



HM Revenue  
& Customs

## Corporation Tax: devolution of rate-setting power to Northern Ireland

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### Who is likely to be affected?

Companies trading in Northern Ireland (NI) currently, or who may trade there in the future. Companies which are SMEs will be affected differently from larger companies.

### General description of the measure

The measure will devolve the rate-setting power for corporation tax (CT) in NI to the Northern Ireland Assembly (NIA) for trading profits only, subject to a commencement order.

### Policy objective

The measure addresses the common objective of the UK Government (HMG) and the NI Executive (NIE) to rebalance the NI economy, to increase the size of the private sector and drive faster economic growth in NI. The weaknesses of the NI economy reflect a number of unique factors, not least the legacy of 30 years of conflict, the demographics and location of Northern Ireland, as well as issues surrounding deprivation and rurality. Rebalancing the Northern Ireland economy will depend on higher productivity sectors becoming larger and firms within all sectors increasing their productivity.

### Background to the measure

The proposal to devolve CT rate-setting powers was consulted on in 2011 as part of the “Rebalancing the Northern Ireland economy” consultation paper. The Government’s published the summary of responses to that consultation on 20 December 2011.

In October 2011 the Government announced the creation of a Joint Ministerial Working Group (JMWG) composed of ministers from HM Treasury, the Northern Ireland Office and the Northern Ireland Executive. The JMWG concluded its work in October 2012.

The Northern Ireland Economic Pact (Building a prosperous and united community), agreed between HMG and the NIE in June 2013, set out the timeline for a final decision on whether to devolve corporation tax rate-setting powers to Northern Ireland.

## Detailed proposal

### Operative date

This measure will have effect as appointed by the Treasury in regulations.

### Current law

The majority of the current corporation tax rules are found in the Corporation Tax Act 2009 (CTA09); the Corporation Tax Act 2010 (CTA10); the Capital Allowances Act 2001 (CAA01); and the Taxation (International and Other) Provisions Act 2010 (TIOPA10).

Section 3 Corporation Tax Act 2010 (CTA10) provides that CT is charged at the rate set by Parliament for the financial year and provides for tax to be charged at the small profits rate instead of the main rate where applicable. Finance Act 2014 removes the small profits rate (other than for ring-fenced profits) with the effect of unifying the rates from 1 April 2015.

Section 4 CTA10 sets out the calculation of the amounts to which the main rate applies. Para 8/Schedule 18/Finance Act 1998 sets out the calculation of tax payable.

## **Proposed revisions**

Legislation has been introduced in the Corporation Tax (Northern Ireland) Bill which devolves a power to the Northern Ireland Assembly to set a Northern Ireland corporation tax rate for certain trading profits. The power will allow the Northern Ireland Assembly to set the rate by resolution.

The UK main rate for the financial year will not apply to the profits and losses to which the Northern Ireland rate applies.

The new rules will amend CTA10 to provide for identification of the profits chargeable at the Northern Ireland rate. This includes a separate regime for large companies and SMEs.

SMEs are as defined in the Annex to Commission Recommendation 2003/31/EC of 6<sup>th</sup> May 2003, with minor amendments.

The Bill introduces new rules requiring SMEs with employees in NI to establish whether their profits and losses are chargeable in NI via an “in/out” test – if at least 75 per cent of their staff time and staff costs relate to work in NI then all of their trading profits will be chargeable at the Northern Ireland rate, if not, all will be chargeable at the UK main CT rate.

The Bill inserts into CTA10 rules which require large companies (those which are not EU SMEs) to determine whether they have a regional establishment in NI – broadly, similar to the permanent establishment rules found in Chapter 2/Part 24/CTA 2010. They must then, if they have a presence in both NI and the rest of the UK, apply rules similar to those governing the allocation of profits to a PE, which are found in Chapter 4/Part 2/CTA09. This effectively means that the company would treat their Northern Ireland trading activity as if it were a separate business from its activity in the rest of the UK, and apportion profits appropriately between the two.

The Bill excludes certain trades and activities from the NI regime including: lending and investing activities; asset management; long-term insurance (mainly life insurance); reinsurance of both general and long-term insurance; and profits subject to the Oil and Gas Regime ring-fence and activities of oil and gas contractors working on the UK Continental Shelf.

Companies with excluded trades and activities other than those relating to Oil and Gas or long-term insurance may make a one-off election for their back-office functions of those excluded trades of activities to qualify for the NI regime.

Other parts of CTA09, CTA10 and CAA01 are amended to facilitate a potential rate differential, including amendments to revalue NI trading losses used to relieve profits arising in the UK main rate regime; to determine which credits and debits of Part 8 CTA10 intangibles are within the NI regime; and how to compute amounts related to capital allowances and other reliefs (including but not restricted to creative industry reliefs, patent box and research and development).

Detail of the changes and new rules introduced by the Bill can be found in the Explanatory Notes accompanying the legislation.

## Summary of impacts

<b>Exchequer impact (£m)</b>	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
	<p>Devolving the rate-setting power will not have any impact on the Exchequer. If the Northern Ireland Assembly (NIA), upon receiving the power, choose to change the rate of CT in NI, then any Exchequer impact will be dependent on what rate is established.</p>					
<b>Economic impact</b>	<p>The measure is intended to help rebalance the Northern Ireland economy through encouraging growth. Devolution of taxes can provide macroeconomic benefits, as well as achieving wider political or social goals. Northern Ireland faces particular economic challenges due to a weak private sector and a reliance on the public sector, as well as being the only part of the UK with a land border with another country.</p> <p>In the case of this measure it is not possible to quantify any benefits or costs as the measure only devolves the power to set rates to the NI Assembly; it does not specify any Northern Irish CT rate.</p>					
<b>Impact on individuals, households and families</b>	<p>Devolving the rate-setting power will not have any impact on individuals and households or on family formation, stability or breakdown as it will only affect companies.</p>					
<b>Equalities impacts</b>	<p>Devolving the rate-setting power will not have any equalities impact.</p>					
<b>Impact on business including civil society organisations</b>	<p>The measure will affect an estimated 34,000 companies of all sizes, including 26,500 SMEs. The burden will vary greatly depending on their size, existing tax arrangements, whether they have any NI based trading activity in a given year, and whether their activity is wholly based in NI. Estimates of the one-off and ongoing costs of compliance are set out in the table below.</p> <p>One-off costs largely relate to the application of transfer pricing principles, where required by large businesses, to allocate trading profits between NI and the rest of the UK. This requirement is estimated to affect a subset of around 2,400 large businesses in a given year. There are also some costs, for all companies, associated with familiarisation with the new regime. Ongoing costs include changes to group relief and capital allowance claims and the cost of profits allocation for companies with trading activity in both Northern Ireland and the rest of the UK.</p> <p>These costs will apply whether or not the NI CT rate is changed to be different from the UK main rate.</p> <p>Note: The impact on administrative burden (included in net benefit) represents the expected costs and benefits for the first year only. The £4 million included in compliance costs represent the average annual amount over the five years.</p>					

		<b>Cost</b>	<b>Time Period (yrs)</b>
<b>Compliance Costs</b>			
One-off Costs		£14m	N/A
Average Annual Costs		£4m	5
Total Costs (PV)		£35m	5
<b>Compliance Benefits</b>			
One-off Benefit		N/A	N/A
Average Annual Benefit		N/A	N/A
Total Benefit (PV)		N/A	N/A
<b>Net Benefit (NPV)</b>		-£35m	N/A
<b>Impact on Administrative Burden</b> (included in Net Benefit)			
	<b>Increase</b>	<b>Decrease</b>	<b>Net Impact</b>
	£1m	£0m	£1m
<b>Operational impact (£m) (HMRC or other)</b>	<p>The operational compliance impacts on HM Revenue and Customs (HMRC) of devolving the rate-setting power are estimated to be negligible. Further costs will depend on the rate of CT in NI set by the Northern Ireland Assembly (NIA).</p> <p>The IT costs associated with the measure are estimated to be £3.4million, due to required changes to the CT600 form in order to identify NI trading profits separately from other UK profits. Other IT costs may be incurred e.g. to compliance systems, but it is not possible to assess these costs currently.</p>		
<b>Other impacts</b>	<p><u>Small and micro-business assessment</u> – the NI CT regime includes specific rules to mitigate the impact on small and micro-businesses through a simple annual in/out test, which companies use to determine whether their trading profits are chargeable at the NI CT rate, or the main UK CT rate, without the need to apportion them between the two regimes. Over 99 per cent of affected small and micro-businesses have 100 per cent of their trading activity in Northern Ireland and so would not be affected by the thresholds applied in the test. The ongoing costs associated with this test are thought to be negligible.</p> <p>Other impacts have been considered and none have been identified.</p>		

### Monitoring and evaluation

The measure will be monitored through information collected from tax returns and receipts and communication with affected taxpayer groups.

### Further advice

If you have any questions about this measure, please contact Ellen Milner on 03000 585 878, email: [ct.devolution@hmrc.gsi.gov.uk](mailto:ct.devolution@hmrc.gsi.gov.uk).

**Declaration**

David Gauke MP, Financial Secretary to the Treasury, has read this Tax Information and Impact Note and is satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impacts of the measure.