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MALTA

KAMRA TAD-DEPUTATI

HOUSE OF REPRESENTATIVES

ABBOZZ ta' Ligi mressaq mill-Onorevoli John Dalli, M.P., Ministru tal-Finanzi, u moqri għall-Ewwel darba fis-Seduta tad-29 ta' Novembru, 1993.

A **BILL** introduced by the Honourable John Dalli, M.P., Minister of Finance, and read the First time at the Sitting of the 29th November, 1993.

ATT biex ikompli jemenda l-Att dwar it-Taxxa fuq l-*Income*, Kap. 123.

AN ACT further to amend the *Income Tax Act*, Cap. 123.

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

RICHARD J. CAUCHI
Clerk to the House of Representatives

ABBOZZ TA' LIĠI
msejjah

*ATT biex ikompli jemenda l-Att dwar it-Taxxa fuq l-Income,
Kap 123.*

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati imlaqqgħa f'dan il-Parlament, u bl-awtorita' ta' l-istess, hareġ b'liġi dan li ġej:

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1993 li jemenda l-Att dwar it-Taxxa fuq l-*Income*, u għandu jinqara u jiftiehem haġa waħda ma' l-Att dwar it-Taxxa fuq l-*Income*, hawnhekk iżjed 'il quddiem imsejjah "l-att prinċipali".

Titolu fil-qosor u bidu
fis-sehh.
Kap. 123

(2) Dan l-Att għandu jibda jsehh f'dik id-data li l-Ministru risponsabbli għall-finanzi jista' b'avviz fil-*Gazzetta* jistabbilixxi.

2. (1) It-Taqsimiet, l-artikoli, is-subartikoli, il-paragrafi u sub-paragrafi ta' l-att prinċipali kif fis-sehh qabel il-bidu fis-sehh ta' dan l-Att għandhom jiġu numerati mill-ġdid kif jidhru fl-*Ewwel Skeda* li tinsab ma' dan l-Att.

Numerazzjoni mill-ġdid
ta' dispożizzjonijiet.

(2) Kull referenza fl-att prinċipali kif fis-sehh qabel il-bidu fis-sehh ta' dan l-Att għandha titqies u tiftiehem bħala referenza għat-Taqsima, artikolu jew parti minnu kif numerati mill-ġdid b'dan l-Att, u l-att prinċipali qed jiġi hekk emendat.

(3) Bla hsara għad dispożizzjonijiet tas-subartikolu (4) ta' dan l-artikolu, referenzi f'dan l-Att għal Taqsima, artikolu, subartikolu, paragrafu jew sub-paragrafu ta' l-att prinċipali huma referenzi għat-Taqsima, artikolu, subartikolu, paragrafu jew sub-paragrafu relattivi tiegħu kif numerati mill-ġdid bis-saħħa tas-subartikolu (1) ta' dan l-artikolu.

(4) Minkejja d-dispożizzjonijiet tas-subartikolu (3) ta' dan l-artikolu, it-Taqsimiet u l-artikoli ta' l-att prinċipali li huma mhassra bis-saħħa ta' l-artikolu 3 ta' dan l-Att, għandhom jiftiehem bħala referenzi għal dawk it-Taqsimiet u artikoli ta' l-att prinċipali kif fis-sehh qabel il-bidu fis-sehh ta' dan l-Att.

Thassir ta' ċerti dispożizzjonijiet ta' l-att prinċipali

3. It-Taqsimiet u l-artikoli li ġejjin ta' l-att prinċipali għandhom jithassru, iġifieri:

- (a) Taqsima II, artikoli 3 u 4;
- (b) L-artikoli 35, 36, 37, 38 u 39;
- (ċ) Taqsima X, l-artikoli mil-43 sal-61, it-tnejn inklużi;
- (d) Taqsima XI, l-artikoli 62, 63, 64 u 65;
- (e) Taqsima XII, l-artikoli 66, 67, 68, 69, 70 u 71;
- (f) Taqsima XIII, l-artikoli 72, 73, 74, 74A, 75, 76, 77 u 78;
- (g) L-Artikolu 79;
- (h) Taqsima XV, l-artikoli mil-86 sa 93, it-tnejn inklużi; u
- (i) Taqsima XVI, l-artikoli 94 u 95.

Emenda ta' l-artikolu 2 ta' l-att prinċipali.

4. Fis-subartikolu (1) ta' l-artikolu 2 ta' l-att prinċipali:

(a) it-tifsira ġdida li ġejja għandha tidhol minnufih wara t-tifsira ta' "*income taxxabbli*":

"skema ta' investiment kollettiv" tfisser kull skema jew arrangament b'licenzja taht l-Att ta' l-1993 dwar Servizzi ta' Investiment;

Thassir ta' ċerti artikoli ta' l-att prinċipali.

(b) fil-paragrafu (b) tat-tifsira ta' "kumpannija" il-kliem "li tipprowa għas-sodisfazzjon tal-Kummissarju li mhux iktar min għaxra fil-mija tal-kapital tiegħu jew tas-setgħa ta' vot tiegħu jkunu proprjeta' ta', jew ikkontrollati minn, direttament jew indirettament, xi persuna jew persuni residenti f'Malta" għandhom jithassru;

(ċ) it-tifsira ġdida li ġejja għandha tidhol minnufih wara t-tifsira ta' "imgħax fuq obbligazzjonijiet":

"profitti li jistgħu jitqassmu" tfisser il-profitti totali li jkunu disponibbli biex jitqassmu minn kumpannija residenti f'Malta skond il-liġijiet li matul dak iż-żmien ikun fis-seħh f'Malta, u l-profitti li jistgħu jitqassmu għandhom, għall-finijiet ta' dan l-Att, ikunu allokatu fil-kontijiet li ġejjin, jigifieri, kont ta' *income* barrani, kont intaxxat f'Malta, u kont mhux intaxxat, u għall-finijiet ta' din it-tifsira l-kontijiet jinkludu biss il-profitti li jistgħu jitqassmu kif muri fit-tifsiriet rispettivi";

(d) it-tifsiriet ġodda li ġejjin għandhom jidhlu minnufih wara t-tifsira ta' "*dividend*":

"schem b'ekwita" tfisser schem tal-kapital ta' l-azzjonijiet nominali f'kumpannija meta dak is-schem jagħti l-jedd lill-azzjonist li jivvota, li jaqsam fil-profitti li jkun hemm għat-tqassim bejn l-azzjonisti u l-attiv li jkun hemm biex jitqassam fil-każ ta' xoljiment ta' dik il-kumpannija, u "azzjonijiet b'ekwita",

"azzjonist b'ekwita" u "sehem fazzjonijiet b'ekwita" għandhom jiftiehem f'dan is-sens;

"kont ta' *income* barrani" għandha b'seħħ mis-sena li taħbat minnufih qabel is-sena ta' stima 1995, tfisser kull waħda mill-kategoriji li ġejjin ta' profitti li jistgħu jitqassmu li jinqalghu f'dik is-sena u fi snin sussegwenti sal-limitu li dawn jirriżultaw minn *income* taxxabli:

(a) profitti li jirriżultaw minn kull dividendi, qliegħ kapitali, imghax, *royalties*, kera u minn kull *income* ieħor li hu sugġett għat-taxxa f'Malta, li jista' jiġi riċevut minn kumpannija residenti f'Malta li ma tkunx kumpannija registrata taħt l-Att dwar iċ-Ċentru għas-Servizzi Finanzjarji ta' Malta u li jiġi, meta applikabbli, minn investimenti sitwati barra minn Malta; u Kap 330

(b) kull profitti jew qliegħ ta' kumpannija residenti f'Malta, li huma sugġetti għat-taxxa f'Malta u li jkunu attribwibbli għal stabbiliment permanenti (inkluża fergħa) sitwata barra minn Malta, u għal dawn il-finijiet profitti jew qliegħ għandhom ikunu kkalkolati bħal li kieku l-istabbiliment permanenti kien mpriza indipendenti li taħdem f'kundizzjonijiet simili u *at arm's length*; u

(ċ) profitti li jirriżultaw minn dividendi li jithallsu mill-kont ta' *income* barrani ta' kumpannija oħra residenti f'Malta:

Iżda fil-każ ta' kumpannija li tmexxi n-negozju ta' assigurazzjoni, jew xi kumpannija oħra li tkun proprjeta' ta' u kontrollata minn, direttament jew indirettament, kumpannija ta' l-assigurazzjoni bħal dik, il-profitti li kien imisshom ikunu allokatu skond id-dispożizzjonijiet ta' hawn fuq, tal-kont ta' *income* barrani, ma jkunux hekk allokatu għal xi sena finanzjarja:

Iżda wkoll fil-każ ta' kumpannija li tkun liċenzjata bħala bank f'Malta jew li tkun parti minn grupp bankarju kif imfisser hawn taħt, kull profitti li kien imisshom ikunu allokatu, skond id-dispożizzjonijiet ta' hawn fuq tal-kont ta' *income* barrani, ma jkunux hekk allokatu għal xi sena finanzjarja kemm il-darba:

(a) iktar minn hamsa u disghin fil-mija (95%) tal-medja tad-depożiti ta' kuljum tagħha jittieħdu minn persuni li m'humiex residenti f'Malta; u

(b) meta l-kumpannija tkun parti minn grupp bankarju, dak il-grupp jikkwalifika, fuq bażi konsolidata, il-htieġa speċifikata fil-paragrafu (a) ta' hawn fuq.

Għal finijiet ta' dan il-proviso:

(a) "grupp bankarju" tinkludi biss kumpanniji registrati f'Malta, li għall-anqas waħda minnhom tkun bank liċenzjat f'Malta, u liema kumpanniji jkunu membri ta' grupp bankarju ta' kumpanniji. Żewġ kumpanniji jitqiesu li huma membri ta' grupp bankarju ta' kumpanniji jekk waħda minnhom

tkun affiljata b'ghaxra fil-mija mal-kumpanija l-oħra jew jekk iż-żewġ kumpaniji jkunu affiljati b'ghaxra fil-mija ma' terza kumpanija. Għal dan l-ghan, kumpanija titqies li tkun affiljata ma' kumpanija oħra (kumpanija *parent*):

(i) jekk u sakemm iktar minn ghaxra fil-mija tal-kapital azzjonarju ordinarju tagħha u iktar min ghaxra fil-mija tal-jedd tal-vot tagħha jkunu proprjeta', direttament jew indirettament, tal- kumpanija *parent*; jew

(ii) il-kumpanija *parent* ikollha jedd tibbenefika direttament jew indirettament minn iktar minn ghaxra fil-mija ta' kull profitti li jkunu disponibbli għal-tqassim lill-azzjonisti ordinarji tal-kumpanija affiljata; jew

(iii) il-kumpanija *parent* ikollha jedd tibbenifika direttament jew indirettament minn iktar minn ghaxra fil-mija ta' l-attiv tal-kumpanija affiljata li jkun disponibbli għal tqassim lill-azzjonisti ordinarji tagħha f'każ ta' xoljiment:

Izda minkejja d-dispożizzjonijiet ta' hawn fuq, kumpanija li tkun giet akkwistata minn bank bi hlas ta debitu u li xort'oħra ma tagħmilx parti min-negożju tal-bank għandha titqies li ma tagħmilx parti minn grupp bankarju;

(b) "il-medja tad-depożiti ta' kuljum" għandha tinhadem billi jittiehed it-total tad-depożiti fl-aħħar ta' kull jum għas-sena finanzjarja u jkun diviż bin-numru ta' jiem f'dik is-sena finanzjarja, u l-medja tad-depożiti ta' kuljum li jsiru minn persuni li m'humiex residenti f'Malta għandha tinhadem bl-istess mod. Il-kelma "depożiti" għandha l-istess tifsir kif mogħti lilha bl-Att ta' l-1994 dwar il-Kummerċ Bankarju;

(ċ) l-ammont tal-medja tad-depożiti konsolidati ta' kuljum ta' grupp bankarju għandu jinkludi biss depożiti aċċettati minn kumpaniji li jagħmlu parti minn grupp bankarju li jsiru minn persuni li ma jkunux dawk il-kumpaniji:

Izda fl-aħħarnett, fil-każ ta' "kumpaniji b'kummerċ internazzjonali" il-profitti li, skond id-dispożizzjonijiet ta' hawn fuq kien imisshom ikunu allokati lill-kont ta' *income* barrani, m'għandhomx għal xi sena finanzjarja, ikunu hekk allokati.";

(e) it-tifsiriet godda li ġejjin għandhom jidhlu minnufih wara t-tifsira ta' "persuna inkapaċitata":

" "Kumpanija b'Kummerċ Internazzjonali" tfisser kumpanija registrata f'Malta li xogħolha jkun li taħdem

f'Attivitajiet ta' Kummerċ Internazzjonali u li l-ghanijiet tagħha jkunu espressament limitati għal dawk l-attivitajiet u biss għal dak ix-xogħol l-iehor li jkun meħtieġ biex taħdem minn Malta - iżda t-tmexxija ta' attivitajiet kummerċjali ma':

- (a) kumpanniji li jaħdmu fil-manifattura, immuntar jew proċess ta' oġġetti f'Malta meta dawk l-attivitajiet jinkludu x-xiri ta' dawk l-oġġetti minn Kumpanniji b'Kummerċ Internazzjonali biex jiġu esportati;
- (b) kumpanniji reġistrati f'Malta taħt l-Att dwar iċ-Ċentru għas-Servizzi Finanzjarji ta' Malta; u
- (c) Kumpanniji b'Kummerċ Internazzjonali ohra;

għandha, safejn din tkun kumplimentari għat-tmexxija ta' Attivitajiet ta' Kummerċ Internazzjonali, titqies li hi tmexxija ta' attivitajiet legittimi ta' kumpannija ta' Kummerċ Internazzjonali.

Għal finijiet ta' din it-tifsira "Attivitajiet ta' Kummerċ Internazzjonali" tfisser it-tmexxija ta' kull negozju jew attivita' ohra minn Malta ma' persuni mhux residenti f'Malta";

(f) it-tifsiriet godda li ġejjin għandhom jidhlu minnufih wara t-tifsira ta' "Malta":

"kont intaxxat f'Malta" tfisser dawk il-profitti ta' kumpannija li ma jkunux inklużi fil-kont ta' *income* barrani u:

- (a) li jkunu ġew intaxxati; jew
- (b) ikunu ġew eżentati mit-taxxa taħt id-dispożizzjonijiet ta' xi liġi ta' Malta u meta t-tqassim ta' dawk il-profitti mill-kumpannija jkun ukoll eżentat mit-taxxa f'idejn l-azzjonisti; jew
- (c) li jirrappreżentaw, meta kumpannija tagħmel talba kif maħsub taħt is-subartikolu (7) ta' l-artikolu 8 ta' l-Att dwar l-Iżvilupp Industrijali, id-differenza bejn it-tnaqqis li kumpanija tkun talbet taħt id-dispożizzjonijiet ta' l-imsemmi artikolu u t-tnaqqis maħsub fil-paragrafi (f) u (j) tas-subartikolu (1) ta' l-artikolu 14 ta' dan l-Att:

Izda dik id-differenza li għandha tiġi hekk inkluża m'għandhiex tkun iżjed mid-differenza fl-*income* li kienet tkun sugġetta għat-taxxa, u li setgħat titqassam mill-kumpannija bhala dividend lill-azzjonista tagħha, jekk il-kumpannija ma kellhiex jedd għal tnaqqis taħt l-artikolu 8 ta' l-Att dwar l-Iżvilupp Industrijali, iżda għal tnaqqis maħsub bil-paragrafi (f) u (j) tas-subartikolu (1) ta' l-artikolu 14 ta' dan l-Att"; u

"sehem partecipanti" tfisser sehem li jinholq meta:

- (a) kumpannija jkollha sehem dirett ta' għall-anqas għaxra fil-mija ta' l-azzjonijiet b'ekwita' ta' kumpannija mhux residenti f'Malta li l-kapital tagħha jkun għal kollox jew fpartii maqsum f'azzjonijiet:

Iżda meta l-azzjonijiet li jkollha jagħtu persentaġġi differenti ta' jedd dwar voti, profitt disponibbli għal tqassim u attiv disponibbli għal tqassim f'każ ta' xoljiment, il-figura tal-persentaġġ l-iktar baxxa għandha tittiehed bhala l-persentaġġ ta' l-azzjonijiet b'ekwita li jkollha; jew

(b) kumpannija tkun azzjonist b'ekwita' f'kumpannija mhux residenti f'Malta u l-kumpannija li tkun azzjonist b'ekwita' jkollha l-jedd li tagħzel li tagħmel sejha għal, u takkwista, il-bilanċ kollu ta' l-azzjonijiet b'ekwita' li ma jkunux miżmuma mill-kumpannija li tkun azzjonist b'ekwita' sal-limitu permess bil-ligi tal-pajjiż fejn ikunu miżmuma l-azzjonijiet b'ekwita'; jew

(ċ) kumpannija tkun azzjonist b'ekwita' f'kumpannija mhux residenti f'Malta u l-kumpannija li tkun azzjonist b'ekwita' jkollha l-jedd għall-ewwel rifjut f'każ li jkun propost li l-azzjonijiet b'ekwita' kollha li ma jkunux miżmuma minn dik il-kumpannija li tkun azzjonist b'ekwita' jkunu disposti, mifdija jew kanċellati; jew

(d) kumpannija tkun azzjonist b'ekwita' f'kumpannija li ma tkunx residenti f'Malta u jkollha l-jedd jew li toqghod fuq il-Bord jew li tahtar persuna biex tkun direttur tal-Bord ta' dik il-Kumpannija; jew

(e) kumpannija li tkun azzjonist b'ekwita' li tinvesti somma minima ta' hames mitt elf lira Maltin (jew somma ekwivalenti f'munita barranija) f'kumpannija li ma tkunx residenti f'Malta; jew

(f) kumpannija li tkun azzjonist b'ekwita' f'kumpannija mhux residenti f'Malta u meta tkun qed iżzomm dawk l-azzjonijiet biex tmexxi 'l quddiem in-negozju tagħha stess:

Iżda 2-żamma ta' azzjonijiet, sew jekk azzjonijiet b'ekwita' sew jekk le, f'kumpannija li ma tkunx residenti f'Malta, miżmuma bhala stokk tan-negozju għall-fini ta' kummerċ, ma titqiesx li hi "sehem parteċipanti";

(g) fit-tifsira ta' "residenti f'Malta" minflok il-kliem "meta applikata għal korp ta' persuni, tisser kull korp ta' persuni li l-kontroll u t-treġija tan-negozju tiegħu huma eżerċitati f'Malta", għandhom jidhlu l-kliem "meta applikata għal korp ta' persuni, tisser kull korp ta' persuni li l-kontroll u t-treġija tan-negozju tiegħu huma eżerċitati f'Malta, iżda kumpannija inkorporata f'Malta fl-1 jew wara l-1 ta' Lulju 1993 tkun residenti f'Malta u kull kumpannija ohra inkorporata f'Malta tkun residenti f'Malta mill-1 ta' Lulju 1995 meta l-kontroll u t-treġija tan-negozju tal-kumpannija huma eżerċitati barra minn Malta";

(h) fit-tifsira ta' "il-Kummissarji Speċjali", minflok il-kliem "taht l-artikolu 66 ta' dan l-Att" għandhom jidhlu l-kliem "taht l-artikolu 34 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa";

(i) fit-tifsira ta' "taxxa", minflok il-kliem "imposta b'dan l-Att", għandhom jidhlu l-kliem "imposti bl-Atti dwar it-Taxxi";

(j) minnufih wara t-tifsira ta' "taxxa", ghandha tidhol it-tifsira g'dida li g'ejja:

"l-Atti dwar it-Taxxi" t'fisser dan l-Att u l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa flimkien;"

(k) it-tifsira ta' "*income* totali" ghandha tigi mibdula kif g'ej:

(i) ghandhom jidhlu l-kliem "tat-Taqsima VI:" minflok il-kliem "tat-Taqsima VI;" u

(ii) minnufih fl-ahhar ta' din it-tifsira ghandha tidhol il-proviso li g'ejja:

"Izda kull *income* li mhux mehtieg li jintwera u li ma jintweriex skond id-dispożizzjonijiet ta' l-Atti dwar it-Taxxi ma jaghmilx parti mill-*income* totali;" u

(l) it-tifsira g'dida li g'ejja ghandha tidhol minnufih wara t-tifsira ta' "*income* totali":

"kont mhux intaxxat" ikun maghmul minn dawk il-profitti (jew telf skond il-każ), li jirraprezentaw it-total tal-profitti li jistgħu jitqassmu (ammont pozittiv) jew it-total tat-telf akkumulat (ammont negattiv) skond il-każ, u li minnu titnaqqas is-somma totali ta' l-ammonti allokati għall-kont ta' *income* barrani u l-kont intaxxat f'Malta;"

5. Minnufih wara l-artikolu 2 ta' l-att prinċipali, għandu jizdedd l-artikolu g'did li g'ej:

Zieda ta' artikolu g'did
3 ma' l-att prinċipali.

"Amministrazzjoni ta' l-Att.

3. L-amministrazzjoni ta' dan l-Att hi mogħtija lill-Kummissarju, u d-dispożizzjonijiet ta' l-artikoli 3 u 4 ta' l-Att tal-1993 dwar l-Amministrazzjoni tat-Taxxa, ghandhom japplikaw għall-Kummissarju fil-qadi tas-setgħat u tal-funzjonijiet tiegħu taħt dan l-Att."

6. Is-subartikolu (9) ta' l-artikolu 5 ta' l-att prinċipali għandu jithassar u minflok jidhol is-subartikolu g'did li g'ej"

Emenda ta' l-artikolu 5 ta' l-att prinċipali.

"(9)Meta attiv ikun trasferit minn kumpannija għal kumpannija oħra u dawk il-kumpanniji:

(a) jkunu meqjusa bhala grupp ta' kumpanniji għall-finijiet ta' l-artikolu 16 ta' dan l-Att; jew

(b) ikunu kkontrollati u l-istess azzjonisti jkunu proprjetarji li jibbenefikaw direttament jew indirettament minnhom bl-iktar minn hamsin fil-mija;

ghandu jitqies li la kien hemm telf u lanqas qliegħ minn dak it-trasferiment. Sabiex ikun aċċertat il-qliegħ kapitali meta dak l-attiv ikun sussegwentement trasferit minn kumpannija għal oħra li ma tkunx taqa' taht id-dispożizzjonijiet tal-paragrafi (a) jew (b) ta' dan is-subartikolu, skond il-każ, il-kost bażiku ta' l-attiv li għandu jigi kkunsidrat ikun il-kost originali kif kien qabel ma sar l-ewwel trasferiment."

Zieda ta' artikolu ġdid 6
ma' l-att prinċipali

7. Minnufih wara l-artikolu 5 ta' l-att prinċipali, għandu jiżdied l-artikolu ġdid li ġej:

Barrani fis-servizzi ta'
l-investment

6. (1) Għall-finijiet ta' dan l-artikolu, "Barrani fis-servizzi ta' l-investment", tfisser kull individwu li jkun impjegat ta', jew jagħti servizzi lil kumpannija fis-servizzi ta' investment, kif imfisser fl-artikolu 15 ta' dan l-Att, u/jew:

(a) ma jkunx ordinarjament residenti u ma jkunx domiciljat f'Malta; jew

(b) ma kienx residenti f'Malta għal perijodu minimu ta' tliet snin minnufih qabel is-sena ta' stima li fiha jibda dak l-impieg ma', jew jagħti servizzi lil, xi kumpannija fis-servizzi ta' investment kif intqal qabel u kemm-il darba matul l-imsemmija tliet snin dak l-individwu kien impjegat *full-time* f'kariga simili barra minn Malta.

(2) Barrani fis-servizzi ta' l-investment, matul iż-żmien li jibda mis-sena li taħbat qabel l-ewwel sena ta' stima li fiha jkun għall-ewwel darba sugġett għat-taxxa taht id-dispożizzjonijiet ta' dan l-Att sa/u inkluża s-sena li taħbat qabel l-ghaxar sena ta' stima, ma jkunx sugġett għal taxxa fuq l-*income* dwar l-ispejjeż li ġejjin li jkunu saru għall-benefiċċju tal-barrani fis-servizzi ta' l-investment jew tal-familja immedjata tiegħu mill-kumpannija fis-servizzi ta' investment li tagħha jkun mpjegat jew li lilha jipprovdi servizzi ta' investment:

(a) spejjeż ta' garr biex joqghod jew jitlaq minn Malta;

(b) spejjeż ta' akkomodazzjoni li jsiru f'Malta;

(ċ) spejjeż ta' vjaġġar dwar zjajjar minn barrani fis-servizzi ta' l-investment u mill-familja immedjata tiegħu għal u minn Malta;

(d) provediment ta' karrozza għall-użu f'Malta tal-barrani fis-servizzi ta' l-investment;

(e) sussidju ta' mhux iktar minn mitejn u hamsin lira kull xahar kalendarju;

(f) spejjeż mediċi u assikurazzjoni medika; u

(g) drittijiet ta' l-iskola dwar it-tfal tal-barrani li jipprovdi servizzi ta' l-investment.

(3) Barrani fis-servizzi ta' l-investment jitqies li m'huwiex residenti f'Malta għall-finijiet tal-paragrafu (ċ) tas-subartikolu (1) ta' l-artikolu 12 ta' dan l-Att."

8. Is-subartikolu (9) ta' l-artikolu 7 ta' l-att prinċipali għandu jithassar u minflok jidhol is-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 7 ta' l-att prinċipali.

"(9) Meta jibqa' xi eċċess wara li t-taxxa tiġi mpattija kif provdut fis-subartikolu (8) ta' dan l-artikolu, dan għandu jithallas lura skond id-dispożizzjonijiet ta' l-artikolu 48 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa."

9. Fis-subartikolu (5) ta' l-artikolu 8 ta' l-att prinċipali, minflok il-kliem minn "B'dak kollu li hemm f'kull dispożizzjoni oħra ta' dan l-Att" sal-kliem " il-Kummissarju", għandhom jidhlu l-kliem "B'dak kollu li hemm f'kull dispożizzjoni oħra ta' l-Att dwar it-Taxxi, barra dak li hemm fl-artikolu 31 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa, il-Kummissarju".

Emenda ta' l-artikolu 8 ta' l-att prinċipali.

10. Is-subartikolu (4) ta' l-artikolu 9 ta' l-att prinċipali għandu jithassar u minflok jidhol is-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 9 ta' l-att prinċipali.

"(4) Jekk persuna ma tagħmilx l-għażla kif provdut fis-subartikolu (3) ta' dan l-artikolu, il-htigijiet ta' l-artikolu 10 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa ma jgħux infurzati fil-każ tagħha dwar xi sena ta' stima li għaliha japplikaw id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu."

11. Fl-artikolu 12 ta' l-att prinċipali:

Emenda ta' l-artikolu 12 ta' l-att prinċipali.

(a) il-paragrafu (ċ), inkluzi il-provisos li hemm ghalih, tas-subartikolu (1) tiegħu għandu jithassar u minflok u jidhol il-paragrafu ġdid li ġej:

"(c) (i) kull imghax jew *royalties* li jkunu dovuti lil jew derivati minn xi persuna mhux residenti f'Malta:

Iżda l-eżenzjoni taht dan is-sub-paragrafu ma tapplikax dwar xi sena li fiha l-imsemmija persuna tkun taħdem fsengha jew negozju f'Malta bil-mezz ta' stabbiliment permanenti sitwat hemmhekk u meta r-*royalties* jew it-talba għad-debitu li dwarha jithallas l-imghax ikunu effettivament konnessi ma' dak l-istabbiliment permanenti;

(ii) kull qliegh jew profitti li jkunu dovuti lil jew derivati minn xi persuna li ma tkunx residenti f'Malta mat-trasferiment ta' xi azzjonijiet jew sigurtajiet f'kumpannija (li biex ikun evitat kull dubju jinkludi fidi, likwidazzjoni jew kancellament) li ma tkunx kumpannija li l-attiv tagħha jkun jikkonsisti biss jew prinċipalment fi proprjeta' immobbli sitwata f'Malta:

kemm-il darba dik il-persuna mhux residenti tkun is-sid benefiċjarju ta' l-imghax, *royalty*, qliegh jew profitti skond il-każ u dik il-persuna ma tkunx il-proprjeta' ta', jew ikkontrollata minn, direttament jew indirettament, lanqas ma taġixxi fisem, persuna li tkun ordinarjament residenti u domiciljata f'Malta;"

(b) minnufih wara l-paragrafu (r) tas-subartikolu (1) tiegħu, għandu jiżdied il-paragrafu ġdid li ġej:

"(s) l-*income* ta' skema ta' investiment kollettiv;" u

(ċ) minnufih wara s-subartikolu (4) tiegħu, għandu jiżdied is-subartikolu ġdid li ġej:

"(5) Skema ta' investiment kollettiv (li ma tikkostitwix *unit trust*) tista' tirrinunzja għall-jedd tagħha li tkun eżentata mit-taxxi. Dik ir-rinunzja ma tkunx tapplika dwar xi qliegh jew profitti li jinjalghu mit-trasferiment (li biex ikun evitat dubju jinkludi fidi, likwidazzjoni jew kancellament) ta' xi investimenti, attiv jew passiv miżmuma mill-imsemmija skema. Dik ir-rinunzja tkun eżercitata b'avviż mogħti bil-quddiem u bil-miktub lill-Kummissarju. L-imsemmi avviż għandu juri s-sena ta' stima li dwarha r-rinunzja tkun se ssir applikabbli, u jkun avżat lill-Kummissarju mhux iktar tard mill-ewwel jum ta' l-imsemmija sena ta' stima."

"Kumpannija fis-servizzi ta' investiment.

15. (1) Għall-finijiet ta' dan l-artikolu kumpannija fis-servizzi ta' investiment tfisser kumpannija li jkollha liċenzja għal-servizzi ta' investiment mahruġa taht l-artikolu (6) ta' l-Att ta' l-1993 dwar Servizzi ta' Investiment u li l-attivitajiet tagħha jkunu jikkonsistu biss fil-provediment ta' tregija, amministrazzjoni, *safekeeping* jew konsulenza ta' investiment lil skemi ta' investiment kollettiv kif imfisser fl-imsemmi Att;

(2) Sabiex jiġi aċċertat l-*income* totali ta' kumpannija fis-servizzi ta' investiment, l-ammonti speċifikati fil-paragrafi minn (a) sa (e) ta' dan is-subartikolu għandhom, fuq l-għażla tal-kumpannija, jingħataw bħala tnaqqis b'zieda ma', jew minflok, skond il-każ, l-ammonti li jingħataw taht is-subartikolu (1) ta' l-artikolu 14 ta' dan l-Att u jkunu suġġetti għall-kundizzjonijiet stipulati f'dak l-artikolu. Għal dan l-għan:

(a) *keras*, *tishins*, *dawls*, *manutenzjoni* ta' bini, *assikurazzjoni* ta' bini u *spejjeż* oħra li għandhom x'jaqsmu ma' *okkupazzjoni* ta' bini li jkunu saru matul iż-*żmien* li jibda mis-sena li taħbat qabel l-ewwel sena ta' stima li fiha l-kumpannija fis-servizzi ta' investiment tkun għall-ewwel darba suġġetta għat-taxxa taht dan l-Att sa u inkluża s-sena li taħbat qabel l-għaxar sena ta' stima jingħataw bħala *addizzjonali* ta' mija fil-mija ta' dik l-*ispiza*;

(b) *tnaqqis* ta' mija fil-mija *jissostitwixxi* t-*tnaqqis* li hemm *provdut* għalih taht il-paragrafi (f) u (j) tas-subartikolu (1) ta' l-artikolu 14 ta' l-Att dwar *spiża* li tkun saret matul iż-*żmien* li jibda mis-sena li taħbat qabel l-ewwel sena ta' stima li fiha l-kumpannija fis-servizzi ta' investiment tkun għall-ewwel darba suġġetta għat-taxxa taht id-*dispożizzjonijiet* ta' dan l-Att sa u inkluża s-sena li taħbat qabel il-*hames* sena ta' stima u, b'zieda, *infieq* dwar il-bini ta' l-*uffiċċju* jikkwalifika għal dak it-*tnaqqis* *daqslikieku* l-bini kien bini *industrijali*;

(c) l-ammonti *investiti* minn kumpannija fis-servizzi ta' investiment *akkont* tagħha *stess* fi

skema ta' investiment kollettiv amministrata minn dik il-kumpannija jinghataw bhala tnaqqis jekk dak l-investiment isir matul iż-żmien li jibda mis-sena li taħbat qabel l-ewwel sena ta' stima li fiha il-kumpannija fis-servizzi ta' investiment tkun għall-ewwel darba sugġetta għat-taxxa taħt id-dispożizzjonijiet ta' dan l-Att sa u inkluża s-sena li taħbat qabel il-hames sena ta' stima:

Iżda dawk il-fondi investiti ma jridux jitnehhew minn dak l-investiment fi skema ta' investiment kollettiv sa sentejn minn meta jkun sar dak l-investiment:

Iżda wkoll dak it-tnaqqis addizzjonali ma jeffettwax l-ammont li għandu jittiehed bhala l-kost ta' l-akkwist ta' dak l-investiment għall-finijiet ta' kull dispożizzjoni oħra ta' dan l-Att, iżda wkoll dak it-tnaqqis ma jingiebx 'il quddiem bhala parti minn telf biex jitpatta mal-passiv tal-kumpannija dwar qliegh kapitali li jinqala' mit-trasferiment ta' l-investimenti tagħha fl-iskema ta' investiment kollettiv;

(d) rimunerazzjoni mhallsa minn kumpannija fis-servizzi ta' investiment lill-impjegati tagħha residenti f'Malta tinghata bhala addizzjonali ta' mija fil-mija ta' dik ir-rimunerazzjoni jekk dak l-infiq isir matul iż-żmien li jibda mis-sena li taħbat qabel l-ewwel sena ta' stima li fiha l-kumpannija tkun għall-ewwel darba sugġetta għat-taxxa taħt id-dispożizzjonijiet ta' dan l-Att sa u inkluża s-sena li taħbat qabel l-ghaxar sena ta' stima;

(e) għandhom jinghataw bhala tnaqqis kull spejjeż oħra u nfiq ieħor li jsir mill-kumpannija fis-servizzi ta' investiment għal kollox u esklużivament sabiex tmexxi n-negozju tagħha u li xort'oħra ma kienux jinghataw bhala tnaqqis taħt id-dispożizzjonijiet tas-subartikolu (1) ta' l-artikolu 14 ta' dan l-Att.

(3) Meta kumpanija fis-servizzi ta' investiment tagħmel infieq qabel ma tibda tmexxi n-negozju tagħha, u l-infieq:

(a) ikun sar mhux qabel hames snin minn dak iż-żmien; u

(b) ma jkunx jista' jitnaqqas sabiex jiġi aċċertat l-*income* totali tal-kumpanija fis-servizzi ta' investiment, iżda kien ikun jista' hekk jitnaqqas taht is-subartikolu (1) ta' l-artikolu 14 jew taht il-paragrafu (e) tas-subartikolu (2) ta' dan l-artikolu li kieku sar wara dak iż-żmien;

dak l-infieq għandu jkun meqjus li sar fil-gurnata li fiha dak in-negozju jkun għall-ewwel darba tmexxa mill-kumpanija fis-servizzi ta' investiment, u l-paragrafi (a) sa (d) tas-subartikolu (2) ta' dan l-artikolu għandhom japplikaw għal dak l-infieq.

(4) It-tnaqqis addizzjonali speċifikat fis-subartikolu (2) ta' dan l-artikolu jirrappreżenta t-tnaqqis massimu li jista' jinghata għall-finijiet ta' dak is-subartikolu, u kumpanija fis-servizzi ta' investiment m'għandhiex għalfejn titlob l-ammont kollu ta' dak it-tnaqqis massimu dwar xi sena ta' stima.

(5) It-tnaqqis addizzjonali kif provdut f'dan l-artikolu ma jittehidx kont tiegħu sabiex ikun stabbilit l-ammont ta' telf, jekk ikun hemm, li jkun disponibbli għal ċessjoni taht id-dispożizzjonijiet ta' l-artikoli minn 16 sa 22 (dispożizzjonijiet dwar eżenzjoni għal gruppi) ta' dan l-Att.

Tifsir ta' grupp.

16. Għall-finijiet ta' dan l-artikolu u ta' l-artikoli minn 17 sa 22 ta' dan l-Att, hawnhekk iżjed 'il quddiem kollettivament imsejha (inkluż dan l-artikolu) "id-dispożizzjonijiet dwar eżenzjoni għal gruppi", żewġ kumpaniji residenti f'Malta iżda li l-ebda waħda minnhom ma tkun residenti għal finijiet ta' taxa fxi pajjiż iehor jitqiesu li huma membri ta' grupp ta' kumpaniji jekk waħda tkun sussidjarja ta' l-oħra b'wiehed u hamsin fil-mija jew it-tnejn ikunu sussidjarji b'wiehed u hamsin fil-mija ta' tielet kumpanija residenti f'Malta.

Għall-finijiet tad-dispożizzjonijiet dwar eżenzjoni għal gruppi, kumpanija titqies li hi sussidjarja ta' kumpanija oħra b'wiehed u

hamsin fil-mija, hawnhekk iżjed 'il quddiem imsejha "kumpannija *parent*":

(a) jekk u sakemm iktar minn hamsin fil-mija tal-kapital azzjonarju ordinarju tagħha u iktar minn hamsin fil-mija tal-jedd tal-vot ikun il-propjeta', direttament jew indirettament tal-kumpannija *parent*, u

(b) il-kumpannija *parent* ikollha l-jedd li tibbenefika direttament jew indirettament, minn iktar minn hamsin fil-mija tal-profitti li jkunu disponibbli għal tqassim lill-azzjonarji ordinarji tal-kumpannija sussidjarja; u

(c) il-kumpannija *parent* ikollha l-jedd li tibbenefika, direttament jew indirettament, minn iktar minn hamsin fil-mija ta' l-attiv tal-kumpannija sussidjarja li jkun disponibbli għal tqassim bejn l-azzjonisti ordinarji f'każ ta' xoljiment.

Ċessjoni ta' eżenzjoni bejn membri ta' gruppi.

17. (1) Bla ħsara għal, u skond, id-dispożizzjonijiet ta' dan l-artikolu u ta' l-artikoli minn 18 sa 22 ta' dan l-Att, telf li jista' jinghata jista', fil-każ imsemmi fis-subartikolu (2) ta' dan l-artikolu, ikun ċedut minn kumpannija, hawnhekk iżjed 'il quddiem imsejha "il-kumpannija li tagħmel iċ-ċessjoni", u, meta ssir talba minn kumpannija oħra, hawnhekk iżjed 'il quddiem imsejha "il-kumpannija li tagħmel it-talba", jinghata lill-kumpannija li tagħmel it-talba bħala eżenzjoni mit-taxxa msejha "eżenzjoni għal gruppi". Talba magħmula bis-saħħa ta' dan is-subartikolu qed tissejjah hawnhekk iżjed 'il quddiem "talba bħala grupp".

(2) Eżenzjoni għal gruppi tista' tinghata meta l-kumpannija li tagħmel iċ-ċessjoni u l-kumpannija li tagħmel it-talba jkunu t-tnejn membri ta' l-istess grupp matul is-sena li taħbat qabel is-sena ta' stima li għaliha tintalab l-eżenzjoni.

(3) Għal kull sena ta' stima, jista' jkun hemm żewġ kumpanniji jew iktar li jagħmlu t-talba bħala grupp dwar l-istess kumpannija li tagħmel ċessjoni.

(4) Hlas ta' eżenzjoni għal grupp -

(a) ma jittehidtx kont tiegħu fil-kalkolu ta' profitti jew telf

ta' xi wahda mill-kumpanniji għall-finijiet ta' taxxa imposta b'dan l-Att; u

(b) ma jitqiesx, għal xi wieħed mill-ghanijiet ta' dan l-Att, bhala tqassim.

Għall-finijiet ta' dan is-subartikolu "hlas ta' eżenzjoni għal gruppi" tisser hlas li jsir minn kumpannija li tagħmel it-talba lill-kumpannija li tagħmel iċ-ċessjoni skond flehim bejniethom dwar ammont ċedut bhala eżenzjoni għal gruppi, li jkun hlas li ma jkunx iktar minn dak l-ammont.

Telf, li jista' jkun ċedut bhala eżenzjoni għal gruppi

18. (1) (a) Jekk f'xi sena li taħbat qabel sena ta' stima l-kumpannija li tagħmel iċ-ċessjoni tkun għamlet telf li jista' jinghata, l-ammont tat-telf jista' jitpatta għall-finijiet tat-taxxa ma' l-*income* totali tal-kumpannija li tagħmel it-talba għas-sena ta' stima korrispondenti u, meta applikabbli, għal snin ta' stima sussegwenti kemm-il darba fis-sena li fiha l-kumpannija li tagħmel iċ-ċessjoni tkun għamlet telf iż-żewġ kumpanniji jkollhom perjodi ta' kontijiet li jibdeu u jispiċċaw fl-istess dati:

Izda meta l-kumpannija li tagħmel iċ-ċessjoni tagħmel il-kontijiet u thallas it-taxxa f'munita minn dik differenti tal-kumpannija li tagħmel it-talba kull telf ċedut għandu jitpatta ma' l-*income* totali tal-kumpannija li tagħmel it-talba kif intqal qabel, wara li dak l-ammont jinqaleb fil-munita li fiha l-kumpannija li tagħmel it-talba tagħmel il-kontijiet tagħha u thallas it-taxxa. Dak il-qlib tal-munita jsir b'referenza għall-medja tar-rata jew tar-rati ta' kambju bejn dik il-munita jew muniti u l-lira Maltija li tigi fl-aħhar jum tal-perjodu ta' kontijiet li għalih jirreferi t-telf kif mahruġ mill-Bank Ċentrali ta' Malta.

(b) Kumpannija li tagħmel iċ-ċessjoni tista' ċcedi telf li jista' jinghata bhala eżenzjoni għal gruppi li jkun iktar mill-*income* totali tal-kumpannija li tagħmel it-talba fis-sena li taħbat qabel sena ta' stima, f'liema każ il-kumpannija li tagħmel it-talba tista' ggib il-quddiem u tpatti dak it-telf skond id-dispożizzjonijiet tal-paragrafu (g) tas-subartikolu (1) ta' l-artikolu 14 ta' dan l-Att daqslikieku kien telf fil-kummerċ tagħha stess.

(c) Meta t-telf li jista' jinghata, li kieku kien profitt, kien ikun allokat lill-kont intaxxat f'Malta tal-kumpannija li tagħmel iċ-

ċessjoni, il-kumpannija li tagħmel it-talba tista' tnaqqas biss dak it-telf mill-*income* totali tagħha li kien ikun allokat għall-kont tagħha intaxxat f'Malta u dak it-telf jista' biss jingiebu 'il quddiem kontra l-*income* totali tal-kumpannija li tagħmel it-talba li jinqala fi snin sussegwenti u li kieku kien ikun allokat għal kont tagħha intaxxat f'Malta.

(d) Meta it-telf li jista' jinghata, li kieku kien profitt, kien ikun allokat lill-kont ta' *income* barrani tal-kumpannija li tagħmel iċ-ċessjoni, il-kumpannija li tagħmel it-talba tista' tnaqqas biss dak it-telf li kien ikun allokat lill-kont tagħha ta' l-*income* barrani u dak it-telf jista' biss jingiebu 'il quddiem kontra l-*income* totali tal-kumpannija li tagħmel it-talba li jinqala' fi snin sussegwenti u li kieku kien ikun allokat lill-kont tagħha ta' l-*income* barrani.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, kumpannija li tkun jew -

(a) inkorporata ġdida u fiż-żminijiet kollha wara li tkun inkorporata tissodisfa il-kundizzjonijiet biex titqies membru ta' l-istess grupp ta' kumpanniji bħal kumpannija oħra fis-sena li taħbat qabel is-sena ta' stima u jkollha l-perjodu tal-kontijiet tagħha jagħlqu fl-istess data bħal dik tal-kumpannija l-oħra f'dik is-sena li taħbat qabel is-sena ta' stima; jew

(b) tkun xoljiet matul il-perjodu tal-kontijiet tagħha u sakemm tkun hekk xoljiet tissodisfa l-kundizzjonijiet biex titqies membru ta' l-istess grupp bħal kumpannija oħra fis-sena li taħbat qabel is-sena ta' stima u d-data tal-bidu tal-perjodu tal-kontijiet tagħha tkun l-istess bħal tal-kumpannija l-oħra f'dik is-sena li taħbat qabel is-sena ta' stima;

din titqies għall-finijiet tal-paragrafu (a) tas-subartikolu (1) ta' dan l-artikolu li jkollha perjodu ta' kontijiet li jibda u jispiċċa fl-istess data bħal dik tal-kumpannija l-oħra u għal dik is-sena tinghata eżenzjoni għal gruppi shiha.

Eżenzjoni għal gruppi -
kontra evitar ta' taxxa.

19. Jekk, barra minn dan l-artikolu, kumpannija tkun membru ta' grupp ta' kumpanniji u jkun hemm arrangamenti li l-ghan wahdani jew ewlieni taghhom ikun biex titnaqqas ir-responsabbilta' għal hlas ta' taxxa mill-kumpannija, u bis-sahha ta' l-imsemmija arrangamenti dik il-kumpannija ma tibqax membru ta' dak il-grupp ta' kumpanniji, f'dak il-każ il-kumpannija titqies li m'hijiex membru ta' dak il-grupp ta' kumpanniji għal kull sena li taħbat qabel is-sena ta' stima li matulha daww l-arrangamenti jkunu jeżistu.

Esklużjoni ta' eżenzjoni
doppji.

20. (1) Eżenzjoni ma tinghatax iktar minn darba, sew billi tinghata eżenzjoni għal gruppi u billi tinghata xi xort' oħra ta' eżenzjoni (dwar kull sena ta' stima) lill-kumpannija li tagħmel iċ-ċessjoni, jew billi tinghata eżenzjoni għal gruppi iktar minn darba, dwar l-istess ammont.

(2) Skond id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, żewġ kumpanniji jew iktar li jagħmlu talba, ma jistgħux dwar xi telf wiehed, jiksbu fit-total iktar eżenzjoni milli tkun tista' tinkiseb minn kumpannija wahda li tagħmel talba.

Talbiet u aġġustamenti

21. Talba għal eżenzjoni għal gruppi:

(a) m'hemmx għalfejn tkun għall-ammont kollu li jkun hemm,

(b) għandha tinkludi l-kunsens tal-kumpannija li tagħmel iċ-ċessjoni mogħtija f'dik il-forma li tista' tkun meħtieġa mill-Kummissarju; u

(ċ) għandha ssir mhux iktar tard minn tnax-il xahar wara t-tmien tal-perjodu tal-kontijiet tal-kumpannija liema data tkun matul is-sena li taħbat minnufih qabel is-sena ta' stima li għaliha ssir it-talba.

Tifsir

22. Għall-fini tad-dispożizzjonijiet dwar eżenzjoni għal gruppi:

(a) riferenza għal "telf li jista' jinghata" għandha tiftiehem għat-telf imsemmi fil-paragrafu (g) tas-subartikolu (1) ta' l-artikolu 14 ta' dan l-Att, sa fejn dan ikun sar fis-sena li taħbat qabel is-sena ta' stima u ma jkunx telf li dwaru ma

jkunx inghatat eżenzjoni migjub 'il quddiem minn snin ta' qabel; u

(b) riferenzi għal "*income* totali" għandu jkollha l-istess tifsir kif mogħti lilha fl-artikolu 2 ta' dan l-Att iżda dak l-*income* jkun kalkolat qabel ma jsir xi tnaqqis dwar eżenzjoni għal gruppi."

Emenda ta' l-artikolu 24 ta' l-atti prinċipali

13. Fl-artikolu 24 ta' l-att prinċipali:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem minn "tagħti lill-Kummissarju" sal-kelma "dikjarazzjoni" li hemm fil-paragrafu li jahbat minnufih wara l-paragrafu (ċ) ta' dak is-subartikolu, għandhom jidhlu l-kliem "tagħti lill-Kummissarju, fl-istess hin li tagħti l-prospett tagħha ta' l-*income* skond l-artikolu 10 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa, dikjarazzjoni"; u

(b) is-subartikolu (6) tiegħu għandu jithassar u minflok jidhol is-subartikolu ġdid li ġej:

"(6) Ebda haġa fis-subartikoli (4) u (5) ta' dan l-artikolu ma għandha tostakola li d-deċiżjoni tal-Kummissarju fl-eżerċizzju tas-setgħa mogħtija lilu b'dawk is-subartikoli tiġi attakkata f'appell skond id-dispożizzjonijiet ta' l-artikoli 35 u 37 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa."

Żieda ta' l-artikolu 25 ma' l-att prinċipali

14. Minnufih wara l-artikolu 24 ta' l-att prinċipali għandu żdied l-artikolu ġdid li ġej:

"Applikabbilta' ta' l-artikoli minn 14 sa 24.

25. Għall-finijiet ta' l-artikoli minn 14 sa 24, it-tnejn inklużi, ta'dan l-Att, spejjeż li jsiru fil-produzzjoni ta' u tnaqqis li jista' jinghata dwar, profitti li huma allokat li lil kont ta' *income* barrani għandhom l-ewwel jitnaqqsu mill-*income* li minnu jkunu nkisbu dawk il-profitti."

Żieda ta' artikolu ġodda 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, u 42 ma' l-att prinċipali.

15. Minnufih wara l-artikolu 31 ta' l-att prinċipali, għandhom jidhlu l-artikoli ġodda li ġejjin:

"Tassazzjoni bi tnaqqis dwar ċertu *income* minn investment.

32. Fl-artikoli mit-33 sat-42 ta' dan l-Att, it-tnejn inkluzi u li flimkien ma' dan l-artikolu qed jissejhu "dispożizzjonijiet dwar *income* minn investment", hemm dispożizzjonijiet għat-tassazzjoni ta' ċertu *income* minn investment billi jkun hemm tnaqqis minn min jagħmel hlas u għandhom japplikaw, meta r-rabta tal-kliem hekk teħtieg, minkejja kull haġa kuntrarja li tinsab f'dan l-Att.

Min jagħmel hlas obligat li jnaqqas it-taxxa minn *income* minn investment.

33. (1) Min jagħmel hlas għandu jnaqqas minn kull hlas ta' riċevitur ta' *income* minn investment, isir kif isir il-hlas, rata ta' hmistax-il ċenteżmu fuq kull lira ta' dak il-hlas.

(2) Kull min hekk jagħmel hlas għandu jagħti kont lill-Kummissarju ta' l-ammonti kollha hekk imnaqqsa, iżda m'għandux jispeċifika l-identita' tar-riċevitur u, bla hsara għad-dispożizzjonijiet tas-subartikolu (3) ta' dan l-artikolu, kull ammont imnaqqas ikun dejn dovut min dik il-persuna li tagħmel il-hlas lill-Kummissarju li jithallas mhux iktar tard mill-erbatax-il jum wara t-tmiem tax-xahar li matulu jkun sar il-hlas u għandu hekk jingabar.

(3) Min jagħmel il-hlas għandu mal-hlas ta' *income* minn investment jagħti lir-riċevitur ċertifikat fil-forma aċċettabbli mill-Kummissarju li juri l-ammont gross imhallas minn min jagħmel il-hlas, u t-taxxa mnaqqsa.

(4) Meta min jagħmel il-hlas ta' *income* fuq investment lil persuna mhux residenti Malta (u allura mhux riċevitur kif imfisser fil-paragrafu (c) ta' l-artikolu 41 ta' dan l-Att), min jagħmel il-hlas ikun obligat li jikseb ċertifikat li l-persuna ma tkunx residenti mingħand il-persuna li tirċievi l-hlas f'dik il-forma li tkun meħtieġa mill-Kummissarju.

Meta r-riċevitur jagħzel li jithallas gross, min jagħmel il-hlas ma jnaqqasx taxxa.

34. (1) Min jagħmel il-hlas m'għandux innaqqas taxxa skond l-artikolu 33 ta' dan l-Att meta r-riċevitur jagħzel skond id-dispożizzjonijiet ta' l-artikolu 35 ta' dan l-Att, li jithallas *income* minn investment mingħajr ma jsir dak it-tnaqqis.

(2) Min jagħmel il-hlas għandu fuq t-talba tal-Kummissarju, jagħti rendikont lill-Kummissarju tal-hlasijiet kollha ta' *income* minn investment li jkunu saru matul xi sena li dwarha tkun saret l-għażla. Ir-rendikont

ghandu jinghata lill-Kummissarju sal-31 ta' Jannar li jigi wara s-sena li fiha tkun saret l-ghazla, jew fi zmien tletin jum minn dik it-talba, skond liema tkun l-ahhar data. Dak ir-rendikont ghandu jinkludi d-dettalji ta' l-isem, l-indirizz u n-numru tar-registrazzjoni tat-taxxa tar-ricievitur kif ukoll l-ammont ta' *income* ta' investiment imhallas gross minn min jaghmel il-hlas lir-ricievitur matul dik is-sena:

Izda l-Kummissarju jista' biss jitlob dak ir-rendikont ghal sena shiha li tkun ghalqet li dwarha tkun saret ghażla taht id-dispożizzjonijiet ta' l-artikolu 35 ta' dan l-Att:

Izda wkoll min jaghmel il-hlas ma jkunx mehtieg jaghti rendikont lill-Kummissarju wara li jghaddu disa' snin wara t-triem tas-sena li fiha l-*income* mill-invesitment ikollu jithallas.

Ghażla tar-ricievitur li jithallas minghajr tnaqqis ta' taxxa.

35. (1) Ricievitur jista' jaghzel li jithallas *income* min investiment, li ma jikkostitwix qliegħ kapitali skond kif imfisser fl-artikolu 41 (a) (v) ta' dan l-Att, minghajr ma jsir tnaqqis ta' taxxa u dik l-ghazla ghandha ssir bil-miktub u tintbagħat lil min jaghmel il-hlas.

(2) Bla hsara għad-dispożizzjonijiet tas-subartikolu (3) ta' dan l-artikolu, l-ghazla tibda ssehh fi zmien 14-il jum minn meta min jaghmel il-hlas ikun ircieva l-avviz. Dik l-ghazla tista' tkun revokata jekk ikun irid ir-ricievitur b'avviz bil-miktub u dik ir-revoka tibda ssehh fi zmien 14-il jum minn meta min jaghmel il-hlas ikun ircieva l-avviz.

(3) Ghażla li ssir mal-ftuh ta' kont il-bank li fuqu jithallas *income* minn investiment, jew max-xiri ta' bonds, stokk ta' self, *debentures*, jew xi strument ieħor li dwaru jithallas *income* ta' investiment, tibda ssehh immedjatament.

Obbligu tar-ricievitur li jiddikjara meta jaghmel l-ghazla.

36. Meta tkun saret ghażla skond id-dispożizzjonijiet ta' l-artikolu 35 ta' dan l-Att, ricievitur ghandu jiddikjara l-*income* minn investiment li dwaru tkun saret l-ghazla fuq il-prospett tat-taxxa tieghu għas-sena ta' stima rilevanti u meta ssir l-imsemmija dikjarazzjoni kull taxxa dovuta tkun stabbilita daqslikienu d-dispożizzjonijiet dwar *income* minn investiment ma sarux.

Jekk iridu riċevituri jistgħu jiddikjaraw meta ma jkunux għamlu għażla.

37. (1) Meta ma tkun saret ebda għażla skond l-artikolu 35 ta' dan l-Att, riċevitur li jkun individwu jista' jiddikjara l-*income* minn investiment fuq il-prospett tat-taxxa tiegħu, u meta ssir l-imsemmija dikjarazzjoni, kull taxxa dovuta tkun stabbilita daqslikieku d-dispożizzjonijiet dwar *income* minn investiment ma sarux.

(2) Meta riċevitur ikun iddikjara *income* minn investiment fuq il-prospett tat-taxxa tiegħu, kull taxxa li tkun inżammet dwar dak l-*income* taht id-dispożizzjonijiet dwar *income* minn investiment tittiehed bhala kreditu kontra r-responsabbiltà tat-taxxa tar-riċevitur, jew bhala hlas lura, skond il-każ, għas-sena ta' stima rilevanti.

Preżunzjoni ta' tnaqqis.

38. Hlief dwar sena ta' stima li dwarha tkun saret għażla li għaliha japplika l-artikolu 35 ta' dan l-Att, ikun preżunt, safejn jolqot ir-responsabbiltà għat-taxxa ta' riċevitur, li jkunu saru t-tnaqqis u l-hlas li kellhom isiru skond id-dispożizzjonijiet ta' l-artikolu 33 ta' dan l-Att.

Fejn tapplika l-preżunzjoni ma jkunx hemm hteġa ta' dikjarazzjoni.

39. Meta tapplika l-preżunzjoni msemmija fl-artikolu 38 ta' dan l-Att:

(a) riċevitur li jkun individwu ma jkunx obligat li jikxef l-eżistenza ta' l-*income* minn investiment fxi prospett magħmul skond id-dispożizzjonijiet ta' dan l-Att; u

(b) bla hsara għad-dispożizzjonijiet tas-subartikolu (1) ta' l-artikolu 37 ta' dan l-Att, ebda persuna ma titwahhal iktar taxxa dwar l-*income* minn investiment taht dan l-Att.

Limitu tar-responsabbiltà ta' min ihallas.

40. Meta min ihallas jonqos li jnaqqas u jhallas taxxa skond id-dispożizzjonijiet dwar *income* minn investiment, id-dispożizzjonijiet tas-subartikolu (4) ta' l-artikolu 73 ta' dan l-Att u tas-subartikolu (1) ta' l-artikolu 40 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa għandhom japplikaw *mutatis mutandis*

Tifsir tad-dispożizzjonijiet dwar *income* minn investiment

41. Għall-finijiet tad-dispożizzjonijiet dwar l-*income* minn investiment, il-frazzjiet li ġejjin għandu jkollhom it-tifsir mogħti lilhom hawn taht:

(a) "*income* minn investment" tfisser biss il-kategoriji ta' *income* li gejjin:

(i) imghax li jithallas minn persuna li tmexxi kummeré bankarju taht l-Att ta' l-1994 dwar il-Kummeré Bankarju, dwar somma ta' flus, li tkun depozitata maghha f'liema munita tkun li tkun u f'liema kont ikun li jkun (hlief imghax li jithallas dwar xi kont għall-portatur);

(ii) imghax li jithallas mill-Gvern ta' Malta jew minn xi aġenzija tiegħu;

(iii) imghax li jithallas minn korporazzjoni jew awtorita' stabbilita b'ligi;

(iv) imghax li jithallas dwar hrug għall-pubbliku minn kumpannija residenti f' Malta; u

(v) qliegh kapitali li jinqala' mit-trasferiment ta' azzjonijiet jew unitajiet fi skema ta' investment kollettiv liċenzjata taht l-Att ta' l-1993 dwar Servizzi ta' Investment, meta l-iskema ta' investment kollettiv tifti, tillikwida jew tikkanċella dawk l-azzjonijiet jew unitajiet, skond il-każ - liema qliegh kapitali għandu jkun kalkolat b'riferenza għall-prezz li bih dawk l-azzjonijiet jew unitajiet kienu ngħataw jew inhargu mill-iskema ta' investment kollettiv;

(b) "min jagħmel hlas" tfisser il-persuna li tkun responsabbli jew, jekk mhux il-każ, il-persuna li tagħmel hlas ta' *income* minn investment;

(c) riċevitur tfisser:

(i) persuna li tkun residenti f'Malta matul is-sena li fiha l-*income* minn investment jkollu jithallas lilha jew li jkollu jithallas lil persuna taht is-sub-paragrafi (ii) jew (iii) ta' dan il-paragrafu (barra minn persuna li matul dik is-sena mexxiet kummeré bankarju taht l-Att ta' l-1994 dwar il-Kummeré Bankarju, jew persuna li tmexxi l-kummeré ta' l-

assikurazzjoni jew xi kumpannija oħra li tkun proprjeta' ta' u kontrollata minn, direttament jew indirettament, dawk il-persuni jew kumpannija li tkun registrata skond l-artikolu 24 ta' l-Att dwar iċ-Ċentru għas-Servizzi Finanzjarji): jew

(ii) riċevitur, gwardjan, tutur, kuratur, sekwestratur gudizzjarju jew kumitat li jaġixxi f'isem persuna msemmija fil-paragrafu (i) ta' dan il-paragrafu, jew

(iii) fiduċjarju jew fondazzjoni li skond jew bis-saħħa tagħha xi flus jew proprjeta' hi x'inhitkun għal dak iż-żmien tithallas jew tkun applikata lil jew għall-benefiċċju ta' persuna msemmija fis-sub-paragrafu (i) ta' dan il-paragrafu.

Dispożizzjonijiet kontra l-
evitar ta' *TAXXA*.

42. Meta, fil-fehma tal-Kummissarju, isiru sensiela ta' transazzjonijiet bil-ghan wahdani jew ewlieni li jitnaqqas l-ammont tat-taxxa li għandu jithallas minn persuna bit-thaddim tad-dispożizzjonijiet dwar *income* minn investiment, dik il-persuna tkun taxxabbli daqslikieku l-imsemmija dispożizzjonijiet ma kienux japplikaw, u kull taxxa miżmuma dwar *income* riċevut taht wahda jew iżjed mill-imsemmija transazzjonijiet tista' tittiehed bħala kreditu kontra r-responsabbiltà għat-taxxa tal-persuna li tirċievi dak l-*income*, jew tingħata bħala hlas lura, skond il-każ, għas-sena ta' stima rilevanti.

Għall-finijiet ta' dan l-artikolu, "sensiela ta' transazzjonijiet" tfisser żewġ tassazzjonijiet jew iżjed korrispondenti jew ċirkolari, li jsiru mill-istess persuna, jew direttament jew indirettament, skond il-każ".

16. Is-subartikolu (5) ta' l-artikolu 43 ta' l-att prinċipali għandu jithassar u minflok jidhol is-subartikolu ġdid li ġej:

Emenda ta' l-artikolu 43 ta' l-att prinċipali.

"(5)Ebda haġa li tinsab f'dan l-artikolu ma żżomm illi d-deċiżjoni tal-Kummissarju fl-eżerċizzju tas-setgħa mogħtija lilu bis-subartikolu (1) ta' dan l-artikolu jsir appell minnha skond id-dispożizzjonijiet ta' l-artikoli 35 u 37 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa".

Emenda ta' l-artikolu 48 ta' l-att prinċipali. 17. Is-subartikolu (3) ta' l-artikolu 48 ta' l-att prinċipali għandu jithassar u minflok jidhol is-subartikolu ġdid li ġejj:

"(3)Ebda haġa li tinsab f'dan l-artikolu ma għandha titqies li ittiefes il-jedd tal-persuna intaxxata li tappella kontra stima ta' taxxa taht id-dispożizzjonijiet ta' l-artikoli 35 u 37 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa".

Zieda ta' artikolu ġdid 52 ta' l-att prinċipali. 18. Minnufih wara l-artikolu 51 ta' l-att prinċipali għandu jidied l-artikolu ġdid li ġejj:

"Deċiżjonijiet bil-quddiem dwar taxxa.

52. (1) Il-Kummissarju għandu, fuq l-applikazzjoni ta' kumpannija li tkun parti f'xi transazzjoni, javża d-deċiżjoni tiegħu li l-artikolu 51 ta' dan l-Att ma japplikax għal dik it-transazzjoni kemm-il darba l-Kummissarju jkun sodisfatt li t-transazzjoni tkun se ssir għal raġunijiet kummerċjali *bona fide*.

(2) Il-Kummissarju għandu, fuq l-applikazzjoni ta' xi persuna, javża d-deċiżjoni tiegħu li d-dispożizzjonijiet tal-paragrafu (f) tat-tifsira ta' "sehem partecipanti" kif imfisser fl-artikolu 2 ta' dan l-Att dwar sehem partecipanti jkun japplika għal sehem azzjonarju partikolari jew għal sehem azzjonarju li jkun se jiġi akkwistat mill-applikant.

(3) Il-Kummissarju għandu, fuq l-applikazzjoni ta' xi persuna li tkun kumpannija, javża d-deċiżjoni tiegħu dwar kif xi transazzjoni li tolqot xi att finanzjarju jew sigurtajiet oħra tkun se tiġi trattata dwar taxxa.

(4) Il-Kummissarju għandu, fuq l-applikazzjoni ta' xi persuna, javża d-deċiżjoni tiegħu dwar kif xi transazzjoni li tinvolvi kummerċ internazzjonali tkun se tiġi trattata dwar taxxa, iżda jkun il-Kummissarju fid-diskrezzjoni tiegħu li jiddeciedi x'inhu kummerċ internazzjonali għall-finijiet ta' dan is-subartikolu.

(5) Il-Kummissarju għandu, fuq l-applikazzjoni ta' xi persuna, javża d-deċiżjoni tiegħu dwar jekk kumpannija tikkwalifikax bħala kumpannija b'kummerċ internazzjonali.

(6) L-avviż ta' deċiżjoni speċifikat f'dan l-artikolu jista' jinghata qabel ma ssir xi

transazzjoni li dwarha ssir applikazzjoni għal deċiżjoni.

(7) (a) L-applikazzjonijiet kollha taht dan l-artikolu għandhom isiru bil-miktub u għandu jkollhom it-tagħrif materjali kollu dwar it-transazzjonijiet li jkunu se jsiru.

(b) Meta l-Kummissarju jkun jehtieg aktar tagħrif sabiex ikun jista' jiddeċiedi fuq applikazzjoni taht dan l-artikolu, il-Kummissarju għandu, fi żmien tletin jum minn meta jirċievi l-applikazzjoni, jew minn meta jirċievi iktar tagħrif li jkun talab qabel taht dan il-paragrafu, b'avviż bil-miktub, jehtieg lill-applikant li jagħti dak it-tagħrif l-iehor, u jekk dak l-avviż ma jitharixx fi żmien tletin jum, jew f'dak iż-żmien itwal li-l-Kummissarju jista' jagħti, il-Kummissarju m'għandux ikompli jipproċedi b'dik l-applikazzjoni.

(c) Il-Kummissarju għandu javża d-deċiżjoni tiegħu lill-applikant fi żmien tletin jum li jirċievi l-applikazzjoni jew, jekk jagħti avviż taht il-paragrafu (b) ta' dan is-subartikolu, fi żmien tletin jum wara li jkun thares l-avviż.

(d) Jekk xi tagħrif mogħti taht dan l-artikolu ma jkunx juri b'mod komplet u preċiż il-fatti u l-kunsiderazzjonijiet kollha materjali għad-deċiżjoni tal-Kummissarju, kull deċiżjoni li tingħata b'riżultat tkun bla effett.

(8) (a) Bla hsara għad-dispożizzjonijiet tal-paragrafi (d) tas-subartikolu (7) ta' dan l-artikolu, deċiżjoni tal-Kummissarju torbot lill-Kummissarju u tibqa' torbtu għal perijodu ta' sentejn minn meta jkun hemm xi tibdil rilevanti fid-dispożizzjonijiet tal-ligi wara dik id-deċiżjoni, jew għal perijodu ta' hames snin minn meta tingħata dik id-deċiżjoni, skond liema jkun l-iqsar żmien.

(b) Deċiżjoni tal-Kummissarju tista', jekk l-applikant hekk jagħzel, tiġġedded għal perijodu ieħor ta' hames snin. Applikazzjoni għal tiġdid għandha tingħata bil-miktub lill-Kummissarju, fejn tghid jekk kienx hemm jew le xi tibdil materjali fil-fatti u kunsiderazzjonijiet li kienu jinsabu fl-applikazzjoni originali u x-xorta ta' dak it-tibdil. Dak it-tiġdid m'għandux bla raguni jinżamm mill-Kummissarju."

"(b) il-formola msemmija fis-subartikolu (1) ta' dan l-artikolu, flimkien ma' kull dokumenti ta' prova li jkun mehtieġa li jiġu prodotti, ma tiġix riċevuta mill-Kummissarju qabel ma jiddeċiedi t-taxxa għal dik is-sena ta' stima b'ordni bil-miktub taht id-dispożizzjonijiet tas-subartikolu (5) ta' l-artikolu 33 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa."

Emenda ta' l-artikolu 56 ta' l-att prinċipali.

20. Fl-artikolu 56 ta' l-att prinċipali:

(a) is-subartikoli ġodda li ġejjin għandhom jidhlu minnufih wara s-subartikolu (6) tiegħu:

"(7) It-taxxa għandha tiġi ntaxxata bir-rata ta' 25ċ fuq kull lira ta' l-*income* taxxabbli ta' skema ta' investiment kollettiv li, taht id-dispożizzjonijiet tas-subartikolu (5) ta' l-artikolu 12 ta' dan l-Att, tkun irrinunzjat għall-jedd tagħha li tkun eżentata mit-taxxa.

(8) Minkejja kull dispożizzjoni oħra ta' dan l-artikolu, persuna li tkun qed tirċievi dividend minghand kumpannija b'kummerċ internazzjonali tiġi ntaxxata taxxa dwar dak id-dividend bir-rata ta' sebgħa u għoxrin u nofs fil-mija (27.5%) ta' dak l-ammont daqslikieku dak id-dividend jikkostitwixxi *income* taxxabbli separat, meta dik il-persuna jew:

(a) ma tkunx residenti f'Malta u li, fejn applikabbli, ma tkunx proprjeta' ta', u kontrollata minn, direttament jew indirettament, lanqas ma taġixxi fisem, persuna jew persuni li ordinarjament jirrisjedu u domiciljati f'Malta; jew

(b) tkun kumpannija residenti f'Malta u tkun kollha kemm hi proprjeta' ta' persuna jew persuni li ma jkunux residenti f'Malta, kemm-il darba dik il-persuna jew dawk il-persuni ma jkunux proprjeta' ta' u kontrollati minn, direttament jew indirettament, lanqas ma taġixxi fisem, persuna jew persuni li ordinarjament jirrisjedu u domiciljati f'Malta."; u

(b) minflok it-tielet proviso li hemm għas-subartikolu (12) tiegħu u l-paragrafi minn (i) sa (v) li hemm minnufih wara l-imsemmi proviso għandu jidhol dan li ġej:

"Iżda wkoll meta l-Kummissarju jkun baġhat lil xi persuna avviż imsemmi fis-subartikolu (3) ta' l-artikolu 12 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa, dik il-persuna jkollha thallas, għal kull avviż bhal dak, taxxa addizzjonali skond kif ikun speċifikat f'dak l-avviż għas-sena ta' stima li dwarha jkun sar in-nuqqas iżda li febda każ ma għandha tkun iżjed minn għaxar liri. Il-Kummissarju jista' biss jahfer din it-taxxa addizzjonali meta huwa jkun sodisfatt li minhabba assenza minn Malta, mard jew raġuni xierqa oħra dik il-persuna ma setghetx tagħti prospett skond id-dispożizzjoniet ta' l-artikolu 10 jew 11 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa:

(i) is-setgħat mogħtijin lill-Kummissarju b'dan is-subartikolu jkunu minbarra kull jedd mogħti lili sabiex jibda provvedimenti dwar reat taħt it-Taqsima IX ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa;

(ii) kull persuna illi, meta tistabilixxi l-*income* totali tagħha, kif rapportat fil-prospett tagħha, tnaqqas jew tikkumpensa xi ammont, meta t-tnaqqis jew kumpens ta' dak l-ammont mhux permess taħt id-dispożizzjonijiet ta' l-Att dwar it-Taxxi, jew turi bħala nefqa jew telf xi ammont illi hija fil-fatt ma tkunx nefqet jew tilfet, titqies, għall-finijiet ta' dan is-subartikolu, li halliet barra dak l-ammont mill-prospett tagħha;

(iii) kull taxxa ntaxxata taħt id-dispożizzjonijiet ta' dan is-subartikolu m'għandiex titqies li hi parti minn xi taxxa mħallsa jew li għandha tithallas għall-finijiet tas-subartikolu ta' qabel ta' dan l-artikolu, jew ta' l-artikoli 59, 76 u 89 ta' dan l-Att, jew ta' l-artikoli 51 u 52 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa;

(iv) meta n-nuqqas jew ommissjoni jkunu saru dwar prospett meħtieġ bid-dispożizzjonijiet ta' l-Att dwar it-Taxxi li għandu jingħata minn persuna oħra fisem kumpannija, dik il-kumpannija tkun sugġetta għat-taxxa addizzjonali li għandha tiġi ntaxxata taħt id-dispożizzjonijiet ta' dan is-subartikolu."

21. L-artikolu 59 ta' l-att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 59 ta' l-att prinċipali.

(a) is-subartikolu (1) tiegħu għandu jithassar u minflok jidhol is-subartikolu ġdid li ġej:

"(1) Kull kumpannija residenti f'Malta tkun intitolata li tnaqqas mill-ammont ta' kull dividend minbarra dividend imħallas minn profitti li jistgħu jitqassmu allokatu lill-kont mhux intaxxat u minbarra dividend imsemmi fil-paragrafu (p) tas-subartikolu 12 ta' dan l-Att, imħallas lil xi azzjonista, taxxa bir-rata mħallsa jew li għandha tithallas mill-kumpannija, bla ma jittiehed kont tal-helsien tat-taxxa doppja, fuq l-*income* li minnu dak id-dividend jithallas:

Izda meta t-taxxa ma tithallasx jew ma għandiex tithallas mill-kumpannija fuq l-*income* kollu li minnu d-dividend jithallas, it-tnaqqis ikun ristrett għal dik il-porzjon mid-dividend li jithallas mill-*income* li fuq t-taxxa tithallas jew għandha tithallas mill-kumpannija.";

(b) is-subartikolu (5) tiegħu għandu jithassar u minflok jidhol is-subartikolu ġdid li ġej:

"(5) (a) Kull kumpannija għandha mal-hlas ta' dividend, sew jekk taxxa titnaqqas minnu jew le, tagħti lil kull azzjonista ċertifikat tad-dividend.

(b) Iċ-ċertifikat tad-dividend ikun f'dik il-forma li l-Kummissarju jehtieg u ghandu jkun fih it-taghrif li ġej:

(i) l-ammont gross tal-profitti mqassma, dwar kull kont, qabel ma titnaqqas xi taxxa li ghandha tkun intaxxata lill-kumpannija dwar dawk il-profitti mqassma;

(ii) it-taxxa totali li ghandha tigi ntaxxata lill-kumpannija dwar il-profitti mqassma fejn jintwerew separatament:

(1) it-taxxa ta' Malta li ghandha tithallas wara li jinghata l-helsien kollu minn taxxa doppja; u

(2) it-taxxa barranija li dwarha ikun inghata helsien minn taxxa doppja taht id-dispożizzjonijiet tal-helsien ta' taxxa doppja, tal-helsien dwar it-taxxa tal-Commonwealth u tal-helsien unilaterali; u

(3) l-ammont li jkun ikkumpensat mit-taxxa ta' Malta wara talba ghal helsien minn taxxa doppja taht id-dispożizzjonijiet ta' kreditu ta' taxxa barranija b'rata wahda;

(iii) l-ammont tal-profitti mqassma minn kull kont, wara li titnaqqas it-taxxa msemmija taht is-sub-paragrafu (ii) ta' dan il-paragrafu;

(iv) it-taxxa li ghandha tithallas mat-tqassim skond l-artikoli 62, 67 u 67A li ghandha tintwera separatament mit-taxxa msemmija fis-sub-paragrafu (ii) ta' dan il-paragrafu;

(v) l-ammont nett ta' dividend imhallas lill-azzjonista;

(vi) meta t-taxxa mhallsa jew li ghandha tithallas mill-kumpannija fuq il-profitti jkunu hekk qed jitqassmu tkun effettwata mill-helsien ta' taxxa doppja, ir-rata, hawnhekk izjed 'il quddiem f'dan l-Att imsejha "ir-rata nett ta' Malta", tat-taxxa mhallsa jew li ghandha tithallas mill-kumpannija wara li jittiehed kont tal-helsien mit-taxxa doppja;

(vii) meta l-profitti li jkunu qed jitqassmu ikunu ġew eżentati mit-taxxa u t-tqassim ta' dawk il-profitti mill-kumpannija jkunu eżentati mit-taxxa f'idejn l-azzjonista, nota li tikkwota l-ligi rilevanti li taghti dak il-helsien;

(viii) meta l-profitti li jkunu qed jitqassmu minn kumpannija (l-ewwel kumpannija) jinkludi dividend riċevut minn kumpannija oħra (it-tieni kumpannija), li dwarhom l-ewwel kumpannija jkollha jedd tagħmel talba ghal hlas lura taht is-subartikolu (4) ta' l-artikolu 48 ta' l-Att ta' l-1993 dwar l-

Amministrazzjoni tat-Taxxa, dwar it-taxxa mhallsa fuqhom mit-tieni kumpannija, dikjarazzjoni li tghid li l-ewwel kumpannija jkollha jedd tagħmel talba dwar dawk il-profitti mqassma;

(ix) kull tagħrif iehor li jkun mehtieg mill-Kummissarju."; u

(c) is-subartikolu (9) tiegħu għandu jithassar u minflok jidhol is-subartikolu ġdid li ġej:

"(9) F'dan l-artikolu l-espressjoni "helsien tat-taxxa doppja" tfisser kull kreditu jew helsien iehor għal taxxa barranija li jingħataw bis-sahha tal-helsien stipulat fl-artikolu 74 ta' dan l-Att."

22. Fl-artikolu 60 ta' l-att prinċipali:

Emenda ta' l-artikolu 60 ta' l-att prinċipali.

(a) minflok il-kliem "Kull taxxa illi l-kumpannija tkun naqqset jew li jkollha l-jedd tnaqqas taht l-ahhar artikolu qabel dan", għandhom jidhlu l-kliem "Kull taxxa illi kumpannija tkun naqqset jew li jkollha l-jedd tnaqqas taht l-artikolu 59 ta' dan l-Att"; u

(b) il-paragrafu (b) ta' l-ahhar proviso li hemm għalih għandu jithassar u minflok jidhol il-paragrafu ġdid li ġej:

"(b) xi taxxa li tiġi ntaxxata lil xi korp ta' persuni taht is-subartikolu (4) ta' l-artikolu 56 ta' dan l-Att, jew taht is-subartikolu (3) u (4) ta' l-artikolu 27 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa."

23. Minnufih wara l-artikolu 60 ta' l-att prinċipali għandhom jidhlu l-artikoli ġodda li ġejjin:

Zieda ta' artikoli ġodda 61, 62, 63, 64, 65, 66, 67, 67A, 68 u 69 ma' l-att prinċipali.

"Tifsir.

61. Għall-finijiet ta' l-artikoli minn 62 sa 69 ta' l-Att:

(i) "riċevitur" tfisser

(a) persuna, minbarra kumpannija, residenti f'Malta fis-sena li fiha hi jew persuna oħra fisimha tkun irċeviet dividend; jew

(b) persuna mhux residenti (magħduda kumpannija mhux residenti) li tkun proprjeta' ta', u kontrollata minn, direttament jew indirettament, jew li taġixxi fisem, persuna li ordinarjament tirresjedi u domiciljata f'Malta;

(ii) "dividend mhux intaxxat" tfisser dividend imhallas minn kumpannija residenti f'Malta sal-limitu li jithallas minn profitti li jistgħu jitqassmu allokati għall-kont tagħha mhux intaxxat.

Taxxa fuq dividend minn kont mhux intaxxat.

62. (1) Kull kumpannija għandha, mal-hlas ta' dividend mhux intaxxat lil-riċevitur, tnaqqas minnu taxxa bir-rata ta' hmistax fil-mija.

(2) Kull ammont imnaqqas taht is-subartikolu (1) ta' dan l-artikolu jkun dejn dovut minn dik il-kumpannija lill-Kummissarju li għandu jithallas mhux iktar tard mill-erbatax-il jum li jahbat wara l-aħhar tax-xahar li fih id-dividend ikun thallas u għandu hekk jingabar:

Lzda d-dispożizzjonijiet ta' dan l-artikolu ma japplikawx dwar hlasijiet ta' dividendi mhux intaxxati lil persuni li huma eżentati mit-taxxa.

Presunzjoni ta' tnaqqis.

63. Ikun preżunt, safejn għandha x'taqsam ir-responsabbiltà għat-taxxa tar-riċevitur ta' dividend, li t-tnaqqis u l-hlas li jkollhom isiru skond id-dispożizzjonijiet ta' l-artikolu 62 ta' dan l-Att ikunu saru.

Meta tapplika l-preżunzjoni.

64. Meta tapplika l-preżunzjoni msemmija fl-artikolu 63 ta' dan l-Att:

(a) riċevitur ta' dividend ma jkunx obligat li jiddikjara d-dividend fxi prospett magħmul skond id-dispożizzjonijiet ta' dan l-Att; u

(b) bla hsara għad-dispożizzjonijiet ta' l-artikolu 65 ta' dan l-Att, ebda persuna ma tkun intaxxata aktar taxxa taht dan l-Att dwar dak id-dividend.

Għażla tar-riċevituri li jiddikjaraw.

65. Riċevitur ta' dividend mhux intaxxat jista' jiddikjara dak id-dividend fil-prospett tat-taxxa tiegħu u meta tkun saret dikjarazzjoni kif intqal qabel kull taxxa (jew hlas ieħor) dovuta għandha tkun stabbilita daqslikieku l-artikolu 64 ta' dan l-Att ma kienx japplika, u kull taxxa miżmuma skond l-artikolu 62 ta' dan l-Att tkun kreditata kontra r-responsabbiltà tat-taxxa tar-riċevitur u, fejn applikabbli, tkun tista' tittiehed bhala hlas lura li jista' jkun dovut dwar dik it-taxxa għas-sena ta' stima rilevanti.

Dividend mhux intaxxat imhallas lil min mhux riċevitur.

66. Meta dividend mhux intaxxat jithallas lil persuna, li ma tkunx riċevitur kif imfisser taht l-artikolu 61 ta' dan l-Att, dak id-dividend ma jkunx sugġett ghat-taxxa taht dan l-Att fidejn dik il-persuna u meta dik il-persuna ma tkunx residenti f'Malta dik il-persuna ma tkunx obbligata li tiddikjara l-eżistenza tad-dividend f'xi prospett magħmul taht id-dispożizzjonijiet ta' l-Atti dwar it-Taxxi.

Hlas ta' dividend minn kont intaxxat jew minn kont ta' *income* barrani.

67. (1) Meta kumpannija thallas dividend lil persuna residenti f'Malta minn profitti allokatil lill-kont intaxxat f'Malta jew lill-kont ta' *income* barrani u liema profitti jkunu ġew intaxxati b'rata li hi inqas mir-rata ta' taxxa li għandha tiġi ntaxxata fiż-żmien tat-tqassim, taht is-subartikolu (6) ta' l-artikolu 56 ta' dan l-Att, minhabba biss il-fatt li kienet tapplika rata ta' taxxa differenti fiż-żmien li fihom il-profitti li jkunu qed jitqassmu kienu sugġetti ghat-taxxa, il-kumpannija għandha tnaqqas taxxa bir-rata li tkun daqs id-differenza bejn ir-rata kurrenti u dik attwalment intaxxata kif intqal qabel fuq l-ammont ta' dividend qabel ma titnaqqas xi taxxa li tkun hallset fuq il-profitti li hekk ikunu qed jitqassmu:

Izda d-dispożizzjonijiet ta' dan l-artikolu ma japplikawx dwar dawk il-hlasijiet ta' dividendi lil persuni li huma eżentati mit-taxxa.

(2) Kull ammont imnaqqas taht is-subartikolu (1) ta' dan l-artikolu jkun dejn dovut minn dik il-kumpannija lill-Kummissarju li għandu jithallas mhux iktar tard mill-erbatax-il jum li jahbat wara l-aħhar tax-xahar li matulu thallas dak id-dividend u għandu hekk jingabar.

(3) Id-dispożizzjonijiet ta' l-artikoli mit-63 sal-65 ta' dan l-Att għandhom japplikaw *mutatis mutandis* kif japplikaw għal tqassim mill-kont mhux intaxxat u riferenzi f'dawk l-artikoli għall-artikolu 62 għandhom jitqiesu bħala riferenzi għas-subartikolu (1) ta' dan l-artikolu.

(4) Għall-finijiet ta' dan l-artikolu persuna residenti f'Malta għandha tinkludi persuna mhux residenti (magħduda kumpannija mhux residenti) li tkun proprjeta' ta', u kontrollata minn, direttament jew indirettament, jew li taġixxi f'isem persuna, li ordinarjament tirisjedi u domiciljata f'Malta.

Profitti mqassma minn
Skema ta' Investiment
Kollettiv.

67A (1) Meta skema ta' investiment kollettiv, li tkun kostitwita bhala kumpannija thallas dividend lil persuna residenti f'Malta minn profitti allokatu għall-kont ta' *income* barrani din għandha tnaqqas taxxa bir-rata ta' hmistax fil-mija ta' l-ammont nett tad-dividend, jiġifieri wara li tnaqqas kull taxxa li għandha jedd tnaqqas taht is-subartikolu (1) ta' l-artikolu 59 ta' dan l-Att:

Izda d-dispożizzjonijiet ta' dan is-subartikolu ma japplikawx dwar dawk il-ħlasijiet ta' dividendi lil persuni li jkunu eżentati mit-taxxa.

(2) Meta skema ta' investiment kollettiv, li ma tkunx kostitwita bhala kumpannija, tqassam profitti lil persuni residenti f'Malta, għandha tnaqqas taxxa daqslikieku, għall-finijiet ta' dan l-artikolu, dik l-iskema ta' investiment kollettiv kienet kostitwita bhala kumpannija. F'dan ir-rigward it-taxxa għandha titnaqqas minn kull tqassim ta' profitti li, kieku dik l-iskema ta' investiment kollettiv kienet kostitwita bhala kumpannija, kienu jkunu allokatu jew lill-kont ta' l-*income* barrani jew lill-kont mhux intaxxat:

Izda d-dispożizzjonijiet ta' dan is-subartikolu ma japplikawx dwar dawk il-ħlasijiet li jsiru lil persuni li huma eżentati mit-taxxa.

(3) Kull ammont imnaqqas taht is-subartikoli (1) u (2) ta' dan l-artikolu jkun dejn dovut minn dik l-iskema ta' investiment kollettiv lill-Kummissarju li jkollu jithallas mhux iktar tard mill-erbatax-il jum wara l-aħħar tax-xahar li matulu jkun sar it-tqassim u għandu hekk jingabar.

(4) L-artikoli minn 63 sa 65 ta' dan l-Att għandhom japplikaw *mutatis mutandis* fiċ-ċirkostanzi murija fis-subartikoli (1) u (2) ta' dan l-artikolu kif japplikaw għal tqassim minn kont mhux intaxxat. Riferenzi f'dawk l-artikoli għall-artikolu 62 għandhom jiftiehemu bhala riferenzi għas-subartikolu (1) jew (2) ta' dan l-artikolu, skond il-każ, u riferenzi għal dividend jew dividend mhux intaxxat għandhom jiftiehemu bhala riferenzi għall-profitti mqassma minn skema ta' investiment kollettiv meta r-rabta tal-kliem hekk tihtieg.

(5) Għall-finijiet ta' l-artikolu 61 u tas-subartikoli (1) u (2) ta' dan l-artikolu, f'każ ta' skema ta' investiment kollettiv li tkun eżentata mit-taxxa taht il-paragrafu (s) tas-

subartikolu (1) ta' l-artikolu 12 ta' dan l-Att, il-profitti li jkunu allokati lill-kont intaxxat f'Malta li kieku skema ta' investiment kollettiv ma kinitx hekk ezentata, ghandhom, minkejja kull dispożizzjoni oħra ta' dan l-Att, ikunu hekk allokati.

(6) Għall-finijiet ta' dan l-artikolu persuna residenti f'Malta teskludi persuna mhux residenti (maghduda kumpannija mhux residenti) li tkun proprjeta' ta' u kontrollata minn, direttament jew indirettament, jew li taġixxi f'isem, persuna li ordinarjament tirrisjedi u domiciljata f'Malta.

Ebda obbligu ta' dikjarazzjoni.

68. (1) Kull persuna li ma tkunx residenti f'Malta jew kull individwu li jkun residenti f'Malta u li jirċievi dividend imhallas mill-profitti li jistghu jitqassmu allokati lill-kont ta' *income* barrani jew lill-kont intaxxat f'Malta ma jkunx obligat li jiddikjara l-eżistenza ta' dak id-dividend f'xi prospett magħmul skond id-dispożizzjonijiet ta' dan l-Att u ma jkunx intaxxat iktar taxxa taht dan l-Att dwar dak id-dividend.

(2) Kull persuna, li ma tkunx kumpannija residenti f'Malta, ma tkunx obligata li tiddikjara f'xi prospett magħmul skond dan l-Att, dawk il-profitti mqassmin minn skema ta' investiment kollettiv li ma tkunx kostitwita bhala kumpannija, meta dawk il-profitti kienu jkunu allokati lil kont intaxxat f'Malta, li kieku dik l-iskema ta' investiment kollettiv kienet kostitwita bhala kumpannija. Dawk il-profitti ma jkunux iktar intaxxata taht dan l-Att sew jekk riċevuti minn kumpannija residenti f'Malta jew le.

Limitu tar-responsabbilita'

69. Meta xi persuna tonqos li tnaqqas u thallas it-taxxa skond id-dispożizzjonijiet ta' l-artikoli 62, 67 u 67A ta' dan l-Att, id-dispożizzjonijiet tas-subartikolu (4) tal-artikolu 73 ta' dan l-Att u id-dispożizzjonijiet tas-subartikolu (1) ta' l-artikolu 40 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa, ghandhom japplikaw *mutatis mutandis*.

24. Fl-artikolu 73 ta' l-att principali:

Emenda ta' l-artikolu 73 ta' l-att principali.

(a) minflok is-subartikolu (1) tieghu ghandu jidhol is-subartikolu ġdid li ġej:

"(1) Meta xi persuna thallas lil persuna mhux residenti f'Malta, jew lil persuna residenti f'Malta f'isem persuna mhux residenti, xi *income* taxxabli taht id-dispożizzjonijiet ta' dan l-Att, hija ghandha

meta thallas dak l-*income*, kemm il darba ma tkunx hija nnifisha sugġetta li thallas fuqu taxxa taht id-dispożizzjonijiet ta' l-artikolu 5 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa, tnaqqas minn dak l-*income* taxxa:

(a) bir-rata ta' hamsa u għoxrin centezmu fuq kull lira meta l-hlas isir lil jew fisem xi persuna mhux residenti li ma tkunx kumpannija; u

(b) bir-rata taxxabli taht is-subartikolu (6) ta' l-artikolu 56 ta' dan l-Att meta l-hlas isir lil jew fisem kumpannija mhux residenti f'Malta:

Izda l-Kummissarju jista', b'avviż bil-miktub mogħti lil kull persuna li hi meħtieġa li tagħmel tnaqqis ta' taxxa skond id-dispożizzjonijiet ta' qabel ta' dan l-artikolu, jawtorizza lil dik il-persuna li tnaqqas taxxa b'rata inqas min dik hawnhekk qabel imsemmija, jew li thallas dak l-*income* mingħajr ebda tnaqqis ta' taxxa:

Izda wkoll id-dispożizzjonijiet ta' dan is-subartikolu ma japplikawx għal *income* li minnu tkun tnaqqset it-taxxa taht id-dispożizzjonijiet ta' l-artikolu 60 ta' dan l-Att jew taht id-dispożizzjonijiet ta' l-artikolu 23 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa";

(b) is-subartikolu (3) tiegħu għandu jithassar u minflok jidhol is-subartikolu għdid li ġej:

"(3) Tnaqqis ta' taxxa magħmul taht id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu għandu, meta jithallas lill-Kummissarju kif provdut fis-subartikolu (2) ta' dan l-artikolu, jiġi kumpensat għall-finijiet ta' għbir, mit-taxxa stabbilita fuq il-persuna mhux residenti f'Malta dwar l-*income* relattiv. Kull eċċess jithallas lura skond id-dispożizzjonijiet ta' l-artikolu 48 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa."; u

(c) il-paragrafu (f) tas-subartikolu (4) tiegħu għandu jithassar u minflok jidhol il-paragrafu għdid li ġej:

"(f) taxxa addizzjonali stabbilita taht id-dispożizzjonijiet ta' dan is-subartikolu m'għandhiex titqies bħala parti minn xi taxxa mħallsa jew li għandha tithallas għall-finijiet ta' l-artikoli 59, 76 u 89 ta' dan l-Att u ta' l-artikoli 42, 51 u 52 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa".

Zieda ta' l-artikoli godda
74 u 75 ma' l-att prinċipali.

25. It-Taqsima X (Rifużjoni) ta' l-att prinċipali minflok it-titlu "Rifużjoni" għandhom jidhlu il-kliem li ġejjin: "helsien minn Taxxa Doppja", u minnufih qabel l-artikolu 76, għandhom jidhlu ż-żewġ artikoli godda li ġejjin:

"Erba' tipi ta' helsien minn
taxxa doppja.

74. Għandu jkun hemm erba' tipi ta'
helsien minn taxxa doppja, jiġifieri:

(a) helsien minn taxxa doppja, kif provduta fl-artikoli minn 76 sa 78, it-tnejn inklużi, ta' dan l-Att;

(b) helsien unilaterali, kif provdut fl-artikoli minn 79 sa 88, it-tnejn inklużi, ta' dan l-Att;

(c) helsien dwar it-taxxa tal-*Commonwealth* fuq l-*income*, kif provdut fl-artikolu 89 ta' dan l-Att; u

(d) kreditu ta' taxxa barranija b'rata wahda, kif provdut fl-artikoli minn 92 sa 95, it-tnejn inklużi, ta' dan l-Att.

Kif jahdmu it-tipi ta' helsien.

75. (1) Dwar kull talba ghal helsien minn taxxa doppja:

(a) id-dispożizzjonijiet li jolqtu l-helsien unilaterali ghandhom ikunu applikati fil-kalkolu tat-taxxa li ghandha thallas persuna meta, bla hsara ghad-dispożizzjonijiet tas-subartikolu (2) ta' l-artikolu 82 ta' dan l-Att, helsien minn taxxa doppja u helsien dwar it-taxxa tal-*Commonwealth* fuq l-*income* ma jkunux jistgħu jittiehdu mill-persuna li tagħmel it-talba; u

(b) id-dispożizzjonijiet dwar kreditu ta' taxxa barranija b'rata wahda ghandhom ikunu applikati fil-kalkoli tat-taxxa li ghandha thallas persuna biss f'dawk il-każijiet meta helsien minn taxxa doppja, helsien dwar it-taxxa tal-*Commonwealth* fuq l-*income* u helsien unilaterali, kif regolati bl-artikoli minn 79 sa 88 ta' dan l-Att, ma jkunux jistgħu jittiehdu mill-persuna li tagħmel it-talba."

26. Is-subartikolu (1) ta' l-artikolu 76 ta' l-att prinċipali ghandu jiġi emendat biż-żieda tal-proviso addizzjonali li ġej fit-tarf tal-proviso li hemm ghalih:

Emenda ta' l-artikolu 76 ta' l-att prinċipali.

"Izda wkoll ebda arrangament ma jkollu effett safejn japplika ghal skema ta' investiment kollettiv li tkun eżentata mit-taxxa taht id-dispożizzjonijiet tal-paragrafu (s) tas-subartikolu (1) ta' l-artikolu 12 ta' dan l-Att u liema skema ta' investiment kollettiv ma tkunx eżerċitat il-jedd tagħha li tirrinunzja ghal eżenzjoni taht id-dispożizzjonijiet tas-subartikolu (5) ta' l-artikolu 12 ta' dan l-Att."

27. L-artikolu 77 ta' l-att prinċipali ghandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 77 ta' l-att prinċipali.

(a) fil-proviso ghas-subartikolu (2) tieghu, minflok il-kliem "f'Malta fdik is-sena" ghandhom jidhlu l-kliem "f'Malta fis-sena li taht minnufih qabel is-sena ta' stima"; u

(b) fis-subartikolu (4) tieghu, minflok il-kliem minn "wara li titnaqqas kull taxxa" sal-kliem " ta' dan l-Att" ghandhom jidhlu l-kliem " wara li titnaqqas kull taxxa li ghandha tithallas minnha taht id-dispozizzjonijiet ta' l-artikoli 40, 69 u 73 ta' dan l-Att".

Emenda ta' l-artikolu 78 ta' l-att prinċipali.

28. Fis-subartikolu (1) ta' l-artikolu 78 ta' l-att prinċipali, minflok il-kliem "jew li ghandu jithallas lura skond l-artikolu 79 ta' dan l-Att, dwar it-taxxa li ghandha titnaqqas minn xi dividend li jithallas mill-kumpannija" ghandhom jidhlu l-kliem " jew li ghandu jithallas lura skond l-artikolu 48 ta' l-Att ta' l-1993 dwar l-Amministrazzjoni tat-Taxxa, dwar it-taxxa li ghandha titnaqqas minn xi dividend li jithallas mill-kumpannija".

Żieda ta' l-artikoli godda 79,80,81,82, 83, 84, 85, 86, 87 u 88 ta' l-att prinċipali.

29. Minnufih wara l-artikolu 78 ta' l-att prinċipali ghandhom jizziedu l-artikoli godda li ġejjin:

"Helsien unilaterali.

79. F'dan l-Att il-frazi "helsien unilaterali" tfisser il-helsien li jinghata skond id-dispozizzjonijiet ta' l-artikoli mit-80 sat-88 ta' dan l-Att, u fdawk l-artikoli l-frazi "taxxa fuq l-*income*" ghandha l-istess tifsir kif moghti lilha fis-subartikolu (1) ta' l-artikolu 77 ta' dan l-Att.

Meta jinghata helsien unilaterali

80. Helsien unilaterali jista' jinkiseb dwar talba ghal helsien minn taxxa doppja meta t-taxxa taht dan l-Att tkun kalkolata b'riferenza ghal *income* li:

(a) jinqala' barra minn Malta; u

(b) ikun sugġett ghal xi taxxa ta' xorta simili bhal dik imposta taht l-Att dwar it-Taxxi skond il-ligijiet ta' territorju barra minn Malta;

Ghall-finijiet tal-paragrafu (b) ta' dan l-artikolu taxxa ma tkunx eskluża milli tkun ta' xorta simili minhabba biss li tithallas taht il-ligi ta' provinċja, stat jew parti oħra ta' pajjiż, jew li tingabar minn jew fisem municipalita' jew korp lokali iehor.

Helsien bil-mezz ta' kreditu.

81. L-ammont ta' taxxa msemmi fil-paragrafu (b) ta' l-artikolu 80 ta' dan l-Att li jithallas f'territorju barra minn Malta jinghata bhala kreditu kontra t-taxxa fuq l-*income* intaxxata f'Malta dwar l-*income* taht l-artikolu 80 ta' dan l-Att, u l-ammont ta' taxxa fuq l-*income* li hekk jiġi ntaxxat ghandu jitnaqqas bl-ammont ta' dak il-kreditu:

Izda dejjem li l-kreditu ma jinghatax kontra taxxa fuq l-*income* ghal xi sena ta' stima kemm-il darba l-persuna li jkollha jedd ghall-*income* ma tkunx residenti f'Malta fis-sena li taħbat minnufih qabel is-sena ta' stima'.

Kreditu ghal taxxa sottoposta.

82. (1) Id-dispożizzjonijiet dwar helsien unilaterali, meta applikati dwar kumpannija kif deskritt fis-subartikolu (2) ta' dan l-artikolu u meta l-*income* taht l-artikolu 80 ta' dan l-Att jinkludi dividend, ghandu jkollhom effett sabiex taxxa li ma tkunx intaxxata direttament jew bi tnaqqis dwar id-dividend titqies li taqa' taht id-dispożizzjonijiet tal-paragrafu (b) ta' l-artikolu 80 ta' dan l-Att u ghandu jittiehed kont tagħha fil-kalkolu tal-kreditu li ghandu jinghata kontra t-taxxa dwar dak id-dividend.

(2) Id-dispożizzjonijiet ta' dan l-artikolu ghandhom japplikaw ghal kumpannija jekk din tkun tikkontrolla, direttament jew indirettament, mhux inqas minn ghaxra fil-mija tal-jedd tal-voti tal-kumpannija li thallas id-dividend u meta l-kreditu għat-taxxa sottoposta ma jkunx jista' b'mod iehor jittiehed taht id-dispożizzjonijiet ta' l-artikolu 77 ta' dan l-Att.

Limitu fuq il-kreditu.

83. Kreditu mogħti taht l-artikolu 81 ta' dan l-Att m'ghandux jeċċedi l-ammont li jkun prodott billi l-*income* ta' persuna jkun kalkolat skond id-dispożizzjonijiet ta' dan l-Att u mbagħad intaxxat għat-taxxa fuq l-*income* b'rata stabbilita billi t-taxxa fuq l-*income* taxxabli (qabel ma jinghata kreditu skond l-artikolu 81 ta' dan l-Att) fuq l-*income* totali tal-persuna li jkollha jedd għalih, tkun diviża bl-*income* totali tagħha.

Ammont ta' kreditu totali.

84. Bla ħsara għad-dispożizzjonijiet ta' l-artikolu 87 ta' dan l-Att, il-kreditu totali li jinghata skond l-artikolu 81 ta' dan l-Att lil persuna għal xi sena ta' stima ma għandux ikun iżjed mit-taxxa fuq l-*income* totali li jkollha tithallas minnha għal dik is-sena ta' stima, nieqsa kull taxxa li għandha tithallas minnha għal dik is-sena ta' stima taht id-dispożizzjonijiet ta' l-artikoli 40, 69 u 73 ta' dan l-Att.

Kalkolu ta' l-*income*.

85. Fil-kalkolu ta' l-ammont ta' l-*income* għall-finijiet ta' helsien unilaterali:

- (a) ma jinghata ebda tnaqqis dwar taxxa mhallsa u msemmija fil-paragrafu
- (b) ta' l-artikolu 80 ta' dan l-Att, sew jekk

dwar l-istess *income* kemm jekk dwar *income* iehor;

(b) meta l-*income* taxxabli jiddependi mill-ammont riċevut f'Malta l-imsemmi ammont għandu jżiedied bl-ammont xieraq tat-taxxa mhallsa u msemmi fil-paragrafu (b) ta' l-artikolu 80 ta' dan l-Att dwar l-*income*,

(c) meta l-*income* jinkludi dividend u, biex jiġi stabbilit l-ammont ta' kreditu li għandu jinghata taht l-artikolu 81 ta' dan l-Att, jinghata kreditu għal taxxa li ma tkunx intaxxata direttament jew bi tnaqqis skond l-artikolu 82 ta' dan l-Att, l-ammont ta' l-*income* għandu jżiedied bl-ammont ta' dak il-kreditu.

Applikabbiltà ta' l-artikolu 85.

86. Id-dispożizzjonijiet tal-paragrafi (a) u (b) ta' l-artikolu 85 għandhom japplikaw għall-kalkolu ta' l-*income* totali sabiex tiġi stabbilita r-rata ta' taxxa msemmija fl-artikolu 83 ta' dan l-Att.

Dividendi u krediti ta' taxxa, eċċ.

87. Id-dispożizzjonijiet tas-subartikoli (8), (9) u (10) ta' l-artikolu 77 u ta' l-artikolu 78 ta' dan l-Att għandhom japplikaw *mutatis mutandis* dwar helsien unilaterali kif japplikaw dwar helsien minn taxxa doppja.

Ma jinghata ebda helsien minghajr prova.

88. Ma jinghata ebda helsien unilaterali lil persuna kemm-il darba dik il-persuna ma tkunx ippruvat għas-sodisfazzjon tal-Kummissarju li l-*income* skond id-dispożizzjonijiet tal-paragrafu (a) ta' l-artikolu 80 ta' dan l-Att ikun hallas it-taxxa skond id-dispożizzjonijiet tal-paragrafu (b) ta' l-artikolu 80 ta' dan l-Att u tkun ippruvat l-ammont ta' dik it-taxxa."

Żieda ta' artikoli godda 92, 93, 94, 95 u 96 ma l-att prinċipali.

30. Minnufih wara l-artikolu 91 ta' l-att prinċipali għandhom jżiededu l-artikoli godda li ġejjin:

"Kreditu ta' taxxa barranija b'rata waħda.

92. Għall-finijiet ta' l-Atti dwar it-Taxxi, il-kreditu ta' taxxa barranija b'rata waħda jinghata dwar l-*income* jew il-qliegħ:

(a) li jkun jista' jiġi riċevut minn kumpannija residenti f'Malta; u

(b) li għandu jiġi allokat lil kont ta' *income* barrani kif imfisser fl-artikolu 2 ta' dan l-Att, iżda esklużi profitti li jinjalghu minn dividend imhallas mill-kont ta'

(ċ) li dwaru jkun hemm prova dokumentata li turi għas-sodisfazzjoni tal-Kummissarju li dak l-*income* jew qliegħ, skond il-każ, għandu jiġi allokati lil kont ta' *income* barrani. Għall-finijiet ta' din il-htieġa, ċertifikat mahruġ minn *accountant* u uditur pubbliku ċertifikat ikun prova dokumentata biżżejjed.

Ammont ta' kreditu ta' taxxa barranija b'rata waħda.

93. (1) Il-kreditu ta' taxxa barranija b'rata waħda jkun hamsa u għoxrin fil-mija ta' l-*income* jew qliegħ li jkun riċevut mill-kumpanija skond id-dispożizzjonijiet ta' l-artikolu 92 ta' dan l-Att, qabel ma jsiru xi tnaqqis jew hłasijiet, ikunu li jkunu, mill-imsemmi *income* jew qliegħ.

(2) Fil-każ ta' *income* li jinkludi dividendi, qliegħ kapitali, mghax, *royalties*, kerja jew *income* ieħor li jista' jiġi riċevut minn kumpanija residenti f'Malta u li jinkiseb, meta applikabbli, minn investimenti sitwati barra minn Malta, il-kreditu ta' taxxa barranija b'rata waħda għandu jkun kalkolat fuq l-ammont li jkun jista' jiġi riċevut, wara li titnaqqas kull taxxa barranija (intaxxata direttament jew minn ras il-ghajn) iżda qabel ma jsir xi tnaqqis ieħor jew hłasijiet ohra, ikunu li jkunu.

Thaddim tal-kreditu ta' taxxa barranija b'rata waħda.

94. (1) Meta l-kreditu ta' taxxa barranija b'rata waħda jkun dovut dwar *income* jew qliegħ imsemmi fl-artikolu 92 ta' dan l-Att, dan għandu jingħadd ma' l-imsemmi *income* jew qliegħ. Is-somma totali li hekk tinkiseb tkun l-ammont li għandu jiġi ntaxxat.

(2) Għal sena ta' stima li dwarha jkun maħdum l-*income* skond id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, l-ammont ta' taxxa li għandu jithallas taht dan l-Att għandu jitnaqqas bl-ammont tal-kreditu ta' taxxa barranija b'rata dovuta dwar dak l-*income*.

Iżda meta l-ammont tal-kreditu ta' taxxa barranija b'rata waħda jkun iżjed minn hamsa u tmenin fil-mija tat-taxxa li jkollha tithallas maħduma billi tittiehed it-taxxa li għandha tithallas fuq dawk il-profitti li għandhom ikunu allokati għall-kont ta' *income* barrani u minnha titnaqqas kull taxxa barranija kumpensata taht id-dispożizzjonijiet tal-helsien ta' taxxa doppja, tal-helsien dwar it-taxxa tal-*commonwealth* fuq l-*income* u tal-helsien

unilaterali, l-ammont ta' dak l-eċċess ma jkunx jista' jinghata bhala kumpens jew hlas lura ghal xi finijiet ta' l-Atti dwar it-Taxxi.

(3) Id-dispożizzjonijiet tas-subartikoli (8), (9) u (10) ta' l-artikolu 77 u ta' l-artikolu 78 ta' dan l-Att għandhom japplikaw *mutatis mutandis* dwar il-kreditu ta' taxxa barranija b'rata wahda kif japplikaw ghal helsien minn taxxa doppja.

Dispożizzjonijiet kontra l-evitar ta' taxxa.

95. Meta, fil-fehma tal-Kummissarju, isiru sensiela ta' transazzjonijiet bil-għan wahdani jew ewlieni li jitnaqqas l-ammont ta' taxxa li għandu jithallas minn xi persuna bit-thaddim tad-dispożizzjonijiet dwar kreditu ta' taxxa barranija b'rata wahda li jinsabu fl-artikoli minn 92 sa 94 ta' dan l-Att, dik il-persuna tkun intaxxata daqslikieku d-dispożizzjonijiet ma kienux japplikaw.

Għall-finijiet ta' dan l-artikolu, sensiela ta' transazzjonijiet tfisser żewġ transazzjonijiet jew iżjed korrispondenti jew ċirkolari, li jsiru mill-istess persuna, jew direttament jew indirettament, skond il-każ."

Żieda ta' artikolu gdid 96 ma' l-att prinċipali.

31. Fit-Taqsima XI (Setgħa għall-egħmil ta' regoli) ta' l-att prinċipali, għandu jidhol l-artikolu gdid li ġej:

Setgħa għall-egħmil ta' regoli.

96. Il-Ministru responsabbli għall-finanzi jista' minn żmien għal żmien jagħmel regoli biex b'mod ġenerali jitwettqu d-dispożizzjonijiet ta' dan l-Att u għal dawk il-hwejjeġ li b'dan l-Att huma awtorizzati li jkunu preskritti."

Emenda ta' l-Att dwar l-Iżvilupp Industrijali Kap 325.

32. L-Att dwar l-Iżvilupp Industrijali, għandu jkollu effett skond l-emenda msemmija fit-Tieni Skeda li tinsab ma' dan l-Att.

Skeda skond is-Subartikolu (1) ta' l-Artikolu 2 ta' dan l-Att

Numru ta' taqsimiet, artikoli, subartikoli, paragrafi u sub-paragrafi tagħhom.

(Nota: meta s-subartikoli, paragrafi jew sub-paragrafi ma kienux innumerati mill-ġdid, dawn ma jidhrux f'din l-Iskeda.)

Qabel ma gew numerati mill-ġdid b'dan l-Att	Kif numerati mill-ġdid b'dan l-Att
Taqsimi I	Taqsimi I
a.1	a.1
2	2
Taqsimi II	-
a.3	-
4	-
-	3
Taqsimi III	Taqsimi II
a.5	4
5(1)(d)	4(1)(c)
5(1)(e)	4(1)(d)
5(1)(f)	4(1)(e)
5(1)(g)	4(1)(f)
5(1)(h)	4(1)(g)
5A	5
-	6
6	7
7	8
8	9
9	10
10	11
Taqsimi IV	Taqsimi III
a.11	a.12
11(1)(ee)	12(1)(f)
11(1)(f)	12(1)(g)
11(1)(g)	12(1)(h)
11(1)(h)	12(1)(i)
11(1)(i)	12(1)(j)
11(1)(j)	12(1)(k)
11(1)(k)	12(1)(l)
11(1)(l)	12(1)(m)
11(1)(m)	12(1)(n)
11(1)(mm)	12(1)(o)
11(1)(n)	12(1)(p)
11(1)(o)	12(1)(q)
11(1)(p)	12(1)(r)
-	12(1)(s)
12	13
Taqsimi V	Taqsimi IV
a.13	14
-	15
-	16
-	17

Qabel ma'gaw numerati mill-g'did b'dan I-Att	Kif numerati mill-g'did b'dan I-Att
-	18
-	19
-	20
-	21
-	22
a.14	23
15	24
-	25
a.16	26
Taqsimasi VI	Taqsimasi V
a.17	27
18	28
19	29
20	30
21	31
-	32
-	33
-	34
-	35
-	36
-	37
-	38
-	39
-	40
-	41
-	42
a.22	43
22A	44
22B	45
23	46
24	47
25	48
26	49
26A	50
27	51
-	52
Taqsimasi VII	Taqsimasi VI
a.28	53
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Qabel ma ġew numerati mill-ġdid b'dan l-Att	Kif numerati mill-ġdid b'dan l-Att
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Qabel ma ġew numerati
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Taqsimi XVI

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Kif numerati mill-ġdid
b'dan l-Att

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Taqsimi XI

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IT-TIENI SKEDA

(Artikolu 32)

Emenda ta' l-Att dwar l-Iżvilupp Industrijali, Kap 325

L-artikolu 15 ta' l-Att dwar l-Iżvilupp Industrijali Kap 325, għandu jiġi emendat biż-żieda tal-proviso li ġej fit-tarf tiegħu:

"Iżda jekk ikun hemm tibdil fis-sehem azzjonarju tal-kumpannija hekk li s-sehem azzjonarju l-ġdid ma kienx jikkwalifika għal rata ta' taxxa mnaqqa taht xi arrangament kif intqal qabel jew jekk hekk jikkwalifika r-rata applikabbli għal dak l-arrangament tkun iktar mir-rata applikabbli għall-azzjonista li jkun hareġ, allura l-profitti li ma kienux tqassmu fl-aħħar tas-sena finanzjarja tal-kumpannija li taħbat qabel id-data tat-tibdil fis-sehem azzjonarju nieqes kull tqassim ta' profitti li jkun sar lill-azzjonista li jkun hareġ fis-sena finanzjarja kurrenti għandhom jiġu ntaxxati b'rata li tkun id-differenza bejn ir-rata ta' taxxa li kienet tkun applikabbli kieku l-azzjonista l-ġdid kellu l-azzjonijiet meta nqalghu dawk il-profitti, u r-rata attwalment applikata, u dik it-taxxa tkun taxxa li tithallas mill-kumpannija fis-sena ta' stima li fiha jitqassmu dawk il-profitti."

Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz huwa li jagħti effett lill-miżuri mhabbra fid-diskors tal-Budget dwar it-taxxa fuq l-*income*.

**A BILL
entitled**

AN ACT to amend the Income Tax Act, Cap 123.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:

1. (1) This Act may be cited as the Income Tax (Amendment) Act, 1993, and shall be read and construed as one with the Income Tax Act, hereinafter referred to as "the principal Act".

Short title and commencement
Cap 123.

(2) This Act shall come into force on such date as the Minister responsible for finance, may, by notice in the Gazette appoint.

2. (1) The Parts, sections, subsections, paragraphs and subparagraphs of the principal Act as in force prior to the commencement of this Act, shall be renumbered as appears in the First Schedule to this Act.

Renumbering of provisions.

(2) Any reference in the principal Act as in force prior to the commencement of this Act, shall be deemed and construed to be a reference to the Part, section or part thereof as renumbered by the Act, and the principal Act is hereby amended accordingly.

(3) Subject to the provisions of subsection (4) of this section, references in this Act to a Part, section, subsection, paragraph or subparagraph of the principal Act are references to the relative Part, section, subsection, paragraph or sub-paragraph thereof as renumbered in virtue of subsection (1) of this section.

(4) Notwithstanding the provisions of subsection (3) of this section, the Parts and sections of the principal Act which are deleted in virtue of section 3 of this Act shall be construed as references to those Parts and sections of the principal Act as in force prior to the commencement of this Act.

3. The following Parts and sections of the principal Act shall be deleted, that is to say:

Deletion of certain provisions of the principal Act.

- (a) Part II, sections 3 and 4;
- (b) Sections 35, 36, 37, 38 and 39;
- (c) Part X, sections 43 to 61, both inclusive;
- (d) Part XI, sections 62, 63, 64 and 65;
- (e) Part XII, sections 66, 67, 68, 69, 70 and 71;
- (f) Part XIII, sections 72, 73, 74, 74A, 75, 76, 77 and 78;

- (g) Section 79;
- (h) Part XV, sections 86 to 93, both inclusive; and
- (i) Part XVI, sections 94 and 95.

Amendment of section 2 of the principal Act.

4. In subsection (1) of section 2 of the principal Act:

(a) the following new definition shall be inserted immediately after the definition of "chargeable income":

" "collective investment scheme" means any scheme or arrangement which is licensed under the Investment Services Act, 1993;"

(b) in paragraph (b) of the definition of "company", the words "which proves to the satisfaction of the Commissioner that not more than ten per cent of its capital or of its voting power is owned or controlled, directly or indirectly, by any person or persons resident in Malta" shall be deleted;

(c) the following new definition shall be inserted immediately after the definition of "debenture interest":

" "distributable profits" shall mean the total profits which are available for distribution by a company resident in Malta under the laws for the time being in force in Malta, and the distributable profits shall, for the purposes of this Act, be allocated to the following accounts, that is to say, foreign income account, Maltese taxed account, and untaxed account, and for the purposes of this definition these accounts shall comprise the distributable profits as set out in the respective definitions;"

(d) the following new definitions shall be inserted immediately after the definition of "dividend":

" "equity holding" shall mean a holding of the nominal share capital in a company when the shareholding entitles the shareholder to a right to votes, to profits available for distribution to shareholders and to assets available for distribution on a winding up of that company, and "equity shares", "equity shareholder" and "equity shareholding" shall be construed accordingly;

"foreign income account" shall, with effect from the year immediately preceding the year of assessment 1995, means any of the following categories of distributable profits arising in that year and in subsequent years to the extent that they result from taxable income:

(a) profits resulting from all dividends, capital gains, interest, royalties, rents and from any other income which are liable to tax in Malta, receivable by a company resident in Malta which is not a company registered under the Malta Financial Services Centre Act and derived, where applicable, from investments situated outside Malta; and

(b) all profits or gains of a company resident in Malta, which are liable to tax in Malta and attributable to a permanent establishment (including a branch) situated outside Malta, and for these purposes "profits or gains" shall be calculated as if the permanent establishment is an independent enterprise operating in similar conditions and at arm's length; and

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(c) profits resulting from dividends paid out of the foreign income account of another company resident in Malta:

Provided that in the case of a company carrying on the business of insurance, or any other company which is owned and controlled, directly or indirectly, by such an insurance company, the profits which would, in accordance with the above provisions, stand to be allocated to the foreign income account will, for any financial year, not be so allocated:

Provided further that in the case of a company which is licensed as a bank in Malta or which forms part of a banking group as defined below, any profits which would, in accordance with the above provisions, stand to be allocated to the foreign income account will, for any financial year, not be so allocated unless:

(a) more than ninety-five per cent (95%) of its average daily deposits throughout the financial year are taken from persons who are not resident in Malta; and

(b) where the company forms part of a banking group, such group meets, on a consolidated basis, the requirement specified in paragraph (a) above.

For the purposes of this proviso:

(a) "banking group" shall comprise only Maltese registered companies, at least one of which must be a bank licensed in Malta, and which companies are members of a banking group of companies. Two companies shall be deemed to be members of a banking group of companies if one is the ten per cent affiliate of

the other or both are ten per cent affiliates of a third company. For this purpose, a company shall be deemed to be a ten per cent affiliate of another company (parent company):

(i) if and so long as more than ten per cent of its ordinary share capital and more than ten per cent of its voting rights are owned directly or indirectly by the parent company; or

(ii) the parent company is beneficially entitled either directly or indirectly to more than ten per cent of any profits available for distribution to the ordinary shareholders of the affiliate company; or

(iii) the parent company would be beneficially entitled either directly or indirectly to more than ten per cent of any assets of the affiliate company available for distribution to its ordinary shareholders on winding up:

Provided that notwithstanding the above provisions, a company which has been acquired by a bank in satisfaction of a debt and which does not otherwise form part of the bank's business shall be deemed not to form part of a banking group;

(b) "average daily deposits" shall be computed by taking the total deposits at the end of each day for the financial year and dividing such amounts by the number of days in that financial year and average daily deposits taken from persons who are not resident in Malta shall be computed in like manner. The word "deposits" shall have the meaning assigned to it in the Banking Act, 1994;

(c) the amount of the consolidated average daily deposits of a banking group shall include only deposits accepted by companies forming part of the banking group placed by persons other than such companies;

Provided finally, that in the case of an "International Trading Company", the profits which would, in accordance with the above provisions, stand to be allocated to the foreign income account will, for any financial year, not be so allocated.";

(e) the following new definitions shall be inserted immediately after the definition of "incapacitated person":

" "International Trading Company" means a company registered in Malta which is engaged in carrying on International Trading Activities and has its objects expressly limited to such activities and to such other acts only as are necessary for its operations from Malta - provided that the carrying on of trading activities with:

(a) companies engaged in the manufacture, assembly or processing of goods in Malta where such activities comprise the purchase of such goods by International Trading Companies for exports;

(b) companies registered under the Malta Financial Services Centre Act; and

(c) other International Trading Companies;

shall, in so far as they are complementary to the carrying on of International Trading Activities, be deemed to be allowable activities of an International Trading Company .

For the purposes of this definition "International Trading Activities" means the carrying on of any business or other activity from Malta with persons not resident in Malta;"

(f) the following new definitions shall be inserted immediately after the definition of "Malta":

" "Maltese taxed account" means any of those profits of a company that are not included in the foreign income account and:

(a) which have suffered tax; or

(b) which have been exempt from tax under the provisions of any Maltese law and where the distribution of such profits by the company is also exempt from tax in the hands of the shareholders; or

(c) which represent, when a company makes a request as contemplated under subsection (7) of section 8 of the Industrial Development Act, the difference between the deductions which a company has claimed under the provisions of the said section, and the deductions contemplated in paragraphs (f) and (j) of subsection (1) of section 14 of this Act:

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Provided that such difference to be so included shall not exceed the difference in income which would be charged to tax, and which could have been distributed by the company by way of dividend of its shareholders, if the company had not been entitled to deductions under section 8 of the Industrial Development Act, but to deductions contemplated by paragraphs (f) and (j) of subsection (1) of section 14 of this Act.

"participating holding" shall mean a holding which arises where:

(a) a company holds directly at least ten percent of the equity shares of a company not resident in Malta whose capital is wholly or partly divided into shares:

Provided that where the shares held confer different percentages of entitlement with respect to votes, to profits available for distribution and to assets available for distribution on a winding up, the lowest percentage figure shall be deemed to be the percentage of equity shares held; or

(b) a company is an equity shareholder in a company not resident in Malta and the equity shareholder company is entitled at its option to call for and acquire the entire balance of the equity shares not held by that equity shareholder company to the extent permitted by the law of the country in which the equity shares are held; or

(c) a company is an equity shareholder in a company not resident in Malta and the equity shareholder company is entitled to first refusal in the event of the proposed disposal, redemption or cancellation of all of the equity shares of that company not held by that equity shareholder company; or

(d) a company is an equity shareholder in a company not resident in Malta and is entitled to either sit on the Board or appoint a person to sit on the Board of that company as a director; or

(e) a company is an equity shareholder which invests a minimum sum of five hundred thousand Maltese liri (or the equivalent sum in a foreign currency) in a company not resident in Malta; or

(f) a company is an equity shareholder in a company not resident in Malta and where the holding of such shares is for the furtherance of its own business:

Provided that a holding of shares whether equity shares or not, in a company not resident in Malta, held as trading stock for the purpose of a trade shall not constitute a "participating holding";;

(g) in the definition of "resident in Malta", for the words "when applied to a body of persons, means any body of persons the control and management of whose business are exercised in Malta", there shall be substituted the words "when applied to a body of persons, means any body of persons the control and management of whose business are exercised in Malta, provided that a company incorporated in Malta on or after 1st July 1994 shall be resident in Malta and any other company incorporated in Malta shall be resident in Malta from 1st July 1995 where the management and control of the business of the company is exercised outside Malta";

(h) in the definition of "the Special Commissioners", for the words "under section 66 of this Act" there shall be substituted the words "under section 34 of the Taxes Management Act, 1993";

(i) in the definition of "tax", for the words "imposed by this Act" there shall be substituted the words "imposed by the Taxes Acts";

(j) immediately after the definition of "tax", there shall be inserted the following new definition:

"the Taxes Acts" shall collectively mean this Act and the Taxes Management Act, 1993";

(k) the definition of "total income" shall be amended as follows:

(i) for the words "of Part VI;", there shall be substituted the words "of Part VI: "; and

(ii) immediately at the end thereof, there shall be added the following proviso:

"Provided that any income which is not required to be disclosed and is not disclosed in accordance with the provisions of the Taxes Acts shall not form part of total income;"; and

(l) the following new definition shall be inserted immediately after the definition of "total income":

" "untaxed account" shall consist of those profits (or losses as the case may be), which represent the total distributable profits (a positive amount) or the total accumulated losses (a negative amount) as the case may be, and deducting therefrom the total sum of the amounts allocated to the foreign income account and the Maltese taxed account;".

Addition of new section 3 to the principal Act.

5. Immediately after section 2 of the principal Act, there shall be added the following section:

"Administration of Act.

3. The administration of this Act shall be vested in the Commissioner, and the provisions of sections 3 and 4 of the Taxes Management Act, 1993, shall apply to the Commissioner in the exercise of his powers and functions under this Act."

Amendment of section 5 of the principal Act.

6. Subsection (9) of section 5 of the principal Act shall be deleted and shall be substituted by the following new subsection:

"(9) Where an asset is transferred from one company to another company and such companies are:

(a) deemed to be a group of companies for the purposes of section 16 of this Act, or

(b) controlled and beneficially owned directly or indirectly to the extent of more than fifty percent by the same shareholders,

it shall be deemed that no loss or gain has arisen from the transfer. In ascertaining the capital gain where such an asset is subsequently transferred by a company to another company which does not fall within the provisions of paragraphs (a) or (b) of this subsection, as the case may be, the base cost of the asset that would be considered shall be the original cost existing before the first transfer took place."

Addition of new section 6 to the principal Act.

7. Immediately after section 5 of the principal Act, there shall be added the following new section:

6. (1) For the purposes of this section, an "investment services expatriate" shall mean any individual who is an employee of, or provides services to, an investment services company, as defined in section 15 of this Act, and either:

"Investment Services
Expatriate.

(a) is not ordinarily resident and not domiciled in Malta; or

(b) was not resident in Malta for a minimum period of three years immediately preceding the year in which he commences such employment with or provides services to any investment services company as aforesaid and provided that during the said three years such individual has been engaged on a full time basis in a similar position outside Malta.

(2) An investment services expatriate, for the period from the year preceding the first year of assessment in which he is first liable to tax under the provisions of this Act up to and including the year preceding the tenth year of assessment, shall not be liable to tax on income relating to the following expenditure incurred for the benefit of the investment services expatriate or his immediate family by the investment services company of which he is an employee or to which he provides investment services:

(a) removal costs in respect of relocation to or from Malta;

(b) accommodation expenses incurred in Malta;

(c) travel costs in respect of visits by the investment services expatriate and his immediate family to or from Malta;

(d) provision of a car for the use of the investment services expatriate in Malta;

(e) a subvention of not more than two hundred and fifty liri per calendar month;

(f) medical expenses and medical insurance; and

(g) school fees in respect of the children of the investment services expatriate.

(3) An investment services expatriate shall be treated as not resident in Malta for the purposes of paragraph (c) of subsection (1) of section 12 of this Act."

Amendment of section 7 of the principal Act.

8. Subsection (9) of section 7 of the principal Act shall be deleted and shall be substituted by the following new subsection:

"(9) Any excess remaining after tax has been set off as provided in subsection (8) of this section shall be refunded in accordance with the provisions of section 48 of the Taxes Management Act, 1993."

Amendment of section 8 of the principal Act.

9. In subsection (5) of section 8 of the principal Act, for the words starting from "Notwithstanding any other provision of this Act" to "the Commissioner may", there shall be substituted the words, "Notwithstanding any other provision of the Taxes Acts, other than section 31 of the Taxes Management Act, 1993, the Commissioner may".

Amendment of section 9 of the principal Act.

10. Subsection (4) of section 9 of the principal Act shall be deleted and shall be substituted by the following new subsection:

"(4) If a person does not elect as provided in subsection (3) of this section, the requirements of section 10 of the Taxes Management Act, 1993 shall not be enforced in his regard in respect of any year of assessment on account of which the provisions of subsection (1) of this section apply."

Amendment of section 12 of the principal Act.

11. In section 12 of the principal Act:

(a) paragraph (c), including the provisos thereof, of subsection (1) thereof shall be deleted and shall be substituted by the following new paragraph:

"(c) (i) any interest or royalties accruing to or derived by any person not resident in Malta:

Provided that the exemption under this subparagraph shall not apply in respect of any year in which the said person is engaged in trade or business in Malta through a permanent establishment situated therein and where the royalties or the debt claim in respect of which the interest is paid are effectively connected with such permanent establishment;

(ii) any gains or profits accruing to or derived by any person not resident in Malta on a disposal of any shares or securities in a company (which for the avoidance of doubt includes redemption, liquidation or cancellation) which is not a company the assets of which consist wholly or principally of immovable property situated in Malta:

Provided that such non-resident person is the beneficial owner of the interest, royalty, gain or profit as the case may be, and that such person is not owned and controlled by, directly or indirectly, nor acts on behalf of a person who is ordinarily resident and domiciled in Malta;"

(b) immediately after paragraph (r) of subsection (1) thereof, there shall be added the following new paragraph:

"(s) the income of a collective investment scheme:"; and

(c) immediately after subsection (4) thereof, there shall be added the following new subsection:

"(5) A collective investment scheme (which is not constituted as a unit trust) may waive its right to exemption from tax. Such waiver shall not be applicable in respect of any gains or profits realised on a disposal (which for the avoidance of doubt includes redemption, liquidation or cancellation) of any investments, assets or liabilities held by the aforesaid scheme. Such waiver shall be exercised by advance notice in writing to the Commissioner. The said notice shall set out the year of assessment in respect of which the waiver shall become applicable, and shall be notified to the Commissioner not later than the first day of the said year of assessment."

Addition of new sections
15, 16, 17, 18, 19, 20, 21
and 22 to the principal Act.

12. Immediately after section 14 of the principal Act, there shall be added the following new sections:

"Investment services
companies.

15. (1) For the purposes of this section investment services company shall mean a company which holds an investment services licence issued under section 6 of the Investment Services Act, 1993 and whose activities solely comprise the provision of management, administration, safekeeping, or investment advice to collective investment schemes as defined in the aforesaid Act;

(2) For the purposes of ascertaining the total income of an investment services company, the amounts specified in paragraphs (a) to (e) of this subsection shall, at the company's option, be allowed as deductions in addition to or as a replacement for, as the case may be, the amounts allowed under subsection (1) of section 14 of this Act and shall be subject to the conditions stipulated in that section. For this purpose:

(a) rental, heating, lighting, building maintenance, building insurance and other building occupancy costs incurred in the period from the year preceding the first year of assessment in which the investment services company first becomes liable to tax under this Act up to and including the year preceding the tenth year of assessment shall be allowed as an additional one hundred per cent of such expenditure;

(b) a one hundred per cent deduction shall replace the deductions provided for under paragraphs (f) and (j) of subsection (1) of section 14 of this Act in respect of expenditure which is incurred in the period commencing from the year preceding the first year of assessment in which the investment services company first becomes liable to tax under the provisions of this Act up to and

including the year preceding the fifth year of assessment and, in addition, expenditure in respect of office premises shall be eligible for such deduction as if the said premises were industrial buildings;

(c) the amounts invested by an investment services company for its own account in a collective investment scheme managed by that company shall be allowed as a deduction if such investment is made during the period commencing from the year preceding the first year of assessment in which the investment services company first becomes liable to tax under the provisions of this Act up to and including the year preceding the fifth year of assessment:

Provided that such funds so invested are not disinvested from such collective investment scheme within two years of the making of the said investment:

Provided further that this additional deduction shall not affect the amount which is to be taken as the cost of acquisition of such investment for the purposes of any other provision of this Act, and also provided that such deductions shall not be carried forward as part of a loss to be set off against the company's liability in respect of a capital gain arising on the disposal of its investments in the collective investment scheme;

(d) remuneration paid by an investment services company to its employees who are resident in Malta shall be allowed as an additional one hundred percent of that remuneration if such expenditure is incurred during the period commencing from the year

preceding the year of assessment in which the investment service company first becomes liable to tax under the provisions of this Act up to and including the year preceding the tenth year of assessment;

(e) there shall be allowed as a deduction any other expenses and outgoings incurred by the investment services company wholly and exclusively for the purposes of carrying on its business and which would otherwise not have been allowed as a deduction under the provisions of subsection (1) of section 14 of this Act.

(3) Where an investment services company incurs expenditure before it begins to carry on its business, and the expenditure -

(a) is incurred not more than five years before that time; and

(b) is not deductible in ascertaining the total income of the investment services company, but would have been so deductible under subsection (1) of section 14 or under paragraph (e) of subsection (2) of this section had it been incurred after that time,

such expenditure shall be treated as incurred on the day on which the business is first carried on by the investment services company, and paragraphs (a) to (d) of subsection (2) of this section shall apply in respect of such expenditure.

(4) The additional deductions specified in subsection (2) of this section represent the maximum deductions allowed for the purposes of that subsection, and an investment services company need not claim the full amount of such maximum deductions in respect of any year of assessment.

(5) The additional deductions provided for in this section shall not be taken into account in determining the amount of loss, if any, available for surrender under the provisions of sections 16 to 22 (group relief provisions) of this Act.

Definition of group.

16. For the purposes of this section and of sections 17 to 22 of this Act, hereinafter collectively referred to (including this section) as the "group relief provisions", two companies resident in Malta but neither of which is resident for tax purposes in any other country shall be deemed to be members of a group of companies if one is the fifty-one percent subsidiary of the other or both are fifty-one percent subsidiaries of a third company resident in Malta.

For the purposes of the group relief provisions, a company shall be deemed to be a fifty-one percent subsidiary of another company, hereinafter referred to as the "parent company":

(a) if and so long as more than fifty percent of its ordinary share capital and more than fifty percent of its voting rights are owned directly or indirectly by the parent company; and

(b) the parent company is beneficially entitled either directly or indirectly to more than fifty percent of any profits available for distribution to the ordinary shareholders of the subsidiary company; and

(c) the parent company would be beneficially entitled either directly or indirectly to more than fifty percent of any assets of the subsidiary company available for distribution to its ordinary shareholders on a winding up.

Surrender of relief
between members
of groups.

17. (1) Subject to, and in accordance with, the provisions of this section and of sections 18 to 22 of this Act, allowable losses may, in the case set out in subsection (2) of this section, be surrendered by a company, hereinafter referred to as "the surrendering company", and, on the making of a claim by another company, hereinafter referred to as "the claimant company", be allowed to the claimant company by way of a relief from tax called "group relief". A claim made by virtue of this subsection is hereinafter referred to as a "group claim".

(2) Group relief shall be available where the surrendering company and the claimant company are both members of the same group throughout the year preceding the year of assessment for which the relief is claimed.

(3) For any year of assessment, two or more claimant companies may make group claims relating to the same surrendering company.

(4) A payment for group relief -

(a) shall not be taken into account in computing profits or losses of either company for the purposes of tax imposed by this Act; and

(b) shall not, for any of the purposes of this Act, be regarded as a distribution.

For the purposes of this subsection "a payment for group relief" means a payment made by the claimant company to the surrendering company in pursuance of an agreement between them in respect of an amount surrendered by way of group relief, being a payment not exceeding that amount.

Losses which may be surrendered by way of group relief.

18. (1) (a) If in the year preceding a year of assessment the surrendering company has incurred an allowable loss, the amount of the loss may be set off for the purposes of tax against the total income of the claimant company for the corresponding year of assessment and, where applicable, for subsequent years of assessment provided that in the year in which the surrendering company incurs the loss both companies have accounting periods which begin and end on the same dates:

Provided that where the surrendering company makes up accounts and pays tax in a currency other than that of the claimant company any loss surrendered shall be set off against the total income of the claimant company as aforesaid, after such amount is converted to the currency in which the claimant company makes up accounts and pays tax. Such conversion shall be carried out by reference to the mean rate or rates of exchange between such currency or currencies and the Maltese Lira ruling on the last day of the accounting period to which such loss refers as issued by the Central Bank of Malta.

(b) A surrendering company may surrender allowable losses by way of group relief in excess of the total income of the claimant company in the year preceding a year of assessment, in which case the claimant company may carry forward and set off those losses in accordance with the provisions of paragraph (g) of subsection (1) of section 14 of this Act as if they were losses of its own trade.

(c) Where the allowable loss, had it been a profit, would have been allocated to the Maltese taxed account of the surrendering company, the claimant company may only deduct such loss from its total income as would stand to be allocated to its Maltese taxed account and such loss may only be carried forward against the claimant company's total income arising in subsequent years as would

stand to be allocated to its Maltese taxed account.

(d) Where the allowable loss, had it been a profit, would have been allocated to the foreign income account of the surrendering company, the claimant company may only deduct such loss from its total income as would stand to be allocated to its foreign income account and such loss may only be carried forward against the claimant company's total income arising in subsequent years as would stand to be allocated to its foreign income account.

(2) Notwithstanding the provisions of subsection (1) of this section, a company which is either -

(a) newly incorporated and at all times after its incorporation satisfies the conditions to be deemed a member of the same group of companies as another company in the year preceding a year of assessment and has the same accounting period end date as that other company in that year preceding the year of assessment, or

(b) wound up part way through its accounting period and until it is so wound up satisfies the conditions to be deemed a member of the same group as another company in the year preceding a year of assessment and has the same accounting period start date as that other company in that year preceding the year of assessment,

will be deemed for the purposes of paragraph (a) of subsection (1) of this section to have an accounting period which begins and ends on the same date as that of that other company and group relief shall be available in full for that year.

Group relief -
anti-avoidance.

19. If, apart from this section, a company is a member of a group of companies, and arrangements are in existence the sole or main purpose of which is to reduce any company's tax liability, and by virtue of the said arrangements that company would cease to be a member of that group of companies, then that company shall be treated as not being a member of that group of companies for any year preceding a year of assessment in which the said arrangements are in existence.

Exclusion of
double reliefs.

20. (1) Relief shall not be given more than once, whether by giving group relief and by giving some other relief (in respect of any year of assessment) to the surrendering company, or by giving group relief more than once, in respect of the same amount.

(2) In accordance with the provisions of subsection (1) of this section, two or more claimant companies cannot, in respect of any one loss, obtain in total more relief than could be obtained by a single claimant company.

Claims and adjustments.

21. A claim for group relief:

(a) need not be for the full amount available,

(b) shall include the consent of the surrendering company set out in such form as the Commissioner may require, and

(c) must be made not later than twelve months following the end of the company's accounting period which date falls within the year immediately preceding the year of assessment for which the claim is made.

Definitions.

22. For the purpose of the group relief provisions:

(a) a reference to "allowable loss" or "allowable losses" shall be construed as a reference to the loss or losses referred to in paragraph (g) of subsection (1) of section 14 of this Act, to the extent that they are incurred in the year preceding the year of assessment and are not unrelieved losses carried forward from previous years; and

(b) references to "total income" shall have the meaning assigned to it by section 2 of this Act but shall be computed before any deduction is made in respect of group relief."

Amendment of section 24 of the principal Act.

13. In section 24 of the principal Act:

(a) in subsection (1) thereof, for the words starting from "render to the Commissioner" to the words "a statement" which occur in the paragraph immediately after paragraph (c) of the said subsection, there shall be substituted the words "render to the Commissioner, at the same time as he renders his return of income under section 10 of the Taxes Management Act, 1993, a statement"; and

(b) subsection (6) thereof shall be deleted and shall be substituted by the following new subsection:

"(6) Nothing in subsections (4) and (5) of this section contained shall prevent the Commissioner in the exercise of the power conferred upon him by those subsections from being questioned in an appeal in accordance with the provisions of sections 35 and 37 of the Taxes Management Act, 1993."

Addition of section 25 to the principal Act.

14. Immediately after section 24 of the principal Act there shall be added the following new section:

"Applicability of sections 14 to 24.

25. For the purposes of sections 14 to 24, both inclusive, of this Act, expenses incurred in the production of, and allowable deductions given in respect of, profits which are allocated to the foreign income account must first be deducted against the income from which such profits are derived."

15. Immediately after section 31 of the principal Act, there shall be inserted the following new sections:

Addition of new sections 32, 33, 34, 35, 36, 37, 38, 39, 40, 41 and 42 to the principal Act.

"Taxation of certain investment income by deduction.

32. Sections 33 to 42 of this Act which, both inclusive and together with this section are hereinafter collectively referred to as "the investment income provisions", contain provisions for the taxation of certain investment income by means of deduction by the payor and they shall apply, where the context so requires, notwithstanding anything to the contrary contained in this Act.

Obligation of payor to deduct tax from investment income.

33. (1) A payor shall deduct tax from every payment to a recipient of investment income, howsoever made, at a rate of fifteen cents on every lira of such payment.

(2) A payor shall render an account to the Commissioner of all amounts so deducted, but shall not specify the identity of the recipient and, subject to the provisions of subsection (3) of this section, every amount deducted shall be a debt due from such payor to the Commissioner payable not later than the fourteenth day following the end of the month in which the payment was made and shall be recoverable as such.

(3) The payor shall upon making a payment of investment income furnish each recipient with a certificate in a form acceptable to the Commissioner setting forth the gross amount paid by the payor, and the tax deducted.

(4) Where a payor makes a payment of investment income to a person not resident in Malta (and therefore not a recipient

within the definition contained in paragraph (c) of section 41 of this Act), the payor shall be obliged to obtain a certificate of non-residence from the person receiving such payment in such form as the Commissioner shall require.

Payor not to deduct tax where recipient elects to be paid gross.

34. (1) A payor shall not deduct tax under section 33 of this Act where a recipient elects under the provisions of section 35 of this Act, to be paid investment income without such deduction being made.

(2) A payor shall, at the request of the Commissioner, render an account to the Commissioner of all payments of investment income made during any year in respect of which an election has been made. The account shall be submitted to the Commissioner by the 31st January following the year for which the election has been made, or within thirty days of the request, whichever date is later. Such account shall include details of the recipient's name, address and the income tax registration number as well as the amount of investment income paid gross by the payor to the recipient during that year:

Provided that the Commissioner may only request such an account for a complete year which has passed in respect of which an election has been made under the provisions of section 35 of this Act:

Provided further that a payor shall not be required to render an account to the Commissioner once nine years have elapsed following the end of the year in which the investment income becomes payable.

Election by recipient to be paid without deduction of tax.

35. (1) A recipient may elect to be paid investment income, which does not constitute capital gains within the meaning of section 41(a)(v) of this Act, without deduction of tax being made and such an election shall be made in writing and sent to the payor.

(2) Subject to the provisions of subsection (3) of this section, an election will be

effective as from 14 days following the receipt of such notice of election by the payor. Such an election may be revoked at the option of the recipient by notice in writing and such revocation shall be effective as from 14 days following the receipt by the payor of such notice.

(3) An election made on the opening of a bank account in respect of which investment income is payable, or on the purchase of bonds, loanstock, debentures, or any other instrument in respect of which the investment income is payable, shall have immediate effect.

Obligation on recipient to declare where an election is made.

36. Where an election under the provisions of section 35 of this Act has been made, a recipient shall declare the investment income to which the election relates on his tax return for the relevant year of assessment and where a declaration is made as aforesaid any tax due shall be determined as if the investment income provisions had not been enacted.

Option for recipients to declare where no election has been made.

37. (1) Where no election under section 35 of this Act has been made, a recipient who is an individual may declare investment income on his tax return and, where a declaration is made as aforesaid, any tax due shall be determined as if the investment income provisions had not been enacted.

(2) Where a recipient has declared investment income on his tax return any tax withheld in respect of such income under the investment income provisions shall be available as a credit against the recipient's tax liability, or for a refund as the case may be, for the relevant year of assessment.

Presumption of deduction.

38. Except in respect of a year of assessment for which an election under section 35 of this Act applies, it shall be presumed, so far as the tax liability of the recipient is concerned, that a deduction and payment which ought to have been made pursuant to the provisions of section 33 of this Act have been made.

Where presumption applies, no need to declare.

39. Where the presumption referred to in section 38 of this Act applies:

(a) a recipient who is an individual shall not be obliged to disclose the existence of the investment income in any return made pursuant to the provisions of this Act, and

(b) subject to the provisions of subsection (1) of section 37 of this Act, no person shall be charged to further tax in respect of the investment income under this Act.

Extent of payor's liability.

40. Where a payor fails to deduct and pay tax in accordance with the investment income provisions, the provisions of subsection (4) of section 73 of this Act and subsection (1) of section 40 of the Taxes Management Act, 1993, shall apply *mutatis mutandis*.

Interpretation of the investment income provisions.

41. For the purposes of the investment income provisions, the following phrases shall have the meanings given below:

(a) "investment income" shall mean only the following categories of income:

(i) interest payable by a person carrying on the business of banking under the Banking Act, 1994, in respect of a sum of money in whatever currency deposited with it in any account whatever (except

interest payable in respect of any bearer account);

(ii) interest payable by the Government of Malta or by any agency thereof;

(iii) interest payable by a corporation or authority established by law;

(iv) interest payable in respect of a public issue by a company resident in Malta; and

(v) capital gains arising on the disposal of shares or units in a collective investment scheme licensed under the Investment Services Act, 1993, where the collective investment scheme redeems, liquidates or cancels such shares or units as the case may be - such capital gains to be calculated by reference to the price at which the shares or units were allotted or issued by the collective investment scheme;

(b) "payor" shall mean the person who is liable to make or, if different, who makes a payment of investment income;

(c) "recipient" shall mean:

(i) a person who is resident in Malta during the year in which investment income is payable to him or which is payable to a person under subparagraphs (ii) or (iii) of this paragraph (other than a person who during that year carried on banking business under the Banking Act, 1994, or a person carrying on the business of insurance or any other company which is owned and controlled, directly or indirectly, by such persons or a company which is

registered under Section 24 of the Malta Financial Services Centre Act), or

(ii) a receiver, guardian, tutor, curator, judicial sequestrator or committee acting on behalf of a person referred to in sub-paragraph (i) of this paragraph, or

(iii) a trustee or foundation pursuant to or by virtue of which any money or other property whatsoever shall for the time being be paid or applied to or for the benefit of a person referred to in sub-paragraph (i) of this paragraph.

Anti-avoidance provisions.

42. Where, in the opinion of the Commissioner, a series of transactions is effected with the sole or main purpose of reducing the amount of tax payable by a person by reason of the operation of the investment income provisions, such a person shall be assessable as if the aforesaid provisions did not apply, and any tax withheld in respect of income received under one or more of the aforesaid transactions shall be available as a credit against the tax liability of the person receiving such income, or for a refund as the case may be, for the relevant year of assessment.

For the purposes of this section, a "series of transactions" shall mean any two or more corresponding or circular transactions, carried out by the same person, either directly or indirectly, as the case may be."

Amendment of section 43 of the principal Act.

16. Subsection (5) of section 43 of the principal Act shall be deleted and shall be substituted by the following new subsection:

"(5) Nothing contained in this section shall prevent the decision of the Commissioner in the exercise of the power conferred upon him by subsection (1) of this section from being questioned in

an appeal in accordance with the provisions of sections 35 and 37 of the Taxes Management Act, 1993."

17. Subsection (3) of section 48 of the principal Act shall be deleted and shall be substituted by the following new subsection:

Amendment of section 48 of the principal Act.

"(3) Nothing contained in this section shall be deemed to impair the right of an assessee to appeal against an assessment of tax under the provisions of sections 35 and 37 of the Taxes Management Act, 1993."

18. Immediately after section 51 of the principal Act there shall be added the following new section:

Addition of new section 52 to the principal Act

"Advance Revenue Rulings.

52. (1) The Commissioner shall, on the application of a company which is a party to any transaction, notify his ruling that the provisions of section 51 of this Act shall not apply to that transaction provided that the Commissioner is satisfied that the transaction is to be effected for bona fide commercial reasons.

(2) The Commissioner shall, on the application of any person, notify his ruling that the provisions of paragraph (f) of the definition of "participating holding" as defined in section 2 of this Act in respect of a participating holding will apply to a particular shareholding or to a shareholding which is to be acquired by the applicant.

(3) The Commissioner shall, on the application of any person which is a company, notify his ruling on the tax treatment of any transaction which concerns any financial instrument or other security.

(4) The Commissioner shall, on the application of any person, notify his ruling on the tax treatment of any transaction which involves international business, provided that the determination of what constitutes international business for the purposes of this subsection shall be at the discretion of the Commissioner.

(5) The Commissioner shall, on the application of any person, notify his ruling as to whether a company qualifies as an international trading company.

(6) The notification of a ruling specified in this section may be given in advance of any transaction in respect of which an application for a ruling is made.

(7) (a) All applications under this section shall be made in writing and shall contain all material particulars of the transactions to be effected.

(b) Where the Commissioner requires further particulars for the purposes of enabling him to make a decision on an application under this section, the Commissioner shall, within thirty days of the receipt of the application, or of the receipt of any further particulars previously required under this paragraph, by written notice, require the applicant to furnish such further particulars, and if any such notice is not complied with within thirty days, or such longer period as the Commissioner may allow, the Commissioner need not proceed further with the application.

(c) The Commissioner shall notify his ruling to the applicant within thirty days of receiving the application or, if he gives a notice under paragraph (b) of this subsection, within thirty days after the notice has been complied with.

(d) If any particulars furnished under this section do not fully and accurately disclose all facts and considerations material for the ruling of the Commissioner, any resulting ruling shall be void.

(8) (a) Subject to the provisions of paragraph (d) of subsection (7) of this section, a ruling by the Commissioner will be and shall remain binding on the Commissioner for a period of two years from the time of any relevant change in statutory provisions

subsequent to such ruling, or for a period of five years from the time of such ruling, whichever is the lesser.

(b) A ruling by the Commissioner may, at the option of the applicant, be renewed for a further period of five years. An application for renewal shall be submitted in writing to the Commissioner, stating whether or not there have been any material changes to the facts and considerations contained in the original application and the nature of any such changes. Such renewal shall not be unreasonably withheld by the Commissioner."

19. Paragraph (b) of subsection (2) of section 55 of the principal Act shall be deleted and shall be substituted by the following new paragraph:

Amendment of section 55 of the principal Act.

"(b) the form referred to in subsection (1) of this section, together with any supporting documents that are required to be produced, is received by the Commissioner before he determines the tax for that year of assessment by order in writing under the provisions of subsection (5) of section 33 of the Taxes Management Act, 1993."

20. In section 56 of the principal Act:

Amendment of section 56 of the principal Act.

(a) the following new subsections shall be inserted immediately after subsection (6) thereof:

"(7) The tax shall be charged at the rate of 25c on every lira of the chargeable income of a collective investment scheme which, under the provisions of subsection (5) of section 12 of this Act, has waived its right to exemption from tax.

(8) Notwithstanding any other provisions of this section, a person in receipt of a dividend from an international trading company shall be charged to tax in respect of such dividend at a rate of twenty-seven and a half percent (27.5%) of such amount as if such dividend constitutes separate chargeable income, where such person is either :

(a) not resident in Malta and who is, where applicable, not owned and controlled, directly or indirectly by, nor acts on behalf of, a person or persons ordinarily resident and domiciled in Malta; or

(b) a company resident in Malta which is wholly owned by a person or persons not resident in Malta, provided that such person or persons are not owned and controlled by, directly or indirectly, nor acts on behalf of, a person or persons ordinarily resident and domiciled in Malta."; and

(b) the third proviso of subsection (12) thereof and paragraphs (i) to (iv) immediately following the said proviso shall be substituted by the following:

"Provided also that where the Commissioner has sent to any person a notice referred to in subsection (3) of section 12 of the Taxes Management Act, 1993, such person shall be required to pay, in respect of each such notice, an additional tax as may be specified in such notice for the year of assessment in respect of which the default has occurred but which shall in no case exceed ten liri. The Commissioner may only remit this additional tax where he is satisfied that owing to absence from Malta, sickness or other reasonable cause such person was prevented from submitting a return in accordance with the provisions of section 10 or 11 of the Taxes Management Act, 1993:

(i) the powers conferred upon the Commissioner by this subsection shall be in addition to any right conferred upon him to commence proceedings in respect of an offence under Part IX of the Taxes Management Act, 1993;

(ii) any person who in determining his total income, as disclosed by his return, deducts or sets off any amount, the deduction or set-off whereof is not allowed under the provisions of the Taxes Acts, or shows as an expenditure or loss any amount which he has not in fact expended or lost, shall be deemed for the purposes of this subsection to have omitted such amount from his return;

(iii) any tax charged under the provisions of this subsection shall be deemed not to be part of any tax paid or payable for the purposes of the preceding subsections of this section, or of sections 59, 76 and 89

of this Act, or of sections 51 and 52 of the Taxes Management Act, 1993;

(iv) where the default or omission has been made in connection with a return required by the provisions of the Taxes Acts to be furnished by another person on behalf of a company, such company shall be liable for the additional tax chargeable under the provisions of this subsection."

21. Section 59 of the principal Act shall be amended as follows:

Amendment of section 59 of the principal Act.

(a) subsection (1) thereof shall be deleted and shall be substituted by the following new subsection:

"(1) Every company resident in Malta shall be entitled to deduct from the amount of any dividend, other than a dividend paid out of distributable profits allocated to the untaxed account and other than a dividend referred to in paragraph (p) of subsection (1) of section 12 of this Act, paid to any shareholder, a tax at the rate paid or payable by the company, relief of double taxation being left out of account, on the income out of which such dividend is paid:

Provided that where tax is not paid or payable by the company on the whole income out of which the dividend is paid, the deduction shall be restricted to that portion of the dividend which is paid out of income on which tax is paid or payable by the company.";

(b) subsection (5) thereof shall be deleted and shall be substituted by the following new subsection:

"(5) (a) Every company shall upon payment of a dividend, whether tax is deducted therefrom or not, furnish the shareholder with a dividend certificate.

(b) The dividend certificate shall be in such form as the Commissioner shall require and shall show the following information:

(i) the gross amount of the distributed profits, in respect of each account, before deduction of any tax chargeable on the company in respect of such distributed profits;

(ii) the total tax chargeable on the company in respect of the distributed profits, showing separately:

(1) the Malta tax payable after all reliefs of double taxation have been given; and

(2) the foreign tax in respect of which relief of double taxation has been given under the double taxation relief, relief in respect of Commonwealth income tax, and unilateral relief provisions; and

(3) the amount which has been set off against Malta tax pursuant to a claim for relief of double taxation under the flat-rate foreign tax credit provisions;

(iii) the amount of the distributed profits from each account, after deducting the tax referred to in sub-paragraph (ii) of this paragraph;

(iv) the tax payable on distribution pursuant to sections 62, 67 and 67A which shall be shown separately from the tax referred to in sub-paragraph (ii) of this paragraph;

(v) the net amount of the dividend paid to the shareholder;

(vi) where the tax paid or payable by the company on the profits so being distributed is affected by relief of double taxation, the rate, hereinafter in this Act referred to as "the net Malta rate", of the tax paid or payable by the company after taking relief of double taxation into account;

(vii) where the profits being distributed have been exempt from tax and the distribution of such profits by the company is exempt from tax in the hands of the shareholder, a note quoting the relevant law giving such exemption;

(viii) where the profits being distributed by a company (the first company) include a dividend received from another company (the second company), in respect of which the first company is

entitled to make a claim for a refund under subsection (4) of section 48 of the Taxes Management Act, 1993, in respect of the tax paid thereon by the second company, a statement declaring that the first company is entitled to make such a claim in respect of those distributed profits;

(ix) such other information as the Commissioner shall require."; and

(c) subsection (9) thereof shall be deleted and shall be substituted by the following new subsection:

"(9) In this section the expression "relief of double taxation" means any credit or other relief for foreign tax allowable by virtue of the reliefs stipulated in section 74 of this Act."

22. In section 60 of the principal Act:

Amendment of section 60 of the principal Act.

(a) for the words "Any tax which a company has deducted or is entitled to deduct under the last preceding section", there shall be substituted the words, "Any tax which a company has deducted or is entitled to deduct under section 59 of this Act"; and

(b) paragraph (b) of the last proviso thereof shall be deleted and shall be substituted by the following new paragraph:

"(b) any tax charged on any body of persons under subsection (4) of section 56 of this Act, or under subsections (3) and (4) of section 27 of the Taxes Management Act, 1993."

23. Immediately after section 60 of the principal Act there shall be inserted the following new sections:

Addition of new sections 61, 62, 63, 64, 65, 66, 67, 67A, 68 and 69 to the principal Act.

"Definitions.

61. For the purposes of sections 62 to 69 of the Act:

(i) a "recipient" shall mean:

(a) a person, other than a company, resident in Malta in the year in which a dividend is received by him or by any person on his behalf; or

(b) a non-resident person (including a non-resident company) who is owned and controlled by, directly or indirectly, or who acts on behalf of, a person who is ordinarily resident and domiciled in Malta;

(ii) an "untaxed dividend" shall mean a dividend paid by a company resident in Malta to the extent that it is paid out of distributable profits allocated to its untaxed account.

Tax on dividend from untaxed account.

62. (1) Every company shall, on payment of untaxed dividend to a recipient, deduct therefrom tax at a rate of fifteen percent.

(2) Every amount deducted under subsection (1) of this section shall be a debt due from such company to the Commissioner payable not later than the fourteenth day following the end of the month in which such dividend was paid and shall be recoverable as such:

Provided that the provisions of this section shall not apply in respect of untaxed dividend payments to persons who are exempt from tax.

Presumption of deduction.

63. It shall be presumed, so far as the tax liability of the recipient of a dividend is concerned, that a deduction and payment which ought to have been made pursuant to the provisions of section 62 of this Act have been made.

Where presumption applies

64. Where the presumption referred to in section 63 of this Act applies:

(a) a recipient of a dividend shall not be obliged to disclose the dividend in any return made pursuant to the provisions of this Act; and

(b) subject to the provisions of section 65 of this Act, no person shall be

charged to further tax under this Act in respect of the dividend.

Option for recipients to declare.

65. A recipient of an untaxed dividend may declare such dividend on his tax return and where a declaration is made as aforesaid any tax (or repayment) due shall be determined as if section 64 of this Act did not apply, and any tax withheld pursuant to section 62 of this Act shall be credited against the recipient's income tax liability and, where applicable, shall be available for any refund which may be due in respect of that tax for the relevant year of assessment.

Untaxed dividend paid to non-recipient.

66. Where an untaxed dividend is paid to a person, who is not a recipient as defined under section 61 of this Act, such dividend shall not be charged to tax under this Act in the hands of such person and where such person is not resident in Malta such person shall not be obliged to disclose the existence of the dividend in any return made pursuant to the provisions of the Taxes Acts.

Payment of dividend out of taxed account or foreign income account.

67. (1) Where a company pays a dividend to a person resident in Malta out of profits allocated to the Maltese taxed account or the foreign income account and which profits have suffered tax at a rate of tax which is less than the rate of tax chargeable applicable at the time of the distribution, under subsection (6) of section 56 of this Act, only by reason of the fact that a different rate of tax was applicable at the time the profits being distributed were chargeable to tax, the company shall deduct tax at a rate equivalent to the difference between the current rate and that actually suffered as aforesaid on the amount of the dividend before deducting any tax which it has suffered on the profits so being distributed:

Provided that the provisions of this section shall not apply in respect of such

dividend payments to persons who are exempt from tax.

(2) Every amount deducted under subsection (1) of this section shall be a debt due from such company to the Commissioner payable not later than the fourteenth day following the end of the month in which such dividend was paid and shall be recoverable as such.

(3) The provisions of sections 63 to 65 of this Act shall apply *mutatis mutandis* as they apply to distributions from the untaxed account and references in those sections to section 62 shall be construed as references to subsection (1) of this section.

(4) For the purposes of this section a person resident in Malta shall include a non-resident person (including a non-resident company) who is owned and controlled by, directly or indirectly or who acts on behalf of a person who is ordinarily resident and domiciled in Malta.

Profits distributed by a
Collective Investment
Scheme.

67A. (1) Where a collective investment scheme, which is constituted as a company pays a dividend to a person resident in Malta out of profits allocated to the foreign income account it shall deduct tax at the rate of fifteen percent on the net amount of the dividend, that is after deducting any tax it is entitled to deduct under subsection (1) of section 59 of this Act:

Provided that the provisions of this subsection do not apply in respect of such dividend payments to persons who are exempt from tax.

(2) Where a collective investment scheme, which is not constituted as a company, distributes profits to persons resident in Malta, there shall be deducted tax as if, for the purposes of this section, such a collective investment scheme is constituted as a company. In this respect tax shall be deducted from every

distribution of profits which, had the collective investment scheme been constituted as a company, would have been allocated to either the foreign income account or the untaxed account:

Provided that the provisions of this subsection do not apply in respect of such payments to persons who are exempt from tax.

(3) Every amount deducted under subsections (1) and (2) of this section shall be a debt due from such collective investment scheme to the Commissioner payable not later than the fourteenth day following the end of the month in which the distribution was made and shall be recoverable as such.

(4) Sections 63 to 65 of this Act shall apply *mutatis mutandis* in the circumstances set out in subsections (1) and (2) of this section as they apply to distributions from the untaxed account. References in those sections to section 62 shall be construed as references to subsection (1) or (2) of this section, as the case may be, and references to dividend or untaxed dividend shall be construed as a reference to profits distributed by a collective investment scheme where the context so requires.

(5) For the purposes of section 61 and of subsections (1) and (2) of this section, in the case of a collective investment scheme which is exempt from tax under paragraph (s) of subsection (1) of section 12 of this Act, the profits which would be allocated to the Maltese taxed account had such a collective investment scheme not been so exempt, shall, notwithstanding any other provision contained in this Act, be so allocated.

(6) For the purposes of this section a person resident in Malta shall include a non-resident person (including a non-resident company) who is owned and controlled by, directly or indirectly, or who acts on behalf of a

person who is ordinarily resident and domiciled in Malta.

No obligation to disclose.

68. (1) Any person who is not resident in Malta or any individual who is resident in Malta and who is in receipt of a dividend paid out of the distributable profits allocated to the foreign income account or to the Maltese taxed account shall not be obliged to disclose the existence of such dividend in any return made pursuant to the provisions of this Act and shall not be charged to further tax under this Act in respect of that dividend.

(2) Any person, not being a company resident in Malta, shall not be obliged to disclose in any return made in accordance with this Act, those profits distributed by a collective investment scheme not constituted as a company, where such profits would have been allocated to the Maltese taxed account, had the collective investment scheme been constituted as a company. Such profits shall not be charged to further tax under this Act whether received by a company resident in Malta or not.

Extent of liability.

69. Where any person fails to deduct and pay tax in accordance with the provisions of sections 62, 67 and 67A of this Act, the provisions of subsection (4) of section 73 of this Act and the provisions of subsection (1) of section 40 of the Taxes Management Act, 1993, shall *mutatis mutandis* apply."

Amendment of section 73 of the principal Act.

24. In section 73 of the principal Act:

(a) subsection (1) thereof shall be substituted by the following new subsection:

"(1) Where any person pays to a person not resident in Malta, or to a person resident in Malta on behalf of a non-resident person, any income chargeable to tax under the provisions of this Act, he shall upon paying such income, unless he is himself liable to pay tax thereon under the provisions of section 5 of the Taxes Management Act, 1993, deduct tax therefrom:

(a) at the rate of twenty-five cents in the lira where payment is made to or on behalf of any non-resident person other than a company; and

(b) at the rate chargeable under subsection (6) of section 56 of this Act where payment is made to or on behalf of a non-resident company:

Provided that the Commissioner may, by notice in writing given to any person who is required to effect a deduction of tax in accordance with the foregoing provisions of this section, authorise such person to deduct tax at a rate lower than that hereinbefore mentioned, or to pay such income without any deduction of tax:

Provided further that the provisions of this subsection shall not apply to income from which tax has been deducted under the provisions of section 60 of this Act or under the provisions of section 23 of the Taxes Management Act, 1993.”;

(b) subsection (3) thereof shall be deleted and shall be substituted by the following new subsection:

“(3) Deductions of tax made under the provisions of subsection (1) of this section shall, when paid to the Commissioner as provided in subsection (2) of this section, be set off for the purposes of collection, against the tax charged on the non-resident person in respect of the relative income. Any excess shall be refunded in accordance with the provisions of section 48 of the Taxes Management Act, 1993.”; and

(c) paragraph (f) of subsection (4) thereof shall be deleted and shall be substituted by the following new paragraph:

“(f) additional tax charged under the provisions of this subsection shall not be deemed to be part of any tax paid or payable for the purposes of sections 59, 76 and 89 of this Act and sections 42, 51 and 52 of the Taxes Management Act, 1993.”.

25. In Part X (Refunds) of the principal Act the title “Refunds” shall be substituted by the following words: “Relief of Double Taxation”, and immediately before section 76, there shall be inserted the following two new sections:

Addition of new sections 74 and 75 to the principal Act.

*Four reliefs of double taxation.

74. There shall be four types of reliefs of double taxation, namely:

(a) double taxation relief, as provided in sections 76 to 78, both inclusive, of this Act;

(b) unilateral relief, as provided in sections 79 to 88, both inclusive, of this Act;

(c) relief in respect of Commonwealth income tax, as provided in section 89 of this Act; and

(d) a flat-rate foreign tax credit, as provided in sections 92 to 95, both inclusive, of this Act.

Interaction of the reliefs.

75. In respect of any claim for relief of double taxation:

(a) the provisions concerning unilateral relief shall be applied in calculating a person's tax liability in those cases where, subject to the provisions of subsection (2) of section 82 of this Act, double taxation relief and relief in respect of Commonwealth income tax are not available to the person making the claim; and

(b) the provisions concerning the flat-rate foreign tax credit shall be applied in calculating a person's tax liability only in those cases where double taxation relief, relief in respect of Commonwealth income tax and unilateral relief, as governed by sections 79 to 88 of this Act, are not available to the person making the claim.*.

Amendment of section 76 of the principal Act.

26. Subsection (1) of section 76 of the principal Act shall be amended by the addition of the following further proviso at the end of the proviso thereto:

* Provided further that no arrangement shall have effect insofar as it applies to a collective investment scheme which is exempt from tax under the provisions of paragraph (s) of

subsection (1) of section 12 of this Act and which collective investment scheme has not exercised its right of waiver of exemption under the provisions of subsection (5) of section 12 of this Act.”.

27. Section 77 of the principal Act shall be amended as follows:

Amendment of section 77 of the principal Act.

(a) in the proviso to subsection (2) thereof, for the words “in Malta for that year” there shall be substituted the words “in Malta for the year immediately preceding the year of assessment”; and

(b) in subsection (4) thereof, for the words starting from “less any tax payable” to the words “of this Act”, there shall be substituted the words “less any tax payable by him under the provisions of sections 40, 69 and 73 of this Act”.

28. In subsection (1) of section 78 of the principal Act, for the words “or to be repaid under section 79 of this Act, in respect of the tax deductible from any dividend paid by the company” there shall be substituted the words “or to be repaid under section 48 of the Taxes Management Act, 1993, in respect of the tax deductible from any dividend paid by the company”.

Amendment of section 78 of the principal Act.

29. Immediately after section 78 of the principal Act there shall be added the following new sections:

Addition of new sections 79, 80, 81, 82, 83, 84, 85, 86, 87 and 88 to the principal Act.

“Unilateral relief.

79. In this Act the phrase “unilateral relief” means the relief given pursuant to the provisions of sections 80 to 88 of this Act, and in those sections the phrase “income tax” shall have the meaning attributed to it in subsection (1) of section 77 of this Act.

Availability of unilateral relief.

80. Unilateral relief may be available in respect of a claim for relief of double taxation where tax under this Act is computed by reference to income which:

(a) arises outside Malta; and

(b) is subject to any tax of a similar character to that imposed under the Taxes Acts under the laws of a territory outside Malta.

For the purposes of paragraph (b) of this section, a tax shall not be prevented from being of a similar character by reason only that it is payable under the law of a province, state or other part of a country, or is levied by or on behalf of a municipality or other local body.

Relief by way of credit.

81. The amount of the tax referred to in paragraph (b) of section 80 of this Act which is payable in a territory other than Malta is to be allowed as a credit against the income tax chargeable in Malta in respect of the income under section 80 of this Act, and the amount of the income tax so chargeable shall be reduced by the amount of the credit:

Provided always that the credit shall not be allowed against income tax for any year of assessment unless the person entitled to the income is resident in Malta for the year immediately preceding the year of assessment.

Credit for the underlying tax.

82. (1) The provisions concerning unilateral relief shall, when applied in respect of a company as described in subsection (2) of this section and where the income under section 80 of this Act includes a dividend, have effect so that tax not chargeable directly or by deduction in respect of the dividend shall be deemed to fall under the provisions of paragraph (b) of section 80 of this Act and shall be taken into account in computing the credit to be given against income tax in respect of the dividend.

(2) The provisions of this section shall apply to a company if it controls, directly or indirectly, not less than ten percent of the voting power in the company paying the dividend and where credit for underlying tax is not otherwise available under the provisions of section 77 of this Act.

Limitation on the credit.

83. The credit given under section 81 of this Act shall not exceed the amount which would be produced by computing the income of a person in accordance with the provisions of this Act and then charging it to income tax at a rate ascertained by dividing the income tax chargeable (before allowance of credit pursuant to section 81 of this Act) on the total income of the person entitled to it, by his total income.

Amount of total credit.

84. Without prejudice to the provisions of section 87 of this Act, the total credit to be allowed pursuant to section 81 of this Act to a person for any year of assessment shall not exceed the total income tax payable by him for that year of assessment, less any tax payable by him for that year of assessment under the provisions of sections 40, 69 and 73 of this Act.

Computation of income.

85. In computing the amount of the income for purposes of unilateral relief:

(a) no deduction shall be allowed in respect of tax paid and referred to in paragraph (b) of section 80 of this Act, whether in respect of the same or any other income;

(b) where the income chargeable depends on the amount received in Malta the said amount shall be increased by the appropriate amount of the tax paid and referred to in paragraph (b) of section 80 of this Act in respect of the income;

(c) where the income includes a dividend and, in determining the amount of credit to be given under section 81 of this Act, credit is given for tax which is not chargeable directly or by deduction under section 82 of this Act, the amount of the income shall be increased by the amount of that credit.

Applicability of section 85.

86. The provisions of paragraphs (a) and (b) of section 85 shall apply to the computation of total income for the purposes of determining the rate of tax referred to in section 83 of this Act.

Dividends and tax credits, etc.

87. The provisions of subsections (8), (9) and (10) of section 77 and of section 78 of this Act shall apply *mutatis mutandis* in relation to unilateral relief as they apply to double taxation relief.

No relief without proof.

88. Unilateral relief shall not be available to a person unless that person has proved to the satisfaction of the Commissioner that the income referred to in the provisions of paragraph (a) of section 80 of this Act has borne tax under the provisions of paragraph (b) of section 80 of this Act and has proved the amount of that tax."

Addition of new sections 92, 93, 94, 95 and 96 to the principal Act.

30. Immediately after section 91 of the principal Act there shall be added the following new sections:

"Flat-rate foreign tax credit.

92. For the purposes of the Taxes Acts, the flat-rate foreign tax credit shall be a credit given in respect of income or gains:

(a) which are receivable by a company resident in Malta; and

(b) which fall to be allocated to the foreign income account as defined in section 2 of this Act, but excluding profits resulting from dividends paid out of the foreign income account of another company resident in Malta; and

(c) in respect of which documentary evidence is available which indicates to the satisfaction of the Commissioner that such income or gains, as the case may be, fall to be allocated to the foreign income account. For the purposes of this requirement, a certificate issued by a certified public accountant and auditor

shall be satisfactory documentary evidence.

Amount of flat-rate foreign tax credit.

93. (1) The flat-rate foreign tax credit shall be twenty-five percent of the income or gains receivable by the company within the provisions of section 92 of this Act, before any deductions or payments whatsoever are made from the said income or gains.

(2) In the case of income comprising dividends, capital gains, interest, royalties, rents and other income which are receivable by a company resident in Malta and derived, where applicable, from investments situated outside Malta, the flat-rate foreign tax credit shall be computed on the amount receivable, after deducting any foreign tax (charged directly or by way of withholding) but before any other deductions or payments whatsoever are made.

Operation of the flat-rate foreign tax credit.

94. (1) Where the flat-rate foreign tax credit is due in respect of the income or gains referred to in section 92 of this Act, it shall be added to the said income or gains. The aggregate sum so obtained shall be the amount that is chargeable to tax.

(2) For a year of assessment in respect of the income computed in accordance with the provisions of subsection (1) of this section, the amount of tax payable under this Act shall be reduced by the amount of the flat-rate foreign tax credit due in respect of that income:

Provided that where the amount of the flat-rate foreign tax credit exceeds eighty-five percent of the tax payable computed by taking the tax payable on those profits which are to be allocated to the foreign income account and deducting therefrom any foreign tax set-off under the double taxation relief, Commonwealth income tax relief and unilateral relief provisions, the amount of such excess shall not be available for set-off or refund for any purposes of the Taxes Acts.

(3) The provisions of subsections (8), (9) and (10) of section 77 and of section 78 of this Act shall apply mutatis mutandis in relation to the flat-rate foreign tax credit as they apply to double taxation relief.

Anti-avoidance provisions.

95. Where, in the opinion of the Commissioner, a series of transactions is effected with the sole or main purpose of reducing the amount of tax payable by any person by reason of the operation of the flat-rate foreign tax credit provisions as contained in sections 92 to 94 of this Act, such a person shall be assessable as if the provisions did not apply.

For the purposes of this section, a series of transactions shall mean any two or more corresponding or circular transactions carried out by the same person, either directly or indirectly, as the case may be."

Addition of new section 96 to the principal Act.

31. In Part XI (Power to make rules) of the principal Act, there shall be inserted the following new section:

"Power to make rules.

96. The Minister responsible for finance may from time to time make rules generally for carrying out the provisions of this Act and for such matters as are authorised by this Act to be prescribed."

Amendment of Industrial Development Act.

32. The Industrial Development Act, shall have effect subject to the amendment set out in the Second Schedule to this Act.

FIRST SCHEDULE

Schedule in terms of Subsection (1) of Section 2 of this Act

Number of parts, sections, subsections, paragraphs and sub-paragraphs thereof.

(Note: where the subsections, paragraphs or sub-paragraphs have not been renumbered, they do not appear in this Schedule.)

Prior to renumbering by this Act	As renumbered by this Act
Part I	Part I
s.1	s.1
2	2
Part II	
s.3	-
4	-
-	3
Part III	Part II
s.5	4
5(1)(d)	4(1)(c)
5(1)(e)	4(1)(d)
5(1)(f)	4(1)(e)
5(1)(g)	4(1)(f)
5(1)(h)	4(1)(g)
5A	5
-	6
6	7
7	8
8	9
9	10
10	11

Prior to renumbering
by this ActAs renumbered
by this Act

Part IV	Part III
s.11	s.12
11(1)(ee)	12(1)(f)
11(1)(f)	12(1)(g)
11(1)(g)	12(1)(h)
11(1)(h)	12(1)(i)
11(1)(i)	12(1)(j)
11(1)(j)	12(1)(k)
11(1)(k)	12(1)(l)
11(1)(l)	12(1)(m)
11(1)(m)	12(1)(n)
11(1)(mm)	12(1)(o)
11(1)(n)	12(1)(p)
11(1)(o)	12(1)(q)
11(1)(p)	12(1)(r)
-	12(1)(s)
12	13
Part V	Part IV
s.13	14
-	15
-	16
-	17
-	18
-	19
-	20
-	21
-	22
s.14	23
15	24
-	25
s.16	26
Part VI	Part V
s.17	27
18	28
19	29
20	30
21	31
-	32
-	33
-	34
-	35

Prior to renumbering by this Act	As renumbered by this Act
-	36
-	37
-	38
-	39
-	40
-	41
-	42
s. 22	43
22A	44
22B	45
23	46
24	47
25	48
s.26	49
26A	50
27	51
-	52
Part VII	Part VI
s.28	53
29	54
30	55
Part VIII	Part VII
s.31	56
-	56(7)
-	56(8)
s.31(7)	56(9)
31(8)	56(10)
31(9)	56(11)
31(10)	56(12)
31(11)	56(13)
31(12)	56(14)
31(13)	56(15)
31(14)	56(16)
31(15)	56(17)
31(16)	56(18)
31(17)	56(19)
Part VIII A	Part VIII
s. 31A	57
s. 31B	58
Part IX	Part IX
s. 32	59
33	60
-	61

Prior to renumbering by this Act	As renumbered by this Act
-	62
-	63
-	64
-	65
-	66
-	67
-	67A
-	68
-	69
s.34	70
35	-
36	-
37	-
38	-
39	-
40	s. 71
41	72
42	73
Part X	-
s.43	-
44	-
45	-
46	-
47	-
48	-
49	-
50	-
51	-
52	-
53	-
54	-
55	-
56	-
57	-
s.58	-
59	-
60	-
61	-
Part XI	-
s.62	-
63	-
64	-

Prior to renumbering by this Act	As renumbered by this Act
65	-
Part XII	-
s. 66	-
67	-
68	-
69	-
70	-
71	-
Part XIII	-
s. 72	-
73	-
74	-
74A	-
75	-
76	-
77	-
78	-
Part XIV	Part X
s. 79	-
-	74
-	75
s. 80	76
81	77
s. 82	78
-	79
-	80
-	81
-	82
-	83
-	84
-	85
-	86
-	87
-	88
s. 83	89
84	90
84A	90A
85	91
-	92
-	93
-	94

Prior to renumbering by this Act	As renumbered by this Act
-	95
Part XV	-
s.86	-
87	-
88	-
89	-
90	-
91	-
92	-
93	-
Part XVI	Part XI
s.94	-
95	-
-	96

(Section 32)

SECOND SCHEDULEAmendment of Industrial Development Act, *Cap 325*

Section 15 of the Industrial Development Act, *Cap 325* shall be amended by the addition of the following proviso at the end thereof:

"Provided that if there is a change in the shareholding of the company such that the new shareholders would not have been entitled to a reduced rate of tax under any arrangement as aforesaid or if so entitled the rate applicable in such arrangement is more than the rate applicable to the outgoing shareholder, then any profits which have not been distributed at the end of the last financial year of the company preceding the date of change in shareholding less any profit distributions made to the outgoing shareholder in the current financial year shall be taxed at a rate being the difference between the rate of tax which would be applicable had the new shareholder held the shares when such profits were earned, and the rate actually applied, and such tax shall be a tax payable by the company in the year of assessment in which such profits are distributed."

Objects and Reasons

The object of this Bill is to give effect to the measures announced in the Budget Speech regarding income tax.

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