

WYNTER, C., MANOCHIN, M., HIDAYAH, N.N. and LAUWO, S. 2021. *Property tax management and its impact on social housing and governance: a case study of the stamp duty land tax exemption for registered social landlords*. London: Chartered Institute of Taxation. Hosted by the University of Southampton Institutional Repository [online]. Available from: <https://eprints.soton.ac.uk/id/eprint/457824>

# Property tax management and its impact on social housing and governance: a case study of the stamp duty land tax exemption for registered social landlords.

WYNTER, C., MANOCHIN, M., HIDAYAH, N.N. and LAUWO, S.

2021

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## **Property Tax Management and its Impact on Social Housing and Governance: A Case Study of the Stamp Duty Land Tax Exemption for Registered Social Landlords**

### **A report by:**

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This report was produced with the assistance of a grant from the Chartered Institute of Taxation. The Institute supports educational projects relating to taxation.

January 2021.

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## Acknowledgements

The authors gratefully acknowledge grant funding from the Chartered Institute of Taxation (CIOT) for this study on the 2014 Stamp Duty Tax Reform to Registered Social Landlords (grant reference ES/M010147/1). However, the views expressed in this report are those of the researchers and do not necessarily reflect the views of the funders, nor of other individuals or institutions mentioned here, including Aston University, Goldsmiths and the University of Southampton, which have no corporate view. The authors thank all those interviewed and acknowledge the research assistance of Sam Doidge. Finally, we are grateful to our reviewers for their feedback, and to Andy Brodrick, Education Development Manager at CIOT.

## List of abbreviations

HA	Housing Associations
HMRC	Her Majesty's Revenue & Customs
LA	Local authority
NAO	National Audit Office
RSLs	Registered social landlords
HRA	Housing revenue account
NHF	National Housing Federation
SDLT	Stamp duty land tax
SDLTE	Stamp duty land tax exemption
SRH	Social Regulator Housing



## Executive Summary

The UK has the highest property tax burden of any developed country,<sup>1</sup> yet the housing market has been persistently volatile, distorting housing choices, and with huge arrears and repossession rates that inhibit housebuilding and heighten wealth inequalities. Following a public outcry to reform stamp duty, because it was known to be implicated in the housing market's volatility, a tax reform was initiated in 2003, and later expanded in 2014 to give broader coverage to actors involved in the production of social housing. The government's main purpose was to alleviate the housing crisis by ensuring the provision of decent and affordable housing.

This research is concerned with how the stamp duty land tax exemption (SDLTE) has impacted on the governance and operations of registered social landlords (RSLs) in providing decent and affordable housing. RSLs are independent housing associations registered with the Homes and Communities Agency (formerly Housing Corporation). They have been part of the housing market since the 1970s, when local authorities unable to manage their own social housing transferred their housing stock to RSLs. There are approximately 1,800 RSLs in England, operating as acquirers and developers of around two million properties and providing affordable housing to about five million tenants.

A qualitative approach was adopted in this project, and data were gathered through 22 semi-structured interviews with revenue officials from the Stamp Duty and Compliance Sections of the HMRC, officials from the National Housing Federation (NHF), the National Audit Office (NAO), Social Regulator Housing and local authorities in the West Midlands, and tenants and executives from four RSLs. These were supported by documentary analysis, as well as observations from meetings, workshops and seminars conducted by housing professionals and practitioners. One of the hardest aspects of successful qualitative research is gaining access to research participants. In this study, access was hampered by the sensitive political nature of both taxation and housing, since perceived misuse of the tax incentive might be considered unethical or illegal.

Our study reveals that rather than expanding the supply of affordable housing, the SDLTE has been a device to enhance RSLs' operational profits, and is pivotal to the government's unstated objective of removing social housing from its Housing Revenue Account. The SDLTE regulates and makes RSLs responsible for meeting these objectives. RSLs' main approach to providing social housing is business- rather than socially-oriented, and their organisational practices are therefore, market-oriented. In this regard, RSLs are more involved in commercial housing activities through the provision of affordable housing, market rents, share-ownership schemes and sales.

We conclude that rather than being used as a mechanism to provide more decent and affordable housing for the vulnerable, the SDLTE has become a technology of governance or a device to increase RSLs' involvement in commercial activities and make them self-regulated. No governance accountability structures have been established to either report on or attest to the efficacy of the SDLTE in alleviating the housing crisis, and particularly social housing.

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<sup>1</sup> According to the OECD (2016), the figure for property tax in the UK includes tax on property-linked shares and inheritance, as well as council tax, business rates and stamp duty. On a measure purely of taxation on land and buildings, the UK also comes out top of the OECD league, at 3.1% (<http://www.ibtimes.co.uk/uk-tops-list-property-tax-burdens-campaigners-call-stamp-duty-be-abolished-1574858>).

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## 1. Introduction

States often use taxation to implement economic and social policy. For example, property tax may be used to shape urban development and home ownership or to redistribute income. Stamp duty has been used globally as a revenue raiser, and as an incentive for ownership and mobility. The UK has a history of using stamp duty as a policy instrument. First introduced in 1694, it was replaced in 2003 by the new stamp duty land tax (SDLT).

This research was carried out in a context of concerns about stamp duty, and particularly about its inefficiency as a disincentive to affordable housing. In 2003, and again in 2014, the government made provisions for stamp duty land tax exemption (SDLTE) for registered social landlords (RSLs) and independent housing associations registered with the Homes and Communities Agency to help provide decent and affordable housing.

This qualitative study of the SDLTE examines how it has resulted in changes to RSLs' practices, and the extent to which it has contributed to the provision of decent and affordable housing in England. The study also provides insights into how taxation structures RSLs' governance and accountability practices and demonstrates the value of a qualitative approach to research on tax issues.

### **1.1 Background to stamp duty land tax exemption**

Over the last 40 years or so, the role of social housing has changed and the sector has become much smaller. From the 1970s onwards, provision became more tightly constrained by government policy. Social housing stock was handed over from local authorities (LAs) to RSLs, and this process accelerated when government grants were severely reduced after 2009 (Chu, 2017). RSLs became an integral part of the UK housing landscape, and those enjoying charitable status benefited from SDLTE. However, in 2003 the stamp duty regime was changed to require self-assessment, and thereafter RSLs were required to determine their own eligibility. In addition, a shift in government policy required RSLs to become more integrally involved in providing social housing, a social service offered by the government.

This research focuses particularly on the blanket SDLTE given to RSLs, and the extent to which its provision has impacted on the provision of decent and affordable housing,

and specifically social housing in England. It also investigates how the SDLTE has impacted on RSLs' governance and accountability practices.

## **1.2 Affordable housing and SDLTE**

Housing the less fortunate is a challenge for any government. To address this challenge, governments worldwide often use tax incentives as a policy tool or an intervening device. In the UK, a tax incentive in the form an exemption from stamp duty is given to RSLs as a means to encourage their involvement in providing decent social and affordable housing.

Following the reform of the stamp duty regulation, the Finance Act 2003, Schedule 8, paragraph 4 exempted charities from the imposition of stamp duty. RSLs are deemed to be charities and are thus entitled to this exemption, provided that the property acquisition is for qualifying charitable purposes and is not made as part of a tax avoidance scheme. Qualifying charitable purposes are defined as being either for the purposes of the purchasing charity or another charity, or as an investment, the proceeds of which are applied solely for the purposes of the charity acquiring the chargeable interest.

RSLs generally refer to Schedule 8, paragraph 8 as a “blanket exemption”, signifying that as charitable organisations they automatically qualify for the relief. HMRC normally gives relief to charities formed or established in the UK. However, where the acquisition is for investment purposes, HMRC stipulates that this activity must generate commercial income or rent in order to obtain the relief. In 2014 a further reform granted an exemption to non-charitable RSLs to encourage their involvement in the provision of decent and affordable housing (see Finance Act 2003, Schedule 8, section 71). This exemption applies to non-charitable RSLs if the majority of their board members are their own tenants if the vendor is a qualifying body, and if the acquisition is funded with a public subsidy (UK Government, 2014).<sup>2</sup>

Receipt of the SDLTE is tied to receipt of government grants. As revealed in the findings of this study, direct enforceability requires a particularly onerous compliance regime owing to the self-assessed nature of the tax. Although RSLs are exempt and pay

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<sup>2</sup> A qualifying body may be a registered social landlord (registered provider). For further details, see *HMRC update: Reliefs: Certain acquisitions by registered social landlords* (<https://www.gov.uk/hmrc-internal-manuals/stamp-duty-land-tax-manual/sdltm27500>).

no stamp duty tax, as purchasers of properties they are still expected to file tax returns with HMRC. If they fail to do so, they may be liable to penalties and fines. Since the majority of RSLs are charities, they automatically qualify for the SDLTE, but non-charitable RSLs must fulfil the conditions in Schedule 8, section 71 in order to obtain it. This study focuses on RSLs that have charitable status.

### **1.3. RSLs and social housing**

RSLs may be charitable or non-charitable independent housing associations registered with the Homes and Communities Agency (formerly Housing Corporation). There are over 1,800 RSLs in England, although this figure has been decreasing as a result of mergers. RSLs operate as acquirers and developers, simultaneously managing two million properties, and providing social and affordable housing to approximately five million tenants in two and a half million affordable homes in England (NHF, 1995, 2004). The NAO (2017) reports that 17% of all homes in England are socially rented, thus making RSLs significant providers of social housing. They have therefore long been perceived as a fixture in the housing landscape and became more prominent in the 1970s and 1980s when local authorities transferred their managerial portfolios to them.

RSLs have grown both exogenously and endogenously, leading to changes in their patterns of practice. These changes include the adoption of market orientation, working in partnerships, and combining private and public capital to fund their operations. These shifts in practice reflect a wave of emerging mentalities, with identities, values and norms in social housing choices driven by market-like mechanisms, and tenants being turned into consumers. The new market orientation, with the new values and norms, have also required RSLs' board members to manage new skill sets, in terms of experience, competencies and specialist expertise. This is the context of our investigation of the impact of the SDLTE on RSLs and attendant changes to the social housing landscape. These shifts have made housing the less fortunate even more challenging.

## **2. Purpose of the study, previous research and research design**

### **2.1 Purpose of the study**

The research for this report aims to increase our understanding of the extent to which the SDLTE has impacted on the provision of decent and affordable housing, and particularly how it has impacted on RSLs' governance and accountability practices in

this provision. As discussed in Section 1, the SDLTE is given to RSLs to assist in their provision of decent and affordable housing. Since housing the less fortunate is always a challenge, governments often use tax incentives as a policy tool to help meet this objective. In the UK, the SDLTE is given to RSLs as a means to encourage their involvement in assisting the state with meeting this goal.

## **2.2 Previous research**

States use taxation to influence economic and social policy (Arnold et al., 2011; Buss, 2001; Steinmo, 2003). Tax incentives are normally given through the tax system to encourage producers and consumers to choose inputs and goods that will enable the achievement of the government's social policy (Kosonen & Nicodème, 2009). They tend to reduce the price of goods and services to taxpayers, and are seen as efficient because they minimise the cost of reaching each taxpayer (Kosonen & Nicodème, 2009). Tax incentives typically require less detail than regulations, with lower administrative costs, and they are an effective way of encouraging agents to behave in more sustainable ways. For example, property tax incentives influence urban development and homeownership, and the redistribution of income (Bahl et al., 2008). Stamp duty has been used globally, and is well-known for its effects on housing, in terms of both ownership and mobility (see Hilber & Lyytikäinen, 2015; Mirrlees et al., 2010, 2011). It was introduced into the British tax system as early as 1694 (Mirrlees et al., 2010, 2011), but was replaced in 2003 by the new SDLT (Hilber & Lyytikäinen, 2012). It accounts for a significant proportion of the transaction costs of acquisitions of housing and property in the UK.

Mirrlees et al. (2010, p.403) highlight that stamp duty is an inefficient tax that disincentivises people from moving house, with adverse consequences on the functioning of housing and labour markets. It is also argued that manipulating stamp duty has some impact on the housing market cycle as a counter-cyclical tool. For example, stamp duty discourages mutually beneficial transactions and results in properties not being held by those who value them most, leading to potential inflexibilities in the labour market and encouraging people to live in properties of a size and in locations that they may well not have otherwise chosen.

Others counter these arguments, stating that stamp duty is unlikely to significantly constrain housing supply, despite the observed distortions (Barker, 2004). Scholars and

practitioners alike have called for reform of this tax, and some have argued for its removal and replacement with other property taxes (LSE Blog, 2011; André, 2011). Being implicated in the housing market, the UK government considered granting exemptions to RSLs investing in social housing. A stamp duty reform in 2003 gave exemption to non-profit RSLs, and further reform in 2014 gave exemptions worth approximately £80 million to for-profit RSLs for the provision of social housing, designed to help alleviate the housing crisis (UK Government, 2014).

Exogenous and endogenous growth in RSLs has led to changes in their patterns of governance (Malpass 2001a, 2001b), with implications for the recognition of new values and norms (Howell, 2007). This means that RSLs' sphere of governance now extends beyond the legal and moral, encompassing aspects of the environment and community and going well beyond the physical provision of social housing (Manochin et al., 2008). As previously mentioned, the new market orientation, and the new values and norms, demand new skillsets for RSLs' board members. New forms of experience, competencies and specialist expertise are now fundamental for management (Hutchinson & Ward, 2012).

Despite the foregoing debates, little is known of the impact of the SDLTE on RSLs' practices in providing social housing. This study provides insights into how the SDLTE influences RSLs' performance, decision making and governance, acting as a "technology of governance" in the provision of social housing. The essence of government is to solve problems, and its activities are inextricably linked with solving these problems using political philosophies to shape objects and relations in desirable ways (Miller & Rose, 1990). In this study, these various political philosophies may be regarded as mechanisms, and as such are referred to as "technologies of governance" (see, e.g., Miller & Rose, 1989). A technology of governance operates in a realm of political philosophies, reflecting the strategies, techniques, procedures and mechanisms through which governments seek to "shape, normalize and instrumentalize the conduct, thought, decisions and aspirations of others in order to achieve the objectives they consider desirable" (Miller & Rose, 1990, p.8). It is through technologies of governance that the government's political ideas and programmes, such as social housing, are brought into effect. We view taxation as one such technology.

The UK's neoliberal government typically takes decisions emphasising the superiority of economic logic, with an insistence on personal responsibility (see Schram, 2019).

Thus, Schram (2019) argues that the government uses policies such as tax incentives and welfare cuts to shift toward the neoliberalisation of welfare programmes like housing. It shapes and constructs organisational practices through compliance with tax legislation to realise its ideas and aspirations.

For example, under the SDLTE legislation, RSLs, which are charitable organisations with non-profit motives, are required to self-regulate and operate along commercial lines. Embedded within the SDLTE legislation are a compliance function and a technological path that steer RSLs across the housing sector to deliver commercial housing solutions while requiring them to manage themselves to meet government requirements. Through the use of the SDLTE, RSLs' perceptions and organisational practices are brought in line with the UK's neoliberal rationality of providing social services with a market orientation (see, e.g., Lemke, 2001; Rose & Miller, 2008).

### **2.3 Research design**

We adopted a qualitative research approach, which allowed us to gain insights into RSLs' practices in using the SDLTE. Taxation has come to be recognised as an instrument of the state to assist in the implementation of government policy (see Boden, 2004; Bräutigam et al., 2008). For example, the US government gave Tesla US\$ 1.4 billion in tax incentives to relocate its business (Alexander & Organ, 2015). Again, taxation is instrumental in “increasing administrative, fiscal and institutional capacities of governments to interact with their societies and pursue goals more effectively” (Bräutigam et al., 2008, p.1). In the UK after World War II, the government used taxation to bring more men back into the workforce (see Boden, 2004).

The UK's social housing sector has dominated the public reform agenda, as reflected notably in government policy to ensure a massive increase in new house builds and provide more social housing and affordable homes (see Whitehead, 2014). The SDLTE is given to RSLs to develop rental housing and to provide decent housing that will be affordable to lower-income households (see HMRC, 2014). Although there are broader debates on how stamp duty focuses on cost issues relating to house ownership and mobility, little attention has been paid to its impact on organisations' governance structures. We contribute to the literature specifically on how the SDLTE has impacted on RSLs' governance and accountability practices. In keeping with most qualitative research, our study is concerned with “meanings, processes and activities” that tend not



to be examined (Denzin & Lincoln, 1994).

Interviews are a key method for producing scientific and professional knowledge. They have gained acceptance as a robust research method, and a growing body of literature addresses their methodological approach. They allow researchers to tap into participants' knowledge bases to explore their experiences (Alvesson, 2003), and to probe situations more broadly than can be achieved through surveys or questionnaires. Semi-structured interviews, in particular, offer researchers the flexibility to collect more meaningful data. We varied and customised our questions and interview schedule when we believed that these changes would produce richer data. Our primary research method was semi-structured interviews (Bédard & Gendron, 2004, p.197; Brinkmann & Kvale, 2015), supported by a review of policy housing documents and observations of meetings. Data were collected from various sources, including publicly available documents relating to RSLs, which helped triangulate the research findings.

### **2.3.1 Interviews**

Access to interviewees was negotiated with senior managers in their organisations. Negotiations were fairly slow, necessitating an extension of the fieldwork beyond eighteen months. For-profit providers were considered significant and strategic to understanding the impact of the SDLTE on RSLs, so the research team felt it worthwhile to take time to negotiate access. Because housing is a sensitive political issue, some potential participants, especially for-profit RSLs and politicians from city councils, did not want to be associated with a study of this nature. In addition to unresponsiveness, outright refusals and repeated cancellations, excuses included lack of knowledge of housing issues and busy schedules, and in some organisations, key personnel (gatekeepers) refused to provide direct access for negotiations.

Twenty-two interviews were conducted between September 2017 and December 2018. The objective was to gain a deep understanding of the participants' experiences of the SDLTE and its impact on RSLs' practices in the provision of social housing. Although we felt a need for additional clarification, especially from the for-profit community of RSLs, access was not granted.

Prior to the fieldwork, we conducted a thorough literature review of tax incentives, stamp duty, the SDLTE, the history of RSLs and legislative changes surrounding stamp duty. The research team then discussed the questions to be asked, and grouped these

into themes to guide the interviews. Separate sets of questions were prepared for representatives of RSLs, HMRC, SRH and the NAO, although the same core questions were asked of all interviewees. These were clustered around the use of the SDLTE, its impact on board composition, reporting on its use and the provision of social housing. Each interview was attended by at least two people, including the principal researcher, enabling different perspectives to be brought to the process.

**Table 1. List of interviews**

<b>Affiliation</b>	<b>Position</b>	<b>No of interviews</b>	<b>No of interviewees</b>
Registered social landlords	Chief executive officers, senior managers, tenants & board members	13	13: BML01, BML02, BML03, BML04, BML05, BML06, BML07, BML08, BML09, BML10, BML11, BML12, BMT13
National Housing Federation	Senior manager/senior accountant	1	1: NH14
National Audit Office	Manager	1	1: NAO15
HMRC	Senior manager and analysts	2	3: HRMC16, HMRC17, HMRC18
Social Regulator Housing	Senior manager	1	1: SRH19
Birmingham and Dudley City Councils	Politician and managers	3	4: CC20, CC21, C22, CC23
Other	Tax consultant	1	1: TC24

Each interview lasted approximately one hour (see Table 1), at the end of which the researchers discussed and made notes of the key themes arising. The interviews were digitally recorded and uploaded to a database as soon as they were finished, and were checked for completeness. Where the recordings were found to be incomplete, copious notes were made. The interviewers also took notes during the interviews. All interviewees were assured that their responses would be treated confidentially, and written consent was obtained. The recorded interviews were transcribed by a professional transcriber and coded using NVivo, a qualitative software package, to allow the selection of dominant themes. Where officials were referred to by name, their identities were assigned a code. All ethical requirements of both the CIOT and Aston University were fulfilled throughout the project. In all presentations, interviews and submissions to journals and conferences, the CIOT was acknowledged as the project sponsor.

### **2.3.2 Analytical approach**

We adopted an interpretive approach to the research, reflecting the view that agents construct meaning and contextual structure through their social interactions. As explained in Section 3, we drew on academic literature relating to the idea of the “technology of governance” to interpret our research findings.

Some specific terms are adopted in presenting our findings and analysis. First, given that the Homes and Communities Agency was reorganised and split into two separate agencies, we refer to the Social Regulator Housing (SRH) as the body responsible for overseeing RSLs’ operations. Second, the names by which RSLs are referred to have changed over time, from housing associations, to RSLs and to registered providers. For simplicity, we use the term RSLs, which refers to non-profit providers. Any references to for-profit providers are clearly stated.

## **3. Main findings and discussion**

### **3.1 Taxation as a technology of governance**

Taxation plays a significant role in social life, because it is a technology that assesses and sanctions the activities and behaviour of citizens, and by extension organisations. Taxation as a technology of governance can be used to steer actions and outcomes, monitoring, measuring and managing practices. In this regard, it can be used as a mechanism to facilitate processes, monitor agents remotely, exercise power over them, discourage deviant behaviour and produce the government’s desired behaviour (Boden, 2004; Miller & Rose, 1990). In relation to this study, the government amended the SDLTE to create lines of responsibility and actions in keeping with its housing policy; that is, to require RSLs to monitor themselves in order to access the exemption and to remain liquid without support from government funds.

#### **3.1.1 SDLTE as a technology of governance for self-responsibility or self-regulation**

In the housing market, the UK government has used tax incentives to attract housing providers to assist in distributing housing benefits. It offers relief from stamp duty to housing providers wishing to invest in the social housing market (see Finance Act 2003, Schedule 8, 2014 amendment). This also fulfils the twin objectives of providing a public service and fulfilling a charitable purpose (see Charities Act).

An HMRC participant (HMRC16) noted that RSLs receive a total of approximately

£80 million annually in SDLTE towards social housing development. Although participants from RSLs did not disclose the exact extent of their exemptions, they acknowledged entitlement and receipt on the basis of their charitable status:

*We [are] exempt because our housing associations were charitable, and there's been an exemption on stamp duty for a number of years for housing associations that are registered charities (BML01).*

*I think there is an exemption because we're charitable [BML02].*

Theoretically, as an HMRC participant argued, the exemption for RSLs should encourage more purchases of property, and hence increase the supply of [social] housing solutions: “The money will go further since they don't have to pay stamp duty.” This incentive is arguably a rational attempt by the government to shape the provision of housing, and is in keeping with its policy of developing frameworks through economic partnering (Jones, 2016). Evidence from the RSLs themselves suggests that social housing is both a critical and necessary public service for those in need, particularly the vulnerable poor, and hence RSLs are willing to get involved along the lines suggested by the government (Stebbing & Spies-Butcher, 2010).

Economic partnering calls for RSLs to execute and adopt procedures dictated by the tax legislation, including assessing, monitoring and evaluating their own activities to ensure that they are exempt. Such practices are in keeping with the government's emphasis on taking personal responsibility (Schram, 2019). SDLT is a self-assessed tax; thus, RSLs must appraise their own activities before filing their returns to establish whether they qualify for the exemption. This determination is required because there is no pre-approval process or blanket approval by any government body. In this regard, an HMRC participant said, “we don't sift through pieces of paper and say ‘tick, that one gets it; cross, that one doesn't’” (HMRC18). RSLs must therefore “audit” their own practices to establish whether they meet the regulation's definition of a charity to enable them to claim the relief. The consequences are grave if they do not qualify but still claim the relief, as “there's a potential there for sanctions in terms of penalties and interest” (HMRC18).

RSL respondents admitted that because SDLTE is a specialised, nuanced benefit, with serious consequences for breaching the rules, they have to engage additional in-house or external legal personnel. To minimise costs, small RSLs tend to enter into partnerships with other RSLs. In this regard, a financial director said:

*we have an external partnership arrangement which manages [SDLT]. So, it's part of the Patrix<sup>3</sup> Group. So the Patrix Group manages the whole development side for us, so it manages the purchasing of the sites, manages the relationship with the contractor, manages the claims [SDLTE], etcetera, etcetera. So they're very responsible for all of those kind of areas on our behalf (BML05).*

A board member from an RSL reported that its legal personnel conduct bi-annual audits of its activities to ensure that it remains a qualified recipient of SDLTE:

*we do [an audit] about every two years – and this is to make sure ... that our activity isn't breaking our charitable objectives. So we've just done that recently, to have a look with our lawyers about what are our charitable objectives, what are the areas of activity that we're involved with (BML09).*

In addition, an HMRC participant argued that the stamp duty legislation is a “sort of clever tool for behaviours” within the economy: “a big process built into it [legislation], acting as a lever of encouragement for RSLs to file their returns, allowing them not only to claim their benefits but also to get your tax status right” (HMRC18). Filing returns also serves as a registration process to show that RSLs are legal owners of their properties: “With this built-in mechanism, there's a very, very high level of compliance for SDLTE purposes – 96/97%” (HMRC18).

The legislation is used as a “technology of governance” that prompts RSLs to conduct internal audits to determine whether they qualify, claim the exemption, file their returns and declare their legal status. This is arguably a form of self-regulation, a process to restrain their conduct, or to discipline and responsabilise RSLs. A financial director from an RSL articulated that, as company secretary, he has overall responsibility for the stamp duty portfolio within his organization generally, and is therefore particularly meticulous in his conduct “because I don't want my character to be discredited” (BML05).

Having received the exemption, RSLs must subscribe to another level of regulation, prescribed by the SRH to ensure that the sector is robust, compliant, well-run and fit for purpose, by meeting economic and consumer standards. Thus, RSLs structure their activities around the SRH's reporting requirements. A participant remarked:

*It's one about setting your business and your department up to manage the requirements of the regulators. So, we understand what the regulators want. The regulators want a quarterly financial return, your statutory performance, every six months our stat [sic] accounts, in a Companies*

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<sup>3</sup> Name changed to preserve anonymity.

*House format and in their format ... a financial forecast return, a 30-year return, looking at our performance across the primary statements ... income and expenditure, balance sheet and cash flow ... an annual value-for-money statement as well, which looks at the sector scorecards – you know, operating surpluses, net surpluses, cost per unit, covenants, etcetera, etcetera ... and we're going to meet our obligations (BML05).*

The SDLTE's role as a technology of governance is highlighted in RSLs' conduct, as they assess or audit their own activities to establish their eligibility for the relief, and submit their financial and value-for-money reports to the SRH to demonstrate financial robustness. The £80-million exemption for RSLs is more than a number or an allocation in the expenditure budget. It brings meaning to the regulation, mobilising the regulatory framework of the tax legislation (see, e.g., Miller, 1994). The SDLTE is linked with the filing of reports and tax returns, as well as proper record keeping in accounting, which ultimately shape decision making. Thus, although the SDLTE legislation may be perceived as a technical and secondary instrument for determining the conditions of entitlement to exemption, it is actually a mechanism through which the government disciplines RSLs into self-regulating so that they set up their internal activities to be accountable and self-reliant. The regulation impacts on their activities in such a way as to prompt practices of self-regulation and responsabilisation (see Miller & Rose, 1990). Driven by market logic, RSLs rely less on government to direct their practices, making it less expensive to monitor them. Through this approach, the state builds a certain level of consensus, rather than employing a top-down, command-and-control policymaking style (Jessop, 2004).

### **3.1.2 Taxation as a technology of governance for a market orientation**

Our study provides insights into how the SDLTE acts as a technology of governance over agents' behaviour to bring their practices in line with the government's economic policy of a market orientation to services (see, e.g., Darcy 2010; Hodge & Komarek 2016; Oats, 2012, pp. 126–132; Rossman, 2015; Schram, 2019; Steinmo, 2003; Vale et al., 2017). Our discussions centre on how the SDLTE legislation impacts on RSLs' activities in such a way that their activities are transformed (see, e.g., Miller, 1994). They manage their choices in keeping with the market logic rather than the provision of social service, and as a result, their core functions may not be realised.

The SDTLE legislation stipulates who pays SDLT, to whom payments are made, the regularity of payments, where and how returns are lodged, and the conditions under which RSLs must operate in order to obtain the exemption (see Finance Act 2003,

Sections 7 & 8, 2014 amendment). As previously discussed, the government uses taxation as a tool to intervene in the economy and the lives of its citizens, thus shaping the welfare of economies and societies (OECD, 2012). Taxation is typically used to achieve government's broader societal objectives (see, e.g., Avi-Yonah 2011; Boden 2004; Gracia & Oats 2012; Sandfor, Pond & Walker 1980; Wynter & Oats, 2018). Taxation through incentives typically aims to discourage or encourage economic development along designated lines to achieve social or market objectives. Actors in receipt of incentives, such as RSLs, are expected to comply with strict eligibility criteria (see, e.g., Cotrut & Munyandi, 2018). In this section, we discuss how taxation shapes or affects RSLs' practices so that they apply the market logic, resulting in the commodification of social housing services.

Participants from RSLs generally accepted that the exemption is economically helpful as "it makes [RSLs'] viability better". The breadth of the SDLTE's conditions give RSLs considerable latitude in conducting their business, to the extent that it has unwittingly become an instrument to support a shift in social housing provision, by motivating RSLs to commodify social housing and their organisational practices (see, e.g., Alexander & Organ, 2015). As charitable organisations in receipt of the SDLTE, they are required to file financial reports with the SRH in relation to stewardship of their tenure and activities:

*Well, the requirement is that [RSLs] will run a viable business, and that they will make appropriate contingency plans and manage their finances cautiously. So basically, we run a triage system on the financial returns we get, which if [RSLs] trip certain flags, we will follow up. Now, it isn't saying you must have x, y and z; but [RSLs] know that if they don't have x, y or z, we'll come and ask them to explain why they haven't. So providers tend to manage their businesses to avoid us asking questions about them. And the prime one there is that one of the triggers that we have in our quarterly financial return is whether you have sufficient cash or available facilities to fund your business for 18 months (SRH19).*

Since RSLs wish to avoid being "flagged" and attracting the probing eyes of the SRH, RSL participants claimed that "we've self-certified that we're compliant with the value-for-money standard". To meet this level of compliance and self-certification, RSLs prudently organise and administer their financial affairs based on SRH's requirements, arranging for eventualities, and maintaining their viability and adequate cash reserves. A participating director from Brident stated:

*we understand what the regulators want ... you just set your reporting up to meet those requirements(BML05).*

According to another board member from Camp Valley:

*On the regulatory side, the Regulator of Social Housing, it's all respecting their regulation, understanding their regulation, operating within it... hey, you just get on with, don't you? (BML11)*

The SDLTE puts them in contact with SRH, making RSLs accountable to the SRH so that they rearrange their reporting practices to be in keeping with those of the regulator. A very significant concern for the regulator is that having received the relief, RSLs must remain liquid and viable. Their liquidity and viability must be reflected in their financial statements, showing that they have sufficient cash to fund their operations for at least 18 months. In other words, the report must portray the RSL as a “going concern”. One participant complained that the economic requirements are more stringent than operating in the regular economic environment. If their reports do not provide the required assurances, they are “graded” or “rated”, which in turn affects their ability to apply for funding on the open market.

An implication of these conditions is that an RSL, as a primary provider of social housing (NHF, 1995, 2004; Manochin et al., 2008, 2011; Tunstall & Pleace, 2018), must “run like a commercial organisation with highly-skilled governance arrangements” (BML02), delivering this “essential service for those in need” (BM01). An executive board member (BML12) explained that RSLs “moved more towards transaction of business, akin to commercial management”, to demonstrate that they can meet performance standards, are self-reliant and economically viable, and do not need financial support from the state.

It is not enough to meet these conditions, as RSLs must also battle the challenges of dwindling financial resources from the state, as noted by a chief executive officer (BML02). This participant reiterated that although the SDLTE is economically helpful, RSLs are bedevilled by increasing costs and declining revenues. This has contributed to their engagement in other business ventures that are not strictly social housing services to maintain their viability, which is allowed by the SDLTE legislation:

*More and more responsibilities currently end up with the [RSLs] as the state changes its role. You have a shrinking state, for political reasons... as a charitable organisation, we've got more and more costs and we've got nothing coming the other way to help us do the things ... that central government is asking us to do. We're being asked to develop more homes,*



*but there is nothing working in our favour ... So I suppose what we're looking for always is ways to help things happen, and less things that we have to do (BML02).*

In this scenario, the government seeks to reduce expenditure by cutting its budget deficit, yet wants to retain a similar level of service. This we argue, is driven by the economic logic of the market, with an emphasis on the state spending minimally within the market, and expecting private providers to take up the slack in public service provision. Furthermore, as a result of reduced public support for public services through budget cuts based on the reforms, even with the SDLTE, RSLs are forced to operate on market principles in decisions on the provision of housing solutions (see, e.g., Sassen, 2006), and to concentrate on activities that will make them financially viable. This condition is required by the SRH. For example, a board member from Camp Valley (BM09) reported that although they receive the SDLTE and provide social housing, they are required to make a profit on their investments, even though they are non-profit organisations. Thus, housing solutions tend to be geared toward market rents in order to recoup costs.

With the emphasis on profit production and liquidity, social housing suffers in favour of market rents. In this regard, a board member admitted that their new builds do not emphasise social housing: “so we’re looking at building around 700 homes a year, and 600 of those are affordable homes and around 100 are commercial market sale homes” (BML01). In this context, “affordable” housing may be a misnomer, as it may not actually be particularly affordable. Affordable housing requires tenants to pay up to 80 per cent of local market rent levels, which is 30 per cent more than social housing. Thus, affordable rent may not be affordable by the most vulnerable (Homes England, 2019). A participating board member (BML01) from another RSL also agreed that his RSL had adopted this strategy. He noted that even though the exemption gives it the capacity to develop and build houses faster and cheaper with lower running costs, and to make homes more environmentally friendly, its decisions are purely economic. Speaking of new development, he said:

*Between now and 2021, we will have about 2,000 [housing solutions]: about 80 per cent of that will be [affordable] rented, and about 10 per cent of that would be shared ownership, and about 10 per cent of that will be homes for sale [BML01].*

One might expect their offerings to be more socially oriented, based on the perceived advantages, but another participant (BML12) reiterated that they must take the

economical route:

*you will do affordable, which is a better rate of return, or you'll do shared ownership or you'll do... Even now, I mean increasingly, housing associations, to make schemes stack up in terms of feasibility, will do market sale – you know, will build properties that will sell, and that's private sale (BML12).*

These quotes reinforce the paradigm that financial objectives take precedence over social objectives (Pieper, 2018). Tenants complained about or commented on RSLs' commercial emphasis. One tenant participant stated that “even though they [RSLs] are nice to you, tenants are not seen as people but as units, figures and statistics” (BMT13). They may focus on reducing arrears and lowering costs, without necessarily thinking about keeping families together, or how evictions may place strain on other sections of social housing. The tenant continued:

*It's almost like it has become a business rather than a – I know it's a business; I know it's got to be profitable. But it's almost like they don't see the people as people; they just see them as – well, it's more about units. There's no people inside it; it's about units, it's about figures, it's about statistics, KPIs ... there's no local office ... everything is impersonal ... And I think they forget this one thing is, if it was your brother, father, mother, son, sister or daughter, whatever, having this property, would you like it for them? (BMT13)*

In keeping with meeting economic objectives, boards have been reconstructed to implement the strategic plans necessary to deliver them. In this regard, this study reveals a lack of tenant voices on boards, “and if there were any, say very few and possibly among our smaller members”. This is because RSLs recruit commercially-aware board members, “based on skills that we've identified that the board needs” (BML04), in order for them “to run like a commercial organisation, executing those highly-skilled governance arrangements” (BML02). RSLs have gone so far as to remunerate some directors in order to obtain these skills, a practice supported and considered normal, based on evidence from this study.

The above discussion highlights how the state uses tax incentives to regulate or steer RSLs toward operating with market logic. They are pushed in the direction of financial responsibility through the submission of value-for-money statements (see, e.g., Levi-Faur, 2014; Schram, 2019). Their modus operandi reflects the economic logic of the market, focusing on liquidity, profitability, surpluses, KPIs, being “run like a commercial organisation with highly-skilled governance arrangements” to remain

viable, and moving into more transactional types of business and housing market commodification.

#### 4. Concluding discussion and recommendation

This project investigates the extent to which RSLs' exemption from stamp duty has met the UK government's objective of providing affordable and decent housing, and the extent to which the exemption impacts on their and local authorities' governance structures. We discuss taxation as a technology of governance, framing the SDLTE as a tool to shape RSLs' practices, bringing them into self-regulation and requiring them to operate along commercial lines, in keeping with the UK's neoliberal paradigm. Taxation, and tax incentives in particular, are frequently used to incentivise taxpayers, not only to assist the government in achieving its socioeconomic goals, but also to regulate and responsabilise agents (see Wynter & Oats, 2018).

Our findings reveal that, as required by the government in return for the SDLTE, RSLs employ a business approach and market orientation to their organisational practices to provide social housing. The focus of this approach is self-regulation, with a view to determining their suitability for the SDLTE, and to make a profit and maintain operational liquidity. We conclude that the SDLTE is a calculated attempt by the government to direct RSLs' practices toward the particular ends of self-regulation and market orientation in their practices (see McKee, 2009). The exemption highlights that the UK government's pursuit of a neoliberal agenda has implications for charities providing social services. The findings demonstrate that the legislation is productive, facilitative and creative, operating by shaping and mobilising particular subjectivities.

The study also reveals the shifting nature of tax incentives, which may not achieve their intended or stated objectives, and instead may be used to further a government's unstated motives. In this case, the underlying motive was to take social housing off the "books", or in other words to remove social housing from the government's housing account. We also note that compliance with tax incentives increases operational costs, which may be counter-intuitive as it unintentionally increases the cost of the final product. RSLs incur additional legal costs in order to ensure that they are compliant with the SDLTE's conditions and will not suffer reputational or monetary penalties. This additional layer of cost arguably means taking responsibility, but it also effectively redistributes RSLs' income to external organisations, a cost which is passed down to

recipients of social housing on whom the final burden rests.

In engaging with the self-assessment process, RSLs themselves determine whether they qualify for the exemption. Thus, they have become self-regulatory organisations, with compliance systems, codes of practice (see, e.g., Braithwaite, 2007) and character traits associated with a neoliberal state in which personal responsibility is paramount (Schram, 2019). This goes hand in hand with reduced oversight by the state, as mentioned by HMRC participants. In addition, in the absence of a pre-approved process for determining who qualifies for the relief, the UK government is somehow demonstrating symbolic withdrawal from regulatory activities, while RSLs' engagement in regulatory processes simultaneously increases (Benish & Levi-Faur, 2012; Grabosky, 2013). This, we argue, establishes hierarchical and legally binding regulations with centrally enforceable sanctions (Abbott & Snidal, 2013).

We also conclude that the government's policy of requiring RSLs to report to SRH to file value-for-money statements is arguably a "sort of discipline" that RSLs "must impose upon themselves if they are to remain" (Hayek, 1960, pp.70–75), because registered charities in receipt of the SDLTE must attest to their liquidity and profitability, and can only remain on the register if they meet the requirements. The implication here is that through their actions, social housing has become a commodity rather than a welfare service, with benefits being redistributed away from the poor.

Although limited, our research seems to suggest that there is no strategic planning for social housing. With the increasing involvement of RSLs in the housing market, and particularly social housing, the UK government needs to establish governance and accountability mechanisms and structures that both monitor and report on the extent to which the SDLTE contributes to expanding social housing. This can be viewed as an opportunity for housing stakeholders to develop mechanisms and structures for *responsible housing*. This would ensure continued services for the most vulnerable and would go towards meeting the millennium/sustainable goal of providing housing for all.

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## Appendices

### Appendix 1: Deliverables

<b>Executive summary</b>		Attached to this report
<b>Interim Report</b>		Submitted April 2018
<b>Practitioner paper</b>		On demand
<b>Building networks with BCC</b>		Ongoing
<b>Journal Articles</b>		
<b>Name of Journal/Targeted Journal</b>	<b>Topic of Paper</b>	<b>Status of Paper</b>
<i>Accounting Auditing &amp; Accountability Journal</i>	Responsibility in social housing: Language turns and twists within neoliberal thinking	Revise and resubmit (1st round review)
<i>Public Administration</i>	Tenants' empowerment in the UK social housing sector within the neoliberal political economy: Empty talk?	Writing-up
<i>Critical Perspectives on Accounting/Public Management Review</i>	Is there a house for me? Hybrid governmentality and tax exemptions in social housing	Writing-up

<b>Dissemination of Findings</b>				
<b>Conferences and Seminars</b>				
<b>Title of paper</b>	<b>Name of Conference/Seminar</b>	<b>Location</b>	<b>Date</b>	<b>Presenter</b>
Property tax management and impact on social housing and governance: A case study of the stamp duty and registered social landlords	Departmental seminar	Mona School of Business and Management, University of the West Indies, Mona, Jamaica	April 2018	Dr Carlene Wynter
Responsibility in social housing: Language turns and twists within neoliberal thinking	Call for journal papers/Conference	Adam Smith Business School, University of Glasgow	November 2018	Dr Melina Manochin
Property tax management and impact on social housing and governance: A case study of the stamp duty and registered social landlords in the UK	Departmental seminar	Sheffield Business School, Sheffield University, UK	March 2019	Dr Carlene Wynter & Dr Nurul Hidayah
Tenants' empowerment in the	Critical Management	The Open University,	June 2019	Dr Sarah Lauwo

UK social housing sector within the neoliberal political economy: An empty talk?	Studies (CMS) 2019	Milton Keynes, UK		
Responsibility in social housing: Language turns and twists within neoliberal thinking	Asian Pacific Interdisciplinary Perspectives on Accounting (APIRA) 2019	University of Auckland, Auckland, New Zealand	July 2019	Dr Carlene Wynter & Dr Nurul Hidayah
Is there a house for me? Hybrid governmentality and tax exemptions in social housing	Accounting department seminar	Aston Business School, Aston University Birmingham, UK	December 2020	Dr Carlene Wynter

## Appendix 2: Cost details

Summary of project costs	
Expenditure items	Cost (£)
Equipment purchase	311
Travel and subsistence (including attendance & conference participation)	3,208
Consultancy & subcontracting (publication costs etc.)	2,403
Miscellaneous	585
Balance in fund (finalising publication costs etc.)	1,493
Total project cost	8,000
Total grant	8,000