

'Never in the field of British politics has so much been taken away from so many by so few'

Tony Gimple, Founding Director of Less Tax 4 Landlords



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I'm of course talking about George Osborn's now infamous S24 Tenant Tax and his successors 'reforms' to S21 Notices and the like. Add to that the entire Brexit debacle, a Tory party in complete disarray, and a political throw-back in the form of Comrade Corbyn who despite all the evidence to the contrary believes that Marxism actually works; it's no wonder that the entire Private Rental Sector (PRS) feels as besieged as our forebears did in those dark days when we stood alone against tyranny.

Some of you may say that I'm taking my analogies too far, but when you take into account that the PRS is the only sector to be taxed on turnover and not profit, then perhaps I'm not going far enough.

According to analysis by The National Landlords Association, the PRS contributes at least £3.84bn a year in taxes, which is more than the £2.9bn that the entire UK gaming and betting industry was forecast to pay in 2016-17, and greater than the banking levy of £2.6bn; add to that the hundreds of millions of pounds raised through Stamp Duty, Capital Gains Tax, Council Tax, and Licensing fees, and that these numbers quoted are pre-S24, do you still think I'm taking it too far? [1]

Government is being short-sighted

In which regard, according to the Chartered Institute of Tax Accountants (CIOT) there are a range of structures available when setting up a business, each with differing tax and commercial consequences. The potential tax advantages of using one structure over another, or a combination of structures, are merely one of the commercial issues to be considered when setting up any business, and derive from the inherent differences in tax rates on corporate and non-corporate structures.

They go on to say that if the government is intent on levelling the playing field and making tax fairer, a better option would be to address this underlying issue. Otherwise, it should accept that businesses will utilise a range of structures to try to prevent their competitors from gaining a commercial advantage over them.

So let's now take a look at how government policy is distorting the rental property market, as well suffering from a crisis in confidence as to how far left a Tory administration can go before it becomes indistinguishable from New Labour, or worse still the neo Marxists currently threatening to renationalise the utilities at a fraction of their true worth which in turn will undermine people's pensions and the economy as a whole.

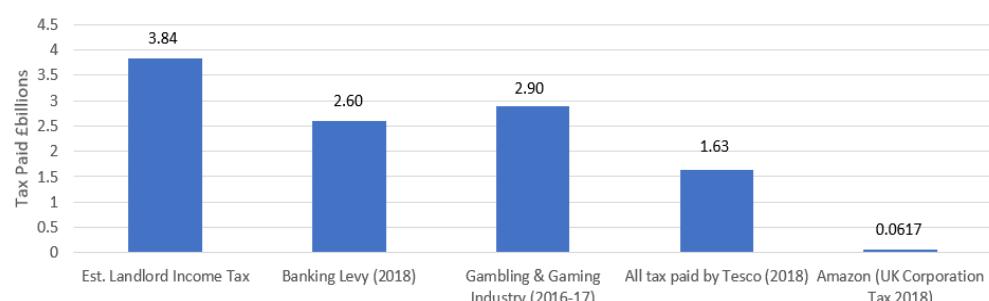
In the excellent report by the Institute of Economic Affairs (IEA), entitled Taxation Without Justification [2] the authors write that the PRS plays a critical role in increasing and improving housing provision in the UK. Around 80% of private sector tenants are satisfied with their homes, which compares favourably with that in the social rented sector. This contribution has gone unrecognised: instead, landlords have been made convenient scapegoats for a housing crisis primarily caused by land-use planning restrictions.

The government has recently passed tax measures that discriminate against private rented housing, both as an asset class and as a form of housing tenancy. The most damaging of these measures is 'Section 24' which prevents landlords entirely offsetting mortgage interest costs against rents before taxable profits are calculated.

As a result of that change alone, many landlords will pay huge amounts of tax as a proportion of profits, meaning that in some cases the tax rate will exceed 100% of their underlying profit leaving landlords making losses where before they were making healthy profits.

The government has also increased Stamp Duty (SDLT) on buy-to-let properties. SDLT in general is widely regarded as one of the worst taxes from an economic efficiency point of view.

Comparison of Value to UK Exchequer



[1] <https://landlords.org.uk/sites/default/files/2019-03/Benefits%20of%20the%20PRS.pdf>

[2] <https://iea.org.uk/publications/taxation-without-justification/>

[3] <https://publications.parliament.uk/pa/l1d201719/l1select/l1dfair/329/329.pdf>



"Perhaps now is the time to turn the telescope around and start looking at the future rather than the past."

The late James Mirrlees, Nobel Prize winner in economics wrote: '*There is no sound case for maintaining stamp duty and we believe that it should be abolished*', and '*stamp duty and business rates defy the most basic of economic principles by taxing transactions and produced inputs respectively*'.

Looking at Stamp Duty in particular, a House of Lords committee has called for the government to reform stamp duty because it has "seriously distorted the housing market" [3].



Providing her opinion, Centre for Economic Justice chief economist Carys Roberts emphasised that she had "*never met an economist who thinks that stamp duty is a good tax*", while the House of Lords economic affairs committee chair Lord Forsyth added that stamp duty in the capital has "brought some sections of the housing market to a complete dead stop".

Increases in landlord taxes are likely to reduce the supply of rental housing, increase rents, reduce quality, and reduce the size of the 'professional' landlord sector, being the exact opposite of George Osborne's stated objectives to professionalise the sector.

Overall there is a huge misunderstanding at Westminster that the Private Rental Sector is doing nothing more than holding passive investments designed solely to exploit those who cannot afford to buy their homes.


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Whilst that view is something that we've come to expect from the Left, it now seems to apply to the political class as a whole.

If S24 didn't exist would you still incorporate?

As Samuel Johnson so aptly said, "*Depend upon it, sir, when a man knows he is to be hanged in a fortnight, it concentrates his mind wonderfully.*"

Pretty much the entire PRS thought that S24 was said hangman, and there's been a headlong rush to take the panacea of incorporation as their last-minute reprieve, even though the 'drop' will be even sharper when that particular bear trap is finally sprung.

The truth be told though, if it wasn't for S24 very many BTL landlords would still be struggling and doing nothing to build, run, and grow professional businesses. So rather than being vilified as one of the four horsemen of the apocalypse, perhaps George Osborne should be seen as the landlord's knight in shining armour by single-handedly 'concentrating' the sector's collective psyche on running a business as opposed to having had an 'accident'.

Most of us are perfectly happy to gripe about the amount of tax we have to pay the State protection racket, and rightly so; but rather than continuing to let the tax tail wag the planning dog, perhaps now is the time to turn the telescope around and start looking at the future rather than the past.

Meanwhile, as Lord Justice Tomlin said in his 1936 landmark ruling when the then Duke of Westminster was challenged by the HMRC of its day; "*Every man is entitled if he can to order his affairs so that the tax attaching under the appropriate Acts is less than it otherwise would be. If he succeeds in ordering them so as to secure this result, then, however unappreciative the Commissioners of Inland Revenue or his fellow taxpayers may be of his ingenuity, he cannot be compelled to pay an increased tax.*"

With that spirit in mind, the chart below illustrates your options, and if you'd like to find out how you can stop being an accidental landlord and instead maximise the commercial benefits of building, running, and growing a professional property business insofar as the law allows, then please visit www.lesstaxforlandlords.co.uk.

	Retain Property in Personal Names	Transfer to Limited Company (via S162)	Mixed Partnership Hybrid Business Model
Full Relief for Finance Costs	✗	✓	✓
CGT Mitigated on Entry	✗	✓	✓
No change in property legal ownership	✓	✗	✓
Re-mortgage NOT Required	✓	✗	✓
Inheritance Tax Mitigated on Existing Estate Value	✗	✗	✓
Inheritance Tax Mitigated on Future Value	✗	May be possible for next generation only	All future Generations
Likely Maximum Tax Rate	45% & 60%*	50%** & 60%*	20%

*Loss of personal allowance between £100,000-£125,000 **Corporation tax at 19% followed by dividend tax at 38.1%

Own More than 4 Rental Properties?

Earning Over £80,000?*

What have you done to mitigate S24?

Don't Let the Tax Changes 'Accidentally' Bankrupt You

*If you own rental property in personal names, are a portfolio landlord and a higher/ advanced rate tax payer, then you're almost certainly paying too much tax on your property income.

Take our Initial Assessment at LessTaxforLandlords.co.uk/s24 or call 0203 735 2940

And see if we can help you benefit financially from running a recognised property business.