \$0 | \$19 |
| Unitholder Tax | | |
| Net taxable income | \$60 | |
| 50% of capital gains | \$10 | |
| 50% of return of capital / non-taxable (3) | \$0 | \$0 |
| Grossed-up dividends | \$28 | \$112 |
| Unitholder Taxable Income | \$98 | \$112 |
| Personal Marginal Tax Rate (2) | 37.91% | 37.91% |
| Tax before dividend tax credit | \$37 | \$43 |
| Dividend tax credit (Fed & Prov) | (\$7) | (\$28) |
| Total Personal Tax | \$30 | \$14 |
| Combined Tax Burden | \$30 | \$33 |
| After tax unitholder's income | \$70 | \$67 |
| Combined Tax Burden % Total Distribution | 30.1% | 33.0% |

Significant Assumptions

Analysis considers both corporate and personal level tax based on the following assumptions.

Taxes based on the following assumed applicable rates:

| | |
|-------------------------------------|--------|
| Corporate Tax Rate (1) | 26.50% |
| Personal Tax Rate (2) | 37.91% |
| Non-taxable portion capital gain | 50.00% |
| Dividend gross-up rate | 38.00% |
| Dividend tax credit - eligible (ON) | 25.02% |

Notes:

(1) Corporate tax rate is based on the following allocation and rates:

| Province | Tax Rate | Allocation |
|----------|----------|------------|
| ON | 11.5% | 100.0% |
| Fed | 15.0% | 100.0% |

(2) Personal tax rate is based on the following allocation and rates:

| Description | Tax Rate | Allocation |
|-----------------|----------|------------|
| Mid-Margin (ON) | 37.9% | 100.0% |

The model does not consider if investment is held in a registered account; however, for registered accounts such as RRSP and pension related accounts income taxed at highest marginal rate.

(3) Assumption on return of capital

- (i) Model assumes that returns of capital are subject to tax on returns of capital on the basis that resulting capital gains for unitholders and shareholders of REITs and corporations cannot be
- (ii) Analysis for a corporation assumes that a return of capital is taxed as a dividend in analysis above.

(4) Assumption on dividend paid by corporation

- (i) Taxable income of a corporation is assumed to exclude return of capital of the REIT. The analysis also assumes that the hypothetical comparable corporation using the REIT data would pay after tax profits to its shareholders as an eligible dividend.

(5) Input of components of taxable income

- (i) The basic components and characteristics impact how the income is taxed in Canada integrated

| | |
|----------------------------------|-----------|
| Total Income | \$ 100.00 |
| Other income | 60% |
| Capital gains | 20% |
| Non-taxable portion capital gain | N/A |
| Return of capital (3) | N/A |
| Eligible dividends Distributed | 20% |

Appendix B

Middle Marginal Tax Rate/Non-registered

APPENDIX B – Middle Marginal Tax Rate/Non-registered

Appendix B - Tax Scenario 1

Residential REIT Tax Analysis

Tax Revenues Forfeited in Comparison Corporate Structure (CA\$ thousands)

Corporate Tax

Taxable income before distribution

Other income

Capital gains

Non-taxable portion capital gains

Non-taxable intercorporate dividends

Return of capital (3)

Eligible dividends Distributed

Total Distributions

Entropy Level Taxable Income after Distributions (4)

Corporate Tax Rate (1)

Corporate Tax

Unitholder Tax

Net taxable income

50% of capital gains

50% of return of capital / non-taxable (3)

Grossed-up dividends

Unitholder Taxable Income

Personal Marginal Tax Rate (2)

Tax before dividend tax credit

Dividend tax credit (Fed & Prov)

Total Personal Tax

Combined Tax Burden

After tax cash unitholder / shareholder

Combined Tax Burden % Total Distribution

Cumulative 5 Year Summary

Peer Group - 5 Year Sum

REIT Corp

Annual 5 Year Summary of Peer Group

2021

2020

2019

2018

2017

REIT Corp

Please see significant assumptions from Baseline tax scenario 1.

Appendix C

High Marginal Tax Rate/Non-registered

APPENDIX C - High Marginal Tax Rate/Non-registered

Appendix C - Tax Scenario 2

Residential REIT Tax Analysis

Tax Revenues Forfeited in Comparison Corporate Structure (CA\$ thousands)

Corporate Tax

Taxable income before distribution

Other income

Capital gains

Non-taxable portion capital gains

Non-taxable intercorporate dividends

Return of capital (3)

Eligible dividends Distributed

Total Distributions

Entropy Level Taxable Income after Distributions (4)

Corporate Tax Rate (1)

Corporate Tax

Unitholder Tax

Net taxable income

50% of capital gains

50% of return of capital / non-taxable (3)

Grossed-up dividends

Unitholder Taxable Income

Personal Marginal Tax Rate (2)

Tax before dividend tax credit

Dividend tax credit (Fed & Prov)

Total Personal Tax

Combined Tax Burden

After tax cash unitholder / shareholder

Combined Tax Burden % Total Distribution

Cumulative 5 Year Summary

Peer Group - 5 Year Sum

REIT Corp

\$619,500 \$619,500

(\$476,000) (\$476,000)

(\$227,000) (\$227,000)

\$113,500 \$113,500

(\$30,000) (\$30,000)

(\$1,107,000) (\$1,107,000)

(\$30,000) (\$576,783)

(\$1,840,000) (\$1,683,783)

\$0 \$589,500

26.50% 26.50%

\$0 \$156,218

\$476,000

\$113,500

\$553,500 \$1,527,660

\$41,400 \$795,960

\$1,184,400 \$2,323,620

53.53% 53.53%

\$634,009 \$1,243,834

(\$10,358) (\$581,370)

\$623,651 \$662,464

\$623,651 \$818,682

\$1,216,349 \$1,021,318

33.9% 44.5%

Annual 5 Year Summary of Peer Group

2021

REIT Corp

\$121,054 \$121,054

(\$72,576) (\$72,576)

(\$91,648) (\$91,648)

\$45,824 \$45,824

(\$2,655) (\$2,655)

(\$254,208) (\$254,208)

(\$2,655) (\$135,502)

(\$421,086) (\$389,710)

\$0 \$118,400

26.50% 26.50%

\$0 \$31,376

\$72,576

\$45,824

\$127,104 \$350,807

\$3,664 \$186,993

\$249,167 \$537,800

53.53% 53.53%

\$133,379 \$287,884

(\$917) (\$134,558)

\$132,462 \$153,327

\$132,462 \$184,703

\$288,624 \$236,383

31.5% 43.9%

2020

REIT Corp

\$169,987 \$169,987

(\$162,005) (\$162,005)

(\$4,048) (\$4,048)

\$2,024 \$2,024

(\$5,958) (\$5,958)

(\$230,248) (\$230,248)

(\$5,958) (\$128,543)

(\$402,259) (\$358,791)

(\$0) \$164,029

26.50% 26.50%

(\$0) \$43,468

\$162,005

\$2,024

\$115,124 \$317,742

\$8,222 \$177,390

\$287,375 \$495,132

53.53% 53.53%

\$153,832 \$265,044

(\$2,057) (\$123,882)

\$151,775 \$141,162

\$151,775 \$184,630

\$250,484 \$217,629

37.7% 45.9%

2019

REIT Corp

\$126,575 \$126,575

(\$101,244) (\$101,244)

(\$25,872) (\$25,872)

\$12,936 \$12,936

(\$12,395) (\$12,395)

(\$224,642) (\$224,642)

(\$12,395) (\$109,253)

(\$364,153) (\$333,895)

\$0 \$114,180

26.50% 26.50%

\$0 \$30,258

\$101,244

\$12,936

\$112,321 \$310,006

\$17,105 \$150,769

\$243,606 \$460,775

53.53% 53.53%

\$130,402 \$246,653

(\$4,280) (\$115,286)

\$126,123 \$131,367

\$126,123 \$161,625

\$238,030 \$202,528

34.6% 44.4%

2018

REIT Corp

\$119,661 \$119,661

(\$83,642) (\$83,642)

(\$55,399) (\$55,399)

\$27,700 \$27,700

(\$8,319) (\$8,319)

(\$165,732) (\$165,732)

(\$8,319) (\$117,855)

(\$313,093) (\$283,587)

\$0 \$111,342

26.50% 26.50%

\$0 \$29,506

\$83,642

\$27,700

\$82,866 \$228,711

\$11,480 \$162,640

\$205,688 \$391,351

53.53% 53.53%

\$110,105 \$209,490

(\$2,872) (\$97,916)

\$107,233 \$111,574

\$107,233 \$141,080

\$205,860 \$172,013

34.2% 45.1%

2017

REIT Corp

\$81,503 \$81,503

(\$56,762) (\$56,762)

(\$49,482) (\$49,482)

\$24,741 \$24,741

(\$8,319) (\$8,319)

(\$233,206) (\$233,206)

\$0 (\$84,646)

(\$339,450) (\$317,852)

\$0 \$81,503

26.50% 26.50%

\$0 \$21,598

\$56,762

\$24,741

\$116,603 \$321,824

\$0 \$116,811

\$198,106 \$438,635

53.53% 53.53%

\$106,046 \$234,801

\$0 (\$109,747)

\$106,046 \$125,055

\$106,046 \$146,653

\$233,404 \$192,797

31.2% 43.2%

Please see significant assumptions from Baseline tax scenario 1 and note that in this scenario the marginal tax rate is set to 53.5% and it assumes shareholders hold the investment in a "non-registered" account.

Appendix D

Low Marginal Tax Rate/Non-registered

APPENDIX D - Low Marginal Tax Rate/Non-registered

Appendix D - Tax Scenario 3

Residential REIT Tax Analysis

Tax Revenues Forfeited in Comparison Corporate Structure (CA\$ thousands)

Corporate Tax

Taxable income before distribution

Other income

Capital gains

Non-taxable portion capital gains

Non-taxable intercorporate dividends

Return of capital (3)

Eligible dividends Distributed

Total Distributions

Entropy Level Taxable Income after Distributions (4)

Corporate Tax Rate (1)

Corporate Tax

Unitholder Tax

Net taxable income

50% of capital gains

50% of return of capital / non-taxable (3)

Grossed-up dividends

Unitholder Taxable Income

Personal Marginal Tax Rate (2)

Tax before dividend tax credit

Dividend tax credit (Fed & Prov)

Total Personal Tax

Combined Tax Burden

After tax cash unitholder / shareholder

Combined Tax Burden % Total Distribution

Cumulative 5 Year Summary

Peer Group - 5 Year Sum

REIT Corp

\$619,500 \$619,500

(\$476,000) (\$476,000)

(\$227,000) (\$227,000)

\$113,500 \$113,500

(\$30,000)

(\$1,107,000) (\$1,107,000)

(\$30,000) (\$576,783)

(\$1,840,000) (\$1,683,783)

\$0 \$589,500

26.50% 26.50%

\$0 \$156,218

\$476,000

\$113,500

\$553,500 \$1,527,660

\$41,400 \$795,960

\$1,184,400 \$2,323,620

28.20% 28.20%

\$334,001 \$655,261

(\$10,358) (\$581,370)

\$323,643 \$73,891

\$323,643 \$230,109

\$1,516,357 \$1,609,891

17.6% 12.5%

Annual 5 Year Summary of Peer Group

2021

2020

2019

2018

2017

REIT Corp

REIT Corp

REIT Corp

REIT Corp

REIT Corp

\$121,054 \$121,054

(\$72,576) (\$72,576)

(\$91,648) (\$91,648)

\$45,824 \$45,824

(\$2,655)

(\$254,208) (\$254,208)

(\$2,655) (\$135,502)

(\$421,086) (\$389,710)

\$0 \$118,400

26.50% 26.50%

\$0 \$31,376

\$72,576

\$45,824

\$127,104 \$350,807

\$3,664 \$186,993

\$249,167 \$537,800

28.20% 28.20%

\$70,265 \$151,660

(\$917) (\$134,558)

\$69,348 \$17,102

\$69,348 \$48,478

\$351,738 \$372,608

16.5% 11.5%

\$169,987 \$169,987

(\$162,005) (\$162,005)

(\$4,048) (\$4,048)

\$2,024 \$2,024

(\$5,958)

(\$230,248) (\$230,248)

(\$5,958) (\$128,543)

(\$402,259) (\$358,791)

(\$0) \$164,029

26.50% 26.50%

(\$0) \$43,468

\$162,005

\$2,024

\$115,124 \$317,742

\$8,222 \$177,390

\$287,375 \$495,132

28.20% 28.20%

\$81,040 \$139,627

(\$2,057) (\$123,882)

\$78,983 \$15,745

\$78,983 \$59,213

\$323,276 \$343,046

19.6% 14.7%

\$126,575 \$126,575

(\$101,244) (\$101,244)

(\$25,872) (\$25,872)

\$12,936 \$12,936

(\$12,395)

(\$224,642) (\$224,642)

(\$12,395) (\$109,253)

(\$364,153) (\$333,895)

\$0 \$114,180

26.50% 26.50%

\$0 \$30,258

\$101,244

\$12,936

\$112,321 \$310,006

\$17,105 \$150,769

\$243,606 \$460,775

28.20% 28.20%

\$68,697 \$129,939

(\$4,280) (\$115,286)

\$64,417 \$14,653

\$64,417 \$44,910

\$299,736 \$319,243

17.7% 12.3%

\$119,661 \$119,661

(\$83,642) (\$83,642)

(\$55,399) (\$55,399)

\$27,700 \$27,700

(\$8,319)

(\$165,732) (\$165,732)

(\$8,319) (\$117,855)

(\$313,093) (\$283,587)

\$0 \$111,342

26.50% 26.50%

\$0 \$29,506

\$83,642

\$27,700

\$82,866 \$228,711

\$11,480 \$162,640

\$205,688 \$391,351

28.20% 28.20%

\$58,004 \$110,361

(\$2,872) (\$97,916)

\$55,132 \$12,445

\$55,132 \$41,951

\$257,961 \$271,142

17.6% 13.4%

\$81,503 \$81,503

(\$56,762) (\$56,762)

(\$49,482) (\$49,482)

\$24,741 \$24,741

(\$8,319)

(\$233,206) (\$233,206)

\$0 (\$84,646)

(\$339,450) (\$317,852)

\$0 \$81,503

26.50% 26.50%

\$0 \$21,598

\$56,762

\$24,741

\$116,603 \$321,824

\$0 \$116,811

\$198,106 \$438,635

28.20% 28.20%

\$55,866 \$123,695

\$0 (\$109,747)

\$55,866 \$13,949

\$55,866 \$35,547

\$283,584 \$303,903

16.5% 10.5%

Please see significant assumptions from Baseline tax scenario 1 and note that in this scenario the marginal tax rate is set to 28.20% and it assumes shareholders hold the investment in a "non-registered" account.

Appendix E

Middle Marginal Tax Rate/Registered

APPENDIX E - Middle Marginal Tax Rate/Registered

Appendix E - Tax Scenario 4

Residential REIT Tax Analysis

Tax Revenues Forfeited in Comparison Corporate Structure
(CA\$ thousands)

Corporate Tax

Taxable income before distribution

Other income

Capital gains

Non-taxable portion capital gains

Non-taxable intercorporate dividends

Return of capital (3)

Eligible dividends Distributed

Total Distributions

Entropy Level Taxable Income after Distributions (4)

Corporate Tax Rate (1)

Corporate Tax

Unitholder Tax

Net taxable income

50% of capital gains

50% of return of capital / non-taxable (3)

Grossed-up dividends

Unitholder Taxable Income

Personal Marginal Tax Rate (2)

Tax before dividend tax credit

Dividend tax credit (Fed & Prov)

Total Personal Tax

Combined Tax Burden

After tax cash unitholder / shareholder

Combined Tax Burden % Total Distribution

Cumulative 5 Year Summary

Peer Group - 5 Year Sum

REIT Corp

\$619,500 \$619,500

(\$476,000) (\$476,000)

(\$227,000) (\$227,000)

\$113,500 \$113,500

(\$30,000)

(\$1,107,000) (\$1,107,000)

(\$30,000) (\$576,783)

(\$1,840,000) (\$1,683,783)

\$0 \$589,500

26.50% 26.50%

\$0 \$156,218

\$476,000

\$227,000

\$1,107,000 \$1,107,000

\$30,000 \$576,783

\$1,840,000 \$1,683,783

37.91% 37.91%

\$697,544 \$638,322

\$0 \$0

\$697,544 \$638,322

\$697,544 \$794,539

\$1,142,456 \$1,045,461

37.9% 43.2%

2021

REIT Corp

\$121,054 \$121,054

(\$72,576) (\$72,576)

(\$91,648) (\$91,648)

\$45,824 \$45,824

(\$2,655)

(\$254,208) (\$254,208)

(\$2,655) (\$135,502)

(\$421,086) (\$389,710)

\$0 \$118,400

26.50% 26.50%

\$0 \$31,376

\$72,576

\$91,648

\$254,208 \$254,208

\$2,655 \$135,502

\$421,086 \$389,710

37.91% 37.91%

\$159,634 \$147,739

\$0 \$0

\$159,634 \$147,739

\$159,634 \$179,115

\$261,452 \$241,971

37.9% 42.5%

Annual 5 Year Summary of Peer Group

2020

REIT Corp

\$169,987 \$169,987

(\$162,005) (\$162,005)

(\$4,048) (\$4,048)

\$2,024 \$2,024

(\$5,958)

(\$230,248) (\$230,248)

(\$5,958) (\$128,543)

(\$402,259) (\$358,791)

(\$0) \$164,029

26.50% 26.50%

(\$0) \$43,468

\$162,005

\$4,048

\$230,248 \$230,248

\$5,958 \$128,543

\$402,259 \$358,791

37.91% 37.91%

\$152,496 \$136,018

\$0 \$0

\$152,496 \$136,018

\$152,496 \$179,485

\$249,763 \$222,774

37.9% 44.6%

2019

REIT Corp

\$126,575 \$126,575

(\$101,244) (\$101,244)

(\$25,872) (\$25,872)

\$12,936 \$12,936

(\$12,395)

(\$224,642) (\$224,642)

(\$12,395) (\$109,253)

(\$364,153) (\$333,895)

\$0 \$114,180

26.50% 26.50%

\$0 \$30,258

\$101,244

\$25,872

\$224,642 \$224,642

\$12,395 \$109,253

\$364,153 \$333,895

37.91% 37.91%

\$138,050 \$126,580

\$0 \$0

\$138,050 \$126,580

\$138,050 \$156,837

\$226,103 \$207,316

37.9% 43.1%

2018

REIT Corp

\$119,661 \$119,661

(\$83,642) (\$83,642)

(\$55,399) (\$55,399)

\$27,700 \$27,700

(\$8,319)

(\$165,732) (\$165,732)

(\$8,319) (\$117,855)

(\$313,093) (\$283,587)

\$0 \$111,342

26.50% 26.50%

\$0 \$29,506

\$83,642

\$55,399

\$165,732 \$165,732

\$8,319 \$117,855

\$313,093 \$283,587

37.91% 37.91%

\$118,694 \$107,508

\$0 \$0

\$118,694 \$107,508

\$118,694 \$137,014

\$194,399 \$176,079

37.9% 43.8%

2017

REIT Corp

\$81,503 \$81,503

(\$56,762) (\$56,762)

(\$49,482) (\$49,482)

\$24,741 \$24,741

(\$8,319)

(\$233,206) (\$233,206)

\$0 (\$84,646)

(\$339,450) (\$317,852)

\$0 \$81,503

26.50% 26.50%

\$0 \$21,598

\$56,762

\$49,482

\$233,206 \$233,206

\$0 \$84,646

\$339,450 \$317,852

37.91% 37.91%

\$128,685 \$120,498

\$0 \$0

\$128,685 \$120,498

\$128,685 \$142,096

\$210,765 \$197,354

37.9% 41.9%

Please see significant assumptions from Baseline tax scenario 1 and note that in this scenario the marginal tax rate is set to 37.91% and it assumes shareholders hold the investment in a "registered" account.

Appendix F

High Marginal Tax Rate/Registered

APPENDIX F - High Marginal Tax Rate/Registered

Appendix F - Tax Scenario 5

Residential REIT Tax Analysis

Tax Revenues Forfeited in Comparison Corporate Structure (CA\$ thousands)

Corporate Tax

Taxable income before distribution

Other income

Capital gains

Non-taxable portion capital gains

Non-taxable intercorporate dividends

Return of capital (3)

Eligible dividends Distributed

Total Distributions

Entropy Level Taxable Income after Distributions (4)

Corporate Tax Rate (1)

Corporate Tax

Unitholder Tax

Net taxable income

50% of capital gains

50% of return of capital / non-taxable (3)

Grossed-up dividends

Unitholder Taxable Income

Personal Marginal Tax Rate (2)

Tax before dividend tax credit

Dividend tax credit (Fed & Prov)

Total Personal Tax

Combined Tax Burden

After tax cash unitholder / shareholder

Combined Tax Burden % Total Distribution

Cumulative 5 Year Summary

Peer Group - 5 Year Sum

REIT Corp

\$619,500 \$619,500

(\$476,000) (\$476,000)

(\$227,000) (\$227,000)

\$113,500 \$113,500

(\$30,000)

(\$1,107,000) (\$1,107,000)

(\$30,000) (\$576,783)

(\$1,840,000) (\$1,683,783)

\$0 \$589,500

26.50% 26.50%

\$0 \$156,218

\$476,000

\$227,000

\$1,107,000 \$1,107,000

\$30,000 \$576,783

\$1,840,000 \$1,683,783

53.53% 53.53%

\$984,952 \$901,329

\$0 \$0

\$984,952 \$901,329

\$984,952 \$1,057,546

\$855,048 \$782,454

53.5% 57.5%

2021

REIT Corp

\$121,054 \$121,054

(\$72,576) (\$72,576)

(\$91,648) (\$91,648)

\$45,824 \$45,824

(\$2,655)

(\$254,208) (\$254,208)

(\$2,655) (\$135,502)

(\$421,086) (\$389,710)

\$0 \$118,400

26.50% 26.50%

\$0 \$31,376

\$72,576

\$91,648

\$254,208 \$254,208

\$2,655 \$135,502

\$421,086 \$389,710

53.53% 53.53%

\$225,407 \$208,612

\$0 \$0

\$225,407 \$208,612

\$225,407 \$239,988

\$195,679 \$181,098

53.5% 57.0%

Annual 5 Year Summary of Peer Group

2020

REIT Corp

\$169,987 \$169,987

(\$162,005) (\$162,005)

(\$4,048) (\$4,048)

\$2,024 \$2,024

(\$5,958)

(\$230,248) (\$230,248)

(\$5,958) (\$128,543)

(\$402,259) (\$358,791)

(\$0) \$164,029

26.50% 26.50%

(\$0) \$43,468

\$162,005

\$4,048

\$230,248 \$230,248

\$5,958 \$128,543

\$402,259 \$358,791

53.53% 53.53%

\$215,329 \$192,061

\$0 \$0

\$215,329 \$192,061

\$215,329 \$235,529

\$186,930 \$166,730

53.5% 58.6%

2019

REIT Corp

\$126,575 \$126,575

(\$101,244) (\$101,244)

(\$25,872) (\$25,872)

\$12,936 \$12,936

(\$12,395)

(\$224,642) (\$224,642)

(\$12,395) (\$109,253)

(\$364,153) (\$333,895)

\$0 \$114,180

26.50% 26.50%

\$0 \$30,258

\$101,244

\$25,872

\$224,642 \$224,642

\$12,395 \$109,253

\$364,153 \$333,895

53.53% 53.53%

\$194,931 \$178,734

\$0 \$0

\$194,931 \$178,734

\$194,931 \$208,992

\$169,222 \$155,161

53.5% 57.4%

2018

REIT Corp

\$119,661 \$119,661

(\$83,642) (\$83,642)

(\$55,399) (\$55,399)

\$27,700 \$27,700

(\$8,319)

(\$165,732) (\$165,732)

(\$8,319) (\$117,855)

(\$313,093) (\$283,587)

\$0 \$111,342

26.50% 26.50%

\$0 \$29,506

\$83,642

\$55,399

\$165,732 \$165,732

\$8,319 \$117,855

\$313,093 \$283,587

53.53% 53.53%

\$167,599 \$151,804

\$0 \$0

\$167,599 \$151,804

\$167,599 \$181,310

\$145,494 \$131,783

53.5% 57.9%

2017

REIT Corp

\$81,503 \$81,503

(\$56,762) (\$56,762)

(\$49,482) (\$49,482)

\$24,741 \$24,741

(\$8,319)

(\$233,206) (\$233,206)

\$0 (\$84,646)

(\$339,450) (\$317,852)

\$0 \$81,503

26.50% 26.50%

\$0 \$21,598

\$56,762

\$49,482

\$233,206 \$233,206

\$0 \$84,646

\$339,450 \$317,852

53.53% 53.53%

\$181,708 \$170,146

\$0 \$0

\$181,708 \$170,146

\$181,708 \$191,744

\$157,742 \$147,706

53.5% 56.5%

Please see significant assumptions from Baseline tax scenario 1 and note that in this scenario the marginal tax rate is set to 53.5% and it assumes shareholders hold the investment in a "registered" account.

Appendix G

Low Marginal Tax Rate/Registered

APPENDIX G - Low Marginal Tax Rate/Registered

Appendix G - Tax Scenario 6

Residential REIT Tax Analysis

Tax Revenues Forfeited in Comparison Corporate Structure (CA\$ thousands)

Corporate Tax

Taxable income before distribution

Other income

Capital gains

Non-taxable portion capital gains

Non-taxable intercorporate dividends

Return of capital (3)

Eligible dividends Distributed

Total Distributions

Entropy Level Taxable Income after Distributions (4)

Corporate Tax Rate (1)

Corporate Tax

Unitholder Tax

Net taxable income

50% of capital gains

50% of return of capital / non-taxable (3)

Grossed-up dividends

Unitholder Taxable Income

Personal Marginal Tax Rate (2)

Tax before dividend tax credit

Dividend tax credit (Fed & Prov)

Total Personal Tax

Combined Tax Burden

After tax cash unitholder / shareholder

Combined Tax Burden % Total Distribution

Cumulative 5 Year Summary

Peer Group - 5 Year Sum

REIT Corp

\$619,500 \$619,500

(\$476,000) (\$476,000)

(\$227,000) (\$227,000)

\$113,500 \$113,500

(\$30,000)

(\$1,107,000) (\$1,107,000)

(\$30,000) (\$576,783)

(\$1,840,000) (\$1,683,783)

\$0 \$589,500

26.50% 26.50%

\$0 \$156,218

\$476,000

\$227,000

\$1,107,000 \$1,107,000

\$30,000 \$576,783

\$1,840,000 \$1,683,783

28.20% 28.20%

\$518,880 \$474,827

\$0 \$0

\$518,880 \$474,827

\$518,880 \$631,044

\$1,321,120 \$1,208,956

28.2% 34.3%

2021

REIT Corp

\$121,054 \$121,054

(\$72,576) (\$72,576)

(\$91,648) (\$91,648)

\$45,824 \$45,824

(\$2,655)

(\$254,208) (\$254,208)

(\$2,655) (\$135,502)

(\$421,086) (\$389,710)

\$0 \$118,400

26.50% 26.50%

\$0 \$31,376

\$72,576

\$91,648

\$254,208 \$254,208

\$2,655 \$135,502

\$421,086 \$389,710

28.20% 28.20%

\$118,746 \$109,898

\$0 \$0

\$118,746 \$109,898

\$118,746 \$141,274

\$302,340 \$279,812

28.2% 33.5%

Annual 5 Year Summary of Peer Group

2020

REIT Corp

\$169,987 \$169,987

(\$162,005) (\$162,005)

(\$4,048) (\$4,048)

\$2,024 \$2,024

(\$5,958)

(\$230,248) (\$230,248)

(\$5,958) (\$128,543)

(\$402,259) (\$358,791)

(\$0) \$164,029

26.50% 26.50%

(\$0) \$43,468

\$162,005

\$4,048

\$230,248 \$230,248

\$5,958 \$128,543

\$402,259 \$358,791

28.20% 28.20%

\$113,437 \$101,179

\$0 \$0

\$113,437 \$101,179

\$113,437 \$144,647

\$288,822 \$257,612

28.2% 36.0%

2019

REIT Corp

\$126,575 \$126,575

(\$101,244) (\$101,244)

(\$25,872) (\$25,872)

\$12,936 \$12,936

(\$12,395)

(\$224,642) (\$224,642)

(\$12,395) (\$109,253)

(\$364,153) (\$333,895)

\$0 \$114,180

26.50% 26.50%

\$0 \$30,258

\$101,244

\$25,872

\$224,642 \$224,642

\$12,395 \$109,253

\$364,153 \$333,895

28.20% 28.20%

\$102,691 \$94,158

\$0 \$0

\$102,691 \$94,158

\$102,691 \$124,416

\$261,462 \$239,737

28.2% 34.2%

2018

REIT Corp

\$119,661 \$119,661

(\$83,642) (\$83,642)

(\$55,399) (\$55,399)

\$27,700 \$27,700

(\$8,319)

(\$165,732) (\$165,732)

(\$8,319) (\$117,855)

(\$313,093) (\$283,587)

\$0 \$111,342

26.50% 26.50%

\$0 \$29,506

\$83,642

\$55,399

\$165,732 \$165,732

\$8,319 \$117,855

\$313,093 \$283,587

28.20% 28.20%

\$88,292 \$79,972

\$0 \$0

\$88,292 \$79,972

\$88,292 \$109,477

\$224,801 \$203,616

28.2% 35.0%

2017

REIT Corp

\$81,503 \$81,503

(\$56,762) (\$56,762)

(\$49,482) (\$49,482)

\$24,741 \$24,741

(\$8,319)

(\$233,206) (\$233,206)

\$0 (\$84,646)

(\$339,450) (\$317,852)

\$0 \$81,503

26.50% 26.50%

\$0 \$21,598

\$56,762

\$49,482

\$233,206 \$233,206

\$0 \$84,646

\$339,450 \$317,852

28.20% 28.20%

\$95,725 \$89,634

\$0 \$0

\$95,725 \$89,634

\$95,725 \$111,232

\$243,725 \$228,218

28.2% 32.8%

Please see significant assumptions from Baseline tax scenario 1 and note that in this scenario the marginal tax rate is set to 28.2% and it assumes shareholders hold the investment in a "registered" account.

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⁴ Government of Canada, 2022 Federal Budget Plan, 7 April 2022, page 47.

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⁵ Bill C-8, Economic and Fiscal Update Implementation Act, 2021, received Royal Assent on June 9, 2022. Part 2 of this bill implemented the *Underused Housing Tax Act*. As outlined in Budget 2021, the stated purpose for introducing a national underused housing tax was to ensure that nonresident owners who were using Canada as a place to passively store their wealth in housing pay their fair share. This tax is modelled to some extent on the speculation and vacancy tax imposed by the province of British Columbia for 2018 and later calendar years. While now in force, some details of the tax remain to be fleshed out by regulation, such as prescribed properties to be included or excluded from the tax and certain prescribed persons to be treated as owners for purposes of the rules. See EY Canada, Tax Alert 2022 No. 35, 28 June 2022. https://www.ey.com/en_ca/tax/tax-alerts/2022/tax-alert-2022-no-35#:~:text=The%20tax%20applies%20at%20the,for%20property%20tax%20purposes%3B%20and

⁶ *Ibid*, page 33.

⁷ Recent census data shows that over the period 2011 to 2021 the number of Canadians renting grew twice as fast as those owning their own homes. Should this trend continue, there may be even greater pressure on rental prices than housing prices. See Pete Evans, CBC News, *Renting is growing twice as fast as home ownership, census reveals*, September 21, 2022.

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⁸ See Statistics Canada, Housing challenges remain for vulnerable populations in 2021, *The Daily*, July 21, 2022. <https://www150.statcan.gc.ca/n1/daily-quotidien/220721/dq220721b-eng.htm>

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¹⁰ See Martine August, The rise of financial landlords has turned rental apartments into a vehicle for profit, Policy Options, Institute for Research on Public Policy (IRPP), June 11, 2021. <https://policyoptions.irpp.org/magazines/june-2021/the-rise-of-financial-landlords-has-turned-rental-apartments-into-a-vehicle-for-profit/>

¹¹ See Ontario Municipal Affairs and Housing, News Release, Ontario Caps 2023 Rent Increase Guideline Below Inflation at 2.5 Per Cent, June 29, 2022. <https://news.ontario.ca/en/release/1002167/ontario-caps-2023-rent-increase-guideline-below-inflation-at-25-per-cent>

¹² Both the circumstances and the types of costs that may be used to justify an AGI are quite restrictive. In Ontario, for example, a landlord may only make an application if there has been (1) an extraordinary increase in municipal taxes, (2) eligible capital expenses for extraordinary or significant renovations, repairs or replacements or (3) has experienced certain operating cost increases related to security services. Capital expenditures do not include routine work to maintain a capital asset in its operating state or work that is substantially cosmetic in nature. Furthermore, the maximum annual AGI increase related to capital expenditures and security services is capped at 3% in the first year and a maximum of 3% in two more years (this limitation does not apply for increased municipal taxes). For further details, see Tribunals Ontario, *Applications for Rent Increases Above the Guideline*. <https://tribunalsontario.ca/lrb/forms/#landlord-forms>

¹³ See Douglas Kwan, NowToronto.com News, Op-Ed: Vacancy decontrol has failed tenants and should be abolished, Nov 21, 2021. <https://nowtoronto.com/news/op-ed-vacancy-decontrol-has-failed-tenants-and-should-be-abolished>

¹⁴ See Tom Cardoso and Shane Dingman, The Globe and Mail, Eviction Factories: How Ontario's tenants get trapped in a never-ending cycle with landlords, December 19, 2019. <https://www.theglobeandmail.com/canada/toronto/article-toronto-ontario-housing-rental-eviction-data-landlords-tenants/#:~:text=Eviction%20factories%3A%20How%20Ontario%E2%80%99s%20tenants%20get%20trapped%20in,system%20that%20leaves%20vulnerable%20renters%20in%20the%20lurch>

¹⁵ See August, op cit.

¹⁶ See Rebecca Diamond, Tim McQuade, and Franklin Qian, "The Effects of Rent Control Expansion on Tenants, Landlords, and Inequality: Evidence from San Francisco", *American Economic Review* 2019, 109(9), page 3392. <https://doi.org/10.1257/aer.20181289>

¹⁷ These controls are most stringent in terms of restricting rental price increases in British Columbia, Manitoba, Ontario, and Prince Edward Island. Nova Scotia capped allowable rent increases two percent during the COVID-19 pandemic, but this cap was removed when the provincial state of emergency was lifted on February 1, 2022.

¹⁸ The rental market is comprised of both "purpose-built" units and "secondary market" units. The secondary market refers to units that were initially built to supply the owner occupant sector of the housing market, but that are being rented out by their owners.

¹⁹ See CMHC, Housing Market Insight, Rental Ownership Structure in Canada, July 2017, page 2 and Figure 1. More recent data shows the proportion owned by residential REITs is even lower (in the range of 6 percent of the purpose-built market), as discussed on page 17 and footnote 23.

²⁰ Ibid., page 4 and Figure 3.

²¹ Ibid., page 5 and Figure 4.

²² Ibid., page 5.

²³ CIBC Equity Research, The Canadian Domestic Apartment Sector, April 8, 2022, page 2. Other recent data shows that the REIT group consisting of Canadian Apartment Properties REIT (CAR.UN), Boardwalk REIT (BEI.UN), Killam Apartment REIT (KMP.UN), InterRent REIT (IIP.UN) and Minto Apartment REIT (MI.UN) accounts for less than 6% of the purpose-built rental apartment units and approximately 3% of the overall rental stock (including purpose-built and secondary market units).

²⁴ Ibid., page 3.

²⁵ Canadian Apartment Properties REIT (CAR.UN), Boardwalk REIT (BEI.UN), Killam Apartment REIT (KMP.UN) and InterRent REIT (IIP.UN)

²⁶ Ibid, page 4.

²⁷ Ibid, page 5.

²⁸ Is there any tax that would encourage an increase in the supply of rental housing? The City of Vancouver introduced an Empty Homes Tax in 2017 that might qualify as an example, but it only applies to certain vacant properties not qualifying for an exemption and it is simply designed to encourage their return to the market for long-term rental by those who live and work in Vancouver. Net revenues earned by the tax above administrative costs are also used to fund affordable housing initiatives.

<https://vancouver.ca/files/cov/vancouver-2021-empty-homes-tax-annual-report.pdf>

²⁹ The DTC is the sum of federal and provincial dividend tax credits. It can vary depending on whether the corporation issues eligible or non-eligible dividends. Public corporations typically issue eligible dividends whereas Canadian-Controlled Private Corporations (CCPCs) issue non-eligible dividends. Eligible dividends are paid from income subject to the higher corporate rate, while non-eligible dividends are paid from income that is taxed at the lower small business corporate rate. To offset this inequity (and to create integration) eligible dividends receive more favourable tax treatment than non-eligible dividends.

³⁰ At the time the federal government introduced the new SIFT rules, it stated, "Certain trusts that would otherwise be SIFTs will be excluded from the SIFT definition. These are trusts (commonly known as real estate investment trusts or REITs) that meet a series of conditions relating to the nature of their income and investments. Those conditions are similar to the conditions that the United States applies to US real estate investment trusts, and like the US rules this exception from the SIFT measures recognizes the unique history and role of collective real estate investment vehicles." (emphasis added) See Department of Finance, *Canada's New Government Announces Tax Fairness Plan*, Backgrounder, October 31, 2006. <https://www.canada.ca/en/news/archive/2006/10/canada-new-government-announces-tax-fairness-plan.html>

³¹ Most of the unitholders of residential REITs are Canadian residents for tax purposes, although some are non-residents. Non-residents are subject to withholding tax and the withholding rate can vary depending on whether the unitholder's country of residence has a bilateral tax treaty with Canada that would provide its residents with the benefit of a reduced rate. Since we do not have data on the composition of each residential REIT's unitholder base, we ignore this issue for purposes of our tax scenario analysis and calculations with the simplifying assumption that all unitholders are residents of Canada.

³² The analysis reflects actual aggregate distribution data obtained from Canadian Apartment Properties REIT, Killam Apartment REIT, Boardwalk REIT, Minto Apartment REIT, and InterRent REIT for the 2017 to 2021 taxation years.

³³ Canada Mortgage and Housing Corporation (CMHC), David W. Conklin, Darroch A. Robertson, Darcy J.L. Jones, CMHC Research Report, *Understanding the Relative Underdevelopment of REITs in Canada*, September, 2002, Executive Summary, page iv. https://publications.gc.ca/collections/collection_2011/schl-cmhc/nh18-1/NH18-1-308-2002-eng.pdf