Northern Ireland Department of Finance Consultation on 'Devolution of more fiscal powers'

ICAS response to NI Department of Finance

29 November 2022

About ICAS

The following submission has been prepared by the ICAS Tax Board.

2. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants and we represent over 23,000 members working across the UK and internationally. Our members work in all fields, predominantly across the private and not for profit sectors.

3. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good. From a public interest perspective, our role is to share insights from ICAS members in the many complex issues and decisions involved in tax and financial system design, and to point out operational practicalities.

Background comments

4. ICAS is grateful for the opportunity to contribute its views on this Northern Ireland Department for Finance consultation published on 4 October 2022, entitled 'Devolution of more fiscal powers'

General comments

5. ICAS is generally supportive of devolved taxes on the proviso that it is properly supported by a stable administration and has public support. Devolution of taxes for devolution's sake is not necessarily to be recommended as there is an inevitable layer of complication and opacity involved in creating additional tax legislation, administration and collection, and enforcement.

6. Thus, the policymakers need to be alive to avoiding so-called "vanity projects" and ensuring that taxes are devolved which can add value to the funding requirements of the jurisdiction, whilst allowing policymakers to retain full autonomy and accountability – in other words, the main aim being to grow the economy as a whole rather than increased tax revenues being the main driver.

Specific responses to questions

7. Question 1: Do you think the Executive should be provided with more fiscal powers like the Scottish and Welsh administrations have? What are your reasons for saying that?

8. There is a case for having more fiscal powers to increase the Executive's fiscal responsibility and accountability for raising its own taxes and having a tax and spend budget as opposed to just a spend budget. However, a condition of this devolution should be to ensure that the tax regime in the jurisdiction is stable, supported by the public and by business, capable of being understood by citizens, equitable and affordable. Our response to question 3 below is also relevant here.

9. The most important issue the Department of Finance needs to research thoroughly prior to anything else is the public and business appetite for devolution, which would provide a mandate to the Executive.

10. Any devolution regime needs public buy-in and engagement to maximise compliance. Clarity, public education and ongoing communications programmes are needed to ensure the public does not think measures are opaque and unsustainable.

11. Inevitably, devolution adds a layer of complexity for taxpayers, and especially those with cross-border businesses and employees in different locations around the UK, but it simultaneously increases electoral accountability by the Executive to the citizens of Northern Ireland.

12. Whilst the notion of introducing say, a devolved corporation tax regime with a 12.5% rate of corporation tax may be favoured by Northern Irish businesses in terms of increasing Northern Ireland's competitiveness with the Republic of Ireland (ROI) from an inward investment perspective, it is important to note that Northern Ireland is part of the United Kingdom, and not part of the EU, and due heed must be paid to balancing increased competition between UK jurisdictions and having powers which can benefit local communities and sectors – and it is a delicate balance. The concept of tax tourism and tax havens is not something which should be openly encouraged. We briefly comment further at para. 23 on corporation tax devolution.

13. Northern Ireland benefits more per capita from Block Grant funding than any other jurisdiction in the UK, and this makes that balance even more delicate. Where taxes are devolved, there is an effect on block grant adjustments when the UK raises more, or less taxes from the same source from its taxpayer base, which opens up the Northern Irish economy and public funding to added risk which the jurisdiction is protected from under the Block Grant Adjustment mechanism. The focus would need to be on growing tax revenues more quickly than their UK counterparts, to ensure volatility is reduced as far as possible and stability is maintained.

14. Simplicity is key – if a suite of taxes are devolved to Northern Ireland, they must be capable of working alongside the many other UK taxes such that there is no unintended forms of double taxation or added complexity for businesses or individuals.

15. To complement the simplicity agenda, however, looking at the table on page 4 of the Executive Summary, there is a case for matching certain taxes with existing devolved activity – as the report suggests, it seems sensible to allocate responsibility for the taxes which sit alongside existing policies such as education and skills for example, which sits alongside the Apprenticeship Levy. It would of course be necessary to consider the effectiveness of the measure and research/consider whether for example, apprenticeships might be more widely taken up as a result. It may be the case that HMRC would be best placed to continue to administer the Apprenticeship Levy receipts after devolution, at least for the first few years.

16. Ensuring the new taxes bed in well and are accepted by the public is important. A Tribunal service is also needed to serve the needs of both the Executive and taxpayers to resolve disputes.

17. As you are aware, Scotland began its devolution journey by devolving two relatively small-scale taxes (LBTT) and (SLfT) and set up Revenue Scotland to administer and collect them. This has enabled Revenue Scotland to set itself up as a standalone body with statutory functions and test the water with these taxes. Experience tells us that this was a sensible idea as there have been teething problems with the new taxes, and especially so insofar as LBTT is concerned. The piecemeal devolution process has also allowed Scotland to recruit staff as needed to grow the teams within Revenue Scotland in accordance with its needs.

18. Key differences between Revenue Scotland and HMRC are that RS does not make its own legislative policy and therefore has limited powers to change its interpretation of the taxes. Whilst this is not necessarily a bad thing, it makes for a certain amount of inflexibility when a legislative anomaly arises which is recognised to be widespread and a barrier to business or indeed to compliance as Revenue Scotland does not have the discretion to change its approach.

19. As such, it is necessary for the Scottish Government to amend the legislation, and this has been done more often than not by secondary legislation (SSI), which is not ideal. However, limited devotion of Parliamentary debating time to taxation measures in the Scottish Parliament does not lend itself to many other alternatives – when Primary Legislation would be the preferred method and keeps things simpler without adding further layers of regulation.

20. Question 2: Which taxes that the Commission recommends for devolution do you think that the Executive should seek to prioritise? Why do you say that?

21. Care must be taken in deciding which fiscal powers are to be devolved. The Executive should set out in a public consultation how it proposes to make use of any devolved taxes powers.

22. ICAS agrees that before any devolution takes place, it is essential for improvements in data and statistical information in relation to all taxes in Northern Ireland so that a more accurate picture of the actual position can be obtained, and forecasting can be more accurate. One of the biggest difficulties the Scottish Fiscal Commission has faced over the years since devolution began has been in terms of data requests and improving the detail on that data to make it Scotland-specific. In anticipation of devolution in Northern Ireland, this aspect should be tackled immediately.

23. ICAS agrees with the statement in the report that the Executive should demonstrate how it might maintain sustainable finances following what will amount to a reduction in corporation tax receipts, should corporation tax devolution be finalised. It is important to understand how any shortfall might be recovered – either by increasing other taxes or backfilling the deficit with additional Block Grant funding. It is not insurmountable, given Northern Ireland's particular situation in terms of its geographical location lending itself to potentially applying a different approach to corporation tax, but it obviously needs to be carefully handled.

24. In terms of Income Tax, ICAS agrees the sensible approach taken on this by the Commission and agree that if it is to be devolved, it would be prudent for the tax base powers as well as the administration to be continued by HMRC at this time. Please see our response to Question 5 at paragraph 40 for further comments on this matter as this level of dependency would be dependent on maintaining excellent intergovernmental relations.

25. In Scotland, we have witnessed the partial devolution of income tax powers where powers over non-savings, non-dividend income was devolved, but powers over savings and dividend income was not. This split was due to the impact on pensions and savings & investment income in the main by the deduction of income tax at source – which is now something which does not happen. We would recommend that the three devolved jurisdictions liaise to discuss and research the practicalities of devolution of savings and dividend related income tax, to ensure that a viable solution can be brought about. Ideally, income tax might be wholly devolved to all three jurisdictions to avoid the complications arising from the requirement to carry out two separate computations to arrive at the correct income tax figure.

26. Key to the success of devolving income tax is the correct identification of Northern Irish income taxpayers. In Scotland, around half a million Scottish Taxpayers were misidentified by HMRC, which meant that the tax they paid was not initially received by the Scottish Government. The data on this has improved since then, and whilst the system can probably never be 100% accurate, it is to all intents and purposes, working for the majority.

27. ICAS does not offer commentary on rates and bands of tax, but it is clear that the Scottish Government has greater flexibility due to its control over these powers than Wales does. ICAS expects that in due course it is highly likely that Wales will wish to move to the Scottish model. Northern Ireland may wish to consider taking cautious steps at the outset and adopt the Welsh model to ensure a greater degree of stability and less fiscal risk.

28. ICAS considers that it is possible to fully devolve taxes such as Stamp Duty Land Tax, Air Passenger Duty, Landfill Tax to Northern Ireland, and that they should be administered by a locally based administrative body (see our comments at para. 17). Revenue Scotland produces an annual statement of its overall costs each year to demonstrate value for money to the taxpayers and citizens of Scotland, and this would be a useful exercise for Northern Ireland should these taxes be devolved fully. Overall, the devolution of these taxes in Scotland has been relatively smooth (Albeit ADP is still to be activated due to ongoing issues with highlands and Islands subsidies) and Northern Ireland could benefit from the Scottish experience.

29. Devolving these taxes would enable the Executive to demonstrate its capability for further devolution down the line, as well as taking the opportunity to engage with its citizens on taxation matters and influence local spending and funding distribution powers.

30. At this stage, ICAS does not recommend the devolution of VAT and excise duties. From our reading of the report, it is clear that further extensive research is needed into both these areas. Data improvements on both fronts are necessary. It may be some years before devolution of these imposts could be effected.

31. Question 3: What are your views regarding the timing for devolution of the taxes as recommended by the Commission?

32. We have seen from the existing Scottish and Welsh models that it is probably sensible to devolve slowly over a number of years rather than introduces many measures at once. This is easier for the public to digest and easier for the devolved jurisdiction to administer. It also ensures that any additional burdens are not front-loaded for taxpayers and businesses.

33. Page 9 of the report highlights the dangers of the timing of devolution with the statement: "Had devolution been progressed 20 years ago, the underperformance of the NI economy relative to that in the UK as a whole could have led to lower tax revenues for the NI Executive than it has received as part of the block grant". This raises the question of whether now is even the right time to consider devolving further taxes to Northern Ireland, given the volatility of the UK economy as a whole in the context of current world events. However, if the way is carefully paved over the next five years or so, and robust fiscal monitoring and forecasting takes place in the lead up, it will become clear when the right time to commence the actual process of devolution is.

34. Ideally speaking, taxes would be devolved over a number of years in line with the recommendations on timeline set out in the Commission report. It does not seem sensible to attempt to cut corners on this issue when stability and public buy-in are key to success.

35. Question 4: What are your views as to how the Executive could best make use of any additional fiscal powers? Should the Executive be seeking such powers to raise or lower certain taxes? Where might the Executive use taxes as policy levers to change behaviours? And do you think increased local taxation should be used to better fund public services in line with local needs and circumstances?

36. The executive could best make use of any additional fiscal powers by utilising it to engender confidence amongst the people and businesses of Northern Ireland. Consulting, surveying and informing the people and businesses will hopefully create an enduring mutual reliance and trust, and this may hopefully also then encourage inward investment into the jurisdiction, leading to a growing economy, more vital labour market and as a result, reduced poverty.

37. Question 5: What are your views on how any newly devolved fiscal powers might be administered?

38. Fully devolved taxes should ideally be administered by a Northern Irish administrative body equivalent to that of Revenue Scotland or the Welsh Revenue which are tasked with administering, enforcing and reporting on tax receipts of those devolved taxes. In our opinion, this has added to transparency because the statistics and figures form part of an autonomous report and are not buried in the reams of information publicised by HMRC each year.

39. It is imperative that any administrator and collector of taxes in Northern Ireland is set up prior to devolution to ensure a smooth transition. There is a concern raised within the report at page 10 of the Executive Summary which highlights the relative weakness in skills and capacity to deliver of the current body of Civil Service in Northern Ireland to build such a resource out of the existing talent pool. As such, it is vital that proper consideration is given to this aspect in tandem with the principal objective of determining the public and business appetite for devolving taxes to Northern Ireland in the first place.

40. ICAS agrees that "a well-functioning system of intergovernmental relations and processes for dispute resolution are essential if fiscal devolution is to work smoothly". The recommendations are sound and we believe that underpinning the Fiscal Framework with robust intergovernmental relations and mutual respect and cooperation is essential if the devolution process is to work to maximum effect.

41. Question 6: Are there any other issues related to fiscal devolution, perhaps not covered in the Commission's Final Report or where you have a different opinion, which in your view should be considered by the Executive?

42. It is vital that Northern Ireland is perceived as an attractive place to live, work, and do business. This would mean configuring any devolved tax system in such as way as to retain its attractiveness, by way of fair and achievable tax measures with a high level of compliance and a sense of citizen-fuelled collective responsibility for raising economic and living standards and remove volatility and uncertainty.

43. For information: ICAS produced an annually updated pamphlet as part of its public interest remit: the ICAS Guide to Scottish Taxes, and we are now expanding upon the success of that pamphlet by producing a Guide to UK Devolved Taxes. Ideally a similar information piece would be created by the Executive to assist public awareness and understanding and incentivise engagement.

Contact us

CA House, 21 Haymarket Yards, Edinburgh, UK, EH12 5BH
+44 (0) 131 347 0100
connect@icas.com | icas.com

@ICASaccounting ICAS – The Professional Body of CAs