

MALTA

ATT Nru. XVIII ta' l-1994

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

ATT biex jirregola l-ġbir ta' taxxa fuq l-*income* u biex jipprovdi għall-mezzi amministrattivi għal dak il-ġbir.

ACT No. XVIII of 1994

AN ACT enacted by the Parliament of Malta.

AN ACT to regulate the collection of income tax and to provide the administrative machinery for such collection.

ATT TA' L-1994
DWAR L-AMMINISTRAZZJONI TAT-TAXXA

Arrangament ta' l-Artikoli

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Naghti l-kunsens tieghi,

(L.S.)

UGO MIFSUD BONNICI
President

13 ta' Settembru, 1994

ATT Nru. XVIII ta' l-1994

ATT biex jirregola l-gbir ta' taxxa fuq l-income u biex jipprovdi għall-mezzi amministrattivi għal dak il-gbir.

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

**TAQSIMA I
Preliminari**

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1994 dwar l-Amministrazzjoni tat-Taxxa. Titolu fil-qosor
u bidu fis-sehh.

(2) Dan l-Att għandu jibda jsehh f'dik id-data li l-Ministru responsabbli għall-finanzi jista' jistabbilixxi fil-Gazzetta, u jistgħu jkunu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

2. F'dan l-Att, u f'kull regoli magħmula taht dan l-Att, kliem u Tifsir.
espressjonijiet għandu jkollhom, kemm-il darba r-rabta tal-kliem ma
tehtiegħ xort'ohra, l-istess tifsir u l-istess interpretazzjoni li jinsabu fl-
artikolu 2 ta' l-Att dwar it-Taxxa fuq l-*Income*. Kap. 123.

**TAQSIMA II
Amministrazzjoni**

3. L-amministrazzjoni ta' dan l-Att u ta' l-Att dwar it-Taxxa fuq l-*Income*, (li hawnekk iżjed 'il quddiem qed jissejhu flimkien "l-Att dwar it-Taxxi") hi mogħtija lill-Kummissarju li jista' bil-miktub u skond dawk il-limitazzjonijiet li jidhirlu xierqa, jiddelega lil kull uffiċjal li jkun qed iservi fid-dipartiment tiegħu dawk id-drittijiet, id-dmirijiet, is-setgħat u l-funzjonijiet ohra li hu għandu jew mogħtija lilu jew imposti fuqu bl-Att dwar it-Taxxi. Matra ta'
awtorità
amministrattiva.

4. (1) Hlief fejn ikun mehtieg għall-finijiet ta' l-Atti dwar it-Taxxi, jew meta l-Prim Ministru jordna xort'ohra, kull persuna li jkollha xi dmir uffiċjali jew li tkun impjegata fl-amministrazzjoni ta' l-Atti dwar it-Taxxi għandha tqis u tittratta kollha kemm huma d-dokumenti, informazzjoni, prospetti u stimi li għandhom x'jaqsmu ma' l-Atti dwar it-Taxxi, jew kopji tagħhom, bhala sigrieti u konfidenzjali u għandha tagħmel u tissottoskrivi quddiem il-Qorti ta' l-Appell dikjarazzjoni bil-gurament fuq il-formola preskritta għal hekk.

(2) Ebda persuna mahtura taht, jew impjegata għat-tmexxija tad-dispożizzjonijiet ta' l-Atti dwar it-Taxxi ma tkun mehtiega li turi fil-qrati, tribunal, Bord jew kumitat ta' inkjesta, xi prospett, dokument jew stima jew li tikxef jew tikkomunika lil xi qorti, tribunal, Bord jew kumitat ta' inkjesta, xi materja jew haġa li ssir taf biha fil-qadi ta' dmirietha taht l-Atti dwar it-Taxxi hlief kif ikun mehtieg sabiex id-dispożizzjonijiet ta' l-Atti dwar it-Taxxi jigu fis-sehh, jew għall-iskop, jew fil-kors, ta' prosekuzzjoni għal xi reat magħmul kontra xi wahda mid-dispożizzjonijiet ta' l-Atti dwar it-Taxxi.

(3) Ebda haġa li tinsab f'dan l-artikolu ma ttelef il-kxif lil xi rappreżentant awtorizzat ta' xi Gvern iehor ta' dak it-tagħrif li jkun mehtieg li jiġi mikxuf skond xi arrangament magħmul taht l-artikolu 76 ta' l-Att dwar it-Taxxa fuq l-*Income*, jew ta' xi fatti mehtiega sabiex ikun jista' jinghata helsien xieraq f'Malta jew x'imkien iehor skond xi arrangament bhal dak taht l-artikolu 89 ta' l-Att dwar it-Taxxa fuq l-*Income*.

(4) Id-dispożizzjonijiet ta' dan l-artikolu dwar segretezza ma japplikawx għal tagħrif li jkun jinsab f'xi prospett ipprezentat skond l-artikolu 10 ta' dan l-Att u dwar dawk id-dettalji ta' l-*income* u kif preskritta taht l-Atti dwar it-Taxxi.

(5) (a) Il-Kummissarju għandu jibgħat lill-*Speaker* tal-Kamra tad-Deputati dikjarazzjoni ċertifikata li turi d-dettalji ta' l-*income* dikjarat minn kull Membru tal-Kamra tad-Deputati għall-fini ta' l-Atti dwar it-Taxxi mis-sena ta' stima li fiha dak il-Membru sar Membru tal-Kamra tad-Deputati għall-ewwel darba u għal kull sena ta' stima sussegwenti sa u inkluża s-sena ta' stima li tiġi wara s-sena li fiha dak il-Membru ma baqax Membru tal-Kamra:

Izda jekk Membru li ma jkunx baqa' Membru tal-Kamra tad-Deputati kif inghad qabel jerga' jsir Membru tal-Kamra, il-Kummissarju għandu jissottometti wkoll lill-*Speaker* id-dettalji ta' l-*income* dwar il-perjodu li jkopri s-snin meta dak il-Membru ma baqax Membru sakemm rega' sar Membru tal-Kamra.

(b) L-*Speaker* tal-Kamra tad-Deputati għandu, fuq talba bil-miktub minn xi Membru tal-Kamra jew mill-Editur responsabbli għal gazzetta registrata taht l-Att dwar l-Istampa, jagħti lil dak il-Membru jew Editur id-dettalji ta' l-*income* dwar xi sena ta' stima dikjarata minn xi Membru tal-Kamra tad-Deputati għall-finijiet ta' l-Atti dwar it-Taxxi, izda li d-dettalji ta' l-*income* hekk mitluba jkunu ġew mgħoddija lill-*Speaker* skond id-dispożizzjonijiet tal-paragrafu (a) ta' dan is-subartikolu u li qabel ma jagħti dak it-tagħrif l-*Speaker* għandu jinnotifika lil dak il-Membru li d-dettalji ta' l-*income* tiegħu jkunu qed jiġu mitluba, b'kopja ta' dik it-talba u tar-risposta li tkun qed tinghata.

(6) B'dan kollu li jinsab f'dan l-artikolu, il-Kummissarju jista' jippermetti lid-Direttur tal-Verifika tal-Gvern jew xi uffiċjal iehor awtorizzat ghal hekk mid-Direttur tal-Verifika sabiex ikollu aċċess ghal kull *records* jew dokumenti li jkunu mehtiega għall-qadi tad-dmirijiet tiegħu uffiċjali. Id-Direttur tal-Verifika jew kull uffiċjal bħal dan jitqies li hu persuna impjegata fl-amministrazzjoni ta' dan l-Att għall-finijiet ta' dan l-artikolu.

(7) B'dak kollu li jinsab f'dan l-artikolu il-Kummissarju jista' jagħmel uzu mid-dokumenti, tagħrif u prospetti dwar l-*income* jew partiti ta' *income* ta' kull persuna għall-fini ta' l-Att ta' l-1993 dwar it-Taxxa fuq Dokumenti u Trasferimenti, u jista' jipproduċi jew iġieghel lil min jipproduċi f'qorti, f'kull proċedimenti dwar taxxi mhallsa jew li għandhom jithallsu, u għall-ġbir ta' kull penali mwahħla bis-saħħa ta' dak l-Att, kopja ta' kull partikolaritajiet li jkun hemm fxi dokument jew prospett kif intqal fuq, ċertifikata minnu jew miċ-*Chairman* tal-Bord tal-Kummissarji Speċjali mwaqqaf bis-saħħa ta' l-artikolu 34 ta' dan l-Att jew mir-Registatur tal-Qorti Superjuri jew tal-Qorti tal-Maġistrati (Malta) jew tal-Qorti tal-Maġistrati (Għawdex), skond il-każ, li tkun kopja korretta ta' dawk il-partikolaritajiet:

Izda l-Kummissarju jista' jipproduċi jew iġieghel lil min jipproduċi l-original ta' kull dokument jew prospett bħal dan f'kull każ li jkun mehtieg li ssir il-prova tal-kalligrafija jew ta' l-identita' tal-persuna li tkun kitbet, għamlet, iffirmat jew tat dak id-dokument jew prospett, izda biss għall-iskop ta' dik il-prova.

TAQSIMA III Persuni Taxxabli

5. (1) B'zieda mad-dispożizzjonijiet li jinsabu fit-Taqsima IX ta' l-Att dwar it-Taxxa fuq l-*Income*, persuna mhux residenti f'Malta (hawnhekk iżjed 'il quddiem f'dan l-Att msejha bhala "persuna mhux residenti") tkun taxxabli u tista' tkun obbligata li thallas fisem il-fiducjarju, *guardian*, tutur, kuratur jew kumitat tagħha, jew fl-isem ta' xi mandatarju, *factor*, agent, *receiver*, jew *manager* ikunux idahhlu l-*income* jew le, bl-istess mod u bl-istess ammont bħalma dik il-persuna mhux residenti kienet tkun intaxxata u obbligata li thallas it-taxxa f'Malta u effettivament iddahhal dak l-*income*.

Responsabbiltà għat-taxxa ta' agent jew persuna li ttrissjedi barra minn Malta.

Persuna mhux residenti tkun sugġetta għat-taxxa u tista' tkun obbligata li thallasha dwar kull *income* li jinqala', sew direttament jew indirettament, b'mezz ta' jew minn kariga ta' mandatarju, *factor*, agent, *receiver*, fergħa jew *manager* u tkun hekk taxxabli u tista' tkun obbligata li thallas it-taxxa tal-mandatarju, *factor*, agent, *receiver*, fergħa jew *manager*.

(2) Meta d-detentur registrat ta' sehem ikun iżomm dak is-sehem għall-benefiċċju ta' persuna oħra, il-Kummissarju jkun intitolat iqis dak id-detentur registrat bhala intitolat benefiċjalment għal dak is-sehem hlief kif provdut fis-subartikolu (3) ta' dan l-artikolu.

(3) Meta d-detentur registrat ta' sehem huwa liċenzjat taht l-artikolu 51A ta' l-Att dwar iċ-Ċentru għas-Servizzi Finanzjarji ta' Malta jew huwa liċenzjat taht l-Att dwar is-Servizzi ta' Investiment biex jagħmel attivitajiet kif provdut fil-paragrafu 4 ta' l-Ewwel Skeda ta' dak l-Att u jipprovdi lill-Kummissarju b'ċertifikat bil-miktub li hu jzomm is-sehem għall-benefiċċju ta' persuna jew persuni li huma kollha mhux residenti f'Malta għall-finijiet ta' l-Att dwar it-Taxxi, il-Kummissarju ma jqisx lid-detentur registrat tas-sehem bħala li hu intitolat benefiċjalment għalih.

(4) Azzjonista *nominee* liċenzjat li johroġ lill-Kummissarju ċertifikat falz ikun hati li għamel dikjarazzjoni falza skond it-tifsira tal-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 52 ta' dan l-Att.

(5) Il-kaptan ta' kull bastiment li jkun ta' proprjeta' ta', jew noligġat minn, persuna mhux residenti li tkun taxxabli taht l-artikolu 28 ta' l-Att dwar it-Taxxa fuq l-*Income* għandu (għalkemm mhux b'eskluzjoni ta' xi aġent ieħor) jitqies li hu l-aġent ta' dik il-persuna mhux residenti għall-finijiet kollha ta' l-Att dwar it-Taxxi.

(6) Meta persuna mhux residenti jkollha negozju ma' persuna residenti, u l-Kummissarju jidhirlu li minhabba l-konnessjoni kbira bejn il-persuna residenti u l-persuna mhux residenti u l-kontroll sostanzjali eżerċitat mill-persuna mhux residenti fuq il-persuna residenti, il-kors tan-negozju bejn dawk il-persuni jista' jkun hekk irrangat u huwa hekk irrangat illi n-negozju magħmul mill-persuna residenti bis-saħħa tal-konnessjoni tagħha mal-persuna mhux residenti ma jipproduċi lill-persuna residenti ebda profitti jew jipproduċi profitti inqas minn dawk ordinarji li wiehed jista' jistenna li jkun hemm minn dak in-negozju, il-persuna mhux residenti tkun taxxabli u tista' tkun obligata li thallas it-taxxa fl-isem tal-persuna residenti daqslikieku l-persuna residenti kienet aġent tal-persuna mhux residenti.

(7) Meta l-Kummissarju jidhirlu illi l-ammont veru tal-qligh jew profitti ta' xi persuna mhux residenti li għandha thallas it-taxxa fl-isem ta' persuna residenti ma jistax, f'xi każ individwali, ikun aċċertat mingħajr diffikulta', il-Kummissarju jista', jekk jidhirlu xieraq, jintaxxa u jordna l-hlas mingħand il-persuna mhux residenti fuq persentaġġ xieraq u raġunat tat-thaddim tal-flus tan-negozju magħmul mill-persuna mhux residenti b'mezz tal-persuna residenti jew magħha li fl-isem tagħha huwa taxxabli kif imsemmi hawn qabel u f'dak il-każ id-dispozizzjonijiet ta' l-Att dwar it-Taxxi dwar il-kunsinni ta' prospetti jew informazzjonijiet minn persuni li jaġixxu f'isem haddieħor jestendu ruħhom b'mod illi jkunu meħtieġa prospetti jew informazzjonijiet li għandhom ikunu fornuti mill-persuna mhux residenti b'mezz tal-persuna residenti jew magħha, l-istess bħalma prospetti jew informazzjonijiet għandhom jigu ikkunsinnati minn persuni li jaġixxu għal persuni inkapaċitati jew mhux residenti dwar l-*income* li għandu jiġi intaxxat:

Izda l-ammont tal-persentaġġ għandu f'kull każ ikun deċiż billi wiehed iħares lejn ix-xorta tan-negozju u għandu, meta jiġi deċiż mill-Kummissarju, ikun sugġett għal appell kif provdut bl-artikoli 35 u 37 ta' dan l-Att.

(8) Ebda haġa f'dan l-artikolu ma tirrendi persuna mhux residenti taxxabli fl-isem ta' xi sensal, agent kummissjonant ġenerali jew agent ieħor meta dak is-sensal, agent kummissjonant ġenerali jew agent ma jkunux persuna awtorizzata li tmexxi l-aġenzija regolari tal-persuna mhux residenti, jew persuna taxxabli daqslikieku hija kienet agent skond is-subartikoli (5), (6) u (7) ta' dan l-artikolu, dwar qligħ jew profitti li jkun hemm minn bejgħ jew operazzjonijiet li jsiru b'mezz ta' dak is-sensal jew agent.

(9) Il-fatt meħud waħdu li persuna mhux residenti tagħmel bejgħ jew operazzjonijiet ma' oħrajn mhux residenti f'ċirkostanzi li jagħmluha taxxabli skond is-subartikoli (5) u (6) ta' dan l-artikolu fl-isem ta' persuna residenti ma jgħibx li hija tkun taxxabli dwar qligħ jew profitti li jkun hemm minn dak il-bejgħ jew l-operazzjonijiet.

(10) Meta persuna mhux residenti tkun sugġetta għat-taxxa fl-isem ta' xi mandatarju, *factor*, agent, *receiver*, ferġha jew *manager* dwar xi qligħ jew profitti li jkun hemm mill-bejgħ ta' oġġetti jew prodott manifatturat jew prodott barra minn Malta mill-persuna mhux residenti, il-persuna li f'isimha il-persuna mhux residenti tkun hekk taxxabli tista', jekk jidhrilha xieraq, titlob lill-Kummissarju sabiex l-istima tat-taxxa dwar dak il-qligħ jew profitti tkun magħmula jew emendata fuq il-bażi tal-profitti illi skond ir-raġuni wieħed għandu jistenna li negozjant jaqla' jew, meta l-oġġetti jinbiegħu bl-imnut mill-fabbrikant jew produttur jew għan-nom tiegħu, li bejgiegħ bl-imnut jaqla' ta' l-oġġetti mibjugħa, li jkun xtara mingħand il-fabbrikant jew produttur direttament, u meta tingħata prova b'sodisfazzjon tal-Kummissarju ta' l-ammont tal-profitti fuq il-bażi hawn fuq imsemmija, l-istima ssir jew tkun emendata skond hekk.

(11) Persuna mhux residenti ma tkunx, bis-saħħa ta' dan l-artikolu, taxxabli jew obligata li thallas it-taxxa fl-isem ta' agent jew rappreżentant ieħor dwar qligħ jew profitti li jinqalghu mill-persuna mhux residenti b'riżultat tal-provvediment f'Malta mill-agent jew dak ir-rappreżentant l-ieħor ta' xi wieħed mis-servizzi mniżżlin fl-Ewwel Skeda li tinsab ma' l-Att ta' l-1994 dwar Servizzi ta' Investiment, hekk iżda li:

(a) is-servizzi ta' investiment konċernati jingħataw fil-kors ordinarju ta' dak in-negozju; u

(b) ir-rimunerazzjoni li l-agent jew ir-rappreżentant l-ieħor jirċievi biex jipprovdi s-servizzi ta' investiment lil persuna mhux residenti tkun b'rata li ma tkunx inqas minn dik li tkun normali għal dik il-klassi ta' negozju, u fil-każ ta' agent jew rappreżentant ieħor li jipprovdi servizzi ta' investiment bħala parti biss min-negozju, għandhom japplikaw id-dispożizzjonijiet tal-paragrafi (a) u (b) ta' dan is-subartikolu daqslikieku dik il-parti kienet negozju separat.

(12) Għall-finijiet tas-subartikolu (11) ta' dan l-artikolu agent jew rappreżentant ieħor jitqies li ta servizz ta' investiment għan-nom tal-prinċipal tiegħu kemm jekk jagħmel l-operazzjoni hu stess kif ukoll jekk jagħti iSTRUZZJONIJET lil persuna oħra.

(13) L-attivitajiet ta' l-aġent jew rappreżentant iehor ma jolqtux ir-residenza ta' persuna mhux residenti għall-finijiet ta' taxxa.

Atti li għandhom isiru mill-fiducjarji, eċċ.

6. Il-persuna li fisimha bniedem mhux residenti jkun taxxabbli, tkun responsabbli għal dak kollu li hu mehtieg isir bis-saħħa ta' l-Atti dwar it-Taxxi għall-istima ta' l-*income* ta' xi persuna li għaliha hija tagixxi u għall-hlas tat-taxxa stabbilita fuq dak l-*income*.

Manager ta' korpjiet ta' persuni.

7. (1) Il-*manager* jew funzjonarju prinċipali iehor ta' kull korp ta' persuni jkun responsabbli għall-ghemil ta' dawk l-atti, affarijiet u hwejjeg kollha illi huma mehtieġa li jsiru bis-saħħa ta' l-Atti dwar it-Taxxi għall-istima tat-taxxa ta' dak il-korp u għall-hlas tat-taxxa.

(2) Kull funzjonarju prinċipali bħal dak għandu jhallas it-taxxa mill-proprjeta' ta' l-imsemmi korp ta' persuni. Izda hu jkun sugġett għall-hlas personalment u *in solidum* ma' kull persuna oħra responsabbli għaliha, jekk f'xi żmien wara l-1 ta' Jannar, 1979, hu jkollu fil-pussess tiegħu jew taht il-kontroll tiegħu xi proprjeta' tal-korp ta' persuni li setgħet tintuża biex tithallas it-taxxa li tkun dak iż-żmien dovuta.

(3) Il-likwidatur ta' kumpannija li tkun qed tiġi likwidata ma għandux iqassam xi attiv tal-kumpannija lill-azzjonisti tagħha kemm-il darba ma jkunx ipprovdta, safejn ikun jista' jagħmel dan mill-attiv tal-kumpannija, għall-hlas kollu ta' xi taxxa li huwa jkun jaf biha jew li jista' ragonevolment jistenna li għandha tithallas mill-kumpannija taht l-Atti dwar it-Taxxi u f'każ ta' nuqqas, dak il-likwidatur ikun sugġett personalment, u *in solidum* ma' kull persuna oħra responsabbli għaliha, għall-hlas tat-taxxa dovuta.

Listi li jitlestew mir-rappreżentant jew aġent.

8. Kull persuna illi, f'kull kwalita' li tkun, iddahhal flus jew valur li jkun *income* li jinqala' minn xi wiehed mill-għejjun imsemmija fl-Atti dwar it-Taxxi u li jkunu ta' jew jappartjenu lil xi persuna li tkun hekk taxxabbli dwar dak l-*income*, jew illi kienet tkun hekk taxxabbli li kieku kienet residenti f'Malta u li ma tkunx persuna inkapaċitata, għandha, kull meta mehtieġa li tagħmel hekk b'xi avviż mill-Kummissarju, thejji u tikkunsinna, fiż-żmien imsemmi f'dak l-avviż, lista iffirmata minnha li jkun fiha -

(a) dikjarazzjoni vera u korretta ta' dak l-*income* kollu; u

(b) l-isem u l-indirizz ta' kull persuna li lilha dak l-*income* ikun jappartjeni,

u d-dispożizzjonijiet ta' l-Atti dwar it-Taxxi dwar in-nuqqas tal-kunsinna ta' listi jew informazzjonijiet skond avviż minghand il-Kummissarju jkunu jghoddu għal dawn il-listi.

Indennizz ta' rappreżentant.

9. Kull persuna responsabbli taht l-Atti dwar it-Taxxi għall-hlas ta' taxxa fisem persuna oħra tista' iżzomm minn xi flus li jigu fidejha fisem dik il-persuna l-oħra daqs hekk minnhom daqs kemm ikun biżżejjed sabiex tithallas dik it-taxxa, u tkun u hija hawnhekk b'dan l-Att indennizzata kontra kull persuna, hi min hi, għall-hlasijiet kollha magħmulin minnha skond u bis-saħħa ta' l-Atti dwar it-Taxxi.

TAQSIMA IV Prospetti

10. Il-Kummissarju jista', b'avviż bil-miktub, jehtieg lil kull persuna sabiex taghtih fi żmien xieraq, li ma jkunx iqsar minn tletin jum mid-data tan-notifika ta' l-avviż, prospett ta' l-*income* flimkien ma' u li jkun fih dawk il-partikolaritajiet, dikjarazzjonijiet, kontijiet jew dokumenti oħra li jkunu mehtieġa sabiex l-*income* u t-tnaqqis permess ta' dik il-persuna taht id-dispożizzjonijiet ta' l-Att dwar it-Taxxa fuq l-*Income* jkunu jistgħu jiġu aċċertati malajr għall-finijiet ta' l-Att dwar it-Taxxi.

Avviż ta' l-intaxxar u prospetti.

11. Meta xi persuna sugġetta għat-taxxa ma tkunx irċeviet l-avviż imsemmi fl-artikolu 10 ta' dan l-Att dwar xi sena ta' stima li għaliha tkun hekk taxxabli, ikun id-dmir ta' dik il-persuna li tgharraf lill-Kummissarju illi hija hekk taxxabli u li tagħti prospett ta' l-*income* skond l-artikolu 10 ta' dan l-Att mhux iktar tard mit 30 ta' Settembru 1995 dwar is-sena ta' stima 1995 jew snin ta' stima ta' qabel, u dwar is-snin ta' stima wara s-sena ta' stima 1995 li tgharraf lill-Kummissarju illi hija hekk taxxabli mhux iktar tard mill-31 ta' Marzu, u li tagħti prospett ta' l-*income* mhux iktar tard mit-30 ta' Settembru tas-sena ta' stima relattiva.

Meta ma jkunx riċevut l-avviż.

12. (1) Jekk persuna mehtieġa li tissottometti prospett taht l-artikolu 10 jew 11 ta' dan l-Att -

Dispożizzjonijiet dwar l-ippreżentat ta' prospetti.

(a) tkun kumpannija li la tkun registrata u lanqas residenti f'Malta ; jew

(b) tissottometti, flimkien mal-prospett, kontijiet tas-sengħa, negozju, professjoni jew vokazzjoni tagħha ċertifikati minn uditur pubbliku ċertifikat,

kull żmien imsemmi mill-Kummissarju f'avviż mogħti taht l-imsemmi artikolu 10 bhala li hu ż-żmien li fih il-prospett għandu jsir għall-finijiet tiegħu għandu jiftiehem bhala li hu żmien li jagħlaq, sitt xhur mill-ewwel gurnata tas-sena ta' stima relattiva:

Iżda meta persuna tkun għet mogħtija permess taht id-dispożizzjonijiet ta' l-artikolu 11 ta' l-Att dwar it-Taxxa fuq l-*Income* li tagħlaq il-kontijiet tagħha sa data li ma tkunx il-gurnata li tigi minnufih qabel is-sena ta' stima, l-imsemmi żmien ta' sitt xhur għandu jitnaqqas bi żmien li jkun daqs dak li d-data tal-kontijiet tigi qabel l-imsemmija gurnata:

Iżda wkoll iż-żmien li fih prospett għandu jsir ma għandu febda każ ikun inqas minn dak imsemmi fl-avviż mogħti mill-Kummissarju.

(2) Ebda prospett li jkun jidher li ntbagħat skond id-dispożizzjonijiet ta' l-artikolu 10 u 11 ta' dan l-Att ma għandu jitqies li jkun gie hekk mibgħut kemm-il darba l-imsemmi prospett ma jkun komplet fid-dettalji materjali kollha.

(3) Il-Kummissarju ghandu, kull sena, jibghat lil kull persuna li tkun naqset milli tibghat prospett skond id-dispożizzjonijiet ta' l-artikoli 10 u 11 ta' dan l-Att avviż wiehed jew aktar, skond kif ikun mehtieg, li jirreferi ghal dak in-nuqqas u jinfurmaha li minhabba f'dak in-nuqqas hija tkun barra minn hekk wehlet taxxa addizzjonali ghal kull wiehed minn dawk l-avviżi kif hemm provdut taht id-dispożizzjonijiet tat-tielet proviso ghas-subartikolu (12) ta' l-artikolu 56 ta' l-Att dwar it-Taxxa fuq l-*Income*.

Il-Kummissarju jista' jitlob prospetti ohra."

13. Il-Kummissarju jista' jaghti avviż bil-miktub lil kull persuna meta u ghal kemm-il darba jidhirlu mehtieg fejn jordnalha li taghtih, fi żmien xieraq iffissat f'dak l-avviż, prospetti aktar dettaljati jew prospetti ohra dwar xi materja li fuqha prospett huwa mehtieg jew preskritt bl-Att dwar it-Taxxi.

Ordni ghall-ghoti ta' prospetti, kotba, eċċ.

14. Sabiex jikseb informazzjoni sewwa dwar l-*income* ta' xi persuna, il-Kummissarju jista' jaghti avviż lil dik il-persuna fejn jehtieg minn ghandha li, fi żmien xieraq, tlesti u tikkunsinna lill-Kummissarju xi prospett speċifikat f'dak l-avviż u /jew sabiex tmur hi stess jew billi tibghat lil haddiehor minflokha quddiemu u turih, ghall-eżami, il-kotba, dokumenti, kontijiet u prospetti (inklużi dikjarazzjonijiet u kotba tal-bank) illi l-Kummissarju jidhirlu mehtiega.

Il-prospetti jitqiesu li jkunu fornuti bis-setgħa mehtiega.

15. Prospett, dikjarazzjoni jew formula li jidhru li huma fornuti taht l-Att dwar it-Taxxi minn jew fisem persuna ghandhom, ghall-finijiet kollha, jitqiesu li ġew fornuti minn dik il-persuna jew bl-awtorita' tagħha, skond il-każ, sakemm ma jkunx pruvat il-kuntrarju, u kull persuna li tiffirma xi prospett, dikjarazzjoni jew formula bhal dawk ghandha titqies li taf b'kull ma jinsab fihom.

Informazzjoni uffiċjali.

16. Il-Kummissarju jista' jehtieg lil kull persuna li ghandha kariga jew impieg, kemm jekk imhallsa kemm jekk le, mal-Gvern ta' Malta jew ma' xi organizzazzjoni jew korp ieħor, sew jekk ghandhom personalita' legali u sew jekk le, li fihom il-Gvern ta' Malta jew xi korp kif intqal qabel ikollu setgħa li jikkontrolla jew li fuqhom ikollu kontroll effettiv, sabiex jaghtih l-informazzjonijiet dwar persuna jew persuni speċifikati minnu kif ikun mehtieg għall-finijiet ta' l-Att dwar it-Taxxi u li jistghu jkunu fil-pussess ta' dik il-persuna li jkollha dik il-kariga jew impjeg:

Iżda ma ssir ebda talba għall dawk l-informazzjonijiet taht dan l-artikolu kemm-il darba l-Kummissarju jew xi uffiċjal awtorizzat minnu ma jkollux raġuni xierqa biex jissuspetta li l-persuni msemmija jew li jkunu se jissemmew fit-talba jkunu evadew it-taxxa:

Iżda wkoll ebda persuna li jkollha dik il-kariga jew impieg kif imsemmi qabel, ma ghandha, bis-saħħa ta' dan l-artikolu, tkun obligata li tikxef xi informazzjoni dwar persuna li dwarha dik il-persuna b'dik il-kariga jew impjeg tkun marbuta bis-sigriet professjonali.

Sigriet professjonali.

17. Bla hsara għad-dispożizzjonijiet dwar ir-rabta ta' sigriet professjonali, ebda talba għal informazzjoni ma ghandha ssir skond xi setgħa mogħtija taht l-Att dwar it-Taxxi minghand il-persuni liċenzjati li ġejjin:

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

(b) kumpannija ta' assigurazzjoni dwar kummerċ ta' assigurazzjoni fuq il-hajja li jitnemma skond liċenzja mahruġa taht l-Att dwar l-Impriza ta' l-Assigurazzjoni;

Kap. 290.

(c) kull persuna liċenzjata li tmexxi negozju ta' investiment taht l-Att ta' l-1994 dwar Servizzi ta' Investiment;

(d) skema ta' investiment kollettiv liċenzjata taht l-Att ta' l-1994 dwar is-Servizzi ta' l-Investment;

(e) *stockbroker* liċenzjat taht l-Att dwar il-Borża ta' Malta,

Kap. 345.

hliet biss biex jiġi stabbilit l-*income* taxxabli ta' dik il-persuna liċenzjata, u fir-risposta ghal kull talba bhal dik il-persuna liċenzjata m'ghandhiex tikxef xi informazzjoni dwar l-affarijiet ta' persuni li magghom il-persuna liċenzjata jkollha jew kellha relazzjonijiet professjonali:

Iżda xejn f'dan l-artikolu ma ghandu jippreġudika d-dritt tal-Kummissarju li jagħmel talba li jirreferi għaliha s-subartikolu (2) ta' l-artikolu 34 ta' l-Att dwar it-Taxxa fuq l-*Income*.

18. (1) Meta xi prospett, dikjarazzjoni jew formula magħmula u konsenjata lill-Kummissarju għall-finijiet ta' l-Atti dwar it-Taxxi tkun intilfet jew giet distrutta, jew tkun giet imhassra jew gratilha hsara hekk li ma tkunx tinqara jew tkun xort'ohra bla siwi, il-Kummissarju jista' jehtieg lill-persuna li tkun ghamlet jew ikkonsenjat, jew li fisimha jkun gie magħmul jew ikkonsenjat, dak il-prospett, dikjarazzjoni jew formula li tagħtih mill-ahjar li tista' kopja duplikata ta' dak il-prospett, dik id-dikjarazzjoni jew formula jew li tagħti dik l-informazzjoni, partikolaritajiet jew provi li jkunu mehtieġa minflokhom.

Sostituzzjoni ta' prospetti originali.

(2) Ebda haġa li tinsab f'dan l-artikolu ma tolqot id-dispożizzjonijiet tas-subartikoli (2) u (3) ta' l-artikolu 31 ta' dan l-Att, u lanqas il-Kummissarju ma jkollu s-setgħa li jitlob kopja ta' xi prospett, dikjarazzjoni jew prova dwar xi sena ta' stima meta l-iffissar ta' l-istima relattiva jkun preskritt skond id-dispożizzjonijiet ta' l-imsemmija subartikoli.

19. (1) Kull persuna li jkollha sengħa, negozju, professjoni jew vokazzjoni għandha iżomm *records* xierqa u suffiċjenti ta' l-*income* u spejjeż tagħha sabiex l-*income* u t-tnaqqis permess tagħha jkunu jistgħu jiġu aċċertati malajr.

Records li għandhom jinżammu.

(2) Ir-*records* msemmija fis-subartikolu (1) ta' dan l-artikolu għandhom jinkludu:

(a) kontijiet xierqa dwar -

(i) is-somma ta' flus kollha riċevuti jew minfuqa u l-hwejjeg li dwarhom ikunu saru r-riċevuti jew l-infieq, u

(ii) kull bejgħ, xiri jew servizzi mogħtija, kif ukoll kull transazzjoni, att jew operazzjoni oħra li għandhom x'jaqsmu mas-sengħa, negozju, professjoni jew vokazzjoni;

(b) kont ta' profitt u telf jew dikjarazzjoni annwali ekwivalenti;

(ċ) dikjarazzjoni ta' l-attiv u l-passiv kif kienu fid-data li fiha l-kontijiet annwali tas-sengħa, negozju, professjoni jew vokazzjoni jkunu magħluqa jew, fil-każ ta' kumpannija *balance sheet*.

(3) Bla hsara għal dawk il-kondizzjonijiet li jidhirlu xierqa li jimponi, il-Kummissarju jista' jeżenta lil kull persuna dwar kull sena ta' stima milli żżomm xi *record* jew dikjarazzjoni kif imsemmi fis-subartikolu (2) ta' dan l-artikolu.

(4) Ir-*records* meħtieġa li jinżammu b'dan l-artikolu għandhom ikunu ppruvati b'dawk id-dokumenti li jkunu xierqa fiċ-ċirkostanzi, inklużi -

(a) fil-każ ta' kumpannija residenti f'Malta, il-*balance sheet* u l-kont ta' profitt u telf, li għandhom iharsu f'kull dettall id-dispożizzjonijiet ta' l-artikolu 135 ta' l-Ordinanza dwar is-Soċjetajiet Kummerċjali, u minkejja kull eżenzjoni magħmula b'dik l-Ordinanza jew b'xi liġi oħra, dik il-*balance sheet* u l-kont ta' profitt u telf għandu jkollhom magħhom rapport magħmul minn uditur pubbliku ċertifikat kif provdut bl-artikolu 142 ta' dik l-Ordinanza;

(b) fil-każ ta' għaqda koperativa, id-dikjarazzjonijiet finanzjarji verifikati ta' l-għaqda, imhejjija f'kull dettal kif meħtieġ bil-liġi li għal dak iż-żmien tkun fis-seħħ li tirregola għaqdiet koperattivi u jkollhom magħhom kull rapport li b'dik il-liġi jkun meħtieġ li għandu jkun mad-dikjarazzjonijiet finanzjarji verifikati ta' l-għaqda.

(5) Ir-*records* kollha meħtieġa li jinżammu skond xi waħda mid-dispożizzjonijiet ta' dan l-artikolu għandhom jiġu konservati għal żmien ta' mhux inqas minn disa' snin wara li jkunu tlestew it-transazzjonijiet, l-atti jew l-operazzjonijiet li għalihom jirreferixxu:

Iżda d-dispożizzjonijiet ta' dan is-subartikolu ma japplikawx meta jkun ingħata effett lid-dispożizzjonijiet ta' l-artikolu 27 ta' dan l-Att, jew tas-subartikolu (2) ta' l-artikolu 161 ta' l-Ordinanza dwar is-Soċjetajiet Kummerċjali.

Kap. 168.

Ċerti setgħat
tal-Kummissarju.

20. (1) Il-Kummissarju, jew kull uffiċjal awtorizzat minnu bil-miktub, ikollu l-jedd kollu ta' aċċess liberu fil-postijiet kollha ta' negozju jew professjoni bħal uffiċċji, fabriki, hwienet tax-xogħol, imħażen, garaxxijiet u art li sservi għal hekk sabiex ikun jista' josserva u jirreġistra x-xorta u l-importanza ta' kull attivita' ta' negozju jew professjonali li titmexxa hemmhekk, u sabiex jivverifika l-eżistenza ta' merkanzija u mezzi ta' produzzjoni u trasport iżda ma jkollu ebda setgħa taħt dan l-artikolu li jaqbad u jieħu xi haġa minn dak il-post:

Izda l-Kummissarju jew uffiċjal awtorizzat minnu kif intqal qabel ma jistax jaqbad xi att jew registru nutarili, u ma jistax jispezzjona testmenti pubbliċi, l-atti ta' kunsinna ta' testmenti sigrieti u r-registri tagħhom matul il-hajja tat-testatur jew testaturi, minghajr il-permess bil-miktub ta' dak it-testatur jew dawk it-testaturi:

Izda wkoll il-Kummissarju jew uffiċjal awtorizzat minnu kif intqal qabel ma jistax jispezzjona xi dokument jew registru iehor li jkun imhars bir-rabta ta' sigriet professjonali li jisma' xi taħdita jew mezz ta' registrazzjoni li jkunu mharsa bl-istess sigriet.

(2) Jekk fl-eżerċizzju tas-setgħat tiegħu taht is-subartikolu (1) ta' dan l-artikolu, il-Kummissarju jew persuna awtorizzata minnu kif imsemmi, jehtieg aċċess f'xi post li għal kollox jew f'parti jkun okkupat bhala residenza, dak l-aċċess jehtieg il-preżenza ta' uffiċjal tal-Pulizija ta' grad ta' mhux anqas minn Spettur u ma jistax isir bejn id-disgħa ta' filghaxija u l-hamsa ta' filghodu.

(3) Il-Kummissarju għandu, sabiex jagħmel stima tat-taxxa taht l-Atti dwar it-Taxxi, ikollu l-jedd li jagħmel ir-rikors imsemmi fil-paragrafu (a) tas-subartikolu (2) ta' l-artikolu 68 ta' l-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili, u d-dispożizzjonijiet ta' l-imsemmi subartikolu (2) għandhom, safejn ikunu applikabbli, japplikaw għal dak ir-rikors.

Kap. 55.

(4) Jekk xi persuna timpedixxi jew tfixkel lill-Kummissarju jew l-imsemmi uffiċjal fl-esekuzzjoni ta' dmirijietu, jew tirrifjuta li thares xi talba magħmula mill-Kummissarju jew mill-imsemmi uffiċjal skond id-dispożizzjonijiet ta' dan l-artikolu, hija, meta tinsab hatja mill-Qorti tal-Maġistrati tal-Pulizija Ġudizzjarja, bhala qorti ta' ġudikatura kriminali, tkun sugġetta għal multa ta' mhux inqas minn hamsa u ghoxrin lira u mhux iżjed minn mitejn lira jew prigunerija għal żmien ta' mhux iżjed minn sitt xhur jew sew għal dik il-multa u dik il-prigunerija flimkien.

(5) Is-setgħat ta' investigazzjoni taht dan l-artikolu ma jkunux eżerċitati kemm-il darba l-Kummissarju jew xi uffiċjal awtorizzat minnu, ma jkollux raġunijiet xierqa jissospetta li jkun hemm evażjoni tat-taxxa dwar operazzjonijiet li jkunu qed isiru mit-*taxpayer* fil-post imsemmi fis-subartikolu (1) ta' dan l-artikolu.

21. (1) Kull min ihaddem nies oħrajn, meta mehtieg li jagħmel hekk, b'avviż mingħand il-Kummissarju, għandu, fiż-żmien stabbilit fl-avviż, ilesti u jikkunsinna għal xi sena prospett li jkun fih -

Prospett
li jingħata
minn min ihaddem
nies oħra.

(a) l-ismijiet u l-indirizzi ta' fejn joqogħdu l-persuni kollha impjegati minnu; u

(b) il-hlasijiet u *allowances* magħmulin lil dawk il-persuni dwar dak l-impieg,

u d-dispożizzjonijiet ta' l-Atti dwar it-Taxxi dwar in-nuqqas tal-kunsinna tal-prospetti jew informazzjonijiet skond avviż mingħand il-Kummissarju jkunu jghoddu għal dak il-prospett.

(2) Meta dak li jhaddem ohrajn ikun korp ta' persuni, il-*manager* jew funzjonarju iehor principali jitqies li huwa l-persuna li thaddem għall-finijiet ta' dan l-artikolu, u kull direttur ta' kumpannija, jew persuna mqabba fid-direzzjoni ta' kumpannija, jitqiesu li huma persuna impjegata.

Hlas ta' taxxa ta' individwi impjegati iżda mhux domiciljati jew ordinarjament residenti f'Malta.

22. (1) F'dan l-artikolu l-frazi "individwu li għalih dan l-artikolu jghodd" tfisser individwu li mhux domiciljat f'Malta jew li, jekk hekk domiciljat, mhux ordinarjament residenti fiha.

(2) Meta xi persuna timpjega f'Malta individwu li għalih dan l-artikolu jghodd li huwa jew aktarx ikun taxxabli skond id-dispożizzjonijiet ta' l-Atti dwar it-Taxxi għandha tagħti avviż bil-miktub lill-Kummissarju mhux aktar tard minn tliet xhur wara d-data tal-bidu ta' dak l-impieg, li juri l-isem u l-indirizz shih ta' dak l-individwu, id-data tal-bidu u l-pattijiet ta' impieg.

(3) Kull persuna li ttemm milli timpjega f'Malta individwu li għalih dan l-artikolu jghodd u li huwa jew aktarx ikun taxxabli skond l-Atti dwar it-Taxxi, għandha tagħti avviż bil-miktub lill-Kummissarju mhux anqas minn xahar qabel ma dak l-individwu jtemm milli jkun impjegat minnha f'Malta, li juri l-isem u l-indirizz ta' l-individwu u d-data mistennija ta' temm:

Iżda l-Kummissarju jista' jaċċetta dak l-avviż aqsar li jista' jidhirlu xieraq.

(4) Kull persuna li timpjega f'Malta individwu li għalih dan l-artikolu jghodd u li skond tagħrif ta' dik il-persuna jkun sejjer jitlaq jew bi hsiebu jitlaq minn Malta fit-temm ta' l-impieg tiegħu ma' dik il-persuna għandha tagħti avviż bil-miktub lill-Kummissarju dwar id-data mistennija ta' tluq ta' dak l-individwu. Dan l-avviż għandu jinghata mhux anqas minn xahar qabel id-data mistennija ta' tluq:

Iżda l-Kummissarju jista' jaċċetta dak l-avviż aqsar li jista' jidhirlu xieraq.

(5) Meta xi persuna fil-kapaċita' tagħha bħala persuna li thaddem individwu hawnhekk iżjed 'il quddiem imsemmi jkollha fil-pussess tagħha xi flejjes ikunu li jkunu li huma jew jistgħu jkunu dovuti lil jew għall-benefiċċju ta' individwu li għalih dan l-artikolu jghodd u li jkun temm jew ikun sejjer itemm milli jkun impjegat minn dik il-persuna f'Malta, m'għandhiex minghajr il-permess tal-Kummissarju, b'dak kollu li hemm fid-dispożizzjonijiet ta' xi liġi oħra, thallas ebda parti minn dawk il-flejjes lil jew għall-benefiċċju ta' dak l-individwu sat-temm ta' tletin għunata wara l-irċevuta mill-Kummissarju ta' dak l-avviż kif meħtieġ li jinghata skond is-subartikolu (4) ta' dan l-artikolu.

(6) Il-Kummissarju jista' b'avviż bil-miktub kull meta jidhirlu xieraq jiddikjara lil kull persuna li timpjega f'Malta individwu li għalih dan l-artikolu jghodd, li jkun individwu li huwa jew aktarx ikun taxxabli skond l-Atti dwar it-Taxxi, biex tkun il-persuna rappreżentanti li thallas it-taxxa dwar dak l-individwu, u l-persuna hekk dikjarata

ghandha tkun il-persuna rappreżentanti li thallas it-taxxa dwar dak l-individwu għall-finijiet ta' l-Att dwar it-Taxxi u tista tkun meħtieġa li thallas kull taxxa dovuta minn dak l-individwu minn proprjeta' jew flejjes, maghduda pensjoni, salarju, pagi jew kull kumpens li jista' jkun dovut minnha lil dak l-individwu u, f'nuqqas, dak il-hlas għandu, b'dak kollu li hemm fid-dispożizzjonijiet ta' xi liġi oħra, jingabar mill-persuna rappreżentanti li thallas it-taxxa hekk dikjarata mill-Kummissarju bil-mod maħsub fit-Taqsima VII ta' dan l-Att.

(7) Kull avviż li għandu jinghata lill-Kummissarju skond id-dispożizzjonijiet ta' dan l-artikolu għandu jinghata b'zieda ma' kull avviż iehor li għandu jinghata skond l-artikolu 23 ta' dan l-Att.

(8) Meta jinghataw servizzi f'Malta għal xi persuna residenti f'Malta minn individwu li ma jkollux min ihaddmu f'Malta d-dispożizzjonijiet ta' qabel ta' dan l-artikolu għandhom japplikaw għal dik il-persuna residenti bl-istess mod daqslikienu kienet il-persuna li thaddem lill-imsemmi individwu.

23. (1) Meta xi persuna thallas xi *income* taxxabli taht il-paragrafu (b) jew (d) tas-subartikolu (1) ta' l-artikolu 4 ta' l-Att dwar it-Taxxa fuq l-*Income*, hi għandha, fil-hin tal-hlas, jew tnaqqas jew ma tnaqqasx it-taxxa minnu kif jista' jigi preskritt u b'dak il-mod li jista' jigi preskritt; u kull taxxa hekk imnaqqa għandha tintbagħat lill-Kummissarju b'dak il-mod u f'dak iż-żmien li jigi preskritt.

Hlas bi tnaqqis minn ċertu *income*.

(2) L-ammonti ta' taxxa mibgħuta kif imsemmi fis-subartikolu (1) ta' dan l-artikolu għandhom fil-każijiet kollha jintbagħtu lill-Kummissarju flimkien ma' dawk id-dettalji li bihom jintgħarfu sewwa u min jonqos li jagħti dawk id-dettalji fiż-żmien preskritt jehel penali sa massimu ta' 10 liri għal kull gurnata li matulha jkompli n-nuqqas:

Iżda l-Kummissarju jista' fid-diskrezzjoni tiegħu jnaqqas xi penali hekk imwahnha.

(3) Tnaqqis ta' taxxa li jsir taht is-subartikolu (1) ta' dan l-artikolu għandu jitpatta għall-finijiet ta' għbir mat-taxxa tal-persuna li tirċievi l-*income* għas-sena ta' stima li tigi wara dik li matulha jkun sar it-tnaqqis, jew ma' dik ta' xi sena ta' stima oħra kif jagħzel il-Kummissarju u kull taxxa li ma tistax titpatta kif intqal qabel għandha tigi mħallsa lura skond id-dispożizzjonijiet ta' l-artikolu 48 ta' dan l-Att:

Iżda d-dispożizzjonijiet ta' dan is-subartikolu ma japplikawx meta xi taxxa mnaqqa kif intqal qabel ma tkunx giet mibgħuta lill-Kummissarju u l-Kummissarju jkun sodisfatt li dak in-nuqqas li tintbagħat kien minhabba xi htija jew konnivenza tal-persuna li tirċievi l-*income*.

(4) Jekk xi persuna tonqos li tnaqqas taxxa skond id-dispożizzjonijiet ta' xi regoli magħmula skond is-subartikolu (1) ta' dan l-artikolu jew, wara li tnaqqas dik it-taxxa, tonqos li thallasha lill-Kummissarju fiż-żmien preskritt, din tigi ntaxxata bit-taxxa li kellha titnaqqas jew tithallas u, b'zieda, bid-doppju ta' l-ammont ta' dik it-taxxa,

u dik it-taxxa u t-taxxa addizzjonali jigu miġbura minghand dik il-persuna bl-istess mod bhal taxxa oħra stmata u intaxxata lilha; u għall-finijiet ta' dan is-subartikolu avviż mill-Kummissarju lil xi persuna li juri t-taxxa li kellha titnaqqas jew tintbagħat u kull taxxa addizzjonali li dik il-persuna tkun sugġetta għaliha minhabba li tkun naqset li tnaqqas jew tibgħat it-taxxa jkun, sakemm ma jiġix ppruvat il-kuntrarju, prova biżżejjed li dak l-ammont muri fl-imsemmi avviż ikun l-ammont li għandu jithallas lill-Kummissarju minn dik il-persuna.

(5) Il-Kummissarju jista' fid-diskrezzjoni tiegħu jahfer għal kollox jew fparti kull taxxa addizzjonali li għandha tithallas skond id-dispożizzjonijiet ta' dan l-artikolu; u kull taxxa addizzjonali hekk intaxxata għandha tithallas mill-persuna li għaliha japplika s-subartikolu (4) ta' dan l-artikolu u ma tkunx tista' tingabar minn dik il-persuna għal kollox jew fparti minghand il-persuna li tirċievi l-*income*.

(6) Taxxa addizzjonali intaxxata skond id-dispożizzjonijiet ta' dan l-artikolu ma għandhiex titqies li hi parti minn xi taxxa mħallsa jew li għandha tithallas għall-finijiet ta' l-artikoli 59, 76 u 89 ta' l-Att dwar it-Taxxa fuq l-*Income* u ta' l-artikoli 42, 51 u 52 ta' dan l-Att jew ta' xi regoli magħmula bis-sahha tagħhom.

(7) Is-setgħat mogħtija lill-Kummissarju b'dan l-artikolu għandhom ikunu b'zieda għal kull dritt ieħor mogħti lilu li jibda proċedimenti dwar reat skond is-subartikolu (9) ta' dan l-artikolu.

(8) Minkejja d-dispożizzjonijiet ta' kull liġi oħra, l-avviż mill-Kummissarju msemmi fis-subartikolu (4) ta' dan l-artikolu, li juri l-ammont li għandu jithallas taħt dan l-artikolu, jikkostitwixxi talba privileġġata fuq l-assi ta' min ihaddem ta' grad minnufih wara l-pagi ta' l-impjegati u talbiet tad-Direttur tas-Sigurta' Soċjali għal ammonti li jkollhom jithallsu bhala kontribuzzjoni taħt l-artikolu 119 ta' l-Att dwar is-Sigurta' Soċjali, u għandha tithallas wara dawk il-pagi u talbiet iżda bi preferenza għall-pretensjonijiet l-oħra kollha sew privileġġati jew ipotekarji.

(9) Kull persuna li tikser jew li tonqos li thares id-dispożizzjonijiet ta' dan l-artikolu jew ta' xi regoli magħmula bis-sahha tiegħu tehel meta tinsab hatja multa ta' mhux anqas minn 50 lira u mhux iżjed minn 500 lira jew prigunerija għal żmien ta' mhux iżjed minn sitt xhur jew dik il-multa u prigunerija flimkien, u multa oħra ta' mhux inqas minn 2 liri iżda mhux iżjed minn 10 liri għal kull gurnata li matulha jkompli r-reat wara li tinsab hatja:

Iżda il-Kummissarju jista' jasal f'arrangamenti dwar reat taħt dan l-artikolu u jista', qabel is-sentenza, iżomm jew jasal f'arrangamenti fuq proċedimenti taħt dan l-artikolu:

Iżda wkoll ir-reat taħt dan l-artikolu jibqa' jeżisti sakemm min jagħmel ir-reat ikun ikkonforma ma' u hares id-dispożizzjonijiet ta' dan l-artikolu jew ta' kull regola magħmula bis-sahha tiegħu.

24. (1) Meta xi persuna f'kull kwalita' li tkun -

Ghemil ta' prospett ta' l-*income* imdahhal akkont ta', jew imhallas lil, persuni ohra.

(a) tirċievi xi profitti jew *income* li ghalihom japplikaw id-dispożizzjonijiet ta' l-Atti dwar it-Taxxi, li jappartjenu lil xi persuna ohra; jew

(b) thallas lil xi persuna ohra, jew lil haddiehor bl-ordni taghha, xi profitti jew *income* li ghalihom japplikaw id-dispożizzjonijiet ta' l-Atti dwar it-Taxxi u li jappartjenu lil dik il-persuna l-ohra,

il-Kummissarju jista' jaghti avviż lil dik il-persuna l-ewwel imsemmija fejn jordnalha li turih, fiż-żmien stabbilit f'dak l-avviż, li ma jkunx inqas minn tletin jum mid-data tan-notifika ta' dak l-avviż, prospett li jkun fih-

(i) dikjarazzjoni vera u korretta ta' dawk il-profitti u *income* kollha; u

(ii) l-isem u l-indirizz ta' kull persuna li lilha l-profitti jew l-*income* jappartjenu jew ikunu mhallsa:

Izda ebda persuna bhal dik ma tkun obbligata, bis-sahha ta' dan l-artikolu, li tikxef xi informazzjoni dwar persuna ohra, liema informazzjoni tkun marbuta bis-sigriet professjonali.

(2) Avviż skond is-subartikolu (1) ta' dan l-artikolu jista' jinghata mill-Kummissarju sabiex japplika sew b'mod generali ghal-persuni li ghalihom dawk il-profitti jew *income* kif imsemmija f'dak is-subartikolu jappartjenu jew ikunu mhallsa sew ghal xi persuna jew klassi ta' persuni partikulari kif intqal qabel.

25. Il-Kummissarju jista' jaghti avviż bil-miktub lil xi persuna li tkun tokkupa xi dar, art jew bini industrjali fejn jordnalha li taghti, fi żmien xieraq, prospett li jkun fih:

Il-kerrejja jaghtu prospett tal-kera li jhallsu.

(a) l-isem u l-indirizz tas-sid ta' dik id-dar, art jew bini industrjali; u

(b) dikjarazzjoni vera u korretta tal-kera li ghandu jithallas u kull kumpens iehor li jinghata b'hekk.

26. Il-Kummissarju jista' jaghti avviż bil-miktub lil xi persuna fejn jordnalha, fiż-żmien stabbilit f'dak l-avviż, li ma jkunx iqsar minn tletin jum mid-data tan-notifika ta' dak l-avviż, li taghti prospett li jkun fih l-isem ta' kull min, fid-data ta' l-avviż, ikun residenti fid-dar, lukanda jew istitut taghha, u kien hekk residenti, hlief ghal xi assenzi temporanji, matul it-tliet xhur ta' qabel.

Lista ta' l-inkwilini u residenti.

27. (1) Meta l-Kummissarju jkun sodisfatt illi sengha, negozju, professjoni jew vokazzjoni jkunu qed jitmexxew minn żewġ persuni jew iżjed flimkien, l-*income* ta' xi soċju mis-soċjeta', xort'ohra milli f'soċjeta' *in akkomandita* li l-kapital taghha jkun maqsum f'azzjonijiet jew f'soċjeta' *anonima*, ghandu jitqies illi huwa s-sehem li ghalih huwa kellu jedd matul is-sena qabel is-sena ta' stima fl-*income* tas-soċjeta', liema

Certi soċjetajiet.

income jiġi aċċertat skond id-dispożizzjonijiet ta' l-Atti dwar it-Taxxi u għandu jidhol fil-prospett ta' l-*income* li għandu jsir minn dak is-soċju taht id-dispożizzjonijiet ta' l-Atti dwar it-Taxxi.

(2) Is-soċju ewlieni, jiġifieri s-soċju illi fost is-soċji residenti f'Malta:

(i) ikun l-ewwel wiehed imsemmi fil-kuntratt tas-soċjeta', jew

(ii) ikun is-soċju attiv ewlieni jekk is-soċju imsemmi bi preċedenza ma jkunx soċju attiv,

għandu, meta mehtieg mill-Kummissarju, jagħmel u jikkunsinna prospett ta' l-*income* tas-soċjeta' għal xi sena, billi dak l-*income* jiġi aċċertat skond id-dispożizzjonijiet ta' l-Atti dwar it-Taxxi, u jiddikjara fih l-ismijiet u l-indirizzi tas-soċji l-oħra fid-ditta flimkien ma' l-ammont tas-sehem ta' l-imsemmi *income* li għalih kull soċju kellu l-jedd għal dik is-sena; u -

(a) meta ebda soċju ma jkun residenti f'Malta, il-prospett għandu jsir u jkun ikkunsinnat mill-mandatarju, agent, *manager* jew deputat tad-ditta residenti f'Malta; u

(b) id-dispożizzjonijiet ta' l-Atti dwar it-Taxxi dwar in-nuqqas tal-kunsinna tal-prospetti jew informazzjonijiet skond avviż minghand il-Kummissarju jkunu jghoddu għal kull prospett mehtieg taht dan l-artikolu.

(3) Meta l-Kummissarju ma jkunx sodisfatt illi sengha, negozju, professjoni jew vokazzjoni hija mmexxija minn żewġ persuni jew iżjed flimkien, il-qligh jew profitti minn dik is-sengha, negozju, professjoni jew vokazzjoni għandhom jitqiesu li ngabru minn dik il-persuna intitolata għal sehem mill-qligh jew profitti kif il-Kummissarju jidhirlu u l-istima tat-taxxa għandha ssir skond hekk.

(4) Meta stima tat-taxxa tkun saret skond id-dispożizzjonijiet tas-subartikolu (3) ta' dan l-artikolu, is-soċjeta' ma għandhiex titqies li hija korp ta' persuni għall-finijiet ta' l-artikolu 60 ta' l-Att dwar it-Taxxa fuq l-*Income*.

(5) Ebda haġa li tinsab f'dan l-artikolu ma żzomm illi deċiżjoni tal-Kummissarju fl-eżerċizzju ta' xi diskrezzjoni mogħtija lilu tigi appellata skond l-artikoli 35 u 37 ta' dan l-Att.

Firma ta' avviżi.

28. (1) Kull avviż li għandu jingħata mill-Kummissarju taht l-Atti dwar it-Taxxi għandu jkun iffirmit mill-Kummissarju jew minn xi persuna jew persuni minn żmien għal iehor mahtura għal dak l-iskop, u kull avviż bħal dan ikun validu jekk il-firma tal-Kummissarju jew ta' dik il-persuna jew persuni tkun debitament stampata, ittimbrata jew miktuba fuqu:

Iżda kull avviż bil-miktub taht id-dispożizzjonijiet ta' l-Atti dwar it-Taxxi lil xi persuna li fih din tigi ordnata li taghti informazzjonijiet lill-Kummissarju, jew kull avviż iehor taht l-Atti dwar it-Taxxi li jehtieg il-preżenza ta' xi persuna jew xhud quddiem il-Kummissarju, ghandu jkun iffirmit personalment mill-Kummissarju jew minn xi persuna debitament awtorizzata minnu.

(2) Firma mqieghda fuq avviż u li tidher li hi l-firma ta' xi persuna hekk mahtura ghandha tittiehed li hi l-firma ta' dik il-persuna kemm-il darba ma jintweriex il-kuntrarju.

29. (1) Avviż jista' jkun notifikat lil persuna sew personalment jew billi jintbaghat bil-posta fl-indirizz taghha l-ahhar maghruf tan-negozju jew privat, u ghandu, fl-ahhar każ, hlief jekk jigi ppruvat il-kuntrarju, jitqies li kien gie notifikat, fil-każ ta' persuni residenti f'Malta, mhux aktar tard mit-tielet jum wara l-jum ta' l-impustar, u fil-każ ta' persuni mhux hekk residenti, il-jum ta' wara l-jum li fih l-avviż kien ikun missu s-soltu wasal bil-posta, u fil-prova ta' dik in-notifika jkun biżżejjed li wiehed jipprova illi l-ittra li kien fiha l-avviż kienet giet indirizzata u mpustata kif jixraq. Notifika ta' avvizi.

(2) Kollha kemm huma l-prospetti, informazzjoni addizzjonali u korrispondenza rizzultanti u hlas tat-taxxa taht id-dispożizzjonijiet ta' dan l-Att jistghu jintbaghtu b'xejn bil-posta lill-Kummissarju f'inviloppi mmarkati *Income Tax*. Posta bla hlas.

TAQSIMA V Stima ta' Taxxa

30. (1) Il-Kummissarju ghandu jipproċedi ghall-istima tat-taxxa ta' kull persuna suggetta ghat-taxxa minnufih malli jista' jkun wara li jaghlaq iż-żmien permess lil dik il-persuna ghall-kunsinna tal-prospett taghha. Il-Kummissarju jaghmel l-istimi.

(2) Meta persuna tkun ikkunsinnat prospett, il-Kummissarju jista' -

(a) jaċċetta l-prospett, u jaghmel stima skond hekk; jew

(b) wara li jikkunsidra dawk il-prospetti l-ohra, kotba ohra, jew provi ohra, jekk ikun hemm, li jingiebu quddiemu jew li jinkisbu minnu, jirrofta li jaċċetta l-prospett u mill-ahjar li jista' jiddeciedi b'ordni bil-miktub l-ammont ta' l-*income* taxxabli tal-persuna u jintaxxaha skond hekk.

(3) Meta persuna ma tkunx ikkunsinnat prospett u l-Kummissarju jkun tal-fehma illi dik il-persuna hija suggetta li thallas taxxa, huwa jista', skond l-ahjar dehen tieghu, jiffissa l-ammont ta' l-*income* taxxabli ta' dik il-persuna u jintaxxaha skond hekk, imma dak l-intaxxar ma jtiefesx xi responsabbilta' li dik il-persuna xort'ohra jkollha minhabba n-nuqqas jew traskuragni taghha li tikkunsinna prospett.

Stima u hlas ta' taxxa f' munita barranija.

(4) Kumpannija tinhargilha l-istima u thallas it-taxxa fil-munita (jew, meta applikabbli, f'muniti *pro rata*) li fiha jkun denominat il-kapital azzjonarju taghha u kull hlas lura u hlasijiet ohra maghmula skond id-dispożizzjonijiet ta' l-Atti dwar it-Taxxi dwar dik it-taxxa ghandhom isiru fl-istess munita (jew, meta applikabbli, f'muniti *pro rata*) li biha tkun thallset dik it-taxxa.

Stimi addizzjonali.

31. (1) Meta l-Kummissarju jidhirlu illi xi persuna suggetta ghat-taxxa ma tkunx giet intaxxata jew tkun giet intaxxata b'ammont iżghar minn dak illi kien imissu gie stmat, il-Kummissarju jista', fi zmien sena mill-istima, jew fi zmien tmien snin wara li taghlaq dik is-sena, jintaxxa lil dik il-persuna b'dak l-ammont jew ammont addizzjonali illi, skond id-dehen tieghu, kien imissu gie stmat u d-dispożizzjonijiet ta' l-Atti dwar it-Taxxi, dwar l-avviz ta' stima, appelli u procedimenti ohra taht l-Atti dwar it-Taxxi ikunu jghoddu ghal dik l-istima jew stima addizzjonali u ghat-taxxa stabbilita b'dawk l-istimi. Id-dispożizzjonijiet tal-paragrafu (b) tas-subartikolu (2) ta' l-artikolu 30 ta' dan l-Att ghandhom japplikaw ghal stima maghmula mill-Kummissarju taht id-dispożizzjonijiet ta' dan is-subartikolu.

(2) B'dak kollu li hemm fid-dispożizzjonijiet tas-subartikolu (1) f'dan l-artikolu, meta persuna suggetta ghat-taxxa ma tkunx tat lill-Kummissarju l-prospetti mehtiega bl-Atti dwar it-Taxxi jew ma tkunx uriet sew u bis-shih il-fatti materjali kollha mehtiega ghall-istima li ghandha ssir dwarha u kien hemm evazjoni tat-taxxa, il-Kummissarju, meta jkun tal-fehma illi l-harba tat-taxxa hija dovuta ghal qerq jew evazjoni, jista' f'kull zmien, jintaxxa dik il-persuna bl-ammont jew ammont addizzjonali illi, skond id-dehen tieghu, kien imissha giet intaxxata u jiehu passi ghall-hlas tat-taxxa, taxxa addizzjonali u xi piena.

(3) Meta fil-fehma tal-Kummissarju kien hemm qerq jew evazjoni kif imsemmi hawn qabel, dik id-decizjoni hija suggetta ghal appell taht l-artikoli 35 u 37 ta' dan l-Att.

Thassir ta' stimi.

32. (1) Il-Kummissarju jista' ghall-finijiet ta' l-Atti dwar it-Taxxi ihasar kull stima maghmula minnu, u dak it-thassir ikun bla hsara ghall-eghmil ta' kull stima li skond dan l-Att ghandha ssir minflok l-istima hekk imhassra li titqies li ma tkunx saret.

(2) Ebda haga li tinsab f'dan l-artikolu ma taghti s-setgha lill-Kummissarju li jhasar jew jaghmel xi stima ghal xi sena meta dak it-thassir jew l-eghmil ta' xi stima jgib mieghu il-ftuh ta' xi kwistjoni li tkun giet deciza b'appell ghal dik is-sena.

(3) Minkejja kull dispożizzjoni ohra ta' l-Atti dwar it-Taxxi fejn aktar minn tmien snin ikunu ghaddew minn gheluq is-sena ta' stima li ghaliha tkun tapplika stima maghmula mill-Kummissarju qabel l-1 ta' Jannar, 1992 u dik l-istima tkun ghadha mhux finali u konklussiva skond l-artikolu 38 ta' dan l-Att, u l-Kummissarju jkun jidhirlu li dik l-istima tkun invalida jew bla effett minhabba xi zball, difett jew ommissjoni mill-Kummissarju fl-ghemil ta' dik l-istima jew fl-avviz t'hekk, il-Kummissarju jista' fi zmien hames snin mill-1 ta' Jannar 1992 jew fi

żmien sentejn mid-data li t-*taxpayer* japplika bil-miktub lill-Kummissarju fejn jindika bhala raguni ohra ghal ogġezzjoni dak l-iżball, difett jew ommissjoni, jagħmel stima ġdida, skond l-artikolu 30 ta' dan l-Att għas-sena ta' stima in kwestjoni u d-dispożizzjonijiet ta' l-Atti dwar it-Taxxi dwar l-avviż ta' stima, appelli u proċeduri ohra ta' l-Atti dwar it-Taxxi għadhom japplikaw għal dik l-istima u għat-taxxa stabbilita bis-sahha tagħha.

33. (1) Il-Kummissarju jordna li jkun notifikat personalment jew mibgħut bil-posta registrata, lil kull persuna li ssirilha stima ta' taxxa, avviż indirizzat lilha fil-post soltu tagħha ta' residenza jew negozju, fejn jissemma l-ammont ta' l-*income* tagħha taxxabli u l-ammont tat-taxxa li hija għandha thallas u fejn tiġi mgħarrfa bil-jeddijiet tagħha taht is-subartikolu (2) ta' dan l-artikolu.

Setgħa tal-Kummissarju li jirrevedi stimi fil-każ ta' ogġezzjoni.

(2) Jekk xi persuna tikkontesta l-istima hija tista' titlob lill-Kummissarju, b'avviż ta' ogġezzjoni bil-miktub, sabiex jerga' jeżamina u jirrevedi l-istima magħmula dwarha. Din it-talba għandha ssemmi preċiżament ir-ragunijiet ta' l-ogġezzjoni tagħha għall-istima u għandha ssir fi żmien hmistax-il jum mid-data tan-notifika ta' l-istima:

Iżda l-Kummissarju, meta jkun sodisfatt illi, minhabba assenza minn Malta, mard jew xi raguni ohra xierqa, il-persuna li tikkontesta l-istima kienet impeduta milli tagħmel it-talba f'dak iż-żmien, għandu jestendi l-perijodu kif ikun xieraq fiċ-ċirkostanzi.

(3) Meta jasallu l-avviż ta' ogġezzjoni msemmi fis-subartikolu (2) ta' dan l-artikolu, il-Kummissarju jista' jitlob lill-persuna li tibgħat l-avviż ta' ogġezzjoni sabiex tagħti dawk id-dettalji jew informazzjonijiet illi l-Kummissarju jidhirlu meħtieġa dwar l-*income* tal-persuna intaxxata u sabiex iġġib il-kotba kollha jew dokumenti ohra fil-kustodja tagħha jew taht il-kontroll tagħha dwar dak l-*income*, u jista' jsejjah kull persuna illi, huwa jidhirlu, hija kapaċi li tagħti provi dwar l-istima sabiex tidher quddiemu u iġġib il-kotba kollha jew dokumenti ohra fil-kustodja tagħha jew taht il-kontroll tagħha u jista' jeżamina lil dik il-persuna bil-gurament jew xort'ohra:

Iżda l-iskrivani, l-aġent, l-impjegat jew persuna ohra impjegata f'kariga konfidenzjali fl-affarijiet tal-persuna li tkun ser tiġi intaxxata u l-ġenituri, il-mara jew ir-raġel jew l-ulied ta' din il-persuna ma għandhomx ikunu eżaminati hlief fuq it-talba tal-persuna li dwarha tkun saret l-istima:

Iżda wkoll hlief fuq it-talba tal-persuna li ssirilha stima, ebda persuna ma tkun eżaminata dwar xi tagħrif li jolqot lill-persuna li ssirilha stima meta dwar dak it-tagħrif il-persuna msemmija tkun marbuta bis-sigriet professjonali.

(4) Fil-każ ta' persuna li dwarha tkun saret stima, illi tkun ogġezzjonat għall-istima magħmula dwarha, tasal fi ftehim mal-Kummissarju dwar l-ammont li bih hija sugġetta li tkun intaxxata, l-istima għandha tiġi emendata skond hekk, u avviż tat-taxxa li għandha tithallas għandu jkun notifikat lil dik il-persuna.

(5) Jekk ma jkunx hemm ftehim, il-Kummissarju ghandu jiffissa t-taxxa b'ordni bil-miktub:

Izda dejjem, fil-każ ta' persuna illi, taht is-subartikolu (2) ta' dan l-artikolu, tkun talbet lill-Kummissarju ghal revizjoni ta' l-istima maghmula dwarha, ma tiftiehemx mal-Kummissarju dwar l-ammont li bih hija suggetta li tkun intaxxata, il-jedd taghha ghall-appell taht id-dispożizzjonijiet ta' dan l-Att, kontra l-istima maghmula dwarha, jibqa' bla mittiefes.

TAQSIMA VI Appelli

Twaqqif ta' Bord
ta' Kummissarji
Speċjali.

34. (1) Ghandu jkun hemm Bord ta' Kummissarji Speċjali hawnhekk iżjed 'il quddiem imsejjah "il-Bord", sabiex jisma' u jaqta' appelli skond id-dispożizzjonijiet ta' l-artikolu 35 ta' dan l-Att. Il-Bord ikun maghmul minn *chairman*, li jkun wiehed minn lista ta' persuni mahtura mill-President ta' Malta biex iservu ta' Kummissarju Speċjali f'dik il-kariga, u minn żewġ Kummissarji Speċjali ohra li jkunu tnejn minn lista ta' persuni mahtura kif intqal qabel biex iservu f'dik il-kariga l-ohra, u li ghandhom iservu fuq il-Bord skond dak it-tqassim ta' dmirijiet, inkluż il-provvediment meta ma jkunux jistghu jservu u ċirkostanzi ohra, kif il-Ministru responsabbli ghall-finanzi jista' jistabbilixxi.

(2) Persuna tkun skwalifikata milli tkun mahtura, jew li tibqa', bhala Kummissarju Speċjali sakemm hija tkun membru tal-Kamra tad-Deputati.

(3) Kull Kummissarju Speċjali ghandu, qabel ma jidhol ghall-kariga tiegħu, jagħmel u jissottoskrivi dikjarazzjoni bil-gurament fuq il-formula preskritta ghalhekk quddiem il-Qorti ta' l-Appell.

(4) Kull Kummissarju Speċjali ghandu jibqa' fil-kariga ghal kemm żmien joghġob lill-President ta' Malta.

(5) Il-President ta' Malta jista', minghajr ma jaghti ebda raġuni, iħassar il-hatra ta' xi Kummissarju Speċjali u huwa jista' jahtar Kummissarji Speċjali godda kull meta jinhtieg.

(6) Il-Kummissarju ghandu jippubblika fi żmien raġonevoli d-deċiżjonijiet kollha mogħtija mill-Bord fuq punti ta' ligi, fejn jingħataw il-fatti ta' l-appell u l-argumenti.

(7) Il-Bord ikollu s-setgħa li jsejjah kull persuna sabiex tixhed jew iggib kotba jew dokumenti ohra quddiemu u *Chairman* tal-Bord jew il-membru li jagħmilha ta' *chairman* f'laqgħa tal-Bord, ikollu s-setgħa li jamministra l-gurament lil kull persuna li tidher quddiem il-Bord:

Iżda-

(i) l-iskrivan, l-aġent, l-impjegat jew persuna oħra mpjegata f'kariga konfidenzjali fl-affarijiet ta' l-appellant u l-ġenituri, żewġ jew mart jew ulied dak l-appellant m'għandhomx jissejhu biex jixhdu jew biex jiġu eżaminati hlief fuq it-talba ta' l-appellant;

(ii) kull persuna, barra mill-Kummissarju, li jkollha jew li kellha xi dmir uffiċjali, jew li tkun jew kienet taħdem, fl-amministrazzjoni ta' l-Att dwar it-Taxxi, m'għandhiex tissejjah biex tixhed jew biex tiġi eżaminata dwar xi haġa uffiċjali li jkollha x'taqsam mal-likwidazzjoni li tkun qed tiġi appellata hlief fuq it-talba tal-Kummissarju;

(iii) hlief fuq it-talba ta' l-appellant, ebda persuna ma tkun eżaminata dwar xi tagħrif li jolqot lill-appellant meta dwar dak it-tagħrif l-imsemmija persuna tkun marbuta bis-sigriet professjonali.

(8) Il-Kummissarji Speċjali jdaħhlu dik ir-rimunerazzjoni illi l-President ta' Malta jiffissa.

(9) Il-Kummissarji Speċjali ma jkunux personalment responsabbli għal kull għemil jew nuqqas tal-Bord magħmul jew li naqas li jsir *in bona fide* fil-kors tax-xogħol tal-Bord.

(10) Il-Ministru responsabbli għall-finanzi jista' johroġ regoli li jregu l-appelli quddiem il-Bord ta' Kummissarji Speċjali, u mingħajr hsara għall-ġeneralita' ta' dak li ntqal hawn fuq, jista' johroġ regoli:

(a) fejn jippreskrivi l-mod li bih appell għandu jsir lill-Bord u drittijiet li għandhom jithallsu dwar kull appell bħal dak;

(b) fejn jippreskrivi l-proċedura li l-Bord għandu juża fis-smiegh ta' appell u n-notamenti li għandhom jinżammu mill-Bord;

(c) fejn jippreskrivi l-mod li bih il-Bord għandu jissejjah u l-postijiet fejn il-Bord għandu jagħmel il-laqgħat u meta;

(d) fejn jippreskrivi tariffa ta' l-ispejjeż; u

(e) b'mod ġenerali sabiex id-dispożizzjonijiet ta' din it-Taqsima ta' dan l-Att dwar il-Bord ta' Kummissarji Speċjali jkunu jistgħu jitmexxew aħjar.

35. (1) Kull persuna illi, aggravata bi stima magħmula dwarha, ma tkunx fteħmet mal-Kummissarju kif maħsub fis-subartikolu (4) ta' l-artikolu 33 ta' dan l-Att tista' tagħmel, fi żmien tletin ġurnata wara d-data tan-notifika lilha ta' avviż tar-rifjut tal-Kummissarju li jemenda l-istima kif mixtieq, appell kontra dik l-istima lill-Bord ta' Kummissarji Speċjali:

Appell lill-Kummissarji Speċjali.

Iżda ebda appell bħal dak ma jista' jsir validament minn xi stima jekk qabel ma jithallasx l-ammont tat-taxxa li dwarha ma jkunx hemm kwistjoni.

(2) Kull persuna li tappella ghandha tidher quddiem il-Bord jew personalment jew permezz ta' agent-fil-jum u l-hin iffissati ghas-smiegh ta' l-appell:

Izda, dejjem jekk jigi ippruvat, b'sodisfazzjon tal-Bord, illi minhabba assenza minn Malta, mard jew raguni ohra tajba, xi persuna ma tistax tattendi ghas-smiegh ta' l-appell taghha fil-jum u fil-hin iffissati ghall-iskop, il-Bord jista' jipposponi s-smiegh ta' l-appell ghal dak iz-żmien xieraq li jidhirlu mehtieg ghall-attendenza ta' l-appellant.

(3) Il-piż tal-prova illi l-istima li dwarha jsir l-ilment hija eċċessiva jkun ta' l-appellant.

(4) Bla hsara ghad-dispożizzjonijiet tas-subartikolu (3) ta' dan l-artikolu, il-Bord jikkonferma, inaqas, iżid jew jannulla l-istima jew jaghmel dak l-ordni dwarha illi jidhirlu xieraq. Avviż tad-deċiżjoni tal-Bord, tad-data tad-deċiżjoni u ta' kull emenda fl-istima ghandu jintbaghat lill-Kummissarju illi jordna li kopja ta' dak l-avviż tigi notifikata jew personalment jew bil-posta registrata lill-persuna li tappella flimkien ma' avviż li jinforma lil dik il-persuna bil-jeddijiet taghha taht l-artikolu 37 ta' dan l-Att.

(5) Ebda appell ma jista' jsir mid-deċiżjoni tal-Bord ta' Kummissarji Speċjali hlief fuq punt ta' ligi biss.

(6) Appell lill-Bord ta' Kummissarji Speċjali magħmul minn persuna sugġetta ghat-taxxa jew fisimha ma jistax jigi rtirat jew ċedut hlief bil-kunsens tal-Kummissarju.

(7) Il-Bord jista' jordna l-korrezzjoni ta' kull żball aritmetiku li jaghmel fxi deċiżjonijiet tieghu fuq rikors notifikat lill-parti l-ohra u prezentat, fil-każ tal-Kummissarju, fi żmien ghaxart ijiem mid-data tad-deċiżjoni u, fil-każ tal-persuna sugġetta ghat-taxxa, fi żmien ghaxart ijiem wara n-notifika lilha ta' dik id-deċiżjoni.

36. Id-dispożizzjonijiet li ġejjin ghandu jkollhom effett ghall-finijiet ta' kull appell magħmul taht l-artikolu 35 ta' dan l-Att:

(a) il-Bord ta' Kummissarji Speċjali ghandu sommarjament jiċhad kull appell quddiemu ghal xi sena ta' stima u jikkonferma l-istima li dwarha jsir l-ilment kemm-il darba ma tingiebx quddiemu prova *prima facie* li, sad-data li fiha jkun sar l-appell, l-appellant ikun ippreżenta taht l-artikoli 10 u 11 ta' dan l-Att prospett ta' l-*income* taxxabli tieghu ghall-imsemmija sena ta' stima;

(b) meta l-istima li dwarha jsir l-ilment tkun saret mill-Kummissarju skond id-dispożizzjonijiet tal-paragrafu (b) tas-subartikolu (2), jew tas-subartikolu (3) ta' l-artikolu 30, jew tas-subartikolu (1) ta' l-artikolu 31 ta' dan l-Att, u l-kwistjoni quddiem il-Bord tinkludi kwistjoni dwar xi *income* li jinqala' minn ghejjun imsemmija fil-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 4 ta' l-Att dwar it-Taxxa fuq l-*Income*, ebda prova ma titqies mill-Bord li hi biżżejjed li minhabba fiha jista' jkun hemm xi tibdil fl-istima dwar

Certi dispożizzjonijiet ghandhom jigu mharsa fis-smiegh ta' appelli.

dak l-*income* kemm-il darba l-persuna li tappella kontra d-deċiżjoni tal-Kummissarju ma tikkonsenjazz lill-Kummissarju, mhux aktar tard mit-tletin gurnata wara dik stabbilita għall-ewwel smiegh ta' l-appell, in-notamenti li għandhom jinżammu skond l-artikolu 19 ta' dan l-Att u d-dokumenti l-oħra li b'dak l-artikolu għandhom jippruvaw jew ikunu ma' dawk in-notamenti, u kemm-il darba ma tikkonfermax dawk in-notamenti u d-dokumenti bil-gurament quddiem il-Bord;

(ċ) il-Kummissarju jista' f'kull żmien matul is-smiegh ta' l-appell jitlob dikjarazzjoni mill-Bord dwar jekk l-appell għandux jiġi miċhud u l-istima li dwarha jsir l-ilment tiġi konfirmata skond id-dispożizzjonijiet tal-paragrafi (a) jew (b) ta' dan l-artikolu.

37. (1) Kull persuna li, wara li tkun appellat lill-Bord ta' Kummissarji Speċjali, thossha aggravata bid-deċiżjoni tagħhom, tista' tappella mid-deċiżjoni, fuq punt ta' liġi biss, lill-Qorti ta' l-Appell b'rikors ipprezentat fi żmien tletin jum mid-data li fiha tiġi notifikata bid-deċiżjoni tal-Bord. Appelli lill-Qorti ta' l-Appell.

(2) Il-Kummissarju jista' jekk huwa ma jkunx sodisfatt bid-deċiżjoni tal-Bord, jappella kontra d-deċiżjoni, fuq punt ta' liġi biss, lill-Qorti ta' l-Appell b'rikors ipprezentat fi żmien tletin jum mid-data tad-deċiżjoni tal-Bord.

(3) Kemm-il darba regoli magħmulin taht dan l-Att ma jaħsbux għal perijodu itwal, għandu jingħata lill-partijiet avviż ta' sebat ijiem shah tad-data iffissata għas-smiegh ta' l-appell.

(4) Il-qorti tista' tikkonferma, tnaqqas, iżżid jew tannulla l-istima jew tohrog fuq dik l-istima l-ordnijiet li jidhrilha xierqa.

(5) Avviż ta' l-ammont tat-taxxa li għandha tithallas taht l-istima kif deċiż mill-qorti, għandu jkun notifikat mill-Kummissarju, jew personalment, jew bil-posta registrata, lill-parti l-oħra.

(6) Il-Kummissarju għandu jippubblika fi żmien raġonevoli d-deċiżjonijiet kollha mogħtija mill-qorti fejn jingħataw il-fatti ta' l-appell u l-argumenti.

(7) L-ispejjeż ta' l-appell ikunu fid-diskrezzjoni tal-Qorti ta' l-Appell u jkunu somma iffissata mir-registratur.

(8) Il-Bord imwaqqaf taht l-artikolu 29 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili jista' jagħmel regoli dwar appelli lill-Qorti ta' l-Appell taht dan l-artikolu, u jippreskrivi d-drittijiet li għandhom jithallsu għal dawk l-appelli. Kap. 12.

38. Meta ebda oġġezzjoni valida jew appell ma jkunu ġew imressqin fiż-żmien stabbilit f'din it-Taqsima kontra stima dwar l-ammont ta' *income* taxxabli stabbilit b'dik l-istima jew dwar ir-*rebate* ta' taxxa mogħti skond l-artikolu 57 ta' l-Att dwar it-Taxxa fuq l-*Income*, jew meta l-ammont ta' l-*income* taxxabli jew *rebate* ta' taxxa jkun sar ftehim fuqu taht is-subartikolu (4) ta' l-artikolu 33 ta' dan l-Att, jew meta l-appell ikun ġie rtirat jew ċedut, jew meta l-ammont ta' dak l-*income* L-istimi jew stimi emendati jkunu finali.

taxxabli jew *rebate* ta' taxxa jkun gie deċiż fuq ogġezzjoni jew appell, l-istima kif magħmula jew miftehma jew deċiża f'appell, skond il-każ, tkun finali u konkluziva għall-finijiet kollha ta' dan l-Att dwar l-ammont ta' dak l-*income* taxxabli jew *rebate* ta' taxxa:

Izda ebda haġa f'din it-Taqsima ma żżomm lill-Kummissarju milli jagħmel xi rifużjoni taht id-dispożizzjonijiet ta' l-artikolu 48 ta' dan l-Att jew xi stima jew stima addizzjonali għal xi sena ta' stima li ma jimplikax li tinfetah xi kwistjoni li tkun giet deċiża fuq appell għas-sena.

Zbalji fi stimi
u f'avviżi.

39. (1) Ebda stima, mandat jew proċediment ieħor li jidhru li huma skond id-dispożizzjonijiet ta' l-Atti dwar it-Taxxi ma għandhom jiġu imħassrin jew jitqiesu li huma nulli jew li jistgħu jiġu annullati, minhabba l-għamla, jew ikunu mittiefsa minhabba xi żball, difett jew omissjoni fihom, jekk huma jkunu fis-sustanza u fl-effett konformi jew skond il-ħsieb u tifsir ta' l-Atti dwar it-Taxxi jew xi Att li jemendhom, u jekk il-persuna intaxxata jew li jkun hemm il-ħsieb li tiġi intaxxata jew mittiefsa b'hekk hija msemmija hemm skond il-ħsieb u ftehim komuni.

(2) Stima ma tkunx mittiefsa jew milquta -

(a) minhabba żball fiha dwar -

- (i) l-isem jew kunjom ta' persuna intaxxata; jew
- (ii) id-deskrizzjoni ta' xi *income*; jew
- (iii) l-ammont tat-taxxa stabbilita;

(b) minhabba xi differenza bejn l-istima u l-avviż ta' hekk:

Izda f'każijiet ta' stima, l-avviż t'hekk għandu jiġi debitament notifikat lill-persuna maħsuba li tiġi ntaxxata u dak l-avviż għandu jkun fih, fis-sustanza u fl-effett, id-dettalji li fuqhom issir l-istima.

(3) Fil-każ ta' korp ta' persuni jkun biżżejjed għall-finijiet ta' l-Atti dwar it-Taxxi jekk l-isem biss tal-korp ta' persuni jkun jidher fuq xi avviż maħruġ bis-saħħa tiegħu mill-Kummissarju jew f'ismu.

(4) Meta jkun tressaq xi appell minn xi stima magħmula mill-Kummissarju u dik l-istima tiġi b'deċiżjoni jew sentenza finali dikjarata invalida jew bla effett, il-Kummissarju, jista' fi żmien sena mid-deċiżjoni jew sentenza skond il-każ, fejn stima ġdida ma tistax tinħareġ taht xi dispożizzjoni oħra ta' l-Atti dwar it-Taxxi, jagħmel stima ġdida dwar it-*taxpayer* fuq l-*income* kollu jew xi parti mill-*income* taxxabli tat-*taxpayer* kif dikjarat mit-*taxpayer* għas-sena ta' stima in kwistjoni li dwarha ma tkunx giet magħmula stima valida; u d-dispożizzjonijiet ta' l-Atti dwar it-Taxxi dwar avviż ta' stima, appell u proċeduri oħra taht l-Atti dwar it-Taxxi għandhom japplikaw għal dik l-istima u għat-taxxa stabbilita bis-saħħa tagħha.

TAQSIMA VII Ġbir

40. (1) Dan li gej jikkostitwixxi titolu eżekuttiv skond u għall-
finijiet tat-*Titolu VII* tat-*Taqsim*a I tat-*Tieni Ktieb tal-Kodiċi ta'*
Organizzazzjoni u Proċedura Ċivili, jiġifieri: Titolu eżekuttiv.

(a) l-avviż imsemmi fil-paragrafu (ċ) tas-subartikolu (4) ta' l-
artikolu 73 ta' l-Att dwar it-*Taxxa fuq l-Income*;

(b) l-avviż imsemmi fis-subartikolu (4) ta' l-artikolu 23 ta' l-Att
dwar it-*Taxxa fuq l-Income*;

(ċ) l-istima finali u konkluziva msemmija fl-artikolu 38 ta' dan
l-Att;

(d) l-avviż imsemmi fis-subartikolu (5) ta' l-artikolu 42 ta' dan l-
Att;

(e) l-avviż imsemmi fis-subartikolu (1) ta' l-artikolu 46 u l-avviż
ta' stima u t-talba bil-miktub magħmula mill-Kummissarju
msemmija fis-subartikolu (3) ta' l-imsemmi artikolu 46:

Iżda hlief fil-każijiet imsemmija fil-paragrafu (e), il-proċedura
stabbilita fil-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 44 ta' dan l-Att
għandha tiġi mharsa fil-każijiet kollha qabel ma jiġi nfużat il-hlas bis-
sahha ta' dak it-titolu.

(2) Meta skond id-dispożizzjonijiet tal-paragrafu (6) tas-
subartikolu (1) ta' l-artikolu 44 ta' dan l-Att, hlas jista' jiġi nfużat kontra
korp ta' nies bis-sahha ta' titolu eżekuttiv, il-Kummissarju jista',
minghajr il-htieġa ta' xi att ieħor, jipproċedi b'dak l-infużar kontra kull
uffiċjal ta' dak il-korp li jkun responsabbli għalih personalment skond l-
artikolu 7 ta' dan l-Att jew xi regoli magħmula bis-sahha tiegħu.

41. (1) Meta jkun ingħata avviż ta' oġġezzjoni jew ta' appell kontra
likwidazzjoni, il-Kummissarju jista' fid-diskrezzjoni tiegħu, iżomm
pendenti l-ġbir ta' mhux inqas minn disghin fil-mija ta' dik il-parti tat-
taxxa likwidata tagħha li fuqha jkun hemm kwistjoni. Proċeduri
fil-każijiet meta
oġġezzjoni jew
appell ikunu
pendenti.

(2) Dan l-artikolu ma għandux japplika għal taxxa li għandha
titnaqqas skond id-dispożizzjonijiet ta' l-artikolu 23 ta' dan l-Att u għal
taxxa li għandha tithallas skond id-dispożizzjonijiet tas-subartikolu (2)
ta' l-artikolu 42 ta' dan l-Att.

42. (1) It-taxxa għandha tithallas sa dak iż-żmien li jispiċċa fl-aħħar
gurnata ta' l-ewwel xahar kalendarju li jiġi minnufih wara dak li matulu
jkun ingħata avviż ta' stima skond l-artikolu 33 ta' dan l-Att. Zmien li fih
għandu jsir il-hlas.

(2) Minkejja kull haġa li tinsab fis-subartikolu (1) ta' dan l-
artikolu, it-taxxa provviżorja għandha tithallas lill-Kummissarju fis-sena
li taħbat minnufih qabel is-sena ta' stima minn kull persuna dwar ir-
responsabbiltà tagħha għas-sena ta' stima f'dak l-ammont u b'dak il-mod
u f'dik id-data kif jista' jiġi preskritt:

Izda d-dispożizzjonijiet ta' dan is-subartikolu ma ghandhomx japplikaw għall-*income* ta' xi korp ta' nies li jinqala' minn attivitajiet li ghandhom x'jaqsmu ma' jew li huma ancillari għal xogħol bankarju, xandir bis-smiegh jew bit-televiżjoni, kiri ta' films jew xogħol ta' assikurazzjoni (barra minn kummissjonijiet li jinqalghu mill-bejgh ta' assikurazzjoni minn korpijiet ta' nies li jirresjedu f'Malta) għar-rigward tar-responsabbiltà ta' dak il-korp ta' nies għal xi sena ta' stima qabel is-sena ta' stima 1990.

(3) Barra minn kull hlas ta' taxxa provviżorja li jista' jkollha tithallas skond is-subartikolu (2) ta' dan l-artikolu -

(a) kull persuna għandha tagħmel dawk il-hlasijiet li jigu stabbiliti mill-Kummissarju akkont ta' dik it-taxxa li l-imsemmija persuna jkun jonqosha thallas dwar xi sena ta' stima f'dak l-ammont u b'dak il-mod u f'dik id-data kif jista' jigi preskritt; u

(b) kull kumpannija għandha, mhux iktar tard mit-30 ta' Ġunju ta' kull sena, tagħmel hlas dwar it-taxxa li jkollha thallas għas-sena ta' stima li tibda fl-ewwel ta' Jannar ta' dik is-sena f'ammont li jkun daqs l-eċċess, jekk ikun hemm, tat-total tat-taxxa li jkollha tithallas dwar l-*income* tagħha għas-sena li taħbat minnufih qabel dik is-sena ta' stima fuq it-total tat-taxxa provviżorja mhallsa minnha dwar dik is-sena, u kull tnaqqis dwar taxxa doppja li għalih dik il-kumpannija tista' tkun intitolata dwar is-sena ta' stima msemmija u kull taxxa mnaqqa minn ras il-ghajn skond id-dispożizzjonijiet ta' l-artikoli 59 u 73 ta' l-Att dwar it-Taxxa fuq l-*Income*.

Izda d-dispożizzjonijiet ta' dan il-paragrafu ma japplikawx għall-*income* ta' xi korp ta' nies imsemmi fil-proviso għas-subartikolu (2) ta' dan l-artikolu għal xi sena ta' stima qabel is-sena ta' stima 1989.

(4) Jekk xi persuna tonqos li thallas xi taxxa kif preskritta skond dan l-artikolu tigi intaxxata b'dik it-taxxa li kellha hekk tithallas u, barra minn dan, b'dik it-taxxa l-oħra hekk kif provdut fil-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 44 ta' dan l-Att, u dik it-taxxa u t-taxxa addizzjonali tingabar minghand dik il-persuna bl-istess mod bħal taxxa diġa' likwidata u li għandha tithallas minnha.

(5) Għall-finijiet tas-subartikolu (4) ta' dan l-artikolu avviż tal-Kummissarju lil xi persuna li juri li t-taxxa li kellha tithallas u t-taxxa addizzjonali li tkun sugġetta għaliha minhabba li tkun naqset milli thallas it-taxxa jkun, sakemm ma jigix pruvat il-kuntrarju, prova biżżejjed li l-ammont muri fl-imsemmi avviż ikun l-ammont li għandu jithallas lill-Kummissarju minn dik il-persuna.

(6) Is-setgħat mogħtija lill-Kummissarju bis-subartikoli (4) u (5) ta' dan l-artikolu għandhom ikunu b'żieda għal kull dritt ieħor mogħti lilu li jibda proċedimenti dwar reat skond is-subartikolu (7) ta' dan l-artikolu.

(7) (a) Kull persuna li tikser jew li tonqos li thares id-dispożizzjonijiet ta' dan l-artikolu jew ta' xi regoli magħmula bis-saħħa tiegħu teħel meta tinsab fiatja multa ta' mhux inqas minn 50 lira u mhux

izjed minn 500 lira u multa oħra ta' mhux inqas minn 5 liri iżda mhux izjed minn 50 lira għal kull gurnata li matulha jkompli r-reat.

(b) Il-Kummissarju jista' jasal f'arrangamenti dwar kull reat taħt dan l-artikolu u jista', qabel is-sentenza, iżomm jew jasal f'arrangamenti fuq kull provvedimenti taħt dan l-artikolu.

(8) Minkejja kull haġa li tinsab fid-dispożizzjonijiet ta' qabel ta' dan l-artikolu, kull taxxa li jkollha tithallas minn kumpannija b'kummerċ internazzjonali u minn kumpannija dwar profitti allokatil lil kont ta' *income* barrani ma jkollhiex tithallas qabel l-ewwel minn:

(a) id-data tat-tqassim ta' dawk il-profitti mill-kumpannija; jew

(b) tmintax-il xahar wara li jagħlaq il-perijodu tal-kontijiet li matulu l-imsemmija profitti kienu magħmula mill-kumpannija.

43. (1) Meta xi persuna tikseb qligh jew profitti mit-trasferiment ta' proprjeta' msemmija fis-sub-paragrafi (i) u (ii) tal-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 5 ta' l-Att dwar it-Taxxa fuq l-*Income*, irrISPettivament jekk dak il-qligh jew dawk il-profitti jkunux taxxabbli taħt id-dispożizzjonijiet ta' dak l-artikolu jew taħt xi dispożizzjoni oħra ta' l-Att dwar it-Taxxi, din għandha tibghat lill-Kummissarju fi żmien hmistax-il jum mit-trasferiment relattiv b'dak il-mod li jista' jiġi preskritt, hla ta' taxxa provviżorja li tammonta għal 7% tal-kunsiderazzjoni dwar it-trasferiment tal-proprjeta' jew tal-valur tad-donazzjoni:

Qliegħ jew profitti minn trasferiment ta' proprjeta'. Kap. 123.

Izda fatti ta' enfitwesi jew ta' sub-enfitwesi ma jkunx kalkolat xi ċens ta' l-art li jithallas fis-sena jew xi sub-ċens ta' l-art li jithallas skond l-att.

(2) It-taxxa provviżorja taħt dan l-artikolu ma tithallasx dwar:

(a) xi trasferiment ta' beni li ma jkunx sugġett għat-taxxa fuq qligh kapitali, jew għat-taxxa taħt id-dispożizzjonijiet ta' l-artikolu 4 ta' l-Att dwar it-Taxxa fuq l-*Income*,

(b) trasferiment ta' proprjeta' fatti ta' diviżjoni;

(c) trasferiment ta' azzjonijiet f'kumpanniji pubbliċi.

(3) Il-Kummissarju jista' jawtorizza lil kull persuna li tkun sugġetta għat-taxxa taħt il-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 5 ta' l-Att dwar it-Taxxa fuq l-*Income*, li thallas taxxa provviżorja taħt dan l-artikolu b'rata iktar baxxa minn dik imsemmija fis-subartikolu (1) ta' dan l-artikolu, jekk ikun jista' jiġi ppruvat li l-qligh ikun inqas minn 20% tal-kunsiderazzjoni jew tal-valur tad-donazzjoni, skond il-każ.

(4) Kull taxxa provviżorja mħallsa għall-finijiet ta' dan l-artikolu matul jew dwar is-sena li taħbat qabel xi sena ta' stima għandha titpaċi għall-fini ta' għbir tat-taxxa li jkollha tithallas dwar l-imsemmija sena ta' stima u jekk ikun hemm eċċess wara li tkun saret l-imsemmija

tpaciġja, dak l-eċċess għandu jithallas lura skond id-dispożizzjonijiet ta' l-artikolu 48 ta' dan l-Att. Dik it-taxxa provviżorja tkun separata u distinta minn dik imhallsa jew li jkollha tithallas taht id-dispożizzjonijiet ta' l-artikolu 42 ta' dan l-Att hlief għal persuni li l-qligh jew il-profitti tagħhom minn proprjeta' immobbli jaqgħu taht il-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 4 ta' l-Att dwar it-Taxxa fuq l-*Income*.

(5) Jekk xi persuna tonqos li thallas xi taxxa provviżorja kif provdut taht dan l-artikolu, din tehel it-taxxa li kellha hekk tithallas, flimkien ma' taxxa oħra kif provdut fis-subartikolu (1) ta' l-artikolu 44 ta' dan l-Att, u dik it-taxxa u t-taxxa addizzjonali jingiebu minghand dik il-persuna bl-istess mod bħal taxxa oħra stmata u intaxxata lilu.

(6) Għall-finijiet tas-subartikolu (5) ta' dan l-artikolu avviż mill-Kummissarju lil xi persuna li juri t-taxxa li kellha tithallas u kull taxxa addizzjonali li tkun wehlet għax tkun naqset milli thallas it-taxxa, għandu, sakemm ma jigix pruvat kuntrarju, ikun prova biżżejjed li l-ammont muri f'dak l-avviż huwa l-ammont li għandu jithallas lill-Kummissarju mill-imsemmija persuna.

(7) Is-setgħat mogħtija lill-Kummissarju bis-subartikolu (5) u (6) ta' dan l-artikolu jkunu b'żieda ma' kull jedd mogħti lilu li jibda provvedimenti dwar xi reat taht is-subartikolu (8) ta' dan l-artikolu.

(8) Kull persuna li tikser jew li tonqos li thares id-dispożizzjonijiet ta' dan l-artikolu tista' tehel, meta tinsab hatja, multa ta' mhux inqas minn 50 lira u mhux iżjed minn 500 lira jew prigunerija għal-żmien ta' mhux iżjed minn sitt xhur jew dik il-multa u prigunerija flimkien, u multa oħra ta' mhux inqas minn 2 liri u mhux iżjed minn 10 liri għal kull gurnata li matulu jkompli r-reat wara li tinsab hatja:

Izda l-Kummissarju jista' jasal f'arrangamenti dwar kull reat taht dan l-artikolu u jista', qabel is-sentenza, iżomm jew jasal f'arrangamenti fuq kull provvedimenti taht dan l-artikolu.

(9) (a) It-taxxa provviżorja li għandha tithallas taht dan l-artikolu għandha tithallas b'dak il-mod li jista' jigi preskritt.

(b) Minkejja kull haġa li tista' tigi provduta fir-regoli meta proprjeta' immobbli jew xi jeddijiet marbuta magħha jkunu trasferiti bil-mezz ta' att publiku, in-Nutar li jippubblika dak l-att ikollu l-istess dmirijiet u responsabbiltajiet dwar il-ġbir u l-hlas tat-taxxa provviżorja li jkollha tithallas fuq dak l-att skond dan l-artikolu kif bl-Att ta' l-1993 dwar Taxxa fuq Dokumenti u Trasferimenti huma mposti fuq in-Nutara li jippubblikaw dawk l-atti, dwar it-taxxa li skond dak l-Att għandha tkun intaxxata u miġbura. Kull nuqqas ta' Nutar dwar il-ġbir u l-hlas tat-taxxa provviżorja taht dan l-artikolu għandha, għall-finijiet kollha ta' l-Att ta' l-1993 dwar Taxxa fuq Dokumenti u Trasferimenti, titqies li hi nuqqas tad-dmirijiet tiegħu taht dan l-Att.

(c) Meta xi beni li t-trasferiment tagħhom ikun sugġett għat-taxxa fuq qligh kapitali taht id-dispożizzjonijiet ta' l-artikolu 5 ta' l-Att dwar it-Taxxa fuq l-*Income*, jinbiegħu b'irkant gudizzjarju, ir-

Registratur tal-Qrati jkollu l-istess dmirijiet biex iżomm u jhallas it-taxxa provvizorja taht dan l-artikolu kif, taht id-dispożizzjonijiet ta' l-artikolu 66 ta' l-Att ta' l-1993 dwar Taxxa fuq Dokumenti u Trasferimenti huma mposti fuq dwar taxxa li ghandha tingabar fuq trasferimenti *causa mortis* taht l-imsemmi Att.

44. (1) Jekk xi taxxa li ghandha tithallas fiż-żminijiet stabbiliti fis-subartikoli (1), (2) jew (3) ta' l-artikolu 42 jew fl-artikolu 45 ta' dan l-Att ma tithallasx fil-perijodu rilevanti-

Piena ghal min ma jhallasx it-taxxa, u infurzar tal-hlas.

(a) taxxa addizzjonali li tkun daqs wiehed fil-mija tat-taxxa mhux imhallsa ghal kull xahar kalendarju jew parti minnu li matulu dik it-taxxa tibqa' mhux imhallsa ghandha tizdied maghha, u d-dispożizzjonijiet ta' l-Att dwar it-Taxxi, dwar il-ġbir u l-hlas tat-taxxa jkunu jghoddu ghall-ġbir u ghall-hlas ta' dik it-taxxa addizzjonali;

(b) il-Kummissarju ghandu jinnotifika nota ta' talba lill-persuna intaxxata, u jekk ma jsirx il-hlas fi żmien hmistax-il jum mid-data tan-notifika ta' dik in-nota ta' talba, il-Kummissarju jista' jipproċedi ghall-infurzar tal-hlas bis-sahha tat-titolu eżekuttiv imsemmi fl-artikolu 40 wara jumejn min-notifika lid-debitur ta' intimazzjoni ghall-hlas maghmula permezz ta' att ġudizzjarju, jew kif hawn 'il quddiem provdut;

(c) taxxa addizzjonali mwahhla skond dan l-artikolu ma ghandhiex titqies li hi parti minn xi taxxa mhallsa jew li ghandha tithallas ghall-finijiet ta' l-artikoli 59, 73, 76 jew 89 ta' l-Att dwar it-Taxxa fuq l-*Income*, jew ta' l-artikoli 23, 43, 51 jew 52 ta' dan l-Att, jew ta' xi regoli maghmula bis-sahha taghhom.

(2) Il-Kummissarju jista', fid-diskrezzjoni tieghu, jahfer ghal kollox jew fparti kull taxxa addizzjonali li ghandha tithallas skond dan l-artikolu:

Izda ma ghandha ssir ebda mahfra bhal dik mill-Kummissarju jekk hu ma jkunx sodisfatt li l-persuna li jkollha thallas it-taxxa ma setghetx taghmel il-hlas fiż-żminijiet provduti fis-subartikoli (1), (2) jew (3) ta' l-artikolu 42 jew fl-artikolu 45 ta' dan l-Att jew fir-regoli maghmula bis-sahha tieghu minhabba li kienet nieqsa minn Malta jew ghax kienet marida serjament jew minhabba dik ir-raġuni l-oħra li l-Ministru responsabbli ghall-finanzi jista' minn żmien ghal żmien jippreskrivi.

(3) Id-dispożizzjonijiet ta' l-artikolu 468 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili ghandhom japplikaw dwar kull mandat mahrug bis-sahha ta' xi titolu eżekuttiv imsemmi fl-artikolu 40 ta' dan l-Att u ghall-hlas tad-dhul mill-bejgh bl-irkant tal-proprjeta' maqbuda; u ebda oppożizzjoni jew rizerva fiċ-ċedola ta' depożitu ma ghandha twaqqaf milli tithallas xi somma depożitata fil-qorti wara li jkun sar xi mandat hekk kif intqal qabel.

(4) Id-dispożizzjoni tas-subartikolu (3) ta' dan l-artikolu ma tkunx ta' preġudizzju ghall-ammont ta' taxxa li tiġi stabbilita bhala finali skond id-dispożizzjonijiet l-oħra ta' l-Att dwar it-Taxxi.

Gbir ta' taxxa wara deċiżjoni ta' oġġezzjoni jew appell.

Hlas tat-taxxa minn persuni li jkunu se jitilqu minn Malta.

45. Meta l-hlas tat-taxxa jkun gie miżmum skond id-dispożizzjonijiet ta' l-artikolu 41 ta' dan l-Att sa ma johrog ir-riżultat ta' avviż ta' oġġezzjoni jcw ta' appell, it-taxxa li tkun ghadha ma thallsitx skond il-likwidazzjoni stabbilita fuq dik l-oġġezzjoni jew dak l-appell, skond il-każ, ghandha tithallas sa dak iż-żmien li jispiċċa fl-ahhar jum tax-xahar kalendarju li jahbat minnufih wara dak li matulu jkun gie notifikat l-avviż tat-taxxa li jkollha tithallas, u jekk dik it-taxxa ma tithallasx sa dak iż-żmien, ghandhom japplikaw id-dispożizzjonijiet ta' l-ahhar artikolu qabel dan.

46. (1) Jekk fxi każ partikolari, il-Kummissarju ghandu ghalfejn jahseb illi persuna li giet intaxxata tista' titlaq minn Malta qabel ma' dik it-taxxa jkollha tithallas taht id-dispożizzjonijiet ta' l-Att dwar it-Taxxi minghajr ma tkun hallset dik it-taxxa, huwa jista', b'avviż bil-miktub, lil dik il-persuna jitlob il-hlas ta' dik it-taxxa fi żmien li jkun stabbilit f'dak l-avviż. Dik it-taxxa ghandha fuq hekk tithallas f'eghluq iż-żmien hekk stabbilit u ghandha f'nuqqas ta' hlas, kemm-il darba garanzija ghall-hlas taghha ma tingiebx b'sodisfazzjon tal-Kummissarju, tingabar minnufih bil-mod preskritt fl-artikolu 44 ta' dan l-Att.

(2) Jekk fxi każ partikolari, il-Kummissarju jkollu ghalfejn jahseb illi taxxa fuq xi *income* taxxabli tista' ma tigix migbura, huwa jista' f'kull żmien, u skond kif jitlob il-każ -

(a) minnufih b'avviż bil-miktub jehtieg lil xi persuna sabiex taghmel prospett u sabiex taghti informazzjoni ta' kull *income* bhal dak fi żmien li jkun speċifikat f'dak l-avviż;

(b) jaghmel stima tat-taxxa dwar dik il-persuna fl-ammont ta' l-*income* migjub fil-prospett jew, jekk ma jintbaghatx dak il-prospett jew jekk il-Kummissarju ma jkunx sodisfatt b'dak il-prospett, f'dak l-ammont illi l-Kummissarju jahseb li hu xieraq;

(c) b'avviż bil-miktub lill-persuna intaxxata jitlob li tingieb minnufih garanzija ghall-hlas tat-taxxa stmata, ghas-sodisfazzjon tieghu.

(3) Lill-persuna intaxxata ghandu jinghata avviż ta' stima maghmula skond id-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, u kull taxxa hekk stmata (skond id-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu) ghandha tithallas fuq talba maghmula bil-miktub minn idejn il-Kummissarju u, jekk ma jsirx il-hlas, kemm-il darba ma tingiebx garanzija ghas-sodisfazzjon tal-Kummissarju, ghandha tingabar minnufih bil-mod preskritt fl-artikolu 47 ta' dan l-Att.

(4) Kull persuna li tkun hallset it-taxxa skond talba maghmula mill-Kummissarju jew illi tkun giebet garanzija ghal dak il-hlas taht is-subartikolu (2) ta' dan l-artikolu jkollha l-jeddijiet ta' oġġezzjoni u ta' appell moghtijin bl-artikoli 33, 35 u 37 ta' dan l-Att u l-ammont imhallas minnha ghandu jkun agġustat skond ir-riżultat ta' xi oġġezzjoni jew appell bhal dawk.

(5) Id-dispożizzjonijiet tas-subartikolu (2) ta' dan l-artikolu ma jtiefsux is-setgha moghtija lill-Kummissarju bl-artikolu 31 ta' dan l-Att.

47.(1) It-taxxa tista' ssir kawża dwarha u tingabar, skond il-każ, fil-Prim Awla tal-Qorti Ċivili jew fil-Qorti tal-Maġistrati (Malta) fil-gurisdizzjoni ċivili tagħha jew fil-Qorti tal-Maġistrati (Għawdex) wkoll fil-gurisdizzjoni ċivili tagħha, mill-Kummissarju fil-kwalita' uffiċjali tiegħu, bl-ispejjeż kollha tal-kawża, minghand il-persuna mressqa għal hekk, minghand il-persuna li għandha thallasha jew minghand il-persuna responsabbli għat-tnaqqis tagħha bħala dejn.

Kawża
mill-Kummissarju
għat-taxxa.

(2) Hlief kif xort'ohra maħsub fl-Atti dwar it-Taxxi u bla hsara l-iktar tad-dispożizzjonijiet tas-subartikoli (2) u (3) ta' l-artikolu 31 ta' dan l-Att, jistghu jittiehdu passi għall-hlas tat-taxxa, taxxa addizzjonali jew xi piena f'kull żmien f'perijodu ta' tmien snin mid-data li fiha l-istima dwar dik is-sena ta' stima li għaliha tirreferixxi ssir finali u konkluziva.

(3) It-terminu għall-preskrizzjoni msemmi f'dan l-artikolu jkun miksur b'kull att gudizzjarju preżentat mill-Kummissarju qabel ma jagħlaq dak it-terminu, li bih jintalab il-hlas tat-taxxa.

TAQSIMA VIII Rifużjoni

48. (1) Jekk jiġi ppruvat, b'sodisfazzjon tal-Kummissarju, illi xi persuna fxi sena ta' stima hallset taxxa, bi tnaqqis jew xort'ohra, b'izjed mill-ammont li bih hija proprjament għandha tiġi intaxxata, dik il-persuna jkollha l-jedd li l-Kummissarju jirrifondilha l-ammont hekk imhallas b'eċċess. Kull talba għall-hlas lura taht dan l-artikolu għandha ssir fi żmien erba' snin mid-data li fiha l-istima dwar dik is-sena ta' stima li għaliha tirreferi ssir finali u konkluziva:

Hlas lura ta'
taxxa.

Iżda fil-każ ta' persuna li tagħmel talba għall-hlas lura dwar xi sena ta' stima li dwarha ma kellha ebda *income* taxxabli, dik it-talba għandha ssir fi żmien erba' snin mit-tmiem tas-sena ta' stima li għaliha tirreferi t-talba:

Iżda wkoll f'ebda każ ma għandha ssir xi rifużjoni dwar-

(a) xi taxxa li kumpannija tkun naqqset jew li jkollha l-jedd li tnaqqas minn xi dividend imhallas lil xi persuna li bis-saħħa ta' xi eżenzjoni mogħtija bl-artikolu jew taht l-artikolu 12 ta' l-Att dwar it-Taxxa fuq l-*Income* ma tkunx sugġetta għat-taxxa fuqu; u

(b) xi taxxa li tiġi ntaxxata lil xi korp ta' persuni taht is-subartikolu (4) ta' l-artikolu 56 ta' l-Att dwar it-Taxxa fuq l-*Income*, jew taht is-subartikoli (3) u (4) ta' l-artikolu 27 ta' dan l-Att; u

(ċ) xi taxxa li kumpannija tkun naqqset jew ikollha jedd tnaqqas minn xi dividend imhallas lil skema ta' investiment kollettiv.

(2) Hlief għal dak li għandu x'jaqsam ma' somom li għandhom jithallsu lura fuq oġġezzjoni jew appell, ebda hlas lura ma għandu jsir lil

ebda persuna dwar xi sena ta' stima li dwarha dik il-persuna naqset jew itraskurat li tikkunsinna prospett jew giet intaxxata b'somma feċċess mill-ammont li jinsab fil-prospett tagħha, kemm-il darba hija tkun irċeviet avviż ta' l-istima magħmula dwarha għal dik is-sena; u jekk ma jigix ippruvat b'sodisfazzjon tal-Kummissarju illi dak in-nuqqas jew traskuraġni tal-kunsinna ta' prospett veru u korrett ma kenux gejjin minn qerq jew att jew omissjoni volontarji min-naħa ta' dik il-persuna.

(3) Kull persuna li tkun *aggravata* bid-deċizjoni tal-Kummissarju dwar l-ammont li għandu jithallas lura taht id-dispożizzjonijiet ta' dan l-artikolu jkollha l-istess jedd għall-appell kontra dik id-deċizjoni daqslikieku hija kienet *aggravata* bi stima magħmula dwarha:

Izda dak l-appell ma jergax jiftah xi kwistjoni li dwarha jedd ta' appell taht l-artikoli 35 u 37 ta' dan l-Att ikun għalaq jew xi kwistjoni li giet għa' deċiża f'appell.

(4) (a) Persuna, li tirċievi dividend imħallas lilha minn profitti allokatil lil kont ta' *income* barrani jew minn xi profitti mqassmin minn kumpanija b'kummerċ internazzjonali, skond il-każ, tista' titlob hlas lura ta' żewġ terzi tat-taxxa ta' Malta li tkun thallset mill-kumpanija dwar dawk il-profitti mqassmin minnha bhala dividend, meta dik il-persuna tkun jew:

(i) mhux residenti f'Malta u li, meta applikabbli, ma tkunx proprjeta' ta', u kontrollata minn, direttament jew indirettament, lanqas ma tagħxi fisem, persuna li ordinarjament tirisjedi u domiciljata f'Malta; jew

(ii) kumpanija residenti f'Malta li tkun għal kollox proprjeta' ta' persuna jew persuni mhux residenti f'Malta, izda dik il-persuna jew dawk il-persuni ma jkunux proprjeta' ta', u kontrollati minn, lanqas ma jkunu qed jagħxu fisem, persuna jew persuni li ordinarjament jirisjedu u domiciljati f'Malta.

(b) Bla hsara għad-dispożizzjonijiet tal-paragrafu (a) ta' dan is-subartikolu, meta l-profitti mqassmin kif intqal qabel jinkisbu minn sehem partecipanti, tista' ssir talba għall-hlas lura ta' kull taxxa ta' Malta mħallsa dwar dawk il-profitti.

(c) Għall-finijiet ta' dan is-subartikolu u tas-subartikolu (7), l-espressjoni "taxxa ta' Malta mħallsa" tfisser it-taxxa li fil-fatt tithallas mill-kumpanija lill-Kummissarju fuq il-profitti li jitqassmu mill-kont ta' *income* barrani jew xi profitti mqassmin minn kumpanija b'kummerċ internazzjonali, skond il-każ.

(5) Talba għall-hlas lura kif intqal qabel għandha ssir mhux iktar tard minn erba' snin mid-data li fiha l-ammont tat-taxxa jikkwalifika biex jithallas lura.

(6) Il-Kummissarju jista' jagħmel il-hlas lura taht is-subartikolu (4) ta' dan l-artikolu meta jkun sodisfatt dwar il-korretezza tat-talba

magħmula u malli jirċievi ċertifikat mahruġ mill-kumpannija li tħallas id-dividend taht id-dispożizzjonijiet tas-subartikolu (5) ta' l-artikolu 59 ta' l-Att dwar it-Taxxa fuq l-*Income*. Dak il-ħlas lura ma jkunx taxxabbli.

(7) (a) Meta tkun saret talba għal ħlas lura taht id-dispożizzjonijiet tas-subartikolu (4) ta' dan l-artikolu, ebda persuna ma jkollha jedd għal iktar ħlas lura taht dak is-subartikolu jew għal ħlas lura taht xi dispożizzjonijiet oħra ta' l-Att dwar it-Taxxi tat-taxxa ta' Malta mħallsa li dwarha tkun saret it-talba.

(b) Meta tkun saret talba għall-ħlas lura ta' taxxa ta' Malta mħallsa taht is-subartikolu (1) ta' dan l-artikolu, ebda persuna ma jkollha jedd għal iktar ħlas lura taht id-dispożizzjonijiet tas-subartikolu (4) ta' dan l-artikolu tat-taxxa ta' Malta mħallsa li dwarha tkun saret it-talba.

(c) Meta kumpannija (il-kumpannija li tqassam) tħallas dividend minn profitti allokati lil kont ta' *income* barrani, lil kumpannija residenti f'Malta (il-kumpannija riċevitura) u talba għal ħlas lura tkun saret taht id-dispożizzjonijiet tas-subartikolu (4) ta' dan l-artikolu dwar it-taxxa mħallsa mill-kumpannija riċevitura fuq id-dividend riċevut mill-kumpannija li tqassam, ebda persuna ma jkollha jedd għal iktar ħlas lura taht id-dispożizzjonijiet tas-subartikolu (4) ta' dan l-artikolu tat-taxxa ta' Malta mħallsa li dwarha tkun saret it-talba:

Izda persuna li għandha jedd għal ħlas lura kif muri taht is-subartikolu (4) ta' dan l-artikolu dwar profitti mqassmin minn kumpannija b'kummerċ internazzjonali jkollha wkoll jedd għall-ħlas lura tad-differenza bejn it-taxxa ta' Malta intaxxata lil dik il-kumpannija u t-taxxa li jkollha tithallas minn dik il-persuna fuq dak l-*income* skond id-dispożizzjonijiet ta' dan l-Att.

(8) Ħlas lura li jkollu jithallas mill-Kummissarju kif intqal qabel jikkostitwixxi dejn dovut mill-Kummissarju lil min jagħmel it-talba, li għandu jithallas mhux iktar tard mill-erbatax-il jum wara l-aħħar tax-xahar li fih il-ħlas lura jkun dovut u għandu hekk jingabar.

TAQSIMA IX Reati u Pieni

49. (1) Kull persuna li tikser jew tonqos li thares xi wahda mid-dispożizzjonijiet ta' l-Att dwar it-Taxxi jew ta' xi regoli magħmula bis-saħħa tiegħu tkun hatja ta' reat u, kemm-il darba ma jkunx hemm piena oħra speċifikata taht l-Att dwar it-Taxxi, tehel meta tinsab hatja multa ta' mhux inqas minn 10 liri u mhux iżjed minn 50 lira.

Dispożizzjonijiet
ġenerali dwar
reati.

(2) Meta persuna, fl-1 jew wara l-1 ta' Lulju, 1977, tinsab hatja ta' reat taht xi wahda mid-dispożizzjonijiet ta' l-Att dwar it-Taxxi u ma tingħatax prigunerija għal dak ir-reat, il-qorti għandha espressament twissija illi jekk, fi żmien hames snin mid-data tat-twissija, hi terga' tinstab hatja ta' reat ieħor taht xi wahda mid-dispożizzjonijiet ta' l-Att

dwar it-Taxxi (sew jekk ta' l-istess xorta sew jekk le) tinghata sentenza, b'zieda ma' kull piena ohra, ta' mhux inqas minn tlitt ijiem prigunerija; u persuna hekk misjuba hatja ghat-tieni darba u wara, matul l-imsemmi zmien, ghandha, minkejja kull haga li tinsab fl-Att dwar il-*Probation* ta' Hatjin jew f'xi legislazzjoni ohra, tinghata sentenza ta' prigunerija ghal zmien ta' mhux inqas minn tlitt ijiem, b'zieda ma' kull piena ohra hlief ghal prigunerija ghal zmien itwal.

Piena ghal nuqqas dwar avviż.

50. Kull persuna illi, minghajr raguni tajba -

(a) tonqos li thares il-htigijiet ta' avviż, intimazzjoni, talba jew nota li fiha ssir talba moghtija, maghmula jew notifikata lilha taht l-Att dwar it-Taxxi; jew

(b) tonqos li tattendi bi twegiba ghal avviż mahruġ lilha taht l-Att dwar it-Taxxi jew wara li tkun attendiet tonqos li twiegeb ghal xi mistoqsija skond il-ligi lilha maghmula,

tkun hatja ta' reat u tkun sugġetta, meta tinsab hatja, ghal multa ta' mhux inqas minn 10 liri u mhux iżjed minn 50 lira, u ghal multa ohra ta' mhux iżjed minn 2 liri ghal kull jum li tulu n-nuqqas jibqa' sejjer wara li tkun instabet hatja.

Piena għall-ghemil ta' prospetti mhux korretti, eċċ.

51.(1) Kull persuna illi, minghajr raguni tajba -

(a) taghmel prospett mhux korrett billi thalli barra jew tnaqqas xi *income* li tieghu hija ghandha, skond dawn l-Att dwar it-Taxxi, taghmel prospetti; jew

(b) taghti xi informazzjoni mhux korretta dwar xi materja jew haga li tolqot ir-responsabbilta' taghha nfisha ghat-taxxa jew ir-responsabbilta' ta' xi persuna ohra jew ta' soċjeta',

tkun hatja ta' reat u tehel, meta tinsab hatja, multa ta' mhux anqas minn 25 lira u mhux iżjed minn 200 lira u, minbarra dan, ghal darbtejn l-ammont tat-taxxa li jkun gie stmat inqas minhabba dak il-prospett mhux korrett, jew informazzjoni, jew kien jigi hekk stmat inqas li kieku l-prospett jew informazzjoni gew aċċettati bhala korretti.

(2) Ebda persuna ma tkun sugġetta ghal xi piena taht dan l-artikolu kemm il-darba l-ilment dwar dak ir-reat ma kienx sar fis-sena ta' stima li dwarha jew tulha r-reat kien sar jew fi zmien tlit snin wara li taghlaq dik is-sena.

(3) Il-Kummissarju jista' jasal f'arrangamenti dwar reat taht dan l-artikolu u jista', qabel is-sentenza, iwaqqaf jew jasal f'arrangamenti fuq procedimenti taht dan l-artikolu.

Dispożizzjonijiet penali dwar frodi, eċċ.

52. (1) Kull persuna illi bil-hsieb li tahrab mit-taxxa, jew li tghin lil xi persuna ohra sabiex tahrab mit-taxxa taht dan l-Att -

(a) thalli barra minn prospett jew minn xi dokument jew dikjarazzjoni maghmula, imhejjija jew moghtija għall-finijiet ta' l-Att dwar it-Taxxi jew taht dawk l-Att, xi *income* li hemm kellu jidhol; jew

(b) tagħmel xi dikjarazzjoni falza jew registrazzjoni falza fxi prospett jew dokument jew dikjarazzjoni mhejjija jew mogħtija għall-finijiet ta' l-Atti dwar it-Taxxi ; jew

(c) tagħti xi twegiba falza, sew jekk verbalment kemm bil-miktub, lil xi mistoqsija jew talba għal informazzjoni magħmula skond id-dispożizzjonijiet ta' l-Atti dwar it-Taxxi; jew

(d) tipprepara jew iżzomm jew tawtorizza l-preparazzjoni jew tiżmim ta' xi kotba tal-kontijiet jew dokumenti oħra foloz jew tiffalsifika jew tawtorizza l-falsifikazzjoni ta' xi kotba tal-kontijiet jew dokumenti; jew

(e) tagħmel użu minn xi frodi, tidwir jew mezz ieħor ta' qerq jew tawtorizza l-użu ta' dik il-frodi, tidwir jew mezz ieħor ta' qerq,

tkun hatja ta' reat, u, għal kull reat bħal dan, tkun sugġetta, meta tinsab hatja quddiem Qorti tal-Magistrati tal-Pulizija Ġudizzjarja bħala qorti ta' gudikatura kriminali, għal multa ta' mhux inqas minn 50 lira u mhux iżjed minn 200 lira u, barra dan, għal tliet darbiet l-ammont tat-taxxa li għaliha l-persuna li t-taxxa tagħha kien hemm il-hsieb li tigi evitata jew li tigi mghejjuna biex tevita hija sugġetta taht l-Atti dwar it-Taxxi għas-sena ta' stima li dwarha jew tulha r-reat kien sar, jew għal prigunerija għal xi perijodu mhux itwal minn sitt xhur, jew sew għal dik il-multa u dik il-prigunerija flimkien.

(2) Il-Kummissarju jista' jasal frangamenti dwar reat taht dan l-artikolu u jista', qabel is-sentenza, iżomm jew jasal frangamenti fuq proċedimenti taht dan l-artikolu.

53. Kull persuna li, bħala li għandha jew kellha xi dmir uffiċjali jew bħala impjegata jew kienet impjegata fl-amministrazzjoni ta' l-Atti dwar it-Taxxi, ikollha jew kellha aċċess għal, pussess ta', jew kontroll fuq xi dokumenti, informazzjoni, prospetti jew stimi, dwar l-Atti dwar it-Taxxi, jew kopji tagħhom, u li, hlief kif provdut fl-artikolu 4 ta' dan l-Att, fxi żmien tikkomunika jew tipprova tikkomunika xi informazzjoni bħal dik jew xi haġa li tkun tinsab f'dawk id-dokumenti, prospetti, stimi jew kopji lil xi persuna, tkun hatja ta' reat u tehel meta tinsab hatja multa ta' mhux inqas minn 100 lira u mhux iżjed minn 1000 lira, jew prigunerija għal żmien ta' mhux iżjed minn sitt xhur, jew dik il-multa u prigunerija flimkien.

Piena għal reati kontra s-segretezza uffiċjali.

54. It-tehid ta' proċedimenti għal piena, multa jew żmien ta' prigunerija, jew l-impożizzjoni ta' dik il-piena, multa jew żmien ta' prigunerija taht l-Atti dwar it-Taxxi ma jehles lil ebda persuna mir-responsabbilta' għall-hlas ta' xi taxxa li għaliha hija jew tista' tkun sugġetta.

It-taxxa għandha tithallas għalkemm ikun hemm xi proċedimenti għal pieni, eċċ.

55. Id-dispożizzjonijiet ta' l-Atti dwar it-Taxxi ma jtiefsu ebda proċedimenti kriminali taht xi Att ieħor jew ligi oħra.

Riżerva dwar proċedimenti kriminali.

56. Ebda kawża dwar reat taht l-Atti dwar it-Taxxi ma tista' tinbeda hlief fuq it-talba jew bis-sensja tal-Kummissarju.

Il-kawża ssir bis-sensja tal-Kummissarju.

TAQSIMA X
Setgħa għall-għemil ta' regoli

Setgħa għall-għemil ta' regoli.

57. Il-Ministru responsabbli għall-finanzi jista', minn żmien għal ieħor, jagħmel regoli b'mod ġenerali sabiex jitmexxew id-dispożizzjonijiet ta' dan l-Att u jista', b'mod speċjali, b'dawk ir-regoli jipprovdi -

(a) għall-forma tal-prospetti, talbiet, dikjarazzjonijiet u avvizi taht dan l-Att;

(b) għal dawk il-materji kollha illi jkunu awtorizzati b'dan l-Att li jiġu preskritti.

Notament ta' ċerti eżenzjonijiet jitqiegħed fuq il-Mejda tal-Kamra tad-Deputati.

58. Notament ta' kull eżenzjoni mogħtija mill-Ministru responsabbli għall-finanzi taht is-subartikolu (2) ta' l-artikolu 12 ta' l-Att dwar it-Taxxa fuq l-*Income*, dwar korp ta' persuni, jew klassi ta' persuni, għandu jitqiegħed fuq il-Mejda tal-Kamra tad-Deputati mill-aktar fis li jista' jkun wara li tingħata.

Dispożizzjoni transitorja.

59.(1) Id-dispożizzjonijiet tas-subartikolu (4A) ta' l-artikolu 4 ta' l-Att dwar it-Taxxa fuq l-*Income* kif fis-seħħ minnufih qabel il-bidu fis-seħħ ta' dan l-Att u ta' l-Att ta' l-1994 li jemenda l-Att dwar it-Taxxa fuq l-*Income* (Emenda Nru.2), għandhom jibqgħu fis-seħħ għar-rigward ta' kull prospett ta' l-attiv kapitali msemmi f'dak is-subartikolu dwar snin ta' stima msemmija f'dak is-subartikolu sas-sena ta' stima 1994.

(2) Id-dispożizzjonijiet ta' l-Att dwar it-Taxxa fuq l-*Income* għar-rigward ta' prospetti ta' *income* u attiv kapitali għas-snin ta' stima sas-sena ta' stima 1994, għandhom jibqgħu fis-seħħ, kif kienu fis-seħħ minnufih qabel il-bidu fis-seħħ ta' dan l-Att.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 303 ta' l-20 ta' Lulju, 1994.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

INCOME TAX MANAGEMENT ACT, 1994.**Arrangement of Sections**

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I assent,

(L.S.)

UGO MIFSUD BONNICI
President

13th September, 1994

ACT No. XVIII of 1994

AN ACT to regulate the collection of income tax and to provide the administrative machinery for such collection.

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. (1) This Act may be cited as the Income Tax Management Act, Short title and commencement.
1994.

(2) This Act 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.

2. In this Act, and in any rules made under this Act, words and Interpretation.
expressions shall, unless the subject in context otherwise requires, have the same meaning and the same interpretation as the meanings and interpretations contained in section 2 of the Income Tax Act. Cap. 123.

PART II
Administration

Appointment
of administrative
authority.

3. The administration of this Act and of the Income Tax Act, (hereinafter collectively referred to as "the Income Tax Acts") is vested in the Commissioner who may, in writing and subject to such limitations as he may think fit, delegate to any officer serving in his department any of the rights, duties, powers and other functions vested, conferred or imposed upon him by the Income Tax Acts.

Official secrecy.

4. (1) Except as may be necessary for the purposes of the Income Tax Acts, or where the Prime Minister otherwise directs, every person having any official duty or being employed in the administration of the Income Tax Acts shall regard and deal with all documents, information, returns and assessments relating to the Income Tax Acts, or copies thereof, as secret and confidential and shall make and subscribe before the Court of Appeal a declaration on oath to that effect in the form prescribed.

(2) No person appointed under or employed in carrying out the provisions of the Income Tax Acts shall be required to produce in any court, tribunal, Board or committee of enquiry, any return, document or assessment or to divulge or communicate to any court, tribunal, Board or committee of enquiry, any matter or thing coming under his notice in the performance of his duties under the Income Tax Acts except as may be necessary for the purpose of carrying into effect the provisions of the Income Tax Acts, or for the purpose, or in the course, of a prosecution for any offence committed against any of the provisions of the Income Tax Acts.

(3) Nothing contained in this section shall prevent the disclosure to any authorised representative of any other Government of such information as is required to be disclosed in terms of any arrangement made under section 76 of the Income Tax Act, or of any such facts as may be necessary to enable proper relief to be given in Malta or elsewhere under any such arrangement or under section 89 of the Income Tax Act.

(4) The provisions of this section in regard to secrecy shall not apply to information contained in any return filed in accordance with section 10 of this Act and relating to such details of income and as prescribed under the Income Tax Acts.

(5) (a) The Commissioner shall submit to the Speaker of the House of Representatives a certified statement showing the details of income declared by each Member of the House for the purpose of the Income Tax Acts from the year of assessment in which such Member first became a Member of the House and for every subsequent year of assessment up to and including the year of assessment following the year in which such Member ceases to be a Member of the House:

Provided that if a Member having ceased to be a Member of the House as aforesaid again becomes a Member of the House, the Commissioner shall also submit to the Speaker the details of the income in respect of the period covering the years when such member ceased to be a Member until he again becomes a Member of the House.

(b) The Speaker of the House of Representatives shall, upon a request in writing by any Member of the House or by the Editor responsible for any newspaper registered under the Press Act, furnish such Member or Editor with the details of income in respect of any year of assessment declared by any Member of the House for the purposes of the Income Tax Acts, provided that the details of income so requested have been made available to the Speaker under the provisions of paragraph (a) of this subsection and that prior to giving such information the Speaker shall notify such Member whose details of income are being requested, with a copy of such request and of the reply being given. Cap. 248.

(6) Notwithstanding anything contained in this section, the Commissioner may permit the Director of Audit of the Government or any other officer duly authorised in that behalf by the Director of Audit to have such access to any records or documents as may be necessary for the performance of his official duties. The Director of Audit or any such officer shall be deemed to be a person employed in the administration of this Act for the purpose of this section.

(7) Notwithstanding anything contained in this section, the Commissioner may make use of the documents, information and returns relating to the income or items of income of any person for the purpose of the Duty on Documents and Transfers Act, 1993, and may produce or cause to be produced in court in any proceedings relating to duties levied or leviable, and for the collection of any penalty inflicted under such Act, a copy of any particulars contained in any document of return as aforesaid, certified by him or by the chairman of the Board of Special Commissioners constituted under section 34 of this Act or by the Registrar of the Superior Courts or of the Court of Magistrates (Malta) or of the Court of Magistrates (Gozo), as the case may be, to be a correct copy of such particulars:

Provided that the Commissioner may produce or cause to be produced the original of any such document or return in any case where it is necessary to prove the handwriting or the signature or the identity of the person who wrote, made, signed or furnished such document or return, but only for the purpose of such proof.

PART III
Persons Assessable

Chargeability of agent or person residing out of Malta.

5. (1) Further to the provisions contained in Part IX of the Income Tax Act, a person not resident in Malta (hereinafter in this Act referred to as "a non-resident person") shall be assessable and chargeable in the name of his trustee, guardian, tutor, curator or committee, or of any attorney, factor, agent, receiver, branch or manager, whether such attorney, factor, agent, receiver, branch or manager has the receipt of the income or not, in like manner and to the like amount as such non-resident person would be assessed and charged to tax in Malta as if he were in the actual receipt of such income.

A non-resident person shall be assessable and chargeable in respect of any income arising, whether directly or indirectly, through or from any attorneyship, factorship, agency, receivership, branch or management, and shall be so assessable and chargeable in the name of the attorney, factor, agent, receiver, branch or manager.

(2) Where the registered holder of a share holds such share for the benefit of another person, the Commissioner shall be entitled to treat such registered holder as beneficially entitled to such share except as provided in subsection (3) of this section.

(3) Where the registered holder of a share is licensed under section 51A of the Malta Financial Services Centre Act or is licensed under the Investment Services Act to carry out activities within paragraph 4 of the First Schedule to that Act and provides the Commissioner with a certificate in writing that he holds the share for the benefit of a person or persons all of whom are not resident in Malta within the meaning of the Income Tax Acts, the Commissioner shall not treat the registered holder of the share as beneficially entitled to it.

(4) A licensed nominee shareholder who issues a false certificate to the Commissioner shall be guilty of making a false statement within the meaning of paragraph (b) of subsection (1) of section 52 of this Act.

(5) The master of any ship owned or chartered by a non-resident person who is chargeable under section 28 of the Income Tax Act shall (though not to the exclusion of any other agent) be deemed the agent of such non-resident person for all the purposes of the Income Tax Acts.

(6) Where a non-resident person carried on business with a resident person, and it appears to the Commissioner that, owing to the close connection between the resident person and the non-resident person and to the substantial control exercised by the non-resident person over the resident person, the course of business between those persons can be so arranged and is so arranged that the business done by the resident person in pursuance of his connection with the non-resident person

produces to the resident person either no profits or less than the ordinary profits which might be expected to arise from the business, the non-resident person shall be assessable and chargeable to tax in the name of the resident person as if the resident person were an agent of the non-resident person.

(7) Where it appears to the Commissioner that the true amount of the gains or profits of any non-resident person chargeable to tax in the name of a resident person cannot in any individual case be readily ascertained, the Commissioner may, if he thinks fit, assess and charge the non-resident person on a fair and reasonable percentage of the turnover of the business done by the non-resident person through or with the resident person in whose name he is chargeable as aforesaid and in such case the provisions of the Income Tax Acts as to the delivery of returns or particulars by persons acting on behalf of others shall extend so as to require returns or particulars to be furnished by the resident person of the business so done by the non-resident person through or with the resident person, in the same manner as returns or particulars are to be delivered by persons acting for incapacitated or non-resident persons in respect of income to be charged:

Provided that the amount of the percentage shall in each case be determined having regard to the nature of the business and shall, when determined by the Commissioner, be subject to an appeal as provided by sections 35 and 37 of this Act.

(8) Nothing in this section shall render a non-resident person chargeable in the name of a broker or general commission agent or other agent where such broker, general commission agent or agent is not an authorised person carrying on the regular agency of the non-resident person, or a person chargeable as if he were an agent in pursuance of subsections (5), (6) and (7) of this section, in respect of gains or profits arising from sales or transactions carried out through such a broker or agent.

(9) The fact that a non-resident person executes sales or carries out transactions with other non-residents in circumstances which would make him chargeable in pursuance of subsections (5) and (6) of this section in the name of a resident person shall not of itself make him chargeable in respect of gains or profits arising from those sales or transactions.

(10) Where a non-resident person is chargeable to tax in the name of any attorney, factor, agent, receiver, branch or manager in respect of any gains or profits arising from the sale of goods or produce manufactured or produced out of Malta by the non-resident person, the person in whose name the non-resident person is so chargeable may, if he thinks fit, apply to the Commissioner to have the assessment to tax in respect of those gains or profits made or amended on the basis of the

profits which might reasonably be expected to have been earned by a merchant or, where the goods are retailed by or on behalf of the manufacturer or producer, by a retailer of the goods sold, who had bought from the manufacturer or producer direct, and, on the proof to the satisfaction of the Commissioner of the amount of the profits on the basis aforesaid, the assessment shall be made or amended accordingly.

(11) A non-resident person shall not, by virtue of this section, be assessable or chargeable to tax in the name of an agent or other representative in respect of gains or profits arising to the non-resident person resulting from the provision in Malta by the agent or such other representative of any of the services listed in the first schedule to the Investment Services Act, 1994, provided that:

(a) the investment services concerned are carried out in the ordinary course of such business; and

(b) the remuneration which the agent or other representative receives for the provision of investment services to the non-resident person is at a rate which is not less than that which is customary for that class of business, and in the case of an agent or other representative who provides investment services as part only of a business, the provisions of paragraphs (a) and (b) of this subsection shall apply as if that part were a separate business.

(12) For the purposes of subsection (11) of this section an agent or other representative shall be deemed to have carried out an investment service on behalf of his principal whether he undertakes the transaction himself or gives instructions to another person.

(13) The activities of the agent or other representative shall not affect the residence of the non-resident person for tax purposes.

Acts to be done
by trustees, etc.

6. The person in whose name a non-resident person is chargeable, shall be answerable for all matters required to be done by virtue of the Income Tax Acts for the assessment of the income of any person for whom he acts and for paying the tax chargeable thereon.

Manager of
corporate bodies
of persons.

7. (1) The manager or other principal officer of every body of persons shall be answerable for doing all such acts, matters and things as are required to be done by virtue of the Income Tax Acts for the assessment of such body and payment of the tax.

(2) Every such principal officer shall pay the tax out of the property of the body of persons. He shall, however, be liable for payment personally, and jointly and severally with any other person responsible therefor, if at any time after 1st January, 1979 he had in his possession or control any property belonging to the body of persons which could have been used to pay the tax then due.

(3) The liquidator of a company which is being wound up shall not distribute any of the assets of the company to its shareholders unless he had made provision, in so far as he is able to do so out of the assets of the company, for the payment in full of any tax which he knows of or might reasonably expect to be payable by the company under the Income Tax Acts and in default, such liquidator shall be liable personally, and jointly and severally with any other person responsible therefor, for payment of the tax due.

8. Every person who in whatever capacity is in receipt of any money or value being income arising from any of the sources mentioned in the Income Tax Acts or belonging to any person who is chargeable in respect thereof, or who would be so chargeable if he were resident in Malta and not an incapacitated person, shall whenever required to do so by any notice from the Commissioner, prepare and deliver within the period mentioned in such notice a list signed by him containing -

Lists to be prepared by representative or agent.

(a) a true and correct statement of such income; and

(b) the name and address of every person to whom the same shall belong,

and the provisions of the Income Tax Acts with respect to the failure to deliver lists or particulars in accordance with a notice from the Commissioner shall apply to any such lists.

9. Every person answerable under the Income Tax Acts for the payment of tax on behalf of another person may retain out of any money coming to his hands on behalf of such other person so much thereof as shall be sufficient to pay such tax, and shall be and is hereby indemnified against any person whatsoever for all payments made by him in pursuance and in virtue of the Income Tax Acts.

Indemnification of representative.

PART IV **Returns**

10. The Commissioner may, by notice in writing, require any person to furnish him within a reasonable time, not being less than thirty days from the date of service of such notice, with a return of income together with and containing such particulars, statements, accounts or other documents as may be necessary to enable such person's income and allowable deductions under the provisions of the Income Tax Act to be readily ascertained for the purposes of the Income Tax Acts.

Notice of chargeability and returns.

When notice is not received.

11. Where any person chargeable with tax has not received the notice mentioned in section 10 of this Act in respect of any year of assessment for which he is so chargeable, it shall be the duty of that person to give notice to the Commissioner that he is so chargeable and to file a return of income in accordance with section 10 of this Act by not later than the 30th September, 1995 in respect of the year of assessment 1995 or prior years of assessment, and for the years of assessment after the year of assessment 1995 to give notice to the Commissioner that he is so chargeable not later than the 31st March and to file the return of income not later than the 30th September in the relative year of assessment.

Provisions regarding the filing of returns.

12. (1) If a person required to file a return under section 10 or 11 of this Act -

(a) is a company not registered and not resident in Malta; or

(b) files, together with the return, accounts of his trade, business, profession or vocation certified by a certified public auditor,

any time stated by the Commissioner in a notice given under section 10 aforesaid as the time within which a return is to be made for the purposes thereof shall be construed as being a period expiring six months after the first day of the relative year of assessment:

Provided that where a person has been allowed under the provisions of section 11 of the Income Tax Act to make up his accounts to a date other than the day immediately preceding a year of assessment, the said period of six months shall be reduced by a period equal to that by which the accounting date precedes the said day:

Provided further that the period within which a return is to be made shall in no case be less than that stated in the notice given by the Commissioner.

(2) No return purporting to have been filed in accordance with the provisions of sections 10 and 11 of this Act shall be considered to have been so filed unless the said return is complete in all material respects.

(3) The Commissioner shall, every year, send to every person who has failed to submit a return in accordance with the provisions of sections 10 and 11 of this Act one or more notices, as may be necessary, referring to such failure and informing him that for such failure he has furthermore incurred a charge to additional tax for each such notice as provided under the provisions of the third proviso to subsection (12) of section 56 of the Income Tax Act.

13. The Commissioner may give notice in writing to any person when and as often as he thinks necessary requiring him to furnish, within a reasonable time limited by such notice, fuller or further returns respecting any matter as to which a return is required or prescribed by the Income Tax Acts.

Commissioner may call for further returns.

14. For the purpose of obtaining full information in respect of any person's income, the Commissioner may give notice to such person requiring him within a reasonable time to complete and deliver to the Commissioner any return specified in such notice and/or to attend personally or by representative before him and to produce for examination any books, documents, accounts and returns (including bank statements and passbooks) which the Commissioner may deem necessary.

Power to call for returns, books, etc.

15. A return, statement or form purporting to be furnished under the Income Tax Acts by or on behalf of any person shall for all purposes be deemed to have been furnished by that person or by his authority, as the case may be, unless the contrary is proved, and any person signing any such return, statement or form shall be deemed to be cognizant of all matters therein.

Returns to be deemed to be furnished by due authority.

16. The Commissioner may require any person having an office or employment, whether paid or otherwise, with the Government of Malta or with any organisation or other body whether having a legal personality or not in which the Government of Malta or any such body as aforesaid have a controlling interest or over which they have effective control to supply such particulars in respect of a person or persons specified by him as may be required for the purposes of the Income Tax Acts and which may be in the possession of such person having such office or employment:

Official information.

Provided that no request for particulars shall be made under this section unless the Commissioner or any officer authorised by him has reasonable grounds to suspect that the persons named or to be named in the request have evaded tax:

Provided further that no such person having such office or employment as aforesaid shall, by virtue of this section, be obliged to disclose any information in relation to a person in respect of which such person having such office or employment is under the duty of professional secrecy.

17. Without prejudice to the provisions relating to the duty of professional secrecy, no request for information shall be made pursuant to any power under the Income Tax Acts from any of the following licensed persons:

Professional secrecy.

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

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

(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;

Cap. 345

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

except solely for the purposes of determining the taxable income of such licensed person, and in replying to any such request the licensed person shall not disclose any information in relation to the affairs of persons with whom the licensed person has or has had a professional relationship:

Provided that nothing in this section shall prejudice the right of the Commissioner to make a request referred to in subsection (2) of section 34 of the Income Tax Act.

Substitution of original returns.

18. (1) Where any return, statement or form completed and delivered to the Commissioner for the purposes of the Income Tax Acts has been lost or destroyed, or has been so defaced or damaged as to be illegible or otherwise useless, the Commissioner may require the person by or on whose behalf such return, statement or form has been completed and delivered to furnish him to the best of his ability with a duplicate copy of such return, statement or form or to give such information, particulars or evidence as may be required in replacement.

(2) Nothing in this section contained shall affect the provisions of subsections (2) and (3) of section 31 of this Act, nor shall the Commissioner be empowered to require a copy of any return, statement or form, or the provision of any information, particulars or evidence in respect of any year of assessment where the raising of the relative assessment is statute-barred in terms of the provisions of the said subsections.

Records to be kept.

19. (1) Every person carrying on a trade, business, profession or vocation shall keep proper and sufficient records of his income and expenditure to enable his income and allowable deductions to be readily ascertained.

(2) The records referred to in subsection (1) of this section shall include:

(a) proper accounts with respect to -

(i) all sums of money received or expended and the matters in respect of which the receipt or expenditure takes place, and

(ii) all sales, purchases or services rendered, as well as any other transaction, act or operation pertaining to the trade, business, profession or vocation;

(b) a profit and loss account or equivalent annual statement;

(c) a statement of the assets and liabilities as on the date on which the annual accounts of the trade, business, profession or vocation are made up or, in the case of a company, a balance sheet.

(3) Subject to such conditions as he may deem fit to impose, the Commissioner may exempt any person in respect of any year of assessment from keeping any record or statement referred to in subsection (2) of this section.

(4) The records required to be kept under the provisions of this section shall be supported by such documents as may be appropriate in the circumstances, including -

(a) in the case of a company resident in Malta, the balance sheet and profit and loss account, which shall comply in every respect with the provisions of section 135 of the Commercial Partnerships Ordinance, and notwithstanding any exemption made by that Ordinance or by any other law, such balance sheet and profit and loss account shall be accompanied by a report made out by a certified public auditor as provided by section 142 of that Ordinance; Cap. 168

(b) in the case of a co-operative society, the audited financial statements of the society, prepared in all respects as required by the law for the time being in force regulating co-operative societies and accompanied by any report which is by any such law required to accompany the audited financial statements of the society.

(5) All records required to be kept by any of the provisions of this section shall be retained for a period of not less than nine years after the completion of the transactions, acts or operations to which they relate:

Provided that the provisions of this subsection shall not apply where effect has been given to the provisions of section 27 of this Act, or of subsection (2) of section 161 of the Commercial Partnerships Ordinance.

20. (1) The Commissioner, or any officer authorised by him in writing shall have full and free access to all business or professional premises such as offices, factories, workshops, warehouses, garages and land serving such purposes in order to observe and record the nature and Certain powers of the Commissioner.

importance of any business or professional activity carried on there, and to check the existence of merchandise and means of production and transport but shall not have any power under this section to seize any item or remove it from the premises:

Provided that the Commissioner or any officer authorised by him as aforesaid may not seize any notarial act or register, and may not inspect public wills, the acts of delivery of secret wills and registers thereof during the life of the testator or testators, without the permission in writing of such testator or testators:

Provided further that the Commissioner or any officer authorised by him as aforesaid may not inspect any document or other record which is protected by the duty of professional secrecy or listen to any conversation or recording device which is protected by the same duty.

(2) If, in the exercise of his powers under subsection (1) of this section, the Commissioner or a person authorised by him as aforesaid, requires access to premises occupied in whole or in part for the purposes of habitation, such access shall require the presence of an officer of the Police of a rank not below that of Inspector and shall not take place between nine in the evening and five in the morning.

Cap. 55

(3) The Commissioner shall, for the purpose of assessing the tax under the Income Tax Acts, be entitled to make the application referred to in paragraph (a) of subsection (2) of section 68 of the Notarial Profession and Notarial Archives Act, and the provisions of the said subsection (2) shall apply to such application in so far as applicable.

(4) If any person prevents or obstructs the Commissioner or the said officer in the execution of his duties, or refuses to comply with any request made by the Commissioner or by the said officer in accordance with the provisions of this section, he shall, on conviction by the Court of Magistrates of Judicial Police, sitting as a court of criminal judicature, be liable to a fine (*multa*) of not less than twenty-five liri and not exceeding two hundred liri or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(5) The powers of investigation under this section shall not be exercised unless the Commissioner or any officer authorised by him, has reasonable grounds to suspect that tax is being evaded in respect of operations carried out by the taxpayer on the premises referred to in subsection (1) of this section.

Return to be delivered by employer.

21. (1) Every employer when required to do so by notice from the Commissioner shall, within the time limited by the notice, prepare and deliver for any year a return containing -

(a) the names and places of residence of all persons employed by him;

(b) the payments and allowances made to those persons in respect of that employment,

and the provisions of the Income Tax Acts with respect to the failure to deliver returns or particulars in accordance with a notice from the Commissioner shall apply to any such return.

(2) Where the employer is a body of persons, the manager or other principal officer shall be deemed to be the employer for the purposes of this section, and any director of a company, or person engaged in the management of a company, shall be deemed to be a person employed.

22. (1) In this section the expression "individual to whom this section applies" means an individual who is not domiciled in Malta or who, if so domiciled, is not ordinarily resident therein.

Payment of tax of individuals employed but not domiciled or ordinarily resident in Malta.

(2) Where any person employs in Malta an individual to whom this section applies and who is or is likely to be chargeable with tax under the provisions of the Income Tax Acts, he shall give notice in writing to the Commissioner not later than three months after the date of the commencement of such employment, stating the full name and address of such individual, the date of commencement and the terms of employment.

(3) Any person ceasing to employ in Malta an individual to whom this section applies and who is or is likely to be chargeable with tax under the Income Tax Acts, shall give notice in writing to the Commissioner not less than one month before such individual ceases to be employed by him in Malta stating the name and address of the individual and the expected date of cessation:

Provided that the Commissioner may accept such shorter notice as he may deem reasonable.

(4) Any person who employs in Malta an individual to whom this section applies and who is to the knowledge of such person about to leave or intending to leave Malta on termination of his employment with such person shall give notice in writing to the Commissioner of the expected date of departure of such individual. Such notice shall be given not less than one month before the expected date of departure:

Provided that the Commissioner may accept such shorter notice as he may deem reasonable.

(5) Where any person in his capacity as employer of an individual hereinafter mentioned has in his possession any monies which whatsoever are or may be payable to or for the benefit of an individual to whom this section applies and who has ceased or is about to cease to be employed by such person in Malta, he shall not without the permission of

the Commissioner, notwithstanding the provisions of any other law, pay any part of such monies to or for the benefit of such individual until the expiry of thirty days after the receipt by the Commissioner of such notice as is required to be given under subsection (4) of this section.

(6) The Commissioner may by notice in writing whenever he thinks fit declare any person who employs in Malta an individual to whom this section applies, being an individual who is or is likely to be chargeable with tax under the Income Tax Acts, to be the representative taxpayer of such individual, and the person so declared shall be the representative taxpayer of such individual for the purposes of the Income Tax Acts and may be required to pay any tax due by such individual from property or monies, including pension, salary, wages or any remuneration which may be due by him to such individual and, in default, such payment shall, notwithstanding the provisions of any other law, be recoverable from the representative taxpayer so declared by the Commissioner in the manner provided in Part VII of this Act.

(7) Any notice to be given to the Commissioner in accordance with the provisions of this section shall be given in addition to any other notice to be given under section 23 of this Act.

(8) Where services are rendered in Malta for any person resident in Malta by an individual who does not have an employer in Malta the foregoing provisions of this section shall apply to such resident person in the same manner as if he were the employer of the said individual.

Payment by deduction at source from certain income.

23. (1) Where any person pays income chargeable under paragraph (b) or (d) of subsection (1) of section 4 of the Income Tax Act, he shall, at the time of payment, either deduct or not deduct tax therefrom as may be prescribed and in such manner as may be prescribed; and any tax so deducted shall be remitted to the Commissioner in such manner and within such period as may be prescribed.

(2) The remittances referred to in subsection (1) of this section shall in all cases be sent to the Commissioner together with such details as will enable their proper identification and failure to provide such details within the prescribed period shall render the defaulter liable to a maximum penalty of 10 liri per day during which such failure continues:

Provided that the Commissioner may in his discretion reduce any penalty so incurred.

(3) Deductions of tax made under subsection (1) of this section shall be set off for the purposes of collection against the tax charged on a person receiving the income for the year of assessment following that during which the deductions are made, or for any other year of assessment as the Commissioner may elect and any tax which cannot be set off as aforesaid shall be refunded in accordance with the provisions of section 48 of this Act:

Provided that the provisions of this subsection shall not apply where any tax deducted as aforesaid has not been remitted to the Commissioner and the Commissioner is satisfied that such non-remittance was due to any fault or connivance on the part of the person receiving the income.

(4) If any person fails to deduct tax in accordance with the provisions of any rules made under subsection (1) of this section, or, after deducting such tax, fails to pay it to the Commissioner within the prescribed period, he shall be chargeable with the tax which should have been deducted or paid and, in addition, with twice the amount of such tax, and such tax and additional tax shall be recovered from such person in the same manner as other tax assessed and charged upon him; and for the purposes of this subsection a notice by the Commissioner to any person showing the tax which should have been deducted or remitted and any additional tax to which he is liable for having failed to deduct or remit tax shall, unless the contrary is proved, be sufficient evidence that the amount shown in the said notice is the amount due to be paid to the Commissioner by the said person.

(5) The Commissioner may in his discretion remit wholly or in part any additional tax chargeable under the provisions of this section; and any additional tax so charged shall be borne by the person to whom subsection (4) of this section applies and shall not be recoverable by such person wholly or in part from the person receiving the income.

(6) Additional tax charged under the provisions of this section shall not be deemed to be part of any tax paid or payable for the purposes of sections 59, 76 and 89 of the Income Tax Act and sections 42, 51 and 52 of this Act or any rules made thereunder.

(7) The powers conferred upon the Commissioner by this section shall be in addition to any right conferred upon him to commence proceedings in respect of an offence under the provisions of subsection (9) of this section.

(8) Notwithstanding the provisions of any other law, the notice by the Commissioner referred to in subsection (4) of this section, showing the amount due to be paid under this section, shall constitute a privileged claim over the assets of the employer ranking immediately after the wages of employees and claims of the Director of Social Security for any amounts due by way of contribution under section 119 of the Social Security Act, and shall be paid after such wages and claims in preference to all other claims whether privileged or hypothecary. Cap. 318

(9) Any person who contravenes or fails to comply with the provisions of this section or of any rules made thereunder shall be liable on conviction to a fine (*multa*) of not less than 50 liri and not exceeding 500 liri or to imprisonment for a term not exceeding six months or to both such fine and imprisonment, and to a further fine (*multa*) of not less than 2 liri but not exceeding 10 liri for every day during which the offence continues after conviction:

Provided that the Commissioner may compound any offence under this section and may before judgement stay or compound any proceedings thereunder:

Provided further that the offence under this subsection shall continue to subsist until the offender shall have conformed and complied with the provisions of this section or of any rules made thereunder.

Return to be furnished of income received on account of, or paid to, other persons.

24. (1) Where any person in any capacity whatsoever -

(a) receives any profits or income to which the provisions of the Income Tax Acts apply which belong to some other person; or

(b) pays to some other person, or to his order, any profits or income to which the provisions of the Income Tax Acts apply and which belong to such other person,

then the Commissioner may give notice to such first-named person requiring him to furnish within the time limited by such notice, not being less than thirty days from the date of service of such notice, a return containing -

(i) a true and correct statement of all such profits and income; and

(ii) the name and address of every person to whom the same belong or are paid:

Provided that no such person shall, by virtue of this section, be obliged to disclose any information in relation to another person, which is covered by the duty of professional secrecy.

(2) A notice under subsection (1) of this section may be given by the Commissioner so as to apply either generally to persons to whom such profits or income as are mentioned in that subsection belong or are paid to any particular person or class of persons as aforesaid.

Occupiers to furnish return of rent payable.

25. The Commissioner may give notice in writing to any person who is the occupier of any house, property, land or industrial building requiring him to furnish within a reasonable time a return containing -

(a) the name and address of the owner of such house, property, land or industrial building; and

(b) a true and correct statement of the rent payable and any other consideration passing therefor.

26. The Commissioner may give notice in writing to any person requiring him within the time limited by such notice, not being less than thirty days from the date of service of such notice, to furnish a return containing the name of any lodger or inmate who is at the date of the notice resident in his house, hotel or institution, and has been so resident, except for temporary absences, throughout the preceding three months.

Return of lodgers
and inmates.

27. (1) Where the Commissioner is satisfied that a trade, business, profession or vocation is carried on by two or more persons jointly, the income of any partner from the partnership, otherwise than in a partnership *en commandite* the capital of which is divided into shares or in a partnership *anonyme*, shall be deemed to be the share to which he was entitled during the year preceding the year of assessment in the income of the partnership, such income being ascertained in accordance with the provisions of the Income Tax Acts and shall be included in the return of income to be made by such partner under the provisions of the Income Tax Acts.

Certain
partnerships.

(2) The precedent partner, that is to say the partner who of the partners resident in Malta -

(i) is first named in the agreement of partnership, or

(ii) is the precedent acting partner if the partner named with precedence is not an acting partner,

shall, when required by the Commissioner, make and deliver a return of the income of the partnership for any year, such income being ascertained in accordance with the provisions of the Income Tax Acts, and declare therein the names and addresses of the other partners in the firm together with the amount of the share of the said income to which each partner was entitled for that year; and -

(a) where no partner is resident in Malta, the return shall be made and delivered by the attorney, agent, manager or factor of the firm resident in Malta; and

(b) the provisions of the Income Tax Acts with respect to the failure to deliver returns or particulars in accordance with a notice from the Commissioner shall apply to any return required under this section.

(3) Where the Commissioner is not satisfied that a trade, business, profession or vocation is carried on by two or more persons jointly, the gains or profits from such trade, business, profession or vocation shall be deemed to have accrued to such person entitled to a share of such gains or profits as the Commissioner may elect, and assessment of tax shall be made accordingly.

(4) Where an assessment has been made in accordance with the provisions of subsection (3) of this section, the partnership shall not be considered to be a body of persons for the purposes of section 60 of the Income Tax Act.

(5) Nothing in this section contained shall prevent the decision of the Commissioner in the exercise of any discretion given to him from being questioned in an appeal in accordance with sections 35 and 37 of this Act.

Signature of notices.

28. (1) Every notice to be given by the Commissioner under the Income Tax Acts shall be signed by the Commissioner or by some person or persons from time to time appointed by him for that purpose, and every such notice shall be valid if the signature of the Commissioner or of such person or persons is duly printed, stamped or written thereon:

Provided that any notice in writing under the provisions of the Income Tax Acts to any person requiring him to furnish particulars to the Commissioner, or any notice under the Income Tax Acts requiring the attendance of any person or witness before the Commissioner shall be personally signed by the Commissioner or by any person duly authorised by him.

(2) A signature attached to any notice and purporting to be the signature of any person so appointed shall be taken to be the signature of that person until the contrary be shown.

Service of notices.

29. (1) Notice may be served on a person either personally or by being sent by post to his last known business or private address, and shall in the latter case unless the contrary is proved be deemed to have been served, in the case of persons resident in Malta, not later than the third day succeeding the day when posted, and in the case of persons not so resident, the day succeeding the day on which the notice would have been received in the ordinary course by post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

Free postage.

(2) All returns, additional information and resulting correspondence and payment of tax under the provisions of the Income Tax Acts may be sent free of postage to the Commissioner in envelopes marked "Income Tax".

PART V **Assessments**

Commissioner to make assessments.

30. (1) The Commissioner shall proceed to assess every person with the tax as soon as may be after the expiration of the time allowed to such person for the delivery of his return.

(2) Where a person has delivered a return the Commissioner may-

(a) accept the return and make an assessment accordingly; or

(b) after considering such further returns, books or evidence, if any, as may be produced before, or obtained by him, refuse to accept the return and to the best of his judgement determine by order in writing the amount of the chargeable income of the person and assess him accordingly.

(3) Where a person has not delivered a return and the Commissioner is of the opinion that such person is liable to pay tax, he may, according to the best of his judgement, determine the amount of the chargeable income of such person and assess him accordingly, but such assessment shall not affect any liability otherwise incurred by such person by reason of his failure or neglect to deliver a return.

(4) A company shall be assessed and pay tax in the currency (or, where applicable, in currencies pro rata) in which its share capital is denominated and any refunds and repayments made in accordance with the provisions of the Income Tax Acts in respect of such tax shall be made in the same currency (or, where applicable, in currencies pro rata) in which such tax was paid. Assessment and payment of tax in foreign currency.

31. (1) Where it appears to the Commissioner that any person liable to tax has not been assessed or has been assessed at a lesser amount than that which ought to have been charged, the Commissioner may, within a year of assessment, or within eight years after the expiration thereof, assess such person at such amount or additional amount as, according to his judgement, ought to have been charged, and the provisions of the Income Tax Acts as to notice of assessment, appeal and other proceedings under the Income Tax Acts shall apply to such assessment or additional assessment and to the tax charged thereunder. The provisions of paragraph (b) of subsection (2) of section 30 of this Act shall apply to an assessment made by the Commissioner under the provisions of this subsection. Additional assessments.

(2) Notwithstanding the provisions of subsection (1) of this section, where a taxpayer has not made to the Commissioner the returns required by the Income Tax Acts or a full and true disclosure of all material facts necessary for his assessment and there has been an avoidance of tax, the Commissioner, where he is of the opinion that the avoidance of tax is due to fraud or evasion, may at any time assess such person at such amount or additional amount as according to his judgement ought to have been charged and take action for the payment of tax, additional tax and any penalty.

(3) Where in the opinion of the Commissioner there has been fraud or evasion as aforesaid, such decision shall be subject to appeal under the provisions of sections 35 and 37 of this Act.

Cancellation of assessments.

32. (1) The Commissioner may for the purposes of the Income Tax Acts cancel any assessment raised by him, and such cancellation shall be without prejudice to the raising of any assessment required to be raised under this Act in replacement of the assessment so cancelled which shall be deemed not to have been raised.

(2) Nothing in this section contained shall empower the Commissioner to cancel or raise any assessment for any year where such cancellation or raising of any assessment would involve the opening of any matter which has been determined on appeal for that year.

(3) Notwithstanding any other provisions of the Income Tax Acts where more than eight years have elapsed since the expiration of the year of assessment to which an assessment raised by the Commissioner before 1st January, 1992 refers and such assessment is still not final and conclusive in terms of section 38 of this Act, and it appears to the Commissioner that such assessment may be invalid or void because of any mistake, defect or omission by the Commissioner in making such assessment or in the notice thereof, the Commissioner may within five years from 1st January 1992 or within two years from the date the taxpayer applies to the Commissioner in writing indicating as a further ground of objection such mistake, defect or omission raise a new assessment in terms of section 30 of this Act for the year of assessment in question and the provisions of the Income Tax Acts as to notice of assessment, appeal and other proceedings under the Income Tax Acts shall apply to such an assessment and to the tax charged thereon.

Power of the Commissioner to revise assessment in case of objection.

33. (1) The Commissioner shall cause to be served personally on or sent by registered post to each person assessed to tax a notice addressed to him at his usual place of abode or business, stating the amount of his chargeable income and the amount of tax payable by him and informing him of his rights under the provisions of subsection (2) of this section.

(2) If any person disputes the assessment he may apply to the Commissioner, by notice of objection in writing, to review and to revise the assessment made upon him. Such application shall state precisely the grounds of his objection to the assessment and shall be made within fifteen days from the date of the service of the notice of assessment:

Provided that the Commissioner, upon being satisfied that owing to absence from Malta, sickness or other reasonable cause, the person disputing the assessment was prevented from making the application within such period, shall extend the period as may be reasonable in the circumstances.

(3) On receipt of the notice of objection referred to in subsection (2) of this section, the Commissioner may require the person giving the notice of objection to furnish such particulars or information as the Commissioner may deem necessary with respect to the income of the person assessed and to produce all books or other documents in his custody or under his control relating to such income, and may summon any person who, he thinks, is able to give evidence respecting the assessment to attend before him and produce all books or other documents in his custody or under his control and may examine such person on oath or otherwise:

Provided that the clerk, agent, employee or other person confidentially employed in the affairs of the person to be charged and the parents, spouse or children of such person shall not be examined except on the request of the assessee:

Provided further that except at the request of the assessee, no person shall be examined in relation to any information concerning the assessee in respect of which the said person is under the duty of professional secrecy.

(4) In the event of any person assessed, who has objected to an assessment made upon him, agreeing with the Commissioner as to the amount at which he is liable to be assessed, the assessment shall be amended accordingly, and notice of the tax payable shall be served upon such person.

(5) If no agreement is reached the Commissioner shall determine the tax by order in writing:

Provided always that in the event of any person who, under the provisions of subsection (2) of this section, has applied to the Commissioner for a revision of the assessment made upon him, failing to agree with the Commissioner as to the amount at which he is liable to be assessed, his right of appeal under the provisions of this Act, against the assessment made upon him, shall remain unimpaired.

PART VI

Appeals

34. (1) There shall be a Board of Special Commissioners, hereinafter referred to as "the Board", for the purpose of hearing and determining appeals in accordance with the provisions of section 35 of this Act. The Board shall consist of a chairman, who shall be one of a panel of persons appointed by the President of Malta to serve as Special Commissioner in that capacity, and of two other Special Commissioners who shall be two

Establishment of
Board of Special
Commissioners.

of a panel of persons appointed as aforesaid to serve in such other capacity, and who shall serve on the Board in accordance with such distribution of duties, including provision for inability to serve and other circumstances, as the Minister responsible for finance may establish.

(2) A person shall be disqualified from being appointed or continuing to be a Special Commissioner as long as he is a member of the House of Representatives.

(3) Every Special Commissioner shall, before entering upon his office, make and subscribe a declaration on oath in the form prescribed to that effect, before the Court of Appeal.

(4) Every Special Commissioner shall hold office during the President of Malta's pleasure.

(5) The President of Malta may, without assigning any reason, revoke the appointment of any Special Commissioner and he may appoint new Special Commissioners whenever necessary.

(6) The Commissioner shall publish within a reasonable time all decisions of the Board on points of law, giving the facts of the appeal and the arguments.

(7) The Board shall have the power to summon any person to give evidence or to produce books or other documents before it and the Chairman of the Board or the member acting as chairman at a meeting of the Board, shall have power to administer an oath to any person appearing before the Board:

Provided that -

(i) the clerk, agent, employee or other person confidentially employed in the affairs of the appellant and the parent, spouse or children of such appellant shall not be called to give evidence or to be examined except on the request of the appellant;

(ii) any person, other than the Commissioner, who has or has had any official duty, or is or has been employed, in the administration of the Income Tax Acts, shall not be called to give evidence or to be examined in connection with any official matter concerning the assessment under appeal except on the request of the Commissioner;

(iii) except at the request of the appellant, no person shall be examined in relation to any information concerning the appellant in respect of which the said person is under the duty of professional secrecy.

(8) The Special Commissioners shall receive such remuneration as the President of Malta may determine.

(9) The Special Commissioners 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.

(10) The Minister responsible for finance may make rules governing appeals to the Board of Special Commissioners and, without prejudice to the generality of the foregoing, may make rules -

(a) prescribing the manner in which an appeal shall be made to the Board and the fees to be paid in respect of any such appeal;

(b) prescribing the procedure to be adopted by the Board in hearing an appeal and the records to be kept by the Board;

(c) prescribing the manner in which the Board shall be convened and the places where and the times at which the Board shall hold sittings;

(d) prescribing a scale of costs; and

(e) generally for the better carrying out of the provisions of this Part of this Act relating to the Board of Special Commissioners.

35. (1) Any person who, being aggrieved by an assessment made upon him, has failed to agree with the Commissioner in the manner provided in subsection (4) of section 33 of this Act may enter within thirty days after the date of service upon him of notice of the refusal of the Commissioner to amend the assessment as desired, an appeal against such assessment to the Board of Special Commissioners: Appeal to Special Commissioners.

Provided that no such appeal may be validly entered against any assessment unless payment of the amount of the tax which is not in dispute has first been made.

(2) Every person appealing shall appear before the Board either in person or by agent on the day and at the time fixed for the hearing of the appeal:

Provided always that if it be proved to the satisfaction of the Board that owing to absence from Malta, sickness or other reasonable cause, any person is prevented from attending at the hearing of his appeal on the day and at the time fixed for that purpose, the Board may postpone the hearing of such appeal for such reasonable time as it thinks necessary for the attendance of the appellant.

(3) The onus of proving that the assessment complained of is excessive shall be on the appellant.

(4) Subject to the provisions of subsection (3) of this section, the Board shall confirm, reduce, increase or annul the assessment or make such order thereon as to it may seem fit. Notice of the Board's decision, the date thereof, and of any amendments to the assessment shall be sent to the Commissioner who shall cause a copy thereof to be served either personally on, or by registered post to, the person appealing together with a notice informing such person of his rights under the provisions of section 37 of this Act.

(5) No appeal shall lie from the decision of the Board except on a question of law only.

(6) An appeal to the Board made by a taxpayer or on his behalf cannot be withdrawn or discontinued except with the consent of the Commissioner.

(7) The Board may order the correction of any arithmetical error incurred in any of its decisions on an application served on the other party and filed, in the case of the Commissioner, within ten days after the date of the decision and, in the case of the taxpayer, within ten days after the service upon him of such decision.

Certain provisions to be followed in the hearing of appeals.

36. The following provisions shall have effect for the purposes of any appeal made under section 35 of this Act:

(a) the Board shall summarily reject any appeal before it for any year of assessment and confirm the assessment complained of unless *prima facie* proof is brought before it that, by the date on which the appeal was entered, appellant had filed under sections 10 and 11 of this Act a return of his income chargeable for the said year of assessment;

(b) where the assessment complained of has been raised by the Commissioner in accordance with the provisions of paragraph (b) of subsection (2), or of subsection (3) of section 30, or of subsection (1) of section 31 of this Act and the dispute before the Board includes a dispute concerning any income arising from sources referred to in paragraph (a) of subsection (1) of section 4 of the Income Tax Act, no evidence shall be considered by the Board as sufficient to warrant any change in the assessment concerning that income unless the person appealing against the Commissioner's decision has, not later than the thirtieth day after that fixed for the first hearing of the appeal, delivered to the Commissioner the records required to be kept by section 19 of this Act and the other documents required by that section to support or accompany such records, and unless he subsequently confirms such records and documents on oath before the Board;

(c) the Commissioner may at any time during the hearing of an appeal require a declaration by the Board as to whether the appeal should be rejected and the assessment complained of confirmed in accordance with the provisions of paragraph (a) or (b) of this section.

37. (1) Any person who, having appealed to the Board feels aggrieved by its decision, may appeal against the decision, on a question of law only, to the Court of Appeal by an application filed within thirty days from the date of service upon him of the decision of the Board. Appeals to the Court of Appeal.

(2) The Commissioner may, if he is dissatisfied with the decision of the Board, appeal against the decision, on a question of law only, to the Court of Appeal by an application filed within thirty days from the date of the Board's decision.

(3) Unless rules made hereunder provide a longer period, seven clear days' notice shall be given to the parties of the date fixed for the hearing of the appeal.

(4) The court may confirm, reduce, increase or annul the assessment or make such orders thereon as it may deem fit.

(5) Notice of the amount of tax payable under the assessment as determined by the court shall be served by the Commissioner, either personally on, or by registered post to, the other party.

(6) The Commissioner shall publish within a reasonable time all decisions of the court giving the facts of the appeal and the arguments.

(7) The cost of the appeal shall be in the discretion of the Court of Appeal and shall be a sum fixed by the registrar.

(8) The Board established under section 29 of the Code of Organisation and Civil Procedure, may make rules concerning appeals to the Court of Appeal under this section, and prescribing the fees to be paid on such appeals. Cap. 12

38. Where no valid objection or appeal has been lodged within the time limited by this Part against an assessment as regards the amount of the chargeable income assessed thereby or the tax rebate granted in terms of section 57 of the Income Tax Act, or where the amount of the chargeable income or tax rebate has been agreed to under subsection (4) of section 33 of this Act, or where the appeal has been withdrawn or discontinued, or where the amount of such chargeable income or tax rebate has been determined on objection or appeal, the assessment as made or agreed to or determined on appeal, as the case may be, shall be final and conclusive for all purposes of the Income Tax Acts as regards the amount of such chargeable income or tax rebate: Assessments or amended assessments to be final.

Provided that nothing in this Part shall prevent the Commissioner from making any refund under the provisions of section 48 of this Act or any assessment or additional assessment for any year of assessment which does not involve reopening of any matter which has been determined on appeal for the year.

Errors, etc, in assessments and notices.

39. (1) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of the Income Tax Acts shall be quashed, or 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 the Income Tax Acts or any Act amending the same, and if the person assessed or intended to be assessed or affected thereby is designated therein according to the common intent and understanding.

(2) An assessment shall not be impeached or affected -

(a) by reason of a mistake therein as to -

(i) the name or surname of a person liable; or

(ii) the description of any income; or

(iii) the amount of tax charged;

(b) by reason of any variance between the assessment and the notice thereof:

Provided that in cases of assessment, the notice thereof shall be duly served on the person intended to be charged and such notice shall contain, in substance and effect, the particulars on which the assessment is made.

(3) In the case of a body of persons it shall be sufficient for the purposes of the Income Tax Acts if only the name of the body of persons appears on any notice issued thereunder by or on behalf of the Commissioner.

(4) Where any appeal has been entered from any assessment raised by the Commissioner and such assessment is by final decision or judgement declared invalid or void, the Commissioner may, within one year of the final decision or judgement as the case may be, where a new assessment cannot be issued under any other provision of the Income Tax Acts, raise a new assessment on the taxpayer on all or any part of the chargeable income of the taxpayer as declared by the taxpayer for the year of assessment in question upon which no valid assessment has been raised; and the provisions of the Income Tax Acts as to notice of assessment, appeal and other proceedings under the Income Tax Acts shall apply to such assessment and to any tax chargeable thereunder.

PART VII
Collection

40. (1) The following shall constitute an executive title within the meaning and for the purposes of Title VII of Part 1 of Book Second of the Code of Organisation and Civil Procedure, namely: Executive title.

(a) the notice referred to in paragraph (c) of subsection (4) of section 73 of the Income Tax Act;

(b) the notice referred to in subsection (4) of section 23 of the Income Tax Act;

(c) the final and conclusive assessment referred to in section 38 of this Act;

(d) the notice referred to in subsection (5) of section 42 of this Act;

(e) the notice referred to in subsection (1) of section 46 of this Act and the notice of assessment and demand in writing by the Commissioner referred to in subsection (3) of the said section 46:

Provided that except in the cases referred to in paragraph (e), the procedure laid down in paragraph (b) of subsection (1) of section 44 of this Act shall be followed in all cases before payment is enforced in virtue of such title.

(2) Where in accordance with the provisions of paragraph (b) of subsection (1) of section 44 of this Act, a payment is enforceable against a body of persons in virtue of an executive title, the Commissioner may, without the need of any other act, proceed with such enforcement against every officer thereof who is personally liable therefor in terms of section 7 of this Act or of any rules made thereunder.

41. (1) Where notice of objection or appeal against an assessment has been given, the Commissioner may, in his discretion, keep in abeyance the collection of not less than ninety per cent of that part of the tax assessed thereunder which is in dispute. Procedure in cases where objection or appeal is pending.

(2) This section shall not apply to the tax deductible in accordance with the provisions of section 23 of this Act and to the tax payable in accordance with the provisions of subsection (2) of section 42 of this Act.

42. (1) Tax shall be payable within the period ending on the last day of the first calendar month immediately following that during which service has been made of a notice of assessment under section 33 of this Act. Time within which payment is to be made.

(2) Notwithstanding anything contained in subsection (1) of this section, provisional tax shall be paid to the Commissioner in the year immediately preceding the year of assessment by every person in respect of his liability for the year of assessment in such amount and in such manner and on such date as may be prescribed:

Provided that the provisions of this subsection shall not apply to the income of any body of persons arising from activities relating or ancillary to banking, sound or television broadcasting, film renting or insurance (excluding commissions derived from the sale of insurance by bodies of persons residing in Malta) in respect of the liability of such body of persons for any year of assessment preceding the year of assessment 1990.

(3) Apart from any payment of provisional tax which may be due under the provisions of subsection (2) of this section -

(a) every person shall make payments to be determined by the Commissioner on account of the said person's outstanding liability to tax for any year of assessment in such amount and in such manner and on such date as may be prescribed; and

(b) every company shall, not later than the 30th June of each year, make a payment in respect of its tax liability for the year of assessment commencing on the 1st January of that year in an amount equivalent to the excess, if any, of the aggregate of the tax chargeable in respect of its income for the year immediately preceding that year of assessment over the aggregate of the provisional tax paid by it in respect of that year, any double taxation relief to which such company may be entitled in respect of the said year of assessment and any tax deducted at source under the provisions of sections 59 and 73 of the Income Tax Act, from such income:

Provided that the provisions of this paragraph shall not apply to the income of any body of persons referred to in the provision to subsection (2) of this section for any year of assessment preceding the year of assessment 1989.

(4) If any person fails to pay any tax as prescribed under this section he shall be chargeable with the tax which should have been so paid, and, in addition, with further tax as provided for in paragraph (a) of subsection (1) of section 44 of this Act, and such tax and additional tax shall be recovered from such person in the same manner as other tax assessed and charged upon him.

(5) For the purposes of subsection (4) of this section a notice by the Commissioner to any person showing the tax which should have been paid and any additional tax to which he is liable for having failed to pay

the tax shall, unless the contrary is proved, be sufficient evidence that the amount shown in the said notice is the amount due to be paid to the Commissioner by the said person.

(6) The powers conferred upon the Commissioner by subsections (4) and (5) of this section shall be in addition to any right conferred upon him to commence proceedings in respect of an offence under subsection (7) of this section.

(7) (a) Any person who contravenes or fails to comply with the provisions of this section or of any rules made thereunder shall be liable on conviction to a fine (*multa*) of not less than 50 liri and not exceeding 500 liri and to a further fine (*multa*) of not less than 5 liri but not exceeding 50 liri for every day during which the offence continues.

(b) The Commissioner may compound any offence under this section and may before judgement stay or compound any proceedings thereunder.

(8) Notwithstanding anything contained in the preceding provisions of this section, any tax payable by an international trading company and by a company with respect to profits allocated to the foreign income account shall not become payable before the earlier of:

(a) the date of distribution of such profits by the company; or

(b) eighteen months after the end of the accounting period in which the aforesaid profits were made by the company.

43. (1) Where any person derives gains or profits from the transfer of property referred to in subparagraphs (i) and (ii) of paragraph (a) of subsection (1) of section 5 of the Income Tax Act, irrespective of whether such gains or profits are chargeable under the provisions of that section or under any other provision of the Income Tax Acts, he shall remit to the Commissioner within fifteen days of the relative transfer in such manner as may be prescribed, a provisional tax payment equivalent to 7% of the consideration relating to the transfer of the property or of the value of the donation: Gains or profits from transfer of property.

Provided that in deeds of emphyteusis or sub-emphyteusis no account shall be taken of any yearly ground rent or sub-ground rent payable according to the deed.

(2) Provisional tax under this section shall not be payable in respect of:

(a) any transfer of assets not subject to tax on capital gains, or to tax under the provisions of section 4 of the Income Tax Act;

(b) transfer of property on deeds of partition;

(c) transfer of shares in public companies.

(3) The Commissioner may authorise any person chargeable under paragraph (a) of subsection (1) of section 5 of the Income Tax Act, to pay provisional tax under this section at a rate lower than that referred to in subsection (1) of this section, if it can be proved that the gain is less than 20% of the consideration or of the value of the donation as the case may be.

(4) Any provisional tax paid for the purposes of this section during or in respect of the year preceding any year of assessment shall be set off for the purpose of collection against the tax charged in respect of the said year of assessment and if there is an excess after the aforesaid set off has been made, such excess shall be refunded in accordance with the provisions of section 48 of this Act. Such provisional tax shall be separate and distinct from that paid or payable under the provisions of section 42 of this Act except for persons who have gains or profits from immovable property falling under paragraph (a) of subsection (1) of section 4 of the Income Tax Act.

(5) If any person fails to pay any provisional tax as provided under this section he shall be chargeable with the tax which should have been so paid and, in addition, with further tax as provided for in paragraph (a) of subsection (1) of section 44 of this Act, and such tax and additional tax shall be recovered from such person in the same manner as other tax assessed and charged upon him.

(6) For the purposes of subsection (5) of this section a notice by the Commissioner to any person showing the tax which should have been paid and any additional tax to which he is liable for having failed to pay the tax shall, unless the contrary is proved, be sufficient evidence that the amount shown in the said notice is the amount due to be paid to the Commissioner by the said person.

(7) The powers conferred upon the Commissioner by subsections (5) and (6) of this section shall be in addition to any right conferred upon him to commence proceedings in respect of any offence under subsection (8) of this section.

(8) Any person who contravenes or fails to comply with the provisions of this section shall be liable on conviction to a fine (*multa*) of not less than 50 liri and not exceeding 500 liri or to imprisonment for any term not exceeding six months or to both such fine and imprisonment, and to a further fine (*multa*) of not less than 2 liri but not exceeding 10 liri for every day during which the offence continues after conviction:

Provided that the Commissioner may compound any offence under this section and may before judgement stay or compound any proceedings thereunder.

(9) (a) The provisional tax payable under this section shall be paid in such manner as may be prescribed.

(b) Notwithstanding anything that may be provided for in the rules where immovable property or any rights annexed thereto are transferred by means of a public deed the Notary publishing such deed shall have the same duties and liability in connection with the collection and payment of the provisional tax payable on such deed in accordance with this section as are by the Duty on Documents and Transfers Act, 1993 imposed on Notaries publishing such deeds, in connection with the duty chargeable and collected on transfers in accordance with that Act. Any failure by a Notary in connection with the collection and payment of provisional tax under this section shall for all purposes of the Duty on Documents and Transfers Act, 1993, be deemed to be a failure of his duties under that Act.

(c) Where any assets the transfer of which is subject to tax on capital gains under section 5 of the Income Tax Act, is sold in a judicial auction, the Registrar of Courts shall have the same duties with regard to the withholding and payment of the provisional tax under this section as are under section 66 of the Duty on Documents and Transfers Act, 1993 imposed on him in relation to the duty leviable on transfers *causa mortis* under the said Act.

44. (1) Where any tax payable within the periods provided for in subsections (1), (2) or (3) of section 42 or in section 45 of this Act is not settled within the relevant period -

Penalty for non-payment of tax, and enforcement of payment.

(a) additional tax equal to one per cent of the unpaid tax for each calendar month or part thereof during which such tax remains unpaid shall be added thereto, and the provisions of the Income Tax Acts relating to the collection and recovery of tax shall apply to the collection and recovery of such additional tax;

(b) the Commissioner shall serve a demand note upon the person assessed, and if payment is not made within fifteen days from the date of the service of such demand note, the Commissioner may proceed to enforce payment in virtue of the executive title referred to in section 40 of this Act after two days from the service on the debtor of an intimation for payment made by means of a judicial act, or as hereafter provided;

(c) additional tax charged under this section shall not be deemed to be part of any tax paid or payable for the purposes of sections 59, 73, 76 or 89 of the Income Tax Act, or sections 23, 43, 51 or 52 of this Act, or any rules made thereunder.

(2) The Commissioner may, in his discretion, remit wholly or in part any additional tax chargeable under this section:

Provided that no such remission shall be effected by the Commissioner unless he is satisfied that the person liable for the payment of the tax was prevented from making payment within the periods provided for in subsections (1), (2) or (3) of section 42 or in section 45 of this Act or by rules made thereunder owing to his absence from Malta or serious sickness or for such other cause as the Minister responsible for finance may prescribe from time to time.

(3) The provisions of section 468 of the Code of Organisation and Civil Procedure, shall apply with respect to any warrant issued on the strength of any executive title mentioned in section 40 of this Act 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.

(4) The provisions of subsection (3) of this section shall not prejudice the amount of tax that may be finally determined under the other provisions of the Income Tax Acts.

Collection of tax after determination of objection or appeal.

45. Where payment of tax is kept in abeyance in accordance with the provisions of section 41 of this Act pending the result of a notice of objection or of an appeal, the tax outstanding under the assessment as determined on such objection or appeal, as the case may be, shall be payable within the period ending on the last day of the calendar month immediately following that during which service of the notification of tax payable has been made, and if such tax is not paid within such period the provisions of the last preceding section shall apply.

Payment of tax by persons about to leave Malta.

46. (1) If in any particular case, the Commissioner has reason to believe that a person who has been assessed to tax may leave Malta before such tax becomes payable under the provisions of the Income Tax Acts without having paid such tax, he may by notice in writing to such person demand payment of such tax within a time to be limited in such notice. Such tax shall thereupon be payable at the expiration of the time so limited and shall in default of payment, unless security for payment thereof be given to the satisfaction of the Commissioner, be recovered forthwith in the manner provided by section 44 of this Act.

(2) If in any particular case, the Commissioner has reason to believe that tax upon any chargeable income may not eventually be recovered, he may at any time and as the case may require -

(a) forthwith by notice in writing require any person to make a return and to furnish particulars of any such income within a time to be specified in such notice;

(b) make an assessment upon such person in the amount of the income returned or, if default is made in making such return or the Commissioner is dissatisfied with such return, in such amount as the Commissioner may think reasonable;

(c) by notice in writing to the person assessed require that security for the payment of the tax assessed be forthwith given to his satisfaction.

(3) Notice of any assessment made in accordance with the provisions of subsection (2) of this section shall be given to the person assessed, and any tax so assessed (in accordance with the provisions of subsection (2) of this section) shall be payable on demand made in writing under the hand of the Commissioner and shall in default of payment, unless security for the payment thereof be given to the satisfaction of the Commissioner, be recoverable forthwith in the manner provided by section 47 of this Act.

(4) Any person who has paid the tax in accordance with a demand made by the Commissioner or who has given security for such payment under subsection (2) of this section shall have the rights of objection and appeal conferred by sections 33, 35 and 37 of this Act and the amount paid by him shall be adjusted in accordance with the result of any such objection or appeal.

(5) The provisions of subsection (2) of this section shall not affect the power conferred upon the Commissioner by section 31 of this Act.

47. (1) Tax may be sued for and recovered, as the case may require, in the First Hall of the Civil Court or in the Court of Magistrates (Malta) in its civil jurisdiction or in the Court of Magistrates (Gozo), also in its civil jurisdiction by the Commissioner in his official name with full costs of suit from the person charged therewith, from the person by whom it is payable or from the person responsible for its deduction as a debt.

Suit for tax by
Commissioner.

(2) Save as otherwise expressly provided in the Income Tax Acts and saving in particular the provisions of subsections (2) and (3) of section 31 of this Act, action for the payment of tax, additional tax or any penalty may be taken at any time within eight years from the date on which the assessment in respect of the year of assessment to which it relates becomes final and conclusive.

(3) The running of the period of prescription specified in this section shall be interrupted by any judicial act filed before the expiration of such period by the Commissioner, whereby payment of the tax is claimed.

PART VIII
Refunds

Repayment of
tax.

48. (1) If it be proved to the satisfaction of the Commissioner that any person for any year of assessment has paid tax, by deduction or otherwise, in excess of the amount with which he is properly chargeable, such person shall be entitled to have the amount so paid in excess refunded by the Commissioner. Every claim for repayment under this section should be made within four years from the date on which the assessment in respect of the year of assessment to which it relates becomes final and conclusive:

Provided that in the case of a person making a claim for repayment for any year of assessment in respect of which he has no chargeable income, such claim shall be made within four years from the end of the year of assessment to which the claim relates:

Provided further that in no case shall any refund be made in respect of -

(a) any tax which a company has deducted or is entitled to deduct from any dividend paid to any person who in virtue of any exemption granted by or under the provisions of section 12 of the Income Tax Act is not chargeable to tax thereon; and

(b) any tax charged on any body of persons under subsection (4) of section 56 of the Income Tax Act, or under subsections (3) and (4) of section 27 of this Act; and

(c) any tax which a company has deducted or is entitled to deduct from any dividend paid to a collective investment scheme.

(2) Except as regards sums repayable on an objection or appeal, no repayment shall be made to any person in respect of any year of assessment as regards which that person has failed or neglected to deliver a return or has been assessed in a sum in excess of the amount contained in his return, provided he has received notice of the assessment made upon him for that year; unless it is proved to the satisfaction of the Commissioner that such failure or neglect to deliver a true and correct return did not proceed from any fraud or wilful act or omission on the part of that person.

(3) Any person who is aggrieved by the decision of the Commissioner as to the amount to be repaid under the provisions of this section shall have the same right to appeal against such decision as if he were aggrieved by an assessment made upon him:

Provided that such appeal shall not reopen any question with respect to which a right of appeal under the provisions of section 35 and 37 of this Act has lapsed or which has already been decided on appeal.

(4) (a) A person, in receipt of a dividend paid to him from profits allocated to the foreign income account or any profits distributed by an international trading company, as the case may be, may claim a refund of two-thirds of the Malta tax paid by the company in respect of those profits distributed to him by way of such dividend, where such person is either:

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

(ii) a company resident in Malta which is wholly owned by a person or persons not resident in Malta, provided that such person or persons are not owned and controlled by, directly or indirectly, or act on behalf of a person or persons ordinarily resident and domiciled in Malta.

(b) Subject to the provisions of paragraph (a) of this subsection, where the profits distributed as aforesaid derive from a participating holding, a claim may be made for a refund of all of the Malta tax paid in respect of those profits.

(c) For the purposes of this subsection and subsection (7), the expression "Malta tax paid" shall mean the tax actually paid by the company to the Commissioner on the profits distributed out of the foreign income account or any profits distributed by an international trading company, as the case may be.

(5) A claim for refund as aforesaid shall be made not later than four years from the date from which the amount of tax is eligible for refund.

(6) The Commissioner shall make payment of the refund under subsection (4) of this section on being satisfied as to the correctness of the claim made and upon receipt of a certificate issued by the company paying the dividend under the provisions of subsection (5) of section 59 of the Income Tax Act. Such refund shall not be taxable.

(7) (a) Where a claim for refund has been made under the provisions of subsection (4) of this section, no person shall be entitled to a further refund under that subsection or to a refund under any other provisions of the Income Tax Acts of the Malta tax paid in respect of which the said claim has been made.

(b) Where a claim for refund of the Malta tax paid has been made under subsection (1) of this section, no person shall be entitled to a further refund under the provisions of subsection (4) of this section of the Malta tax in respect of which the said claim has been made.

(c) Where a company (the distributing company) pays a dividend out of profits allocated to the foreign income account, to a company resident in Malta (the recipient company) and a claim for refund has been made under the provisions of subsection (4) of this section in respect of the tax paid by the recipient company on the dividend received from the distributing company, no person shall be entitled to a further refund under the provisions of subsection (4) of this section of the Malta tax in respect of which the said claim has been made:

Provided that a person entitled to such refund as set out under subsection (4) of this section in respect of profits distributed by an international trading company shall also be entitled to a refund of the difference between the Malta tax suffered by the company and the tax chargeable on such person on such income in accordance with the provisions of this Act.

(8) A refund due by the Commissioner as aforesaid shall constitute a debt due by the Commissioner to the claimant which shall be payable not later than the fourteenth day following the end of the month in which the refund becomes due and shall be recoverable as such.

PART IX Offences and Penalties

General provisions regarding offences.

49. (1) Any person who contravenes or fails to comply with any of the provisions of the Income Tax Acts or of any rules made thereunder shall be guilty of an offence and, unless another punishment is specifically provided by the Income Tax Acts, he shall be liable on conviction to a fine (*multa*) of not less than 10 liri and not exceeding 50 liri.

Cap. 152.

(2) Where a person is, on or after 1st July 1977, found guilty of an offence under any of the provisions of the Income Tax Acts and is not sentenced to imprisonment for that offence the court shall expressly warn him that if, within five years from the date of the warning, he is again found guilty of another offence under any of the provisions of the Income Tax Acts (whether of the same nature or not) he shall be sentenced, in addition to any other punishment, to not less than three days imprisonment; and a person so found guilty on a second or subsequent occasion, within the period aforesaid, shall, notwithstanding anything contained in the Probation of Offenders Act, or in any other enactment, be sentenced to imprisonment for a term of not less than three days, in addition to any other punishment except imprisonment for a longer term.

Penalty for failure to comply with notice.

50. Every person who without sufficient cause -

(a) fails to comply with the requirements of a notice, intimation, request or demand note given or made to him or served upon him under the Income Tax Acts; or

(b) fails to attend in answer to a notice issued to him under the Income Tax Acts or having attended fails to answer any question lawfully put to him,

shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) of not less than 10 liri and not exceeding 50 liri, and to a further fine (*multa*) not exceeding 2 liri for every day during which the default continues after conviction.

51. (1) Every person who without reasonable excuse -

Penalty for making incorrect returns, etc.

(a) makes an incorrect return by omitting or understating any income of which he is required by the Income Tax Acts to make a return; or

(b) gives any incorrect information in relation to any matter or thing affecting his own liability to tax or the liability of any other person or of a partnership,

shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of not less than 25 liri and not exceeding 200 liri and, in addition, to double the amount of tax which has been undercharged in consequence of such incorrect return, or information, or would have been so undercharged if the return or information had been accepted as correct.

(2) No person shall be liable to any penalty under this section unless the complaint concerning such offence was made in the year of assessment in respect of or during which the offence was committed or within three years after the expiration thereof.

(3) The Commissioner may compound any offence under this section, and may before judgement stay or compound any proceedings thereunder.

52. (1) Any person who wilfully with intent to evade or to assist any other person to evade tax under the Income Tax Acts -

Penal provisions relating to fraud, etc.

(a) omits from a return or any other document or statement made, prepared or submitted for the purposes of or under the Income Tax Acts, any income which should be included therein; or

(b) makes any false statement or entry in any return or other document or statement prepared or submitted for the purposes of or under the Income Tax Acts; or

(c) gives any false answer, whether verbally or in writing, to any question or request for information asked or made in accordance with the provisions of the Income Tax Acts; or

(d) prepares or maintains or authorises the preparation or maintenance of any false books of account or other records or falsifies or authorises the falsification of any books of account or records; or

(e) makes use of any fraud, art or contrivance whatever or authorises the use of any such fraud, art or contrivance,

shall be guilty of an offence, and shall for each such offence be liable on conviction before a Court of Magistrates of Judicial Police sitting as a court of criminal judicature to a fine (*multa*) of not less than 50 liri and not exceeding 200 liri and, in addition, to treble the amount of tax to which the person whose tax liability it was intended to evade or to assist in evading is liable under the Income Tax Acts for the year of assessment in respect of or during which the offence was committed, or to imprisonment for any term not exceeding six months, or to both such fine and imprisonment.

(2) The Commissioner may compound any offence under this section, and may before judgement stay or compound any proceedings thereunder.

Penalty for offences against official secrecy.

53. Any person who, having or having had any official duty or being or having been employed in the administration of the Income Tax Acts, has or had access to, possession of or control over any documents, information, returns or assessments, relating to the Income Tax Acts, or copies thereof, and who, except as provided in section 4 of this Act, at any time communicates or attempts to communicate any such information or anything contained in such documents, returns, assessments or copies to any person, shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) of not less than 100 liri and not more than 1000 liri, or to imprisonment for a period not exceeding six months, or to both such fine (*multa*) and imprisonment.

Tax to be payable notwithstanding any proceedings for penalties, etc.

54. The institution of proceedings for, or the imposition of, a penalty, fine or term of imprisonment under the Income Tax Acts shall not relieve any person from liability to payment of any tax for which he is or may be liable.

Saving for criminal proceedings.

55. The provisions of the Income Tax Acts shall not affect any criminal proceedings under any other Act or law.

Prosecution to be with the sanction of Commissioner.

56. No prosecution for any offence against the Income Tax Acts may be commenced except at the instance of or with the sanction of the Commissioner.

PART X
Power to make rules

57. The Minister responsible for finance may from time to time make rules generally for carrying out the provisions of this Act and may, in particular, by those rules provide - Power to make rules.

(a) for the form of returns, claims, statements and notices under this Act;

(b) for any such matters as are authorised by this Act to be prescribed.

58. A record of any exemption made by the Minister responsible for finance under the provisions of subsection (2) of section 12 of the Income Tax Act, in regard to any body of persons, or class of persons, shall be laid on the Table of the House of Representatives as soon as may be after it is made. Record of certain exemptions to be laid on Table of the House of Representatives.

59. (1) The provisions of subsection (4A) of section 4 of the Income Tax Act as in force immediately before the coming into force of this Act and the Income Tax (Amendment) (No.2) Act, 1994, shall continue in force with respect to every capital assets return mentioned in that subsection with respect to the years of assessment mentioned in that subsection up to the year of assessment 1994. Transitory provision.

(2) The provisions of the Income Tax Act with respect to returns of income and capital assets for the years of assessment up to the year of assessment 1994, shall continue in force, as immediately in force before the coming into force of this Act.

Passed by the House of Representatives at Sitting No. 303 of the 20th July, 1994.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives

