Finance Bill 2012
Minister for Finance Second Stage Speech
14th February 2012

I move that this Bill be read a second time.

Opening Remarks

To begin with, I would like to set out the economic and budgetary context in which I am introducing Finance Bill 2012. Ireland is recovering from the most severe downturn in the history of the State with crises in both the public finances and the banking system. However, we have tackled those challenges head on and the country is now making substantial progress. We are on track to bring the deficit below 3 per cent of GDP by 2015, the banking system has been recapitalised and the economy returned to growth last year.

The outlook is improving. The most recent CSO data show that in the first three quarters of 2011, GDP increased by 0.7 per cent compared to the same period a year earlier. This was thanks to strong export growth which was due in turn to improvements in competitiveness and to Ireland's enduring attractiveness as a destination for foreign direct investment. This strong export performance also means that the current account of the balance of payments is back in surplus. GDP is set to grow again this year and to strengthen over the medium-term.

Progress is being made

Our progress is reflected in the confidence of investors in our ability to successfully tackle our economic and budgetary problems, which has greatly improved in recent months. For example, the yield on 10-year Irish bonds (the notional cost of borrowing for the Government) has more than halved, falling from 14.5 per cent in mid-July to under 7 per cent at the start of February.

On the fiscal side, the public finances have stabilised and the budget deficit has started to decline. This year the deficit will be reduced further to 8.6 per cent of GDP. In order to meet this target, Budget 2012 introduced a package of adjustment measures totalling €3.8 billion. The Government is well aware that these measures will have an impact on the living standards of our citizens. The consolidation package was designed so as to minimise the negative impact upon economic growth and employment. In line with a specific Government commitment, there was no increase in income tax in Budget 2012.

The Finance Bill I am introducing today also contains a number of measures designed to support investment, stimulate research and, ultimately, create jobs. The Bill should be viewed as one element of a wider strategy to support economic activity. My colleague, the Minister for Jobs, Enterprise and Innovation set out a wide range of proposals in the Action Plan for Jobs which was published yesterday.

We do not have limitless resources, therefore we must take those we do have and apply them to areas where there is the best employment potential and returns.

Key measures in Finance Bill 2012

Before I begin to go through the Bill in detail, I would like to draw your attention to a number of the key measures to which it will give legal effect, most of which I already announced in the Budget:

The relief provided under the **Special Assignee Relief Programme, or SARP**, will be available on 30 per cent of income between €75,000 and €500,000. However, PRSI and USC will be payable on all of the income. Let me make it clear to the Deputies, this incentive is about reducing the costs to businesses of attracting key individuals from abroad to work in the Irish based operations of their employer. The relief is designed to help firms who wish to assign employees from other parts of their company to come here to expand or develop their Irish operations which will help retain or increase employment here.

The **Foreign Earnings Deduction** for employees temporarily assigned from Ireland as part of their employment to Brazil, Russia, India, China and South Africa, is designed to incentivise employees to undertake marketing trips to the countries involved, with a view to increasing Irish exports to the large populations of those countries. The deduction is limited to a maximum of €35,000 per annum. A minimum of 60 days must be spent in any of the countries concerned before it can be claimed.

The Bill includes a number of significant enhancements to the **Research and Development or R&D tax credit scheme** as we need to encourage the productive, high value-added sectors of our economy in order to work our way out of the current downturn. The first €100,000 of qualifying R&D expenditure will benefit from the 25 per cent R&D tax credit on a volume basis, subject to certain conditions. This will provide a targeted benefit to Small and Medium Sized Enterprises. In addition, the outsourcing limits for sub-contracted R&D costs are being enhanced while companies in receipt of the R&D credit will have the option to use a portion of the credit to reward key employees who have been directly involved in the creation or development of the R&D process.

The Taoiseach launched a 5-year strategy for the international financial services industry in July last year which contains ambitious jobs targets of 10,000 new jobs over the period. The strategy identifies a competitive and internationally respected tax framework as one of the key foundations for success. Hence, the Bill introduces **a package of measures to support the industry**. The industry employs more than 30,000 people and contributes over €1 billion in tax to the Exchequer. It is no longer based solely in Dublin. Over 30 per cent of those employed in the international financial services industry are located outside Dublin.

The Bill imposes limits on the use of legacy property reliefs. These are in line with the Programme for Government commitment to restrict property tax reliefs and other tax shelters which benefit very high income earners. The proposed measures reflect the findings of the Economic Impact Assessment on the potential for restricting the property-based "legacy" tax relief schemes, which I published with the Finance Bill.

On this basis the Bill contains two measures: -

Firstly, a property relief surcharge of 5 per cent will be imposed on investors with an annual gross income over €100,000. This will apply on the amount of income sheltered by property reliefs in a given year.

Secondly, in respect of Accelerated Capital Allowance schemes, I propose introducing a cap to the effect that investors in such schemes will no longer be able to use any unused capital allowances beyond the tax life of the particular scheme where that tax life ends after 1 January 2015. Where the tax life of a scheme has ended before 1 January 2015, no carry forward of allowances into 2015 will be allowed.

Turning to **Mortgage Interest Relief**, this Finance Bill gives effect to my Budget announcement that fulfils the commitment in the Programme for Government to increase the rate of mortgage interest relief to 30 per cent for first time buyers who took out their first mortgage in the period 2004 to 2008.

As with all time-limited reliefs there will always be people who just miss out, and that is why I have been as flexible as possible with the legislation. However, I do not intend to extend the period any further as the measure would then become less targeted and very costly.

The Bill also provides for my Budget day announcement to reverse the previous Government's decision to reduce mortgage interest relief rates and ceilings for those who wish to buy a home in 2012. Therefore, a first-time buyer will be able to avail of relief at a rate of 25 per cent, on a sliding scale to 20 per cent, on ceilings of €10,000 and €20,000 for single and married. In addition, non-first time buyers will be able to avail of relief at a rate of 15 per cent on ceilings of €3,000 and €6,000 for single and married, respectively.

I should also add, as was decided by the previous Government, that mortgage interest relief will not be available for new purchases from 2013. I do not intend to alter this.

Detail of the measures in the Finance Bill

I will now take you through the Bill and describe the main provisions contained therein. Wherever I make a reference to the TCA, I am of course referring to the Taxes Consolidation Act 1997.

Part 1 of the Bill deals with the Income Levy, Universal Social Charge, Income Tax, Corporation Tax and Capital Gains Tax.

Section 1 is an interpretation section.

Section 2 deals with the Universal Social Charge and provides for my Budget day announcement increasing the lower exemption threshold for the Universal Social Charge from €4,004 to €10,036. The section also includes technical amendments in relation to the application of the USC to share based remuneration and exclusion orders.

Section 3 introduces an additional amount of Universal Social Charge (USC) to be paid by investors in Section 23 and accelerated capital allowance schemes with gross incomes over €100,000. This property relief surcharge, which is effective from 1 January 2012, will apply at a rate of 5per cent on the amount of income sheltered by property reliefs in a given year.

Section 4 of the Bill provides for a number of changes to income tax and USC as they apply to share-based remuneration.

Section 5 extends the relief on retirement for certain income of certain sportspersons to professional cricket players and consequently enables them to avail of the higher rate of relief on pension contributions made under TCA Section 787 (8A).

Section 6 (with section 91) provides for changes to the interim tax-based health insurance scheme. Section 6 makes changes to the age related income tax credit for 2012. The credits will be in five-year bands for individuals aged between 60 and 84 and a final band for individuals aged 85 and over.

Section 7 gives effect to the Budget day announcement that the tax exemption for the first 36 days of Illness Benefit and Occupational Injury Benefit would be removed. This is a measure to reduce absenteeism at work. In some circumstances, for example, where an employee goes sick and continues to be paid by the employer, the employee can be better off financially on sick leave than when working. This change seeks to remove the tax exemption that applies to the first 6 weeks of Illness Benefit and Occupational Injury Benefit in each tax year in order to avoid such a situation.

Sections 8 and 9, together with section 26 provide for the changes to the R&D tax credit scheme, Mortgage Interest Relief, both of which I've already referred to, and certain other changes.

Section 10 provides that those signing for PRSI credits can now qualify for the Revenue Job Assist scheme.

Section 11 increases the amount of the fees disregarded in relation to claims for tax relief on third level fees. For claims where any of the students are in full-time education, the disregard is increased from €2,000 to €2,250. Where all of the fees paid relate to part-time education, the disregard is increased from €1,000 to €1,125. These changes are in line with the increase in the student contribution announced by the Minister for Public Expenditure and Reform.

Sections 12, 13 and 14 relate to the introduction of the Special Assignee Relief Programme and the Foreign Earnings Deduction, which I have mentioned earlier.

Section 15 addresses anomalies created by undesired interactions between the High Earners' Restriction and the "clawback" provisions under the Section 23-type reliefs as well as the balancing charge/allowance provisions under the property-based Accelerated Capital Allowances schemes. Provision is also made to remove the proposals relating to Section 23-type reliefs provided for in Section 24 of Finance Act 2011, which were subject to a Commencement Order.

Section 16 provides that investors in accelerated capital allowance schemes will no longer be able to use any capital allowances beyond the tax life of the particular scheme where that tax life ends after 1 January 2015. I have already spoken about this.

Section 17 gives effect to a number of changes announced in the Budget in the broad pensions tax area. The Bill provides for the increase from 5 per cent to 6 per cent in the annual imputed distribution which applies to the value of assets in an Approved Retirement Fund, or ARF, where such funds have asset values in excess of €2 million. The imputed distribution arrangements are also being extended to "vested" PRSAs on the same basis. Section 17 also includes provisions to mitigate the harsher impacts at retirement for certain individuals resulting from the significant reduction to €2.3 million in the maximum allowable pension fund at retirement for tax purposes (the Standard Fund Threshold or SFT).

Section 18 of the Bill amends the Taxes Consolidation Act to reflect the CAT modernisation provisions

Section 19 makes a number of amendments to the tax treatment of farmers. These relate to carbon tax computation, Young Trained Farmers courses and enhanced stock relief in certain circumstances.

Section 20 relates to Professional Services Withholding Tax and makes the annual update to Schedule 13 of the Taxes Consolidated Act, the schedule of accountable persons.

Section 21 introduces changes to the legislative framework underpinning the new modernised electronic Relevant Contract Tax (e-RCT) regime that came into effect on 1st January 2012.

Section 22 amends the scheme of tax relief for expenditure incurred on the restoration and maintenance of significant buildings and gardens. In order to qualify for the relief in future, the relevant building or garden must be open to the public during National Heritage Week.

Section 23 gives effect to amendments to the Relief for Investment in Films. The changes are aimed at encouraging compliance by qualifying companies with the reporting requirements of the scheme.

Section 24 of the Bill extends to end-2014 the scheme of relief for investment by companies in renewable energy projects which was due to cease last year.

Section 25 brings into primary legislation the changes to the Employment and Investment Incentive, the successor to the Business Expansion Scheme, which were originally introduced by way of a Budget day financial resolution.

As previously mentioned, **Section 26** of the Bill contains further enhancements and some largely technical and administrative changes to the R&D tax credit scheme.

Section 27 increases the tax rates for life assurance policies and investment funds by 3 per cent. The increased rates apply to payments and deemed payments on or after 1 January 2012.

Section 28 exempts pension funds from Life Assurance Exit Tax. This is in keeping with the current exemption from Investment Fund Exit Tax and overall exemption for pension funds from Income Tax and Capital Gains Tax.

Section 29 aligns the rate of exit tax on collective investment undertakings with the rate applying to entities which are subject to the "gross roll-up" regime, at 30 per cent.

Section 30 amends the "equivalent measures" regime in relation to exit tax for investment funds

Section 31 will remove a technical liability to Irish tax arising from the exchange of units in an Irish Exchange Traded Fund.

Sections 32, 33 and 34 will accommodate cross-border mergers of investment funds and new "master-feeder" structures envisaged under the recently implemented UCITS IV Directive.

Section 35 gives effect to the increase in the standard Deposit Interest Retention Tax (DIRT) rate by 3 percentage points to 30per cent. The rate for certain longer term savings products has also been increased by 3 percentage points to 33per cent.

Section 36 makes two minor amendments to TCA Part 8A which governs the taxation of Islamic Finance transactions in order to improve the functioning of those provisions.

Section 37 modernises arrangements for the payment of Encashment Tax, which is a withholding tax on certain Irish public revenue payments and payments of foreign income via Irish paying agents.

Section 38 aims to improve the competitiveness of the Irish debt market by extending the exemption contained in TCA section 198 to include certain interest payments, namely Eurobonds, wholesale debt instruments and asset covered securities.

Section 39 contains a technical amendment to TCA section 80A to ensure that the provision operates as originally intended.

Section 40 amends TCA section 110 in three ways. Firstly, it extends the range of "carbon offsets" that a section 110 company can acquire to include forest carbon credits. Secondly, it amends the definition of a qualifying company to require notification to Revenue within a specific timeframe. Lastly, it ensures that the 2011 Finance Act amendments do not apply to a company operating in the State through a branch or agency.

Section 41 introduces a new TCA section 452A to amend the interest deductibility rules to facilitate cash-pooling business in the corporate treasury sector.

Section 42 makes amendments of a technical nature to TCA sections 238 and 241.

Section 43 aims to provide clarity and certainty on two specific issues insofar as the transactions of companies operating within the EU Emissions Trading Scheme are concerned.

Section 44 extends the scheme which provides relief from corporation tax on the trading income and certain gains of new start-up companies in the first 3 years of trading so as to include start-up companies which commence a new trade in 2012, 2013 or 2014.

Section 45 adds the Sustainable Energy Authority of Ireland and the Food Safety Authority of Ireland to the list of State bodies that are exempt from tax on certain income thereby avoiding circular payments into and out of the Exchequer**.**

Section 46 extends the current group relief rules in TCA section 411 so that losses can be transferred between two Irish resident companies where those companies are part of a 75per cent group involving companies who are either resident in a jurisdiction with whom Ireland has a treaty, or "quoted" on a recognised stock exchange.

Section 47 concerns a minor technical amendment to our transfer pricing legislation.

Sections 48 and 49 amend the computational rules under which relief for foreign tax, suffered on royalty payments, is given.

Section 50 amends Irish tax legislation to reflect recent changes in company law.

Section 51 extends the existing unilateral credit relief, which currently applies to royalty payments, to include equipment lease rental payments. This measure will be of particular benefit to the aircraft leasing industry.

Section 52 provides for the taxation at 12.5per cent (instead of 25 per cent) in the hands of an Irish resident company of foreign sourced dividends paid out of the trading profits of privately held companies in countries with which Ireland does not have a tax treaty but which have joined the OECD Convention on Mutual Administrative Assistance in Tax Matters.

Section 53 provides for a schedule of required amendments to the TCA resulting from the termination of manufacturing relief at end- 2010.

Section 54 provides for the Capital Gains Tax (CGT) rate increase from 25per cent to 30per cent as announced on Budget day.

Section 55 provides that shares in an Irish incorporated company will be treated as located in Ireland for CGT purposes, to ensure they are within the charge to Irish tax.

Section 56 will ensure the occurrence of a contingent liability will not lead to a repayment of tax unless the liability has been paid.

Sections 57 and 58 modify CGT retirement relief to encourage timely transfers of farms and businesses.

Sections 59 and 61 of the Bill provide for CGT exemptions for State bodies, namely Teagasc, local government corporate service bodies, the Grangegorman Development Agency, and disposals by the Dublin Institute of Technology to the Grangegorman Development Agency.

Section 60 provides that compensation for giving up the right to cut turf in special areas of conservation will be exempt from CGT.

Section 62 gives effect to the property incentive announced in the Budget, under which property purchased up to the end of 2013 and retained for at least seven years will be relieved from Capital Gains Tax on the part of the gain attributable to the initial seven year holding period.

Section 63 closes off two avoidance schemes involving offshore trusts, whereby individuals have become temporarily non-resident or were temporarily removed and then re-instated as trust beneficiaries to avoid a CGT liability.

Part 2 of the Bill deals with Excise.

Sections 64, 66, 69 and 70 give effect to the increases from €15 to €20 per tonne in the carbon tax announced in the Budget. The increases took effect from midnight on 7th December for auto-fuels and will take effect for all other mineral oils and natural gas from 1st May next. This Bill includes a provision for a partial relief from the carbon tax for certain combined heat and power installations not covered by the EU Emissions Trading Scheme (ETS).

Section 65 relates to the Budget increase in the rates of Tobacco Products Tax which, when VAT is included, amount to 25 cent on a packet of 20 cigarettes with pro-rata increases on other tobacco products. The increase, which came into effect on Budget night, is estimated to raise €41 million in 2012.

Section 66 introduces measures to support enforcement work by facilitating monitoring and supervision of the oils supply chain. A new licensing requirement will apply to dealers in marked fuels, putting them on the same footing as persons who deal in auto-fuels.

Sections 67 and 68 are both technical, linked to a modernisation of Excise Law currently being drawn up by Revenue in the form of the Excise Consolidation Bill.

Section 71 relates to the Export Refund Scheme which will allow for a refund of VRT contained in a vehicle on the permanent export of the vehicle. This will benefit the industry by restoring balance to the sector in the context of the number of imported cars.

Part 3 of the Bill deals with Value-Added Tax.

Section 72 is an interpretation section.

Section 73 provides for the strengthening of VAT Ministerial orders following advice from the Office of the Attorney General. In conjunction with **Sections 79, 80 and 81**, it also provides a mechanism to recover VAT and impose interest and penalties, where VAT has been improperly claimed and refunded under any VAT Refund Order. This is an anti-avoidance measure.

Section 74 and **Section 78** make a number of changes to the VAT rules regarding property.

Section 75 gives effect to the Budget increase in the standard rate of VAT from 21per cent to 23per cent from 1 January 2012.

Section 76 removes a provision that allows a Travel Agent Margin Scheme operator to issue travellers with a VAT receipt for conference accommodation, as it is contrary to the EU VAT Directive and is not used in practice. This will not affect the deductibility in relation to conference accommodation where the accommodation is supplied under the normal VAT system.

Section 77 ensures that the current general six-year requirement to keep records and underlying documentation, that exists for all other taxpayers, will also apply to companies in liquidation and companies that are dissolved.

Section 82 revises the definition of bread for the purposes of the application of the zero rate of VAT, to reflect the breads currently available on the market, taking account of the development of bread for health, ethnic and other reasons.

Section 83 reduces the VAT rate applicable to district heating to 13.5per cent with effect from 1 March 2012. It also brings the rate of VAT on admissions to open farms down to the 9per cent reduced rate, consistent with the application of this rate to the tourist industry last year.

Part 4 of the Bill deals with Stamp Duties.

Section 84 is an interpretation section.

Section 85 provides for the introduction of a single Stamp Duty rate of 2per cent on transfers of non-residential property, including commercial and industrial property and farm land. The section also provides for the abolition of consanguinity relief with effect from 1 January 2015. The reduction in the Stamp Duty rate, together with the CGT property incentive mentioned earlier, will facilitate a recovery in the commercial property market.

Sections 86 to 90 provide for a number of exemptions and reliefs from Stamp Duty. These include an exemption for the Grangegorman Development Agency, relief from Stamp Duty for mergers of Irish public limited companies and for cross-border company mergers and a number of other technical changes. In particular Section 88 contains nine separate technical stamp duty amendments which extend the range and scope of stamp duty exemptions applying to certain financial transactions and confirm the stamp duty treatment of options over shares.

Section 91 gives effect to the new rates of the Health Insurance Levy for 2012 of €285 for individuals aged 18 years or over and €95 for individuals aged under 18 years.

Section 92 adds a course to the qualifying courses for Stamp Duty relief for young trained farmers. The same course has been added to the list of courses for stock relief for young trained farmers.

Section 93 of the Bill modernises the administration of Stamp Duty and puts it on a self-assessment footing, in common with other taxes.

Part 5 of the Bill deals with Capital Acquisitions Tax.

Section 94 is an interpretation section.

Section 95 provides for the CAT changes announced in the Budget – the increase in the rate from 25per cent to 30per cent and the reduction in the Group A tax-free threshold, for gifts and inheritances between parents and children, to €250,000. The section also provides for the breaking of the link between the tax-free thresholds and the Consumer Price Index.

Sections 96 and Section 101 make a number of technical changes to the CAT Consolidation Act.

Sections 97, 98 and 100 contain various anti-avoidance provisions.

Section 99 relates to the exemption from CAT on the gift or inheritance of heritage property where the property is sold to certain State bodies. The list of such bodies is being updated to cover cultural institutions funded by the Department of Arts, Heritage and the Gaeltacht.

Section 102 moves the pay and file date for CAT from 30 September to 31 October, in response to concerns about the payment of CAT for individuals receiving an inheritance close to the filing date.

Part 6, the final part of the Bill, covers Miscellaneous provisions.

Section 103 is an interpretation provision.

Section 104 amends TCA Section 886 to ensure that the current general six-year requirement to keep records and underlying documentation, that exists for all other taxpayers, will also apply to companies in liquidation and companies that are dissolved.

Section 105 modifies the provision introduced by Section 77 of Finance Act 2011 relating to exchange of information and taxpayer confidentiality.

Section 106 amends the legislation on the automatic reporting by Investment Undertakings to provide for the automatic annual reporting of values, rather than payments.

Section 107 will require merchant acquirers and third party payment processors to make regular automatic returns to Revenue of all amounts credited to traders. This is in response to emerging evidence that some businesses may be underreporting card payment transactions.

Section 108 ends a temporary exemption for certain interest payments under the EU Savings Directive, which provides for the reporting of payments by financial institutions in one EU Member State of interest payments made to residents of another Member State.

Section 109 extends TCA section 1077E, which provides for penalties for deliberately or carelessly making incorrect returns, to cover returns required in respect of the Domicile Levy and the Universal Social Charge.

Section 110 introduces a provision whereby the Collector-General may require a tax defaulter who does not engage effectively with the Collector to complete a statutory statement of affairs. Failure to do so will be a Revenue offence.

Section 111 will enable Revenue to require a taxpayer who has had a significant previous tax default to provide Revenue with a bond covering fiduciary taxes. Failure to provide such a bond would render the person liable to a criminal penalty.

Section 112 will provide Revenue with powers similar to those contained in the Criminal Justice Act 2011 regarding the provision of documents or information and in relation to privileged legal material. These powers would only be available where Revenue are investigating serious tax offences.

Sections 113 and 114, and Schedules 4 and 5 make a number of administrative changes in relation to assessment and in relation to the administration of direct taxes.

Section 115 places the long standing Revenue practice of publishing details of the names and the associated works of artists that qualify for the artists' exemption on a statutory basis.

Section 116 will facilitate the submission of financial statements in electronic format with Corporation Tax returns via the Revenue Online System, or ROS as it is commonly known.

Section 117 makes provision for amendments to the taxation for civil partnerships. It provides recognition in tax law of legally binding maintenance agreements made on the breakup of a civil partnership and ensures that civil partners, whose partnership has broken down but who are still living under the same roof, may also obtain the same tax treatment as formerly married couples in similar circumstances.

Section 118 ceases Section 161 of Finance Act 2010. This section gave effect to a voluntary gift scheme for members of the judiciary and military judges. However, as a consequence of the Referendum in October and the subsequent passing of the legislation which relaxed the previous prohibition on the reduction of salaries of the judiciary, this provision is redundant.

Section 119 provides that the Irish citizenship condition for the payment of the Domicile Levy will be abolished for tax years from 2012 onwards.

This means it will not be possible for an individual, who would otherwise be subject to the levy, to avoid it by renouncing Irish citizenship.

Section 120 sets out additions to the list of Double Taxation Agreements (DTAs) and Tax Information Exchange Agreements (TIEAs) between Ireland and other jurisdictions. Following the enactment of this Bill, Ireland will have concluded DTAs with 65 countries and TIEAs with 19. Negotiations to conclude a number of other agreements are ongoing.

Finally, **Section 121** addresses miscellaneous technical amendments in relation to tax, while **Sections 122, 123 and 124** cover standard annual provisions.

Conclusion

At this stage, there are still a small number of matters under consideration for inclusion in the Finance Bill that I may bring forward at Committee Stage and Report Stage. I will, of course, also give consideration to any constructive suggestions put forward during our debate today, tomorrow and Thursday.