

Consultation Response:
“Higher rates of Stamp Duty Land Tax (SDLT) on purchases
of additional residential properties”

To: HM Treasury

By: The Intergenerational Foundation

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The Intergenerational Foundation (www.if.org.uk) is an independent think tank researching fairness between generations. IF believes policy should be fair to all – the old, the young and those to come.

Introduction:

The Intergenerational Foundation (IF) welcomes the opportunity to comment on government policy towards the buy-to-let (BTL) property sector. We were the first organisation to highlight the unfair tax advantages that BTL landlords receive compared to first-time buyers in our 2013 report *[Why BTL \(buy-to-let\) equals “Big Tax Let-off”](#)*, which recommended the reforms to BTL taxation that were implemented at the 2015 Summer Budget, so we have a keen interest in this subject. IF strongly supports the concept of imposing higher rates of SDLT on property purchases by BTL landlords in order to achieve a more level playing field for first-time buyers in the UK housing market. We agree with the vast majority of the measures which are proposed in the consultation document, although we would like to make a few specific recommendations about the implementation of this policy:

1) When the rates will apply

IF agrees with the tests outlined in the consultation document which will be used to assess whether a property qualifies as an individual’s main residence, and the provisions relating to joint and single ownership for married couples. However, the proposed policy doesn’t appear to include any provisions which would prevent two people who are not legally married or civil partners - but whose relationship is equivalent to a marriage to all intents and purposes - from buying a BTL property in one or other of their names to avoid paying the higher rate.

For example, Mr A lives with Ms B in a property which is their main residence but is owned in his name only. Ms B then purchases another property to rent out in her name but using their shared resources, the income from which they will share. As Ms B does not own another property already, at the end of the day of the transaction she owns only one property, so this transaction is not subject to the higher rates. This seems unfair and likely to encourage evasion, given that, if they were legally married they would have to pay the higher rates of SDLT.

Similarly, it would not be too difficult for a landlord to concoct ways of purchasing additional BTL properties in the names of his children or other relatives to avoid paying the higher rates of SDLT, but where they would actually exercise beneficial ownership of the property. Therefore, IF suggests that HM Treasury should widen the applicability criteria for the new rates to include *beneficial ownership* of additional properties rather than just *legal ownership*.

2) Administer SDLT at source

The consultation document makes several proposals regarding possible reforms to the administration of SDLT, including shortening the length of time which someone has to file a return from 30 to 14 days and aligning the process of claiming a refund on the higher rates with filing a return for the replacement of a main property.

As a general principle, IF believes the most efficient method of administering property taxes is to deduct them at source, as this minimises the possible opportunities for fraud or evasion which can arise if the purchaser has more discretion over when they may pay them. Therefore, IF recommends that the administration of SDLT could be strengthened by making it compulsory for returns to be filed (and refunds for the higher rates claimed) as part of completing the transaction on the day of completion itself. As HM Treasury itself acknowledges, the vast majority of SDLT is already being collected at the point of completion by agents, conveyancers and solicitors, so this reform should increase the efficiency of collecting the tax without significantly adding to the burden of compliance for individual members of the public.

3) Exemption of properties worth less than £40,000

If one of the government's main objectives with levying higher rates of SDLT on BTL landlords is to reduce the level of competition between them and first-time buyers, then IF is concerned that the decision to continue completely exempting all properties bought for less than £40,000 from SDLT could undermine this goal. Housing transaction data from the Land Registry suggest that in 2015 nearly 10% of all the property transactions which involved either a BTL mortgage or a transfer to a non-private individual were worth less than £40,000.¹ It seems reasonable to suggest that the type of properties which cost less than £40,000 could be desirable to both first-time buyers and BTL landlords, as they would mainly be smaller properties in more affordable areas.

The current policy also seems somewhat inconsistent following the removal of the "slab" system of SDLT rates, as a property costing up to £39,999 would carry no SDLT, but one costing £40,001 would incur additional SDLT of £1,200, as the additional rate is still calculated on the whole of the property's value for transactions worth between £40,000 and £125,000. This seems likely to make properties worth less than £40,000 particularly appealing to BTL landlords, which may have a harmful effect on first-time buyers who are also targeting properties in this value range. IF recommends that the lowest additional rate of SDLT (3%) should apply to the entire value of all eligible property transactions in the bottom SDLT band, rather than simply those costing more than £40,000.

Conclusion

IF is very glad that these reforms to SDLT are being implemented, and we hope you will consider the small tweaks to the policy that we have suggested above. If you would like to learn more about the work of the Intergenerational Foundation or would like to organise a meeting to discuss the points we raise further, please contact:

¹ [Land Registry Price Paid Data for 2015](#)

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