# Proposal for

# OFFSHORE COMPANY PROPERTY LEVY

**Emeritus Professor Prem Sikka**
**University of Essex**

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# OFFSHORE COMPANY PROPERTY LEVY

## SUMMARY AND OVERVIEW

1. There should be an additional 15% levy (Offshore Company Property Levy) on the purchase of residential properties in England, Wales and Northern Ireland (Scotland, has separate regime) by companies not normally resident in the UK. This is essentially an additional or supplementary stamp duty on the price of the property.

2. This levy would be additional to all stamp duties and charges currently levied.

3. Based on the limitations of data (see below) about £23 billion a year is estimated to be spent by foreign registered companies on the purchase of residential property. This is a very conservative estimate. Data about individuals is not available.

4. At the rate of 15% (see below for the reasoning) this can generate about £3.5 billion of additional tax revenues each year. This does not include any behavioural impact, which will be uncertain, but could conservatively reduce the take by 30-50%.

5. A number of arguments can be made for the Offshore Company Property Levy

    - The offshore buyer is immediately able to use the local infrastructure. This has already been paid and been provided by taxpayers and it is not unreasonable to ask for a contribution towards that.

    - The measure will suppress property bubble.

    - It will check the rise of property prices which is pricing too many people out of the housing market.

    - Many properties bought by foreign residents are not always fully occupied throughout the year. This has a detrimental effect on the local economy.

    - It will generate cash for a house building programme.

    - It checks the flow of illicit funds.

    - Commercial property is excluded from this measure and therefore the proposed levy should not dissuade companies from locating in the UK.

6. Some may argue that the proposed levy penalises foreign workers coming to work in the UK and purchasing residential property even though many arrivals may rent rather than buy property.

    However, workers coming to the UK to make economic contribution should not be penalised. Foreign national who comes to the UK for work and purchases residential property should receive a 50% refund of the Offshore Property Ownership Levy if (a) the property is bought in the name of an individual, and (b) that individual has continuously resided in the said property for five years. The amount which may be refundable is hard to calculate as there is no data, but given churn in the market is highly unlikely to significantly impact.

It should be noted that the £23 billion expenditure mentioned above does not include individuals.

## DATA

This section provides information about the data used for calculation of the taxable amounts.

7. Historically, there has been no publicly available data about the residential property purchased directly by individuals not normally resident in the UK. Under pressure from NGOs and in response to FOI questions HM Land Registry provided some data (which it does not intend to update) about UK property purchased through foreign-owned companies. The Land Registry's Overseas Companies data[1] contains around 100,000 title records of freehold and leasehold property in England and Wales, registered to foreign-owned companies. The dataset contains every title registered to an overseas company up to 31 October 2015. This dataset excludes property ownership titles registered by foreign-resident private individuals, UK companies with an overseas address and charities. Therefore, the dataset released by Land Registry probably understates the extent UK property owned from abroad.

   The Overseas Companies data was downloaded from the Land Registry website and examined. Unfortunately, it is poor because the price of property is missing for most of the records.

8. An alternative source of data is a database developed by Private Eye and available at http://www.private-eye.co.uk/registry . It uses the HM Land Registry data which was then combined by researchers, using custom-built software, to publicly-available sources of data on property transactions to generate a record of offshore ownership. Most of the data relates to the period 1999 to 2014 though the data for earlier years is sparse. The total value of the properties included in this database is about £256 billion.

   However, the price of about 25% or so of the properties in the database could not be found.

   If it is assumed that the 25% of the missing prices exhibit the characteristics of the average property prices in the database then the value of the properties in question can be increased by 25% to £320 billion (£256bn X 1.25).

[1] https://www.gov.uk/guidance/hm-land-registry-overseas-companies-data

Even then the total price is likely to be understated as the Land Registry data excludes property titles registered by private individuals, UK companies with an overseas address and charities.

The £320 billion is a very conservative estimate and covers 14 years, giving an average of about £23 billion a year.

## THE CHOICE OF LEVY RATE

9. This paper has proposed an offshore property ownership levy of 15%. This is consistent with the rate levied by many other places, including Singapore[2], Toronto[3], Vancouver[4] and Hong Kong[5].

10. There is a 4% additional surcharge for residential property bought in New South Wales[6] (Australia) by foreign residents, 3% in Queensland[7] and 7% in Victoria[8]. The Australian state of Victoria, which includes the city of Melbourne, initially introduced a 3% surcharge but from 1st July 2016 this increased to 7%. The number of inquiries from foreign buyers, especially Chinese, have not declined.

11. The UK has high population density and there is considerable pressure on residential property prices and concerns about housing market bubbles. There also concerns about illicit financial flows which can destabilise the financial system. For example, in March 2015 The Times reported that "Almost £100 billion of "hidden" capital has flooded into Britain in less than a decade, much of it laundered by Russian investors[9]". In July 2016, the House of Commons Home Affairs Select Committee[10] expressed concern that hot money is distorting the property market.

    The UK is also considered to be a desirable place to live by many. For these reasons a 15% levy is appropriate.

## FOREIGN OWNERSHIP OF THE RESIDENTIAL PROPERTY

10 This section shows that foreign companies and individuals own a significant part of the residential property market either for residence of selected individuals or for letting purposes. A housing bubble is being created and property prices are

[2] http://www.telegraph.co.uk/finance/personalfinance/expat-money/9805793/Singapore-gets-tough-on-foreign-property-buyers.html
[3] https://www.theguardian.com/world/2017/apr/20/toronto-foreign-tax-homes-housing-market-canada
[4] https://www.theguardian.com/world/2016/aug/02/vancouver-real-estate-foreign-house-buyers-tax
[5] http://www.telegraph.co.uk/finance/personalfinance/expat-money/9642723/Hong-Kong-announces-property-tax-for-foreigners.html
[6] http://www.osr.nsw.gov.au/taxes/spd
[7] https://www.ft.com/content/16859cde-31f7-11e6-8825-ef265530038e
[8] http://www.sro.vic.gov.au/foreignpurchaser
[9] https://www.thetimes.co.uk/article/russian-hot-money-is-flowing-into-london-cd7mxgmks9m
[10] http://www.independent.co.uk/news/business/news/london-property-market-real-estate-money-laundering-overseas-foreign-buyers-mps-a7138176.html

being ratcheted up. Many UK citizens are being squeezed as developers aim to maximise profits by selling to overseas buyers.

11 Companies based in tax havens own a considerable part of the residential property market and little is known about their ownership. Some of the money used to purchase the property may well be illicit. This poses fundamental questions about due diligence checks performed by lawyers/solicitors[11] and estate agents. The Solicitors Regulatory Authority also draws attention to conveyancing shortcomings with clients failing to provide valid identity documents and attempts to avoid or cheat identity checks. This also highlights another failure by HMRC which is responsible for oversight of the registered estate agency businesses.

12 The properties purchased cover a wide spectrum, but many (though not exclusively) are at the top-end of the market. Buying such properties allows the corrupt to launder very large sums of illicit money with a single purchase. Money can be 'parked' in high-end property and then reinvested elsewhere with little risk of capital loss. The UK's Anti Money Laundering legislation (AML) requires estate agents to perform due diligence checks only on sellers, not the purchasers. The regime relies on lawyers to cover any estate agency risks, which ignores the risk of complicit lawyers.

13 Private Eye[12] identified £170bn worth of properties acquired by offshore companies in just ten years. As most transactions did not give values, however, the total is likely to be well over £200bn. It highlighted their use by property developers to avoid tax, the landed gentry to escape inheritance tax and any number of arms dealers and oligarchs covering up properties they'd rather nobody knew too much about.

Among the properties were 20,590 acquired by companies registered in Jersey, 12,061 in the Isle of Man, 11,536 in Guernsey, 2,782 in Mauritius, 2,657 in Gibraltar, 1,963 in Panama and 1,245 in the Cayman Islands. But the most popular location for registering a property company offshore, with 22,155 in the period, was the British Virgin Islands. In most cases, the owners of the companies buying the UK property are not known as there is virtually no public information about their beneficial shareholders or directors.

14 The Guardian[13] reported on the Land Registry database and noted that across England and Wales, 99,344 properties of all kinds, including homes and offices, are owned by companies; 90% of these are registered in offshore tax havens.

Some 40,000 properties across London are owned by secretive offshore companies, an increase of 9%.

[11] http://www.sra.org.uk/risk/resources/risk-money-laundering.page
[12] http://www.private-eye.co.uk/registry
[13] https://www.theguardian.com/money/2016/may/26/revealed-9-rise-in-london-properties-owned-by-offshore-firms

The biggest concentrations are in the City of London and the City of Westminster, where 10% of all properties are owned by companies in offshore tax havens; the figure is 7% in the Royal Borough of Kensington and Chelsea, which includes the wealthy enclave of Knightsbridge.

The London homes held offshore include 199 Knightsbridge – 201 flats set around a private feng shui garden and close to the Harrods department store. They have been sold for several million pounds each; 123 of them are held by offshore companies, mostly in the British Virgin Islands.

At One Hyde Park, the Richard Rogers-designed development that includes London's most expensive apartment, even wine cellars and parking spaces are registered to offshore companies in Liechtenstein, the Cayman Islands and Liberia.

The Russian businessman Leonid Fedun is behind one of the companies that owns a £23m flat, documents from the Panamanian law firm Mossack Fonseca reveal. In 2014 the Land Registry was not able to say whether about 3,000 overseas companies were in tax havens or not.

15 Global Witness[14] found that big chunks of Baker Street in London are owned by a mysterious figure with close ties to a former Kazakh secret police chief accused of murder and money-laundering.

16 Most of the surveys and estimates of foreign ownership of property relate to London. Little is known about other cities though the Land Registry data does identify residential property outside London. Various surveys show that Brexit has not reduced the demand for purchase of UK residential property.

A December 2016 report by Hampton International reported that despite the Brexit referendum international buyers accounted for 29 per cent of the London housing market[15].

Knight Frank[16] estimated that overseas buyers accounted for some 60% of the residential market of 'prime' areas of London – the most expensive, 'desirable' homes in central London.

Savills[17] estimated that 7% of Greater London properties for sale were bought by purchasers from overseas in 2013-14. It considered only 8% of the London residential market to be 'prime' i.e. highly desirable for the rich and estimated that 32% of the buyers in that segment are international.

[14] https://www.globalwitness.org/en/campaigns/corruption-and-money-laundering/mystery-baker-street/

[15] http://www.hamptons.co.uk/media/445182/hamptonsinternational-marketinsight-november.pdf

[16] http://www.knightfrankblog.com/global-briefing/news-headlines/what-makes-a-property-prime/

[17] http://pdf.euro.savills.co.uk/residential---other/spotlight-world-in-london.pdf

17 In March 2017 Transparency International (TI) published a report titled "Faulty Towers: Understanding the impact of overseas corruption on the London property market[18]". TI investigated the sale of 2,066 properties across 14 new developments in London to calculate the number of overseas buyers and the effect on the capital's housing crisis. It found that found that 80 per cent of these homes were bought by foreign investors from countries including Singapore, Hong Kong, China and Malaysia.

Among the schemes investigated was South Gardens in Elephant Park, which is built on the site of the former Heygate Estate in the south of the capital. The report found that all 51 properties sold in this scheme to date have been bought by overseas investors

The post-war housing block South Gardens replaces was previously home to more than 3,000 people, with 1,194 homes being socially rented. It was demolished in 2014 as part of the £1.2 billion urban regeneration of the Elephant and Castle (a suburb of London) area. Prices started at £569,000 for a studio flat in the new development and go higher than £1 million, meaning many of the homes are out of reach to those on the average Southwark wage of £34,139 (high compared to the average for the UK).

Often properties are marketed abroad even before anything is built and that then determines the developer's strategy. Riseamsharples property firm, which focuses on advising offshore investors on purchasing London property, marketed the South Garden residences abroad two years before the project was built to provide necessary funds for the development. Indicators like low electricity usage show that many residences purchased by overseas investors are left empty or underused

40 per cent of properties sold over the 14 developments were to individuals from high corruption risk jurisdictions, or to companies based in secretive tax havens. TI estimated that £4.2 billion worth of properties were bought with suspicious wealth, possibly hot money or illicit wealth, that since 2006 around £100 billion of hidden inflows have entered the UK.

There is also a significant volume of legitimate funds that come into the UK to seek a safe haven from instability and corruption abroad. For example in October 2012, following the Arab Spring – an event with corruption as a key driving force - buyers from the Middle-East countries including Egypt, the United Arab Emirates, Israel and Jordan spent 50 percent more on London property in October 2012 than they did in the previous year, paying an average £3.5 million for each property[19]. High-profile buyers included Egyptian mobile network billionaire Naguib Sawiris who is thought to have paid £ 37 million pounds for a flat in Knightsbridge. A 45-bedroom mansion that belonged to former Lebanese Prime

[18] http://www.transparency.org.uk/publications/faulty-towers-understanding-the-impact-of-overseas-corruption-on-the-london-property-market/
[19] http://uk.reuters.com/article/uk-britain-london-gulf-property-idUKLNE8A600X20121107

Minister Rafik al-Hariri until his assassination in 2005 was on sale for a price tag of between £200 million and £300 million.

## CURRENT TAXATION OF RESIDENTIAL PROPERTY OWNED BY OVERSEAS RESIDENTS

18 This section summarises to the general situation about taxation of residential property held by non-residents. It is intended as background information only. The proposed Offshore Company Property Levy is very distinct from the measures currently in place.

- HMRC levies income tax on income generate by the letting of property situated in the UK regardless of the residence status of the landlord.

- Non-UK-resident owners other than individuals (e.g. companies or trustees) pay tax on the profits computed at a flat rate of 20%.

- Individuals are liable at pay income tax at rates from 20% to 45%, though many non-resident individuals (broadly, citizens of any state in the European Economic Area and certain Commonwealth countries) are entitled to claim their tax free personal allowances which exempts first £11,500 (2017-18) of their income/profits from income tax.

- The property owner may also be liable to tax in his/her home country, if the income is declared or taxes are levied, but this charge in most cases is reduced (subject to provisions of the double taxation treaties) by the taxes already paid elsewhere.

- There are also a number of avoidance measures. For example, a managing agent (usually an estate agent) must deduct tax at the rate of 20% and pay it over to HMRC on behalf of the landlord.

- If a tenant pays rent direct to an overseas landlord then s/he must also deduct 20% tax and pay it to HMRC. Such matters should be specified in rental agreements.

- Capital gains tax (CGT) is normally paid by individuals who are UK tax resident though their main place of residence is exempt.

- Non-resident companies have potentially been liable to UK capital gains tax on the disposal of UK residential property since 1 April 2013 if the property was valued at more than £2 million. That threshold has now dropped to £500,000. The cost of the current and previous tax perks is not known.

- In the 2015 budget, the government stated that

  “Following consultation the government has confirmed that from 6 April 2015 non-UK resident individuals, trusts, personal representatives and narrowly controlled companies will be subject to Capital Gains Tax (CGT) on gains accruing on the disposal of UK residential property on or after that date. Non-resident individuals will be subject to tax at the same rates as UK taxpayers (28% or 18% on gains above the annual exempt amount). Non-resident companies will be subject to tax at the same rates as UK corporates (20%) and will have access to an indexation allowance. Full details were set out in the response document 'Implementing a capital gains tax charge on non-residents – summary of responses', published on 27 November 2014" (see https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/416330/47881_Budget_2015_Web_Accessible.pdf#page=84 ).

The government estimated that this measure would raise £5 million in 2015/16, £35 million in 2016/17, £90 million in 2017/18, £140 million in 2018/19 and £190 million in 2019/20. The actual outcomes are not known

- Disposals of commercial property by non-resident investors remain exempt from UK capital gains tax.

- However, there are lots of ifs and buts. For example, if the property is acquired with the sole or main object of realising a profit on disposal, with or without any development of the property, any gain on disposal will normally be treated as income rather than as capital gains. It will therefore be subject to UK taxation as income and the CGT exemptions referred above will not be available.

- Commercial property held through an offshore company is not liable to UK inheritance tax

- From 6 April 2017, UK residential property will be liable to UK inheritance tax irrespective of how it is held. Of course, various exemptions will be available.

- Stamp Duty Land Tax (SDLT) is payable on property or land over a certain price in England, Wales and Northern Ireland (Scotland has Land and Buildings Transaction Tax). The current SDLT threshold is £125,000 for residential properties and £150,000 for non-residential land and properties. The amount of SDLT depends on value bands. The first £125,000 has SDLT rate of zero%; for price from £125,001 to £250,000, 2%; £250,001 to £925,000, 5%; £925,001 to £1.5 million, 10% and properties above £1.5 million pay SDLT at 12%. Based on the above bands, someone buying a residential property for £275,000 would pay SDLT of £3,750. There are also additional levies for purchase of second homes, etc. Someone buying an additional residential property for over £1.5 million would pay SDLP at the rate of 15%.

- In 2012 rules were introduced affecting the tax paid in relation to residential properties that are purchased and owned by companies, for properties with a value in excess of £2,000,000. The threshold was reduced to £1 million at 1 April 2015 and £500,000 at 1 April 2016. SDLT is payable at the rate of 15% where a company acquires a dwelling costing more than £500,000. If contracts were exchanged before 20 March 2014 transitional rules may operate to reduce the charge. There is an exemption (so that only the normal, lower, rates of SDLT apply) for all genuine property businesses – covering (inter alia) property developers, investors and dealers. There are conditions to qualify for relief: the most notable being that no-one connected with the company lives in the property. Further details are not provided here.

- The point to note is that none of the above seems to have dissuaded foreign residents from buying property in the UK.