

**From the Office of the
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Department of

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5 March 2012

**LEGISLATIVE CONSENT MOTION ON UK FINANCE BILL: PROPOSED
AMENDMENT TO GB FINANCE ACT 1994 – DEVOLUTION OF NORTHERN
IRELAND AIR PASSENGER DUTY FOR DIRECT LONG HAUL FLIGHTS**

You will recall that I recently advised Members on the reduction in the rate of air passenger duty (APD) for direct long haul flights, with effect from 1 November 2011, and also the Chancellor's decision to devolve APD rate setting powers for direct long haul flights departing from Northern Ireland to the Assembly. My recent correspondence advised on the background to this and the rationale behind the proposed devolution of the powers (in respect of direct long haul flights). While the First and deputy First Ministers have already accepted the Chancellor's proposals to devolve APD powers for direct long haul flights in the 2012 UK Finance Bill the consent of both the Executive and Assembly is required to give effect to this.

Members were previously advised on the publication of the draft clauses relating to the APD changes for Northern Ireland. A copy of two HMRC background notes (6 December 2011 and 21 February 2012), draft APD legislative provisions and the associated Explanatory Note are attached (Appendices A - D). The draft provisions are currently subject to consultation. Following this I understand that the final Finance Bill will be introduced to Parliament in late March, with Royal Assent likely to be granted by early autumn.

The cost of devolving the power to set the rates of APD for direct long haul flights has still to be finalised and discussions between DFP and HMT officials are ongoing. The £5m figure shown in the draft Finance Bill legislation is we understand a rounded figure and would represent a maximum amount. The EU Azores criteria will require that we meet the full financial consequences of the devolution decision.

Delivery issues and the need for a Memorandum of Understanding (MoU) with HMRC in relation to the administrative issues/costs associated with the devolution

of APD have also been discussed. An administrative cost estimate is not yet available.

As Members will be aware Westminster will not normally legislate with regard to devolved issues, except with the agreement of the devolved legislature. In this instance the setting of APD rates is not a devolved matter at present. However, the UK Finance Bill changes the legislative competence of the Assembly in relation to APD for direct long haul routes from Northern Ireland, as well as reduces the rates that will apply until that time. A Legislative Consent Motion is therefore needed (Assembly Standing Order 42A) in relation to the provisions of the forthcoming Westminster Finance Bill.

The Finance Bill reduces APD rates for direct long haul passengers travelling from Northern Ireland and also devolves responsibility for setting the rate of APD for direct long haul flights to the Northern Ireland Assembly. An overview of the legislative provisions is set out at Appendix E.

I am content, in principle, to seek the agreement of the Executive to a legislative consent motion being tabled in the Assembly. This is likely to seek agreement to Westminster legislating for the devolution to the Assembly of APD rate setting for direct long haul flights (along with associated consequential provisions, including provision relating to the Consolidated Fund) departing from Northern Ireland. I will also seek Executive agreement to Assembly consent being sought through a legislative consent motion.

If granted, and the inclusion of the relevant APD provisions in the Finance Bill are agreed to by the Executive and Assembly, this would enable the Executive to follow through on the Programme for Government commitment to reduce APD to zero for direct long haul flights from Northern Ireland. An Assembly Bill would subsequently be required to give effect to this. If any agreed changes are to be given effect as soon as possible Accelerated Passage will be necessary.

Prior to Executive consideration I wish to seek the views of the Committee on the issue of legislative consent. It would be my intention to bring a paper to the Executive meeting on 5 April. I would therefore be grateful for the Committee's views as soon as possible. I appreciate that the Committee may consider and report on the legislative consent motion itself in due course.

As Members will be aware officials are due to brief the Committee on APD more generally on Wednesday 14 March and can address any issues the Committee may have in relation to APD and the legislative consent motion at that session.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sammy Wilson', written in a cursive style.

SAMMY WILSON MP MLA