

**Memorandum of Understanding
on the Northern Ireland Corporation Tax Rate
between the Department of Finance and Personnel, Northern
Ireland and HM Revenue & Customs**

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Intro	<p>This Memorandum of Understanding (MoU) sets out arrangements between Her Majesty's Revenue & Customs (HMRC) and the Department of Finance and Personnel, Northern Ireland (DFPNI) for setting up and operating Northern Ireland Corporation Tax (NICT). The NICT regime allows the Northern Ireland Assembly (NIA) to set a rate of corporation tax to be applied to certain trading profits arising in Northern Ireland.</p> <p>The NICT rate may be set by the NIA prior to the financial year to which the rate is to apply. Where no rate is set for a particular financial year the rate will be that which applied in the previous financial year. Where no rate is ever set by the NIA the default rate is the main rate of UK corporation tax applicable to the relevant financial year.</p> <p>The NICT rules and policy form part of the UK CT system and will be administered along with the rest of the CT system by HMRC. Interaction with companies liable to pay NICT, including the provision of information, collection and compliance, will be matters for HMRC. Any matters of dispute about assessment or collection of tax or a company's tax affairs will be matters between the relevant company and HMRC.</p> <p>The NIA will be responsible for setting the NICT rate but not for any other element of the tax nor for its administration. However, the NI Executive's (NIE's) budget will bear the costs of setting up and operating NICT as set out below and will benefit from revenue collected.</p> <p>Although the NICT provisions received Royal Assent on 26 March 2015 the Act contains a commencement clause and the UK government has indicated it will not commence the legislation until the NIE's finances are on a sustainable footing. This MoU has no impact upon the timing for the making of the Treasury order under section 5(3) of The Corporation Tax (Northern Ireland) Act 2015 to appoint the first Financial Year to which NICT can apply and does not provide any guarantee that such an order will be made. DFPNI agrees to pay the implementation and change costs provided for under this MoU notwithstanding that an order under section 5(3) of that Act may not have been made. The start date will also be subject to HMRC having sufficient time to develop the necessary IT systems.</p>
1.1	<p>Northern Ireland Corporation Tax Rate – The Corporation Tax (Northern Ireland) Act 2015 ('the 2015 Act'), subject to making the commencement order described above, gives the Northern Ireland Assembly the power to set a rate of corporation tax to be paid by companies on their Northern Ireland trading profits (as defined in sections 357MA and 357NA of the 2010 Act). NICT will be administered by HMRC as part of the UK-wide corporation tax system and applied to qualifying Northern Ireland trading profits. The NIA may set the NICT rate to be zero, or any whole number or fraction of pence in the pound.</p>
1.2	<p>Purpose of this document – This document has been agreed by DFPNI and UK Government. It sets out HMRC's and DFPNI's respective responsibilities in relation to establishing and operating NICT efficiently and effectively. The document provides the framework for inter-government work at ministerial and official level to oversee the establishment and operation of NICT. It has no formal</p>

	<p>legal force but both governments expect its terms to be followed: arrangements for dealing with disputes are set out in the document.</p>
1.3	<p>Project implementation will be overseen by a Project Board to meet quarterly. Formal accountability will rest with Edward Troup, Second Permanent Secretary, HMRC who is the Senior Responsible Officer in HMRC for the project but Project Board meetings will be chaired by the HMRC Senior Business Sponsor – Assistant Director of Corporation Tax, International and Stamps (CTIS) in Business Tax, HMRC.</p> <p>The Project Board would include representatives from HMRC, HMT, NIE and the NIO. Representatives from a variety of HMRC directorates who will be delivering the project will also be invited as appropriate to Board meetings. These are likely to include, for example, representatives from the Policy Delivery Portfolio, Finance and Central Policy as well as from HMRC Business Tax Change Programme which will be managing the project within HMRC. Officials from other NI departments may be invited to attend if relevant to the subject matter under discussion.</p> <p>On setting up of the Project Board, the Board should agree Terms of Reference and the Roles and Responsibilities of the members.</p> <p>The Board will cover the progress and timescales of the implementation work, any risks to delivery, costs and queries around HMRC costs and invoices to DFPNI. It will also agree a communications strategy and consider future reporting and performance information.</p> <p>Although discussion between officials will also occur outside of it as a matter of course – the Project Board is the formal mechanism through which DFPNI and other attendees have the opportunity to fully explore, challenge and assure themselves of issues such as value for money and appropriateness of options available in all aspects of implementation. The Project Board will oversee the required work and seek to make decisions on the basis of consensus.</p> <p>This Project Board will not consider the Block Grant adjustment which will be discussed and agreed separately between NIE/HMT.</p> <p>In addition, a Joint Exchequer Committee (Officials) will be established. During and post project implementation this committee will meet, if required, as a dispute resolution body providing a tier of assurance between the Project Board and Ministers. This committee will only meet where exceptionally the Project Board is unable to resolve a disagreement or in order to fulfil its wider functions as set out elsewhere in Paragraph 1. The Committee will comprise the Senior Responsible Officer for Corporation Tax in DFPNI and the Director of CTIS in HMRC. In addition to its dispute resolution function, the Joint Exchequer Committee (Officials) will have responsibility for ensuring that appropriate governance arrangements are in place for the post implementation phase. Those arrangements will include the quality and cost of service provision, any relevant issues in relation to application of the compliance regime and issues in relation to access to data/information sharing.</p>
1.4	<p>Context – This document reflects:</p> <ul style="list-style-type: none"> • the Memorandum of Understanding and Supplementary Agreements between the United Kingdom Government and the Northern Ireland Executive;

	<ul style="list-style-type: none"> • Cabinet Office devolution guidance notes; and • HM Treasury’s statement of funding policy, “Funding the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly”. <p>The document sets out how the broad approach in these documents will be applied to setting up and operating NICT.</p> <p>The principle of openness also underlies this document. Information in relation to the matters within the scope of this MoU will be shared freely between DFPNI and HMRC, subject to relevant legal or contractual conditions including the Data Protection Acts and the Freedom of Information Acts. Information covered by HMRC’s obligations to protect taxpayer confidentiality will continue to be so covered.</p>
1.5	<p>Dates and timing – this document came into effect on the later of the dates of signature below, following Royal Assent to the 2015 Act. This document has no expiry date, but it will cease to have effect if the Corporation Tax (Northern Ireland) Act 2015 is repealed. The document may only be brought to an end by agreement between DFPNI and HMRC. It will be reviewed at the request of either party, and also one year after the end of the first Financial Year to which an NICT rate applies. That review will be commissioned and directed by the Joint Exchequer Committee (Officials). Any agreed changes to the MoU’s content arising from such a review, or from material changes in the documents listed in 1.4, will be marked by the issue of a new, dated, version number.</p>
1.6	<p>Roles and responsibilities of DFPNI and HMRC – DFPNI and HMRC will each set up governance arrangements for the implementation of NICT – both will be represented on the Project Board.</p> <p>HMRC will develop and test the IT and non-IT systems for the administration of NICT, in consultation with DFPNI, as set out in paragraph 2 below.</p> <p>Following successful conclusion of testing, HMRC will administer NICT, as set out in paragraph 3 below, as part of the UK tax system.</p> <p>HMRC will invoice DFPNI for agreed items of expenditure relating to both development and operation of NICT within the terms set out in paragraph 4 below. Invoices will be sent to DFPNI.</p> <p>DFPNI will make payment to HMRC for amounts invoiced for agreed items of expenditure, as set out in paragraph 4 below.</p> <p>DFPNI will set out a defined process for seeking clearance of NICT decisions in the Assembly, to include appropriate engagement with HMRC, as set out in paragraph 5 below.</p> <p>DFPNI and HMRC responsibilities in relation to the exchange of information are set out in paragraph 7 below.</p>
2.1	<p>Development of IT and administrative systems for NICT – HMRC will develop and test the IT and administrative systems for NICT within the overall NICT Project, managed by the Project Board on which DFPNI is represented. HMRC will keep DFPNI informed of, and will consult DFPNI on, plans, timetables, estimated costs and progress. Where there are material options for developing such systems, HMRC will discuss these, together with cost, risk, efficiency, effectiveness or customer impact factors, with DFPNI before an option is selected. The delivery of IT components will be timed to fit with wider IT system schedules in HMRC, and to ensure that the correct functionality is available to support timely introduction of NICT. HMRC will remain responsible for delivering a system that is able to collect the correct amount of tax on Northern Ireland trading profits as defined in sections 357MA or 357NA of the 2010 Act and provides appropriate control and accounting information by the first year for</p>

	which the NIA has a devolved rate.
2.2	<p>IT systems – HMRC will develop and test the IT systems through its contracted IT suppliers and in accordance with its normal IT development practice. The cost of each item will be kept proportionate. The cost and functionality of the changes to the IT systems will be notified to DFPNI in advance and in detail, subject to any confidentiality rules in prevailing HMRC IT contracts. DFPNI and HMRC will scrutinise costs with a view to keeping these proportionate. Where any concerns remain about a cost, DFPNI – or HMRC on behalf of DFPNI and after discussion with them – may at additional cost request an independent assessment of the estimated costs. This assessment will provide a breakdown of activity required to deliver the functionality necessary and the associated costs, and will provide an opinion on whether the cost estimate appears to be reasonable in the circumstances.</p> <p>HMRC will review with DFPNI plans for testing the IT systems, and DFPNI will have the opportunity to review testing material and the results of the tests. To provide maximum assurance, DFPNI may ask for additional audit work to be undertaken on systems testing and testing results. Where evidence arises that suggests that further assurance is needed about the accurate and reliable operation of the system, the necessary additional testing and related work will be carried out by HMRC and its IT contractor. The cost of any additional work will be met by DFPNI.</p>
2.3	<p>Administrative (non-IT) systems – HMRC will develop and test the administrative systems for NICT in accordance with its normal practice. Unless by exception, a breakdown of the expected costs and activities will be shared with DFPNI before such costs are incurred. The costs of each item will be kept proportionate.</p>
3.1	<p>Continuing operations – After IT changes have been made to deliver NICT, HMRC will maintain its IT and administrative systems from year to year so that NICT continues to operate effectively. If there are any costs chargeable to DFPNI, these will be discussed in advance with DFPNI.</p>
3.2	<p>Northern Ireland companies – HMRC will identify companies who must pay NICT from information on its systems and by interaction with the companies themselves. Companies paying NICT will be identifiable from their CT returns as having paid at the NICT rate.</p> <p>Under current legislation (which is subject to change) larger companies will pay NICT on qualifying trading profits if they have a permanent place of business (or a dependent agent acting on their behalf) in NI. They must allocate profits to be chargeable at the NI rate using rules based on international profit allocation principles. Small and Medium-sized Enterprises which have at least 75% of their employment costs and time arising in NI will pay NICT on all their UK trading profits (other than profits from excluded trades or activities).</p> <p>HMRC will amend the CT600 return and create a new supplementary page to administer the NI CT regime. Companies will indicate on the CT600 the amount of CT payable at the NICT rate. The return process will therefore form part of the existing CT returns process, and so be subject to online filing.</p>
3.3	<p>Service Standards – DFPNI and HMRC may agree a set of standards for the operation of NICT including levels of service to companies in relation to NICT. In particular HMRC will continue to offer services to companies in line with its overall customer strategy. HMRC will produce and maintain a guidance manual on NICT as it does for many areas of the tax system – this is primarily for HMRC staff but will also be made publicly available on the internet. Usual practice will</p>

	<p>be followed, including publication in draft for comment prior to final version publication. HMRC should be the customer's point of contact for NICT administration and compliance matters in all instances.</p>
3.4	<p>Compliance – HMRC will continue to work on identifying changes to its compliance processes and systems required to accommodate NICT and to enable HMRC to effectively address any additional compliance risk associated with NICT. HMRC will develop a compliance strategy and advise DFPNI as to the nature of this risk and compliance proposals in advance of the regime being implemented. HMRC's ongoing additional/marginal costs of addressing compliance risks arising as a result of the separate NICT regime will be borne by the DFPNI. These will be charged for on the basis set out at 4.1 below and further detail on heads of cost to be recharged and the mechanisms for measuring those costs will be included in the separate agreement mentioned in that paragraph.</p>
4.1	<p>Funding and cost recharges – Where HMRC charges for its services, it does so (following HM Treasury policy) at the Full Cost of providing the service, seeking to make clear the breakdown of the calculation. Full Cost is based on the average salary cost for the relevant grade plus per capita overheads such as superannuation, HR, accommodation and finance costs. Where costs are incurred under contract by third parties including HMRC's IT supplier, these will be charged at cost. These costs may be subject to external review and assessment as described in paragraph 2.2 above.</p> <p>DFPNI and HMRC agree to bear the NICT implementation costs as set out at paragraphs 4.2 and 4.3 below, regardless of whether or not the NICT rate setting power is activated. However in the event of a decision not to proceed with the rate setting power (including a deferral), HMRC will invoice DFPNI for costs incurred or already contractually committed to up to the point such a decision is made).</p> <p>HMRC and DFPNI will put in place a separate agreement to address the recharge of ongoing administrative costs, such as compliance matters, at a later date. The process and timeline will be discussed at an early meeting of the Project Board.</p>
4.2	<p>Implementation costs borne by DFPNI – Subject to the arrangements set out in paragraphs 2, 3 and 4.1 above, HMRC will invoice and DFPNI will pay for the following additional or marginal costs of implementation:</p> <ul style="list-style-type: none"> • Capital costs of IT changes to identify Northern Ireland trading profits, and calculate and account for NICT; • Cost of any independent assessment of IT costs requested by, or after consultation with, DFPNI; • Maintenance costs of IT systems, where specific provision is needed for NICT; • Cost of the NICT element of improvements and upgrades to systems, where specific provision is needed for NICT; • Non-IT capital costs relating specifically to NICT; • Project costs of preparation for the introduction of NICT; • Wasted or penalty costs incurred in respect of the project or IT changes as a result of a decision not to proceed with implementation; Any costs of the project or IT changes arising as a result of a deferral of the implementation activity; • Further IT costs associated with internal systems, such as compliance systems, which may arise at a later date; • Staff costs of those directly involved in project management,

	implementation and administrative work, including data analysis work
4.3	<p>Implementation costs borne by HMRC – HMRC will not charge DFPNI for:</p> <ul style="list-style-type: none"> • Cost of changes to IT systems where no specific provision needs to be made for NICT (even if the systems are involved in accounting for NICT); • Cost of changes to IT systems where the aspects relating to NICT cannot reasonably be costed separately; • Cost of changes to IT systems arising from UK Government policy initiatives, even where specific provision is needed for NICT • Costs incurred prior to the signing of this MoU
4.4	<p>Invoicing – HMRC will discuss with DFPNI the invoiced costs and quarterly narrative in advance of the quarterly project board. DFPNI will consider the invoiced costs and quarterly narrative at the relevant Project Board. Where costs have been agreed by the Project Board (or exceptionally where agreement has been reached following a period of dispute resolution) HMRC will invoice DFPNI on an accruals basis for costs incurred no more frequently than monthly and no less frequently than quarterly. DFPNI will make payment to HMRC within 30 calendar days of the invoice date, or within 30 calendar days of receipt of the invoice if there is a delay of more than five calendar days between invoice date and date of receipt.</p>
4.5	<p>Financial Management Guidance – UK Government policy about financial management is set out in the HM Treasury documents “Consolidated Budgeting Guidance” and “Managing Public Money”, which are available on the Treasury website.</p>
4.6	<p>Dispute Resolution – where a dispute arises over a payment in relation to the matters set out in this section, or about other aspects of the implementation of NICT, it will be discussed at the Project Boards put in place by HMRC and the DFPNI to implement NICT and the other aspects of the 2015 Act. If, exceptionally, the matter cannot be resolved there, it will be brought to the attention of the Joint Exchequer Committee (Officials) or ultimately discussion and agreement by Ministers, the Financial Secretary to the Treasury for HMRC and the Minister for Finance and Personnel for DFPNI, whose joint decision will be final.</p>
5.1	<p>Setting the Rate –The NICT rate setting power may not be exercised unless Treasury regulations have been made under section 5(3) of the 2015 Act, specifying the first financial year for which an NICT rate may be set.</p> <p>If such regulations are made, the NIA will not be required to set a particular rate.</p> <p>The NICT rate will be set by the NIA by passing a resolution prior to the commencement of the Financial Year to which the rate applies.</p> <p>The rate does not need to be set annually; if no rate is set for a particular year the rate shall be that which was applicable in the previous year, as set by the NIA. If NIA never set a rate then the rate will default to the UK main rate for the relevant Financial Year.</p> <p>DFPNI and HMRC (inviting HMT to join where appropriate) will hold discussions to share and agree best practices for setting the rate, including for example, how far in advance the NI rate will be set and communicated to HMRC and HMT. DFPNI and HMRC will also agree a process for communicating rate changes, for example publication on the rates pages of the internet.</p>

5.2	Notification of Rate –Resolutions passed by the Northern Ireland Assembly relating to NICT will be a matter of public record.
6.1	Forecasting and payment of tax receipts – Arrangements for forecasting of NICT receipts by the Office for Budget Responsibility (OBR), which will be incorporated into the calculation of NIE’s total budget for each year, and the mechanism for making funds available to NIE, are matters for agreement between NIE, HMRC and HMT, and will be set out in a separate document.
6.2	Accounting, Audit and Assurance – Expenditure and receipts relating to NICT will be identified separately in HMRC annual accounts, which are audited by the National Audit Office (NAO). HMRC will give evidence to Northern Ireland Assembly Committees when required, subject to availability and suitable notice.
6.3	In-year reporting to Minister of Finance and Personnel – Once NICT becomes operational, HMRC will provide information to DFPNI in a form and at a frequency to be agreed throughout the Financial Year, reporting on actual tax receipts and on any issues arising relating to compliance or other matters that are relevant to the collection of NICT. Such work shall be chargeable as per paragraph 4.2 above. HMRC will not supply information that identifies, or may identify, individual taxpayers or engage in discussions with the DFPNI about particular taxpayers’ tax compliance matters. HMRC will ensure a clear process is in place for Assembly Questions to be communicated and addressed.
7.1	Information Sharing – HMRC must provide information to DFPNI that will enable DFPNI Ministers and officials to discharge their duties in respect of Parliamentary accountability, scrutiny, rate setting and forecasting in relation to NICT. Where the provision of information would involve significant analysis time, HMRC will notify DFPNI of the likely cost and time period involved. If DFPNI authorises the work and agrees to pay, HMRC will undertake this work.

Signed on behalf of their relevant organisations:

Colin Sullivan

Director for Strategic Policy and Reform

for Department of Finance and Personnel, Northern Ireland

DATE: 4th December 2015

Martyn Rounding

Assistant Director for Corporation Tax, International and Stamps

for HM Revenue & Customs

DATE: 8th December 2015

Note on signatories:

- It is normal practice for MoUs between departments to be signed by officials.
- In this case, the officials with direct involvement in the relevant issues are the Assistant Director CTIS in HMRC and Director for Strategic Policy and Reform in DFPNI.