Traditional Unionist Voice Submission on corporation tax

The chapter numbers in the response relate to those in the consultation document.

Chapter 1 – Introduction

TUV welcomes the acknowledgement that prosperity in Northern Ireland lags behind the UK average even when the South East of England is excluded and the fact that the Troubles are a major contributing factor towards this (1.1). However, we would add that devolving power over corporation tax to an executive which includes the political wing of the terror group responsible for much of the terrorism which held Northern Ireland back economically and which is still dedicated to the destruction of the state is unlikely to rectify this.

TUV notes that in the June 2010 Budget HM Government announced four annual 1% reductions in the main rate of corporation tax and a decrease in the rate applicable to small profits from 21% to 20% while Budget 2011 announced that the main rate of corporation tax would be reduced by a further 1% (1.2). TUV believes that Northern Ireland would be much better off benefitting from this UK-wide cut than sustaining the pain which a cut to the block grant following the devolution of corporation tax would inflict.

TUV shares HM Treasury's belief that Northern Ireland's private sector needs to grow (1.3). We are, however, extremely doubtful to say the least about the potential for the devolution of corporation tax to do this.

TUV notes that the issue of separate corporation tax rates for Scotland and Wales has been considered by HM Government and that two commissions, Calman and Holtham, have investigated the issue (1.11). We also note that HM Government has "no plans to devolve a corporation tax varying power to the Scottish Parliament or the National Assembly for Wales." [1]

Why should Northern Ireland be the experimental guinea pig?

It is interesting to note the attitude of Welsh First Minister to this issue.

Carwyn Jones outlined why he opposed the devolution of the powers to his administration in an interview back in March:
"**On the basis of our funding at the moment it would be disastrous because we would have tax-varying powers forced on us, while we are also under-funded at the same time**. That's not in the interests of the people of Wales.
"That's why I've always said I'm not in favour of tax-varying powers, particularly at the moment given the fact that we're under-funded. We need to deal with the under-funding as the major issue facing the finance of Wales." [2]

The fundamental nature of devolving corporation tax was underscored when Mr Jones said that such powers could not come to Cardiff without a referendum. [2]

And what of Scotland? Asked about the devolution of corporation tax powers to Edinburgh after a meeting of the British Irish Council Peter Robinson stated that the block grant reduction for Scotland would “be well in excess of a billion pounds – a billion-and-a-half pound of reduction”. [3] Why Mr Robinson should be so keen to urge caution when it comes to Scotland but push for the powers to come to Northern Ireland is for him to explain.

Chapter 2 – The Current State of the Northern Ireland Economy

TUV notes HM Treasury’s recognition that the recession has hit Northern Ireland more badly than other parts of the UK. (2.15). We share HM Treasury’s belief that having over 30% of all Northern Ireland’s jobs in the public sector compared to a UK average of around 21% is unsustainable (2.16). However, we do not believe that devolving corporation tax will rectify this.

Chapter 3 – The UK Government’s Strategy for Rebalancing the UK Economy

TUV notes the measures outlined in this chapter to address the economic situation across the UK (exempting new businesses outside of London, the East and South East from up to £5,000 of employer NICs payments, largely reversing the previous government’s policy of the employer NICs rate rise, increasing the income tax personal allowance, etc.). **We believe that these and other measures implemented on a UK wide basis are the way forward for the whole British family.** Devolving taxation powers can only serve to weaken the Union and – as HM Treasury’s own consultation document shows – carries serious risks for the economic future of Northern Ireland.

Chapter 4 - Corporation tax in Northern Ireland

TUV notes that:
“The Government’s aim is to create the most competitive tax system in the G20 and it has set out a programme of reform for corporate tax in the UK as a whole. This includes a reduction in the main rate of corporation tax to 26% from April this year followed by three annual reductions of 1% to bring the rate down to 23% by 2014. This will benefit business across the UK” (4.4).

TUV reiterates its view that Northern Ireland would be much better benefiting from this UK-wide reduction in the rate of corporation tax than risk the uncertainty of any benefit and the certainly of a cost by having the powers devolved.

We note the caution urged by HM Treasury in 4.11(“Because of differences in effective corporate tax rates, and due to the large range of factors that determine investment levels, it is **necessary to be cautious** in assuming that a lower corporation tax rate would have the same effect in Northern Ireland as it had in the Republic”); in 4.15 (“Estimating the benefits of a corporation tax rate cut **is necessarily uncertain**, as investment choices depend on a broad range of factors”); in 4.21 (“As stated above, however, there is **a degree of uncertainty** in predicting future investment increases”); in 4.23 (“Estimating the broader economic benefits is also **uncertain**”), in 4.28 (“Estimating long term job creation with accuracy is **extremely difficult** since the exact number of new jobs created is dependent upon a wide range of factors”), in 4.47 (“Since company profits tend to fluctuate over the economic cycle, corporation tax revenues also fluctuate by a significant margin. For instance, UK corporation tax revenues fell from £38 billion in 2006-7 to only £31 billion in 2009-10. Such fluctuations would be expected to continue if responsibility for the tax was transferred to the Northern Ireland Assembly. **The risks that accompany such fluctuations are heightened in a region such as Northern Ireland with its relatively small corporate base**”) and in 4.48 (“Furthermore, by potentially increasing the proportion of receipts in Northern Ireland from larger companies, a reduction in the corporation tax rate is likely to **increase the volatility of Northern Ireland corporation tax receipts**. Where a significant share of corporation tax receipts derive from a small number of companies, this would increase the fiscal impact on the NIE if these companies were to experience a significant downturn in profitability or, given the UK’s relief rules, had significant losses to set against profits”).

TUV notes that the volatility of corporation tax has caused considerable caution when it came to discussions around the devolution of corporation tax to the Welsh Assembly and the Scottish Parliament.

Professor Anton Muscatelli (Chairman of the Independent Expert Group (IEG) that advised the Calman Commission) stated in evidence to the Scotland Bill Committee that “**it is probably the most volatile of all the major taxes that could be devolved**.” [4]

The Independent Commission on Funding & Finance for Wales (the Holtham Commission) also considered the issue and concluded that devolution would “**introduce substantial unwelcome volatility into the Welsh budget**.” [5]

Additionally, we note that the IEG that advised the Calman Commission stated:

“Deviations in forecasts can derive from a number of factors, ranging from unforeseen changes in the economic conditions to the inherent volatility of tax receipts (annual UK Corporation Tax receipts, for example, have deviated by nearly 15% or £5.3billion from forecast values in the past decade).” [6]

TUV notes that 100% of this risk lies with the Northern Ireland Executive. This is made clear in 4.46 (“These costings represent the Government’s estimate of the cost to Northern Ireland of the corporation tax cut. However, as with any estimate, there is **a degree of uncertainty**. Should the tax cut result in more investment than estimated here, then the extra corporation tax associated with this increase would be passed on to the NIE. **Conversely, if the tax cut failed to attract as much investment, the NIE would need to make up the difference. Similarly, the risk associated with profit shifting from the rest of the UK would lie with the NIE**”).

And there is considerable uncertainty about the potential of a corporation tax cut to attract FDI.

As a Price Waterhouse Cooper report observed survey evidence shows that **the level of corporate taxation and labour costs appear to be of less importance**

than other – and this echoes the point in the Treasury consultation – non-tax factors.

It goes on to say:
"So what persuades investors to locate in the UK? It seems the ease of doing business, including language and cultural issues, communications, skills, an entrepreneurial culture and market proximity are the main drivers" and observes that "it is **difficult to see how low sub-regional tax alone** could compete with London" and the greater south-east of England.

Additionally, PwC note that:

"The Republic has had, in effect, relatively low tax on company profits (especially in the manufacturing and some other trading sectors) from as early as 1958. The fact that the Celtic Tiger did not really begin to roar until the late 1980s, three decades later, suggests either that the tax effect was a very slow burn or that Corporation Tax was mixed in with a range of other factors which (gradually) created the preconditions for sustained and rapid growth."

Indeed, PwC goes as far as to conclude that they could not find "any clear evidence of a simple correlation between low Corporation Tax per se and high levels of FDI." [7]

TUV has consistently warned that as a result of the Azores Case (dealt with in points 4.29 and 4.30 of the consultation paper) Northern Ireland would have to have its block grant adjusted to reflect the fiscal costs of a reduction in corporation tax. This has prompted our Finance Minister Sammy Wilson to describe devolution of cooperation tax as "**totally unattractive**". [8]

TUV notes that there is still considerable uncertainty about the view which the European Court of Justice will take of a reduction of corporation tax in Northern Ireland – particularly in the event of the Northern Ireland Assembly being suspended. [9]

There is a great deal of uncertainty as to how great the reduction to the block grant will be but it is unquestionably a substantial sum. Indeed, the Secretary of State told the Commons that:
"On the question of the corporation tax sums, I say, bluntly, that nobody knows. That is why I am working closely with my Treasury colleagues - in particular, the Exchequer Secretary - to work out exactly the cost. Some international accountancy firms have estimated that, according to the Azores ruling, **about 100 million to 150 million would have to be taken off the block grant**." [10]

According to Table 4.A (page 27 of the consultation document) a 1.5% assumption would lead to a 1.0%, 2.3%, 2.5%, 2.6% and 2.6% reduction of the block grant in a five year period meaning that the Northern Ireland Executive would **loose £110 million, £235 million, £265 million, £265 million and £270 million** in each of the five years.

However, figures from the Department of Finance and Personnel suggest that the direct cost to the Northern Ireland block grant **could be in excess of £400m by year five**. [11]

TUV notes HM Treasury's warning that: "NIE would bear the fiscal consequences of devolution including upside and downside risks if tax receipts were more or less than forecast. **Given the volatility of corporation tax in a relatively small private sector base like Northern Ireland this may be a significant risk**" (4.62).

Northern Ireland simply cannot afford such a cut.

TUV notes the significant implementation issues which devolving corporation tax will present. 4.51 observes that "while HMRC does not breakdown administration costs on a regional basis, for illustrative purposes, corporation tax cost £340 million to administer across the UK in 2008-9, with just under 70% of that cost relating to compliance activity. Northern Ireland would not be expected to bear the proportion of that amount that relates to administering the current system in the province, but **would have to bear the extra costs above and beyond that relating to the new regime**."

HM Treasury goes on to explain that Northern Ireland would have to pay for start-up costs such as changes to HMRC IT and online filing, the ongoing costs arising from maintain the new systems and procedures (both IT and operational) and the additional anti-avoidance compliance resources (4.52).

TUV shares the belief that "there has been little discussion of whether the Northern Ireland administration should develop, or indeed can afford to pay for, a capacity for policing transfer pricing and other potential manipulations of a devolved tax regime." [12]

Very significantly TUV notes that the devolution of corporation tax will poses problems for GB companies which operate in Northern Ireland:

"**Businesses benefiting from a lower rate or a separate regime in Northern Ireland and with operations in both Northern Ireland and the mainland could face increased administrative burdens. These burdens could arise in relation to the rules defining what profits would be subject to the preferential rate, by reference to their location and perhaps their nature, and ensuring that profits are not artificially shifted**" (4.57)

And

"**Any measure that moves Northern Ireland away from the UK tax system increases complexity and administrative burdens for both the NIE in implementing the policy and for business complying with a new regime, particularly those operating across Northern Ireland and the rest of the UK**" (4.85).

In evidence to the House of Commons Northern Ireland Affairs Committee, the European Commission drew attention to the experience of another Member State:

“A relevant lesson can be drawn from the experience in Germany from the abolition of trade income tax at local level.

“The small local community of Norderfriederichskoog in the German Land Schleswig Holstein applied a 0% trade tax rate in its area at the beginning of this millennium. In the year before 2004 there was a run of companies to choose this village as the place of registration so that at the end 460 companies were registered in the village compared to 40 inhabitants.

“In 2004 Germany stopped this practise by introducing a minimum tax rate for trade income tax in Germany.” [13]

TUV believes that a unified taxation system across the UK is necessary in order to maintain the Union. Moves to devolve these powers represent another fundamental assault on Northern Ireland’s place within the UK. TUV believes that Northern Ireland’s economic future is best served by being more closely linked to one of the world’s largest economies, not tied more closely to the bankrupt Republic of Ireland.

The Republican game plan when it comes to this issue is a matter of public record. In the forward to Sinn Fein/IRA’s last Assembly manifesto Martin McGuinness stated: “We need to have greater control over our economy and seek additional powers to deliver increased economic growth. The All Ireland economy is a reality and we need to plan an economic recovery on an all Ireland basis”. [14]

Later in their manifesto Sinn Fein said they would work to “deliver increased economic and fiscal powers away from London and into the locally accountable Executive and Assembly” and “harmonise all-Ireland taxation and regulation policies”. [15]

Similarly the SDLP are on record as favouring “equalising corporation tax here with that in the South” and have “consistently advocated a single all-Ireland corporation tax regime”. [16]

Given the state of the Republic’s economy – bankrupt and in hoc to the IMF and ECB – it is madness to argue as Sinn Fein/IRA and the SDLP do that we should build closer economic ties with the Republic of Ireland. And it is obvious that both parties see the devolution of corporation tax as a step along that road.

Make no mistake about it – Nationalism supports the devolution of these powers because it is viewed as a means of furthering their goal of a United Ireland and further diminishing the role of Westminster in the affairs of our Province. The fact that HM Treasury’s consolation flags up the issue of increased difficulty for GB businesses operating in Northern Ireland should act as a wakeup call to all Unionists who have foolishly advocated the devolution of corporation tax.

TUV is greatly concerned by the suggestion contained within paragraphs 4.85 – 4.98 that further powers be devolved to Northern Ireland beyond those directly relating to corporation tax. Our party would resolutely oppose any such moves.

Conclusion

TUV commends HM Treasury for producing such a balanced consultation paper which would leave no impartial reader in any doubt about the very real risks of devolving these powers to the Northern Ireland Assembly.

Northern Ireland's Department of Finance and Personnel estimated that Northern Ireland had a fiscal deficit of £7.3bn in 2007-08. [17] In other words, Northern Ireland's expenditure is subsidised to that amount by taxpayers elsewhere in the UK (predominantly the greater South East of England). A region in such a position should be very cautious about cutting any fiscal ties with the rest of the UK.

TUV believes that the devolution of these powers would be disastrous for Northern Ireland we therefore submit that the status quo remain unchanged.

Notes

[1] **Document ID** PQ 1608281

Group	Parliamentary Questions
Type	Written Questions
Date	05/04/2011
Session	10/11
Member	Kilclooney, Rthonlord
Responding Minister	Sassoon, Lord
Subject Terms	Devolution - Legislative competence - Tax rates and bands - Corporation tax - Scottish Parliament - National Assembly for Wales
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Interest Declared	No
Failed Oral	No
Status	Answered
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Hansard Location	726 c371WA
Question	To ask Her Majesty's Government what plans they have to consider the devolution of corporation tax raising power to (a) the Scottish Parliament, and (b) the National Assembly for Wales.
Answer	The Government have published a consultation document on rebalancing the economy of Northern Ireland, including a possible mechanism for varying corporation tax in the unique circumstances of Northern Ireland. No decisions have been made. The Government have no plans to devolve a corporation tax varying power to the Scottish Parliament or the National Assembly for Wales.

[2] Voters must decide on devolved tax powers, says Jones available from http://www.bbc.co.uk/news/uk-wales-politics-12704606

[3] Peter Robinson: Corporation tax control would cost Scotland up to £1.5 billion a year available from http://www.telegraph.co.uk/news/uknews/scotland/8549865/Peter-Robinson-Corporation-tax-control-would-cost-Scotland-up-to-1.5-billion-a-year.html

[4] Scotland Bill Committee (2011) „Report on the Scotland Bill and relevant legislative consent memoranda paragraph 494 available from http://www.scottish.parliament.uk/s3/committees/scotBill/reports-11/sbr11-01.htm#34

[4] Evidence from the Independent Expert Group to the Commission on Scottish Devolution Should Scottish Ministers be Able to Borrow? paragraph 494 Available from http://www.hw.ac.uk/reference/ieg-borrow.pdf

[5] Fairness and accountability: a new funding settlement for Wales page 78 Available from http://wales.gov.uk/docs/icffw/report/100705fundingsettlementfullen.pdf

[6] Should Scottish Ministers be Able to Borrow? page 10 Available from http://www.commissiononscottishdevolution.org.uk/uploads/2009-06-06-ieg-borrow.pdf

[7] **Government Futures: Corporation Tax - Game changer or game over? available from http://www.pwc.co.uk/ni/publications/ni-government-futures-corporation-tax.html**

[8] NI finance minister: Corporation tax cut 'totally unattractive' available from http://www.bbc.co.uk/news/uk-northern-ireland-11950643

[9] The most important consideration in terms of European law is the European Court of Justice (ECJ) decision on the Azores Case.

This case established three criteria or tests that must be satisfied for regional or sub-national variations in direct taxation not to breach European law and rules relating to State Aid:

The decision to introduce the regional difference in direct taxation must have been taken by the region which has a political and administrative status separate from that of the central government (institutional autonomy);

 The decision must have been adopted without the central government being able directly to intervene as regards its content (procedural autonomy); and,

The full fiscal consequences of a reduction of the national tax rate for undertakings in the region must not be offset by aid or subsidies from other regions or central government (fiscal autonomy).

The purpose of these tests is to establish whether an „infra-State body (in the present case, the devolved Northern Ireland legislature) which adopts a particular tax measure has done so in a manner “sufficiently autonomous vis-à-vis the central power.”

In the consultation document, the UK Government states that it expects that Northern Ireland would meet these criteria. It argues that:

- The [Northern Ireland Executive] already has institutional autonomy as the Northern Ireland Assembly is elected by a separate process to that of the UK Government and has autonomy over a wide range of spending and policy issues.

- The Northern Ireland Assembly would also have procedural autonomy, as the [Northern Ireland Executive] and Assembly would have the power to decide whether to raise or lower the rate of corporation tax. HMRC (the UK wide tax administration) could continue to collect receipts.

- In order to meet the fiscal autonomy condition, the [Northern Ireland Executive] would need to bear the full fiscal consequences of changes in tax revenues resulting from a new Northern Ireland corporation tax rate. This means that Northern Ireland‘s block grant would be adjusted to reflect the fiscal costs of a reduction in the rate of corporation tax.

On the face of it, the first two of these points seem reasonable assertions. There are some issues that are worthy of further consideration which are discussed below. The third point is more problematic and it is on this criterion that the Azores case fell.

Under the Constitution of Portugal, the Azores formed an autonomous region with its own political and administrative status and its own self-government institutions. These had the power to exercise their own fiscal competence and adapt national fiscal provisions to regional circumstances.

But two aspects of the fiscal policy of the regional government - namely the decision to reduce the regional tax burden by exercising its power to reduce tax rates on revenue and the fulfilment of its task of correcting inequalities deriving from insularity - were inextricably linked and depended, from the financial point of view, on budgetary transfers managed by central government.

Therefore, the ECJ determined that the disputed measures must be assessed in relation to whole of Portuguese territory, which implied that the Commission rightfully classified them as selective aid and incompatible with EU law.
(Source: Devolution of Corporation Tax, a research paper for the Northern Ireland Assembly by Colin Pidgeon p 14 – 16 available from http://www.niassembly.gov.uk/researchandlibrary/2011/5711.pdf).

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Failed Oral	No
Status	Answered
Legislature	House of Commons (HoC)
Place	Commons Chamber
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Hansard Location	515 c868-9
Question	I thank the right hon. Gentleman and the Minister for their kind words. It has been a huge privilege for my right hon. Friend the Member for Wythenshawe and Sale East (Paul Goggins) and I to serve the people of Northern Ireland. Whatever my future, which is in the hands of my hon. Friends, the right hon. Gentleman can be sure that we will continue our bipartisan support for his policy.During the general election, the right hon. Member for Witney (Mr Cameron) talked about targeting Northern Ireland and the north-east of England for special cuts in Government spending. The Secretary of State tried to blunt that with the prospect of cutting corporation tax, but he will know from the Azores ruling that it is legal only if Northern Ireland bears fiscal consequences. What is his estimate of the annual additional cut the Treasury would have to take from the annual block grant to fund a cut in corporation tax to 12.5%?
Answer	I am grateful for the right hon. Gentleman's comments, but I would just like to correct an inadvertent comment on my colleague the Prime Minister, who did not target Northern Ireland; he just said, correctly, that it is one of those parts of the United Kingdom that is over-dependent on the public sector. On the question of the corporation tax sums, I say, bluntly, that nobody knows. That is why I am working closely with my Treasury colleagues-in particular, the Exchequer Secretary-to work out exactly the cost. Some international accountancy firms have estimated that, according to the Azores ruling, about 100 million to 150 million would have to be taken off the block grant.

[11] Devolution of Corporation Tax, a research paper for the Northern Ireland Assembly by Colin Pidgeon, page 3 available from http://www.niassembly.gov.uk/researchandlibrary/2011/5711.pdf

[12] Ibid, page 4.

[13] Corporation Tax in Northern Ireland, Written evidence from Algirdas Šemeta, Member of the European Commission available from http://www.publications.parliament.uk/pa/cm201011/cmselect/cmniaf/writev/corptax/we16.htm

[14] Sinn Fein 2011 Assembly Manifesto, page 3

[15] Sinn Fein 2011 Assembly Manifesto, page 9

[16] SDLP Delegation Highlight Corporation Tax Concerns, press release available from http://www.sdlp.ie/en/index.php/newsroom_media/newsArticle/sdlp_delegation_highlight_corporation_tax_concerns and O'Loan: Northern Ireland Can Benefit From All Ireland Corporation Tax, press release available from http://www.sdlp.ie/en/index.php/newsroom_media/newsArticle/oloan_northern_ireland_can_benefit_from_all_ireland_corporation_tax

[17] DFP Northern Ireland Net Fiscal Balance Report 2007-08 available from http://www.dfpni.gov.uk/northern-ireland-net-fiscal-balance-report-07-08-_experimental_.pdf