

MALTA

ATT Nru. XII ta' l-1994

ATT mahruġ b'ligi mill-Parlament ta' Malta.

ATT biex jipprovdi ghal Taxxa fuq il-Valur Miżjud.

ACT No. XII of 1994

AN ACT enacted by the Parliament of Malta.

AN ACT to make provision for the Value Added Tax.

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Naghti l-kunsens tieghi.

(L.S.)

UGO MIFSUD BONNICI
President

12 ta' Awissu, 1994

ATT Nru. XII ta' l-1994

ATT biex jipprovi ghal Taxxa fuq il-Valur Mizjud.

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

TAQSIMA I

Preliminari

1. Dan l-Att jista' jissejjah l-Att ta' l-1994 dwar Taxxa fuq il-valur Mizjud u għandu jibda jsehh f'dik id-data li l-Ministru responsabbli għall-finanzi jista' jstabilixxi b'avviż fil-Gazzetta u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet u għanijiet differenti ta' dan l-Att.

Titolu fil-qosor
u bidu fis-sehh.

2. (1) F'dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġ xort`ohra — Tifsir.

“attività ekonomika” għandha t-tifsira lilha mogħtija fis-subartikoli (2) u (3) ta' l-artikolu 6 ta' dan l-Att;

“awtorità pubblika” tfisser il-gvern, kunsill lokali mwaqqaf skond l-Att ta' l-1993 dwar Kunsilli Lokali, awtorità vestita b'personalità distinta mwaqqfa b'Att tal-Parlament jew korporazzjoni mwaqqfa b'Att tal-Parlament;

“bejjiegh bl-imnut” tfisser persuna taxxabli li n-negozju tiegħu ikun għal kollox jew prinċipalment jikkonsisti fil-bejgħ ta' oġġetti bl-imnut;

“Bord” tfisser il-Bord ta’ l-Appelli dwar it-Taxxa fuq il-Valur Miżjud imwaqqaf skond l-artikolu 34 ta’ dan l-Att;

“denunzja ta’ taxxa” tfisser id-denunzja meħtieġa li tingħata skond is-subartikolu (1) jew is-subartikolu (2) ta’ l-artikolu 16 ta’ dan l-Att;

“depożt tad-dwana” tfisser depożt kif imfisser fl-artikolu 2 ta’ l-Att dwar id-Dazji ta’ Importazzjoni;

“Fattura ta’ taxxa” tfisser il-fattura meħtieġa li tingħata skond l-artikolu 39 ta’ dan l-Att;

“impjegat” tfisser individwu marbut ma’ prinċipal li jimpjegah permezz ta’ kuntratt ta’ impieg jew permezz ta’ rabtiet oħra legali li johlqu r-relazzjoni ta’ bejn prinċipal u impjegat dwar kondizzjonijiet tax-xogħol, hlas u r-responsabbiltà ta’ l-impjegat u tinkludi wkoll id-diretturi ta’ kumpanija;

“importatur” tfisser kull min ikollu oġġetti reġistrati f’ismu fid-dipartiment tad-dwana;

“importazzjoni taxxabli” għandha t-tifsira lilha mogħtija bis-subartikolu (2) ta’ l-artikolu 5 ta’ dan l-Att;

“*input tax*” tfisser l-ammont determinat skond l-artikolu 24 ta’ dan l-Att;

“Malta” għandha t-tifsira lilha mogħtija bil-Kostituzzjoni u tinkludi l-blata kontinentali;

“Ministru” tfisser il-Ministru responsabbli għall-finanzi;

“*output tax*” tfisser it-taxxa msemmija fis-subartikolu (1) ta’ l-artikolu 22 ta’ dan l-Att;

“persuna” tinkludi awtorità pubblika, *trust* u kull enti li tista’ tiggestixxi attività ekonomika;

“persuna reġistrata” tfisser persuna li tkun giet reġistrata skond l-artikolu 13 u li r-reġistrazzjoni tagħha ma tkunx giet kanċellata skond l-artikolu 14 ta’ dan l-Att;

“persuna taxxabli” għandha t-tifsira lilha mogħtija bl-artikolu 6 ta’ dan l-Att;

“provvista taxxabli” għandha t-tifsira lilha mogħtija bis-subartikolu (1) ta’ l-artikolu 5 ta’ dan l-Att;

“taxxa” tfisser it-taxxa fuq il-valur miżjud li tingabar bis-saħħa ta’ dan l-Att;

“valur taxxabli” tfisser il-valur ta’ provvista taxxabli jew ta’ importazzjoni taxxabli stabbiltà skond l-artikolu 18 ta’ dan l-Att;

“żmien ta’ taxxa” għandha t-tifsira lilha mogħtija bl-artikolu 15 ta’ dan l-Att.

(2) Sabies jiġi deċiż liema hu l-pajjiż fejn persuna għandha titqies li tkun stabbiltà għall-għanijiet ta' dan l-Att għandhom japplikaw dawn ir-regoli li ġejjin:

(a) jekk provvista ssir minn persuna jew lil persuna fit-twettieq jew fit-tkomplija jew għall-għanijiet ta' attività ekonomika li tkun qegħda tiġi ġestita minn dik il-persuna ġewwa post fiss, jew minn go fih jew permezz tiegħu, li jinsab f'pajjiż, dik il-persuna għandha titqies, għar-rigward ta' dik il-provvista, bħala li tkun stabbiltà 'dak il-pajjiż;

(b) jekk provvista ssir minn persuna jew minn persuna fit-twettieq jew fit-tkomplija jew għall-għanijiet ta' attività ekonomika li ma tkunx qegħda tiġi ġestita minn dik il-persuna ġewwa post fiss, jew minn go fih jew permezz tiegħu, dik il-persuna għandha titqies, għar-rigward ta' dik il-provvista, li tkun stabbiltà –

(i) til-każ ta' persuna li ma tkunx individwu, fil-pajjiż fejn tkun magħmula, korporata, reġestrata, kostitwita jew immexxija;

(ii) f'każ ta' individwu, fil-pajjiż fejn dak l-individwu jkollu indirizz permanenti jew fejn ikun soltu joqgħod.

3. (1) L-amministrazzjoni ta' dan l-Att hija vestita fil-Kummissarju tat-Taxxa fuq il-Valur Miżjud, hawnhekk iżjed 'il quddiem f'dan l-att imsejjaħ "il-Kummissarju" li jkun uffiċjal pubbliku maħtur għaldaqshekk mill-Prim Ministru. Amministrazzjoni.

(2) Il-kummissarju jista' jiddelega lil kull uffiċjal pubbliku kull dritt, dmir, setgħa u funzjoni oħra li tkun fih vestita, lilu mogħtija jew imqegħda fuqu b'dan l-Att.

TAQSIMA II

Għan tat-Taxxa

4. (1) Bla hsara għad-dispożizzjonijiet l-oħra ta' dan l-Att għandha tintalab, tiġi mposta u tingabar f'isem il-Gvern taxxa fuq il-valur miżjud — Gbir ta' taxxa.

(a) fuq kull provvista taxxabli, u

(b) fuq kull importazzjoni taxxabli

li jsiru fl-ewwel ta' Jannar, 1995 jew wara dik id-data.

(2) Id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu għandhom japplikaw minkejja kull eżenzjoni mit-taxxa mogħtija b'xi liġi oħra jew bis-saħħa tagħha.

5. (1) Kull provvista ta' oġġetti jew servizzi, li ma tkunx provvista eżentata, li ssir f'Malta b'kumpens minn persuna taxxabli li tagixxi għaldaqshekk hija provvista taxxabli. Provvista taxxabli u importazzjoni taxxabli.

(2) Kull importazzjoni ta' oġġetti f'Malta, li ma tkunx importazzjoni eżentata, hija importazzjoni taxxabbli.

Persuna taxxabbli.

6. (1) Persuna taxxabbli hija persuna li tkun tiġġestixxi attività ekonomika b'mod indipendenti, ikun xi jkun l-ghan jew ir-rizultati ta' dik l-attività.

(2) Attività ekonomika tfisser kull attività ġestita fit-twettiq jew fit-tkomplija ta' kull negozju jew kummerċ u tinkludi —

(a) kull attività ġestita minn kull persuna, li ma tkunx impjegat li qed jaġixxi għaldaqshekk, fit-twettieq jew fit-tkomplija ta' xi professjoni jew vokazzjoni jew il-provvista ta' kull servizz personali ieħor;

(b) l-esplojtazzjoni ta' proprjetà tangibbli jew li mhix bil-ghan li jinkiseb minnha qliegħ tul medda ta' żmien li tkompli għaddejja;

(ċ) l-ġhoti minn *club*, assoċjazzjoni jew organizzazzjoni (għax tithallas xi miżata jew jingħata xi kumpens ieħor) tal-facilitajiet jew vantaġġi disponibbli għall-membri relattivi; u

(d) id-dhul, b'kumpens, ta' persuni f'kull fond.

(3) Minkejja d-dispożizzjonijiet tas-subartikoli l-oħra ta' dan l-artikolu l-attivitajiet ta' awtorità pubblika li tkun qegħda taġixxi fl-eżerċizzju tal-funzjonijiet lilha assenjati bil-liġi ma għandhomx jitqiesu li jkunu attivitajiet ekonomiċi hliet meta u sa dak il-limitu li l-Ministru jista', bil-ghan li jevita tgħawwiġ importanti ta' kompetizzjoni, jippreskrivi mod ieħor.

Provvista ta' oġġetti u provvista ta' servizzi.

7. (1) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu —

(a) it-trasferiment tad-dritt li wieħed jiddisponi minn proprjetà tangibbli bħala sid hija provvista ta' oġġetti;

(b) kull provvista li mhix provvista ta' oġġetti hija provvista ta' servizzi.

(2) Il-Ministru jista' b'regolamenti jippreskrivi dwar kull tip ta' transazzjoni —

(a) li din għandha titqies bħala provvista ta' oġġetti jew provvista ta' servizzi;

(b) li din ma għandha titqies la bħala provvista ta' oġġetti w anqas bħala provvista ta' servizzi;

(ċ) li din għandha titqies bħala provvista magħmula b'kumpens;

(d) li din ghandha titqies bhala provvista maghmula fit-twertieq jew tkomplija ta' attivita ekonomika.

8. (1) Bla hsara ghad-dispozizzjonijiet l-ohra ta' dan l-artikolu, provvista ta' oggetti titqies li ssir fil-pajjiz fejn ikunu jinsabu l-oggetti fil-waqt meta ssir il-provvista. Lok ta' provvista.

(2) Oggetti importati f' Malta ghandhom jitqiesu li jkunu gew provduti lill-importatur barra minn Malta.

(3) Oggetti esportati minn Malta ghandhom jitqiesu li jkunu gew provduti mill-esportatur f' Malta.

(4) Il-post fejn jigu pprovduti s-servizzi ghandu jigi stabbilit skond id-dispozizzjonijiet ta' l-Ewwel Skeda li tinsab ma' dan l-Att.

9. (1) Bla hsara ghad-dispozizzjonijiet l-ohra ta' dan l-artikolu — Zmien ta' provvista.

(a) provvista ta' oggetti ghandha titqies li sseh fil-waqt li l-oggetti jigu kunsinnati jew mod iehor isiru disponibbli lil min issir il-provvista;

(b) provvista ta' servizzi ghandha titqies li sseh fid-data meta jitwettqu s-servizzi.

(2) Bla hsara ghad-dispozizzjonijiet tas-subartikolu (3) ta' dan l-artikolu meta jigi ricevut hlas ghal provvista taxxabli mill-persuna li taghmel il-provvista qabel iz-zmien stabbilit skond isubartikolu (1) ta' dan l-artikolu il-provvista ghandha titqies, sal-limitu tal-hlas hekk maghmul, li sseh f'dak iz-zmien li jkun gie qabel.

(3) Meta tinhareg fattura ta' taxa ghal provvista taxxabli qabel iz-zmien stabbilit skond id-dispozizzjonijiet tas-subartikolu (1) ta' dan l-artikolu jew qabel it-tmiem ta' wiehed u tletin jum li jigu wara z-zmien stabbilit kif imsemmi qabel, il-provvista ghandha titqies, sal-limitu tal-valur hekk maghmul, li sseh f'dak iz-zmien meta tinhareg il-fattura.

(4) Meta jigu provduti servizzi ghal xi zmien b'kumpens li jigi stabbilit sew kollu kemm hu jew parti minnu jew li jithallas perjodikament jew minn zmien ghal zmien, dawk is-servizzi ghandhom jigu trattati bhala li jkunu qeghdin jigu provduti separatament u b'mod konsekuttiv f'dak iz-zmien li jigi l-aktar kmieni minn dawn iz-zminijiet li gejjin:

(a) kull meta jigi ricevut hlas ghal dawk il-provvisti, sal-limitu inkluż f'dak il-hlas; jew

(b) kull meta tinhareg fattura ta' taxa dwar dawk il-provvisti, sal-limitu inkluż f'dik il-fattura.

(5) Il-Ministru jista' b'regolamenti jagħmel dawk il-provvedimenti li jista' jqis li jkunu xierqa sabiex jiġi stabbilit iż-żmien tal-provvista ta' oġġetti jew servizzi f'dawk il-każi u f'dawk iċ-ċirkostanzi li jistgħu jiġu speċifikati fir-regolamenti msemmija.

Reverse charge.

10. Meta ssir provvista taxxabli ta' servizzi minn persuna li ma tkunx stabbilita f'Malta lil persuna taxxabli stabbilita f'Malta, l-imsemmija persuna taxxabli stabbilita f'Malta għandha titqies li tkun hi stess ipprovdiet dawk is-servizzi fit-tweqqieg jew fit-tkomplija ta' l-attività ekonomika tagħha u d-dispożizzjonijiet ta' dan l-Att, inkluż l-obbligu li persuna tapplika sabiex tiġi registrata u tagħti rendikont u thallas it-taxxa, għandhom ikunu japplikaw skond hekk.

Eżenzjonijiet.

11. (1) Bla hsara għad-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu —

(a) il-provvisti li tapplika għalihom it-Tieni Skeda li tinsab ma' dan l-Att huma provvisti eżentati;

(b) l-importazzjonijiet li tapplika għalihom it-Tielet Skeda li tinsab ma' dan l-Att huma importazzjonijiet eżentati.

(2) L-eżenzjonijiet imsemmija fis-subartikolu (1) ta' dan l-artikolu għandhom ikunu sugġetti għad-dispożizzjonijiet li jinsabu fl-Iskedi msemmija f'dak is-subartikolu u għal dawk il-kondizzjonijiet li l-Ministru jista' jippreskrivi b'regolamenti bil-għan li jassigura l-applikazzjoni korretta u ċara ta' l-eżenzjonijiet imsemmija u li ma jhallix li jkun hemm xi evażjoni, harba, abbuż jew tghawwiġ fil-kompetizzjoni li jistgħu jsiru.

(3) Kull dispożizzjoni li tinsab f'xi liġi jew bis-saħħa ta' xi liġi li tagħti setgħa lill-Ministru li jagħti eżenzjoni fuq l-importazzjoni ta' oġġetti minn Dazji ta' Importazzjoni li jithallsu bis-saħħa ta' l-Att dwar id-Dazji ta' Importazzjoni għandha titqies bhala li tagħti setgħa lill-Ministru li jagħti, fl-istess ċirkostanzi, bl-istess mod, u sugġett għall-istess kondizzjonijiet u limitazzjonijiet li dwarhom ikun hemm provdut f'xi dispożizzjoni bħal dik, eżenzjoni mit-taxxa li tingabar bis-saħħa ta' dan l-Att fuq l-importazzjoni ta' l-oġġetti msemmija.

TAQSIMA III

Registrazzjoni u Denunzji

*Applikazzjoni
għal
registrazzjoni.*

12. (1) Persuna taxxabli li tkun stabbilita f'Malta u li ma tkunx persuna registrata għandha tapplika għand il-Kummissarju sabiex tiġi registrata taht dan l-Att fi żmien tletin jum mid-data meta tagħmel xi provvista imsemmija fis-subartikolu (1) ta' l-artikolu 25 ta' dan l-Att.

(2) Persuna taxxabli li ma tkunx stabbilita f'Malta u li ma tkunx persuna registrata għandha tapplika għand il-Kummissarju sabiex tiġi registrata taht dan l-Att fi żmien tletin jum mid-data meta tagħmel provvista taxxabli, li ma tkunx provvista ta' servizzi lil persuna taxxabli stabbilita f'Malta.

(3) Persuna taxxabli li ma tkunx persuna registrata għandha, jekk hekk tenhtieg li tagħmel mill-Kummissarju, tapplika sabiex tiġi registrata taht dan l-Att fi żmien tletin jum mid-data meta hija tiġi notifikata b'avviż li jkun fih dik il-htieġa.

(4) Persuna taxxabli li ma tkunx persuna registrata u li tkun bi hsiebha tagħmel provvista kif hemm imsemmi fis-subartikolu (1) ta' l-artikolu 25 ta' dan l-Att u kull persuna li tkun bi hsiebha tiġġestixxi attività ekonomika tista' tapplika sabiex tiġi registrata taht dan l-Att.

(5) Applikazzjoni għal registrazzjoni taht dan l-Att għandha ssir fuq dik il-formula u b'dak il-mod li jistgħu jiġu preskritti.

(6) Il-Ministru jista' jagħmel regolamenti li jeżentaw lil xi persuna jew klassi ta' persuni mid-dispożizzjonijiet ta' dan l-artikolu u jista' b'dawk ir-regolamenti jagħmel eżenzjoni bhal dik kif sugġetta għal dawk il-kundizzjonijiet u limitazzjonijiet li jistgħu jiġu preskritti.

13. (1) Il-Kummissarju għandu jirregistra lil kull persuna li tkun magħrufa bhala li hi sugġetta li tiġi registrata skond is-subartikolu (1) jew is-subartikolu (2) ta' l-artikolu 12 ta' dan l-Att, sew jekk dik il-persuna tkun għamlet applikazzjoni għal registrazzjoni sew jekk le.

Registrazzjoni.

(2) Il-Kummissarju għandu jirregistra li kull persuna li tkun għamlet applikazzjoni skond is-subartikolu (4) ta' l-artikolu 12 ta' dan l-Att jekk ikun sodisfatt li x'aktarx ikunu ser jingħataw il-provvisti msemmija fis-subartikolu (1) ta' l-artikolu 25 minn dik il-persuna fit-twertieq jew fit-tkomplija ta' l-attività ekonomika tagħha jew ta' l-attività ekonomika li hija tkun bi hsiebha li tiġġestixxi.

(3) Il-Kummissarju għandu jagħti numru ta' registrazzjoni u għandu jistabilixxi l-ewwel żmien ta' taxa għal kull persuna li tiġi registrata bis-saħħa ta' dan l-Att u għandu jikkonsenja lil dik il-persuna ċertifikat ta' registrazzjoni.

(4) Il-Ministru jista' b'regolamenti jipprovdi dwar ir-registrazzjoni ta' għadd ta' persuni bhala persuna waħda jew sabiex persuna tiġi registrata separatament għar-rigward ta' ferġat jew taqsimiet differenti ta' l-attività ekonomika tiegħu f'dawk iċ-ċirkostanzi u għar-rigward ta' dawk il-provvisti li jistgħu jiġu speċifikati fir-regolamenti msemmija.

14. (1) Il-Kummissarju jista' f'kull żmien iħassar ir-registrazzjoni ta' persuna jekk ikun tal-fehma li dik il-persuna ma tkunx qegħda jew għadha tiġġestixxi xi attività ekonomika jew li dik il-persuna x'aktarx li ma tagħtix provvisti taxxabli jew li jkollha jedd għal kreditu skond l-artikolu 25 ta' dan l-Att.

Thassir ta' registrazzjoni.

(2) Il-Kummissarju għandu jinnotifika b'avviż lil kull persuna li jkollha r-registrazzjoni tagħha mhassra, fejn isemmi d-data meta dik il-persuna tkun temmet milli tibqa' persuna registrata.

(3) It-thassir tar-registrazzjoni ta' persuna ma għandhiex tehles lil dik il-persuna minn kull responsabbiltà li jkollha qabel id-data

tat-thassir jew bis-saħħa ta' kull haġa li tkun saret qabel dik id-data, jew mill-obbligu li tagħmel applikazzjoni għal reġistrazzjoni ġdida jekk ikun hemm xi waħda miċ-ċirkostanzi msemmija fis-subartikoli (1), (2) u (3) ta' l-artikolu 12 ta' dan l-Att.

Żmien ta'
taxxa.

15. (1) Hlief kif hemm provdut mod ieħor f'dan l-artikolu żmien ta' taxxa tfixxer żmien ta' tliet xhur kalendarji, jew dak iż-żmien itwal jew iqsar li l-Ministru jista' b'regolamenti jippreskrivi dwar dik il-klassi jew dawk il-klassijiet ta' persuni kif jista' jiġi speċifikat fir-regolamenti msemmija, li jibda fl-ewwel jum li jiġi minnufih wara t-tmiem taż-żmien ta' taxxa li jkun ġie qabel.

(2) L-ewwel żmien ta' taxxa għal persuna għandu jibda u jtemm f'dawk id-dati li jistgħu jiġu stabbiliti mill-Kummissarju skond is-subartikolu (3) ta' l-artikolu 13 ta' dan l-Att.

(3) L-aħħar żmien ta' taxxa għal persuna li kellha r-registrazzjoni tagħha mħassra ikun dak iż-żmien ta' taxxa li matulu tiġi d-data tat-thassir imsemmi u għandu jtemm f'dik l-istess data imsemmija.

(4) Il-Kummissarju jista' permezz ta' avviż li jiġi notifikat lil persuna reġistrata f'xi każ partikolari jibdel kull żmien ta' taxxa għal dik il-persuna b'dak il-mod li jista' jiġi speċifikat f'dak l-avviż.

Denunzja.

16. (1) Kull persuna reġistrata għandha tagħmel denunzja lill-Kummissarju għal kull żmien ta' taxxa. Dik id-denunzja għandha ssir sa mhux anqas mill-ħmistax-il jum tat-tieni xahar li jiġi wara x-xahar li matulu jintemm iż-żmien ta' taxxa relattiv, u għandha ssir fuq dik il-formola u jkun fiha dawk il-partikolaritajiet u dak it-tagħrif li l-Kummissarju jista' jippreskrivi jew japprova.

(2) Kull persuna li jkollha r-registrazzjoni tagħha mħassra għandha fi żmien sitt ġimgħat mid-data meta tiġi notifikata b'avviż imsemmi fis-subartikolu (2) ta' l-artikolu 14 ta' dan l-Att, jew f'dak iż-żmien itwal li jista' jiġi speċifikat fl-imsemmi avviż, tagħmel denunzja lill-Kummissarju dwar l-aħħar żmien ta' taxxa fuq dik il-formola u li jkun fiha dawk il-partikolaritajiet u dak it-tagħrif li l-Kummissarju jista' jeħtieġ jew hekk kif jista' jiġi preskritt.

(3) Kull persuna reġistrata u kull persuna li jkollha r-registrazzjoni tagħha mħassra għandhom jagħmlu u jagħtu kull denunzja, dikjarazzjoni u tagħrif addizzjonali meħtieġ u għandhom jipproduċu dawk id-dokumenti li l-Kummissarju jista' raġonevolment jeħtieġ għal kull għan ta' dan l-Att jew hekk kif jista' jiġi preskritt.

(4) Persuna reġistrata li tkun iddikjarat bin-nieqes xi *output tax* jew iddikjarat biż-żejjed it-tnaqqis f'denunzja tat-taxxa li tkun għamlet lill-Kummissarju għal xi żmien ta' taxxa għandha, bla preġudizzju għad-dispożizzjonijiet ta' l-artikolu 30 ta' dan l-Att, tgħarraf b'din id-dikjarazzjoni bin-nieqes jew biż-żejjed imsemmija permezz ta' avviż li jingħata lill-Kummissarju.

(5) Il-Ministru jista', b'regolamenti:

(a) jippreskrivi l-mod u l-formula li fuqha għandu jinghata avviż għall-ghanijiet tas-subartikolu(4) ta' dan l-artikolu;

(b) bla hsara għal dawk il-limitazzjonijiet u kondizzjonijiet li jistgħu jiġu preskritti, iħalli li jsiru tibdiliet għal dikjarazzjonijiet bin-nieqes u biż-żejjed ta' *output tax* u kull tnaqqis li għandu jsir b'mod li ma jkunx dak li jinghata avviż skond is-subartikolu(4) ta' dan l-artikolu;

(c) jagħmel kull dispożizzjoni oħra dwar il-kontegġ ta' dikjarazzjonijiet biż-żejjed u bin-nieqes ta' *output tax* u kull tnaqqis kif jista' jiġi preskritti.

(6) Ma titqiesx li tkun saret denunzja kemm-il darba din ma tkunx shiha u dettaljata f'kull aspett materjali tagħha.

(7) Meta persuna registrata tkun għamlet denunzja lill-Kummissarju għal żmien ta' taxxa, kull *output tax* u tnaqqis ta' dik il-persuna għal dak iż-żmien għal kull wiehed mill-ghanijiet ta' dan l-Att għandhom jitqiesu, hliet kif hemm provdut fl-artikolu 29 ta' dan l-Att, bħala *output tax* u tnaqqis dikjarati f'dik id-denunzja meta wiehed iqis kull kxif jew tibdil magħmul skond is-subartikolu (4) jew skond regolamenti magħmulin bis-saħħa tas-subartikolu (5) ta' dan l-artikolu.

17. (1) Il-Kummissarju jista', b'avviż bil-miktub, jeżenta lil persuna mid-dispożizzjonijiet tas-subartikolu (1) ta' l-artikolu 16 ta' dan l-Att għal dak iż-żmien u sugġett għal dawk il-kondizzjonijiet u limitazzjonijiet li jistgħu jiġu speċifikati fl-imsemmi avviż u jista', b'avviż bil-miktub, ibiddel jew jirrevoka kull eżenzjoni hekk mogħtija.

Eżenzjoni
mill-obbligu
li ssir denunzja.

(2) Minkejja eżenzjoni mogħtija skond is-subartikolu (1) ta' dan l-artikolu, persuna registrata —

(a) għandha tagħmel denunzja ta' taxxa lill-Kummissarju dwar kull żmien ta' taxxa li matulu tagħmel xi provvista taxxabli;

(b) tista' tagħmel denunzja ta' taxxa għal kull żmien ta' taxxa li dwaru jkollha jedd ta' kreditu skond l-artikolu 25 ta' dan l-Att.

TAQSIMA IV

KIF TIĠI STABBILITA U TITHALLAS IT-TAXXA

18. Il-valur taxxabli ta' provvisti taxxabli u ta' importazzjonijiet taxxabli għandu jiġi stabbilit bil-mod stipulat fir-Raba' Skeda li tinsab ma' dan l-Att.

Valur taxxabli.

19. (1) It-taxxa li tithallas bis-saħħa ta' dan l-Att tkun bir-rata ta':

Rata ta' taxxa.

(a) hmistax fil-mija tal-valur taxxabli ta' kull provvista taxxabli li ma tkunx provvista msemmija fil-paragrafu (b) ta' dan l-artikolu;

(b) ghaxxa fil-mija tal-valur taxxabli ta' kull provvista taxxabli li ghalha tapplika l-Hames Skeda li tinsab ma' dan l-Att;

(c) hmistax fil-mija tal-valur taxxabli ta' kull importazzjoni taxxabli.

(2) Il-Ministru jista' b'Ordni fil-Gazzetta jirriduci ghal kollox jew in parti r-rata ta' taxxa applikabbli skond is-subartikolu (1) ta' dan l-artikolu, fuq dik il-provvista taxxabli jew dik l-importazzjoni taxxabli kif jista' jigi determinat fl-Ordni, u ghal dak il-perjodu u taht dawk il-kondizzjonijiet kif jista' jigi determinat fl-Ordni.

Persuni
responsabbli
ghall-hlas
tat-taxxa.

20. Minghajr preġudizzju għad-dispożizzjonijiet ta' l-artikolu 59 ta' dan l-Att —

(a) tkun responsabbli għat-taxxa dovuta fuq provvista taxxabli dik il-persuna li tagħmel il-provvista;

(b) ikun responsabbli għat-taxxa dovuta fuq importazzjoni taxxabli ta' oġġetti l-importatur ta' dawk l-oġġetti.

Zmien meta
t-taxxa tkun
dovuta u
meta għandha
tithallas.

21. (1) It-taxxa li tithallas fuq provvista taxxabli ssir dovuta fil-waqt meta ssehh il-provvista u għandha tithallas fiż-żmien u bil-mod provdut fl-artikolu 22 ta' dan l-Att.

(2) It-taxxa li tithallas fuq importazzjoni taxxabli ssir dovuta fil-waqt meta ssehh l-importazzjoni u għandha tithallas lill-Kontrollur tad-Dwana f'isem il-Kummissarju qabel ma l-oġġetti mportati jigu kunsinnati għall-użu jew għal-konsum f'Malta jew mod ieħor kif jista' jigi awtorizzat skond il-paragrafu (c) tas-subartikolu (1) tal-artikolu 49 ta' dan l-Att.

Hlas ta' taxxa
fuq provvisti
taxxabli.

22. (1) It-taxxa dovuta minn persuna registrata fuq provvisti taxxabli minnu magħmula matul żmien ta' taxxa u t-taxxa dovuta minn persuna li kellha r-registrazzjoni tagħha mhassra fuq provvisti taxxabli minnu magħmula matul l-aħħar żmien ta' taxxa tkun l-*output tax* ta' dik il-persuna għal dak iż-żmien ta' taxxa u għandha tithallas, sal-limitu li ma ssirx tpaċija b'kull tnaqqis permess bis-saħħa ta' l-artikolu 23 jew tar-regolamenti preskritti skond l-artikolu 28 ta' dan l-Att, lill-Kummissarju mhux aktar tard mid-data meta dik il-persuna tkun meħtieġa li tagħmel denunzja għaž-żmien ta' taxxa relattiv skond is-subartikolu (1) jew is-subartikolu (2), skond il-każ, ta' l-artikolu 16 ta' dan l-Att.

(2) Ikun dovut imgħax fuq kull taxxa li ma tithallasx sad-data meta jkollha tithallas skond dan l-artikolu bir-rata ta' wiehed fil-mija għal kull xahar jew parti minnu li matulu l-imsemmija taxxa tibqa' ma tithallasx jew b'kull rata oħra li tista' tigi preskritta.

(3) Il-Ministru jista' b'regolamenti jippreskrivi l-mod kif għandu jsir il-hlas tat-taxxa, il-formuli li għandhom jigu prezentati flimkien ma' dak il-hlas u l-irċevuta li għandha tinghata mill-Kummissarju għal dak il-hlas.

Tnaqqis.

23. Persuna registrata li tagħmel denunzja għal żmien ta' taxxa jkollha jedd li tagħmel tpaċija ma' l-*output tax* għal dak iż-żmien l-ammont ta' kreditu għall-*input tax* lilha permess għal dak iż-żmien skond l-artikolu 25 ta' dan l-Att u kull ammont lilha permess bhala kreditu żejjed skond l-artikolu 26 ta' dan l-Att.

24. Bla hsara ghad-dispożizzjonijiet tas-subartikolu (3) ta' l-*input tax*.
 artikolu 25 ta' dan l-Att, l-*input tax* ta' persuna registrata ghal żmien ta'
 taxxa jkun it-total ta':

(a) it-taxxa li tithallas fuq provvisti taxxabli lilha magħmula u t-taxxa mhallsa fuq importazzjonijiet taxxabli lilha magħmula matul dak iż-żmien jew, meta jippermetti li jsir dan il-Kummissarju, matul żmien li jkun ġie qabel, sal-limitu li l-oġġetti u s-servizzi hekk mogħtija u l-oġġetti hekk importati jkunu ġew jew ser jiġu użati għal kollox minnha fit-twettiq jew bi tkompliġa ta' attività ekonomika; u

(b) it-taxxa li tithallas fuq provvisti taxxabli meqjusa li jkunu minnha magħmula matul dak iż-żmien skond l-artikolu 10 ta' dan l-Att.

25. (1) Ikun permess għal kull żmien ta' taxxa ta' persuna registrata u għall-aħħar żmien ta' taxxa ta' persuna li kellha r-registrazzjoni tagħha mħassra, kreditu għal *input tax* li jkun daqsinsaw l-*input tax* ta' dik il-persuna għal dak iż-żmien li huwa attribwibbli għal — Kreditu għal
input tax.

(a) provvisti taxxabli magħmula jew li għandhom isiru minn dik il-persuna bl-eskluzjoni ta' provvisti meqjusa li jkunu saru minnha skond l-artikolu 10 ta' dan l-Att;

(b) provvisti eżentati speċifikati fit-Taqsima Wiehed tat-Tieni Skeda li tinsab ma' dan l-Att u magħmula jew li għandhom isiru minn dik il-persuna fit-twettieq jew bi tkompliġa ta' l-attività ekonomika tagħha;

(ċ) provvisti magħmula jew li għandhom isiru minn dik il-persuna barra minn Malta fit-twettieq jew bi tkompliġa ta' l-attività ekonomika tagħha.

(2) Meta l-*input tax* ta' persuna registrata għal żmien ta' taxxa tkun tinkludi taxxa fuq oġġetti jew servizzi li kienu ġew jew li jkunu ser jiġu wżati minn dik il-persuna sew bil-ghan li jintgħamli l-provvisti msemmija fis-subartikolu (1) ta' dan l-artikolu kif ukoll għal għanijiet oħra, għandu jitqies li jkun attribwibbli għall-provvisti msemmija fis-subartikolu (1) ta' dan l-artikolu dak il-porzjon tat-taxxa fuq l-oġġetti jew servizzi msemmija hekk kif jista' jiġi preskritt.

(3) Il-Ministru jista' b'regolamenti jagħmel dispożizzjonijiet sabiex tiġi stabbilita l-*input tax* u l-attribuzzjoni ta' *input tax* għall-provvisti msemmija fis-subartikolu (1) ta' dan l-artikolu, u jista' b'dawn ir-regolamenti jippreskrivi —

(a) li t-taxxa li għandha tithallas fuq dawk il-provvisti jew importazzjonijiet li jistgħu jiġu speċifikati ma għandhiex titqies bħala *input tax*;

(b) li l-*input tax* ta' persuna registrata ma għandhiex titqies bħala kreditu kemm-il darba ma tkunx dokumentata b'fatturi ta' taxxa jew b'kull prova oħra li tista' tiġi speċifikata;

(ċ) li t-taxxa li għandha tithallas fuq dawk il-provvisti jew importazzjonijiet u f'dawk iċ-ċirkostanzi li jistgħu jiġu speċifikati

maghmula lil persuna jew minn persuna ghandhom jitqiesu bhala *input tax* ta' persuna ohra;

(d) li l-ammont ta' *input tax* ta' persuna registrata attribwibbli għall-provvisti msemmija fis-subartikolu (1) ta' dan l-artikolu għandu jiġi stabbilit billi ssir riferenza għal għadd ta' żminijiet ta' taxxa u li kull attribuzzjoni li tista' tkun saret qabel għaż-żminijiet ta' taxxa msemmija skond id-dispożizzjonijiet l-ohra ta' dan l-artikolu għandha tissewwa b'dak il-mod li jista' jiġi speċifikat fir-regolamenti msemmija;

(e) dawk id-dispożizzjonijiet l-ohra li jistghu jitqiesu meħtieġa bil-ghan li tiġi żgurata attribuzzjoni ġusta u raġonevoli ta' *input tax* għall-provvisti.

Kreditu
eċċessiv.

26. (1) Meta l-kreditu għal *input tax* għal żmien ta' taxxa ta' persuna registrata jkun jeċċedi l-*output tax* hhal dak il-perjodu, l-eċċess ikun kreditu eċċessiv u tista' ssir tpaċija tiegħu ma' l-*output tax* għaż-żmien ta' taxxa li jiġi wara b'żieda mal-kreditu permess skond l-artikolu 25 ta' dan l-Att.

(2) Għall-ghanijiet ta' l-artikolu 23 ta' dan l-Att u tas-subartikolu (1) ta' dan l-artikolu issir tpaċija ta' kreditu għal *input tax* għal xi żmien ta' taxxa qabel kull kreditu eċċessiv.

Hlas lura
ta' kreditu
eċċessiv.

27. (1) Kull kreditu jew parti minnu permess lil persuna registrata għal żmien ta' taxxa li dwaru ma ssirx tpaċija ma' l-*output tax* għal dak iż-żmien u għaż-żmien ta' taxxa li jiġi wara skond id-dispożizzjonijiet ta' l-artikolu 26 ta' dan l-Att għandhom jithallsu lura lil dik il-persuna.

(2) Meta r-registrazzjoni ta' persuna tkun giet imħassra, kull kreditu permess lil dik il-persuna li ma tkunx saret tpaċija dwaru ma' l-*output tax* għall-aħħar żmien ta' taxxa għandu jinghata lura lil dik il-persuna.

(3) Hlas lura li jsir dovut skond is-subartikolu (1) jew is-subartikolu (2) ta' dan l-artikolu għandu jsir mhux aktar tard minn tletin jum mill-aħħar jum miż-żmien permess skond l-artikolu 16 ta' dan l-Att għall-għemil tad-denunzja tat-taxxa għaż-żmien ta' taxxa li jiġi wara imsemmi fis-subartikolu (1) ta' dan l-artikolu jew għall-aħħar żmien ta' taxxa imsemmi fis-subartikolu (2) ta' dan l-artikolu, skond il-każ, jew mill-jum meta tkun saret l-imsemmija denunzja lill-Kummissarju, skond liema tiġi l-aktar tardiva:

Iżda l-Kummissarju jista', bil-ghan ta' kull verifika li tista' tkun raġonevolment meħtieġa sabiex jiġi aċċertat l-ammont li jrid jithallas lura, itawwal, permezz ta' avviż bil-miktub li jinghata lill-persuna li lilha hu dovut il-hlas lura, it-terminu ta' żmien imsemmi f'dan is-subartikolu bi tletin jum.

(4) Il-Kummissarju jista' jagħmel tpaċija ma' kull hlas lura dovut lil persuna skond dan l-artikolu kull ammont ta' taxxa, taxxa

addizzjonali jew mgħax li dik il-persuna jkollha thallas bis-saħħa ta' dan l-Att.

(5) Ikun dovut lil persuna li għandu jingħatalha hlas lura skond dan l-artikolu mgħax bir-rata speċifikata fi jew preskritta skond is-subartikolu (2) ta' l-artikolu 22 ta' dan l-Att mid-data meta l-hlas lura għandu jithallas skond dan l-artikolu sad-data meta jithallas jew meta *cheque* jew kambjala għall-hlas tiegħu jingħata jew jiġi mpustat lil dik il-persuna mill-Kummissarju.

(6) Minkejja d-dispożizzjonijiet tas-subartikoli l-oħra ta' dan l-artikolu u ta' l-artikolu 26 ta' dan l-Att il-Kummissarju jista' jippermetti li kreditu eċċessiv li jirriżulta f'xi żmien ta' taxxa jista' jingħata lura f'data li tiġi iktar kmieni minn dik stabbilita skond l-istess dispożizzjonijiet taht dawk il-kondizzjonijiet u wara li tingħata dik il-garanzija li l-Kummissarju jista' jistabbilixxi.

28. Il-Ministru jista' b'regolamenti jipprovdi sabiex jiġi permess iktar tnaqqis mill-*output tax* u jista' jagħmel dak it-tnaqqis iktar kif sugġett għal dawk il-kondizzjonijiet u limitazzjonijiet li jistgħu jiġu preskritti. Tnaqqis ieħor.

TAQSIMA V

STIMI, TAXXA ADDIZZJONALI U APPELLI

29. (1) Meta l-Kummissarju jkollu għaliex jahseb —

Stimi.

(a) li denunzja tat-taxxa magħmula minn persuna reġistrata għal żmien ta' taxxa ikun fiha dikjarazzjoni bin-nieqes ta' l-*output tax* jew dikjarazzjoni biż-żejjed tat-tnaqqis għal dak iż-żmien, u li dik id-dikjarazzjoni bin-nieqes jew dikjarazzjoni biż-żejjed ma tkunx inkixfet skond id-dispożizzjonijiet tas-subartikolu (4) jew imsewwija bil-mod preskrit b'regolamenti magħmula bis-saħħa tas-subartikolu (5) ta' l-artikolu 16 ta' dan l-Att, jew

(b) dik it-taxxa għal żmien ta' taxxa għandha tithallas minn persuna li ma tkunx għamlet denunzja ta' taxxa lill-Kummissarju għal dak iż-żmien,

huwa jista' f'kull żmien wara li jiskadi ż-żmien permess skond dan l-Att għall-kunsinna tad-denunzja ta' taxxa għal dak iż-żmien ta' taxxa u mhux iktar tard minn sitt snin minn tmiem l-imsemmi żmien ta' taxxa jagħmel stima tal-valur taxxabli tal-provvisti taxxabli, l-*output tax*, it-tnaqqis permess, u t-taxxa li tithallas jew kreditu eċċessiv li jirriżulta għal dak iż-żmien.

(2) Tista' ssir stima b'riferenza għal dak it-tagħrif, kull stima jew kriterju li l-Kummissarju jista', skond kif jiddeċiedi, iqis li jkun xieraq.

(3) Jekk il-Kummissarju ikollu għaliex jahseb li jkollha ssir xi zieda ma' stima magħmula għal żmien ta' taxxa jew revizjoni tagħha,

huwa jista', fiż-żmien speċifikat fis-subartikolu (1) ta' dan l-artikolu, jagħmel stima addizzjonali jew stima riveduta skond ma jidhirlu.

(4) Meta ssir stima għal żmien ta' taxxa kull ammont ta' taxxa u tnaqqis kalkulat f'dik l-istima ikun meqjus hlief jekk u sal-limitu li l-istima tkun imħassra jew riveduta, u bla ħsara għad-dispożizzjonijiet ta' l-artikolu 30 ta' dan l-Att, li jkun u li dejjem kien it-taxxa u t-tnaqqis fil-fatt dovuti u permessi għal dak iż-żmien għal xi wiehed mill-għanijiet ta' dan l-Att.

(5) Avviż ta' stima magħmul skond dan l-artikolu għandu jiġi notifikat lill-persuna registrata fiż-żmien speċifikat fis-subartikolu (1) ta' dan l-artikolu.

(6) Stima magħmula fuq persuna registrata fiċ-ċirkostanzi msemmija fil-paragrafu (b) tas-subartikolu (1) ta' dan l-artikolu ma għandhiex teħles lil dik il-persuna mill-obbligu li għandha li tagħmel denunzja ta' taxxa għaž-żmien ta' taxxa relattiv.

Taxxa
addizzjonali.

30. (1) Meta ssir stima għal żmien ta' taxxa fiċ-ċirkostanzi msemmija fil-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 29 ta' dan l-Att tkun dovuta għal dak iż-żmien taxxa addizzjonali f'ammont ekwivalenti għal għoxrin fil-mija mit-total ta':

(a) l-eċċess, jekk ikun hemm, ta' l-*output tax* kif stmata fuq l-*output tax* kif dikjarata fid-denunzja; u

(b) l-eċċess, jekk ikun hemm, tat-tnaqqis kif dikjarat fid-denunzja fuq it-tnaqqis kif stmat.

(2) Meta ssir denunzja ta' taxxa lill-Kummissarju minn persuna registrata għal żmien ta' taxxa u din ikun fiha dikjarazzjoni bin-nieqes ta' l-*output tax* jew dikjarazzjoni biż-żejjed tat-tnaqqis għal dak iż-żmien u dik il-persuna tikseb dik id-dikjarazzjoni bin-nieqes jew biż-żejjed skond id-dispożizzjonijiet tas-subartikolu (4) ta' l-artikolu 16 ta' dan l-Att qabel ma tiġi notifikata bi stima għal dak iż-żmien tkun dovuta thallas taxxa addizzjonali ekwivalenti għal għaxra fil-mija mit-total ta':

(a) l-ammont, jekk ikun hemm, li bih l-*output tax* ikun gie dikjarat bin-nieqes fid-denunzja msemmija; u

(b) l-ammont, jekk ikun hemm, li bih kull tnaqqis ikun gie dikjarat biż-żejjed fid-denunzja msemmija.

(3) Kull persuna li, għax meħtieġa li tagħmel denunzja għal żmien ta' taxxa, tagħmel dik id-denunzja wara li jiskadi ż-żmien stipulat fl-artikolu 16 ta' dan l-Att tkun dovuta thallas taxxa addizzjonali f'ammont ekwivalenti għall-oghla minn:

(a) tnejn fil-mija ta' l-eċċess, jekk ikun hemm, ta' l-*output tax* fuq kull tnaqqis, bla ma jitqies kull kreditu eċċessiv li jingiebi 'il quddiem minn żmien ta' taxxa ta' qabel, kif jiġi dikjarat fid-denunzja, u

(b) ghoxrin lira

għal kull xahar jew parti minn xahar li jiskadu mid-data meta kellha ssir id-denunzja skond dan l-Att u d-data meta tinghata lill-Kummissarju.

(4) Kull persuna li, ghax-mehtieġa tapplika għal reġistrazzjoni taht dan l-Att, tagħmel dik l-applikazzjoni wara li jiskadi ż-żmien stipulat fl-artikolu 12 jew fl-artikolu 20 ta' dan l-Att ikun dovut iħallas taxxa addizzjonali f'ammont ekwivalenti għall-oghla minn —

(a) tnejn fil-mija mill-eċċess, jekk ikun hemm, ta' l-*output tax* fuq kull tnaqqis għall-ewwel żmien ta' taxxa li jiġi wara r-reġistrazzjoni; u

(b) ghoxrin lira

għal kull xahar jew parti minn xahar li jiskadu mid-data meta kellha ssir l-applikazzjoni skond l-imsemmi artikolu u dik id-data li tiġi l-iktar kmieni mid-data meta tinghata r-reġistrazzjoni lill-Kummissarju u d-data meta dik il-persuna tiġi registrata mill-Kummissarju.

31. Minkejja d-dispożizzjonijiet ta' l-artikolu 30 ta' dan l-Att—

Skuża
ragonevoli.

(a) it-taxxa addizzjonali li ssir dovuta bis-saħħa tas-subartikolu (1), (2) jew (3) ta' dak l-artikolu minn persuna li ma kienet qatt qabel dovuta li thallas xi taxxa addizzjonali mposta bis-saħħa ta' xi dispożizzjoni ta' dak l-artikolu tkun ta' nofs l-ammont li kieku kien dovut skond is-subartikolu msemmi.;

(b) it-taxxa addizzjonali li tkun dovuta għal żmien ta' taxxa minn persuna li kienet dovuta thallas taxxa addizzjonali mposta bis-saħħa tad-dispożizzjonijiet ta' dak l-artikolu dwar mill-anqas żewġ żminijiet ta' taxxa oħra li jokkorru matul żmien ta' sentejn li jiġu qabel l-ewwel żmien ta' taxxa imsemmi għandha tkun id-doppju ta' l-ammont li kieku kien ikun dovut;

(c) ebda taxxa addizzjonali ma tkun dovuta minn persuna għal xi nuqqas jekk dik il-persuna turi li jkun hemm skużanti ragonevoli għal dak in-nuqqas:

Iżda:

(i) li ma jkunx hemm fondi biżżejjed mnejn tithallas xi taxxa dovuta, jew

(ii) meta titqiegħed fiduċja fuq xi persuna oħra sabiex din twettaq xi biċċa xogħol, il-fatt li jkun hemm dik il-fiduċja jew xi dewmien jew ineżattezzi mill-persuna li jkollha l-fiduċja,

ma jitqisux li huma skużanti ragonevoli għall-ghanijiet ta' dan il-paragrafu.

Appell kontra stima.

32. Kull persuna li thoss ruhha aggravata bi stima li tigi notifikata lilha tista' tagħmel appell kontra dik l-istima lill-Bord ta' l-Appelli dwar it-Taxxa fuq il-Valur Miżjud.

Hwejjeg ohra li jistghu jingiebu fl-Appell.

33. Jekk tqum xi kwistjoni, li ma tkunx fuq stima, dwar —

(a) ir-registrazzjoni ta' persuna taht dan l-Att jew it-thassir ta' dik ir-registrazzjoni,

(b) jekk transazzjoni li ssir jew li jkollha ssir minn persuna tkunx provvista taxxabli jew le jew jekk importazzjoni ta' oggetti maghmula jew li jkollha tintgħamel minn persuna tkunx importazzjoni taxxabli jew le,

(c) kull taxxa li għandha tithallas fuq l-importazzjoni ta' oggetti,

(d) il-lok, il-ħin u l-valur taxxabli ta' provvista taxxabli,

(e) l-ammont ta' taxxa addizzjonali li għandha tithallas skond l-artikolu 30 ta' dan l-Att jew jekk dik it-taxxa addizzjonali għandhiex tithallas jew le,

(f) l-ammont ta' tnaqqis permess lil persuna registrata għal xi żmien ta' taxxa,

(g) kull garanzija mehtieġa mill-Kummissarju taht dan l-Att,

(h) jekk xi hlas lura ta' taxxa mitlub minn xi persuna jkunx dovut lil dik il-persuna jew le,

(i) kull punt ta' liġi li mhuwiex inkluż fid-dispożizzjonijiet ta' qabel ta' dan l-artikolu,

(j) kull haġa li, skond xi dispożizzjoni ta' dan l-Att jew ta' kull regolament li jsir bis-saħħa ta' dan l-Att, tista' tingieb fl-appell,

dik il-kwistjoni tista' tigi riferita lill-Bord ta' l-Appell dwar it-Taxxa fuq il-Valur Miżjud minn kull persuna li turi għas-sodisfazzjon tal-Bord li għandha interess dirett f'dik il-kwistjoni jew mill-Kummissarju: iżda kull kwistjoni fuq il-klassifika ta' oggetti taht it-Tariffa tad-Dwana li hemm fl-Ewwel Skeda li tinsab ma' l-Att dwar id-Dazji ta' Importazzjoni għandha tinqata' skond id-dispożizzjonijiet ta' dak l-Att daqslikieku l-kwistjoni kellha x'taqsam ma' dazju li jingabar taht dak l-Att.

Bord ta' l-Appelli dwar it-Taxxa fuq il-Valur Miżjud.

34. Jitwaqqaf Bord ta' l-Appelli dwar it-Taxxa fuq il-Valur Miżjud bil-ghan li jisma' u jaqta' appelli u referenzi li jsiru skond l-artikoli 32 u 33 ta' dan l-Att.

Hwejjeg regolati bis-Sitt Skeda.

35. Is-Sitt Skeda li tinsab ma' dan l-Att għandha tapplika għar-rigward ta' appell maghmul jew ta' kwistjoni riferita lill-Bord, l-għamla u l-kompetenza tal-Bord, u r-regolament tal-proċeduri tal-Bord.

36. (1) Kull persuna li, wara li tkun għamlet appell quddiem il-Bord, thoss ruhha aggravata b'deċiżjoni ta' dak il-Bord, tista' tagħmel appell minn dik id-deċiżjoni għal quddiem il-qorti ta' l-Appell fuq kull punt ta' liġi biss b'rikors li għandu jiġi preżentat fi żmien tletin jum mid-data meta d-deċiżjoni appellata tkun ġiet lilha notifikata.

Appell quddiem il-Qorti ta' l-Appell.

(2) Jekk il-Kummissarju jhoss ruhu aggravat b'deċiżjoni tal-Bord huwa jista' jagħmel appell għal quddiem il-Qorti ta' l-Appell fuq xi punt ta' liġi biss b'rikors li għandu jiġi preżentat fi żmien tletin jum mid-data ta' dik id-deċiżjoni.

(3) Il-Bord imwaqqaf bis-saħħa ta' l-artikolu 29 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili jista' jagħmel regolamenti li jirregolaw l-appelli li jsiru taht dan l-artikolu u li jippreskrivu d-drittijiet li għandhom jiġihom dwar kull appell.

TAQSIMA VI

Dokumentazzjoni u Tagħrif

37. (1) Kull persuna taxxabli għandha żżomm dokumentazzjoni xierqa u suffiċjenti tat-transazzjonijiet kollha li tagħmel fit-tweqqieg u fit-tkomplija ta' l-attività ekonomika tagħha sabiex tiffacilita l-verifika bla diffikultà tad-data, tal-valur u x-xorta ta' dawk it-transazzjonijiet, it-taxxa li għandha tithallas fuqhom u kull tnaqqis permess dwar dan, u kull tagħrif ieħor li jista' jiġi preskritt.

Dokumentazzjoni li għandha tinzamm.

(2) Id-dokumentazzjoni msemmija fis-subartikolu (1) ta' dan l-artikolu għandha tinzamm u tinhażen, ikollha dawk id-dettalji u tkun dokumentata iktar b'dawk id-dokumenti u konteġġi li l-Ministru jista' b'regolamenti jippreskrivi u għandha tinzamm għal żmien ta' mill-inqas sitt snin minn tmiem is-sena li jkollhom x'jaqsmu magħha.

(3) Regolamenti li jiġu preskritti għall-ghanijiet tas-subartikolu (2) ta' dan l-artikolu jistgħu jehtiegu persuni taxxabli li jaħżnu, jipproċessaw u jipproduċu tagħrif u dokumenti fuq jew b'dawk il-mezzi u makni li jistgħu jiġu speċifikati f'dawk ir-regolamenti.

(4) Il-Kummissarju jista' f'kull żmien matul iż-żmien speċifikat fis-subartikolu (2) ta' dan l-artikolu jehtieg lil persuna taxxabli li tipproduċi d-dokumentazzjoni, dokumenti u konteġġi meħtieġa li jinżammu minnha bis-saħħa ta' dan l-artikolu.

38. (1) Meta persuna taxxabli tindika l-prezz ta' oġġetti offerti għal bejgħ bl-imnut, dak il-prezz għandu jiġi indikat b'mod li jkun jinkludi t-taxxa li għandha tithallas taht dan l-Att dwar il-provvista ta' l-oġġetti msemmija.

Wiri ta' prezzijiet.

39. (1) Kull persuna taxxabli, li ma tkunx bejjiegħ bl-imnut, li tagħmel provvista taxxabli lil persuni taxxabli oħra għandha tagħti lil dik il-persuna oħra fattura ta' taxxa fi żmien wiehed-u-tletin jum mid-data msemmija fis-subartikolu (1) ta' l-artikolu 9 ta' dan l-Att.

Fattura ta' taxxa.

(2) Persuna taxxabli li tkun bejjieh bl-imnut u li tagħmel provvista taxxabli lil persuna taxxabli oħra għandha, fuq talba ta' dik il-persuna l-oħra, tagħtiha fattura ta' taxxa fi żmien wieħed-u-tletin jum mid-data msemmija fis-subartikolu (1) ta' l-artikolu 9 ta' dan l-Att.

(3) Meta persuna registrata tipprovdi lilha nnifisha b'dokument li jkun maħsub bħala fattura ta' taxxa dwar provvista taxxabli lilha magħmula minn persuna registrata oħra, dak id-dokument jista', bl-approvazzjoni tal-Kummissarju, jitqies bħala l-fattura ta' taxxa meħtieġa li tiġi provduta minn min jagħmel il-provvista skond dan l-artikolu.

(4) Il-Ministru jista' b'regolamenti jippreskrivi l-formola ta' fattura ta' taxxa, kull partikolar li għandu jidher fiha u l-mod kif din għandha tinħareġ, u jista' b'dawk ir-regolamenti jagħmel dispożizzjonijiet differenti għar-rigward ta' kategoriji differenti ta' persuni jew provvisti taxxabli.

Dokumenti li għandhom jingiebu f'kazijiet oħra.

40. Il-Ministru jista' b'regolamenti jeħtieġ li persuna taxxabli li tagħmel provvista eżenti lil persuna taxxabli jew li tagħmel xi provvista lil persuna li ma tkunx persuna taxxabli, tagħti lill-persuna li lilha tkun għamlet il-provvista, dik il-fattura, riċevuta jew dokument ieħor li jista' jiġi speċifikat fir-regolamenti msemmija, u jista' b'dawk ir-regolamenti jippreskrivi l-għamla ta' dik il-fattura, riċevuta jew dokument, kull partikolar li għandu jintwera fuqhom u l-mod kif dawn għandhom jinħarġu.

Produzzjoni ta' fatturi minn persuni li jkunu ngħataw provvista.

41. Persuna li tkun inġatata fattura ta' taxxa jew fattura oħra jew xi dokument ieħor kif meħtieġ bl-artikolu 39 jew 40 ta' dan l-Att għandha tipproduċi, jekk hekk tenħtieġ li tagħmel f'dak iż-żmien u f'dawk iċ-ċirkostanzi li jistgħu jiġu preskritti, dik il-fattura ta' taxxa jew fattura oħra jew dokument ieħor lill-Kummissarju jew lil kull uffiċjal ieħor hekk awtorizzat mill-Kummissarju.

Spezzjonijiet.

42. Il-Kummissarju u kull persuna awtorizzata minnu kif imiss għandu bil-għan li jiġi żgurat twettieq skond id-dispożizzjonijiet ta' dan l-Att, ikollhom is-setgħa —

(a) li jidhlu u jispezzjonaw kull fond fejn tiġi ġestita jew tkun suspettata li qed tiġi ġestita xi attività ekonomika jew fejn oġġetti, proprjetà, kotba, kull dokumentazzjoni jew dokumenti li jirrigwardaw dik l-attività jkunu qed jinżammu jew ikunu suspettati li qed jinżammu;

(b) li jispezzjonaw u jeħtieġu l-produzzjoni ta' kotba, kull dokumentazzjoni jew dokumenti, inkluż tagħrif li jinqara permezz tal-makni, jew kopja jew estratt tagħhom li jirrigwardaw l-attività ekonomika ta' xi persuna;

(ċ) bla hsara għad-dispożizzjonijiet ta' l-artikolu 44 ta' dan l-Att, jitolbu lil persuna li tagħtihom dak it-tagħrif li jistgħu jeħtieġu bil-għan li jiġi stabbilit jekk ikunux saru xi provvisti taxxabli minn jew lil dik il-persuna jew il-valur ta' kull tali provvista u li jeħtieġu lil xi persuna li tattendi fl-uffiċċju tal-Kummissarju bil-għan li jagħti dak it-tagħrif.

43. Jekk ikun mehtieg li jsir xi dhul bis-sahha tas-subartikolu (1) ta' dan l-artikolu għewwa xi fond li jkun kollu kemm hu jew f'parti minnu okkupat bhala fond residenzjali, dak id-dhul ikun jehtieg li jigi awtorizzat minn qabel b'mandat tal-qorti kompetenti u ma ghandux isir bejn is-sebgha ta' filghaxija u s-sebgha ta' filghodu.

Dhul f'postijiet ta' abitazzjoni.

44. (1) Bla preġudizzju għad-dispożizzjonijiet li għandhom x'jaqsmu mad-dmir ta' segretezza professjonali, ma għandu jenhtieg ebda tagħrif mill-Kummissarju bis-sahha ta' dan l-Att minghand persuni li s-subartikolu (2) ta' dan l-artikolu jkun jirreferi għalihom hlief biss bil-ghan li tigi stabbilita x'inhil t-taxxa li għandha tithallas u x'ikun kull tnaqqis permess lil dik il-persuna taht dan l-Att jew sabiex jigi zgurat li dik il-persuna tkun miexja b'mod konformi mad-dispożizzjonijiet ta' dan l-Att.

Tagħrif li jkollhom ċertu detenturi ta' licenzja.

(2) Dan is-subartikolu jirreferi għal:

(a) bank licenzjat taht l-Att ta' l-1994 dwar il-Kummerċ Bankarju;

(b) kumpanija ta' assigurazzjoni dwar kummerċ ta' assigurazzjoni fuq il-hajja li jitmexxa bis-sahha ta' licenzja mogħtija taht l-Att dwar l-Impriża ta' l-Assigurazzjoni;

Kap. 290.

(ċ) kull persuna li jkollha licenzja li tmexxi negozju ta' investiment taht l-Att ta' l-1994 dwar Servizzi ta' Investiment;

(d) skema ta' investiment kollettiv li jkollha licenzja taht l-Att ta' l-1994 dwar Servizzi ta' Investiment;

(e) *Stockbroker* li jkollu licenzja taht l-Att dwar il-Borża ta' Malta.

Kap. 345

45. (1) Hlief hekk kif jista' jenhtieg għall-ghanijiet ta' dan l-Att, jew meta l-Prim Ministru jordna mod iehor, kull persuna li jkollha xi dmir ufficjali jew li tkun impjegata fl-amministrazzjoni ta' dan l-Att għandha tqis u tittratta kull dokument u tagħrif li għandu x'jaqsam ma' dan l-Att bhala sigrieti u kunfidenzjali.

Segretezza ufficjali.

(2) Ebda persuna li tkun mahtura taht dan l-Att jew impjegata sabiex twettaq id-dispożizzjonijiet ta' dan l-Att ma għandha tenhtieg li ggib quddiem xi qorti, tribunal, bord jew kumitat ta' inkjesta xi dokument jew li tikxef xi haġa li tkun taf biha fit-twettieq ta' dmirijiet taht dan l-Att hlief b'dak il-mod li jista' jkun mehtieg bil-ghan li jitwettqu fis-sehh id-dispożizzjonijiet ta' dan l-Att, jew bil-ghan jew fil-waqt ta' xi appell magħmul skond dan l-Att jew prosekuzzjoni għal xi reat kontra xi wahda mid-dispożizzjonijiet ta' dan l-Att.

(3) Minkejja d-dispożizzjonijiet l-oħra ta' dan l-artikolu, il-Kummissarju jista' jippermetti lid-Direttur tal-Verifika jew lil kull ufficjal awtorizzat mid-Direttur tal-Verifika li jkollu aċċess għal kull dokumentazzjoni jew dokument hekk kif jista' jkun mehtieg għat-twettieq tad-dmirijiet ufficjali tiegħu u għal dan il-ghan id-Direttur tal-Verifika u kull ufficjal awtorizzat bħal dak għandhom jitqiesu bhala persuna li hi impjegata fl-amministrazzjoni ta' dan l-Att.

(4) Minkejja d-dispożizzjonijiet tas-subartikoli l-oħra ta' dan l-artikolu jew ta' kull liġi oħra l-Kummissarju għandu jagħti lill-Kummissarju tat-Taxxi Interni dak it-tagħrif, li jkun tagħrif miksub mill-Kummissarju għal xi wieħed mill-għanijiet ta' dan l-Att, hekk kif jista' jiġi ordnat mill-Ministru.

TAQSIMA VII

Kaži Speċjali

Kaži speċjali.

46. (1) Il-Ministru jista' b'regolamenti jippreskrivi dispożizzjonijiet speċjali dwar il-provvisti li s-subartikolu (2) ta' dan l-artikolu jirreferi għalihom, u jista', b'dawk ir-regolamenti, jagħmel dispożizzjonijiet:

(a) li provvista titqies bħala żewġ provvisti separati jew iktar jew li għadd ta' provvisti għandhom jitqiesu bħala provvista waħda;

(b) dwar il-hin u l-lok li fihom għandu jitqies li jkunu seħħew il-provvisti;

(ċ) dwar li l-valur taxxabli tal-provvisti għandu jiġi stabbilit b'dak il-metodu jew wieħed minn dawk il-metodi li l-Kummissarju jista' jistabbilixxi;

(d) dwar kif tiġi stabbilita l-*input tax* li għandha tkun tghodd għall-provvisti;

(e) dwar kull dokumentazzjoni u dokument addizzjonali li għandu jinżamm u jiġi prodott għar-rigward ta' dawk il-provvisti;

u kull regolament bħal dawk għandu jkun japplika minkejja kull haġa kuntrarja li tinsab f'dan l-Att.

(2) Dan is-subartikolu japplika għal:

(a) provvisti magħmula minn operaturi ta' vjaġġi u aġenti ta' l-ivvjaġġar u minn persuni oħra li jagħmluha ta' prinċipali u li jagħmlu provvisti li s-soltu jiġu provduti minn operaturi ta' vjaġġi u aġenti ta' l-ivvjaġġar;

(b) provvisti ta' oġġetti użati;

(ċ) provvisti minn bejjiegha bl-imnut;

(d) dawk il-provvisti l-oħra li jistgħu jiġu msemmija għall-għanijiet ta' dan l-artikolu b'ordni magħmul mill-Ministru u pubblikat fil-Gazzetta.

TAQSIMA VIII

Ġbir, Garanzija u Hlas Lura

47. (1) Tista' ssir kawża għat-taxxa u għat-taxxa addizzjonali taħt dan l-Att u sabiex dawn jingabru skond ma jeħtieġ il-każ fil-qorti ta' kompetenza ċivili. Kawża mill-Kummissarju.

(2) Bla hsara għad-dispożizzjonijiet tas-subartikolu (3) ta' dan l-artikolu, il-Kummissarju jista' jibda azzjoni għall-hlas ta' taxxa u ta' taxxa addizzjonali f'kull żmien matul sitt snin mid-data meta dik it-taxxa u taxxa addizzjonali kellhom jithallsu.

(3) Iż-żmien imsemmi fis-subartikolu (2) ta' dan l-artikolu jitwaqqaf b'att ġudizzjarju li jiġi preżentat mill-Kummissarju qabel ma jiskadi dak iż-żmien fejn jitlob il-hlas tat-taxxa u t-taxxa addizzjonali dovuti.

48. (1) Avviż maħruġ mill-Kummissarju li jkun juri ammont ta' taxxa u taxxa addizzjonali dovuti minn persuna għandu jkun xieħda biż-żejjed, kemm-il darba ma tingiebx prova kuntrarja, li l-ammont ikun dovut lill-Kummissarju minn dik il-persuna u għandu jikkostitwixxi titolu eżekuttiv fil-kuntest u għall-għanijiet tat-**Titolu VII** tat-**Taqsim**a I tat-**Tieni Ktieb** tal-**Kodiċi** ta' **Organizzazzjoni u Proċedura Ċivili**. Titolu eżekuttiv.
Kap. 12.

(2) Il-Kummissarju jista' jitlob il-hlas ta' kull taxxa u taxxa addizzjonali li għandha tithallas minn persuna skond dan l-Att bil-mezz ta' nota ta' talba għall-hlas, u jekk il-hlas mitlub ma jsirx fi żmien tletin jum mid-data meta dik in-nota ta' talba għall-hlas tkun giet notifikata lil dik il-persuna, il-Kummissarju jista' jgħaddi biex jiġbor dan il-hlas bis-saħħa tat-titolu eżekuttiv imsemmi fis-subartikolu (1) ta' dan l-artikolu wara jumejn minn notifika lil dik il-persuna ta' talba għall-hlas li tkun saret permezz ta' att ġudizzjarju.

(3) Id-dispożizzjonijiet ta' l-artikolu 468 tal-**Kodiċi** ta' **Organizzazzjoni u Proċedura Ċivili** għandhom japplikaw dwar kull mandat maħruġ bis-saħħa ta' titolu eżekuttiv isemmi f'dan l-artikolu u għall-iżbank ta' kull flus li jingabru mill-bejgħ fl-irkant tal-proprjetà maqbuda, u ebda oppożizzjoni jew riżerva fiċ-ċedola ta' depożitu ma għandha twaqqaf il-hlas ta' xi somma li tkun depożitata fil-qorti wara li jkun sar dak il-mandat kif imsemmi qabel.

49. (1) Ebda oġġett importat ġewwa Malta ma għandu jiġi kunsinnat għall-użu f'Malta jew jittiehed minn, jinheles jew jingabar minn xi depożt tad-dwana hlief — Restrizzjonijiet fuq il-helsien ta' oġġetti importati.

(a) meta l-importazzjoni ta' dawġ l-oġġetti tkun importazzjoni eżentata,

(b) meta t-taxxa fuq dik l-importazzjoni tkun thallset skond dan l-Att, jew

(ċ) bl-awtorizzazzjoni tal-Kummissarju.

(2) Awtorizzazzjoni għall-għanijiet tal-paragrafu (c) tas-subartikolu (1) ta' dan l-artikolu tista' tinghata taht dawk il-kondizzjonijiet u ma' l-ghoti ta' dik il-garanzija li l-Kummissarju jista' jstabbilixxi.

Setghat li għandhom x'jaqsmu ma' oġġetti importati.

50. (1) Il-Kontrollur tad-Dwana għandu jkollu, bil-għan li jiżgura, jiġbor u jhares f'isem il-Kummissarju t-taxxa li tithallas taht dan l-Att fuq importazzjonijiet taxxabli, l-istess setghat u għandu jimxi skond l-istess proċeduri li jkunu skond kull liġi oħra li jhaddem u jwettaq hu bil-għan li jiżgura, jiġbor u jhares id-dazji ta' l-importazzjoni.

Kap. 37.

Kap. 337.

(2) Kull dispożizzjoni ta' l-Ordinanza tad-Dwana jew ta' l-Att dwar id-Dazji ta' Importazzjoni jew f'kull regolament magħmul bis-saħħa tagħhom dwar kif jiġu applikati l-hlasijiet minn bejgh ta' oġġetti importati għall-hlas ta' dazji ta' importazzjoni dovuti fuq dawk l-oġġetti għandha tiftiehem bħala dispożizzjoni dwar kif jiġu applikati l-imsemmija hlasijiet għall-hlas ta' dazji ta' importazzjoni u ta' kull taxxa dovuta taht dan l-Att fuq l-importazzjoni ta' dawk l-oġġetti.

Privileġġ speċjali.

Kap. 16.

51. Il-Kummissarju jkollu privileġġ speċjali fuq l-attiv li jagħmel sehem mill-attività ekonomika ta' persuna dwar kull taxxa dovuta minn dik il-persuna taht dan l-Att u t-taxxa msemmija għandha tithallas, minkejja kull ma jista' jinsab f'xi liġi oħra, bi preferenza fuq dejn li jkollu xi privileġġ iehor, hlief dejn li jkollu privileġġ ġenerali u dejn imsemmi fil-paragrafu (a) jew fil-paragrafu (b) ta' l-artikolu 2009 tal-Kodiċi Ċivili.

Garanzija għal taxxa dovuta fuq provvisti.

52. (1) Jekk, f'xi każ partikolari, il-Kummissarju jkollu għaliex jahseb li t-taxxa dovuta minn persuna registrata ma tkunx tista' tingabar fil-waqt meta dik it-taxxa jkollha tithallas skond dan l-Att, huwa jista' bil-mezz ta' avviż li jiġi notifikat lil dik il-persuna, jitlob li jsir il-hlas tat-taxxa f'dak iż-żmien li jista' jiġi speċifikat f'dak l-avviż u t-taxxa malli dan ikollha tithallas f'dak iż-żmien minkejja kull dispożizzjoni oħra ta' dan l-Att.

(2) Meta jintalab hlas minghand persuna skond is-subartikolu (1) ta' dan l-artikolu dik il-persuna tista', minflok ma tagħmel il-hlas imsemmi, tagħti dik il-garanzija għat-taxxa li għandha tithallas skond kif il-Kummissarju jista' jaċċetta li jsir.

Garanzija għal krediti, tnaqqis u hlas lura.

53. Meta jintalab minn persuna kreditu għal *input tax* jew kull tnaqqis iehor jew hlas lura, u l-iskont jew hlas ta' dak il-kreditu, tnaqqis jew hlas lura jista' jkun sugġett għal revizjoni skond kull dispożizzjoni ta' dan l-Att jew kull regolament li jsir bis-saħħa tiegħu jew ikun jiddependi minn ċirkostanzi li, fil-fehma tal-Kummissarju, ma jkunux ġew verifikati għal kollox, il-Kummissarju jista' jippermetti li jsiru l-imsemmija kreditu jew tnaqqis jew jagħmel dak il-hlas lura billi jagħti garanzija f'dak l-ammont u b'dak il-mod hekk kif jista' jqis xieraq li jehtieg.

Żmien iqsar għall-għemil ta' denunzja.

54. Jekk, f'xi każ partikolari, il-Kummissarju jkollu għaliex jahseb li t-taxxa dovuta minn persuna registrata tista' mod iehor tkun preġudikata, huwa jista', bil-mezz ta' avviż bil-miktub, jehtieg lil dik il-

persuna li tagħmel denunzja ta' taxxa għal żmien ta' taxxa qabel iż-żmien permess skond l-artikolu 16 ta' dan l-Att, u għar-rigward ta' dik id-denunzja ta' taxxa kull referenza f'dan l-Att għaž-żmien mogħti skond dak l-artikolu għandha għalhekk tinftiehem bħala referenza għaž-żmien speċifikat b'dak l-avviż.

55. (1) Meta jkun dovut xi mghax minn persuna skond dan l-Att, kull hlas li dik il-persuna tagħmel lill-Kummissarju għandu jitqassam, minkejja kull dikjarazzjoni ta' dik il-persuna, fuq dak l-imghax qabel ma jitqassam fuq xi taxxa.

Tqassim tal-hlas.

(2) Bla hsara għad-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu meta tkun dovuta xi taxxa addizzjonali minn persuna, kull hlas li jsir minn dik il-persuna lill-Kummissarju għandu jitqassam, minkejja kull dikjarazzjoni ta' dik il-persuna għall-kuntrarju, fuq dik it-taxxa addizzjonali qabel ma jitqassam fuq xi taxxa ohra.

56. (1) It-taxxa mħallsa ma għandhiex tithallas lura hlief fiċ-ċirkostanzi msemmija fl-artikolu 27 jew 57 ta' dan l-Att jew fid-dispożizzjonijiet l-ohra ta' dan l-artikolu.

Hlas lura ta' taxxa mħallsa żejjed.

(2) Bla hsara għad-dispożizzjonijiet tas-subartikolu (3) ta' dan l-artikolu meta jirriżulta li xi taxxa mħallsa minn persuna ma kienetx dovuta jew kienet iżjed mit-taxxa dovuta taht dan l-Att il-Kummissarju għandu jhallas lura, meta tingieblu dik il-prova li huwa jista' jqis xieraq li jehtieg, dik it-taxxa jew dak is-sehem minnha li ma kienetx dovuta lil dik il-persuna jew lil xi persuna ohra li jista' jkollha jedd għal dak il-hlas lura: iżda ebda haġa f'dan is-subartikolu ma għandha titqies li tmur 'l hemm jew tiehu post id-dispożizzjonijiet ta' l-artikolu 32 ta' dan l-Att.

(3) Il-Ministru jista' b'regolamenti jippreskrivi l-mod u ż-żmien li fih tista' ssir talba għal hlas lura taht is-subartikolu (2) ta' dan l-artikolu, kif ukoll dawk il-kondizzjonijiet u limitazzjonijiet, inkluż l-inqas ammont li dwaru jista' jintalab hlas lura, kif jidhirlu xieraq.

(4) Meta jirriżulta minn xi sentenza finali mogħtija fl-appell magħmul skond dan l-Att li xi ammont ta' taxxa mħallas minn persuna ma kienx dovut, il-Kummissarju għandu jhallas lura dak l-ammont lil dik il-persuna fi żmien tletin jum mid-data meta dik is-sentenza tghaddi b'gudikat.

(5) Mghax bir-rata speċifikata fi jew preskritta skond is-subartikolu (2) ta' l-artikolu 22 ta' dan l-Att ikun dovut fuq hlas lura li għalih jirreferi s-subartikolu (4) ta' dan l-artikolu għaž-żmien li jintemm fid-data meta dak il-hlas lura jew jiġu impostati *cheque* jew *cedola* mill-Kummissarju lill-persuna li għandu jsirilha l-hlas lura, liema mghax jibda għaddej —

(a) jekk u sal-limitu li l-ammont li għandu jithallas lura kien mitlub bħala kreditu eċċessiv f'denunzja magħmula lill-Kummissarju mill-appellant, mid-data stabbilita skond l-artikolu 27 ta' dan l-Att;

(b) jekk u sal-limitu li l-ammont li ghandu jithallas lura kien imhallas mill-appellant bhala kondizzjoni għall-validità ta' l-appell tiegħu skond id-dispożizzjonijiet tas-Sitt Skeda li tinsab ma' dan l-Att, mid-data meta dak l-ammont thallas lill-Kummissarju;

(c) f'kull każ iehor, mid-data li l-hlas lura jsir dovut skond is-subartikolu (4) ta' dan l-artikolu.

(6) Kull hlas lura li jkun dovut skond xi dispożizzjoni ta' dan l-Att ghandu jsir minghajr ebda tqassim iehor hlief dak li johrog minn dan l-Att bil-mezz ta' ordni miktub mill-Ministru.

Arrangamenti internazzjonali.

57. (1) Jekk il-Ministru b'ordni pubblikat fil-Gazzetta jiddikjara li jkunu saru arrangamenti mal-gvern ta' xi territorju barra minn Malta bil-għan li jinghata helsien minn taxxa doppja dwar taxxa li tithallas taht dan l-Att u xi taxxa bhal dik li tithallas bis-sahha tal-ligijiet ta' dak it-territorju, u li jkun jaqbel li dawk l-arrangamenti ghandu jkollhom sehħ, dawk l-arrangamenti ghandhom isehħu minkejja kull haga ohra f'dan l-Att.

(2) Jekk il-Ministru b'ordni pubblikat fil-Gazzetta jiddikjara li jkunu saru arrangamenti mal-gvern ta' xi territorju barra minn Malta bil-għan li jaghti hlas lura, fuq bażi reċiproka, fuq taxxa mhallsa taht dan l-Att lil persuni stabbiliti barra minn Malta u li jkun jaqbel li dawk l-arrangamenti ghandu jkollhom sehħ, dawk l-arrangamenti ghandhom isehħu minkejja kull haga ohra f'dan l-Att.

(3) Il-Ministru jista' jagħmel regolamenti għat-twertieq tad-dispożizzjonijiet ta' kull arrangament li jkollu sehħ taht dan l-artikolu.

(4) Meta jirriżulta li tkun thallset xi taxxa għall-importazzjoni ta' oġġetti li tkun eżenti minn dazji ta' importazzjoni skond arrangamenti diplomatiċi u konsulari li jkollhom sehħ bis-sahha ta' xi ligi jew li tkun thallset xi taxxa fuq provvisti jew importazzjonijiet minn persuna li tikkwalifika għal eżenzjoni minn taxxa skond dawk l-arrangamenti internazzjonali li l-Ministru jista', b'ordni fil-Gazzetta, jispeċifika, il-Kummissarju ghandu jhallas lura, fuq talba li ssir f'dak iż-żmien u b'dak il-mod li jista' jiġi preskritt, u meta tingieb dik il-prova li jista' jehtieg, it-taxxa hekk imhallsa lil dik il-persuna.

TAQSIMA IX

Mixxellanji

Tqassim u notifika ta' avvizi. eċċ.

58. (1) Kull avviż, mandat jew proċediment iehor li jsir b'għar skond id-dispożizzjonijiet ta' dan l-Att ma ghandux jitqies li jkun null jew li jista' jiġi annullat minhabba f'nuqqas materjali jew li jkun difettuż minhabba f'xi żball, difett jew omissjoni li jkollu, jekk dan ikun materjalment u effettivament jaqbel mal-hsieb u skond it-tifsir ta' dan l-Att.

(2) Fil-każ ta' korp ta' persuni jkun biżżejjed jekk jidher biss l-isem ta' dak il-korp fuq kull avviż, mandat jew proċediment, inkluż

kull proċediment quddiem il-Qorti ta' l-Appell, mahruġ jew magħmul taht jew għall-ghanijiet ta' dan l-Att.

(3) Kull avviż li jinghata mill-Kummissarju taht dan l-Att għandu jiġi ffirmat mill-Kummissarju nnifsu jew minn persuna jew persuni minnu awtorizzati u kull avviż bhal dak ikun validu jekk il-firma tkun stampata, ittimbrata jew miktuba fuq l-att.

(4) Avviż jista' jiġi notifikat lil persuna sew personalment sew billi jintbagħat bil-posta u għandu f'dan il-każ tal-posta jitqies li jkun gie notifikat, kemm-il darba ma tingiebx prova kuntrarja, fil-każ ta' indirizz f'Malta mhux iżjed tard mit-tielet jum li jiġi wara l-jum meta dan ikun gie impustat, u fil-każ ta' indirizz barra minn Malta fil-jum li jiġi wara dak il-jum meta l-avviż kien jiġi riċevut fil-kors ordinarju tal-posta u jkun biżżejjed li tingieb prova li l-avviż kien indirizzat u impustat sew.

(5) Għall-ghanijiet tas-subartikolu (4) ta' dan l-artikolu avviż jitqies li jkun gie indirizzat sew jekk dan ikun gie indirizzat fin-negozju jew fl-indirizz privat ta' persuna, u indirizz mogħti minn persuna lill-Kummissarju għandu jitqies bhala l-indirizz ta' dik il-persuna kemm-il darba u sakemm ma jinghatax avviż ta' bdil ta' indirizz minn dik il-persuna lill-Kummissarju.

(6) Meta d-data li fiha xi denunzja, avviż jew dokument ieħor ikollhom jintgħamli, jinghataw jew jiġu notifikati jew jitqiesu li ġew notifikati jew li fiha jsir dovut hlas li jkollu jsir skond xi dispożizzjoni ta' dan l-Att taħbat, li ma kienx għad-dispożizzjonijiet ta' dan is-subartikolu, is-Sibt jew il-Ħadd, jew f'jum nazzjonali jew btala pubblika skond kif stabbilit fl-Att dwar il-Festi Nazzjonali u Btajjel Pubbliċi oħra, dik id-data għandha titqies li taħbat fl-ewwel jum tax-xogħol, li ma jkunx is-Sibt, li jiġi wara dak is-Sibt, Ħadd, festa nazzjonali jew btala pubblika.

Kap. 252.

59. (1) Kull segretarju, *manager*, direttur, stralċjarju jew uffiċjal prinċipali ieħor ta' enti jew korp ta' persuni, kull werriet u eżekutor testamenarju u kull kuratur ta' l-eredità vakanti ta' persuna mejta, u kull min ikun tutur, kuratur, amministratur jew *trustee* ta' xi persuna oħra jew ta' xi *trust*, *fund* jew enti ieħor għandu jkun rappreżentant, għall-ghanijiet ta' dan l-Att, ta' dak il-korp ta' persuni, persuna mejta, persuna oħra, *trust*, *fund* jew enti ieħor, skond il-każ.

Rappreżentanti.

(2) Meta provvista taxxabli ta' servizzi ssir f'Malta minn persuna taxxabli li ma tkunx stabbilita f'Malta, kull persuna residenti f'Malta li lilha jiġu provduti dawk is-servizzi jew kull persuna residenti f'Malta li tkun aġent ta' dik il-persuna li tagħmel il-provvista għandha, jekk tiġi hekk maħtura mill-Kummissarju permezz ta' avviż bil-miktub, tkun rappreżentanti ta' dik il-persuna li tagħmel il-provvista għar-rigward ta' kull obligazzjoni ta' min jagħmel il-provvista taht dan l-Att dwar dik il-provvista.

(3) (a) Bla h'sara għad-dispożizzjonijiet tas-subartikolu (5) ta' dan l-artikolu rappreżentant ta' persuna jkun responsabbli bl-istess mod u sa l-istess limitu bhal dik il-persuna li jkun qieghed jirrappreżenta għall-obbligazzjonijiet kollha imposti b'dan l-Att jew bis-saħħa tiegħu.

(b) Kull haġa li ssir jew tonqos milli ssir minn rappreżentant li jaġixxi f'dik il-kariga għandha titqies għall-għanijiet ta' dan l-Att li tkun saret jew naqset milli ssir mill-persuna li huwa jkun qiegħed jirrappreżenta.

(ċ) Avviż li jiġi notifikat lil rappreżentant jew hlas lura li jsir lil rappreżentant fil-kariga tiegħu ta' rappreżentant taht kull dispożizzjoni ta' dan l-Att għandhom jitqiesu bhala notifikat jew magħmul lill-persuna li huwa jkun rappreżentant tagħha.

(d) Li persuna tkun jew tinħatar rappreżentant ta' persuna oħra ma jehlisx lit-tieni persuna minn kull obbligu jew responsabbiltà taht dan l-Att.

(4) Rappreżentant li jkollu taht it-tmexxija jew kontroll tiegħu xi flus jew proprjetà ta' persuna jew dovuti lil persuna li huwa jkun rappreżentant tagħha ma għandux jiddisponi minn dawk il-flus jew proprjetà kemm-il darba ma jkunx haseb biżżejjed għal kull taxxa dovuta taht dan l-Att.

(5) Rappreżentant ikollu responsabbiltà solidali mal-persuna li jkun qiegħed jirrappreżenta għat-taxxa dovuta minn dik il-persuna: iżda meta r-rappreżentant ikun aġixxa *in bona fide* u ma jkunx qiegħed xjentement jikkontravjeni s-subartikolu (4) ta' dan l-artikolu jew kull obligazzjoni oħra taht dan l-Att, ir-responsabbiltà tiegħu taht dan is-subartikolu għandha tkun limitata għall-flus jew għall-valur ta' proprjetà li huwa jkun qiegħed jamministra jew jikkontrolla li tkun ta' persuna jew dovuta lil persuna li huwa jkun ir-rappreżentant tagħha.

Mgħax.
Kap. 123.

60. Għall-għanijiet ta' l-Att dwar it-Taxxa fuq l-*Income* u l-Att ta' l-1994 dwar l-Amministrazzjoni tat-Taxxa —

(a) l-imgħax li jithallas jew li għandu jithallas taht dan l-Att mill-Kummissarju lil persuna ma għandux jitqies bhala *income* ta' dik il-persuna;

(b) l-imgħax u t-taxxa addizzjonali li jithallsu jew li għandhom jithallsu taht dan l-Att minn persuna lill-Kummissarju ma għandhomx jitqiesu bhala spejjeż imgħarrba fil-produzzjoni ta' l-*income* ta' dik il-persuna.

Setgħa ta' għemil
ta' regolamenti.

61. Il-Ministru jista' jagħmel regolamenti li bihom —

(a) jemenda, iħassar, jissostitwixxi kull Skeda, minbarra s-Sitt Skeda, li tinsab ma' dan l-Att;

(b) jippreskrivi kull haġa li f'xi każ partikolari titqies mehtieġa bil-għan li jiġi evitat kull tgħawwiġ konsiderevoli fil-kompetizzjoni li jista' mod ieħor jirriżulta mill-mod kif jiġu applikati d-dispożizzjonijiet ta' dan l-Att;

(ċ) jipprovdi għal *rounding up* jew *rounding down* ta' kull ammont f'xi kalkolu magħmul għal xi wieħed mill-għanijiet ta' dan l-Att, jew sabiex ma jingħatax każ ta' kull ammont żgħir li johrog minn dak il-kalkolu;

(d) jippreskrivi kull haġa li tista' tiġi preskritta bis-saħħa tad-dispożizzjonijiet ta' dan l-Att;

(e) jippreskrivi dwar kull kondizzjoni li tista' tiġi imposta fuq, u kull deċiżjoni li tista' tintgħamel mill-Kummissarju skond dan l-Att;

(f) jippreskrivi kull haġa oħra sabiex jiżgura l-hlas tat-taxxa u b'mod ġenerali sabiex jagħti seħħ lid-dispożizzjonijiet ta' dan l-Att;

(g) jemenda, jirrevoka jew jissostitwixxi kull regolament magħmul bis-saħħa ta' dan l-Att.

TAQSIMA X

Reati u Pieni

62. Kull min —

(a) jonqos milli japplika għal registrazzjoni fiż-żmien u bil-mod meħtieġa bl-artikolu 12 jew bl-artikolu 70 ta' dan l-Att;

(b) jonqos milli jzomm jew jagħti kull dokumentazzjoni, dokument u kontegġ għaż-żmien u bil-mod meħtieġ b'dan l-Att jew b'kull regolament magħmul bis-saħħa tiegħu;

(c) jonqos milli jagħmel denunzja ta' taxxa jew kull denunzja addizzjonali, dikjarazzjoni jew jagħti tagħrif jew li jgħib kotba, dokumentazzjoni, dokumenti u kontegġi meta jkun meħtieġ jagħmel dan bis-saħħa ta' dan l-Att jew ta' kull regolament magħmul bis-saħħa ta' dan l-Att,

ikun hati ta' reat u jehel, meta jinsab hati, multa ta' mhux anqas minn hamsin lira u mhux iżjed minn mitejn lira u l-Qorti tordnaluh li jikkonforma ruħu mal-liġi fi żmien biżżejjed biex ikun jista' jagħmel dan, iżda f'kull każ mhux iktar minn tlett xhur, u fin-nuqqas huwa jkollu jhallas multa oħra ta' mhux anqas minn żewġ liri u mhux aktar minn għaxar liri għal kull jum li dak in-nuqqas ikompli wara li jgħaddi ż-żmien mogħti mill-Qorti.

63. Kull min —

(a) xjentement jonqos li jagħti kont għal xi provvista taxxabbli minnu magħmula fid-dokumentazzjoni, dokumenti u kontegġi meħtieġa b'dan l-Att jew b'kull regolament magħmul taħt dan l-Att;

(b) jagħmel xi denunzja, dikjarazzjoni jew jagħti tagħrif meħtieġ għal xi wieħed mill-għanijiet ta' dan l-Att li jkun jaf li jkun mhux korretti jew li jqarrqu f'xi rigward materjali;

Meta wieħed jonqos milli japplika għal registrazzjoni, jew li jzomm jew jagħti kull dokumentazzjoni jew denunzja.

Nuqqasijiet f'kull dokumentazzjoni, denunzja, fattura u transazzjoni.

(ċ) jiffalsifika xi dokumentazzjoni, dokument jew kontegġ mehtieg li jinżamm b'dan l-Att jew ihejji jew jagħmel jew jghin fit-tnejn jew fl-għemil jew jagħmel użu minn xi dokumentazzjoni jew dokument foloz;

(d) bil-għan li jahbi xi provi li jkun jaf jew li hu mistenni li raġonevolment ikun jaf li jkunu rilevanti għal xi għan ta' dan l-Att, jiddistruggi, jikkancella, jagħmel hsara jew jahbi xi tagħrif mahzun jew xi dokumentazzjoni, dokument jew kontegġ;

(e) xjentement jonqos milli jagħti jew jipproduci fattura ta' taxxa jew fattura oħra jew dokument kif u meta mehtieg bl-artikolu 39, 40 jew 41 ta' dan l-Att jew jagħti fattura ta' taxxa jew fattura oħra jew dokument li ma jkunux korretti jew ikunu jqarrqu f'xi rigward materjali;

(f) jagħti fattura jew dokument iehor dwar provvista li juru li għandha tithallas taxxa fuq dik il-provvista meta jkun jaf li ma għandha tithallas ebda taxxa jew li t-taxxa li għandha tithallas tkun anqas minn dik murija jew mod iehor iżid ma' prezz jew jinkludi fi prezz għal provvista xi ammont li jkun mahsub li jfisser li hemm xi taxxa li fil-fatt ma tkunx dovuta jew li tkun oghla mit-taxxa dovuta;

(g) wara li jkun għadd jew inkluda ma' prezz ta' oġġetti jew servizzi mogħtija minnu bi provvista lil persuna oħra xi ammont li jkun mahsub li jfisser li hemm xi taxxa li għandha tithallas taht dan l-Att, xjentement jonqos milli jagħti kont għal dak l-ammont fid-dokumentazzjoni u fil-kontegġi tiegħu jew li jhallas dak l-ammont lill-Kummissarju;

(h) jikseb pussess jew ikollu x'jaqsam ma' xi oġġetti, jew jaċċetta l-provvista ta' xi servizzi meta jkollu għaliex jahseb li t-taxxa fuq il-provvista ta' dawk l-oġġetti jew servizzi tkun giet jew ser tkun skartata;

(i) jipprovdi jew joffri li jipprovdi lil persuna oħra oġġetti jew servizzi li l-kisba tagħhom jew l-ittrattar tagħhom jew l-aċċettazzjoni tagħhom tirrendi lil dik il-persuna l-oħra hatja ta' reat bis-sahħa tal-paragrafu (h) ta' dan l-artikolu,

ikun hati ta' reat u jeħel, meta jinsab hati, multa ta' mhux anqas minn hamsin lira u mhux iżjed minn hames mitt lira u multa oħra li tkun daqs tliet darbiet it-taxxa perikolata, jew prigunerija għal żmien ta' mhux iżjed minn sitt xhur jew għal dawk il-multi u prigunerija flimkien.

Tfixkil ta' uffiċjali.

64. Kull min —

(a) ifixkel, itellef, ixekkel jew jagħmel xi haġa bil-hsieb li jfixkel, itellef jew ixekkel, jew idejjaq jew jattakka lill-Kummissarju jew lil kull persuna li tkun qed twettaq kif imiss xi setgħa jew dmir lilu mogħtija jew imposti fuqu b'dan l-Att jew bis-sahħa tiegħu;

(b) ikun inkarigat minn xi fond li l-Kummissarju jew uffiċjal awtorizzat mill-Kummissarju jkollu setgħa li jidhol fih skond il-paragrafu (a) ta' l-artikolu 42 ta' dan l-Att jonqos milli jippermetti li jsir dhul f'dak il-fond mill-Kummissarju jew mill-uffiċjal awtorizzat jew jonqos milli jiehu dawk il-miżuri li jistgħu raġonevolment jenhtiegu minnu għall-iskop ta' kull dhul bħal dak jew ta' kull spezzjon ta' dak il-fond jew ta' xi oġġetti, proprjetà, kotba, dokumentazzjoni jew dokumenti li jkunu qegħdin jinżammu hemm ġew,

ikun hati ta' reat u jehel, meta jinsab hati, multa ta' mhux anqas minn għaxar liri u mhux iżjed minn mitt lira jew ta' prigunerija għal żmien ta' mhux iżjed minn tlett xhur jew għal dik il-multa u prigunerija flimkien.

65. (1) Id-dispożizzjonijiet ta' l-artikoli 18 u 62 ta' l-Ordinanza tad-Dwana għandhom japplikaw għal dan l-Att bħallikieku kull riferenza għal dazji li tinsab f'dawk l-artikoli kienu referenzi għal taxxa dovuta taht dan l-Att, u kull min jikser id-dispożizzjonijiet ta' dawk l-artikoli mifhmuma kif imsemmi qabel għar-rigward ta' xi oġġetti li l-importazzjoni tagħhom hi suġġetta għat-taxxa taht dan l-Att ikun hati, mingħajr preġudizzju għal kull responsabbiltà li jkollu taht l-Ordinanza msemmija, ta' reat taht dan l-Att u għal kull reat bħal dak jehel multa ekwivalenti għat-total sħiħ ta' taxxa li jkollha tithallas fuq l-oġġetti u daqs darbtejn il-valur ta' l-oġġetti, jew multa ta' hamsa u għoxrin lira, skond liema tkun l-akbar, jew għal prigunerija għal żmien ta' mhux iżjed minn sentejn jew għal dawk il-multi u prigunerija flimkien, u huwa jista' jinżamm jew isiru proċedimenti kontrih b'taħrika, bl-istess mod u għamla, u skond id-dispożizzjonijiet l-oħra kollha li hemm fil-Kodiċi Kriminali.

Reati li għandhom x'jaqsmu ma' l-importazzjonijiet.
Kap. 37.

(2) Id-dispożizzjonijiet ta' l-artikolu 77 ta' l-Ordinanza tad-Dwana għandhom japplikaw dwar dawk l-oġġetti li l-importazzjoni tagħhom tkun suġġetta għat-taxxa taht dan l-Att bħallikieku kull riferenza li tinsab f'dik l-Ordinanza għad-dazju msemmi f'dik l-Ordinanza kienet ukoll riferenza għat-taxxa li għandha tithallas taht dan l-Att.

(3) L-importazzjoni ta' oġġetti suġġetti għal taxxa taht dan l-Att għandha titqies, għall-għanijiet kollha ta' kull liġi, bħala importazzjoni projbita kemm-il darba ma tithallasx it-taxxa msemmija jew, meta l-hlas tat-taxxa jkun ġie pospost skond kull dispożizzjoni ta' dan l-Att, il-kondizzjonijiet imposti f'dak li għandu x'jaqsam ma' dak il-postponiment ma jkunux ġew osservati kif imiss.

66. Kull min xjentement jikser jew jonqos milli jimxi skond ma hemm f'xi dispożizzjoni ta' dan l-Att jew kull regolament li jsir taht dan l-Att ikun hati ta' reat u meta jinsab hati jehel, kemm-il darba r-reat ma jkunx suġġett għal piena oghla taht kull dispożizzjoni oħra ta' dan l-Att jew kull liġi oħra, multa ta' mhux anqas minn għaxar liri iżda ta' mhux iżjed minn hamsin lira jew għal prigunerija għal żmien ta' mhux iżjed minn tlett xhur jew għal dik il-multa u prigunerija flimkien.

Reat ġenerali.

Reati minn
uffiċjali
prinċipali
ta' korpi ta'
persuni u minn
prinċipali.

67. (1) Meta xi haġa tintgħamel jew tonqos milli tintgħamel minn korp ta' persuni, id-dispożizzjonijiet ta' din it-taqsimha għandhom japplikaw bħallikieku dik il-haġa tkun intgħamlet jew naqset mill tintgħamel minn kull *manager* jew uffiċjal prinċipali ieħor ta' dak il-korp ta' persuni: iżda *manager* jew uffiċjal prinċipali ieħor ta' korp ta' persuni ma jkunx hati ta' reat bis-saħħa ta' dan is-subartikolu jekk huwa jgħib prova li huwa ma kienx jaf u li ma setax b'diligenza raġonevoli jsir jaf b'dak l-att jew omissjoni jew li huwa għamel kull ma seta' jagħmel sabiex iżomm milli jsir dak l-att jew omissjoni.

(2) Meta xi haġa tintgħamel jew tonqos milli tintgħamel minn impjegat fit-twertieq ta' l-impieg tiegħu għandhom japplikaw id-dispożizzjonijiet ta' din it-taqsimha bħallikieku dik il-haġa intgħamlet jew naqset milli tintgħamel sew minn dak l-impjegat innifsu u mill-prinċipal tiegħu: iżda dak l-impjegat ma jkunx hati ta' reat bis-saħħa ta' dan is-subartikolu jekk huwa jgħib prova li ma kienx jaf u li ma setax b'diligenza raġonevoli jkun jaf b'dak l-att jew omissjoni jew li huwa għamel kull ma seta' sabiex iżomm milli jsir dak l-att jew omissjoni.

Prosekuzzjoni.

68. (1) Ma għandhom jinbdew ebda proċedimenti taht din it-Taqsimha hlief jekk jinbdew jew bil-permess tal-Kummissarju.

Kap. 9.

(2) Minkejja d-dispożizzjonijiet tal-Kodiċi Kriminali l-Avukat Ġenerali ikollu jedd ta' appell quddiem il-Qorti ta' l-Appell Kriminali minn kull sentenza mogħtija mill-Qorti tal-Maġistrati dwar proċedimenti kriminali taht din it-taqsimha.

(3) It-tehid ta' proċedimenti jew it-twaħħil ta' piena għal reat taht din it-taqsimha ma għandhomx jehilsu lil persuna minn xi prosekuzzjoni taht xi liġi oħra jew mir-responsabbiltà li jhallas kull taxxa jew taxxa addizzjonali li jkollu jew jista' jkollu jhallas taht dan l-Att, u t-tehid ta' proċedimenti jew it-twaħħil ta' piena għal reat taht kull liġi oħra jew il-hlas ta' taxxa jew taxxa addizzjonali taht dan l-Att ma għandhomx jehilsu lil persuna minn xi prosekuzzjoni jew piena taht din it-Taqsimha.

(4) Kull proċedimenti għal reat taht din it-Taqsimha jew taht kull regolamenti magħmula taht dan l-Att għandhom isiru quddiem il-Qorti tal-Maġistrati (Malta) jew il-Qorti tal-Maġistrati (Għawdex) bħala Qorti ta' Ġudikatura Kriminali u għandhom ikunu skond id-dispożizzjonijiet tal-Kodiċi Kriminali li jirregolaw il-proċedura quddiem dik il-Qorti u l-għoti u l-esekuzzjoni tal-pieni minnhom mogħtija jew esegwiti.

(5) Meta persuna li tinsab hatja ta' reat taht din it-Taqsimha tista' tingħata piena pekunjarja, dik il-piena pekunjarja għandha dejjem tingħata u d-dispożizzjonijiet ta' l-artikolu 21 tal-Kodiċi Kriminali u ta' l-Att dwar il-*Probation* tal-Ħatjin ma għandhomx japplikaw.

(6) F'kull prosekuzzjoni kriminali taht din it-taqsimha jew taht kull regolamenti magħmula taht dan l-Att, il-Kummissarju personalment jew kull uffiċjal ieħor li jissemma minnu jista', minkejja d-dispożizzjonijiet ta' kull liġi oħra, igħib il-provi, jittratta u b'kull mod imexxi l-prosekuzzjoni minflok il-Pulizija jew flimkien magħhom.

(7) Meta tkun tenhtieg bhala parti mill-każ għall-prosekuzzjoni ix-xiehda tal-Kummissarju jew ta' xi ufficjal imsemmi skond is-subartikolu (6) ta' dan l-artikolu, huwa għandu jinstama qabel ma jibda jwettaq id-dmirijiet ta' ufficjal prosekutur (minbarra filli jsemmi l-fatti li jikkostitwixxu r-reat), kemm-il darba il-htiega li jaghti xiehda ma tqumx fi stadju ulterjuri tal-procediment.

69. (1) Minkejja kull dispozizzjoni ohra ta' dan l-Att, il-Kummissarju jista', fil-każ ta' xi reat li jsir taht dan l-Att, jidhol fi ftehim bil-miktub ma' min jagħmel ir-reat li jirriżulta filli min jagħmel ir-reat iħallas somma ekwivalenti għall-multa li tista' tigi imposta bhala penali skond dan l-Att meta dik il-persuna tinsab hatja ta' dak ir-reat, iżda b'dan illi meta l-Liġi tipprovdi l-inqas ammont u l-oghla ammont ta' multa li tista' tigi hekk imposta, is-somma li għandha tithallas b'riżultat ta' dak il-ftehim għandha tkun somma ekwivalenti għal dan l-inqas ammont imsemmi mizjud b'nofs id-differenza bejn dawk l-inqas u l-oghla ammonti, u malli jiġi ffirmat xi ftehim bħal dak mill-Kummissarju u min jagħmel ir-reat għandha tintemm kull responsabbiltà kriminali ta' min jagħmel ir-reat taht dan l-Att għar-rigward ta' dawk ir-reati li dwarhom ikun sar il-ftehim:

Piena f'każ
ta' kompromess.

Iżda kull teħid kontemplat f'dan l-Att b'konsegwenza għall-reat li għalih japplika l-artikolu 65 ta' dan l-Att u li għalih ikun jirreferi l-ftehim għandu, minkejja dak il-ftehim, jibqa' jseħħ kemm-il darba min jagħmel ir-reat ma jagħzilx li jħallas ukoll lill-Kummissarju somma ekwivalenti għall-valur ta' l-oġġetti li jistghu hekk jittieħdu flimkien ma' kull ammont ta' taxxa dovut fuqhom.

(2) Id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu għandhom japplikaw ukoll f'kull każ meta min jagħmel ir-reat ikun ġie akkużat quddiem qorti dwar reat iżda qabel ma tingħata l-aħhar sentenza dwar dak il-każ:

Iżda meta ma jkunux inbdew procedimenti quddiem il-qorti, is-somma li għandha tithallas skond xi ftehim kif kontemplat fis-subartikolu (1) ta' dan l-artikolu għandha titnaqqas b'għaxra fil-mija.

(3) Kull somma dovuta bir-rata ta' xi ftehim li jsir skond is-subartikolu (1) ta' dan l-artikolu għandha tkun dovuta lill-Gvern bhala dazju ċivili. Il-Kummissarju ma għandux jagħmel ftehim bħal dak imsemmi fis-subartikolu (1) ta' dan l-artikolu kemm-il darba dak il-ftehim ma jkunx imsieheb bil-hlas tas-somma dovuta jew bl-ġhoti ta' garanzija biż-żejjed għall-hlas tagħha.

(4) Id-dispożizzjonijiet ta' dan l-artikolu għandhom ikunu mingħajr ebda preġudizzju għal kull proceduri mibdija, jew teħid imwettaq, bis-saħħa ta' kull liġi ohra.

TAQSIMA XI

Dispożizzjonijiet Transitorji

70. (1) Minkejja d-dispożizzjonijiet tas-subartikolu (1) ta' l-artikolu 12 ta' dan l-Att jew ta' kull regolament magħmul bis-saħħa ta' dak l-artikolu, kull persuna stabbilita f'Malta li hi persuna taxxabli f'xi

Applikazzjoni
għar-
registrazzjoni.

data qabel l-ewwel ta' Jannar, 1995 u li qabel dik id-data jagħmel xi provvista illi, li kellha ssir f'dik id-data jew wara dik id-data, kienet tkun provvista msemmija fis-subartikolu (1) ta' l-artikolu 25 ta' dan l-Att, għandha tapplika sabiex tiġi registrata taht dan l-Att skond l-artikolu 12 ta' dan l-Att fi żmien tletin jum minn dik id-data li tiġi l-aktar tard minn dawn iż-żewġ dati li ġejjin:

- (a) id-data meta ssir il-provvista msemmija;
- (b) id-data meta dan l-artikolu jidhol fis-seħh.

(2) Il-Kummissarju għandu jirreġistra lil kull persuna li tkun magħrufa bħala li jmissha tapplika sabiex tiġi registrata skond is-subartikolu (1) ta' dan l-artikolu sew jekk dik il-persuna tkun applikat sabiex tiġi registrata sew jekk le.

Żmien meta jingħataw il-provvisti.

71. Meta xi waħda mid-dati li huma rilevanti sabiex tiġi stabbilita d-data ta' provvista ta' oġġetti jew servizzi, li ma jkunux is-servizzi li għalihom jirreferi s-subartikolu (4) ta' l-artikolu 9 ta' dan l-Att, skond is-subartikoli (1), (2) u (3) ta' l-artikolu imsemmi tkun data qabel l-ewwel ta' Jannar, 1995, id-data ta' dik il-provvista għandha tiġi stabbilita skond is-subartikolu (1) u mingħajr ebda riferenza għas-subartikoli (2) u (3) ta' l-imsemmi artikolu.

Servizzi kontinwi.

72. Meta jiġi riċevut xi h̄las jew tinhareġ fattura għal servizzi li dwarhom jirreferi s-subartikolu (4) ta' l-artikolu 9 ta' dan l-Att, u dak il-h̄las jew dik il-fattura ikunu jirreferu għal żmien (f'dan l-artikolu msejjah "iż-żmien tal-provvista") li jibda qabel l-ewwel ta' Jannar, 1995 u jtemm f'dik id-data jew wara dik id-data, il-provvista li għandha titqies bħala provvista separata b'riferenza għal dak il-h̄las jew fattura skond is-subartikolu imsemmi għandha tiġi kkunsidrata bħala provvista għal żmien li jibda fid-data imsemmija u l-valur taxxabli tal-provvista imsemmija għandu jkun, h̄lief hekk kif il-Kummissarju jista' jippermetti xort'oħra, sehem tal-valur taxxabli li kieku kellu xort'oħra jiġi stabbilit skond id-dispożizzjonijiet l-oħra ta' dan l-Att li jikkorrispondu għas-sehem li ż-żmien li jibda fid-data imsemmija u jtemm fl-aħħar jum taż-żmien tal-provvista għandu bi proporzjon għaž-żmien tal-provvista.

Importazzjoni ta' oġġetti meħlusa wara l-ewwel ta' Jannar, 1995.

73. Meta xi oġġetti jiġu importati ġewwa Malta qabel l-ewwel ta' Jannar, 1995 u ż-żmien meta d-dazju ta' importazzjoni għandu jinħadem skond l-Att dwar id-Dazji ta' Importazzjoni jew, meta ma jkollux jithallas dak id-dazju ta' importazzjoni, iż-żmien meta kien hekk jinħadem li kieku kellu jithallas, jaħbat f'dik id-data jew warajha, dik l-importazzjoni għandha titqies li tkun seħhet f'dik id-data.

Tifsir ta' certi kuntratti.

74. Meta, fl-esekuzzjoni ta' kuntratt magħmul qabel id-data meta dan l-artikolu jibda jseħh, jiġu provduti oġġetti jew servizzi fl-ewwel ta' Jannar, 1995 jew wara dik id-data, u l-provvista ta' dawk l-oġġetti jew servizzi hija provvista taxxabli, dak il-kuntratt għandu jitfisser, għall-ghanijiet kollha ta' kull liġi, daqslikieku l-persuna li tkun saritilha dik il-provvista kienet intrabtet li thallas, b'żieda mal-h̄las stipulat fil-kuntratt jew skond l-istess kuntratt, ammont ekwivalenti għat-taxxa li għandha tithallas fuq dik il-provvista taht dan l-Att:

Iżda dan l-artikolu ma jkunx iġhodd —

(a) meta joħroġ mill-kuntratt u miċ-ċirkostanzi kollha rilevanti li l-kumpens stabbilit skond dak il-kuntratt kien qabel ipprova għat-taxxa imsemmija jew li l-partijiet kienu esklużew kull tiswija għall-kumpens minhabba fl-imsemmija taxxa;

(b) meta jew sal limitu li l-provvista msemmija kienet dovuta li ssir, skond l-istess kuntratt, qabel l-ewwel ta' Jannar, 1995 u d-dewmien kien dovut għal xi nuqqas mill-persuna li tagħmel dik il-provvista.

75. (1) L-Att dwar taxxa fuq l-Infiq għandha, mill-ewwel ta' Jannar, 1995, ittemm milli tibqa' sseħh.

Thassir u riżerva ta' l-Att dwar Taxxa fuq l-Infiq.

(2) Minkejja id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu id-dispożizzjonijiet ta' l-Att dwar Taxxa fuq l-Infiq għandhom jibqgħu jseħhu, u għandhom salv id-dispożizzjonijiet tas-subartikolu (3) ta' dan l-artikolu japplikaw għal kollox għar-rigward tal-provvista ta' oġġetti u servizzi li ssir qabel l-ewwel ta' Jannar, 1995.

Kap. 341.

(3) Il-Ministru jista' b'ordni bil-miktub lil *Accountant General* jawtorizza lill-istess *Accountant General* li jahfer xi imghax dovut skond is-subartikolu (7) ta' l-artikolu 5 ta' l-Att dwar it-Taxxa fuq l-Infiq, jew jitnaqqas ir-rata ta' l-istess imghax.

(4) Is-subartikolu (3) ta' dan l-artikolu għandu jitqies li beda fis-seħh fl-ewwel ta' Frar 1993.

76. Il-Ministru jista' b'regolamenti jippreskrivi li dak l-ammont li jista' jiġi stabbilit skond dawk ir-regolamenti li jirrapreżentaw dazju ta' importazzjoni jew sehem minnu skond l-Att dwar Dazji ta' Importazzjoni fuq l-importazzjoni ta' oġġetti li jkunu jagħmlu sehem mill-ħażna kummerċjali ta' persuna li tkun persuna registrata fl-1 ta' Jannar, 1995, għandu jithallas lura lil dik il-persuna jew jiġi kumpensat ma' taxxa dovuta minn dik il-persuna b'dak il-mod, f'dak iż-żmien u sa dak il-limitu u suġġett għal dawk il-kundizzjonijiet u limitazzjonijiet li jistgħu jiġu preskritti f'dawk ir-regolamenti.

Dispożizzjoni transitorja.

L-EWWEL SKEDA

Lok ta' Provvista ta' Servizzi

Artikolu 8

1. Hlief kif provdut mod ieħor f'din l-Iskeda provvista ta' servizzi għandha titqies bħala li tkun saret fil-pajjiż fejn il-persuna li tagħmel il-provvista tkun qegħda stabbilita.

2. Provvista ta' servizzi li għandhom x'jaqsmu ma' proprjetà immobbli, inklużi s-servizzi ta' perit arkitett, aġent tal-proprjetà immobiljarji jew espert, prezzatur jew stimatur, xogħol ta' bini u sorveljar fuq is-sit ta' xogħol ta' bini għandhom jitqiesu bħala li jkunu saru fil-pajjiż fejn tkun tinsab il-proprjetà immobbli.

3. Provvista ta' servizzi tat-trasport għandha titqies li tkun saret fil-lok mnejn jibda l-vjaġġ.

4. Provvista ta' servizzi elenkati f'din il-partita għandha titqies li tkun saret fil-pajjiż fejn ikunu materjalment twettqu l-attivitajiet:

(a) attivitajiet kulturali, artistici, sportivi, xjentifici, edukattivi u ta' divertiment, l-attivitajiet ta' promoturi u organizzaturi ta' l-imsemmija attivitajiet, u kull attività li għandha x'taqsam ma' dawn;

(b) attivitajiet li għandhom x'jaqsmu mat-trasport, bħalma huma t-tagħbija, hatt u manigġ;

(c) il-valutazzjoni ta' proprjetà mobbli tangibbli;

(d) xogħol li jsir fuq proprjetà tangibbli.

5. Provvista ta' servizzi li tkun tikkonsisti fil-kiri ta' proprjetà mobbli tangibbli, bl-eċċezzjoni ta' kull għamla ta' trasport, għandha titqies li tkun saret fil-pajjiż fejn il-proprjetà tintuża mill-kerrej.

6. Il-provvista tas-servizzi elenkati f'dan il-paragrafu għandha titqies li tkun saret fil-pajjiż fejn ix-xerrej li jingħatawlu jew għalih jintgħamlu s-servizzi ikunu qieghed stabbilit:

(a) it-trasferiment jew assenjament ta' *copyright*, *patent*, *trademark*, isem kummerċjali jew liċenzja jew ta' kull dritt li għandu x'jaqsam magħhom;

(b) servizzi ta' reklamar;

(c) servizzi ta' konsulenti, inginieri, *consultancy bureaus*, avukati, prokuraturi legali, *accountants*, awdituri, konsulenti finanzjarji, *data processing* u x-xandir ta' tagħrif;

(d) obligazzjonijiet biex wiehed jieqaf milli jwettaq jew jaħdem għal kollox jew f'parti f'xi attività ekonomika;

(e) transazzjonijiet bankarji, finanzjarji, assigurattivi u ri-assigurattivi, minbarra l-kiri ta' fond sabiex fih jiġu depożitati b'mod fiż-żgur kull oġġett jew dokument;

(f) il-provvista ta' personnel;

(g) is-servizzi ta' agent li jaġixxi f'isem u minflok haddiehor, meta huwa jipprokura għall-principal tiegħu xi wiehed mis-servizzi msemmija f'din il-partita.

IT-TIENI SKEDA

Provvisti Eżentati

Artikolu 11 (1)(a)

TAQSIMA WIEHED

Eżenzjonijiet bil-Kreditu

Artikolu 25 (1)(b)

1. Ogġetti esportati

(1) Il-provvista ta' ogġetti li tikkonsisti fl-esportazzjoni ta' dawk l-ogġetti minn min jagħmel il-provvista.

(2) Il-provvista ta' ogġetti lil persuna taxxabli stabbilita f'Malta li tiġġestixxi n-negozju ta' organizzazzjoni jew finanzjar ta' l-esportazzjoni ta' ogġetti, bil-għan ta' l-esportazzjoni ta' dawk l-ogġetti minn dik il-persuna mingħajr il-kunsinna attwali ta' dawk l-ogġetti lil dik il-persuna, sakemm l-ogġetti jiġu fil-fatt esportati mingħajr ebda proċessar jew tibdil fihom u bla ħsara għal dawk il-kondizzjonijiet, provi jew garanziji li l-Kummissarju jista' jordna jew jehtieg.

2. Servizzi li għandhom x'jaqsmu ma' ogġetti esportati

(1) Il-provvista ta' servizzi fil-ksib għal persuna taxxabli ta' l-esportazzjoni ta' ogġetti minn Malta jew il-provvista ta' ogġetti jew servizzi barra minn Malta.

(2) Il-provvista ta' servizzi lil persuna stabbilita barra minn Malta li jikkonsistu f'xogħol fuq proprjetà mobbli tangibbli li tkun importata bil-għan li jsir dak ix-xogħol fuqha f'Malta u li tkun esportata minn Malta mill-persuna li tkun għamlet provvista ta' dawk is-servizzi jew mix-xerrej tagħha.

3. Kumpanija registrata f'Malta li ma twettaq ebda attività ekonomika f'Malta

Il-provvista ta' kull servizz imsemmi fil-paragrafu (ċ) tal-partita 6 ta' l-Ewwel Skeda li tinsab ma' dan l-Att lil kumpanija registrata f'Malta li ma twettaq ebda attività ekonomika f'Malta u li ma tkunx kumpanija li l-kapital jew jeddijiet ta' votazzjoni tagħha jkunu jappartjenu, direttament jew indirettament, f'qies ta' hamsin fil-mija jew iktar, lil individwi li jkollhom indirizz permanenti jew ikunu soltu joqgħodu f'Malta.

4. Ogġetti f'depożt, provvisti minn hwienet hielsa minn dazju u attivitajiet ta' Port Hieles

(1) Bejgh ta' ogġetti li jsir filwaqt li l-ogġetti jkunu f'depożt tad-dwana u li jagħmel il-Kontrollur tad-Dwana bis-saħħa ta' l-artikolu 36 ta' l-Ordinanza tad-Dwana jew ta' kull dispożizzjoni li temenda jew tissostitwixxi lil dak l-artikolu.

(2) Il-provvista ta' ogġetti u servizzi minn operatur ta' hanut hieles minn dazju bis-saħħa ta', u skond liċenzja mahruġa taht ir-Regolamenti ta' l-1991 dwar Hanut Hieles minn Dazju, jew taht kull dispożizzjoni oħra li tidhol minflok dawk ir-regolamenti.

(3) Provvista minn kumpanija ta' ogġetti u servizzi li ssehh f'żona ta' Port Hieles kif imfissra fl-Att dwar il-Portijiet Hielsa ta' Malta meta dik il-provvista tkun tikkostitwixxi attività li l-imsemmija kumpanija jkollha liċenzja sabiex twettaqha skond dak l-Att.

5. Servizzi fil-Port

(1) Servizzi li jinghataw lil bastimenti li jkunu dehlin f'port u lil bastimenti li jkunu ġew qeghda f'xi port li dwarhom ikollhom jithallsu xi drittijiet skond ir-Regolamenti ta' l-1977 dwar id-Drittijiet tal-Port.

(2) L-użu ta' бага li tkun proprjetà ta' l-Awtorità Marittima ta' Malta jew taht il-kontroll tagħha u li jsir hlas dwarha skond ir-Regolamenti ta' l-1979 dwar Drittijiet għall-Użu ta' bagi.

(3) Servizzi ta' pilutaġġ u irmiġġ u servizzi li għandhom x'jaqsmu magħhom li għalihom isir hlas ta' drittijiet skond ir-Regolamenti ta' l-1975 dwar il-Pilutaġġ u l-Irmiġġ.

(4) Ghajnuna mogħtija minn bastimenti ta' l-irmonk lil bastimenti li jkunu dehlin, herġin jew iċaqilqu fil-Port il-Kbir, fil-Port ta' Masamxett jew fil-Port ta' Marsaxlokk li għalihom jithallsu rati skond ir-Regolamenti ta' l-1990 dwar Irmonk (Tariffa ta' Rati).

(5) Servizzi mogħtija minn haddiema tal-port li jkollhom x'jaqsmu mat-tagħbija, hatt u ċaqliq ta' merkanzija kif hemm speċifikat fir-Regolamenti ta' l-1993 dwar il-Haddiema tal-Port.

(6) Servizzi li għalihom jithallsu drittijiet skond ir-Regolamenti ta' l-1985 dwar Portijiet (Dritt ta' Hlas għal Servizz lill-Passiġġieri).

(7) Il-provvista ta' kull servizz u ċertifikat, inkluża registrazzjoni, li jkollhom x'jaqsmu mar-registrazzjoni ta' bastimenti u li jinghataw skond l-Att dwar il-bastimenti Merkantili u regolamenti li jsiru bis-saħħa ta' dan l-Att.

(8) Servizzi provduti mill-Awtorità Marittima ta' Malta f'ċentri tal-yachting kif hemm speċifikat fir-Regolamenti ta' l-1992 dwar iċ-Ċentri tal-Yachting.

(9) Servizzi provduti mill-Awtorità Marittima ta' Malta jew mill-kuntrattur tagħha, skond il-każ, u li huma speċifikati fl-Ewwel, it-Tieni, it-Tielet, ir-Raba', il-Hames u s-Seba' Skeda li jinsabu mar-Regolamenti ta' l-1969 dwar Rati tal-Port, jew f'kull ftehim speċjali li jsir mill-imsemmija Awtorità dwar kull haġa msemmija f'dawk ir-regolamenti u li tkun tipprovdi għal hłasijiet minflok kull rata li tingabar taht dawn l-istess regolamenti.

(10) Il-hruġ ta' liċenzi għal dghajjes skond ir-Regolamenti ta' l-1949 dwar il-Liċenzi tal-Pulizija.

6. Trasport internazzjonali

Il-provvista ta' servizzi li jikkonsistu fit-trasport internazzjonali ta' ogġetti u passiġġieri.

7. Proviżjon u għoti ta' karburanti lil bastimenti u ajruplani

(1) Il-provvista ta' oġġetti għall-għoti ta' karburanti u proviżjon ta' bastimenti li jivvjaġġaw fil-bogħod bil-baħar bil-għan li jwettqu attivitajiet kummerċjali, industrijali jew ta' sajd, ta' opri li jintużaw sabieħ jehilsu u jagħtu għajnuna fuq il-baħar, u ta' ajruplani li jintużaw minn linji ta' l-ajru li joperaw b'kumpens fit-traffiku internazzjonali.

(2) L-għoti ta' karburanti lil dgħajjes li jintużaw għal sajd fl-ibhra lokali.

8. Provvista, tiswija eċċ ta' bastimenti u ajruplani

(1) Il-provvista, tiswija, tibdil, *chartering* u kiri ta' bastimenti jew ajruplani msemija fil-paragrafu (1) tal-partita 7 ta' din l-Iskeda, u l-provvista, kiri, tiswija u manutenzjoni ta' tagħmir, inkluż tagħmir tas-sajd, inkorporati jew użati fihom.

(2) Il-provvista ta' servizzi, minbarra dawk imsemija fil-paragrafu (1) ta' din il-partita, sabieħ jitwettqu l-htigiet diretti tal-bastimenti u ajruplani msemija f'dak il-paragrafu jew tal-merkanzija tagħhom.

9. Ikel

Il-provvista ta' kull ikel, kif imfisser fit-Taqsima Tlieta ta' din l-Iskeda, minbarra provvista ta' ikel li tkun sugġetta għat-taxxa bir-rata speċifikata fil-paragrafu (b) ta' l-artikolu 19 ta' dan l-Att skond ma hemm fil-Flames Skeda li tinsab ma' dan l-Att.

10. Oġġetti farmaċewtiċi

Il-provvista ta' oġġetti farmaċewtiċi, kif imfisser fit-Taqsima Tlieta ta' din l-Iskeda.

11. Sahha u *Welfare*

(1) Il-provvista ta' servizzi minn persuna fl-eżerċizzju ta' professjoni regolata bl-Ordinanza dwar il-professjoni Medika u l-Professjonijiet li għandhom x'jaqsmu magħha.

(2) L-għoti ta' harsien jew kura medika jew kirurgika f'xi sptar jew istituzzjoni tal-Gvern jew f'kull sptar jew istituzzjoni ohra li jiġu approvati mill-Ministru għall-għanijiet ta' dan il-paragrafu.

(3) Il-provvista ta' organi umani, demm uman u halib uman.

(4) Il-provvista ta' servizzi tal-*welfare*, magħdud in servizzi mogħtija minn djar għal persuni anzjani u djar għal persuni li jbatu minn xi inkapaċità fiżika jew mentali permanenti, u servizzi għall-protezzjoni u harsien tat-tfal, żgħażaġh u persuni li jbatu minn xi inkapaċità fiżika jew mentali permanenti, mogħtija minn istituzzjoni tal-Gvern jew minn istituzzjoni jew organizzazzjoni li jingħataw għarfien mill-Kummissarju bhala istituzzjoni li m'għandhiex l-għan li tagħmel profitt jew approvati mill-Ministru għall-għanijiet ta' dan il-paragrafu bhala istituzzjoni li l-attivitajiet tagħha jaqgħu fi hdan il-politika soċjali u *welfare policy* tal-gvern.

(5) Il-provvista ta' servizzi ta' trasport għall-morda, miġruhin jew persuni b'dizabilità f'vetturi attrezzati proprju għal dak l-għan.

(6) Il-provvista ta' oġġetti meta dik il-provvista jkollha x'taqsam mal-provvista ta' servizzi msemija fil-paragrafi (2) u (4) ta' din il-partita u tkun essenzjali għall-isptar, istituzzjoni jew dar, skond il-każ, li jkunu qegħdin jipprovdu dawk is-servizzi.

12. Edukazzjoni

(1) Il-provvista ta' edukazzjoni jew ricerka edukattiva, inkluż tagħlim li jsir f'ċertu distanza, minn skola jew istituzzjoni tal-gvern, mill-Università ta' Malta, minn skola jew istituzzjoni registrata taht l-Att dwar l-Edukazzjoni jew minn kull stabbiliment edukattiv li jkollu għarfien bħala hekk mill-Kummissarju.

(2) Il-provvista ta' edukazzjoni jew ricerka edukattiva, inkluż tagħlim li jsir f'ċertu distanza, tal-ghamla provduti minn skola jew università, jew ta' tagħlim reliġjuż, minn istituzzjoni li ma jkollhiex bħala għan li tagħmel il-profitti u li jkollha dak l-għarfien mill-Kummissarju.

(3) Tagħlim privat mogħti minn għalliema li jaġixxu f'kapacità individwali f'suġġetti li s-soltu jiġu mgħallma fil-kors ta' edukazzjoni provduta minn skola jew università iżda eskluż it-tagħlim f'attivitajiet jew dixxiplini rikreattivi, fiżiċi jew sportivi.

13. Trasport

Il-provvista ta' —

(a) trasport provvist minn *scheduled bus service* li jkun jikkonsisti fi vjaġġi *scheduled* fuq rotot *scheduled*;

(b) vjaġġi bil-baħar *scheduled* bejn gżira u oħra provvisti minn trasportaturi awtorizzati;

(c) trasport għal skola provvist minn stabbiliment edukattiv li għandu l-għarfien bħala hekk tal-Kummissarju jew li jiġi provdut lil xi stabbiliment bħal dak bil-għan li jiġi provvdut minnu bħala trasport għal skola.

14. Servizzi ta' Investiment

Il-provvista ta' kull servizz speċifikat fl-Ewwel Skeda li tinsab ma' l-Att ta' l-1994 dwar Servizzi ta' Investiment.

15. Provvista ta' deheb

Il-provvista ta' deheb lill-Bank Ċentrali ta' Malta.

16. Ogġetti stampati

(1) Il-provvista ta' kotba, opuskoli, pitazzi, kotba ta' esercizzi skolastiċi, *brochures*, *pamphlets* u *leaflets*.

(2) Il-provvista ta' gazzetti, ġurnali u perjodiċi.

(3) Il-provvista ta' mapep, *charts* u pjanti topografiċi, minbarra pjanti jew tpingijiet għal għanijiet industrijali, ta' inginerija, kummerċ jew għanijiet simili.

(4) Il-provvista ta' kitba tal-mużika, sew f'ghamla manuskritta jew stampata, eskluża mużika registrata.

(5) Il-provvista ta' xi ogġett elenkat fil-paragrafi ta' qabel dan ta' din il-partita li jku fuq mezzi elettronici, manjetiċi, ottici jew li jinqraw bil-mezz ta' apparat.

17. Ilma

Il-provvista ta' ilma minn awtorità pubblika, eskluża l-provvista ta' ilma f'xi ghamla ta' pakkett jew kontenitur.

18. Il-provvista ta' ogġetti msemmija fil-partita 8 tat-Tielet Skeda.

TAQSIMA TNEJN

Eżenzjonijiet oħra

19. Proprjetà immobbli

(1) Il-kiri ta' proprjetà immobbli minbarra —

(a) il-kiri jew l-ghoti ta' akkomodazzjoni f'kull fond li għall-ghan ta' dak il-kiri jew dik l-akkommodazzjoni jehtieg li jkollu liċenzja bis-sahha ta' l-Att dwar il-Lukandi u l-Istabbilimenti li jipprovdu Ikel jew ta' l-Att dwar il-*Guest Houses* u Postijiet *Furnished* għall-Btala jew gewwa *holiday camp* jew *camping site*;

(b) il-kiri ta' fondi u siti għall-*parking* ta' vetturi meta daww il-fondi jew siti jkunu geww dikjarati mill-Kummissarju li huma *parking areas* jew li jmisshom jitqiesu bħala hekk skond daww ir-regolamenti li jistgħu jiġu preskritti;

(ċ) il-kiri ta' tagħmir u makkinarju installat b'mod permanenti.

(2) It-trasferiment ta' proprjetà immobbli, inkluż kull dritt imsemmi fil-paragrafi (a), (b) u (ċ) ta' l-artikolu 310 tal-Kodiċi Ċivili u kull konċessjoni ta' ċens, iżda eskluża konċessjoni ta' ċens għal inqas minn hamsin sena dwar kull proprjetà msemmija fis-subparagrafi (a), (b) u (ċ) tal-paragrafu (1) ta' din il-partita.

20. Servizzi ta' assigurazzjoni

Il-provvista ta' servizzi ta' assigurazzjoni u ri-assigurazzjoni, inklużi servizzi relatati mwettqa minn *brokers* u aġenti ta' l-assigurazzjoni.

21. Servizzi ta' kreditu, bankarji u oħrajn

(1) L-ghoti u n-negozjar ta' kreditu u l-*credit management* mill-persuna li tkun tat dak il-kreditu.

(2) In-negozjar jew kull għamil ta' negozju fi *credit guarantees* jew kull garanzija oħra dwar flus u l-*credit guarantees management* mill-persuna li tkun qed tagħti dak il-kreditu.

(3) Transazzjonijiet, inkluż negozjar, dwar kontijiet ta' depożitu u korrenti, hlasijiet, trasferimenti, djun, *cheques* u strumenti negozjabbli oħra, iżda eskluż il-ġbir u *factoring* ta' djun.

(4) Transazzjonijiet, inkluż negozjar, dwar flus li jiċċirkolaw, noti bankarji u muniti li normalment jintużaw fil-pajjiż.

(5) Transazzjonijiet, inkluż negozjar, eskluż *management* u *safekeeping*, f'ishma, parteċipazzjoni f'kumpaniji jew assoċjazzjonijiet, *debentures* u titoli oħra, esklużi dokumenti li jistabbilixxu titolu għal oġġetti:

Iżda ebda haġa f'din il-partita ma għandha titqies li tmur iktar 'l hemm mid-dispożizzjonijiet tal-partita 14 ta' din l-Iskeda.

22. Servizzi postali

Il-provvista ta' servizzi mis-servizzi postali pubbliċi u ta' oġġetti inċidentali għalihom.

23. Servizzi kulturali u religjużi

(1) Servizzi religjużi

(2) Il-provvista ta' dawk is-servizzi kulturali li jistghu jigu approvati mill-Ministru.

24. Sports

Il-provvista minn organizzazzjonijiet li ma jagħmlux profitt ta' dawk is-servizzi li għandhom x'jaqsmu ma' rikreazzjoni sportiva jew fizika kif tista' tigi approvata mill-Ministru.

25. Servizzi li għandhom x'jaqsmu ma' ċerti servizzi eżentati

(1) Il-provvista ta' personnel minn istituzzjoni li ma tagħmilx profitt li jkollha dak l-għarfien mill-Kummissarju bil-għan li tipprovdi servizzi msemmijin fil-paragrafu (2) jew (4) tal-partita 11 jew fil-paragrafu (1) jew (2) tal-partita 12 ta' din l-Iskeda.

(2) Il-provvista ta' oġġetti u servizzi minn organizzazzjoni li ma tagħmilx profitt fil-kors ta' attività maħsuba għall-ġbir ta' fondi li jintużaw għall-provvista ta' oġġetti u servizzi li numa eżentati skond il-paragrafu (2) jew (4) tal-partita 11 jew skond il-paragrafu (1) jew (2) tal-partita 12: sakemm dik l-attività jkollha l-għarfien tal-Kummissarju li tkun b'mod esklussiv maħsuba għal dak il-għan.

26. Servizzi minn organizzazzjonijiet li ma jagħmlux profitt lill-membri tagħhom

Il-provvista ta' servizzi għal benefiċċju tal-membri tagħhom wara li jsir hlas li jigi stabbilit skond ir-regoli ta' organizzazzjonijiet li ma jagħmlux profitt b'għanijiet ta' xorta politika, ta' *trade union*, patrijottika, filosofika, filantropika jew ċivika jew li l-għan ewlieni tagħhom ikun li jipprezentaw u jgħibu 'l quddiem is-sehem komuni jew interessi professjonali tal-membri tagħhom: iżda f'kull każ meta, fil-fehma tal-Ministru, din l-eżenzjoni x'aktarx tikkaguna tghawwiġ fil-kompetizzjoni, dik l-eżenzjoni għandha tkun sugġetta għal dawk l-eċċezzjonijiet jew limitazzjonijiet li l-Ministru jista' b'ordni bil-miktub jistabbilixxi.

27. Lotteriji

Lottu u lotteriji tal-Gvern, il-provvista ta' servizzi ta' aġenziji li għandhom x'jaqsmu ma' dan, u dawk il-provvisti oħra li għandhom x'jaqsmu mal-logħob ta' l-azzard li l-Ministru jista' japprova.

TAQSIMA TLIETA

Tifsiriet

Għall-għanijiet ta' din l-Iskeda, l-espressjonijiet mogħtija f'din it-Taqsima ta' l-Iskeda għandu jkollhom it-tifsira lilhom mogħtija f'din it-Taqsima.

(a) "Ikel" tfisser l-oġġetti speċifikati fit-Tariffa tad-Dwana fl-Ewwel Skeda li tinsab ma' l-Att dwar id-Dazji ta' Importazzjoni taħt —

- (i) Kapitoli 1 esklużi —
 - affarijiet li jidhru taħt l-intestatura 01.06, u
 - animali li jinżammu għal *sport*, rikreazzjoni u *hobby*, iżda inklużi fniek u hamiem *broiler*
 - (ii) Kapitoli 2 sa 4, it-tnejn inklużi
 - (iii) Kapitoli 7 sa 12, it-tnejn inklużi
 - (iv) Kapitoli 15 sa 20, it-tnejn inklużi
 - (v) Kapitoli 21 esklużi affarijiet li jidhru taħt is-subintestaturi 2106.90.34 u 2106.90.39
 - (vi) Subintestaturi 2202.90.11 u 2202.90.20 f'Kapitolu 22
 - (vii) Kapitoli 23
 - (viii) Subintestatura 2501.00.90 f'Kapitolu 25
- (b) “ogġetti farmaċewtiċi” tfisser l-ogġetti speċifikati fit-tariffa msemmija fil-paragrafu (1) ta' din l-Iskeda taħt —
- (i) Kapitoli 30
 - (ii) Subintestatura 3407.00.10 f'Kapitolu 34
 - (iii) Hrieqi u *napkin liners* għat-trabi u għal inkontinenza tal-kbar
 - (iv) subintestaturi 9001.30.00, 9001.40.00, 9001.50.00 u 9004.90.00 fil-Kapitolu 90
- (ċ) Istituzzjoni li ma tagħmilx profitt jew organizzazzjoni li ma tagħmilx profitt ifissru istituzzjoni jew organizzazzjoni:
- (i) li l-għanijiet tagħhom huma mfissra ċar fl-istatut tagħhom;
 - (ii) li l-għanijiet tagħhom jeskludu espressament li jintgħamel xi profitt;
 - (iii) li l-istatut tagħhom ikun jipprovdi li ebda parti mill-qliegħ jew proprjetà tagħhom ma tkun direttament jew indirettament disponibbli lil xi membru, proprjetarju jew azzjonist;
 - (iv) li, fil-fehma tal-Kummissarju, jitmexxew u jiġu amministrati skond id-dispożizzjonijiet ta' l-istatut tagħhom u bil-għan ta' l-iskopijiet dikjarati tagħhom;
 - (v) li ma għandhomx xi skop sistematiku li jagħmlu profitt.

IT-TIELET SKEDA

Importazzjonijiet Eżentati

Artikolu 11 (1) (b)

1. Ir-ri-importazzjoni ta' —
 - (a) oġġetti li jiġu ri-importati mhux alterati;
 - (b) kampjuni li jkunu ġew esportati temporanjament.
2. L-importazzjoni ta' oġġetti li huma murija għas-sodisfazzjon tal-Kontrollur tad-Dwana li jkunu ġew mogħtija barra minn Malta lil xi persuna għal distinzjoni fl-arti, letteratura, xjenza jew sport, jew għal servizz pubbliku, jew xort'oħra bħala xieħda ta' għemil jew kondotta meritevoli, u mportati minn jew f'isem dik il-persuna.
3. L-importazzjoni ta' oġġetti u materjal mit-Tarzna ta' Malta għat-tghammir u għall-manutenzjoni tat-Tarzna, jew li huma meħtieġa in konnessjoni mas-servizzi mogħtija minn dik il-korporazzjoni, barra minn oġġetti u materjal użati —
 - (a) f'oġġetti prodotti minn dik il-korporazzjoni u maħsuba biex jintużaw f'Malta, jew
 - (b) f'bastimenti reġistrati lokalment li ma jkunux bastimenti msemmija fil-parti ta' 6 tat-Tieni Skeda li tinsab ma' dan l-Att.
4. (1) L-importazzjoni ta' idejn, dirġajn, riġlejn u saqajn artifiċjali u oġġetti kirurġiċi oħra ta' xorta simili, magħduda *spare parts* u aċċessorji, għas-serħin ta' inkapaċità tal-persuna, iżda illi, fil-każ ta' *spare parts* u aċċessorji, il-Kontrullur tad-Dwana jkun sodisfatt li jkunu mportati sabiex isiru lokalment idejn, dirġajn, riġlejn u saqajn artifiċjali jew dawk l-oġġetti l-oħra u sigġijiet ta' l-invalidi li l-Kontrullur tad-Dwana jkun sodisfatt li jkunu għall-użu esklużiv ta' persuna li tkun tbatu minn xi difett fiżiku jew inkapaċità permanenti.

(2) L-importazzjoni ta' oġġetti li jkunu speċifikament intiżi għall-edukazzjoni, l-impieg u l-avvanz soċjali ta' persuna li tbatu minn xi inkapaċità fiżika jew mentali permanenti, b'dan li l-Kontrollur tad-Dwana jkun sodisfatt li l-imsemmija oġġetti jkunu importati għall-użu esklużiv ta' l-imsemmija persuna.
5. L-importazzjoni ta' ċrieket ta' l-aġhsafar għall-użu minn *ringers* ta' l-aġhsafar kwalifikati għall-istudju tad-drawwiet ta' immigrazzjoni ta' l-aġhsafar.
6. L-importazzjoni ta' riġali *bona fide* ta' xorta mhux kummerċjali li kull tant jiġu riċevuti minn persuna mingħand oħra li ttrissjedi barra minn Malta u li jkunu maħsuba għall-użu personali ta' min jirċevihom jew għall-familja tiegħu, kemm-il darba r-riġali jkun alkoħol jew xorb alkoħoliku u lanqas tabakk jew prodotti tat-tabakk u l-valur totali CIF tar-riġali kull darba ma jkunx iżjed minn hamsa u għoxrin lira
7. L-importazzjoni ta' *braille* u kull oġġett ieħor għall-użu ta' l-għomja mportat permezz ta' istitut rikonoxxut jekk il-Kontrullur tad-Dwana jkun sodisfatt li dawk l-oġġetti jkunu mportati għall-użu esklużiv ta' persuna għamja.
8. L-importazzjoni ta' kalċijiet, ċiborji, pissidi, sferi, ċnieser, navetti ta' l-inċens, slaleb, kandlieri, kruċifissi, vari, vażetti ta' l-Olju Santu, lampieri tas-santwarju,

Stazzjonijiet tal-Via Sagra, karti tal-glorja ta' fuq l-artali, impulluzzi, relikwarji, lanterni tal-purċissjoni, tabernakoli u bibien tat-tabernakoli, troni ta' l-espost u orgnijiet, maħsuba għall-qima t'Alla u mportati biex jiġu wżati esklużivament għall-qima t'Alla fil-knejjes, kappelli jew postijiet oħra maħsuba esklużivament għal dik il-qima, baldakkini tal-knisja wżati f'purċissjonijiet u qniepen tal-knisja.

9. L-importazzjoni ta' apparat li jghin għas-smiġħ maħsub għall-użu tat-torox u partijiet tiegħu identifikabbli.

10. L-importazzjoni ta' oġġetti tad-dar u oġġetti personali, għamara u oġġetti domestiċi oħra, (minbarra armi tan-nar u armi ta' kull xorta), li fl-opinjoni tal-Kontrollur tad-Dwana jkunu ġew użati fid-dar tal-persuna li qed timporta jew mill-familja tagħha, u li jkunu mportati minn dik il-persuna meta ġgħorr il-mobbli tad-dar tagħha minn pajjiż iehor għal Malta, iżda dawn l-oġġetti għandhom jiġu mportati fi żmien sitt xhur mid-data tal-wasla f'Malta, tal-persuna li qed timportahom biex tiġi tirisjedi f'Malta, jew f'dak iż-żmien iehor li l-Kontrollur tad-Dwana jista' jippermetti.

11. L-importazzjoni ta' —

(a) bagalji tal-passiġġieri, magħduda ilbies u hwejjeg personali wżati, li l-Kontrollur tad-Dwana jkun sodisfatt li jkunu maħsuba għall-użu personali tal-passiġġieri, iżda esklużi armi tan-nar u armi ta' kull xorta;

(b) dawk il-prodotti tat-tabakk, imbejjes, spirti, *toilet waters* u profumeriji li jistgħu jiġu permessi skond il-Konvenzjoni dwar Faċilitajiet Doganali għal Viżitaturi magħmula fi New York fl-4 ta' Ġunju, 1954;

(ċ) dawk l-oġġetti mixtrija għall-użu tal-passiġġier innifsu jew bħala rigali *bona fide*, li ma jkunx l-oġġetti msemmija fis-subparagrafi (i) u (ii) ta' dan il-paragrafu sa valur ta' Lm50, b'dan illi meta l-valur totali ta' dawk l-oġġetti jkun jaqbeż Lm50, din id-dispożizzjoni ma tkunx tghodd u t-taxxa li tithallas fuq dawk l-oġġetti għandha titnaqqas b'Lm7.50.

12. L-importazzjoni ta' kampjuni ta' ebda valur kummerċjali.

13. L-importazzjoni ta' strumenti jew apparat xjentifiku, maħsub esklużivament għal skopijiet ta' edukazzjoni jew għal riċerki purament xjentifiċi, b'dan illi —

(a) dawk l-istrumenti jew apparat xjentifiku jiġu konsenjati lil istituzzjoni xjentifika jew edukattiva pubblika jew privata li tkun approvata mill-Ministru responsabbli għall-edukazzjoni għall-fini ta' din id-dispożizzjoni u jkunu wżati taħt il-kontroll u r-responsabbiltà ta' dik l-istituzzjoni; u

(b) strumenti u apparat ta' l-istess valur xjentifiku ma jkunux qed jiġu fabbrikati f'Malta.

14. L-importazzjoni ta' reġistrazzjonijiet tal-ħoss u tal-video —

(a) ta' karattru edukattiv, xjentifiku jew kulturali magħmula minn Nazzjonijiet Uniti jew minn xi waħda mill-aġenziji speċjalizzati tagħhom;

(b) ta' xorta edukattiva importati minn skola jew istituzzjoni tal-gvern, mill-Università ta' Malta jew minn xi skola jew istituzzjoni li jkunu reġistrati taħt l-Act dwar l-Edukazzjoni kemm-il darba d-Direttur ta' l-Edukazzjoni jiċċertifika li l-materjal ikun ta' karattru edukattiv biss u li jkun se jintuża biss u għal kollox għal skopijiet edukattivi minn dik l-iskola;

(ċ) ta' korsijiet ta' l-ilsna.

15. Statwi u dekorazzjonijiet artistici ffurmati barra minn Malta minn originali maghmula minn artisti lokali; kemm-il darba jkun miksub permess mill-Kontrullur tad-Dwana qabel ma l-original jigi mibghut barra minn Malta għall-forma.
16. L-importazzjoni ta' oġġetti li l-provvista tagħhom minn persuna taxxabli tkun, fil-każi kollha, provvista eżentata skond it-Tieni Skeda li tinsab ma' dan l-Att.
17. L-importazzjoni ta' ikel kif imfisser fit-Taqsima Tlieta tat-Tieni Skeda.
18. L-importazzjoni ta' deheb mill-Bank Ċentrali ta' Malta.
19. L-importazzjoni ta' oġġetti meta l-Kummissarju jkun sodisfatt li dawk l-oġġetti kienu importati għal użu temporanju biss, u sugġett għal dawk il-kondizzjonijiet u għall-ghoti ta' dik il-garanzija li l-Kummissarju jista' jordna jew jehtieg.
20. L-importazzjoni ta' oġġetti li jergħu jigu esportati minghajr ma jigu mehlusa jew minnufih hekk kif jigu mehlusa minn depożt tad-Dwana.
21. L-importazzjoni ta' oġġetti li jinqerdu minn sidhom qabel ma jigu mehlusa jew minnufih hekk kif jigu mehlusa minn depożt tad-dwana b'dak is-sorveljar u sugġett għal dawk il-kondizzjonijiet li l-Kummissarju jista' jehtieg jew jordna.
22. L-importazzjoni ta' oġġetti ġewwa Port Hieles kif imfisser fl-Att dwar il-Portijiet Hieles ta' Malta: iżda din l-eżenzjoni għandha tkun biss applika sal-limitu li dik l-importazzjoni tkun eżenti minn dazju tas-sisa bis-sahha ta' l-Att imsemmi, u tkun sugġetta għall-kondizzjonijiet u limitazzjonijiet kollha li jistghu jkunu japplikaw taht dak l-Att għal dik l-eżenzjoni minn dazju tas-sisa.
23. L-importazzjoni ta' oġġetti li tkun eżentata minn taxa bis-sahha ta' eżenzjoni mogħtija taht is-subartikolu (3) ta' l-artikolu 11 ta' dan l-Att.

IR-RABA' SKEDA

Valur Taxxabli ta' Provvisti u Importazzjonijiet

Artikolu 18

1. Hlief kif jista' jkun provdut mod ieħor fid-dispożizzjonijiet l-oħra ta' din l-Iskeda, il-valur taxxabli ta' provvista taxxabli għandu jkun il-valur totali tal-kumpens imhallas jew li għandu jithallas lil min jagħmel il-provvista mix-xerrej, kompratur jew kull min ikun għall-provvista, iżda eskluża t-taxxa fuq il-valur miżjud li għandha tithallas bis-sahha ta' dan l-Att meta ssir dik il-provvista.
2. Meta jithallas jew ikollu jithallas il-kumpens shih jew f'parti minnu b'oġġetti, il-valur tiegħu, sal-limitu li hekk jithallas jew ikollu jithallas, ikun il-valur tiegħu fis-suq liberu.
3. Il-valur taxxabli ta' provvista taxxabli għandu jinkludi:
 - (a) taxxi, dazji, imposti, drittijiet u kull hlas ieħor (eskluzja t-taxxa fuq il-valur miżjud li tingabar taht dan l-Att) li tithallas minhabba fil-provvista;

(b) kummissjonijiet, spejjeż ta' pakkjar, trasport u assigurazzjoni u spejjeż incidentalni oħra mitluba minn min jagħmel il-provvista lix-xerrej jew kompratur.

4. Il-valur taxxabli ta' provvista taxxabli għandu jkun l-ammont wara dan it-tnaqqis:

(a) kull tnaqqis ta' prezz minhabba fi skonti għal hlas malajr;

(b) kull skont fil-prezz u roħs mogħti lill-kompratur li jitqies filwaqt tal-provvista;

(ċ) kull skont u roħs fil-prezz mogħti lill-kompratur wara li tkun saret il-provvista meta l-Kummissarju jkun sodisfatt li dawn hekk ingħataw għal raġunijiet kummerċjali li jkunu saru *in bona fide*.

5. Meta l-kumpens għal provvista taxxabli jkun inqas mill-valur fis-suq liberu u min jagħmel il-provvista u l-persuna lil min issir il-provvista ma jkunux indipendenti minn xulxin, jew meta l-valur tal-kumpens għal provvista ma jkunx jista' jiġi stabbilit b'mod hafif, il-valur taxxabli ta' dik il-provvista jkun il-valur fis-suq liberu ta' dawk l-oġġetti jew servizzi provduti.

6. Għall-ghanijiet tal-paragrafi ta' qabel dan:

(a) żewġ persuni għandhom jitqiesu li ma jkunux indipendenti minn xulxin jekk, sew direttament jew indirettament, xi wieħed minnhom ikollu xi interess fin-negozju jew fil-proprjetà ta' l-ieħor, jew it-tnejn ikollhom interess komuni fin-negozju jew fil-proprjetà, jew xi terza persuna jkollha interess fin-negozju jew fil-proprjetà taż-żewġ persuni, b'dan illi, f'kull każ, dak l-interess ikun għamel influwenza, fil-fehma tal-Kummissarju, fuq il-patti ta' kull ftehim bejn dawk iż-żewġ persuni;

(b) il-valur fis-suq liberu ta' oġġetti jew servizzi tisser il-prezz li dawn iġibu jekk jinbieghu jew jitqegħdu fis-suq liberu fid-data u fl-istat li jkunu jinsabu fihom meta dawk l-oġġetti jiġu kunsinnati jew isiru dawk is-servizzi.

7. Meta jkun hemm transazzjoni li ma jithallasx jew ma jkollux jithallas għaliha kumpens u din titqies li tkun provvista ta' oġġetti magħmula minn persuna b'kumpens bis-saħħa ta' regolamenti magħmulin għall-ghanijiet tas-subartikolu (2) ta' l-artikolu 7 ta' dan l-Att, il-valur taxxabli ta' dik il-provvista għandu jkun il-prezz li jkollu kiekni jithallas minn dik il-persuna li kellu jixtri fiż-żmien ta' dik il-provvista, oġġetti identiċi jew simili għall-oġġetti in kwistjoni, jew, meta l-valur ma jkunx jista' jiġi hekk aċċertat, in-nefqa sabiex jiġu prodotti dawk l-oġġetti f'dak iż-żmien.

8. Meta jkun hemm transazzjoni li ma jithallasx jew ma jkollux jithallas għaliha kumpens u din titqies li tkun provvista ta' servizzi magħmula minn persuna b'kumpens bis-saħħa ta' regolamenti magħmulin għall-ghanijiet tas-subartikolu (2) ta' l-artikolu 7 ta' dan l-Att, il-valur taxxabli ta' dik il-provvista għandu jkun in-nefqa sħiħa li tiġi lil dik il-persuna sabiex jiġu provduti dawk is-servizzi.

9. Meta xi valur rilevanti sabiex jiġi stabbilit il-valur taxxabli ta' provvista taxxabli jingħata f'munita barranija, ir-rata ta' kambju li tkun tapplika tkun ir-rata tan-nofs li tkun giet stabbilita mill-Bank Ċentrali għal dik id-data meta jingħataw il-provvist.

10. Meta l-ammont ta' taxxa li tithallas bis-saħħa ta' dan l-Att ma tkunx identifikata fi hlas għal provvista taxxabli, dak il-hlas għandu jitqies li jkun jinkludi dik it-taxxa.

11. Meta jkunu ġew stabbiliti xi arrangament jew skema b'regolamenti jew taht regolamenti preskritti taht dan l-Att bil-għan li jiġi stabbilit il-valur taxxabli ta' provvisti taxxabli fi klassijiet speċjali ta' każijiet, dak l-arrangament jew skema għandhom japplikaw minkejja dawn ir-regolamenti jew kull haġa li tinsab f'dan l-Att.

12. (1) Bla ħsara għad-dispożizzjonijiet l-oħra ta' din il-partita, il-valur taxxabli ta' oġġetti importati jkun il-valur ta' dawk l-oġġetti fiż-żmien meta t-taxxa fuq dik l-importazzjoni jkollha tithallas skond is-subartikolu (2) ta' l-artikolu 21 ta' dan l-Att, liema valur jiġi stabbilit bl-istess mod bħal dak li japplika skond l-Att dwar id-Dazji ta' Importazzjoni sabiex jiġi stabbilit il-valur li fuqu jithallas id-dazju *ad valorem* taht dak l-Att, u d-dispożizzjonijiet kollha rilevanti ta' dak l-Att għandhom ikunu japplikaw *mutatis mutandis* u għall-għanijiet ta' dan il-paragrafu r-riferenzi f'dawk id-dispożizzjonijiet għall-Kontrollur tad-Dwana għandhom jinfteħmu bħala riferenzi għall-Kontrollur tad-Dwana li jkun qiegħed jaġixxi f'isem il-Kummissarju.

(2) Il-valur stabbilit kif imsemmi qabel għandu jiżdied b'kull dazju ta' importazzjoni li jithallas fuq l-importazzjoni ta' l-oġġetti msemmija bis-saħħa ta' l-Att dwar id-Dazji ta' Importazzjoni, b'kull imposta li tithallas fuq dik l-importazzjoni bis-saħħa ta' l-Att dwar il-Promozzjoni ta' Prodotti Lokali, b'kull dazju tas-sisa li jithallas f'Malta ma' l-importazzjoni ta' dawk l-oġġetti u, fil-każ ta' vetturi bil-mutur, bit-taxxa li tithallas bis-saħħa ta' l-Att ta' l-1994 dwar Taxxa tar-Registrazzjoni ta' Vetturi bil-Mutur.

(3) Meta dawk l-oġġetti jkunu trasferiti f'Malta qabel id-data meta t-taxxa fuq l-importazzjoni tagħhom ikollha tithallas skond is-subartikolu (2) ta' l-artikolu 21, il-valur taxxabli jkun il-valur tal-kumpens imħallas jew li jkollu jithallas għal dak it-trasferiment jew il-valur stabbilit bid-dispożizzjonijiet l-oħra ta' din il-partita, skond liema tkun l-oghla.

(4) Id-dispożizzjonijiet tal-partiti l-oħra ta' din l-Iskeda dwar kif jiġi stabbilit il-valur tal-kumpens imħallas jew li jkollu jithallas għal provvista taxxabli għandhom japplikaw sabiex jiġi stabbilit il-valur tal-kumpens imsemmi fil-paragrafu (3) ta' din il-partita.

IL-HAMES SKEDA

Provvisti suġġetti għar-rata speċifikata fil-paragrafu (b) ta' l-artikolu 19

Artikolu 19(b)

1. Il-provvista ta' ikel fornuta f'kull stabbiliment, bini jew fond, kif b'kull mod deskritt, li jenhtieg li jiġi klassifikat u liċenzjat bħala tali skond l-Att dwar il-Lukandi u l-Istabbilimenti li jipprovdu Ikel u skond ir-regolamenti kollha li jistgħu, minn żmien għal żmien, jintgħamlu fit-twettiq tas-setgħat mogħtija bl-artikolu 16 ta' l-imsemmi Att,

2. Il-provvista ta' ikel fornut f'kull fond ieħor li jforni ikel preparat bi hlas biex jiġi kunsmat fil-fond, sew jekk dak l-ikel ikun preparat hemmhekk sew jekk le, iżda esklużi —

(a) il-provvista ta' ikel fi *club* ġewwa area ristretta għall-forniment ta' ikel u xorb unikament għall-membri u l-mistednin tagħhom;

(b) il-provvista ta' ikel minn *canteen*, li jkun jinstab f'area ta' xogħol jew studju u li esklussivament iservi ikel u xorb lil hađdiema u studenti f'dak il-post.

4. Il-provvista ta' ikel li jiġi kunsmat f'riċeviment.

5. Il-provvista ta' servizzi ta' *catering* barra.

6. Il-provvista ta' akkomodazzjoni f'xi fond li għall-ghan ta' l-ghoti ta' dik l-akkomodazzjoni jenħtieġ li jkollu licenzja bis-saħħa ta' l-Att dwar il-Lukandi u l-Istabbilimenti li jipprovdu Ikel jew ta' l-Att dwar il-*Guest Houses* u *Postijiet Furnished* għall-Btala.

7. Il-provvista ta' servizzi lil persuni provduti b'akkomodazzjoni f'kull fond li għalih tapplika il-partita 6 meta dawk is-servizzi ikunu jikkonsistu f'facilitajiet li jiġu provduti f'dak l-istess fond.

8. F'din l-Iskeda l-espressjoni "ikel" tfisser ikel kif imfisser fit-Taqsima Tlieta tat-Tieni Skeda li tinsab ma' dan l-Att.

IS-SITT SKEDA

Appelli quddiem il-Bord ta' l-Appelli dwar it-Taxxa fuq il-Valur Miżjud

Artikolu 35

1. Kompożizzjoni tal-Bord.

(1) Il-Bord ta' l-Appelli dwar it-Taxxa fuq il-Valur Miżjud (f'din l-Iskeda msejjaħ "il-Bord") jintgħamel minn *Chairman* u żewġ membri oħra li jinhatru mill-Ministru għal żmien tliet snin.

(2) Il-Ministru jista' jahtar panel ta' persuni li jistgħu jagħmluha ta' *Chairmen* u panel ta' persuni li jistgħu jagħmluha ta' membri oħra tal-Bord, f'liema każ il-membri għandhom hekk joqogħdu skond dik id-distribuzzjoni ta' dmirijiet li l-Ministru jista' jistabbilixxi, inkluża kull dispożizzjoni dwar l-inkapaċità ta' membri li joqogħdu u ċirkostanzi oħra.

(3) Ma jistax jitnehha membru tal-Bord matul iż-żmien tal-hatra tiegħu hlief għal imġieba hażina bil-provi jew l-inkapaċità tiegħu li jwettaq il-funzjonijiet tiegħu.

(4) Id-dispożizzjonijiet ta' l-artikoli 733 sa 739 magħdudin tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili għandhom japplikaw għal kull *Chairman* u membri oħra tal-Bord dwar appelli li jingiebu quddiem il-Bord bl-istess mod hekk kif japplikaw għal imħallfin għar-rigward ta' kawża li tingieb quddiem il-qorti.

(5) Persuna tkun skwalifikata milli tinħatar jew milli tkompli tkun membru tal-Bord jekk hija tkun membru tal-Kamra tad-Deputati.

(6) Fil-każ ta' vakanza fil-Bord li ma tkunx tista' timtela skond id-distribuzzjoni ta' dmirijiet stabbilita skond is-subartikolu (2) ta' dan l-artikolu, l-Avukat Ġenerali għandu jahtar persuna sabiex toqgħod hi minflok fis-smiegh u deċiżjoni tal-kawża fejn ikun hemm dik il-vakanza.

(7) Il-membri tal-Bord jirċievu dik ir-rimunerazzjoni li tista' tigi stabbilita mill-President ta' Malta.

(8) Il-membri tal-Bord ma jkunux personalment responsabbli għal xi haġa li ssir jew li tonqos milli ssir *in bona fide* fit-twettiq tal-ħdim tal-Bord.

2. Segretarju tal-Bord

(1) Għandu jkun hemm segretarju tal-Bord, li jkun uffiċjal pubbliku li jinħatar segretarju mill-Ministru.

(2) Il-Ministru jista' jahtar uffiċjali pubbliċi oħra biex jagħmluha ta' segretarji deputati.

3. Kompetenza tal-Bord

(1) Il-Bord ikun kompetenti li jisma' kull appell li jsir kontra xi stima u li jikkonferma, inaqqas jew iżid kull valur taxxabli jew kreditu jew taxa li jkunu ġew stmati mill-Kummissarju, jew li jhassar l-istima jew li jagħmel kull dikjarazzjoni jew ordni oħra hekk kif jidhirlu xieraq.

(2) Il-Bord ikun kompetenti li jiddeċiedi kull haġa li ssirlu riferenza dwarha skond l-artikolu 33 ta' dan l-Att.

(3) Il-Bord jista', f'kull deċiżjoni li jagħmel, jaghti ordni fuq l-ispejjeż tal-każ hekk kif jidhirlu xieraq.

4. Appelli kontra stimi

(1) Appell kontra stima ma jkunx validu kemm-il darba:

(a) ma tkunx saret denunzja lill-Kummissarju għaž-żmien ta' taxa li dwaru tkun tirreferi l-istima qabel ma jingieb l-appell; u

(b) ma tkunx thallset it-taxxa kollha li m'hemmx kwistjoni dwarha li kellha tithallas mill-appellant; u

(ċ) ma jkunx thallas mhux anqas minn (hamsa u ghoxrin) fil-mija tat-taxxa li jkun hemm kwistjoni dwarha skond dak l-appell; u

(d) l-appell ma jsirx fi żmien tletin jum mid-data tan-notifika ta' l-avviż li kontrib isir l-appell; u

(e) l-appell ma jsirx fuq dik il-formula u b'dak il-mod kif jista' jiġi preskritt.

(2) Ikun dmir ta' l-appellant li jgħib prova li xi valur taxxabbli li ssir stima dwaru mill-Kummissarju jkun eċċessiv jew li xi kreditu li ssir stima dwaru mill-Kummissarju ma jkunx suffiċjenti.

(3) Il-Bord jista' jirrifjuta li jikkonsidra xi provi bhala suffiċjenti għall-għanijiet tal-paragrafu (2) ta' din il-partita jekk l-appellant ikun naqas li jzomm kull dokumentazzjoni u dokument li huma meħtieġa li jinżammu b'dan l-Att jew jonqos milli jipproduċi kull dokumentazzjoni jew dokument bhal dawk.

(4) Il-Bord għandu jagħti d-deċiżjoni tiegħu bil-miktub u jara li kopja ta' dik id-deċiżjoni tiġi notifikata lill-appellant.

5. Taxxa li tinżamm riżervata

(1) Meta jkun sar appell validu kontra stima, il-ħlas ta' daqstant mit-taxxa stmata li jkun hemm kwistjoni dwarha u li ma teħtieġx li tithallas qabel ma jsir l-appell skond il-partita 4 (1)(ċ) ta' dan l-Iskeda jista' jinżamm riżervat sakemm dak l-appell jiġi saflaħħar deċiż: iżda sadattant ma għandux jiġi ssopiż milli jibqa' għaddej l-imghax fuq dik it-taxxa.

(2) Il-mogħdija taż-żmien imsemmi fis-subartikolu (2) ta' l-artikolu 47 ta' dan l-Att għandu jkun sospiż għar-rigward ta' kull taxxa jew taxxa addizzjonali għal kull żmien li matulu l-ħlas tagħhom jista' jinżamm riżervat skond din il-partita.

(3) L-artikolu 55 ta' dan l-Att ma japplikax għal kull mghax dovut fuq it-taxxa li l-ħlas tagħha ikun inżamm riżervat skond id-dispożizzjonijiet ta' din il-partita u għal kull taxxa addizzjonali dovuta b'riferenza għal dik it-taxxa.

(4) Meta t-taxxa li jkollha tithallas b'riżultat ta' deċiżjoni tal-Bord wara appell kontra xi stima tkun iktar mit-taxxa indikata bhala li għandha tithallas f'dik l-istima, l-ammont żejjed għandu jithallas sa mhux aktar tard mill-aħħar tax-xahar li matulu dik id-deċiżjoni tkun giet notifikata lill-appellant u jkun dovut fuq dak l-ammont żejjed mghax bir-rata speċifikata fis-subartikolu (2) ta' l-artikolu 22 ta' dan l-Att mid-data msemmija għal kull żmien li matulu dak l-ammont żejjed jibqa' mhux imħallas.

6. Riferenzi lill-Bord

(1) Riferenza lill-Bord fuq kull haġa msemmija fl-artikolu 33 ta' dan l-Att għandha ssir bil-mezz ta' rikors bil-miktub li fih ikun hemm imniżżla l-fatti kollha rilevanti għal dik il-kwistjoni u l-mod kif, fil-fehma ta' l-applikant, dik il-kwistjoni għandha tiġi deċiża.

(2) Il-Bord għandu, wara li jkun sema' lil kull min kellu interess fil-kwistjoni, u jkun kiseb it-tagħrif kollu meħtieġ, jiddeċiedi l-kwistjoni u jara li d-deċiżjoni tiegħu tiġi notifikata lill-partijiet kollha.

7. Proċeduri tal-Bord

(1) Il-Bord ikollu s-setgħa li jharrek lil kull persuna sabiex tagħti xiehda jew sabiex iġġib quddiemu kotba jew dokumenti ohra u *ċ-chairman* ikollu s-setgħa li jagħti l-ġurament lil kull persuna li tidher quddiem il-Bord.

(2) Il-Ministru jista' b'regolamenti jippreskrivi l-mod kif għandhom isiru appell jew rikors quddiem il-Bord, il-post fejn il-Bord jagħmel is-seduti tiegħu, il-mod kif il-partijiet jistgħu assistiti, id-drittijiet li jithallsu għall-appelli, id-dokumentazzjoni li għandha tinzamm mill-Bord, il-funzjonijiet tas-segretarju tal-Bord, u b'mod ġenerali kull ħaġa li għandha x'taqsam mal-proċeduri tal-Bord.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 314 tat-30 ta' Lulju, 1994.

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

LAWRENCE GONZI
Speaker

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I assent.

(L.S.)

UGO MIFSUD BONNICI
President

12th August, 1994

ACT No. XII of 1994

AN ACT to make provision for the Value Added Tax.

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:—

PART I

Preliminary

1. This Act may be cited as the Value Added Tax Act, 1994 and shall come into force on such date as the minister responsible for finance may by notice in the Gazette appoint and different dates may be so appointed for different provisions and different purposes of this Act. Short title and commencement.

2. (1) In this Act, unless the context otherwise requires — Interpretation.

“Board” means the Value Added Tax Appeals Board established in terms of section 34 of this Act;

“customs bond” means a bond as defined in section 2 of the Import Duties Act; Cap. 337.

“economic activity” has the meaning assigned to it in subsections (2) and (3) of section 6 of this Act;

“employee” means any individual bound to an employer by a contract of employment or by other legal ties creating the relationship of employer and employee as regards working conditions, remuneration and the employee’s liability and shall also include any directors of a company;

“importer” means any person having goods standing in his name on the books of the customs department;

“input tax” means an amount determined in accordance with section 24 of this Act;

“Malta” has the meaning assigned to it by the Constitution and includes the continental shelf;

“Minister” means the Minister responsible for finance;

“output tax” means the tax referred to in subsection (1) of section 22 of this Act;

“person” includes a public authority, a trust and any entity capable of carrying on an economic activity;

“public authority” means the Government, a local council set up in accordance with the Local Councils Act, an authority vested with distinct personality set by an Act of Parliament or a corporation constituted by an Act of Parliament;

“registered person” means a person who has been registered in accordance with section 13 and whose registration has not been cancelled in accordance with section 14 of this Act;

“retailer” means a taxable person whose business consists wholly or mainly in the sale of goods by retail;

“tax” means the value added tax chargeable under this Act;

“tax invoice” means the invoice required to be provided in terms of section 39 of this Act;

“tax period” has the meaning assigned to it by section 15 of this Act;

“tax return” means the return required to be furnished in terms of subsection (1) or subsection (2) of section 16 of this Act;

“taxable importation” has the meaning assigned to it by subsection (2) of section 5 of this Act;

“taxable person” has the meaning assigned to it by section 6 of this Act;

“taxable supply” has the meaning assigned to it by subsection (1) of section 5 of this Act;

“taxable value” means the value of a taxable supply or of a taxable importation established in accordance with section 18 of this Act.

(2) In determining the country where a person is deemed to be established for the purposes of this Act the following rules shall apply:

(a) if a supply is made by or to a person in the course or furtherance or for the purposes of an economic activity carried on by that person in, from or through a fixed place situated in a country that person shall be deemed, in respect of that supply, to be established in that country;

(b) if a supply is made to or by a person in the course or furtherance or for the purposes of an economic activity which is not carried on by that person in, from or through a fixed place, that person shall be deemed, in respect of that supply, to be established

(i) in the case of a person other than an individual, in the country where it is formed, incorporated, registered, constituted or managed;

(ii) in the case of an individual, in the country where the individual has a permanent address or usually resides.

3. (1) The administration of this Act is vested in the Administration. Commissioner of Value Added Tax, hereinafter in this Act referred to as "the Commissioner", who shall be a public officer appointed as such by the Prime Minister.

(2) The Commissioner may delegate to any public officer any of the rights, duties, powers and other functions vested in him, conferred to him or imposed upon him by this Act.

PART II

Scope of the Tax

4. (1) Subject to the other provisions of this Act there shall be Charge to tax. charged, levied and collected on account of the Government a value added tax —

(a) on every taxable supply, and

(b) on every taxable importation

with takes place on or after first January 1995.

(2) The provisions of subsection (1) of this section shall apply notwithstanding any exemption from tax granted by or under any other law.

5. (1) Any supply of goods or services, other than an exempt Taxable supply and taxable importation. supply, made in Malta for a consideration by a taxable person acting as such is a taxable supply.

(2) Any importation of goods into Malta, other than an exempt importation, is a taxable importation.

Taxable person.

6. (1) A taxable person is a person who independently carries on an economic activity, whatever the purpose or the results of that activity.

(2) An economic activity means any activity carried in the course or furtherance of any trade or business and includes —

(a) any activity carried on by any person, other than an employee acting as such, in the course or furtherance of any profession or vocation or the provision of any other personal services;

(b) the exploitation of tangible or intangible property for the purpose of obtaining income therefrom on a continuing basis;

(c) the provision by a club, association or organization (for a subscription or other consideration) of the facilities or advantages available to its members; and

(d) the admission, for a consideration, of persons to any premises.

(3) Notwithstanding the provisions of the other subsections of this section the activities of a public authority acting in the exercise of the functions assigned to it by law shall not be deemed to be economic activities except where and to the extent that the Minister may, for the purpose of avoiding significant distortions of competition, otherwise prescribe.

Supplies of goods and supplies of services.

7. (1) Subject to the provisions of subsection (2) of this section —

(a) the transfer of the right to dispose of tangible property as owner is a supply of goods;

(b) any supply which is not a supply of good is a supply of services.

(2) The Minister may by regulations prescribe with respect to any description of transaction —

(a) that it is to be treated as a supply of goods or as a supply of services;

(b) that it is to be treated as neither a supply of goods nor a supply of services;

(c) that it is to be treated as a supply made for a consideration;

(d) that it is to be treated as a supply made in the course or furtherance of an economic activity.

8. (1) Subject to the other provisions of this section a supply of goods shall be deemed to be made in the country in which the goods are situated at the time when the supply takes place. Place of supply.

(2) Goods imported into Malta shall be deemed to have been supplied to the importer outside Malta.

(3) Goods exported out of Malta shall be deemed to have been supplied by the exporter in Malta.

(4) The place where services are supplied shall be determined in accordance with the provisions of the First Schedule to this Act.

9. (1) Subject to the other provisions of this section — Time of supply.

(a) a supply of goods shall be deemed to take place at the time when the goods are delivered or otherwise made available to the person to whom the supply is made;

(b) a supply of services shall be deemed to take place on the date when the services are performed.

(2) Subject to the provisions of subsection (3) of this section when payment for a taxable supply is received by the person making the supply before the time determined in accordance with subsection (1) of this section the supply shall, to the extent of the payment so made, be deemed to take place at such earlier time.

(3) When a tax invoice for a taxable supply is issued before the time determined in accordance with the provisions of subsection (1) of this section or before the expiration of thirty-one days following the time determined as aforesaid the supply shall, to the extent of the value of that invoice, be deemed to take place at the time when the invoice is issued.

(4) When services are supplied for a period for a consideration the whole or part of which is determined or payable periodically or from time to time, they shall be treated as separately and successively supplied at the earlier of the following times:

(a) whenever a payment for such supplies is received, to the extent covered by that payment; or

(b) whenever a tax invoice is issued in respect of such supplies, to the extent covered by that invoice.

(5) The Minister may by regulations make such provisions as he may deem fit for the determination of the time of supply of goods or

services in such cases and in such circumstances as may be specified in the said regulations.

Reverse charge.

10. When a taxable supply of services is made by a person who is not established in Malta to a taxable person established in Malta the said taxable person established in Malta shall be deemed to have himself supplied those services in the course or furtherance of his economic activity and the provisions of this Act, including the obligation to apply for registration and to account for and to pay the tax, shall apply accordingly.

Exemptions.

11. (1) Subject to the provisions of subsection (2) of this section —

(a) the supplies to which the Second Schedule to this Act applies shall be exempt supplies;

(b) the importations to which the Third Schedule to this Act applies shall be exempt importations.

(2) The exemptions referred to in subsection (1) of this section shall be subject to the provisions contained in the Schedules referred to in that subsection and to such conditions which the Minister may by regulations prescribe for the purpose of ensuring the correct and straightforward application of the said exemptions and of preventing any possible evasion, avoidance, abuse or distortion of competition.

(3) Any provision contained in or under any law empowering the Minister to grant an exemption from import duties on the importation of goods chargeable under the Import Duties Act shall be construed as empowering the Minister to grant, in the same circumstances, in the same manner, and subject to the same conditions and limitations provided for in any such provision, an exemption from tax chargeable under this Act on the importation of the said goods.

PART III

Registration and Returns

Application for registration.

12. (1) Any taxable person who is established in Malta and who is not a registered person shall apply to the Commissioner to be registered under this Act within thirty days from the date on which he makes any supply referred to in subsection (1) of section 25 of this Act.

(2) Any taxable person who is not established in Malta and who is not a registered person shall apply to the Commissioner to be registered under this Act within thirty days from the date on which he makes a taxable supply, other than a supply of services to a taxable person established in Malta.

(3) Any taxable person who is not a registered person shall, if so requested by the Commissioner, apply to be registered under this Act within thirty days from the date on which he is served with a notice containing such a request.

(4) Any taxable person who is not a registered person and who intends to make any supply referred to in subsection (1) of section 25 of this Act and any person who intends to carry on an economic activity may apply to be registered under this Act.

(5) An application for registration under this Act shall be made on such form and in such manner as may be prescribed.

(6) The Minister may by regulations exempt any person or class of persons from the provisions of this section and may by such regulations make such an exemption subject to such conditions and limitations as may be prescribed.

13. (1) The Commissioner shall register every person known to be liable to apply for registration in terms of subsection (1) or subsection (2) of section 12 of this Act, whether an application for registration has been made or not by such person. Registration.

(2) The Commissioner shall register any person who has made an application in terms of subsection (4) of section 12 of this Act if he is satisfied that supplies referred to in subsection (1) of section 25 are likely to be made by that person in the course or furtherance of his economic activity or of the economic activity he intends to carry on.

(3) The Commissioner shall allocate a registration number and shall determine the first tax period for every person registered under this Act and shall deliver to that person a registration certificate.

(4) The Minister may by regulations make provisions for the registration of a number of persons as one person or for a person to be registered separately in respect of different branches or departments of his economic activity in such circumstances and in respect of such supplies as may be specified in the said regulations.

14. (1) The Commissioner may at any time cancel the registration of a person if he is of the opinion that that person does not carry on or has ceased to carry on an economic activity or that that person is not likely to make taxable supplies or be entitled to a credit in terms of section 25 of this Act. Cancellation of registration.

(2) The Commissioner shall serve a notice on any person whose registration has been cancelled, indicating the date on which that person has ceased to be a registered person.

(3) The cancellation of the registration of a person shall not relieve that person from any liability incurred before the date of the cancellation or in virtue of anything done before that date, or from the obligation to make an application for a fresh registration in any of the circumstances referred to in subsections (1), (2) and (3) of section 12 of this Act.

Tax period.

15. (1) Except as otherwise provided in this section a tax period means a period of three calendar months, or such longer or shorter period as the Minister may by regulations prescribe in respect of such class or classes of persons as may be specified in the said regulations, commencing on the first day immediately following the end of the preceding tax period.

(2) The first tax period for a person shall commence and end on such dates as may be determined by the Commissioner in accordance with subsection (3) of section 13 of this Act.

(3) The last tax period for a person whose registration has been cancelled shall be the tax period during which the date of the said cancellation falls and shall end on the said date.

(4) The Commissioner may by means of a notice served on a registered person in any particular case vary any tax period for that person in such manner as may be specified in that notice.

Returns.

16. (1) Every registered person shall furnish the Commissioner with a return for every tax period. The said return shall be furnished by not later than the fifteenth day of the second month following the month during which the relative tax period ends, and shall be made on such form and contain such particulars and information as may be prescribed or as may be approved by the Commissioner.

(2) Every person whose registration has been cancelled shall, within four weeks from the date on which he is served with a notice referred to in subsection (2) of section 14 of this Act, or within such longer period as may be specified in the said notice, furnish the Commissioner with a return relating to the last tax period on such form and containing such particulars and information as the Commissioner may require or as may be prescribed.

(3) Every registered person and every person whose registration has been cancelled shall furnish such additional returns, statements and information and shall produce such documents as may be reasonably required by the Commissioner for any purpose of this Act or as may be prescribed.

(4) A registered person who has understated the output tax or overstated the deductions in a tax return furnished to the Commissioner for a tax period shall, without prejudice to the provisions of section 30 of this Act, disclose the said understatement or overstatement by means of a notice to the Commissioner.

(5) The Minister may, by regulations:

(a) prescribe the manner in which and the form on which a notice for the purpose of subsection (4) of this section is to be given;

(b) subject to such limitations and conditions as may be prescribed, allow adjustments for understatements and

overstatements of output tax and deductions to be made otherwise than by means of a notice given in terms of subsection (4) of this section;

(c) make such other provisions for accounting for overstatements and understatements of output tax and deductions as may be prescribed.

(6) A return shall not be deemed to have been furnished unless it is full and complete in all material respects.

(7) When a registered person has furnished the Commissioner with a tax return for a tax period, the output tax and the deductions of that person for that period for any of the purposes of this Act shall, except as provided in section 29 of this Act, be deemed to be the output tax and the deductions declared in that return taking into account any disclosure or adjustment made in accordance with subsection (4) or with regulations made in virtue of subsection (5) of this section.

17. (1) The Commissioner may, by notice in writing, exempt any person from the provisions of subsection (1) of section 16 of this Act for such time and subject to such conditions and limitations as may be specified in the said notice and may, by notice in writing, vary or revoke any exemption so granted. Exemption from obligation to furnish return.

(2) Notwithstanding an exemption granted in terms of subsection (1) of this section, a registered person —

(a) shall furnish the Commissioner with a tax return in respect of any tax period during which he makes any taxable supply;

(b) may furnish a tax return for any tax period for which he is entitled to a credit in terms of section 25 of this Act.

PART IV

Determination and Payment of the Tax

18. The taxable value of taxable supplies and of taxable importations shall be established in the manner laid down in the Fourth Schedule to this Act. Taxable value.

19. (1) The tax chargeable under this Act shall be at the rate of: Rate of tax.

(a) fifteen per cent of the taxable value of every taxable supply other than a supply referred to in paragraph (b) of this section;

(b) ten per cent of the taxable value of every taxable supply to which the Fifth Schedule to this Act applies;

(c) fifteen per cent of the taxable value of every taxable importation.

(2) The Minister may by Order in the Gazette reduce in whole or in part the rate of tax applicable in accordance with subsection (1) of this section on such taxable supplies or such taxable importations as may be determined in the Order, for such period and under such conditions as may be determined in the Order.

Persons liable for the payment of the tax.

20. Without prejudice to the provisions of section 59 of this Act —

(a) the tax due on a taxable supply shall be a liability of the person who makes the supply;

(b) the tax due on a taxable importation of goods shall be a liability of the importer of those goods.

Time when tax becomes due and payable.

21. (1) The tax chargeable on a taxable supply shall become due at the time when the supply takes place and shall be payable at the time and in the manner provided for in section 22 of this Act.

(2) The tax chargeable on a taxable importation shall become due at the time when the importation takes place and shall be payable to the Comptroller of Customs on behalf of the Commissioner before the imported goods are delivered for use or consumption in Malta or otherwise as may be authorised in terms of paragraph (c) of subsection (1) of section 49 of this Act.

Payment of the tax on taxable supplies.

22. (1) The tax due by a registered person on taxable supplies made by him during a tax period and the tax due by a person whose registration has been cancelled on taxable supplies made by him during the last tax period shall be the output tax of that person for that tax period and shall, to the extent that it is not set off by deductions allowable in virtue of section 23 or of regulations prescribed in accordance with section 28 of this Act, be paid to the Commissioner by not later than the date by which that person is required to furnish a return for the relative tax period in accordance with subsection (1) or subsection (2), as the case may be, of section 16 of this Act.

(2) Interest shall be due on any tax which is not paid by the date on which it becomes payable in accordance with this section at the rate of one per cent for each month or part thereof during which the said tax remains unpaid or at such other rate as may be prescribed.

(3) The Minister may by regulations prescribe the manner in which payment of the tax shall be made, the forms to be submitted with any such payment and the receipt to be given by the Commissioner for any such payment.

Deductions.

23. A registered person who furnishes a return for a tax period shall be entitled to set off against the output tax for that period the amount of the credit for input tax allowable to him for that period in accordance with section 25 of this Act and any amount allowable to him as excess credit in accordance with section 26 of this Act.

Input tax.

24. Subject to the provisions of subsection (3) of section 25 of this Act, the input tax of a registered person for a tax period shall be the total of:

(a) the tax chargeable on taxable supplies made to him and the tax paid on taxable importations made by him during that period or, where the Commissioner so allows, during an earlier period, to the extent that the goods and services so supplied and the goods so imported have been or will be wholly used by him in the course of furtherance of an economic activity; and

(b) the tax chargeable on taxable supplies deemed to be made by him during that period in terms of section 10 of this Act.

25. (1) There shall be allowed for every tax period of a registered person and for the last tax period of a person whose registration has been cancelled a credit for input tax equivalent to so much of the input tax of that person for that period as is attributable to —

Credit for
input tax.

(a) taxable supplies made or to be made by that person excluding supplies deemed to have been made by him in terms of section 10 of this Act;

(b) exempt supplies specified in Part One of the Second Schedule to this Act and made or to be made by that person in the course or furtherance of his economic activity;

(c) supplies made or to be made by that person outside Malta in the course or furtherance of his economic activity.

(2) Where the input tax of a registered person for a tax period includes tax on any goods or services which have been or which are to be used by that person both for the purpose of making supplies referred to in subsection (1) of this section and also for other purposes, there shall be deemed to be attributable to supplies referred to in subsection (1) of this section such portion of the tax on the said goods or services as may be prescribed.

(3) The Minister may by regulations make provisions for the determination of the input tax and the attribution of input tax to supplies referred to in subsection (1) of this section, and may by such regulations prescribe —

(a) that tax chargeable on such supplies or importations as may be specified shall not be treated as input tax;

(b) that input tax of a registered person shall not be allowed as a credit unless it is supported by tax invoices or by such other evidence as may be specified;

(c) that tax chargeable on such supplies or importations and in such circumstances as may be specified made to or by a person shall be treated as input tax of another person;

(d) that the amount of input tax of a registered person attributable to supplies referred to in subsection (1) of this section shall be determined by reference to a number of tax periods and that any attribution which may have already been made for the said tax periods in accordance with the other provisions of this section shall be adjusted in such manner as may be specified in the said regulations;

(e) such other provisions as may be deemed necessary for the purpose of securing a fair and reasonable attribution of input tax to supplies.

Excess credit.

26. (1) Where the credit for input tax for a tax period of a registered person exceeds the output tax for that period the excess shall be an excess credit and may be set off against the output tax for the subsequent tax period in addition to the credit allowable in accordance with section 25 of this Act.

(2) For the purposes of section 23 of this Act and of subsection (1) of this section the credit for input tax for a tax period shall be set off before any excess credit.

Refund of
excess credit.

27. (1) Any credit or part thereof allowable to a registered person for a tax period which is not set off against the output tax for that period and for the subsequent tax period in accordance with the provisions of section 26 of this Act shall be refunded to that person.

(2) When the registration of a person has been cancelled any credit allowable to that person which is not set off against the output tax for the last tax period shall be refunded to that person.

(3) A refund which becomes due in accordance with subsection (1) or subsection (2) of this section shall be made not later than thirty days from the last day of the time allowed in terms of section 16 of this Act for the furnishing of the tax return for the subsequent tax period referred to in subsection (1) of this section or for the last tax period referred to in subsection (2) of this section, as the case may be or from the day on which the said return has been furnished to the Commissioner, whichever is the later:

Provided that the Commissioner may, for the purpose of any such verification as may be reasonably necessary to ascertain the amount refundable, extend, by means of a notice in writing to the person to whom the refund is due, the time limit referred to in this subsection by thirty days.

(4) The Commissioner may set off against any refund due to a person in accordance with this section any amount of tax, additional tax or interest resulting to be payable by that person under this Act.

(5) Interest shall be due to a person to whom a refund is due in accordance with this section at the rate specified in or prescribed in terms of subsection (2) of section 22 of this Act from the date when the refund becomes payable in accordance with this section until the date when it is paid or when a cheque or draft for the payment thereof is given or posted to that person by the Commissioner.

(6) Notwithstanding the provisions of the other subsections of this section and of section 26 of this Act the Commissioner may allow any excess credit resulting in a tax period to be refunded at a date earlier

than that established in accordance with the said provisions under such conditions and against the furnishing of such security as he may determine.

28. The Minister may by regulations make provisions for the allowance of further deductions against the output tax and may make such further deductions subject to such conditions and limitations as may be prescribed. Further deductions.

PART V

Assessments, Additional Tax and Appeals

29. (1) Where the Commissioner has reason to believe — Assessments.

(a) that a tax return furnished by a registered person for a tax period contains an understatement of the output tax or an overstatement of the deductions for that period, and that such an understatement or overstatement has not been disclosed in accordance with the provisions of subsection (4) or adjusted in the manner prescribed by regulations made in virtue of subsection (5) of section 16 of this Act, or

(b) that tax for a tax period is payable by a person who has not furnished the Commissioner with a tax return for that period,

he may at any time after the expiration of the time allowed in terms of this Act for the delivery of the tax return for that tax period and by not later than six years from the end of the said tax period assess the taxable value of the taxable supplies, the output tax, the deductions allowable, and the tax payable or excess credit resulting for that period.

(2) An assessment may be made by reference to such information, estimations or criteria as the Commissioner may, in his judgement, deem appropriate.

(3) If the Commissioner has reason to believe that any addition or revision stands to be made to an assessment made for a tax period he may, within the time specified in subsection (1) of this section, make an additional assessment or revised assessment accordingly.

(4) Where an assessment is made for a tax period any amount of tax and deductions assessed in that assessment shall, except if and to the extent that the assessment is cancelled or revised, and subject to the provisions of section 30 of this Act, be deemed to be and to have always been the tax and the deductions properly due and allowable for that period for any of the purposes of this Act.

(5) A notice of an assessment made in terms of this section shall be served on the registered person within the time limit specified in subsection (1) of this section.

(6) An assessment made on a registered person in the circumstances referred to in paragraph (b) of subsection (1) of this section shall not relieve that person from his obligation to furnish a tax return for the relative tax period.

Additional tax.

30. (1) Where an assessment is made for a tax period in the circumstances referred to in paragraph (a) of subsection (1) of section 29 of this Act additional tax shall be due for that period in an amount equivalent to twenty per cent of the total of:

(a) the excess, if any, of the output tax as assessed over the output tax as declared in the return; and

(b) the excess, if any, of the deductions as declared in the return over the deductions as assessed.

(2) Where a tax return furnished to the Commissioner by a registered person for a tax period contains an understatement of the output tax or an overstatement of the deductions for that period and that person makes a disclosure of such an understatement or overstatement in accordance with the provisions of subsection (4) of section 16 of this Act before he is served with an assessment for that period he shall be liable to additional tax equivalent to ten per cent of the total of:

(a) the amount, if any, by which the output tax has been understated in the said tax return; and

(b) the amount, if any, by which the deductions have been overstated in the said tax return.

(3) Any person who being required to furnish a tax return for a tax period, furnishes that return after the expiration of the time laid down in section 16 of this Act shall be liable to additional tax in an amount equivalent to the higher of:

(a) two per cent of the excess, if any, of the output tax over the deductions, disregarding any excess credit brought forward from a previous tax period, as declared in the return, and

(b) *twenty liri*

for every month or part thereof that elapses from the date on which the tax return should have been furnished in accordance with this Act and that date when it is furnished to the Commissioner.

(4) Any person who, being required to apply for registration under this Act, makes such an application after the expiration of the time laid down in section 12 or section 20 of this Act shall be liable to additional tax in an amount equivalent to the higher of —

(a) two per cent of the excess, if any, of the output tax over the deductions for the first tax period following the registration; and

(b) *twenty liri*

for every month or part thereof that elapses from the date on which the application should have been made in terms of the said section and the earlier of the date on which the registration is furnished to the Commissioner and the date when that person is registered by the Commissioner.

31. Notwithstanding the provisions of section 30 of this Act — Reasonable
excuse.

(a) additional tax which becomes due pursuant to subsection (1), (2) or (3) of the said section by a person who has not been liable on any previous occasion to additional tax imposed in virtue of any provision of the said section shall be one half the amount otherwise due in accordance with the said subsection;

(b) additional tax due in respect of a tax period by a person who has been liable to additional tax imposed in virtue of the provisions of the said section in respect of at least two other tax periods falling within a period of two years preceding the first mentioned tax period shall be twice the amount otherwise due in accordance therewith;

(c) no additional tax shall be due by a person for any default if that person shows that there is a reasonable excuse for the default: provided that:

(i) an insufficiency of funds to pay any tax due, or

(ii) when reliance is placed on any other person to perform any task, the fact of that reliance or any dilatoriness or inaccuracies on the part of the person relied upon,

shall not constitute a reasonable excuse for the purposes of this paragraph.

32. Any person aggrieved by an assessment served upon him may appeal against that assessment to the Value Added Tax Appeals Board. Appeal against
an assessment.

33. If any question arises, other than on an assessment, relating to — Other matters
that may be
referred
to Appeal.

(a) the registration of a person under this Act or the cancellation of such a registration,

(b) whether a transaction made or to be made by a person is a taxable supply or not or whether an importation of goods made or to be made by a person is a taxable importation or not,

(c) any tax chargeable on the importation of goods,

(d) the place, the time or the taxable value of a taxable supply,

(e) the amount of additional tax payable in accordance with section 30 of this Act or whether any such additional tax is payable or not,

(f) the amount of deductions allowable to a registered person for any tax period,

(g) any security required by the Commissioner under this Act,

(h) whether any refund of tax claimed by any person is due to that person or not,

(i) any question of law not falling within the foregoing provisions of this section,

(j) any matter which, in terms of any provision of this Act or of any regulations made under this Act, may be referred to appeal,

that question may be referred to the Value Added Tax Appeals Board by any person who shows to the satisfaction of the Board that he has a direct interest in that question or by the Commissioner: provided that any question on the classification of any goods under the Customs Tariff set out in the First Schedule to the Import Duties Act shall be determined in accordance with the provisions of the said Act as if the question related to duty chargeable under that Act.

Value Added Tax Appeals Board.

34. There shall be a Value Added Tax Appeals Board for the purpose of hearing and determining appeals and references made in accordance with sections 32 and 33 of this Act.

Matters regulated by the Sixth Schedule.

35. The Sixth Schedule to this Act shall apply with respect to any appeal made or any question referred to the Board, the composition and competence of the Board, and the regulation of the procedures of the Board.

Appeal to the Court of Appeal.

36. (1) Any person who, having appealed to the Board, feels aggrieved by a decision of that Board may appeal against that decision to the Court of Appeal on any question of law only by means of an application to be filed within thirty days from the date on which the decision appealed from is notified to him.

(2) If the Commissioner feels aggrieved by a decision of the Board he may appeal to the Court of Appeal on any question of law only by means of an application filed within thirty days from the date of that decision.

(3) The Board established under section 29 of the Code of Organization and Civil Procedure may make regulations governing appeals under this section and prescribing fees payable in respect of such appeal.

PART VI

Records and Information

37. (1) Every taxable person shall keep proper and sufficient records of all transactions carried out in the course or furtherance of his economic activity to enable the date, the value and the nature of such transactions, the tax chargeable thereon and the deductions allowable in respect thereof, and any such other information as may be prescribed, to be readily ascertained. Records to be kept.

(2) The records referred to in subsection (1) of this section shall be kept and stored in such manner, contain such details and be supported by such documents and accounts as the Minister may by regulations prescribe and shall be retained for a period of at least six years from the end of the year to which they relate.

(3) Regulations prescribed for the purposes of subsection (2) of this section may require taxable persons to store, process and produce information and documents on or by such means and machines as may be specified in such regulations.

(4) The Commissioner may at any time within the period specified in subsection (2) of this section request any taxable person to produce the records, documents and accounts required to be kept by him in virtue of this section.

38. Where any taxable person indicates the price of goods offered for sale by retail, such price shall be indicated in such a manner as to be inclusive of the tax chargeable under this Act on the supply of the said goods. Price marking.

39. (1) Every taxable person, other than a retailer, who makes a taxable supply to another taxable person shall provide that other person with a tax invoice within thirty-one days from the date referred to in subsection (1) of section 9 of this Act. Tax invoice.

(2) A taxable person who is a retailer and who makes a taxable supply to any other taxable person shall, at the request of that other person, provide him with a tax invoice within thirty-one days from the date referred to in subsection (1) of section 9 of this Act.

(3) Where a registered person provides a document to himself which purports to be a tax invoice in respect of a taxable supply made to him by another registered person, that document may, with the approval of the Commissioner, be treated as the tax invoice required to be provided by the supplier in terms of this section.

(4) The Minister may by regulations prescribe the form of a tax invoice, the particulars to be shown therein and the manner in which it shall be issued, and may by such regulations make different provisions in respect of different categories of taxable persons or of supplies.

Documents to be provided in other cases.

40. The Minister may by regulations require any taxable person who makes an exempt supply to a taxable person or who makes any supply to a person who is not a taxable person to provide to the person to whom the supply is made such invoice, receipt or other document as may be specified in the said regulations, and may by such regulations prescribe the form of such invoice, receipt or document, the particulars to be shown therein and the manner in which it shall be issued.

Production of invoices by persons to whom a supply is made.

41. A person to whom any tax or other invoice or other document is provided as required by section 39 or 40 of this Act shall, if so requested within such time and in such circumstances as may be prescribed, produce the said tax or other invoice or other document to the Commissioner or to any officer authorized by the Commissioner.

Inspections.

42. The Commissioner and any person duly authorized by him shall, for the purpose of ensuring compliance with the provisions of this Act, have the power —

(a) to enter and inspect any premises where an economic activity is carried on or suspected to be carried on or where any goods, assets, books, records or documents relating to such activity are kept or suspected to be kept;

(b) to inspect and to require the production of any books, records or documents, including machine readable information, or a copy or extract thereof relating to the economic activity of any person;

(c) subject to the provisions of section 44 of this Act, to require any person to give such information as may be requested for the purpose of determining whether any taxable supplies have been made by or to that person or the value of any such supplies and to request the attendance of any person at the office of the Commissioner for the purpose of providing such information.

Access to place of habitation.

43. If access is required in virtue of subsection (1) of this section to any premises occupied in whole or in part for the purpose of habitation, such access shall require the prior warrant of the competent court and shall not take place between seven o'clock in the evening and seven o'clock in the morning.

Information held by certain licensed persons.

44. (1) Without prejudice to the provisions relating to the duty of professional secrecy, no information shall be requested by the Commissioner by virtue of this Act from any persons to whom subsection (2) of this section refers except solely for the purpose of determining the tax payable by and the deductions allowable to such person under this Act or of ensuring compliance by such person with the provisions of this Act.

(2) This subsection refers to:

(a) a bank licensed under the Banking Act, 1994;

(b) an insurance company in respect of life assurance business which is carried on pursuant to a licence granted under the Insurance Business Act;

Cap. 290.

(c) any person licensed to carry on investment business under the Investment Services Act, 1994;

(d) a collective investment scheme licensed under the Investment Services Act, 1994;

(e) a stockbroker licensed under the Malta Stock Exchange Act.

Cap. 345.

45. (1) Except as may be necessary for the purposes of this Act, or where the Prime Minister otherwise directs, every person having any official duty or being employed in the administration of this Act shall regard and deal with all documents and information relating to this Act as secret and confidential.

Official secrecy.

(2) No person appointed under or employed in carrying out the provisions of this Act shall be required to produce in any court, tribunal, Board or committee of inquiry any document or to divulge any matter coming under his notice in the performance of his duties under this Act except as may be necessary for the purpose of carrying into effect the provisions of this Act, or for the purpose or in the course of any appeal made in accordance with this Act or a prosecution for any offence against any of the provisions of this Act.

(3) Notwithstanding the other provisions of this section, the Commissioner may permit the Director of Audit or any officer authorized by the Director of Audit to have access to any records or documents as may be necessary for the performance of his official duties and for this purpose the Director of Audit and any such authorized officer shall be deemed to be a person employed in the administration of this Act.

(4) Notwithstanding the provisions of the other subsections of this section or of any other law the Commissioner shall furnish to the Commissioner of Inland Revenue such information, being information obtained by the Commissioner for any of the purposes of this Act, as may be directed by the Minister.

PART VII

Special Cases

46. (1) The Minister may by regulations prescribe special provisions with respect to supplies to which subsection (2) of this section refers, and may, by such regulations, make provision:

Special cases.

(a) for a supply to be treated as two or more separate supplies or for a number of supplies to be treated as a single supply;

(b) for the time and place at which supplies shall be treated to take place;

(c) for the taxable value of supplies to be determined by such method or one of such methods as may be established by the Commissioner;

(d) for the determination of the input tax attributable to supplies;

(e) for additional records and documents that must be kept and produced in respect of the said supplies;

and any such regulations shall apply notwithstanding anything to the contrary contained in this Act.

(2) This subsection applies to:

(a) supplies made by tour operators and travel agents and by other persons acting as principals and making supplies commonly provided by tour operators and travel agents;

(b) supplies of secondhand goods;

(c) supplies by retailers;

(d) such other supplies as may be designated for the purposes of this section by an order made by the Minister and published in the Gazette.

PART VIII

Collection, Security and Refunds

Suit by the
Commissioner.

47. (1) tax and additional tax due under this Act may be sued for and recovered, as the case may require in the competent court of civil jurisdiction.

(2) Subject to the provisions of subsection (3) of this section, action for the payment of tax and additional tax may be taken by the Commissioner at any time within six years from the date on which such tax and additional tax becomes payable.

(3) The running of the period referred to in subsection (2) of this section shall be interrupted by any judicial act filed before the expiration of such period by the Commissioner demanding the payment of the tax and additional tax due.

48. (1) Any notice issued by the Commissioner showing any amount of tax and additional tax due by a person shall, unless the contrary is proved, be sufficient evidence that that amount is due to the Commissioner by that person and shall constitute an executive title within the meaning and for the purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.

Executive Title.

Cap. 12.

(2) The Commissioner may request the payment of any tax and additional tax payable by any person in terms of this Act by means of a demand note and if the payment request is not made within thirty days from the date when the said demand note is served on that person, the Commissioner may proceed to enforce payment in virtue of the executive title referred to in subsection (1) of this section after two days from the service on that person of an intimation for payment made by means of a judicial act.

(3) The provisions of section 468 of the Code of Organization and Civil Procedure shall apply with respect to any warrant issued on the strength of an executive title mentioned in this section and to the paying out of the proceeds of the sale by auction of the property seized, and no opposition or reservation in the schedule of deposit shall stay the paying of any sum deposited in court following any such warrant as aforesaid.

49. (1) No goods imported into Malta shall be delivered for use in Malta or taken out, cleared or delivered from any customs bond except —

Restrictions on the release of imported goods.

(a) where the importation of those goods is an exempt importation, or

(b) where the tax on the said importation has been paid in accordance with this Act, or

(c) with the authorization of the Commissioner.

(2) An authorization for the purpose of paragraph (c) of subsection (1) of this section may be given under such conditions and against the granting of such security as the Commissioner may establish.

50. (1) The Comptroller of Customs shall, for the purpose of ascertaining, collecting and protecting on behalf of the Commissioner the tax chargeable under this Act on taxable importations have the same powers and shall follow the same procedures as are in accordance with any other law exercisable and followed by him for the purpose of ascertaining, collecting and protecting import duties.

Powers relating to imported goods.

(2) Any provisions in the Customs Ordinance or in the Import Duties Act or in any regulations made thereunder relating to the application of the proceeds from a sale of imported goods towards the payment of import duties due on those goods shall be construed as providing for the application of the said proceeds towards the payment of import duties and of any tax due under this Act on the importation of those goods.

Cap. 37.
Cap. 337.

Special
privilege.

51. The Commissioner shall have a special privilege over the assets forming part of the economic activity of a person in respect of any tax due by that person under this Act and the said tax shall, notwithstanding anything contained in any other law, be paid in preference to a debt having any other privilege, excepting a debt having a general privilege and a debt mentioned in paragraph (a) or in paragraph (b) of section 2009 of the Civil Code.

Cap. 16.

Security
for tax due
on supplies.

52. (1) If, in any particular case, the Commissioner has reason to believe that tax due by a registered person might not be recoverable at the time when that tax becomes payable in terms of this Act, he may by a notice served on that person, demand the payment of the tax within such time as may be specified in that notice and the tax shall thereupon become payable within that time notwithstanding any other provision of this Act.

(2) When a payment has been demanded from a person in accordance with subsection (1) of this section that person may, instead of making the said payment, furnish such security for the tax payable as may be acceptable to the Commissioner.

Security
for credits,
deductions
and refunds.

53. Where a credit for input tax or any other deduction or a refund is claimed by a person and the allowance or payment of such credit, deduction or refund may be subject to a revision in accordance with any provision of this Act or any regulations made thereunder or depends on circumstances which, in the opinion of the Commissioner, have not been fully verified, the Commissioner may allow the said credit or deduction or pay the said refund against the provision of a security in such amount and in such manner as he may deem fit to require.

Shorter
period for
the delivery
of a return.

54. If, in any particular case, the Commissioner has reason to believe that the tax due by a registered person could otherwise be prejudiced, he may, by means of a notice in writing, require that person to furnish a tax return for a tax period before the time allowed in terms of section 16 of this Act, and in respect of that tax return any reference in this Act to the time allowed in terms of the said section shall thereupon be construed as a reference to the period specified in the said notice.

Appropriation
of payment.

55. (1) Where any interest is due by a person in terms of this Act any payment made by that person to the Commissioner shall, notwithstanding any declaration made by that person, be appropriated to that interest before it is appropriated to any tax.

(2) Subject to the provisions of subsection (1) of this section when additional tax is due by a person any payment made by that person to the Commissioner shall, notwithstanding any declaration of that person to the contrary, be appropriated to such additional tax before it is appropriated to any other tax.

Repayment of
overpaid tax.

56. (1) Tax paid shall not be refundable except in the circumstances provided for in section 27 or 57 of this Act or in the other provisions of this section.

(2) Subject to the provisions of subsection (3) of this section where it results that any tax paid by a person was not due or was in excess of the tax due under this Act the Commissioner shall, on the production of such evidence as he may deem fit to require, repay the tax or that part thereof which was not due to that person or to any other person who may be entitled to that repayment: provided that nothing in this subsection shall be construed as overriding or replacing the provisions of section 32 of this Act.

(3) The Minister may by regulations prescribe the manner and the time within which a claim for a repayment under subsection (2) of this section may be made and such conditions and limitations, including a minimum amount in respect of which a repayment may be claimed, as he may deem fit.

(4) Where it results from a decision given on an appeal made in accordance with this Act that any amount of tax paid by a person was not due, the Commissioner shall refund such amount to that person within thirty days from the date such decision becomes *res judicata*.

(5) Interest at the rate specified in or prescribed in terms of subsection (2) of section 22 of this Act shall be due on a refund to which subsection (4) of this section refers for the period ending on the date when the refund is paid or a cheque or draft is posted by the Commissioner to the person to whom the refund is payable, which interest shall run —

(a) if and to the extent that the amount refundable had been claimed as excess credit in a tax return furnished to the Commissioner by the appellant, from the date established in accordance with section 27 of this Act;

(b) if and to the extent that the amount refundable was paid by the appellant as a condition for the validity of his appeal in accordance with the provisions of the Sixth Schedule to this Act, from the date on which that amount was paid to the Commissioner;

(c) in any other case, from the date the refund is payable in accordance with subsection (4) of this section.

(6) A refund due in accordance with any provision of this Act shall be payable without any further appropriation other than this Act by warrant under the hand of the Minister.

57. (1) If the Minister by order published in the Gazette declares that arrangements have been made with the government of any territory outside Malta with a view to affording relief from double taxation in relation to tax payable under this Act and a similar tax payable under the laws of that territory, and that it is expedient that those arrangements should have effect, those arrangements shall have effect notwithstanding anything in this Act.

International
arrangements.

(2) If the Minister by order published in the Gazette declares that arrangements have been made with the Government of any territory outside Malta with a view to granting a refund, on a reciprocal basis, of any tax paid under this Act to persons established outside Malta and that it is expedient that those arrangements should have effect, those arrangements shall have effect notwithstanding anything in this Act.

(3) The Minister may make regulations for the carrying out of the provisions of any arrangements having effect under this section.

(4) Where it results that any tax has been paid on the importation of goods which is exempt from import duties in terms of diplomatic and consular arrangements having effect in virtue of any enactment or that any tax has been paid on any supplies or importations by a person who qualifies for an exemption from tax in terms of such international arrangements as the Minister may, by order in the Gazette, specify, the Commissioner shall, upon a request made within such time and in such manner as may be prescribed, and on the production of such evidence as he may deem necessary, refund the tax so paid to the said person.

PART IX

Miscellaneous

Delivery
and service
of notices, etc.

58. (1) Any notice, warrant or other proceeding purporting to be made in accordance with the provisions of this Act shall not be deemed to be void or voidable for want of form or be affected by the reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Act.

(2) In the case of a body of persons it shall be sufficient if only the name of the body of persons appears on any notice, warrant or proceeding, including any proceeding in the court of Appeal, issued or made under or for the purposes of this Act.

(3) Every notice to be given by the Commissioner under this Act shall be signed by the Commissioner or by some person or persons authorized by the Commissioner and every such notice shall be valid if the signature is printed, stamped or written thereon.

(4) Any notice may be served on a person either personally or by being sent by post and shall in the latter case be deemed to have been served, unless the contrary is proved, in the case of an address in Malta not later than the third day following the day when it was posted, and in the case of an address outside Malta the day succeeding that on which the notice would have been received in the ordinary course by post and it shall be sufficient to prove that the notice was properly addressed and posted.

(5) For the purposes of subsection (4) of this section a notice shall be deemed to have been properly addressed if it has been addressed to a person's business or private address, and an address furnished by a person to the Commissioner shall be deemed to be an address of that person unless and until a notice of a change of address is given by that person to the Commissioner.

(6) When the date on which any return, notice or other document is to be furnished, delivered or served or deemed to be served or on which a payment is to be made in terms of any provision of this Act falls, were it not for the provisions of this subsection, on a Saturday or a Sunday, or on a national day or a public holiday as established in the National Day and other Public Holidays Act, that date shall be deemed to fall on the first working day, other than a Saturday, following the said Saturday, Sunday, national day or public holiday.

Cap. 252.

59. (1) Any secretary, manager, director, liquidator or other principal officer of an entity or of a body of persons, any heir and any testamentary executor and any curator of the vacant inheritance of a deceased person, and any person who is a tutor, curator, administrator or trustee of any other person or of any trust, fund or other entity shall, for the purposes of this Act, be a representative of that body of persons, deceased person, other person, trust, fund or other entity, as the case may be.

Representatives.

(2) Where a taxable supply of services is made in Malta by a taxable person who is not established in Malta any person resident in Malta to whom the said services are supplied or any person resident in Malta who is an agent of the said supplier shall, if so designated by the Commissioner by means of a notice in writing, be a representative of the said supplier in respect of any obligation of the supplier under this Act relating to that supply.

(3) (a) Subject to the provisions of subsection (5) of this section a representative of a person shall be liable in the same manner and to the same extent as the person of whom he is representative for all the obligations imposed by or under this Act.

(b) Anything done or omitted to be done by a representative acting as such shall for the purposes of this Act be deemed to have been done or omitted to be done by the person of whom he is a representative.

(c) Any notice served on or any refund paid to a representative in his capacity as such under any of the provisions of this Act shall be deemed to have been served on or to have been made to the person of whom he is a representative.

(d) The existence of or the designation of a person as a representative of another person shall not relieve the latter person from any obligation or liability under this Act.

(4) A representative who has under his management or control any funds or property belonging to or due to the person of whom

he is a representative shall not dispose of such funds or property unless he has made adequate provision for any tax due under this Act.

(5) A representative shall be jointly and severally liable with the person of whom he is a representative for the tax due by that person: provided that where the representative has acted in good faith and is not knowingly in breach of subsection (4) of this section or of any other obligation under this Act, his liability under this subsection shall be limited to the funds or to the value of any property under his management or control which belongs or is due to the person of whom he is a representative.

Interest.
Cap. 123.

60. For the purposes of the Income Tax Act and the Administration of Tax Act, 1994 —

(a) interest paid or payable under this Act by the Commissioner to any person shall not be treated as income of that person;

(b) interest and additional tax paid or payable under this Act by any person to the Commissioner shall not be treated as expenses incurred in the production of the income of that person.

Power
to make
regulations.

61. The Minister may by regulations —

(a) amend, cancel or substitute any of the Schedules, except for the Sixth Schedule, to this Act;

(b) prescribe any matter which may in any particular case be deemed necessary for the purpose of avoiding significant distortions in competition which might otherwise result from the application of any of the provisions of this Act;

(c) make provision for the rounding up or down of any amount in any computation made for any of the purposes of this Act, or for disregarding any small amounts in any such computation;

(d) prescribe anything that may be prescribed in virtue of the provisions of this Act;

(e) prescribe any conditions and determination that may, in accordance with this Act, be imposed or made by the Commissioner;

(f) prescribe any other matter for securing the payment of the tax and generally for giving effect to the provisions of this Act;

(g) amend, revoke or substitute any regulations made under this Act.

PART X

Offences and Penalties

62. Any person who —

(a) fails to apply for registration at the time and in the manner required by section 12 or section 70 of this Act;

(b) fails to keep or to store records, documents and accounts for the time and in the manner required by this Act or any regulations made under this Act;

(c) fails to furnish a tax return or any additional return, statement or information or to produce any books, records, documents and accounts when required to do so in virtue of this Act or of any regulations made under this Act;

Failure to apply for registration or to keep or deliver records and returns.

shall be guilty of an offence and shall, on conviction, be liable to a fine (multa) of not less than fifty liri and not exceeding two hundred liri and the Court shall order the offender to comply with the law within a time sufficient for the purpose, but in any case not exceeding three months, and in default the offender shall be liable to the payment of a further fine (multa) of not less than two liri and not exceeding ten liri for every day that the default continues after the lapse of the time fixed by the Court.

63. Any person who —

(a) knowingly fails to account for any taxable supply made by him in the records, documents and accounts required by this Act or any regulations made under this Act;

(b) gives any return, statement or information required for any of the purposes of this Act which he knows to be incorrect or misleading in any material respect;

(c) falsifies any records, documents or accounts required to be kept under this Act or prepares or draws up or helps in the preparation or drawing up or makes use of any false records or documents;

(d) with the intent of concealing any evidence which he knows or is reasonably expected to know to be relevant for any purpose of this Act destroys, erases, damages or conceals any stored information or any records, documents or accounts;

(e) knowingly fails to provide or produce a tax or other invoice or document as and when required by section 39, 40 or 41 of this Act or provides any such tax or other invoice or document which is incorrect or misleading in any material respect;

(f) provides an invoice or other document in respect of a supply showing tax to be chargeable on that supply in a case where he knows that no tax is chargeable or where the tax chargeable is

Irregularities in records, returns, invoices and transactions.

less than that shown or otherwise knowingly adds to or includes in a price for a supply any amount purporting to represent tax which is not due or which is higher than the tax due;

(g) having added to or included in a price for goods or services supplied by him to another person any amount purporting to represent tax chargeable under this Act, knowingly fails to account for that amount in his records and accounts or to pay that amount to the Commissioner;

(h) acquires possession of or deals with any goods, or accepts the supply of any services having reason to believe that the tax on the supply of the said goods or services has been or will be evaded;

(i) supplies or offers to supply to another person goods or services the acquisition or dealing with which or the acceptance of which would render that other person guilty of an offence in virtue of paragraph (h) of this section;

shall be guilty of an offence and shall, on conviction be liable to a fine (*multa*) of not less than fifty liri and not exceeding five hundred liri and to a further fine (*multa*) equal to three times the endangered tax, or to imprisonment of not more than six months or to both such fines and imprisonment.

Obstruction of officials.

64. Any person who —

(a) obstructs, hinders, impedes or does anything which is calculated to obstruct, hinder or impede, or molests or assaults the Commissioner or any person duly engaged in the exercise of any power or duty conferred or imposed on him by or under this Act;

(b) being a person in charge of any premises which the Commissioner or an officer authorized by the Commissioner is empowered to enter in terms of paragraph (a) of section 42 of this Act fails to allow access to the said premises to the Commissioner or authorized officer or fails to take such measures as may be reasonably required of him for the purpose of any such access or of any inspection of that premises or of any goods, assets, books, records or documents kept therein;

shall be guilty of an offence and shall, on conviction be liable to a fine (*multa*) of not less than ten liri and not more than one hundred liri or to imprisonment of not more than three months or to both such fine and imprisonment.

Offences relating to importations.

Cap. 37.

65. (1) The provisions of sections 18 and 62 of the Customs Ordinance shall apply to this Act as if all references to duties contained in those sections were references to tax due under this Act, and any person who is in contravention of the provisions of the said sections construed as aforesaid in relation to any goods whose importation is subject to tax under this Act shall, without prejudice to any liability incurred under the said Ordinance, be guilty of an offence under this

Act and shall for each such offence be liable to a fine (*multa*) equivalent to the aggregate of the amount of tax payable on the goods and double the value of the goods, or to a fine (*multa*) of twenty-five liri, whichever shall be the greater, or to imprisonment for a term not exceeding two years or to both such fine and imprisonment and the offender may be either detained or proceeded against by summons, in the same manner and form, and subject to all other provisions laid down in the Criminal Code.

(2) The provisions of section 77 of the Customs Ordinance shall apply in relation to goods whose importation is subject to tax under this Act as if any reference contained therein to the duty therein mentioned were also a reference to the tax chargeable under this Act.

(3) The importation of goods subject to tax under this Act shall, for all purposes of any law, be deemed as a prohibited importation unless the said tax is duly paid or, where the payment of the tax has been postponed in accordance with any provisions of this Act, the conditions imposed in connection with such a postponement are duly observed.

66. Any person who knowingly contravenes or fails to comply with any of the provisions of this Act or any regulations made under this Act shall be guilty of an offence and shall on conviction, unless the offence is subject to a greater punishment under any other provision of this Act or any other law, be liable to a fine (*multa*) of not less than ten liri but not exceeding fifty liri or to imprisonment for a term not exceeding three months or to both such fine and imprisonment. General offence.

67. (1) Where any thing is done or omitted to be done by a body of persons, the provisions of this Part shall apply as if such thing were done or omitted to be done by every manager or other principal officer of that body of persons: provided that a manager or other principal officer of a body of persons shall not be guilty of an offence in virtue of this subsection if he proves that he was unaware and could not with reasonable diligence be aware of such act or omission or that he did everything within his power to prevent that act or omission. Offences by principal officers of bodies of persons and by employers.

(2) Where any thing is done or omitted to be done by an employee in the course of his employment the provisions of this Part shall apply as if such thing was done or omitted to be done both by the said employee and by his employer: provided that such an employer shall not be guilty of an offence in virtue of this subsection if he proves that he was unaware and could not with reasonable diligence be aware of such an act or omission or that he did everything within his power to prevent that act or omission.

68. (1) No proceedings under this Part shall be taken except at the instance or with the sanction of the Commissioner. Prosecution.

(2) Notwithstanding the provisions of the Criminal Code the Attorney General shall have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of magistrates in respect of criminal proceedings under this Part. Cap. 9.

(3) The institution of proceedings or the imposition of a penalty for any offence under this Part shall not relieve any person from prosecution under any other law or from liability to the payment of any tax or additional tax for which he is or may be liable under this Act, and the institution of proceedings or the imposition of a penalty for any offence under any other law or the payment of any tax or additional tax under this Act shall not relieve any person from any prosecution or penalty under this Part.

(4) All proceedings for an offence under this part or under any regulations made under this Act shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) as a Court of Criminal Judicature and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said Court and the award and execution of the punishments thereby imposed.

(5) Where a pecuniary punishment may be imposed for a conviction for an offence under this Part such pecuniary punishment shall always be imposed and the provisions of Section 21 of the Criminal Code and of the Probation of Offenders Act shall not apply.

(6) In any criminal prosecution under this Part or under any regulations made under this Act, the Commissioner personally or any other officer designated by him may, notwithstanding the provisions of any other law, produce the evidence, plead and otherwise conduct the prosecution instead of or jointly with the Police.

(7) Should the evidence of the Commissioner or of the Officer designated under subsection (6) of this section be required as part of the case for the prosecution, he shall be heard before assuming the duties of prosecuting Officer (other than that of stating the facts constituting the offence), unless the necessity of his giving evidence appears at a later stage.

Compromise
penalty.

69. (1) Notwithstanding any other provision of this Act, the Commissioner may, in the case of any offence under this Act, enter into an agreement in writing with the offender whereby the said offender pays a sum equivalent to the fine (*multa*) that may be imposed by way of penalty in accordance with this Act on the conviction of that person for the said offence, so however that where a minimum and a maximum amount is provided for in respect of the fine (*multa*) that may be so imposed, the sum payable pursuant to the said agreement shall be a sum equivalent to the said minimum amount increased by one half of the difference between the said minimum and maximum amounts, and upon the signing of any such agreement by the Commissioner and the offender all criminal liability of the offender under this Act with regard to the offences in relation to which the agreement has been entered shall be extinguished:

Provided that any forfeiture contemplated in this Act as a consequence to an offence to which section 65 of this Act applies and to which the agreement relates shall, notwithstanding such agreement, still take effect unless the offender elects to pay also to the Commissioner a sum equivalent to the value of the goods liable to such forfeiture together with any amount of tax due thereon.

(2) The provisions of subsection (1) of this section shall apply also in any case where the offender has been charged before a court in relation to the offence but before final judgement has been given in the case:

Provided that where proceedings before a court have not been commenced, the sum payable in accordance with any agreement as contemplated in subsection (1) of this section shall be reduced by ten per cent.

(3) Any sum due in virtue of an agreement entered into in terms of subsection (1) of this section shall be due to the Government as a civil debt. The Commissioner shall not enter into an agreement as is referred to in subsection (1) of this section unless such agreement is accompanied by the payment of the sum due or a sufficient security for its payment.

(4) The provisions of this section shall be without prejudice to any proceedings or forfeiture instituted or having effect in virtue of any other law.

PART XI

Transitional Provisions

70. (1) Notwithstanding the provisions of subsection (1) of section 12 of this Act or of any regulations made in virtue of that section, every person established in Malta who is a taxable person on any date prior to the first January 1995 and who before the said date makes any supply which, had it been made on or after the said date, would have been a supply referred to in subsection (1) of section 25 of this Act shall apply for registration under this Act in terms of section 12 of this Act within thirty days from the later of the following two dates:

- (a) the date when the said supply is made;
- (b) the date of the coming into force of this section.

(2) The Commissioner shall register every person known to be liable to apply for registration in accordance with subsection (1) of this section whether an application for registration has been made or not by that person.

71. When any of the dates which are relevant for determining the date of a supply of goods or services, other than services to which subsection (4) of section 9 of this Act refers, in accordance with subsections (1), (2) and (3) of the said section is a date preceding the first January 1995, the date of that supply shall be determined in accordance with subsection (1) and without any reference to subsections (2) and (3) of the said section.

Continuous services.

72. Where a payment is received or an invoice is issued for services to which subsection (4) of section 9 of this Act refers, and that payment or invoice refers to a period (in this section referred to as “the period of the supply”) which commences before the first January 1995 and ends on or after that date, the supply that is to be treated as a separate supply by reference to that payment or invoice in accordance with the said subsection shall be deemed to be a supply for a period commencing on the said date and the taxable value of the said supply shall, save as the Commissioner may otherwise allow, be a proportion of the taxable value that would otherwise stand to be determined in accordance with the other provisions of this Act which corresponds to the proportion which the period commencing on the said date and ending on the last day of the period of the supply bears to the period of the supply.

Importations of goods before the first January 1995.

73. Where any goods are imported into Malta before the first January 1995 and the time at which import duty is to be computed in terms of the Import Duties Act or, where no such import duty is payable, the time at which it would be so computed had it been payable, falls on or after the said date, the said importation shall be deemed to have taken place on the said date.

Interpretation of certain contracts.

74. Where, in the execution of a contract made before the date on which this section comes into force, any goods or services are supplied on or after the first January 1995, and the supply of the said goods or services is a taxable supply, that contract shall, for all the purposes of any law, be interpreted as if the person to whom that supply is made had bound himself to pay, in addition to the consideration stipulated in or in accordance with the said contract, an amount equivalent to the tax chargeable on that supply under this Act:

Provided that this section shall not apply —

(a) where it results from the contract and from all the relevant circumstances that the consideration determined in accordance with that contract had already made provision for the said tax or that the parties had excluded any adjustment to the consideration on account of the said tax;

(b) where or to the extent that the said supply was, in terms of the said contract, due to take place before the first January 1995 and the delay was due to a fault on the part of the person who makes that supply.

Repeal and saving of the Expenditure Levy Act.

75. (1) The Expenditure Levy Act shall, as from the first January 1995 cease to have effect.

(2) Notwithstanding the provisions of subsection (1) of this section the provisions of the Expenditure Levy Act shall continue to have effect and shall subject to the provisions of subsection (3) of this section apply fully with respect to the provisions of any goods and services which takes place before the first January, 1995.

(3) The Minister may by order in writing to the Accountant General authorise the said Accountant General to waive any interests due in accordance with subsection (7) of section 5 of the Expenditure Levy Act, or reduce the rate of the said interest.

(4) Subsection (3) of this section shall be deemed to have entered into force on the first February, 1993.

76. The Minister may by regulations prescribe that such amount as may be determined in accordance with said regulations representing import duty or part thereof in terms of the Import Duties Act on the importation of goods which form part of the stock-in-trade of a person who is a registered person on the 1st January, 1995, shall be refunded to such person or set off against tax due by such person in such manner within such time and to such extent and subject to such conditions and limitations as may be prescribed in the said regulations. Transitory Provision.

FIRST SCHEDULE

Place of Supply of Services

Section 8

1. Except as otherwise provided in this Schedule a supply of services shall be treated as made in the country where the person who makes the supply is established.

2. A supply of services in connection with immovable property, including the services of an architect, an estate agent or expert, a valuer or an appraiser, construction works and on-site supervision of construction works shall be deemed to be made in the country where the immovable property is situated.

3. A supply of transport services shall be deemed to be made in the place where the journey commences.

4. A supply of services listed in this item shall be deemed to be made in the country where the activities are physically carried out:

(a) cultural, artistic, sporting, scientific, educational and entertainment activities, the activities of promoters and organizers of the said activities, and activities ancillary thereto;

(b) activities ancillary to transport, such as loading, unloading and handling;

(c) valuation of tangible movable property;

(d) work on movable tangible property.

5. A supply of services consisting in the letting of movable tangible property, with the exception of all forms of transport, shall be deemed to be made in the country where the property is used by the lessee.

6. The supply of the services listed in this paragraph shall be deemed to be made in the country where the customer to whom or for whom the services are supplied is established:

- (a) the transfer or assignment of a copyright, patent, trademark, tradename or licence or of any right thereon;
- (b) advertising services;
- (c) services of consultants, engineers, consultancy bureaus, advocates, legal procurators, accountants, auditors, financial advisors, data processing and the supply of information;
- (d) obligations to refrain from pursuing or exercising in whole or in part any economic activity;
- (e) banking, financial, insurance and re-insurance transactions, excluding the letting of a place for the safe deposit of any goods or documents;
- (f) the supply of staff;
- (g) the services of an agent who acts in the name and for the account of another, when he procures for his principal any of the services referred to in this item.

SECOND SCHEDULE

Exempt Supplies

Section 11(1)(a)

PART ONE Exemptions with Credit

Section 25(1)(b)

1. Exports

(1) The supply of goods which consists of the export of those goods by the supplier.

(2) The supply of goods to a taxable person established in Malta who carries on the business of arranging or financing the export of goods, for the purpose of the export of those goods by that person without the actual delivery of those goods to that person, provided the goods are actually exported without any processing or alterations and subject to such conditions, evidence or security as may be imposed or required by the Commissioner.

2. Services connected with exports

(1) The supply of services in procuring for a taxable person the export of goods from Malta or the supply of goods or services outside Malta.

(2) The supply of services to a person established outside Malta consisting of work on tangible movable property imported for the purpose of undergoing such work in Malta and exported out of Malta by the person who supplied those services or by his customer.

3. Services to companies registered but not operating in Malta

The supply of any services referred to in paragraph (c) of item 6 of the First Schedule to this Act to a company registered in Malta which does not carry on any economic activity in Malta and which is not a company whose capital or voting rights are owned, directly or indirectly, as to fifty per cent or more, by individuals who have a permanent address or who usually reside in Malta.

4. Goods in bond, supplies by duty free shops and Freeport activities

(1) A sale of goods which takes place while the goods are in a customs bond and which is entered by the Comptroller of Customs pursuant to section 36 of the Customs Ordinance or any provision amending or replacing the said section.

(2) The supply of goods and services by an operator of a duty free shop pursuant to and in accordance with a licence issued under the Duty Free Shop Regulations, 1991 or any other provisions amending or replacing the said regulations.

(3) A supply by a company of goods or services which takes place within a Freeport zone as defined in the Malta Freeports Act where the said supply constitutes an activity which the said company is licensed to carry on in terms of the said Act.

5. Port services

(1) Services in respect of vessels entering any port and of laid up vessels in any port for which dues are chargeable in terms of the Port Dues Regulations, 1977.

(2) The use of a buoy which is the property of or which is under the control or management of or operated by the Malta Maritime Authority and chargeable in terms of the Buoyage Dues Regulations, 1979.

(3) Pilotage and mooring services and services connected therewith for which fees are chargeable in terms of the Pilotage and Moorings Regulations, 1975.

(4) Tug assistance to vessels entering, leaving or shifting in the Grand Harbour, Marsamxett Harbour or in Marsaxlokk Harbour for which fees are chargeable in terms of the Towage (Tariff of Rates) Regulations, 1990.

(5) Services supplied by port workers in connection with loading, unloading and shifting of cargo as specified in the Port Workers Regulations, 1993.

(6) Services for which fees are chargeable in terms of the Port (Passenger Service Charge) Regulations, 1985.

(7) The supply of any services and certificates, including registration, in connection with the registration of ships and supplied in terms of the Merchant Shipping Act and regulations made under the said Act.

(8) Services supplied by the Malta Maritime Authority in yachting centres as specified in the Yachting Centres Regulations, 1992.

(9) Services supplied by the Malta Maritime Authority or by its contractor, as the case may be, and specified in the First, Second, Third, Fourth, Fifth and Seventh Schedules to the Port Rates Regulations, 1969, or in any special agreement entered into by the said Authority in respect of any matter referred to in the said regulations and providing for charges in place of any rates leviable under the same regulations.

(10) The licensing of boats in terms of the Police Licences Regulations, 1949.

6. International transport

The supply of services consisting in international transport of goods and passengers.

7. Provisioning and fuelling of ships and aircraft

(1) The supply of goods for the fuelling and provisioning of vessels used for navigation on the high seas for the purpose of commercial, industrial or fishing activities, of vessels used for rescue or assistance at sea, and of aircraft used by airlines operating for reward in international traffic.

(2) The supply of fuel to vessels for the purpose of inshore fishing.

8. Supply, repairs etc of ships and aircraft

(1) The supply, repair, modification, chartering and hiring of vessels or aircraft referred to in paragraph (1) of Item 7 of this Schedule, and the supply, hiring, repair and maintenance of equipment, including fishing equipment, incorporated or used therein.

(2) The supply of services, other than those referred to in paragraph (1) of this item, to meet the direct needs of the vessels and aircraft referred to in the said paragraph or of their cargoes.

9. Food

The supply of any food, as defined in Part Three of this Schedule, excluding any supply of food which is subject to tax at the rate specified in paragraph (b) of section 19 of this Act in terms of the Fifth Schedule to this Act.

10. Pharmaceutical goods

The supply of pharmaceutical goods, as defined in Part Three of this Schedule.

11. Health and Welfare

(1) The supply of services by a person in the exercise of any profession regulated by the Medical and Kindred Professions Ordinance.

(2) The provision of care or medical or surgical treatment in any Government hospital or institution or in any other hospital or institution approved by the Minister for the purposes of this paragraph.

(3) The supply of human organs, human blood and human milk.

(4) The supply of welfare services, including services supplied by homes for the elderly and homes for persons suffering from some permanent physical or mental disability, and services for the protection and care of children, young people and persons suffering from some permanent physical or mental disability, supplied by any government institution or by any institution or organization recognized by the Commissioner as a non-profit making institution or approved by the Minister for the purpose of this paragraph as an institution whose activities fall within the social and welfare policy of the government.

(5) The supply of transport services for sick, injured or disabled persons in vehicles specially equipped for that purpose.

(6) The supply of goods where the said supply is connected with and essential for the supply of the services referred to in paragraph (2) and (4) of this item by the hospital, institution or home, as the case may be, supplying the said services.

12. Education

(1) The provision of education or educational research, including distance learning, by a government school or institution, by the University of Malta, by a school or institution registered under the Education Act or by any educational establishment recognized as such by the Commissioner.

(2) The provision of education or educational research, including distance learning, of a kind provided by a school or university, or of religious instruction, by a non-profit making institution recognized as such by the Commissioner.

(3) Tuition given privately by teachers acting in an independent capacity in subjects which are normally taught in the course of education provided by a school or university but excluding tuition in recreational, physical or sporting activities or disciplines.

13. Transport

The supply of —

(a) transport supplied by the scheduled bus service consisting of scheduled trips on scheduled routes;

(b) scheduled inter-island sea trips supplied by authorized carriers;

(c) school transport supplied by an educational establishment recognized as such by the Commissioner or supplied to any such establishment for the purpose of being provided by it as school transport.

14. Investment Services

The supply of any of the services specified in the First Schedule to the Investment Services Act, 1994.

15. Supply of gold

The supply of gold to the Central Bank of Malta

16. Printed Matter

(1) The supply of books, booklets, copybooks, exercise books, brochures, pamphlets and leaflets.

(2) The supply of newspapers, journals and periodicals.

(3) The supply of maps, charts and topographical plans, excluding plans or drawings for industrial, engineering, commercial or similar purposes.

(4) The supply of musical scores, whether manuscript or printed, excluding recorded music.

(5) The supply of any item listed in the foregoing paragraphs of this item on electronic, magnetic, optic or any other machine readable media.

17. Water

The supply of water by a public authority, excluding the supply of water in any package or container.

18. The supply of objects mentioned in item 8 of the Third Schedule.

PART TWO

Other Exemptions

19. Immovable property

(1) The letting of immovable property excluding —

(a) the letting of or the provision of accommodation in any premises which for the purpose of the said letting or accommodation is required to be licensed in virtue of the Hotels and Catering Establishments Act or of the Guest Houses and Holiday Furnished Premises Act or in a holiday camp or camping site;

(b) the letting of premises and sites for parking vehicles where such premises or sites have been designated by the Commissioner as parking areas or which fall to be treated as such in terms of such regulations as may be prescribed;

(c) the letting of permanently installed equipment and machinery.

(2) The transfer of immovable property, including any right referred to in paragraphs (a), (b) and (c) of section 310 of the Civil Code and any emphyteutical grant, but excluding an emphyteutical grant for less than fifty years in respect of any property referred to in sub-paragraphs (a), (b) and (c) of paragraph (1) of this item.

20. Insurance services

The supply of insurance and reinsurance services, including related services performed by insurance brokers and insurance agents.

21. Credit, banking and other services

(1) The granting and the negotiation of credit and the management of credit by the person granting it.

(2) The negotiation of or any dealings in credit guarantees or any other security for money and the management of credit guarantees by the person who is granting the credit.

(3) Transactions, including negotiation, concerning deposit and current accounts, payments, transfers, debts, cheques and other negotiable instruments, but excluding debt collection and factoring.

(4) Transactions, including negotiation, concerning currency, bank notes and coins normally used as legal tender.

(5) Transactions, including negotiation, excluding management and safekeeping, in shares, interest in companies or associations, debentures and other securities, excluding documents establishing title to goods.

Provided that nothing in this item shall be construed as overriding the provisions of item 14 of this Schedule.

22. Postal services

The supply of services by the public postal services and of goods incidental thereto.

23. Cultural and religious services

(i) Religious services

(ii) The supply of such cultural services as may be approved by the Minister.

24. Sports

The supply by non-profit making organizations of such services related to sport or physical recreation as may be approved by the Minister.

25. Services related to certain exempt services

(1) The supply of staff by a non-profit making institution which is recognized as such by the Commissioner for the purpose of providing services referred to in paragraph (2) or (4) of item 11 or in paragraph (1) or (2) of item 12 of this Schedule.

(2) The supply of goods and services by a non-profit making organization in the course of an activity designed to raise funds to be used for the provision of goods and services which are exempt in terms of paragraph (2) or (4) of item 11 or of paragraph (1) or (2) of item 12: provided the activity is recognized by the Commissioner as being exclusively designed for the said purpose.

26. Services by non-profit making organizations to their members

The supply of services for the benefit of their members in return for a subscription fixed in accordance with their rules by non-profit making organizations with aims of a political, trade union, patriotic, philosophical, philanthropic or civic nature or whose main purpose is to represent and promote the common business or professional interests of their members: provided that in any case where, in the opinion of the Minister, this exemption is likely to cause distortion of competition, this exemption shall be subject to such exceptions or limitations as the Minister may by order in writing determine.

27. Lotteries

Government lotto and lotteries, the supply of agency services related thereto, and such other supplies related to gambling as may be approved by the Minister.

PART THREE

Definitions

For the purposes of this Schedule, the terms described in this Part of the Schedule shall have the meaning assigned to them in this Part.

(a) "Food" means the goods specified in the Customs Tariff contained in the First Schedule to the Import Duties Act under —

- (i) Chapter 1 excluding —
 - items falling under heading 01.06, and
 - animals kept for sport, recreation and hobby, but including rabbits and broiler pigeons
- (ii) Chapters 2 to 4, inclusive
- (iii) Chapters 7 to 12, inclusive
- (iv) Chapters 15 to 20, inclusive
- (v) Chapter 21 excluding items falling under subheadings 2106.90.34 and 2106.90.39
- (vi) Subheadings 2202.90.11 and 2202.90.20 in Chapter 22
- (vii) Chapter 23
- (viii) Subheading 2501.00.90 in Chapter 25

(b) "Pharmaceutical goods" means the goods specified in the Tariff referred to in paragraph (1) of this Schedule under —

- (i) Chapter 30
- (ii) Subheading 3407.00.10 in Chapter 34
- (iii) napkins and napkin liners for babies and for adult incontinence
- (iv) Subheadings 9001.30.00, 9001.40.00, 9001.50.00 and 9004.90.00 in Chapter 90

(c) A non-profit making institution or non-profit making organization means an institution or organization:

- (i) whose objects are clearly defined in its statute;
- (ii) whose objects expressly exclude profit making;

(iii) whose statute provides that no part of its income or property is available directly or indirectly to any member, proprietor or shareholder;

(iv) which, in the opinion of the Commissioner, is managed and administered in accordance with the provisions of its statute and for the purpose of its stated objects;

(v) which does not systematically aim to make a profit.

THIRD SCHEDULE

Exempt Importations

Section 11(1)(b)

1. The re-importation of —
 - (a) goods which are re-imported unaltered;
 - (b) samples which had been temporarily exported.

2. The importation of articles which are shown to the satisfaction of the Comptroller of Customs to have been awarded abroad to any person for distinction in art, literature, science or sport, or for public service, or otherwise as a record of meritorious achievement or conduct, and imported by or on behalf of that person.

3. The importation of articles and materials by Malta Drydocks for the equipping and the maintenance of the Dockyard, or which are required in connection with the services rendered by that corporation, other than articles and materials used in —
 - (a) goods produced by that corporation and intended to be disposed of in Malta, or
 - (b) locally registered ships other than ships referred to in item 6 of the Second Schedule to this Act.

4. (1) The importation of artificial limbs and other surgical appliances of a similar nature, including spare parts and accessories for the relief of permanent bodily disablement, provided that, in the case of spare parts and accessories, the Comptroller of Customs is satisfied that they are imported for the purpose of making locally artificial limbs or such other appliances, and invalid chairs which the Comptroller of Customs is satisfied are for the exclusive use of a person suffering from some permanent physical defect or disability.

- (2) The importation of goods which are specifically designed for the education, employment or social advancement of a person suffering from some permanent physical or mental disability, provided that the Comptroller of Customs is satisfied that the said goods are imported for the exclusive use of such person.

5. The importation of bird rings for use by qualified bird ringers for the study of the migratory habits of birds.

6. The importation of bona fide gifts of a non-commercial nature received occasionally by a person from another person residing abroad and being intended for the personal use of the consignee and his family, provided the gift is neither alcohol nor alcoholic beverage nor tobacco or tobacco products and the total CIF value of the gifts on every single occasion does not exceed twenty-five *liri*.

7. The importation of braille and any other article for the use of the blind imported through a recognized institute, if the Comptroller of Customs is satisfied that such articles are imported for the exclusive use of a blind person.

8. The importation of chalices, ciboriums, pyxes, monstrances, thuribles, incense boats, crosses, candlesticks, crucifixes, holy statues (*vari*), holy oil vessels, sanctuary lamps, Stations of the Cross, altar cards, cruets, reliquaries, processional lanterns, tabernacles and doors of tabernacles, exposition thrones and organs, intended for divine worship and imported to be used exclusively in connection with such divine worship in churches, chapels or other localities intended solely for such worship, and of church canopies used in procession and church bells.

9. The importation of hearing-aid apparatus designed for the use of the deaf and identifiable parts thereof.

10. The importation of household and personal effects, furniture and other domestic articles (excluding firearms and weapons of all kinds) which in the opinion of the Comptroller of Customs have been in use within that household by the importing person or his family, and which are imported by such person on removing his household from another country to Malta provided that such articles are imported within six months from the date of arrival in Malta of the person importing them to take up residence in Malta, or within such other period which the Comptroller of Customs may allow.

11. The importation of —

(a) passengers' baggage, including wearing apparel and personal effects, used, which the Comptroller of Customs is satisfied are intended for the passengers' personal use, but excluding firearms and weapons of all kinds;

(b) such tobacco products, wines, spirits, toilet waters and perfumes as may be allowed in accordance with the Convention concerning Customs Facilities for Touring made at New York on the 4th June, 1954;

(c) such goods bought for the passenger's own use or as *bona fide* gifts, other than the goods mentioned in subparagraphs (i) and (ii) hereof up to a value of Lm50, so however that where the total value of such goods exceeds Lm50, this provision shall not apply and the tax chargeable on such goods shall be deducted by Lm7.50.

12. The importation of samples of no commercial value.
13. The importation of scientific instruments or apparatus, intended exclusively for educational purposes of pure scientific research, provided —
 - (a) that such scientific instruments or apparatus are consigned to a public or private scientific or educational institution approved by the Minister responsible for education for the purpose of this provision and are used under the control and responsibility of such institution; and
 - (b) that instruments or apparatus of equivalent scientific value are not being manufactured in Malta.
14. The importation of sound and video recordings —
 - (a) of an educational, scientific or cultural character produced by the United Nations or any of its specialized agencies;
 - (b) of an educational nature imported by a government school or institution, by the University of Malta or by a school or institution registered under the Education Act provided that the Director of Education certifies that the materials are solely of an educational character and are to be used solely and entirely for educational purposes by such school;
 - (c) of language courses.
15. Statues and artistic decorations cast abroad from originals made by local artists, provided permission is obtained from the Comptroller of Customs before the original is forwarded abroad for casting.
16. The importation of goods the supply of which by a taxable person would, in all cases, be an exempt supply in terms of the Second Schedule to this Act.
17. The importation of food as defined in Part Three of the Second Schedule to this Act.
18. The importation of gold by the Central Bank of Malta.
19. The importation of goods where the Commissioner is satisfied that the said goods were imported for temporary use only, and subject to such conditions and to the provision of such security as the Commissioner may impose or require.
20. The importation of goods which are reexported without being released or immediately upon being released from a customs bond.
21. The importation of goods which are destroyed by the owner before they are released or immediately upon being released from a customs bond under such supervision and subject to such conditions as the Commissioner may require or impose.
22. The importation of goods into a Freeport as defined in the Malta Freeports Act: provided that this exemption shall apply only to the extent that the said importation is exempt from customs duty pursuant to the said Act, and shall be subject to all the conditions and limitations as are applicable under that Act to the said exemption from customs duty.

23. The importation of goods which is exempt from tax in virtue of an exemption granted under subsection (3) of section 11 of this Act.

FOURTH SCHEDULE

Taxable value of supplies and importations

Section 18

1. Except as otherwise provided in the other provisions of this Schedule, the taxable value of a taxable supply shall be the total value of the consideration paid or payable to the supplier by the purchaser, the customer or any other person for the supply, but excluding the value added tax chargeable under this Act on that supply.

2. When the consideration is paid or payable wholly or partly in kind its value, to the extent that it is so paid or payable, shall be its open market value.

3. The taxable value of a taxable supply shall include:

(a) taxes, duties, levies, fees and other charges (excluding the value added tax chargeable under this Act) payable by reason of the supply;

(b) commissions, packing, transport and insurance costs and other incidental expenses charged by the supplier to the purchaser or customer.

4. The taxable value of a taxable supply shall be the amount after deducting:

(a) price reductions by way of discounts for early payment;

(b) price discounts and rebates allowed to the customer and accounted for at the time of the supply;

(c) price discounts and rebates allowed to the customer after the time of the supply where the Commissioner is satisfied that they were so allowed for bona fide commercial reasons.

5. Where the consideration for a taxable supply is lower than the open market value and the person making the supply and the person to whom the supply is made are not independent of each other, or where the value of the consideration for a supply cannot be readily determined, the taxable value of that supply shall be the open market value of the goods or services supplied.

6. For the purposes of the foregoing paragraphs:

(a) two persons shall be deemed not to be independent of each other if, whether directly or indirectly, either of them has any interest in the business or property of the other, or both have a common interest in any business or property, or some third person has an interest in the business or property of both parties, provided, in each case, that such interest has, in the opinion of the Commissioner, influenced the terms regulating agreements between those two persons.

(b) the open market value of goods or services means the price which they would fetch if sold or provided in the open market on the date and in the state they are in when the said goods are delivered or the said services are performed.

7. When a transaction for which no consideration is paid or payable is deemed to be a supply of goods made by a person for a consideration by virtue of regulations made for the purposes of subsection (2) of section 7 of this Act the taxable value of that supply shall be the price which would be payable by that person if he were to purchase at the time of that supply goods identical or similar to the goods in question, or, where the value cannot be so ascertained, the cost of producing the goods in question at the said time.

8. When a transaction for which no consideration is paid or payable is deemed to be a supply of services made by a person for a consideration by virtue of regulations made for the purposes of subsection (2) of section 7 of this Act the taxable value of that supply shall be the full cost to that person of providing those services.

9. Where any value relevant for the determination of the taxable value of a taxable supply is expressed in a foreign currency the exchange rate applicable shall be the middle rate determined by the Central Bank for the date when the supply takes place.

10. Where the amount of tax chargeable under this Act is not identified in a payment for a taxable supply that payment shall be deemed to include the said tax.

11. Where any arrangement or scheme has been established by or under regulations prescribed under this Act for the purpose of determining the taxable value of taxable supplies in special classes of cases such arrangement or scheme shall apply notwithstanding these regulations or anything contained in this Act.

12. (1) Subject to the other provisions of this item, the taxable value of any imported goods shall be the value of the said goods at the time when the tax on the said importation is payable in terms of subsection (2) of section 21 of this Act, which value shall be established in the same manner as that applicable in terms of the Import Duties Act for the determination of the value on which duty *ad valorem* is chargeable under that Act, and all the relevant provisions of that Act shall apply *mutatis mutandis* and for the purposes of this paragraph the references in the said provisions to the Comptroller of Customs shall be construed as references to the Comptroller of Customs acting on behalf of the Commissioner.

(2) The value established as aforesaid shall be increased by any import duties chargeable on the importation of the said goods under the Import Duties Act, by any levies chargeable on the said importation under the Local Manufactures (Promotion) Act, by any excise duties payable in Malta by reason of the importation of those goods and, in the case of motor vehicles, by the tax chargeable under the Motor Vehicles Registration Tax Act.

(3) Where the said goods are transferred in Malta before the date on which the tax on their importation becomes payable in terms of subsection (2) of section 21 the taxable value shall be the value of the consideration paid or payable for the said transfer or the value established with the other provisions of this item, whichever is the higher.

(4) The provisions of the other items of this Schedule relating to the determination of the value of the consideration paid or payable for a taxable supply shall apply for the determination of the value of the consideration referred to in paragraph (3) of this item.

FIFTH SCHEDULE

Supplies subject to the rate specified in paragraph (b) of section 19

Section 19(b)

1. The supply of food purveyed at any establishment, building or premises, however described, which is required to be classified and licensed as such in terms of the Hotels and Catering Establishments Act and any regulations that may, from time to time, be made in exercise of the powers conferred by section 16 of the said Act.

2. The supply of food purveyed at any other premises purveying prepared food against payment for consumption on the premises, whether such food is prepared therein or not excluding —

(a) the supply of food in a club in an area restricted to purveying food and beverages solely to members and their guests;

(b) the supply of food by a canteen situated in a work or study area and which exclusively serves food and beverages to workers and students therein.

4. The supply of food to be consumed at a reception.

5. The supply of outside catering services.

6. The supply of accommodation in any premises which for the purpose of the provision of such accommodation is required to be licensed in virtue of the Hotels and Catering Establishments Act or of the Guest Houses and Holiday Furnished Premises Act.

7. The supply of services to persons supplied with accommodation in any premises to which item 6 applies where such services consist in amenities provided within the said premises.

8. In this Schedule the term "food" means food as defined in Part Three of the Second Schedule to this Act.

SIXTH SCHEDULE

Appeals to the Value Added Tax Appeals Board

Section 35

1. Composition of the Board

(1) The Value Added Tax Appeals Board (in this Schedule referred to as “the Board”) shall be composed of a Chairman and two members who shall be appointed by the Minister for a period of three years.

(2) The Minister may appoint a panel of persons to serve as Chairmen and a panel of persons to serve as other members of the Board, in which case the members shall serve in accordance with such distribution of duties, including provision for inability of members to serve and other circumstances, as the Minister may establish.

(3) A member of the Board may not be removed during the period for which he has been appointed except for proved misbehaviour or inability to perform his functions.

(4) The provisions of sections 733 to 739 inclusive of the Code of Organization and Civil Procedure shall apply to the Chairman and to the other members of the Board with respect to appeals before the Board in the same manner as they apply to judges with respect to a cause brought before a court.

(5) A person shall be disqualified from being appointed or continuing to be a member of the Board if he is a member of the House of Representatives.

(6) In the case of a vacancy in the Board which cannot be filled in accordance with a distribution of duties established in terms of subsection (2) of this section the Attorney General shall appoint a person to fill that vacancy in the hearing and determination of the case in which the vacancy occurs.

(7) The members of the Board shall receive such remuneration as the President of Malta may determine.

(8) The members of the Board shall not be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operations of the Board.

2. Secretary to the Board

(1) There shall be a secretary to the Board, who shall be a public officer designated as secretary by the Minister.

(2) The Minister may designate other public officers as deputy secretaries.

3. Competence of the Board

(1) The Board shall be competent to hear any appeal against an assessment and to confirm, reduce or increase any taxable value or credit or tax assessed by the

Commissioner, or cancel the assessment or make such other declaration or order as it deems fit.

(2) The Board shall be competent to determine any matter referred to it in accordance with section 33 of this Act.

(3) The Board may, in any decision, make such order on the costs of the case as it may deem appropriate.

4. Appeals against assessments

(1) An appeal against an assessment shall not be valid unless:

(a) a return for the tax period to which the assessment refers has been delivered to the Commissioner before the appeal is entered; and

(b) all tax payable by the appellant which is not in dispute has been paid; and

(c) not less than twenty-five per cent of the tax which is in dispute in terms of that appeal has been paid; and

(d) it is made within thirty days from the date of the service of the notice against which the appeal is made; and

(e) it is made on such form and in such manner as may be prescribed.

(2) The onus of proving that any taxable value assessed by the Commissioner is excessive or that any credit assessed by the Commissioner is insufficient shall lie on the appellant.

(3) The Board may refuse to consider any evidence as sufficient for the purpose of paragraph (2) of this item if the appellant has failed to keep the records and documents required to be kept by this Act or fails to produce such records or documents.

(4) The Board shall deliver its decision in writing and shall cause a copy of the decision to be served on the appellant.

5. Payment of the tax

(1) When a valid appeal has been made against an assessment, the payment of so much of the tax assessed which is in dispute as is not required to be paid before the appeal is made in accordance with item 4(1)(c) of this Schedule may be kept in abeyance until the appeal is finally determined: provided that the running of interest on the said tax shall not be meanwhile suspended.

(2) The running of the period referred to in subsection (2) of section 47 of this Act shall be suspended in respect of any tax or additional tax for any time during which the payment thereof may be kept in abeyance in terms of this item.

(3) Section 55 of this Act shall not apply to any interest due on tax the payment of which has been kept in abeyance in terms of the provisions of this item and to any additional tax due by reference to such tax.

(4) Where the tax payable as a result of a decision of the Board on an appeal against an assessment exceeds the tax shown to be payable in the said assessment, the excess shall be payable by not later than the end of the month during which the said decision is served on the appellant and interest at the rate specified in subsection (2) of section 22 of this Act shall be due on such excess from the said date for any period during which such excess remains unpaid.

6. References to the Board

(1) A reference to the Board of any matter referred to in section 33 of this Act shall be made by means of an application in writing which shall state clearly all the facts relevant to that matter and the manner in which, in the opinion of the applicant, that matter should be determined.

(2) The Board shall, after hearing all parties having an interest in the matter, and obtaining all relevant information, decide the matter and cause its decision to be served on the parties.

7. Procedures of the Board

(1) The Board shall have the power to summon any person to give evidence or to produce books or other documents and the Chairman shall have the power to administer an oath to any person appearing before the Board.

(2) The Minister may by regulations prescribe the manner in which an appeal or application is to be made to the Board, the place where the Board shall hold its sittings, the manner in which the parties may be assisted, the fees payable on appeals, the records to be kept by the Board, the functions of the secretary to the Board, and generally any matter relating to the procedures of the Board.

Passed by the House of Representatives at Sitting No. 314 of the 30th July, 1994.

RICHARD J. CAUCHI
Clerk to the House of Representatives

LAWRENCE GONZI
Speaker

