Dear Linda,

Thank you for your letter of 22 November, requesting additional information following the appearance of Scotland Office Ministers in front of the Scotland Bill Committee on the 17 November.

**Joint commencement / joint approval process**

I have made clear that I will consider all the proposals put forward by the Scottish Government carefully; this applies to the proposal on joint commencement as much as any other. I welcomed the opportunity to set out our current consideration of this proposal when I appeared before your Committee on 17 November and I am happy to do so again in this letter.

Before I comment on the Scottish Government’s proposals in detail, I would like to address an important consequence of raising the accountability of the Scottish Parliament: if we transfer tax raising and borrowing powers to the Scottish Parliament, it will require the Scottish Government to manage a degree of fluctuation in its overall budget. That is an inevitable feature of fiscal powers, and it is what all governments around the world need to do.

The Scotland Bill devolves a degree of variability to the Scottish budget, but it does so in a managed way, which limits the uncertainty:

- the block grant will continue to make up around 60 percent of the Scottish Government’s budget;
- Income Tax is one of the most stable taxes; and
- Scottish Ministers will be given access to a range of tools to manage the risk and uncertainty.
If the Scottish Government and Parliament are not willing to take on and manage a degree of fiscal uncertainty, then it is difficult to see how the Scottish Parliament can ultimately be made more accountable. It is even more difficult to see how the Scottish Government would make independence work.

The Scottish Government’s proposals on joint commencement are intended to give the Scottish Parliament more assurance over the block grant adjustment mechanism, but their suggestion will not achieve this. There is currently no independent forecast of Scottish tax receipts. This information will start to be generated from April 2012, but it is only following the implementation of the new Scottish rate of income tax in April 2016 that we will generate data on actual receipts. Implementation of the tax powers can of course only happen after the commencement of the finance provisions in the Scotland Bill. To agree an adjustment to the block grant now – without any reliable information on Scottish tax receipts – or indeed before we start getting data on actual receipts, would be irresponsible.

From the outset, the UK Government has made clear, in the Command Paper, in discussions with the Scottish Government and to both Parliaments, its commitment to the principle of ‘no detriment’: the adjustment model should not generate an unintended transfer of resources to the Scottish budget one way or another. To take a decision on the final adjustment model before both we and the Scottish Government are able to examine actual receipts would not allow us to take an informed, evidence based decision and would put the no detriment principle at risk. Further details on the steps required in advance of the block grant adjustment are provided in the attached annex.

Despite the certainty that the UK Government has already provided on our commitment to the ‘no detriment’ principle, there are a number of additional important factors to bear in mind:

- The adjustment being made to the block grant is only one element that will determine the future Scottish budget. The most important drivers of the long-term impact of the Scotland Bill changes on the Scottish budget are the performance of the Scottish economy and policy decisions made by the Scottish Government using the economic levers already devolved to them, plus the new powers proposed in the bill.

- Year on year, there can be variations between growth in receipts and growth in public spending. Under the Calman model for adjusting the block grant, where tax receipts grow faster than UK public spending (whether this be as a result of economic growth or as a result of Government policy decisions), the Scottish Government will receive more revenue than it would have done under the current Barnett model. Where UK public spending grows faster than tax receipts, the Scottish Government will receive less revenue than it would have done under the current funding model.

Therefore, it is not possible to say definitively what the impact of the changes will be year on year – it will depend on the performance of the Scottish economy and the policy decisions made by the Scottish Government.
The UK Government is focused on delivering a fair outcome for the Scottish budget in adjustments to the block grant, and believes that this should be done through a process of discussion and deliberation between the two governments. We have created a dedicated forum for this to happen in the Joint Exchequer Committee. We have made good early progress, agreeing the principles that will govern the block grant adjustment mechanism.

I believe that the work to date in the Joint Exchequer Committee demonstrates the spirit in which both Governments are approaching this issue. I am confident that we will continue to work together successfully, as we develop the model to calculate the block grant adjustment. As highlighted above, it will be in the 2-3 years following the introduction of the Scottish rate of income tax in 2016, that critical data will be collected. I would not expect either Government to want to take any final decision on the block grant adjustment until that data had been collected and analysed. I expect therefore that both Governments will continue to work together on this issue for some years to come.

I have also considered the examples of previous joint commencement that Mr Crawford cited on 17 November. The examples referred to by Mr Crawford: the Anti-terrorism, Crime and Security Act 2001, the Adoption and Children Act 2002 and the Policing and Crime Act 2009, all involved joint commencement with, or required consultation or consent from, Scottish Ministers. No role was provided for the Scottish Parliament in the examples cited.

Mr Crawford also referred to the situation in Wales, but I do not believe that this provides an appropriate parallel for the circumstances of the Scotland Bill. The Government of Wales Act 2006 allowed Welsh Ministers, by order, to make provision for the Assembly’s enhanced legislative powers to come into force on a specified date, subject to the approval of the Assembly. But this power could be exercised only following an affirmative vote in a referendum and were not joint commencement powers.

**Joint Exchequer Committee**

At the Committee session both John Swinney and I were asked if we would agree to provide the Committee with copies of the papers and minutes from the first meeting of the Joint Exchequer Committee on 27th September. I will discuss formally with the Scottish Government and will write separately on this point.

You also asked for confirmation of whether both parties to the JEC should be in agreement before adjustments to the block grant are made. The primary focus of the JEC is to ensure the successful implementation of the financial provisions of the Scotland Bill. I am confident that this forum will be used effectively to reach mutual agreement.
Crown Estate

You have asked for the costs of the Crown Estate Commissioner’s operations and therefore the net surplus revenue. As you know, such costs incurred by the Crown Estate are not split in this way and any figure provided would have no practical relevance. The overall Crown Estate gross surplus was reduced by 12.6% to arrive at the net surplus for 2010-11 of £230.9m.

You have asked whether I agree that equivalent to 50% or so of the actual net revenue from Scotland could be returning to Scotland. There is no hypothecation of revenues surrendered by the Crown Estate into the Coastal Communities Fund. It is simply that the amount set for the Fund is based upon a proportion of the Crown Estate’s total gross surplus. The amount allocated to Scotland through the Coastal Communities Fund may well represent around 50% of the net revenue surplus generated by the Crown Estate in Scotland but there is no direct linkage between the two.

You have asked two further questions about the Crown Estates costs and devolution. The Crown Estate operates as a UK-wide body and this allows it to manage its resources and allocate investment most effectively. Any change may well have a detrimental impact on the overall surplus revenue generated by the Crown Estate.

Thank you once again for the opportunities to appear in front of the Committee and this further chance to consider issues arising from your scrutiny of the Scotland Bill. I look forward to the Committee’s Report when it is published.

Yours sincerely,

Michael

Rt Hon MICHAEL MOORE MP
SECRETARY OF STATE FOR SCOTLAND
Annex – Steps required in advance of agreeing Block Grant adjustment mechanism

1. The Command Paper has set out the nature of the adjustment to the block grant for the first two to three years of the operation of the Scottish rate of income tax. The UK Government has committed to work with the Scottish Government on the decision about how to adjust the block grant from 2018-19/2019-20 onwards. This is beyond the current Office for Budget Responsibility (OBR) forecast period so data on forecast tax receipts or public spending is not available.

2. From April 2012, independent forecasts of Scottish taxes will start, giving the OBR time to build up forecasting expertise.

3. From April 2016, for the first two to three years of the operation of the Scottish rate of income tax - the transition period - the UK Government will bear the risk of forecasting errors on behalf of the Scottish budget.

4. The Scottish Government will be able to build up a buffer of savings - up to £125m - before it takes on responsibility for managing forecast errors.

5. During the transition period, the UK and Scottish Governments will get valuable data, on forecasting accuracy and provide greater understanding of how UK policy decisions impact on the Scottish tax base. This information will be critical to inform the decision on the final adjustment model, with the actual adjustment to the block grant being made for either the financial year 2018-19 or 2019-20.

6. From the outset, the UK Government has been committed to the principle of 'no detriment': that the final adjustment model should not in itself generate an unintended transfer of resources to the Scottish budget one way or another.