

MALTA

ATT Nru XXVII tal-2023

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

ATT sabiex jemenda l-Att dwar il-Kummissarju tat-Taxxi, Kap. 517.

ACT No. XXVII of 2023

AN ACT enacted by the Parliament of Malta.

AN ACT to amend the Commissioner for Revenue Act, Cap. 517.

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE VELLA
President

18 ta' Lulju, 2023

ATT Nru XXVII tal-2023

ATT sabiex jemenda l-Att dwar il-Kummissarju tat-Taxxi, Kap. 517.

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

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2023 li jemenda l-Att dwar il-Kummissarju tat-Taxxi, u dan l-Att għandu jinqara u jinftiehem haġa waħda mal-Att dwar il-Kummissarju tat-Taxxi, hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali".

Titolu fil-qosor.
Kap. 517.

2. Fl-Att prinċipali, il-kliem "Kummissarju tat-Taxxi" għandhom jiġu sostitwiti bil-kliem "Kummissarju tat-Taxxa u d-Dwana" kull fejn jokkorru.

Emenda ġenerali tal-Att prinċipali.

3. L-artikolu 1 tal-Att prinċipali għandu jiġi sostitwit b'dan l-artikolu ġdid li ġej:

Sostituzzjoni tal-artikolu 1 tal-Att prinċipali.

"Titolu fil-qosor. **1.** It-titolu fil-qosor ta' dan l-Att hu l-Att dwar il-Kummissarju tat-Taxxa u d-Dwana."

4. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat b'dan li ġej:

Emenda tal-artikolu 2 tal-Att prinċipali.

(a) fit-tifsira "il-Ministru" l-kliem "għal finanzi;" għandhom jiġu sostitwiti bil-kliem "għal finanzi." u minnufih wara t-tifsira "is-Segretarju Permanenti" għandha tiġi mħassra; u

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(b) fil-verżjoni bl-Ingliż, it-tifsira "the Permanent Secretary" għandha tiġi mħassra.

Emenda tal-
artikolu 3 tal-
Att prinċipali.

5. L-artikolu 3 tal-Att prinċipali għandu jiġi emendat b'dan li ġej:-

(a) is-subartikolu (2) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(2) Fl-eżerċizzju tal-funzjoni tiegħu dwar id-determinazzjoni tal-kwistjonijiet tat-taxxa ta' xi persuna taht l-Atti tat-taxxa l-Kummissarju għandu jaġixxi b'mod indipendenti u ma għandux ikun soġġett għad-direzzjoni jew il-kontroll ta' xi bord imwaqqaf taht dan l-Att jew ta' xi Ministru, ufficjal tal-Gvern, aġenzija jew awtorità.";

(b) fis-subartikolu (3) tiegħu l-kliem "u kull referenza għall-Kummissarju tat-Taxxi Interni, għall-Kummissarju tat-Taxxa fuq il-Valur Miżjud, u għall-Kontrullur tad-Dwana f'kull liġi għandha tinqara u tinftiehem bhala referenza għall-Kummissarju tat-Taxxi" għandhom jiġu mħassra;

(c) minnufih wara s-subartikolu (3) tiegħu għandu jiġi miżjud dan is-subartikolu ġdid li ġej:

"(3A) F'kull liġi, formola statutorja u att ġudizzjarju, kull referenza għall-Kummissarju tat-Taxxi Interni, għall-Kummissarju tat-Taxxa fuq il-Valur Miżjud, għall-Kontrullur tad-Dwana u għall-Kummissarju tat-Taxxi għandha tinqara u tinftiehem bhala referenza għall-Kummissarju tat-Taxxa u d-Dwana u kull referenza għall-Ufficċju tal-Kummissarju tat-Taxxi għandha tinqara u tinftiehem bhala referenza għall-Amministrazzjoni tat-Taxxa u d-Dwana ta' Malta.";

(d) il-paragrafu (c) tas-subartikolu (4) tiegħu għandu jiġi mħassar; u

(e) is-subartikoli (8) u (11) tiegħu għandhom jiġu mħassra.

Żieda ta'
Taqsimha IIA
ġdida u l-
artikoli 4A sal-
4G ġodda fl-Att
prinċipali.

6. Minnufih wara l-artikolu 4 tal-Att prinċipali għandha tiġi miżjuda din it-Taqsimha IIA ġdida li ġejja u l-artikoli 4A sa 4G ġodda li ġejjin:

"TAQSIMA IIA
Bord ta' Governanza

Twaqqif u funzjonijiet tal-Bord ta' Governanza.

4A. (1) Għandu jkun hemm bord, li jkun magħruf bħala l-Bord ta' Governanza, u f'din it-Taqsima msejjaħ "il-Bord", li għandu jkun responsabli lejn il-Ministru u li għandu jkollu l-funzjonijiet li ġejjin:

(a) li jiżviluppa, jirrevedi, jaġġorna u jissottometti għall-approvazzjoni tal-Ministru proposti:

(i) għall-viżjoni tal-Amministrazzjoni tat-Taxxa u d-Dwana ta' Malta;

(ii) għad-dokument strateġiku għall-Amministrazzjoni tat-Taxxa u d-Dwana ta' Malta;

(b) li jirrevedi u jirrapporta fuq l-esegwiment tal-funzjonijiet prinċipali tal-Kummissarju;

(ċ) li jirrevedi, u jagħti parir u jagħmel rakkomandazzjonijiet dwar, rapporti u proposti li jistgħu jintbagħtu lillu.

(2) M'għandhiex tkun il-funzjoni tal-Bord li jittratta, jikkunsidra, jirrevedi jew jagħmel xi deċiżjoni dwar hwejjeġ li jkunu speċifiċi għal persuni partikolari jew li jkunu jirrikjedu aċċess għal jew xi investigazzjoni fil-kwistjonijiet tat-taxxa ta' persuni partikolari.

(3) Il-Bord għandu jipprepara u jissottometti dawk ir-rapporti annwali jew rapporti oħra fuq l-esegwiment tal-funzjonijiet tiegħu kif jista' jitlob il-Ministru.

Kostituzzjoni tal-Bord.

4B. (1) Il-Bord għandu jikkonsisti f'mhux inqas minn ħames (5) u mhux iktar minn seba'(7) membri maħtura mill-Ministru.

(2) Il-Ministru għandu jahtar il-membri tal-Bord minn fost persuni b'esperjenza ppruvata fi sferi rilevanti għall-funzjonijiet tal-Bord, bħal ġestjoni tat-taxxa, analiżi tal-ekonomija, analiżi tal-finanzi, analiżi tar-riskju u liġi fiskali.

(3) Il-membri tal-Bord għandhom ikunu maħtura għal perjodu ta' tliet (3) snin b'dik ir-remunerazzjoni kif il-Ministru jista' jistabbilixxi u mal-għeluq tal-perjodu tal-ħatra tagħhom jistgħu jerġgħu jinhatru mill-ġdid bil-mod kif provdut f'dan l-artikolu.

(4) Il-membri tal-Bord għandhom jaqdu dmirijiethom skont il-ġudizzju individwali tagħhom stess u m'għandhomx ikunu soġġetti għad-direzzjoni jew kontroll ta' xi persuna jew awtorità oħra.

(5) Persuna ma għandhiex tkun eliġibbli biex tinħatar, jew biex iżzomm il-ħatra, bħala membru tal-Bord jekk hi:

(a) tkun membru tal-Kamra tad-Deputati jew tal-Parlament Ewropew;

(b) tkun għadha sservi bħala mħallef jew maġistrat;

(ċ) tkun legalment interdetta jew inkapaċitata;

(d) tkun giet iddikjarata falluta jew tkun għamlet kompożizzjoni jew skema ta' arrangament mal-kredituri tagħha;

(e) tkun instabet hatja ta' reat kontra xi Att tat-taxxa, jew ta' xi reat li jaffettwa l-fiduċja pubblika, jew ta' serq jew frodi, jew talli xjentement tkun irċeviet hwejjeġ li jkunu miksuba b'serq jew bi frodi, jew ta' tixhim jew ta' hasil ta' flus, jew tkun giet ikkundannata għal xi raġuni oħra għal żmien ta' prigunerija;

(f) ikollha kwalunkwe konflitt ta' interess.

(6) Membru tal-Bord jista' jitneħħa mill-kariga mill-Ministru għal raġuni ta' konflitt ta' interess jew għax ikun inkapaċi li jeseġwixxi l-funzjonijiet tal-kariga tiegħu, sew minħabba infirmità mentali jew fiżika u sew minħabba xi kawża oħra, jew minħabba mġiba skorretta. Għall-finijiet ta' dan is-subartikolu, nuqqas ingustifikat ripetut ta' attendenza għal-laqqgħat tal-Bord jista' jitqies imġiba skorretta.

(7) Membru tal-Bord jista' jirriżenja mill-kariga b'ittra indirizzata lil-Ministru.

(8) Fejn ikun hemm xi vakanza fil-Bord għal kwalunkwe raġuni hlief l-għeluq taż-żmien tal-ħatra, dik il-vakanza għandha, għall-kumplament taż-żmien tal-kariga li tkun saret vakanti, timentela minn persuna oħra maħtura mill-Ministru.

(9) Il-Ministru għandu jahtar persuna biex taġixxi bħala segretarju tal-Bord u għandu jistabbilixxi d-doveri u l-kondizzjonijiet tal-ingaġġ tagħha.

(10) Persuna ma għandhiex tkun eligibbli biex tinħatar bħala segretarju tal-Bord jekk ikollha konflitt ta' interess.

President u viċi president tal-Bord.

4Ċ. Għandhom jinħatru mill-Prim Ministru wara konsultazzjoni mal-Ministru, president u viċi president tal-Bord minn fost il-membri tal-Bord. Il-viċi president għandu jkollu l-poteri kollha tal-president u jeżerċita l-funzjonijiet kollha tal-president meta l-president ikun assenti jew ma jkunx jista' jaġixxi bħala president jew waqt li l-president ikun bil-vaganzi jew matul xi żmien li l-kariga ta' president tkun vakanti.

Konflitt ta' interess.

4D. (1) Għall-finijiet tas-subartikoli (5) u (10) tal-artikolu 4B, iżda bla ħsara għall-ġeneralità tagħhom, persuna għandha titqies li jkollha konflitt ta' interess meta l-eżerċizzju imparzjali u oġġettiv tal-funzjonijiet tagħha jkun kompromess għal raġunijiet li jinvolve l-familja, il-ħajja emozzjonali, affinità politika, interess ekonomiku jew xi interess personali dirett jew indirett ieħor.

(2) Jekk membru tal-Bord jew is-segretarju tal-Bord ikollu konflitt ta' interess, huwa għandu, kemm jista' jkun malajr wara li jinduna b'dak il-konflitt, jiddikjara dak l-interess lill-president.

(3) Meta konflitt ta' interess ta' persuna jkun relevanti għal kwistjoni partikolari li ma tkunx ċentrali għall-funzjonijiet tal-Bord, u ma tkunx tidher li se taffettwa l-imparzjalità u l-oġġettività tagħha in relazzjoni mal-funzjonijiet generali tal-Bord, dik il-persuna għandha tastjeni milli tipparteċipa fi kwalunkwe diskussjoni jew deċiżjoni dwar dik il-kwistjoni.

(4) Meta konflitt ta' interess ta' persuna jkun ċentrali għall-funzjonijiet tal-Bord jew ikun jidher li se jaffettwa l-imparzjalità u l-oġġettività tagħha in relazzjoni mal-funzjonijiet ġenerali tal-Bord, hija għandha toffri r-riżenja tagħha.

(5) Kull kwistjoni dwar l-eżistenza ta' konflitt ta' interess, jew dwar jekk kwistjoni tkunx ċentrali għall-funzjonijiet tal-Bord jew tkunx tidher li se taffettwa l-imparzjalità jew l-oġġettività ta' persuna in relazzjoni mal-funzjonijiet ġenerali tal-Bord, għandha tiġi deċiża mill-president tal-Bord jew, jekk il-persuna in kwistjoni tkun il-president, mill-vice president tal-Bord.

(6) Id-dispożizzjonijiet ta' dan l-artikolu huma bla ħsara għall-poteri tal-Ministru taht l-artikolu 4B(6).

Il-Kummissarju għandu jipprovdi informazzjoni lill-Bord.

4E. (1) Il-Kummissarju għandu jipprovdi lill-Bord dik l-informazzjoni li jista' jkollu fil-pussess tiegħu permezz tal-kariga tiegħu li l-Bord jista' raġonevolment jitlob għall-fini tal-eżekuzzjoni tal-funzjonijiet tiegħu kif jixraq. Talbiet għal tali informazzjoni għandhom isiru mill-president tal-Bord.

(2) Minkejja s-subartikolu (1), il-Kummissarju m'għandux jagħti lill-Bord informazzjoni li tkun speċifika għal persuni partikolari u kull informazzjoni li tkun ingabret minn records dwar persuni partikolari għandha tingħata f'format li ma jikxifx, direttament jew indirettament, l-identità ta' dawk il-persuni.

Segretezza u konfidenzjalità.

4F. (1) Hlief kif jista' jkun meħtieġ għall-finijiet tal-Atti tat-taxxa, kull membru tal-Bord u s-segretarju tal-Bord għandu jqis u jittratta d-dokumenti u l-informazzjoni kollha li jistgħu jiġu a konjizzjoni tiegħu jew li jiġu fil-pussess tiegħu fil-kapaċità tiegħu, jew fil-kors tal-qadi ta' dmirijietu bħala membru tal-Bord jew is-segretarju tal-Bord, bħala sigrieti u konfidenzjali u għandu jagħmel u jissottoskrivi dikjarazzjoni bil-ġurament għal daqshekk quddiem il-Qorti tal-Appell fuq il-formola li tinsab fl-Iskeda.

(2) Kull persuna li, hliet kif dispost jew permess taht l-Atti tat-taxxa jew għall-finijiet tagħhom, tikkomunika jew tipprova tikkomunika lil xi persuna oħra kwalunkwe materja jew haġa li tkun saret taf biha jew li tkun fil-pussess tagħha fil-qadi ta' dmirijietha bhala membru tal-Bord jew bhala segretarju tal-Bord għandha tkun hatja ta' offiża u għandha tehel, meta tinstab hatja, multa ta' mhux inqas minn mitejn u tnejn u tletin euro (€232) u mhux iktar minn elfejn, tliet mija u hamsa u ghoxrin euro (€2,325) jew prigunerija għal żmien ta' mhux aktar minn sitt (6) xhur, jew dik il-multa u dik il-prigunerija flimkien.

Proċedimenti tal-Bord.

4G. (1) Il-Bord għandu jiltaqa' fi żmien xahar (1) minn meta jitwaqqaf u, imbagħad, kull meta jista' jkun meħtieġ jew opportun:

Iżda huwa għandu jiltaqa' għall-inqas darba kull xahrejn (2).

(2) Il-laqgħat tal-Bord għandhom jissejhu mill-president tal-Bord minn jeddu, jew fuq talba ta' kwalunkwe tnejn (2) mill-membri l-oħra jew fuq talba tal-Kummissarju.

(3) Il-Bord ma għandux jaġixxi jekk ma jkunx hemm prezenti kworum ta' tliet (3) membri, li għandhom jinkludu l-president jew il-viċi president.

(4) Il-laqgħat tal-Bord għandhom ikunu preseduti mill-president tiegħu jew, fin-nuqqas tiegħu, mill-viċi president tiegħu.

(5) Id-deċiżjonijiet tal-Bord għandhom jgħaddu b'maġġoranza sempliċi tal-voti tal-membri li jkunu prezenti u jivvutaw u fil-każ li l-voti jkunu ndaqs, il-membri li jkun qed jippresiedi l-laqgħa għandu jkollu u għandu jeżerċita t-tieni vot jew il-vot deċiżiv.

(6) Il-Kummissarju għandu jkollu jedd li jattendi l-laqgħat tal-Bord u jieħu sehem fid-diskussjonijiet iżda ma għandux ikollu vot. L-assenza tal-Kummissarju minn xi laqgħa ma għandhiex tinvalida l-proċeduri ta' dik il-laqgħa.

(7) Il-Bord jista' jiddelega lill-president tiegħu, lil sottokumitat tal-membri tiegħu jew lill-Kummissarju responsabbiltajiet għal dawk il-kwistjonijiet speċifiċi jew għal dawk is-setturi tal-funzjonijiet tiegħu kif huwa jista' jkoll meħtieġ. Meta ssir delega bħal dik, il-president, is-sottokumitat jew il-Kummissarju, skont ma jkun il-każ, għandhom jirrapportaw dwar il-kostatazzjonijiet u l-konkluzjonijiet tagħhom lill-Bord u ebda kostatazzjonijiet u konkluzjonijiet bħal dawk ma għandhom jitqiesu bħala finali sakemm ma jkunux ġew ratifikati mill-Bord.

(8) Xi vakanza fost il-membri tal-Bord u xi parteċipazzjoni fih minn persuna li ma tkunx intitolata tagħmel hekk, ma għandhiex tinvalida l-proċeduri tal-Bord.

(9) Il-Bord għandu jkollu għad-dispożizzjoni tiegħu dak il-post jew postijiet għal-laqgħat tiegħu u dik l-attrezzatura għall-eżekuzzjoni tal-funzjonijiet tiegħu kif il-Ministru jista' jordna. Il-Kummissarju għandu jipprovdi lill-Bord bis-support segretarjali kollu li l-Bord jista' raġonevolment jeħtieġ.

(10) Il-Kummissarju għandu jzomm record tal-proċeduri tal-Bord u tas-sottokumitati tiegħu.

(11) Bla ħsara għad-dispożizzjonijiet ta' dan l-Att, il-Bord jista' jirregola l-proċeduri tiegħu innifsu.

(12) L-atti kollha magħmula minn xi persuna li tkun qed taġixxi b'bonafidi bħala membru tal-Bord għandhom ikunu validi daqs li kieku hija kienet membru minkejja li iktar tard jinstab li kien hemm xi difett fil-ħatra jew fl-eligibilità tagħha."

Żieda tal-artikoli 10 sa 12 godda fl-Att prinċipali.

7. Minnufih wara l-artikolu 9 tal-Att prinċipali għandhom jiġu miżjuda dawn l-artikoli godda li ġejjin:

"Responsabbiltà għad-danni.

10. Il-Kummissarju, il-membri tal-bordijiet imwaqqfa taht dan l-Att u l-persuni li jkollhom xi dmir ufficjali jew li jkunu impjegati fl-amministrazzjoni tal-Atti tat-taxxa ma għandhomx jinżammu responsabbli f'danni għal kull ħaġa li ssir jew li ma ssirx fl-esegwiment ta' jew l-allegat esegwiment ta' xi funzjoni taht dan l-Att, sakemm ma jintweriex li l-att ikun sar jew ma jkunx sar, skont ma jkun il-każ, b'malafede.

Referenza għal Atti tat-taxxa f'atti ġudizzjarji.

11. Kull att ġudizzjarju preżentat mill-Kummissarju u kull att ġudizzjarju preżentat minn kull persuna biex jiġi notifikat il-Kummissarju jew fi proċedimenti kontra l-Kummissarju skont jew għall-iskopijiet ta' xi Att tat-taxxa, għandu juri b'mod ċar fl-intestatura, taħt l-isem tal-qorti jew tribunal fejn ikun ġie preżentat, l-Att tat-taxxa in kwistjoni. Nuqqas ta' tħaris ta' din id-dispożizzjoni ma għandux jikkostitwixxi raġuni għan-nullità tal-att ġudizzjarju jew proċedimenti ġudizzjarji in kwistjoni kemm-il darba n-nuqqas jiġi msewwi mill-parti li tippreżenta dak l-att kemm jista' jkun malajr wara li tkun ġiet ordnata tagħmel hekk minn dik il-qorti jew minn dak it-tribunal.

Tpaċija ta' djun dovuti lil jew mill-Kummissarju. Kap. 16.

12. Minkejja d-dispożizzjonijiet tal-artikoli 1196 sa 1204 tal-Kodiċi Ċivili, it-tnejn inklużi, ma tista' ssir tpaċija ta' ebda dejn li jkun dovut skont Att tat-taxxa lil jew mill-Kummissarju jew xi ufficjal li l-Kummissarju jkun iddelega lilu funzjonijiet skont is-subartikolu (4) tal-artikolu 3 kontra kwalunkwe dejn li jkun dovut skont xi Att tat-taxxa ieħor minn jew lill-Kummissarju jew lil dak l-ufficjal l-ieħor kif imsemmi:

Izda tpaċija kif imsemmija qabel tista' ssir u din għandu jkollha effett sa dak il-limitu u b'dak il-mod kif jista' jiġi approvat mill-Kummissarju jew kif jista' jiġi preskritt."

8. Minnufih wara l-artikolu ġdid 12 tal-Att prinċipali, kif miżjud, għandha tiġi miżjuda din l-Iskeda ġdida li ġejja:

Żieda ta' Skeda ġdida fl-Att prinċipali.

"SKEDA
(L-artikolu 4F)

ATT DWAR IL-KUMMISSARJU TAT-TAXXA U D-DWANA

Dikjarazzjoni skont l-artikolu 4F

Jien,

.....
niddikjara solennement u sinċerament li se nittratta u nqis kull informazzjoni, data u dokumenti, u kopji tagħhom, li jistgħu jiġu a konjizzjoni tiegħi jew fil-pussess tiegħi fil-kapaċità tiegħi, jew fil-kors tal-qadi ta' dmirijiet, bħala membru / is-segretarju (ħassar skont kif meħtieġ) tal-Bord ta' Governanza imwaqqaf skont l-Att dwar il-Kummissarju tat-Taxxa u d-Dwana bħala sigrieti u konfidenzjali u li fl-ebda żmien ma jien se nikkomunika dik l-informazzjoni jew data, jew il-kontenut ta'

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dawk id-dokumenti jew kopji tagħhom lil xi persuna ħlief kif jista' jkun meħtieġ għall-fini tal-qadi ta' dmirijiet debitament bhala membru / is-segretarju (ħassar skont kif meħtieġ) tal-imsemmi Bord ta' Governanza.

.....
Firma

Iddikjarat bil-gurament quddiem il-Qorti tal-Appell, illum,..... ta',.....

.....
Registratur".

EMENDI KONSEGWENZJALI

Emenda għall-Ordinanza tad-Dwana. Kap. 37.

9. L-Ordinanza tad-Dwana għandha tiġi emendata b'dan li ġej:

(a) il-kliem "Kummissarju tat-Taxxi" tagħha għandhom jiġu sostitwiti bil-kliem "Kummissarju tat-Taxxa u d-Dwana" kull fejn jokkorru; u

(b) fis-subartikolu (1) tal-artikolu 5 tagħha l-kliem "tal-Kummissarju" għandhom jiġu sostitwiti bil-kliem "tal-Kummissarju tat-Taxxa u d-Dwana".

Emenda għall-Att dwar it-Taxxa fuq l-Income. Kap. 123.

10. Fl-Att dwar it-Taxxa fuq l-Income l-kliem "Kummissarju tat-Taxxi" għandhom jiġu sostitwiti bil-kliem "Kummissarju tat-Taxxa u d-Dwana".

Emenda għall-Att dwar id-Dazji ta' Importazzjoni. Kap. 337.

11. Fl-Att dwar id-Dazji ta' Importazzjoni l-kliem "Kummissarju tat-Taxxi" għandhom jiġu sostitwiti bil-kliem "Kummissarju tat-Taxxa u d-Dwana" kull fejn jokkorru.

Emenda għall-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti. Kap. 364.

12. Fl-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti l-kliem "Kummissarju tat-Taxxi" għandhom jiġu sostitwiti bil-kliem "Kummissarju tat-Taxxa u d-Dwana" kull fejn jokkorru.

Emenda għall-Att dwar Taxxa fuq il-Valur Miżjud. Kap. 406.

13. Fl-Att dwar Taxxa fuq il-Valur Miżjud l-kliem "Kummissarju tat-Taxxi" għandhom jiġu sostitwiti bil-kliem "Kummissarju tat-Taxxa u d-Dwana" kull fejn jokkorru.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 148 tat-12 ta' Lulju, 2023.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE VELLA
President

18th July, 2023

ACT No. XXVII of 2023

AN ACT to amend the Commissioner for Revenue Act, Cap. 517.

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:-

- Short title. **1.** The short title of this Act is the Commissioner for Revenue (Amendment) Act, 2023, and this Act shall be read and construed as one with the Commissioner for Revenue Act, hereinafter referred to as "the principal Act".
- Cap. 517.
- General amendment of the principal Act. **2.** In the principal Act, the words "Commissioner for Revenue" shall be substituted by the words "Commissioner for Tax and Customs" wherever they occur.
- Substitution of article 1 of the principal Act. **3.** Article 1 of the principal Act shall be substituted by the following new article:
- "Short title. 1. The short title of this Act is the Commissioner for Tax and Customs Act."
- Amendment of article 2 of the principal Act. **4.** Article 2 of the principal Act shall be amended by the following:
- (a) in the Maltese version, in the definition "il-Ministru" the words "għal finanzi;" shall be substituted by the words "għal

finanzi." and immediately thereafter the definition "is-Segretarju Permanenti" shall be deleted; and

(b) the definition "the Permanent Secretary" shall be deleted.

5. Article 3 of the principal Act shall be amended by the following: Amendment of article 3 of the principal Act.

(a) sub-article (2) thereof shall be substituted by the following new sub-article:

"(2) In exercising his functions in relation to the determination of a person's tax affairs under the revenue Acts the Commissioner shall act independently and shall not be subject to the direction or control of any board established under this Act or of any Minister, Government official, agency or authority.";

(b) in sub-article (3) thereof the words "and all references to the Commissioner of Inland Revenue, the Commissioner of Value Added Tax and the Comptroller of Customs in any law shall be read and construed as references to the Commissioner for Revenue" shall be deleted;

(c) immediately after sub-article (3) thereof there shall be added the following new sub-article:

"(3A) In any law, statutory form and judicial act, all references to the Commissioner of Inland Revenue, the Commissioner of Value Added Tax, the Comptroller of Customs and the Commissioner for Revenue shall be read and construed as references to the Commissioner for Tax and Customs and all references to the Office of the Commissioner for Revenue shall be read and construed as references to the Malta Tax and Customs Administration.";

(d) paragraph (c) of sub-article (4) thereof shall be deleted; and

(e) sub-articles (8) and (11) thereof shall be deleted.

6. Immediately after article 4 of the principal Act there shall be added the following new Part IIA and new articles 4A to 4G: Addition of new Part IIA and new articles 4A to 4G to the principal Act.

"PART IIA

Board of Governance

Establishment and functions
of the Board of Governance.

4A. (1) There shall be a board, to be known as the Board of Governance, and in this Part referred to as "the Board", that shall be accountable to the Minister and that shall have the following functions:

(a) to develop, review, update and submit for the Minister's approval proposals for:

(i) the vision of the Malta Tax and Customs Administration;

(ii) the strategic document for the Malta Tax and Customs Administration;

(b) to review and report upon the performance of the key functions of the Commissioner;

(c) to review, and to advise and make recommendations on, reports and proposals that may be forwarded to it.

(2) It shall not be the function of the Board to deal with, consider, review or make any determination on matters that are specific to particular persons or that require access to or an investigation into the tax affairs of particular persons.

(3) The Board shall prepare and submit such annual and other reports on the performance of its functions as the Minister may request.

Constitution of the Board.

4B. (1) The Board shall consist of not less than five (5) and not more than seven (7) members appointed by the Minister.

(2) The Minister shall appoint the members of the Board from amongst persons with proven experience in areas relevant to the functions of the Board, such as tax management, economic analysis, financial analysis, risk analysis and fiscal law.

(3) The members of the Board shall be appointed for a term of three (3) years against such remuneration as the Minister may determine and may be re-appointed in the manner provided for in this article on the expiration of their term of office.

(4) The members of the Board shall discharge their duties in their own individual judgement and shall not be subject to the direction or control of any other person or authority.

(5) A person shall not be qualified to be appointed, or to hold office, as a member of the Board if he:

(a) is a member of the House of Representatives or of the European Parliament;

(b) is a serving judge or magistrate;

(c) is legally interdicted or incapacitated;

(d) has been declared bankrupt or has made a composition or scheme of arrangement with his creditors;

(e) has been convicted of an offence against a revenue Act, or of an offence affecting public trust, or of theft or fraud, or of knowingly receiving property obtained by theft or fraud, or of bribery or of money laundering, or has been sentenced to a term of imprisonment for any other reason;

(f) has any conflict of interest.

(6) A member of the Board may be relieved of office by the Minister on the ground of a conflict of interest or inability to perform the functions of his office, whether due to infirmity of mind or of body or to any other cause, or of misbehaviour. For the purposes of this sub-article, repeated unjustified non-attendance of Board meetings may be deemed to amount to misbehaviour.

(7) A member of the Board may resign from office by letter addressed to the Minister.

(8) Where any vacancy occurs in the Board for any reason other than the lapse of the term of office, that vacancy shall, for the remainder of the term of office which has become vacant, be filled by another person appointed by the Minister.

(9) The Minister shall appoint a person to act as secretary of the Board and shall determine his duties and terms of engagement.

(10) A person shall not be eligible for appointment as secretary of the Board if he has a conflict of interest.

Chairperson and deputy chairperson of the Board.

4C. A chairperson and deputy chairperson of the Board shall be appointed by the Prime Minister after consultation with the Minister from among the members of the Board. The deputy chairperson shall have all the powers of the chairperson and perform all the functions of the chairperson during the chairperson's absence or inability to act as chairperson or while the chairperson is on vacation or during any vacancy in the office of chairperson.

Conflict of interest.

4D. (1) For the purpose of sub-articles (5) and (10) of article 4B, but without prejudice to the generality thereof, a person shall be deemed to have a conflict of interest where the impartial and objective exercise of his functions is compromised for reasons involving family, emotional life, political affinity, economic interest or any other direct or indirect personal interest.

(2) If a member of the Board or the secretary of the Board has a conflict of interest, he shall, as soon as may be after becoming aware of that conflict, declare that interest to the chairperson.

(3) When a conflict of interest of a person is relevant to a particular matter that is not central to the functions of the Board, and is not likely to affect his impartiality and objectivity in relation to the general functions of the Board, that person shall refrain from participating in any discussion or decision on that matter.

(4) When a conflict of interest of a person is central to the functions of the Board, or is likely to affect his impartiality and objectivity in relation to the general functions of the Board, he shall tender his resignation.

(5) Any question on the existence of a conflict of interest, or on whether a matter is central to the functions of the Board or is likely to affect a person's impartiality and objectivity in relation to the general functions of the Board, shall be decided by the chairperson of the Board or, if the person in question is the chairperson, by the deputy chairperson of the Board.

(6) The provisions of this article are without prejudice to the powers of the Minister under article 4B(6).

Commissioner shall provide information to the Board.

4E. (1) The Commissioner shall provide to the Board such information that he may possess in virtue of his office as the Board may reasonably request for the proper execution of its functions. Requests for such information shall be made by the chairperson of the Board.

(2) Notwithstanding sub-article (1), the Commissioner shall not furnish the Board with information that is specific to particular persons and any information compiled from records relating to particular persons shall be given in a format that does not reveal, directly or indirectly, the identity of those persons.

Secrecy and confidentiality.

4F. (1) Except as necessary for the purposes of the revenue Acts, every member of the Board and the secretary of the Board shall regard and deal with all documents and information that may come to his knowledge or in his possession in his capacity, or in the exercise of his duties, as a member of the Board or as the secretary of the Board, as secret and confidential and shall make and subscribe before the Court of Appeal a declaration on oath to that effect in the form set out in the Schedule.

(2) Any person who, except as provided for or allowed under the revenue Acts or for the purposes thereof, communicates or attempts to communicate to any other person any matter or thing coming to his notice or being in his possession in the performance of his duties as a member of the Board or as secretary of the Board shall be guilty of an offence and shall, on conviction, be liable to a fine (multa) of not less than two hundred and thirty-two euro (€232) and not more than two thousand and three hundred and twenty-five euro (€2,325) or to imprisonment for a period not exceeding six (6) months, or to both such fine and imprisonment.

Proceedings of the Board.

4G. (1) The Board shall meet within one (1) month from its constitution and as often as may be necessary or expedient thereafter:

Provided that it shall meet at least once every two (2) months.

(2) The meetings of the Board shall be called by the chairperson of the Board on his own initiative, or at the request of any two (2) of the other members or at the request of the Commissioner.

(3) The Board shall not act unless a quorum of three (3) members, which shall include the chairperson or the deputy chairperson, is present.

(4) The meetings of the Board shall be chaired by its chairperson, or in his absence, by its deputy chairperson.

(5) The decisions of the Board shall be adopted by a simple majority of the votes of the members present and voting and in the event of an equality of votes, the member presiding at the meeting shall have and shall exercise a second or casting vote.

(6) The Commissioner shall be entitled to attend the meetings of the Board and to take part in the discussions but shall have no vote. The absence of the Commissioner from any meeting shall not invalidate the proceedings of such meeting.

(7) The Board may delegate to its chairman, to a sub-committee of its members or to the Commissioner responsibilities for such specific matters or for such areas of its functions as it may consider necessary. When such a delegation has been made, the chairman, the sub-committee or the Commissioner, as the case may be, shall report their findings and conclusions to the Board and no such findings and conclusions shall be considered as final unless they have been ratified by the Board.

(8) Any vacancy among the members of the Board, and any participation therein by a person not entitled so to do, shall not invalidate the proceedings of the Board.

(9) The Board shall have at its disposal such place or places for its meetings and such equipment for the performance of its functions as the Minister may direct. The Commissioner shall provide the Board with all secretarial support that the Board may reasonably require.

(10) The Commissioner shall keep a record of the proceedings of the Board and of its sub-committees.

(11) Subject to the provisions of this Act, the Board may regulate its own procedure.

(12) All acts done by any person acting in good faith as a member of the Board shall be valid as if he were a member notwithstanding that some defect in his appointment or qualification be afterwards discovered."

7. Immediately after article 9 of the principal Act there shall be added the following new articles:

Addition of new articles 10 to 12 to the principal Act.

"Liability for damages.

10. The Commissioner, the members of the boards established under this Act and the persons having any official duty or being employed in the administration of the revenue acts shall not be held liable in damages for anything done or omitted to be done in the discharge or purported discharge of any function under this Act, unless the act is shown to have been done or omitted to be done, as the case may be, in bad faith.

Reference to revenue acts in judicial acts.

11. Any judicial act filed by the Commissioner and any judicial act filed by any person to be served upon the Commissioner or in proceedings against the Commissioner in terms or for the purposes of any revenue Act, shall clearly indicate in the heading, below the name of the court or tribunal in which it is filed, the revenue Act in question. A default of compliance with this provision shall not constitute grounds for the nullity of the judicial act or judicial proceedings in question provided that the defect is rectified by the party filing that act as soon as may be after it has been requested to do so by that court or by that tribunal.

Set-off of debts due to or by the Commissioner. Cap. 16.

12. Notwithstanding the provisions of articles 1196 to 1204 of the Civil Code, both inclusive, no set-off may be made of any debt due in terms of a revenue Act to or by the Commissioner or any official to whom the Commissioner has delegated functions in accordance with sub-article (4) of article 3 against any debt due in terms of any other revenue Act by or to the Commissioner or such other official as aforesaid:

Provided that a set-off as aforesaid may be made and shall have effect to such extent and in such manner as may be approved by the Commissioner or as may be prescribed."

Addition of new Schedule to the principal Act.

8. Immediately after the new article 12 of the principal Act, as added, there shall be added the following new Schedule:

"SCHEDULE
(Article 4F)

COMMISSIONER FOR TAX AND CUSTOMS ACT

Declaration in terms of article 4F

I,.....

.....
do solemnly and sincerely declare that I shall deal with and regard all information, data and documents, and copies thereof, that may come to my knowledge or in my possession in my capacity as, or in the exercise of my duties as, a member / the secretary (delete as necessary) of the Board of Governance established in terms of the Commissioner for Tax and Customs Act as secret and confidential and that I shall not at any time communicate such information or data, or the contents of such documents, or copies thereof to any person except as may be

necessary for the purpose of duly executing my duties as member / the secretary (delete as necessary) of the said Board of Governance.

.....
Signature

Declared on oath before the Court of Appeal, this day of

.....
Registrar".

CONSEQUENTIAL AMENDMENTS

9. The Customs Ordinance shall be amended by the following: Amendment to the Customs Ordinance. Cap. 37.

(a) the words "Commissioner for Revenue" thereof shall be substituted by the words "Commissioner for Tax and Customs" wherever they occur; and

(b) in the Maltese version, in sub-article (1) of article 5 thereof the words "tal-Kummissarju" shall be substituted by the words "tal-Kummissarju tat-Taxxa u d-Dwana".

10. In the Income Tax Act the words "Commissioner for Revenue" shall be substituted by the words "Commissioner for Tax and Customs". Amendment to the Income Tax Act. Cap. 123.

11. In the Import Duties Act the words "Commissioner for Revenue" shall be substituted by the words "Commissioner for Tax and Customs" wherever they occur. Amendment to the Import Duties Act. Cap. 337.

12. In the Duty on Documents and Transfers Act the words "Commissioner for Revenue" shall be substituted by the words "Commissioner for Tax and Customs" wherever they occur. Amendment to the Duty on Documents and Transfers Act. Cap. 364.

13. In the Value Added Tax Act the words "Commissioner for Revenue" shall be substituted by the words "Commissioner for Tax and Customs" wherever they occur. Amendment to the Value Added Tax Act. Cap. 406.

VERŻJONI ELETTRONIKA

A 640

Passed by the House of Representatives at Sitting No. 148 of the
12th July, 2023.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives