

ABBOZZ TA' LIĠI msejjah

ATT biex jimplimenta Miżuri ta' l-Estimi Finanzjarji għall-2010 u miżuri amministrattivi oħra.

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

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att ta' l-2010 li jimplimenta Miżuri ta' l-Estimi. Titolu fil-qosor.

TAQSIMA I

2. Id-dispożizzjonijiet ta' din it-Taqsima għandhom jitqiesu li bdew isehħu fl-1 ta' Jannar, 2010. Bidu fis-sehħ ta' din it-Taqsima.

3. Għall-finijiet ta' din it-Taqsima, "dħul" għandha l-istess tifsira bħalma għandha fl-artikolu 2 ta' l-Att dwar l-Amministrazzjoni Finanzjarja u l-Verifika, imma ma tinkludix dħul li jkun ġej minn self. Tifsir.
Kap. 174.

4. (1) Bla ħsara għad-dispożizzjonijiet ta' dan l-Att, il-Gvern ta' Malta jista' jiġbor f'Malta, b'self, somma ta' flus ta' mhux iżjed minn ħames mija u ħamsin miljun euro. Awtorità li jingabar self.

(2) Għall-fini li tingabar dik is-somma hawn qabel imsemmija, il-Ministru responsabbli għall-finanzi hu b'dan awtorizzat li joħroġ *stock* f'Malta taht id-dispożizzjonijiet ta' l-Ordinanza dwar Self Lokali (*Stock* u Titoli Registrati), b'dawk il-pattijiet u kondizzjonijiet hekk kif l-istess Ministru jista' japprova. Kap. 161.

Skop.

5. Flejjes imsellfin taht l-awtorità ta' din it-Taqsima ghandhom ikunu approprijati u applikati ghall-iskop li:

(a) jithallsu l-ispejjeż li jeċċedu d-dhul li jsiru fil-Fond Konsolidat matul is-sena 2010 u/jew snin sussegwenti; u

(b) jiġu mifdija *stocks* reġistrati li ghandhom jiġu mifdija matul l-2010; u

(ċ) jiġu effettwati bidliet fil-*portfolio* fir-rigward ta' ammonti li jingabru permezz ta' *Bills* tat-Teżor, ammonti miġbura permezz ta' *Stocks* tal-Gvern, u rigward self li jingabar minn barra minn Malta hekk kif u meta dan ikun meħtieġ b'konformità mal-politika tal-Gvern dwar l-immaniġġar tad-dejn.

TAQSIMA II

Emendi ta' l-Att
dwar it-Taxxa
fuq l-*Income*.
Kap. 123.

6. (1) Din it-Taqsima temenda l-Att dwar it-Taxxa fuq l-*Income* u ghandha tinqara u tiftiehem haġa waħda ma' l-Att dwar it-Taxxa fuq l-*Income*, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

(2) Id-disposizzjonijiet ta' din it-Taqsima ghandhom jidhlu fis-seħħ f'dik id-data li l-Ministru tal-Finanzi jista' jistabbilixxi b'avviż fil-Gazzetta, u dati differenti jistghu jiġu hekk stabbiliti għal disposizzjonijiet differenti u għal skopijiet differenti ta' din it-Taqsima.

Emenda tal-
artikolu 5 tal-
Att prinċipali.

7. L-artikolu 5 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-paragrafu (a) tas-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) minflok il-kliem "avvjament ta' negozju," ghandhom jidhlu l-kliem "negozju, avvjament, permessi ta' negozju,";

(ii) fis-subparagrafu (iii) tiegħu, minflok il-kliem "ta' dak it-*trust*." ghandhom jidhlu l-kliem "ta' dak it-*trust*; u;" u

(iii) minnufih wara s-subparagrafu (iii), kif emendat, għandu jiżdied is-subparagrafu ġdid li ġej:

"(iv) qligħ jew profitt li jinqala' mit-trasferiment ta' titoli kif previst fis-subartikolu (9A) u minn trasferiment tal-valur ta' titoli kif

previst fis-subartikolu (13)(b)(ii).";

(b) fil-paragrafu (b) tas-subartikolu (1) tiegħu, fit-tifsira ta' "trasferiment", minflok il-kliem "poloz ta' l-assigurazzjoni *linked long term*," għandhom jidhlu l-kliem "poloz ta' l-assigurazzjoni *linked long term*, u u kull operazzjoni li titqies li hi trasferiment skont id-dispożizzjonijiet tas-subartikoli (9A) u (13)(b),";

(ċ) fil-proviso tal-paragrafu (ċ) tas-subartikolu (3) tiegħu, minflok il-kliem "Ministru responsabbli għall-finanzi;" għandhom jidhlu l-kliem "Ministru responsabbli għall-finanzi:" u minnufih wara għandu jizdied il-proviso ġdid li ġej:

"Izda wkoll fejn l-ammont favur il-kreditu ta' xi wiehed mill-kontijiet ta' riżerva ta' kumpannija jew tal-kont tal-profitt u telf jiġi applikat b'xi mod biex jihallsu xi ishma allokatu mill-kumpannija, l-ispiza li ssir għall-akkwist ta' dawk l-ishma għandha tkun żero.";

(d) fil-paragrafu (b) tas-subartikolu (6) tiegħu, minflok il-kliem "fi skema ta' investiment kollettiv;" għandhom jidhlu l-kliem "fi skema ta' investiment kollettiv:" u minnufih wara għandu jizdied il-proviso ġdid li ġej:

"Izda dan il-paragrafu m'għandux japplika meta t-trasferiment ta' dawk l-ishma jsir minn xi azzjonista tal-kumpannija msemmija li tkun teżisti minnufih qabel ma l-ishma kienu mdaħħla fil-lista, u meta dawk l-ishma kienu miżmuma fl-imsemmija kumpannija qabel kienu mdaħħla fil-lista.";

(e) minnufih wara l-paragrafu (ii) tas-subartikolu (9) tiegħu, għandu jizdied il-paragrafu ġdid li ġej:

"(iii) Id-dispożizzjonijiet ta' dan is-subartikolu għandhom japplikaw biss meta l-proprjetarji benefiċjarji individwali diretti jew indiretti tal-kumpannija msemmija f'dan is-subartikolu huma l-istess u kull wiehed minnhom għandu, direttament jew indirettament, sostanzjalment l-istess proporzjon tal-kapital azzjonarju nominali u drittijiet ta' vot f'kull waħda mill-imsemmija kumpanniji:

Izda għall-finijiet ta' dan il-paragrafu, individwu jitqies li għandu sostanzjalment l-istess proporzjon ta' kapital azzjonarju nominali u drittijiet ta' vot f'kull waħda mill-imsemmija kumpanniji meta d-differenza bejn il-

proporzjonijiet miżmuma f'kull waħda mill-kumpanniji ma teċċediex għoxrin fil-mija:

Izda wkoll meta individwu, direttament jew indirettament, ikollu inqas minn hamsa fil-mija tal-kapital azzjonarju nominali u drittijiet ta' vot f'waħda biss mill-kumpanniji msemmija f'dan is-subartikolu, dak l-individwu, għall-finijiet ta' dan il-paragrafu, ma għandux jiġi kkunsidrat biex jiġi stabbilit jekk il-proprjetarji benefiċjarji individwali diretti jew indiretti tal-kumpanniji msemmija f'dan is-subartikolu humiex l-istess:

Izda wkoll jekk iżjed minn wiehed mill-individwi jkollu, direttament jew indirettament, inqas minn hamsa fil-mija tal-kapital azzjonarju nominali u drittijiet ta' vot f'waħda biss mill-kumpanniji, il-proviso ta' qabel dan m'għandux japplika jekk dawk l-individwi flimkien ikollhom, direttament jew indirettament, hamsa fil-mija jew iktar tal-kapital azzjonarju nominali u drittijiet ta' vot fil-kumpannija.";

(f) minnufih wara s-subartikolu (9) tiegħu, kif emendat, għandu jiżdied is-subartikollu ġdid li ġej:

"(9A) (a) Jekk kumpannija ("il-kumpannija li għandha tiġi intaxxata") jkollha ishma f'kumpannija, liema ishma jkunha ġew akkwistati mingħand kumpannija oħra, u dak l-akkwist kien eżenti mit-taxxa taht is-subartikolu (9), dan is-subartikolu għandu japplika jekk il-kumpannija li għandha tiġi intaxxata ma tibqax membru tal-grupp qabel ma jgħaddu sitt snin mid-data ta' dak l-akkwist. Ir-referenzi f'dan is-subartikolu għal kumpannija li ma tibqax membru ta' grupp ta' kumpanniji ma japplikawx għal kazijiet meta kumpannija ma tibqax membru ta' grupp billi tiġi stralċjata jew xolta jew bħala riżultat ta' l-istralċ jew ix-xoljiment ta' membru ieħor tal-grupp:

Izda jekk kumpannija, barra minn kumpannija li għandha tiġi intaxxata, ma tibqax membru ta' grupp billi tiġi stralċjata jew xolta, sabiex jiġi stabbilit jekk il-kumpannija ma tibqax membru ta' grupp skont il-paragrafu (b), dik il-kumpannija għandha titqies li tkompli teżisti.

(b) Kumpannija m'għandiex tibqa' membru ta' grupp, hawn iżjed 'il quddiem imsejjaħ "il-grupp oriġinali", jekk dik il-kumpannija u l-kumpannija li

mingħandha tkun akkwistat l-ishma msemija f'dan is-subartikolu ma jibqgħux jissodisfaw d-dispożizzjonijiet tal-artikolu 9(i) u (iii):

Iżda jekk il-kumpanija li għandha tiġi intaxxata u l-kumpanija li mingħandha ġew akkwistati l-ishma ma jibqgħux membri tal-grupp oriġinali fl-istess żmien, fil-perjodu msemmi fil-paragrafu (a), il-kumpanija li għandha tiġi intaxxata għandha titqies li m'għadhiex membru tal-grupp minkejja li d-dispożizzjonijiet imsemmija jibqgħu jkunu sodisfatti:

Iżda wkoll il-proviso ta' qabel dan m'għandux japplika meta ma tkun saret l-ebda bidla fil-proprietarji benefiċjarji individwali diretti jew indiretti tal-kumpaniji involuti jew fil-proporzjon tal-valur ta' kull waħda mill-kumpaniji involuti rappreżentat mill-ishma li jkollu kull individwu bħal dak b'mod benefiċjarju direttament jew indirettament.

Għall-finijiet ta' dan il-paragrafu il-kliem "grupp oriġinali" għandu jfisser iż-żewġ kumpaniji msemija fil-ewwel proviso ta' dan il-paragrafu, u l-proprietarji benefiċjarji individwali diretti jew indiretti ta' dawn l-istess kumpaniji kif kienu fid-data tal-akkwist imsemmi f'dak il-paragrafu.

(ċ) Meta l-kumpanija li għandha tiġi intaxxata ma tibqax membru tal-grupp, għall-finijiet ta' dan l-artikolu għandha titqies daqs li kieku, minnufih wara l-akkwist tal-ishma, kienet ittrasferiet u minnufih reġgħet akkwistat l-ishma.

(d) Il-kost bażiku u d-data tal-akkwist tal-ishma li għandhom jiġu kkunsidrati għall-finijiet li jiġi stabbilit kull qligħ jew telf, għandu jkun il-kost oriġinali u d-data meta l-ishma kienu ġew akkwistati l-aħħar minn kumpanija permezz ta' trasferiment li ma kienx jikkwalifika għal eżenzjoni skont is-subartikolu (9) jew permezz tal-ħruġ ta' dawk l-ishma.

(e) (i) Sabiex jiġu aċċertati l-qligħ jew il-profitt li jsir taht dan is-subartikolu, l-kost li kien intnefaq għall-akkwist ta' ishma qabel il-25 ta' Novembru, 1992 għandu jiġi valutat jew skont il-metodu ta' ekwità ta' valutazzjoni ta' ishma (valur nett tal-attiv) bażat fuq l-aħħar kontijiet mibgħuta lill-Kummissarju sat-18 ta' Diċembru, 1992 jew

fuq il-prezz tax-xiri attwali, skont liema jkun l-oghla.

(ii) ishma akkwistati fil-25 ta' Novembru, 1992 jew wara ghandhom jigu valutati fuq il-kost li jintnefaq fl-akkwist taghhom:

Izda fejn jigi applikat b'xi mod ammont li jkun favur il-kreditu ta' xi wiehed mill-kontijiet ta' rizerva ta' kumpannija jew tal-kont tal-profitt u telf biex jithallsu sa fejn ikun hemm bzonn xi ishma allokatu mill-kumpannija, il-kost għall-akkwist ta' dawk l-ishma għandu jkun zero.

(f) Kull qligh jew telf mit-trasferiment imsemmi fil-paragrafu (ċ) għandu jitqies illi jkun dovut lill-kumpannija li għandha tigi intaxxata minnufih qabel ma l-kumpannija ma tibqax membru tal-grupp skont il-paragrafu (ċ).";

(g) is-subartikolu (13) tiegħu għandu jigi emendat kif ġej:

(i) id-dispożizzjonijiet preżenti tal-paragrafu (b) tiegħu għandhom jigu enumerati mill-ġdid bhala s-subparagrafu (i) tal-imsemmi paragrafu (b) u minflok il-kliem "meta jsir dak it-tnaqqis." għandhom jidhlu l-kliem "meta jsir dak it-tnaqqis."; u minnufih wara għandu jizded il-proviso li ġej:

"Izda dan il-paragrafu m'għandux japplika meta jkun hemm tnaqqis proporzjonat fit-tizim ta' azzjonijiet tal-azzjonisti kollha, b'dan illi l-proporzjon ta' tizim ta' azzjonijiet ta' kull azzjoni rigward in-numru, tip, klassi, drittijiet tal-vot u l-valur tal-ishma jkun l-istess qabel u wara li jsir it-tnaqqis."; u

(ii) minnufih wara l-paragrafu (b)(i) tiegħu, kif emendat, għandu jizded is-subparagrafu ġdid li ġej:

"(ii) Meta l-valur fis-suq tal-ishma miżmuma minn persuna f'kumpannija jitnaqqas bhala konsegwenza tal-bidla fil-kapital azzjonarju mahruġ ta' dik il-kumpannija, jew bidla f'xi drittijiet marbuta ma' dawk l-ishma u dak il-valur jgħaddi f'ishma oħra jew fid-drittijiet fuq il-kumpannija (miżmuma minn azzjonisti oħra), dik il-persuna għandha titqies li għamlet trasferiment

ta' dak il-valur hekk imnaqqas. Kull qligh jew profitt ghandu jigi kkalkulat billi tigi kkunsidrata d-differenza fil-valur fis-suq tal-ishma miżmuma minnufih qabel u wara l-imsemmija bidla u ghandu jigi determinat b'dak il-mod kif jista' jigi preskritt."; u

(h) fit-tieni proviso tas-subartikolu (15) tieghu, minflok il-kliem "li kieku ma ġieħ applikat dan is-subartikolu." ghandhom jidhlu l-kliem "li kieku ma ġewx applikati dan is-subartikolu u l-artikolu 5A."

8. L-artikolu 5A tal-Att prinċipali ghandu jigi emendat kif ġej:

Emenda tal-artikolu 5A tal-Att prinċipali.

(a) is-subartikolu (3) tieghu ghandu jigi emendat kif ġej:

(i) fil-paragrafu (b) tieghu, minflok il-kliem "hames snin", kull fejn jidhru, ghandhom jidhlu l-kliem "seba' snin"; u

(ii) fil-paragrafu (h) tieghu, minflok il-kliem "b'dak il-mod li jista' jkun preskritt;" ghandhom jidhlu l-kliem "b'dak il-mod li jista' jkun preskritt:" u minnufih wara ghandu jizdied il-proviso li ġej:

"Izda dik il-persuna ma tkunx proprjeta' ta' jew kontrollata minn, direttament jew indirettament, u lanqas ma tkun qed taġixxi ghan-nom ta', individwu jew individwi li huwa jew huma residenti ordinarji jew domiciljati f'Malta;"

(b) is-subartikolu (4) tieghu ghandu jigi emendat kif ġej:

(i) fil-paragrafu (c) tieghu, minflok il-kliem "jitbattal il-fond:" ghandhom jidhlu l-kliem "jitbattal il-fond izda wkoll illi dan il-paragrafu ghandu japplika biss meta t-trasferiment ma kienx taxxabli taht id-dispozizzjonijiet tal-artikolu 4(1)(a) kieku ma kienx ghad-dispozizzjonijiet ta' dan l-artikolu:"; u

(ii) fil-paragrafu (f) tieghu, minflok il-kliem "li kieku kien trasferiment li kien japplika ghalih l-artikolu 5 kien jikkwalifika ghall-helsien mit-taxxa taht l-artikolu 5(9):" ghandhom jidhlu l-kliem "kien jikkwalifika ghall-

helsien mit-taxxa taht l-artikolu 5(9) kieku ma kienx ghad-dispożizzjonijiet ta' dan l-artikolu:";

(iii) fil-proviso għall-paragrafu (f) tiegħu, minflok il-kliem "għal dak it-trasferiment;" għandhom jidhlu l-kliem "għal dak it-trasferiment:" u minnufih wara, għandu jiżdied il-proviso ġdid li ġej:

"Iżda wkoll jekk dak it-trasferiment ma jikkwalifikax għall-helsien mit-taxxa taht l-artikolu 5(9) għar-raġuni biss li t-trasferiment mhuwiex wiehed ta' attiv kapitali, dak it-trasferiment għandu jkun eżenti mit-taxxa taht id-dispożizzjonijiet ta' dan il-paragrafu jekk l-istess trasferiment ikun parti minn eserċizzju ta' ristrutturazzjoni, li jinvolvi t-trasferiment għal kolloxx jew f'parti tan-negozju ta' kumpannija lil kumpannija oħra u l-istess proprjetà kienet tappartjeni lill-kumpannija li tittrasferixxi għal perjodu ta' iktar minn seba' snin."; u

(iv) fit-tieni proviso għall-paragrafu (g) tiegħu, minflok il-kliem "hames snin", għandhom jidhlu l-kliem "seba' snin";

(ċ) is-subartikolu (10) tiegħu għandu jiġi emendat kif ġej:

(i) fil-paragrafu (b) tiegħu, minflok il-kliem "sal-limitu li dak il-qligħ jew dawk il-profitti jkunu attribwibbli għal valur ta' trasferiment li jkun dikjarat korrettement fl-att tat-trasferiment" għandhom jidhlu l-kliem "sal-limitu li dak il-qligħ jew dawk il-profitti jkunu attribwibbli għal valur ta' trasferiment li jkun dikjarat korrettement fl-att tat-trasferiment jew trasferiment li kien ġie ddikjarat eżenti korrettement jew barra mill-kamp ta' applikazzjoni ta' dan l-artikolu,"; u

(ii) fil-paragrafu (d) tiegħu, minflok il-kliem "li għalihom japplika dan l-artikolu fil-kont tat-taxxa finali." għandhom jidhlu l-kliem "li għalihom japplika dan l-artikolu, u li fuqhom it-taxxa għandha tithallas skont dan l-artikolu, fil-kont tat-taxxa finali.";

(d) is-subartikolu (12A) tiegħu għandu jiġi emendat kif ġej:

(i) fil-paragrafu (a) tiegħu, minflok il-kliem

"hames snin" għandhom jidhlu l-kliem "sitt snin"; u minflok il-kliem "bħala riżultat ta' l-istralċ jew ix-xoljiment ta' membru ieħor tal-grupp." għandhom jidhlu l-kliem "bħala riżultat tal-istralċ jew ix-xoljiment ta' membru ieħor tal-grupp:", u minnufih wara għandu jizjed il-proviso ġdid li ġej:

"Izda jekk xi kumpannija, barra mill-kumpannija li għandha tiġi intaxxata, ma tibqax membru ta' grupp billi tiġi stralċjata jew xolta, sabiex jiġi stabbilit jekk il-kumpannija ma tibqax membru ta' grupp taħt is-subartikolu (b), dik il-kumpannija għandha tibqa' titqies li komplet teżisti."; u

(ii) il-paragrafu (b) tiegħu għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

"(b) Kumpannija m'għandhiex tibqa' membru ta' grupp, hawn iżjed 'il quddiem imsejjaħ "il-grupp oriġinali", jekk dik il-kumpannija u l-kumpannija li mingħandha tkun akkwistat il-proprjetà msemmija f'dan is-subartikolu ma jibqgħux jissodisfaw d-dispożizzjonijiet tal-artikolu 5(9)(i) u (iii):

Izda jekk iż-żewġ kumpanniji msemmija fil-paragrafu (a) ma jibqgħux membri tal-grupp oriġinali fl-istess żmien, fil-perjodu msemmi fl-istess paragrafu, il-kumpannija li għandha tiġi intaxxata għandha titqies li m'għadhiex membru tal-grupp minkejja li d-dispożizzjonijiet imsemmija jibqgħu jkunu sodisfatti:

Izda wkoll il-proviso ta' qabel dan m'għandux japplika meta ma kien hemm ebda bidla fil-proprjetarji benefiċjarji individwali diretti jew indiretti tal-kumpanniji involuti jew fil-proporzjon tal-valur ta' kull waħda mill-kumpanniji involuti rappreżentata mill-ishma li jkollu kull individwu bħal dak b'mod benefiċjarju direttament jew indirettament.

Għall-finijiet ta' dan il-paragrafu il-kliem "grupp oriġinali" għandu jfisser iż-żewġ kumpanniji msemmija fil-paragrafu (a), u l-proprjetarji benefiċjarji individwali diretti jew

indiretti ta' dawn l-istess kumpanniji kif kienu fid-data tal-akkwist imsemmi f'dak il-paragrafu."

Emenda tal-artikolu 12 tal-Att prinċipali.

9. Fil-paragrafu (t) tas-subartikolu (1) tal-artikolu 12 tal-Att prinċipali, minflok il-kliem "il-Qrati ta' Malta", kull fejn jinsabu, għandhom jidhlu l-kliem "il-Qrati ta' Malta jew il-Qrati ta' pajjiż ieħor kif il-Kummissarju jista' japprova".

Emenda tal-artikolu 14 tal-Att prinċipali.

10. Minnufih wara s-subartikolu (3) tal-artikolu 14 tal-Att prinċipali, għandu jżidded is-subartikolu ġdid li ġej:

"(4) Meta persuna ddaħhal *income* minn xogħol magħmul fuq jew fir-rigward ta' proprjetà immobbli, li jikkonsisti f'senserija jew servizzi professjonali, xogħol ta' kostruzzjoni, maniġġjar ta' proġetti ta' kostruzzjoni u xogħol ta' nies tas-sengħa, jew mill-ghoti ta' self jew minn kull forma ta' kreditu għall-iffinanzjar tal-akkwist, żvilupp, kostruzzjoni, modernizzar, rinovar ta' proprejtà immobbli jew kull dritt fuqha u kull materja oħra li żżid jew ittejjeb il-valur ta' dik il-proprjetà immobbli jew kull dritt fuqha, u dik il-proprjetà tappartjeni lil qarib, għandu jkollu effett dan li ġej:

(a) *l-income* miksub minn xogħol, self jew kreditu jew mit-trasferiment ta' proprjetà jew xi drittijiet fuq il-proprjetà immobbli li magħhom dak ix-xogħol, self, jew kreditu huwa relatat, għall-finijiet ta' dan is-subartikolu għandu jitqies bħala *income* li għandu jiġi intaxxat separatament;

(b) sabiex jiġi stabbilit *l-income* li għandu jiġi intaxxat mill-imsemmi xogħol, self, jew kreditu, it-total ta' tnaqqis permess taħt dan l-artikolu kontra dak *l-income* m'għandux jeċċedi l-ammont tal-istess *income*; u

(ċ) sabiex jiġi stabbilit *l-income* li għandu jiġi intaxxat miksub mit-trasferiment tal-proprjetà jew xi drittijiet fuq dik il-proprjetà immobbli, l-ebda telf ma għandu jiġi konċess taħt id-dispożizzjonijiet tal-artikolu 14(1)(g), sa fejn dak it-telf jirriżulta minn tnaqqis ta' xi ammonti mħallsa jew li għandhom jithallsu fir-rigward tax-xogħol, self, jew kreditu imsemmi f'dan is-subartikolu:

Iżda l-paragrafu (ċ) m'għandux japplika fir-rigward ta' *income* miksub minn self jew kreditu, meta jista' jiġi ppruvat għas-sodisfazzjon tal-Kummissarju li l-ammont imħallas jew li għandu jithallas fir-rigward tas-self jew kreditu msemmi f'dan is-subartikolu jirrifletti l-ammont li kien jithallas jew li kellu

jkun imħallas kieku l-persuni msemija f'dan is-subartikolu ma kienux qrafa.

Għall-finijiet ta' dan is-subartikolu -

(i) individwu jitqies li huwa qarib ta' persuna oħra jekk dik il-persuna l-oħra tkun korpi ta' persuni li fih l-individwu huwa, direttament jew indirettament, azzjonista, imsieħeb jew membru; u

(ii) żewġ korpi ta' persuni jitqiesu li huma qrafa jekk ikunu direttament jew indirettament kontrollati minn jew jkunu jappartjenu b'mod benefiċjarju għal aktar minn hamsa u għoxrin fil-mija mill-istess persuni."

11. Fl-artikolu 14A tal-Att prinċipali, minflok il-kliem "il-Qrati ta' Malta", kull fejn jinsabu, għandhom jidhlu l-kliem "il-Qrati ta' Malta jew il-Qrati ta' pajjiż ieħor kif il-Kummissarju jista' japprova".

Emenda tal-artikolu 14A tal-Att prinċipali.

12. Minnufih wara t-tieni proviso tas-subartikolu (2) tal-artikolu 34 tal-Att prinċipali, għandu jiżdied is-subartikolu ġdid li ġej:

Emenda tal-artikolu 34 tal-Att prinċipali.

"(3) Meta ma jingħatax rendikont lill-Kummissarju bil-mod mitlub taħt dan l-artikolu, tkun dovuta penali ta' mhux iktar minn tlieta u għoxrin elf euro (€23,000) minn min jagħmel il-ħlas kif jista' jiġi preskritt mill-Ministru."

13. Fl-artikolu 47 tal-Att prinċipali minflok il-kliem "(sew jekk qabel kemm matul il-likwidazzjoni)" għandhom jidhlu l-kliem "(sew jekk qabel kemm matul il-likwidazzjoni) u xi tqassim mill-kontijiet mhux intaxxati".

Emenda tal-artikolu 47 tal-Att prinċipali.

14. L-artikolu 51 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 51 tal-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, minnufih wara l-kliem "l-imsemija skema u l-vantaġġ li johroġ minnha." għandhom jiżdiedu l-kliem "Persuna li ma taqbilx ma' ordni notifikata lilha kif intqal qabel għandu jkollha l-istess drittijiet li toġġezzjona għal dik l-ordni u li tappella minn deċiżjoni tal-Kummissarju li jirrifjuta dik l-oġġezzjoni daqs li kieku dik l-ordni kienet stima maħruġa taħt l-Att dwar l-Amministrazzjoni ta' Taxxa u d-dispożizzjonijiet rilevanti ta' dak l-Att rigward l-oġġezzjonijiet u l-appelli għandhom japplikaw *mutatis mutandis*.";

(b) fil-paragrafu (a) tas-subartikolu (4) tiegħu, minflok

il-kliem "l-artikolu 14(1)(g)" għandhom jidhlu l-kliem "l-artikoli 5(10)(b) u 14(1)(g)"; u

(ċ) fis-subartikolu (5) tiegħu, fit-tifsira ta' "skema" minflok il-kliem "trasferiment ta' attiv" għandhom jidhlu l-kliem "trasferiment ta' attiv, żjeda fil-kapital azzjonarju ta' kumpannija".

Emenda tal-artikolu 56 tal-Att prinċipali.

15. Fis-subartikolu (17) tal-artikolu 56 tal-Att prinċipali, minflok il-kliem "l-aħħar parti ta' l-*income* totali ta' dak l-individwu" għandhom jidhlu l-kliem "l-ewwel parti ta' l-*income* totali ta' dak l-individwu".

TAQSIMA III

Emendi tal-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti. Kap. 364.

16. (1) Din it-Taqsima temenda l-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti u għandha tinqara u tiftiehem haġa waħda ma' l-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

(2) Id-disposizzjonijiet ta' din it-Taqsima, hliet l-artikolu 26 tagħha, għandhom jidhlu fis-sehħ f'dik id-data li l-Ministru tal-Finanzi jista' jistabbilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jiġu hekk stabbiliti għal disposizzjonijiet differenti u għal skopijiet differenti ta' din it-Taqsima.

(3) L-artikolu 26 għandu jitqies li ġie fis-sehħ fl-1 ta' Jannar, 2010.

Emenda tal-artikolu 2 tal-Att prinċipali.

17. Fl-artikolu 2 tal-Att prinċipali, minflok it-tifsira "trasferiment" għandha tidhol din li ġejja:

Kap. 386.

" "trasferiment" tinkludi kull assenjazzjoni, mogħdija ta' proprjetà, bejgħ, diviżjoni, donazzjoni, kostituzzjoni tad-dota, bejgħ b'*instalments*, fidi ta' ċens u kull akkwist taħt kull titolu ieħor, inkluż att pubbliku dikjaratorju skond ma hemm imsemmi fl-artikolu 371(4) tal-Att dwar il-Kumpanniji, u kull operazzjoni li titqies bħala trasferiment skont id-dispożizzjonijiet tal-artikolu 42B ta' dan l-Att, iżda, sakemm ma jiġix hekk provdut b'mod speċifiku f'dan l-Att, ma tinkludix trasferiment *causa mortis*;"

Sostituzzjoni tal-artikolu 4 tal-Att prinċipali.

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

"4. Mingħajr hsara għad-dispożizzjonijiet tat-Taqsima

III, it-*Titolu I ta' dan l-Att*, kull dokument sugġett għal *taxxa taħt dan l-Att* jitqies li hekk ikun sar sugġett jew mill-origini tiegħu, jekk ikun magħmul f'Malta, jew minhabba fl-użu li jsir minnu jekk ikun magħmul barra minn Malta."

19. Is-subartikolu (1) tal-artikolu 6 tal-*Att prinċipali* għandu jiġi sostitwit b'dan li ġej:

Emenda tal-artikolu 6 tal-*Att prinċipali*.

"(1) Mingħajr *hsara għad-dispożizzjonijiet tat-Taqsima III, it-*Titolu I ta' dan l-Att**, dokument magħmul barra minn Malta tithallas *taxxa fuqu meta jsir użu minnu f'Malta*, jekk dak id-dokument kien ikun hekk sugġett għat-*taxxa skond id-dispożizzjonijiet ta' dan l-Att*, kieku kien magħmul f'Malta."

20. L-artikolu 25 tal-*Att prinċipali* għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 25 tal-*Att prinċipali*.

"25. Minkejja d-*dispożizzjonijiet ta' kull artikolu ieħor f'dan l-Att*, inkulżi l-artikoli 4 u 6, għandha tithallas fuq kull *polza ta' assigurazzjoni fuq il-*hajja li ma tkunx tiġġedded kull sena, tkun fejn tkun eżegwita jew użata dik il-polza ta' assigurazzjoni, taxxa ta' għaxar ċenteżmi fuq kull mitt euro jew parti minnha tas-somma assigurata**:

Iżda t-*taxxa taħt dan l-artikolu tkun dovuta biss fuq poloz ta' assigurazzjoni meta d-*detentur ta' polza ikun residenti f'Malta, jew fil-każ fejn id-*detentur ta' polza hu persuna ġuridika, meta dak id-*detentur ta' polza ikun reġistrat jew mod ieħor ġie maħluq f'Malta***:*

Iżda wkoll persuni msemmija fl-artikolu 47(3) ma għandhom f'ebda *każ jitqiesu bħala li jikkostitwixxu l-persuni msemmija fl-ewwel proviso ta' dan l-artikolu*."

21. L-artikolu 27 tal-*Att prinċipali* għandu jiġi sostitwit b'dan

Sostituzzjoni tal-artikolu 27 tal-*Att prinċipali*.

li ġej:

"27. Minkejja d-dispożizzjonijiet ta' kull artikolu ieħor f'dan l-Att, inkulzi l-artikoli 4 u 6, għandha tithallas fuq kull polza ta' assigurazzjoni, tkun fejn tkun eżegwita jew użata dik il-polza ta' assigurazzjoni u li dwarha l-artikolu 25 ma jagħmel ebda disposizzjoni għaliha, taxxa ta' għaxar ċenteżmi fuq kull euro jew parti minnu tal-ħlas fis-sena miftiehem, jew, jekk ikun hemm ftehim li tithallas somma f'daqqa waħda bħala *compounded premium*, jew b'mod ieħor jithallas biss *premium* wieħed, ta' dak il-ħlas f'daqqa:

Iżda -

(a) l-inqas taxxa li tithallas taħt dan l-artikolu tkun ħdax-il euro u hamsa u sittin ċenteżmu (€11.65);

(b) meta l-*premium* li jithallas ikun inqas minn ħdax-il euro u hamsa u sittin ċenteżmu (€11.65), l-inqas taxxa li tithallas tonqos għal għaxra fil-mija ta' l-ammont ta' *premium* hekk li hekk jithallas;

(ċ) ma għandha tithallas ebda taxxa fuq poloz ta' assigurazzjoni ta' l-Avjazzjoni, Tagħbija Marittima, Marittima (il-Buq jew il-Bastiment), Kreditu u Garanziji, u Assigurazzjoni Medika;

(d) it-taxxa taħt dan l-artikolu għandha tithallas biss fuq ploz ta' assigurazzjoni li għabdhom x'jaqsmu ma' riskji msemmija fit-tifsira tal-kliem "riskju sitwat f'Malta" li tinsab fl-artikolu 2(1) tal-Att dwar il-Kummerċ ta' l-Assigurazzjoni;

(e) il-persuni msemmija fl-artikolu 47(3) ma għandhom f'ebda każ jitqiesu li jikkostitwixxu persuni kif imsemmi fil-paragrafu (d) tat-tifsira ta' "riskju sitwat f'Malta" fl-imsemmi artikolu 2(1) tal-Att dwar il-Kummerċ ta' l-Assigurazzjoni."

Kap. 403.

Kap. 403.

Emenda tal-artikolu 32 tal-Att prinċipali.

22. Is-subartikolu (6) tal-artikolu 32 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu shiħ għandu jiġi enumerat mill-ġdid bħala l-paragrafu (a) tiegħu u l-kliem "Għall-finijiet ta' dan l-

artikolu, "grupp ta' kumpanniji" għandu jkollha l-istess tifsir mogħti lilha fl-artikolu 42." għandhom jithassru; u

(b) minnufih wara l-aparagrafu (a) tiegħu, kif enumerat mill-ġdid, għandhom jiżdiedu l-paragrafi ġodda li ġejjin:

"(b) Għall-finijiet ta' dan is-subartikolu, żewġ kumpanniji jiffurmaw parti mill-istess grupp ta' kumpanniji meta l-proprjetarji benefiċjarji individwali diretti jew indiretti tal-kumpanniji huma l-istess u kull wieħed minnhom għandu, direttament jew indirettament, sostanzjalment l-istess proporzjon tal-kapital azzjonarju nominali u drittijiet ta' vot f'kull waħda mill-imsemmija kumpanniji:

(c) Għall-finijiet tal-paragrafu (b), individwu jitqies li għandu sostanzjalment l-istess proporzjon ta' kapital azzjonarju nominali u drittijiet ta' vot f'kull waħda mill-imsemmija kumpanniji meta d-differenza bejn il-proporzjonijiet miżmuma f'kull waħda mill-kumpanniji ma teċċediex għoxrin fil-mija:

(d) Meta individwu, direttament jew indirettament, ikollu inqas minn hamsa fil-mija tal-kapital azzjonarju nominali u drittijiet ta' vot f'waħda biss mill-kumpanniji msemmija fil-paragrafu (a), dak l-individwu, għall-finijiet ta' dan is-subartikolu, ma għandux jiġi kkunsidrat biex jiġi stabbilit jekk il-proprjetarji benefiċjarji individwali diretti jew indiretti tal-kumpanniji msemmija fl-imsemmi paragrafu humiex l-istess:

Iżda jekk iżjed minn wieħed mill-individwi jkollu, direttament jew indirettament, inqas minn hamsa fil-mija tal-kapital azzjonarju nominali u drittijiet ta' vot f'waħda mill-kumpanniji msemmija, dan il-paragrafu m'għandux japplika jekk daww l-individwi flimkien ikollhom, direttament jew indirettament, hamsa fil-mija jew iktar tal-kapital azzjonarju nominali u drittijiet ta' vot fil-kumpannija."

23. L-artikolu 42 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 42 tal-Att prinċipali.

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

"(d) fuq kull trasferiment ta' ta' valur reali fuq valur negozjabbli kif imsemmi fl-artikolu 42B."; u

(b) is-subartikolu (2) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(2) (a) Meta jirriżulta li hamsa u sebghin fil-mija jew aktar mill-assi, esklużi l-assi kurrenti kollha minbarra l-proprjetà immobbli, tal-kumpannija msemmija fl-artikolu 42B, jew tal-kumpannija li l-valur negozjabbli tagħha jkunu trasferiti *inter vivos* jew ikunu trasmessi *causa mortis* għar-rigward ta' persuni li minnhom joriġina t-trasferiment *causa mortis* u li mietu fi jew wara l-1 ta' Jannar, 2000, jkunu jikkonsistu f'xi proprjetà immobbli jew f'xi dritt reali fuq xi proprjetà immobbli, it-taxxa li tithallas bis-saħħa tas-subartikolu (1) għandha tiżdied bi tlett euro għal kull mitt euro jew parti minnhom ta' l-ammont jew valur tal-korrispettiv jew tal-valur reali tal-valur negozjabbli, skond liema jkun l-ogħla.

(b) Meta l-kumpannija msemmija fil-paragrafu (a) ikollha, direttament jew indirettament, ishma f'xi kumpannija oħra li jkollha hamsa u sebghin fil-mija jew aktar tal-attiv tagħha, eskluż kull attiv kurrenti minbarra proprjetà immobbli, jikkonsistu f'xi proprjetà immobbli jew xi dritt fuq xi immobbli, hawn iżjed 'il quddiem imsejha "kumpannija ta' proprjetà", it-taxxa li għandha tithallas bis-saħħa tas-subartikolu (1) għandha tiżdied bi tliet euro għal kull mitt euro jew parti minnhom tal-ammont jew valur tal-korrispettiv tal-valur reali tal-valur negozjabbli, skond liema jkun l-ogħla:

Izda dan il-paragrafu ma għandux japplika meta l-kumpannija msemmija fil-paragrafu (a) ikollha, direttament jew indirettament, anqas minn għaxra fil-mija tal-kapital azjonarju nominali u tad-drittijiet ta' vot fil-kumpannija ta' proprjetà:

Izda ukoll dan il-paragrafu ma għandux japplika meta t-taxxa li għandha tithallas bis-saħħa tas-subartikolu (1) tkun giet miżjuda bi tliet euro għal kull mitt euro jew parti minnhom skont il-paragrafu (a).

(c) Sabiex jiġi stabbilit l-ammont jew il-valur tal-korrispettiv jew tal-valur reali ta' dak il-valur negozjabbli fil-paragrafi (a) u (b), ma għandu jitnaqqas ebda dejn li jkun jeċċedi l-valur ta' l-assi kollha minbarra l-valur ta' dik il-proprjetà immobbli jew xi dritt reali fuqha.

(3) Il-valur reali ta' ishma f'kumpannija huwa l-

perċentwali tal-valur reali tal-kumpannija li jikkorrispondi għal -

(a) il-perċentwali tal-kapital azjonarju maħruġ rappreżentat mill-valur nominali ta' dawk l-ishma, u

(b) il-perċentwali tad-drittijiet totali ta' vot fil-kumpannija rappreżentati mid-drittijiet totali ta' vot marbuta ma' dawk l-ishma:

Izda sabiex jiġi stabbilit il-valur reali ta' ishma f'kumpannija wara l-bidla fid-drittijiet ta' vot msemmija fl-artikolu 42B, il-perċentwali tal-valur reali tal-kumpannija għandu jkun l-ammont li jikkorrispondi ma' l-anqas mill-paragrafi (a) u (b).

(4) Mingħajr hsara għad-dispożizzjonijiet tas-subartikolu (2)(ċ), il-valur reali tal-valur negozjabbli msemmi f'dan l-artikolu u fl-artikolu 42B għandu jiġi stabbilit skont r-regola 5(6) u (7) tar-Regoli dwar Qligh Kapitali u referenzi għal valur fis-suq ta' kumpannija f'dik ir-regola għandhom jitqiesu bħala referenzi għall-valur reali ta' kumpannija."

24. Minnufih wara l-artikolu 42A tal-Att prinċipali għandu jizzied l-artikolu ġdid li ġej:

Żjieda ta' artikolu ġdid mal-Att prinċipali.

"Tnaqqis tal-valur reali ta' ishma.

42B. Meta l-valur reali ta' ishma miżmuma minn persuna (hawn iżjed 'il quddiem imsejha "il-persuna li tittrasferixxi") f'kumpannija jkun tnaqqas bħala riżultat ta' bidla fil-kapital azjonarju maħruġ ta' dik il-kumpannija, jew bidla f'xi drittijiet marbuta ma' dawk l-ishma, u dak il-valur hekk imnaqqas jgħaddi f'ishma oħra jew fi drittijiet fuq il-kumpannija, miżmuma minn persuna oħra (hawnhekk iżjed 'il quddiem imsejha "il-persuna li takkwista"), il-persuna li tittrasferixxi titqies li tkun għamlet trasferiment ta' dak il-valur hekk imnaqqas lill-persuna li takkwista, kalkolat billi titqies id-differenza bejn il-valur reali tal-ishma miżmuma minnufih qabel u wara l-imsemmija bidla u t-taxxa għandha tithallas skont l-artikolu 42.

Ghall-finijiet ta' dan l-artikolu, bidla fil-kapital azjonarju mahruġ ta' kumpannija għandha tinkludi tnaqqis fil-kapital azjonarju ta' dik il-kumpannija."

Emenda tal-artikolu 49 tal-Att prinċipali.

25. L-artikolu 49 tal-Att prinċipali għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tiegħu u minnufih wara għandu jiżdied s-subartikolu ġdid li ġej:

"(2) It-taxxa kif prevista fl-artikolu 42B għandha tithallas lill-Kummissarju mill-persuna li takkwista l-valur fi żmien hmistax-il ġurnata mid-data tal-bidla msemmija f'dak l-artikolu. Azzjonista bħal dak għandu jinbghat, flimkien mal-hlas fuq imsemmi, kull dokument, formuli u dttalji oħra kif jista' jkun preskritt."

Thassir tal-artikolu 52A tal-Att prinċipali.

26. (1) L-artikolu 52A tal-Att prinċipali għandu jithassar.

(2) Minkejja t-thassir tal-artikolu 52A tal-Att prinċipali, l-ebda hlas li jkun sar u li kien dovut qabel it-thassir hawn imsemmi ma għandu jitqies li jkun sar minghajr ma kien dovut jew b'mod invalidu bħala konsegwenza tal-imsemmi thassir u kull hlas li jkun għadu dovut taht l-imsemmi artikolu 52A rigward xi perjodu qabel it-thassir tal-imsemmi artikolu għandu jibqa' dovut.

Emenda tal-artikolu 64 tal-Att prinċipali.

27. Is-subartikolu (1) tal-artikolu 64 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"(1) Meta trasferiment ikun sugġett għat-taxxa taht dan l-Att, ebda persuna jew awtorità ma għandhom jirreġistraw xi trasferiment, tnaqqis jew għoti ta' ishma ta' kumpannija kemm f'isem min jirċevihom jew f'isem xi persuna oħra li tagħmel talba permezz ta' min jirċevihom jew tahtu qabel ma jaċcertaw li jkun ingħata avviż ta' dak it-trasferiment lir-Registatur tal-Kumpanniji skont dan l-Att."

TAQSIMA IV

Emendi tal-Att dwar l-Amministrazzjoni tat-Taxxa. Kap. 372.

28. (1) Din it-Taqsima temenda l-Att dwar l-Amministrazzjoni tat-Taxxa u għandha tinqara u tiftiehem haġa waħda ma' l-Att dwar l-Amministrazzjoni tat-Taxxa, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

(2) Id-disposizzjonijiet ta' din it-Taqsima għandhom jidhlu fis-seħh f'dik id-data li l-Ministru tal-Finanzi jista' jstabbilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jiġu hekk stabbiliti għal disposizzjonijiet differenti u għal skopijiet differenti ta' din it-Taqsima.

29. Fis-subartikolu (1) tal-artikolu 29 tal-Att prinċipali, minflok il-kliem "indirizzata u mpustata kif jixraq." għandhom jidhlu l-kliem "indirizzata u mpustata kif jixraq:", u minnufih wara għandu jiżjed il-poviso ġdid li ġej:

Emenda tal-artikolu 29 tal-Att prinċipali.

"Iżda meta dik in-notifika ma sseħx minhabba li t-*taxpayer* ma jkunx jista' jinsab jew minhabba raġunijiet oħra attribwibbli lill-Kummissarju jippubblika avviż fil-Gazzetta u f'xi ġurnal wiehed jew iktar ta' kuljum fejn jiddikjara li dak l-avviż ikun sar u li fih jistieden lit-*taxpayer* biex imur jiġbru mid-Dipartiment, dik in-notifika għandha wkoll tiqies li tkun giet debitament notifikata."

30. Fis-subartikolu (5) tal-artikolu 31 tal-Att prinċipali, minflok il-kliem "stima jew stimi addizzjonali." għandhom jidhlu l-kliem "stima jew stimi addizzjonali:", u minnufih wara għandu jiżjed il-proviso ġdid li ġej:

Emenda tal-artikolu 31 tal-Att prinċipali.

"Iżda jekk ikun hemm prova li, wara li tiġi mitluba mill-Kummissarju, permezz ta' avviż bil-miktub, dik il-persuna mingħajr raġuni tajba tonqos milli tippreżenta xi *records*, dokumenti, kontijiet jew *data* elettronika fi żmien tletin jum mid-*data* tan-notifika ta' dik l-ordni u tkun haġġet ordni bil-miktub mill-Kummissarju kif imsemmi fl-artikolu 33(5), dik il-persuna ma għaandhiex tithalla tippreżenta dawk ir-*records*, dokumenti, kontijiet jew *data* elettronika quddiem il-Bord tal-Kummissarji Speċjali jew f'xi Qorti tal-Ġustizzja."

31. Il-paragrafu (b) tal-artikolu 36 tal-Att prinċipali għandu jiġi sostitwit bil-paragrafu ġdid li ġej:

Emenda tal-artikolu 36 tal-Att prinċipali.

"(b) minkejja d-dispożizzjonijiet tal-artikolu 34(7), meta l-istima li dwarha jsir l-ilment tkun saret mill-Kummissarju skont id-dispożizzjonijiet tal-artikolu 30(1)(b) jew (2) jew (3), jew tal-artikolu 31(5), ebda prova ma titqies mill-Bord bħala li tkun suffiċjenti sabiex tippermetti xi tibdil fl-istima dwar dak l-*income* kemm-il darba l-persuna li tappella kontra d-deċiżjoni tal-Kummissarju ma tipprezentax ir-*records*, dokumenti, kontijiet jew *data* elettronika skont il-proviso għall-artikolu 31(5);".

32. Fl-artikolu 38 tal-Att prinċipali, minflok il-kliem "kontra stima" għandhom jidhlu l-kliem "kontra stima jew ordni" u minflok il-kliem "l-istima kif magħmula" għandhom jidhlu l-kliem "l-istima jew l-ordni kif magħmula".

Emenda tal-artikolu 38 tal-Att prinċipali.

33. L-artikolu 40 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 40 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu:

(i) fil-paragrafu (ċ) tiegħu, minflok il-kliem "l-istima finali u konklużiva" għandhom jidhlu l-kliem "l-istima finali u konklużiva jew l-ordni"; u

(ii) fil-proviso tiegħu, minflok il-kliem "fl-artikolu 44(1)(b)" għandhom jidhlu l-kliem "fl-artikoli 44(1)(b) jew 44(2A)(ċ)"; u

(b) fis-subartikolu (2) tiegħu, minflok il-kliem "ta' l-artikolu 44(1)(b)" għandhom jidhlu l-kliem "tal-artikoli 44(1)(b) jew 44(2A)(ċ)".

Emenda tal-
artikolu 43 tal-
Att prinċipali.

ġej:

34. L-artikolu 43 tal-Att prinċipali għandu jiġi emendat kif

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "fl-artikolu 5(1)(a)(i) u (ii)" għandhom jidhlu l-kliem "fl-artikolu 5(1)(a)";

(b) fil-proviso għall-paragrafu (b) tiegħu, minflok il-kliem "skond il-kuntratt." għandhom jidhlu l-kliem "skont il-kuntratt:" u minnufih wara għandhom jiżdiedu l-*provisos* ġodda li ġejjin:

"Izda wkoll fil-każ ta' trasferiment ta' titoli, kif imfisser fl-artikolu 5 tal-Att dwar it-Taxxa fuq l-*Income*, li jinvolti trasferiment ta' interess li jikkontrolla skont regoli preskritti, it-taxxa provvizorja li tithallas għandha tkun ekwivalenti għal 7% tal-ogħla bejn il-valur fis-suq jew il-korrispettiv, u fil-każ ta' trasferiment li għalih japplika l-artikolu 5(9A) tal-Att dwar it-Taxxa fuq l-*Income*, dak il-hlas għandu jsir fi żmien hmistax-il jum mid-data li l-kumpannija li għandha tiġi intaxxata ma tibqax membru tal-grupp:

Izda wkoll fil-każ ta' trasferiment ta' valur f'titoli, kif previsy fil-paragrafu (13)(b)(ii) tal-artikolu 5 tal-Att dwar it-Taxxa fuq l-*Income*, it-taxxa provvizorja li tithallas għandha tkun ekwivalenti għal 7% tal-qligh jew profitt imsemmi fl-istess paragrafu."; u

(ċ) fis-subartikolu (3) tiegħu, minflok il-kliem "skond il-każ." għandhom jidhlu l-kliem "skont il-każ:" u minnufih wara għandu jiżdied il-proviso ġdid li ġej:

"Izda fil-każ ta' trasferiment ta' titoli, kif imfisser

fl-artikolu 5 tal-Att dwar it-Taxxa fuq l-*Income*, li jinvolvi trasferiment ta' interess li jikkontrolla skont regoli preskritti, l-20% għandu jiġi kkalkulat fuq oġġla bejn il-valur fis-suq jew il-korrispettiv.

35. Is-subartikolu (3) tal-artikolu 44 tal-Att prinċipali għandu jiġi sostitwit bis-subartikolu li ġej:

Emenda tal-artikolu 44 tal-Att prinċipali.

"(3) Ebda oppożizzjoni hliet dik speċifikament imsemmija f'dan l-Att ma għandha twaqqaf il-ħruġ jew l-eżekuzzjoni ta' xi att eżekuttiv miksub taħt dan l-Att jew il-ħlas mir-rikavat minn xi mandat jew bejgħ b'irkant imwettaq skont dak l-att eżekuttiv."

36. L-artikolu 48 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 48 tal-Att prinċipali.

(a) minnufih wara s-subartikolu (1) tiegħu, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(1A) Minkejja d-dispożizzjonijiet tas-subartikolu (1), f'ebda każ m'għandu jkun hemm rifużjoni lil xi persuna rigward is-sena ta' stima 1999 jew xi sena ta' stima sussegwenti sakemm u sa meta dik il-persuna tkun bagħtet kull prospett ta' taxxa, li għandhom jintbagħtu taħt dan l-Att, rigward is-sena ta' stima 1999 sa u inkluża s-sena ta' stima ta' qabel is-sena li fiha r-rifużjoni kienet tkun imħallsa li kieku ma kienx għall-applikazzjoni ta' dan is-subartikolu.

Kap. 406.

(1B) Minkejja d-dispożizzjonijiet tas-subartikolu (1), f'ebda każ m'għandu jkun hemm rifużjoni lil xi persuna reġistrata taħt l-artikolu 10 tal-Att dwar it-Taxxa fuq il-Valur Miżjud, sakemm u sa meta dik il-persuna tkun bagħtet kull prospett ta' taxxa, li għandhom jintbagħtu taħt l-artikolu 27 ta l-imsemmi Att rigward il-perjodi ta' taxxa sa u inkluż l-aħħar perjodu ta' taxxa komplut tas-sena ta' qabel is-sena li fiha r-rifużjoni kienet tkun imħallsa li kieku ma kienx għall-applikazzjoni ta' dan is-subartikolu.";

(b) id-dispożizzjonijiet preżenti tas-subartikolu (2B) tiegħu għandhom jiġu enumerati mill-ġdid bhala l-paragrafu (i) tas-subartikolu (2B), u minnufih wara għandu jiżdied il-paragrafu ġdid li ġej:

"(ii) Fil-każ ta' persuna li għaliha japplikaw is-subartikoli (1A) jew (1B), kull rifużjoni li kienet tithallas li kieku ma kienx għad-dispożizzjonijiet ta' dawk is-subartikoli, għandha tkun dovuta jew titqies li tkun dovuta, skont il-każ, fl-aħħar ġurnata tat-tmax-il xahar wara dak ix-xahar li fih intbagħatu l-prospetti tax-taxxa msemmija f'dawk is-subartikoli."

TAQSIMA V

Emendi tal-Att
dwar id-Dazju
tas-Sisa.
Kap. 382.

37. (1) Din it-Taqsima temenda l-Att dwar id-Dazju tas-Sisa u għandha tingara u tiftichem haġa waħda mal-Att dwar id-Dazju tas-Sisa, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

(2) L-artikoli 38, 39 u 40 għandhom jidhlu fis-seħh f'dik id-data li l-Ministru tal-Finanzi jista' jistabbilixxi b'avviż fil-Gazzetta.

(3) L-artikoli 41 u 42 għandhom jitqiesu li dahlu fis-seħh fl-10 ta' Novembru 2009.

Emenda ta' l-
artikolu 16 ta' l-
Att prinċipali.

38. L-artikolu 16 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "ikun hati ta' reat u għandu għal kull reat bħal dak jeħel, meta jinsab hati, multa ta' mhux aktar minn hdax-il elf u sitt mija u sitta u erbgħin euro u sebgha u tmenin ċenteżmu (11,646.87)." għandhom jidhlu l-kliem "ikun hati ta' reat u għandu, għal kull reat bħal dak jeħel, meta jinstab hati, multa ta' mhux inqas minn hames mitt euro (€500) u mhux iżjed minn hamsa u għoxrin elf euro (€25,000)."; u minnufih wara għandu jiżdied il-proviso li ġej:

"Izda min jinstab hati li evada, jew li pprova jevadi, id-dazju tas-sisa għandu jeħel multa ta' mhux inqas minn tlett darbiet id-dazju tas-sisa fuq dawn l-oġġetti dazjabbli, liema multa tista' taqbez il-hamsa u għoxrin elf euro (€25,000)."; u

(b) is-subartikolu (2) tiegħu għandu jithassar.

Żjieda ta'
artikolu ġdid
mal-Att
prinċipali.

39. Minnufih wara l-artikolu 16 tal-Att prinċipali għandu

jizzied l-artikolu ġdid li ġej:

"Penali minflok proċeduri skont dan l-Att.

"16A Mingħajr preġudizzju għal kull dispożizzjoni oħra ta' dan l-Att li għandha x'taqsam mal-konfiska ta' oġġetti favur il-Gvern, fil-każ ta' irregolarità, mill-persuna li tikkommettiha, li, kieku ma nkixfix, kienet twassal għal telf ta' dazju tas-sisa ta' mhux iktar minn elf euro (€1,000), il-Kontrollur jiista', jekk minn ikun għamel l-offiża jammetti, ma jibdiex proċeduri skont dan l-Att u jimponi penali ekwivalenti għal tlett darbiet id-dazju li kien ser ikun evitat, liema penali ma għandhiex tkun ta' inqas minn mitejn u hamsin euro (€250).".

40. Fil-paragrafu (ċ) tal-artikolu 17 tal-Att prinċipali, minflok il-kliem "dawk l-oġġetti ma jiġux debitament konsenjati f'dak il-post," għandhom jidhlu l-kliem "dawk l-oġġetti ma jiġux debitament konsenjati f'dak il-post; jew", u minnufih wara għandu jizzied il-paragrafu ġdid li ġej:

Emenda ta' l-artikolu 17 tal-Att prinċipali.

"(d) jiddaħhlu Malta u ssir evażjoni mill-hlas tad-dazju tas-sisa, jew isir attentat biex issir dik l-evażjoni,".

41. It-Tielet Skeda tal-Att prinċipali għandha tiġi emendata kif ġej:

Emenda tat-Tielet Skeda tal-Att prinċipali.

(a) minflok il-kliem fil-kolonna "Rate of Excise Duty" fil-partita "Cigarettes", għandhom jidhlu l-kliem li ġejjin:

"50.0% of the retail price plus 22.00 Euro per 1000 cigarettes but not less than 117.00 Euro per 1000 cigarettes";

(b) minflok il-kliem fil-kolonna "Rate of Excise Duty" fil-partita "Cigars and Cigarillos", għandhom jidhlu l-kliem li ġejjin:

"16.25 Euro per 1000 units";

(ċ) minflok il-kliem fil-kolonna "Rate of Excise Duty" fil-partita "Hand-Rolling Tobacco", għandhom jidhlu l-kliem li ġejjin:

"72.50 Euro per kg.";

(d) minflok il-kliem fil-kolonna "Rate of Excise Duty" fil-partita "Other Smoking Tobacco", għandhom jidhlu l-kliem

li ġejjin:

"72.50 Euro per kg.";

(e) minflok il-kliem fil-kolonna "Rate of Excise Duty" fil-partita "Pipe Tobacco", għandhom jidhlu l-kliem li ġejjin:

"23.40 Euro per kg."; u

(f) minflok il-kliem fil-kolonna "Rate of Excise Duty" fil-partita "Chewing Tobacco and Snuff", għandhom jidhlu l-kliem li ġejjin:

"31.56 Euro per kg.".

Emenda tar-Raba' Skeda tal-Att prinċipali.

42. Ir-Raba' Skeda tal-Att prinċipali għandha tiġi emendata kif ġej:

(a) minflok il-kliem fil-kolonna "Rate of Excise Duty" fil-partita "Electricity falling under CN Code 2716", għandhom jidhlu l-kliem li ġejjin:

"1.00 Euro per MWh"; u

(b) minflok il-kliem fil-kolonna "Rate of Excise Duty" fil-partita "Coal and Coke falling within CN Codes 2701, 2702 and 2704", għandhom jidhlu l-kliem li ġejjin:

"0.30 Euro per 1 gigajoule, gross calorific value".

TAQSIMA VI

Emenda tal-Att dwar l-Eko-kontribuzzjoni. Kap. 473.

43. (1) Din it-Taqsima temenda l-Att dwar l-Eko-kontribuzzjoni u għandha tinqara u tiftiehem haġa waħda mal-Att dwar l-Eko-kontribuzzjoni, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

(2) Id-dispożizzjonijiet ta' din it-Taqsima għandhom jidhlu fis-seħħ f'dik id-data li l-Ministru tal-Finanzi jista' jstabbilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jiġu hekk stabbiliti għal dispożizzjonijiet differenti jew għanijiet differenti ta' din it-Taqsima.

Żjieda ta' artikoli godda mal-Att prinċipali.

44. Minnufih wara l-artikolu 13B tal-Att prinċipali għandhom

jizdiedu ż-żewġ artikoli ġodda li ġejjin:

"Stqarrijiet u stimi jikkostitwixxu titolu eżekuttiv.	13Ċ. Kull stqarrija maħruġa mill-awtorità kompetenti u kull stima maħruġa skont id-dispożizzjonijiet tal-artikolu 13A li turi kull ammont ta' eko-kontribuzzjoni dovuta minn persuna għandha tkun xiehda biżżejjed, kemm-il darba ma tingiebx prova kuntrarja, li dak l-ammont ikun dovut lill-awtorità kompetenti minn dik il-persuna u għandha tikkostitwixxi titolu eżekuttiv fil-kuntest u għall-finijiet tat-Titolu VII tat-Taqsima I tat-Tieni Ktieb tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.
Kap. 12.	
Validità tal-istimi, eċċ.	13D. (1) Kull stqarrija , stima, mandat jew proċediment ieħor li jkun jidher li jkun sar skont id-dispożizzjonijiet ta' dan l-Att ma għandux jitqies li jkun null jew li jista' jiġi annullat minhabba f'nuqqas ta' forma jew li jkun difettuż minhabba f'xi żball, difett jew ommissjoni li jkollu, jekk dan ikun materjalment u effettivament jaqbel mal-ħsieb u skond it-tifsir ta' dan l-Att. (2) Fil-każ ta' korp ta' persuni jkun biżżejjed jekk jidher biss l-isem ta' dak il-korp ta' persuni fuq kull avviż, mandat jew proċediment, inkluż kull proċediment quddiem il-Qorti ta' l-Appell, maħruġ jew magħmul taħt jew għall-għanijiet ta' dan l-Att."

45. Minnufih wara s-subartikolu (2) tal-artikolu 16 tal-Att, għandhom jizdiedu s-subartikoli li ġejjin:

Emenda tal-artikolu 16 tal-Att prinċipali.

Kap. 9.	"(3) Ma għandhom jinbdew ebda procedimenti kriminali taħt dan l-Att ħlief minn jew bil-permess tal-awtorità kompetenti, u dawk il-procedimenti hekk mibdija jistgħu f'kull żmien qabel is-sentenza finali jiġu rtirati fuq talba tal-awtorità kompetenti. (4) Minkejja d-dispożizzjonijiet tal-Kodiċi Kriminali, l-Avukat Ġenerali jkollu l-jedd ta' appell quddiem il-Qorti tal-Appell Kriminali minn kull sentenza mogħtija mill-Qorti tal-Maġistrati dwar procedimenti kriminali taħt dan l-Att.
---------	--

(5) Il-bidu ta' proċedimenti jew l-impożizzjoni ta' piena għal xi reat taħt dan l-Att ma għandhomx jehilsu lil xi persuna minn prosekuzzjoni taħt xi liġi oħra jew mill-obbligu ta' hłas ta' xi taxxa li għandha jew li jista' jkollha thallas taħt dan l-Att u l-bidu ta' proċedimenti jew l-impożizzjoni ta' xi piena għal xi reat taħt xi liġi oħra jew il-hłas ta' xi taxxa taħt dan l-Att ma għandhomx jehilsu lil xi persuna minn xi prosekuzzjoni jew piena taħt dan l-Att għal xi reat imwettaq kontra dan l-Att.

(6) Fi proċedimenti kriminali taħt dan l-Att jew taħt xi regolamenti magħmula taħt dan l-Att, l-awtorità kompetenti, jew kull uffiċjal iehor li jissemma' minnha tista', minkejja d-dispożizzjonijiet ta' kull liġi oħra, iġġib il-provi, tittratta u b'kull mod iehor tmexxi l-prosekuzzjoni minflok il-Pulizija jew flimkien magħha.

(7) Jekk tkun tenhtieg bħala parti mill-każ tal-prosekuzzjoni x-xiehda ta' xi uffiċjal kif imsemmi qabel, huwa għandu jinstama' qabel ma jibda' iwettaq id-dmirijiet ta' uffiċjal prosekutur kemm-il darba l-htiega li jagħti xiehda ma tqumx fi stadju ulterjuri tal-proċedimenti: iżda l-awtorità kompetenti jew uffiċjal iehor kif imsemmi qabel jista' isemmi l-fatti li jikkostitwixxu r-reat qabel ma jagħti xiehda."

TAQSIMA VII

Thassir ta' ċerti artikoli li żmienhom għadda f'diversi Atti.

46. L-artikoli li ġejjin, li żmienhom għadda, huma b'dan imħassrin:

(a) l-artikolu 44(ċ) tal-Att tal-2003 li Jimplimenta Miżuri tal-Estimu - l-Att II tal-2003;

(b) l-artikoli 15 and 16 tal-Att tal-2003 biex Jemenda Diversi Liġijiet - l-Att IX tal-2003; u

(ċ) l-artikolu 48 tal-Att tal-2003 li Jimplimenta Miżuri tal-Estimu - l-Att II tal-2004.

Għanijiet u Raġunijiet

L-għanijiet ta' dan l-Abbozz huma biex jiġu implimentati diversi miżuri ta' l-Estimi u miżuri amministrattivi oħra.

**A BILL
entitled**

*AN ACT to implement Budget measures for the financial year 2010
and other administrative measures.*

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 Budget Measures Implementation Act, 2010.

PART I

Coming into force of this Part.

2. The provisions of this Part shall be deemed to have come into effect on the 1st January, 2010.

Interpretation.
Cap. 174.

3. For the purpose of this Part, "revenue" has the same meaning as is assigned to it in article 2 of the Financial Administration and Audit Act, but does not include proceeds from loans.

Authority to raise loan.

4. (1) Subject to the provisions of this Act, the Government of Malta may raise in Malta, by way of loan, a sum of money not exceeding five hundred and fifty million euro.

Cap. 161.

(2) For the purpose of raising the aforesaid loan the Minister responsible for finance is hereby authorised to issue stock in Malta under the provisions of the Local Loans (Registered Stock and Securities) Ordinance on such terms and conditions as the said

Minister may approve.

5. Any money borrowed under the authority of this Part shall be appropriated and applied for the purpose of:

(a) meeting excess expenditure over revenue incurred in the Consolidated Fund for year 2010 and/or subsequent years;

(b) redeeming registered stocks which are due for redemption during 2010; and

(c) effecting portfolio changes in relation to amounts raised through Treasury Bills, amounts raised through Government Stocks, and in respect of loans raised outside Malta as and when required in line with Government's debt management policies.

PART II

6. (1) This Part amends the Income Tax Act, and it shall be read and construed as one with the Income Tax Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Income Tax Act.
Cap. 123.

(2) The provisions of this Part shall come into force on such date as the Minister responsible for finance may, by notice in the Gazette, establish, and different dates may be so established for different provisions or different purposes of this Part.

7. Article 5 of the principal Act shall be amended as follows:

Amendment of article 5 of the principal Act.

(a) paragraph (a) of sub-article (1) thereof shall be amended as follows:

(i) in sub-paragraph (ii) thereof, for the words "business, goodwill," there shall be substituted the words "business, goodwill, business permits,";

(ii) in sub-paragraph (iii) thereof, for the words "of such trust.", there shall be substituted the words "of such trust; and" and

(iii) immediately after sub-paragraph (iii), as amended, there shall be added the following new sub-paragraph:

"(iv) gains or profits arising from a transfer of securities as provided for in sub-article (9A) and from a transfer of value in securities as provided for in sub-article (13)(b)(ii).";

(b) in paragraph (b) of sub-article (1) thereof, in the definition of "transfer", for the words "long term policies of insurance," there shall be substituted the words "long term policies of insurance, and any occurrence that is deemed to be a transfer in accordance with the provisions of sub-articles (9A) and (13)(b),";

(c) in the proviso to paragraph (c) of sub-article (3) thereof, for the words "Minister responsible for finance;" there shall be substituted the words "Minister responsible for finance:" and immediately thereafter there shall be added the following new proviso:

"Provided further that where an amount standing to the credit of any of a company's reserve accounts or of its profit and loss account is applied in paying up to any extent any shares allotted by the company, the cost of acquisition of such shares shall be zero.";

(d) in paragraph (b) of sub-article (6) thereof, for the words "in a collective investment scheme;" there shall be substituted the words "in a collective investment scheme:" and immediately thereafter there shall be added the following new proviso:

"Provided that this paragraph shall not apply where the transfer of such shares is made by any shareholder of the said company existing immediately before the shares were admitted to listing, and where such shares were held in the said company before they were admitted to listing.";

(e) immediately after paragraph (ii) of subarticle (9) thereof, there shall be added the following new paragraph:

"(iii) The provisions of this subarticle shall only apply where the individual direct or indirect beneficial owners of the companies referred to in this subarticle are the same and each such individual holds, directly or indirectly, substantially the same proportion of the nominal share capital and voting rights in each of the said companies:

Provided that for the purpose of this paragraph an individual is deemed to hold substantially the same proportion of the nominal share capital and voting rights in each of the said companies where the difference between

the proportions held in each company does not exceed twenty percent:

Provided further that where an individual holds, directly or indirectly, less than five percent of the nominal share capital and voting rights in only one of the companies referred to in this subarticle, such individual shall, for the purpose of this paragraph, not be taken into account in determining whether the individual direct or indirect beneficial owners of the companies referred to in the said subarticle are the same:

Provided also that if more than one individual holds, directly or indirectly, less than five percent of the nominal share capital and voting rights in only one of the said companies, the previous proviso shall not apply where together such individuals hold, directly or indirectly, five percent or more of the nominal share capital and voting rights in the company.";

(f) immediately after sub-article (9) thereof, as amended, there shall be added the following new sub-article:

"(9A) (a) If a company ("the chargeable company") owns shares in a company, which have been acquired from another company, and such acquisition was exempt from tax under sub-article (9), this sub-article shall apply if the chargeable company ceases to be a member of the group before the lapse of six years from the date of the said acquisition. References in this sub-article to a company ceasing to be a member of a group of companies do not apply to cases where a company ceases to be a member of a group by being wound up or dissolved or in consequence of another member of the group being wound up or dissolved:

Provided that if a company, other than the chargeable company, ceases to be a member of a group by being wound up or dissolved, for the purpose of determining whether the chargeable company ceases to be a member of the group under paragraph (b), such company shall be deemed to remain in existence.

(b) A company shall cease to be a member of a group, hereinafter referred to as the "original group", if such company and the company from which it had acquired the shares referred to in this sub-article no longer

satisfy the provisions of sub-article (9)(i) and (iii):

Provided that if the chargeable company and the company from which the shares have been acquired cease to be members of the original group at the same time, within the period referred to in paragraph (a), the chargeable company shall be treated as ceasing to be a member of the group notwithstanding that the said provisions remain satisfied:

Provided further that the preceding proviso shall not apply where there has not been any change in the individual direct or indirect beneficial owners of the companies involved or in the proportion in the value of each of the companies involved represented by the shares owned beneficially directly or indirectly by each such individual.

For the purpose of this paragraph the term "original group" shall mean the two companies referred to in first proviso to this paragraph, and the individual direct or indirect beneficial owners of the said companies as existing on the date of the acquisition referred to in the said paragraph.

(c) When the chargeable company ceases to be a member of the group it shall be treated for all the purposes of this article as if, immediately after its acquisition of the shares, it had transferred and immediately re-acquired the shares at that time.

(d) The base cost and the date of acquisition of the shares that is taken into account for the purpose of determining any gain or loss shall be the original cost and the date when the shares had previously last been acquired by a company by means of a transfer that did not qualify for an exemption in terms of sub-article (9) or by means of an issue of such shares.

(e) (i) For the purpose of ascertaining the gains or profits arising under this sub-article, the acquisition cost of shares acquired before the 25th November, 1992 shall be valued either on the Equity method of share valuation (net asset value) based on the last accounts submitted to the Commissioner by the 18th December, 1992 or on the actual purchase price, whichever is the higher.

(ii) Shares acquired on or after the 25th November, 1992, shall be valued on the cost of acquisition:

Provided that where an amount standing to the credit of any of a company's reserve accounts or of its profit and loss account is applied in paying up to any extent any shares allotted by the company, the cost of acquisition of such shares shall be zero.

(f) Any gain or loss on the transfer referred to in paragraph (c) shall be treated as accruing to the chargeable company immediately before the company ceases to be a member of the group in accordance with paragraph (c).";

(g) sub-article (13) thereof shall be amended as follows:

(i) the present provisions of paragraph (b) thereof shall be renumbered as sub-paragraph (i) of the said paragraph (b) and for the words "such reduction is effected." there shall be substituted the words "such reduction is effected."; and immediately thereafter there shall be added the following proviso:

"Provided that this paragraph shall not apply where there is a proportionate reduction in the shareholding of all the shareholders, such that the proportion of the shareholding of each shareholder with respect to number, type, class, voting rights and value of shares is equal before and after the reduction is effected."; and

(ii) immediately after paragraph (b)(i) thereof, as amended, there shall be added the following new sub-paragraph:

"(ii) Where the market value of shares held by a person in a company has been reduced as a result of a change in the issued share capital of such company, or a change in any rights attached to such shares, and such value passes into other shares in or rights over the company (held by other shareholders), such person shall be deemed to have made a transfer of such value so reduced. Any gains or profits shall be calculated by taking into account the difference between the market value of the shares held immediately before and after the

said change and shall be determined in such manner as may be prescribed."; and

(h) in the second proviso to sub-article (15) thereof, for the words "had this sub-article not been applied." there shall be substituted the words "had this sub-article and article 5A not been applied."

Amendment of
article 5A of the
principal Act.

8. Article 5A of the principal Act shall be amended as follows:

(a) sub-article (3) thereof shall be amended as follows:

(i) in paragraph (b) thereof, for the words "five years", wherever they occur, there shall be substituted the words "seven years"; and

(ii) in paragraph (h) thereof, for the words "as may be prescribed;" there shall be substituted the words "as may be prescribed:" and immediately thereafter there shall be added the following proviso:

"Provided that such person is not owned or controlled by, directly or indirectly, nor acts on behalf of, an individual or individuals who is or are ordinarily resident and domiciled in Malta;"

(b) sub-article (4) thereof shall be amended as follows:

(i) in paragraph (c) thereof, for the words "vacating the premises:" there shall be substituted the words "vacating the premises and provided further that this paragraph shall only apply where the transfer would not have been chargeable under the provisions of article 4(1)(a) but for the provisions of this article:"

(ii) in paragraph (f) thereof, for the words "if it were a transfer to which article 5 applied, would qualify for tax relief under article 5(9):" there shall be substituted the words "would qualify for tax relief under article 5(9) but for the provisions of this article:"

(iii) in the proviso to paragraph (f) thereof, for the words "to the said transfer;" there shall be substituted the words "to the said transfer:" and immediately thereafter, there shall be added the following new proviso:

"Provided further that if such transfer does not qualify for tax relief under article 5(9) solely for the reason that it is not a transfer of a capital asset, such transfer shall be exempt from tax under the provisions of this paragraph if the said transfer is part of a restructuring, involving the transfer of the whole or part of a company's business to another company and the said property has been owned by the transferring company for a period exceeding seven years."; and

(iv) in the second proviso to paragraph (g) thereof, for the words "five years", there shall be substituted the words "seven years";

(c) sub-article (10) thereof shall be amended as follows:

(i) in paragraph (b) thereof, for the words "to the extent that those gains or profits are correctly declared in the deed of the transfer" there shall be substituted the words "to the extent that they are attributable to a transfer whose transfer value has been correctly declared in the deed of the transfer or a transfer which has been correctly declared to be exempt or out of the scope of this article,"; and

(ii) in paragraph (d) thereof, for the words "to which this article applies to the final taxed account." there shall be substituted the words "to which this article applies, and on which tax is payable in accordance with this article, to the final tax account.";

(d) sub-article (12A) thereof shall be amended as follows:

(i) in paragraph (a) thereof, for the words "five years" there shall be substituted the words "six years"; and for the words "of the group being wound up or dissolved." there shall be substituted the words "of the group being wound up or dissolved:", and the following proviso shall be added immediately thereafter:

"Provided that if any company, other than the chargeable company, ceases to be a member of a group by being wound up or dissolved, for the purpose of determining whether a company ceases to be a member of a group under sub-article (b),

such company shall be deemed to remain in existence."; and

(ii) paragraph (b) thereof shall be substituted by the following new paragraph:

"(b) A company shall cease to be a member of a group, hereinafter referred to as the "original group", if such company and the company from which it had acquired the property referred to in this sub-article no longer satisfy the provisions of subarticle 5(9)(i) and (iii):

Provided that if the two companies referred to in paragraph (a) cease to be members of the original group at the same time, within the period referred to in the said paragraph, the chargeable company shall be treated as ceasing to be a member of the group notwithstanding that the said provisions remain satisfied:

Provided further that the preceding proviso shall not apply where there has not been any change in the individual direct or indirect beneficial owners of the companies involved or in the proportion in the value of each of the companies involved represented by the shares owned beneficially directly or indirectly by each such individual.

For the purpose of this paragraph the term "original group" shall mean the two companies referred to in paragraph (a), and the individual direct or indirect beneficial owners of the said companies as existing on the date of the acquisition referred to in the said paragraph."

Amendment of article 12 of the principal Act.

9. In paragraph (t) of sub-article (1) of article 12 of the principal Act, for the words "the Courts of Malta", wherever they occur, there shall be substituted the words "the Courts of Malta or the Courts of another country as the Commissioner may approve".

Amendment of article 14 of the principal Act.

10. Immediately after sub-article (3) of article 14 of the principal Act, there shall be added the following new sub-article:

"(4) Where a person derives income from work carried out on or in relation to immovable property, consisting of brokerage and professional services, construction work, project

management of construction work and work of tradesmen, or from the granting of loans or from any form of credit to finance the acquisition, development, construction, refurbishment, renovation of immovable property or any right thereon and any other matter which increases or enhances the value of such immovable property or any right thereon, and such property is owned by a related person, the following shall have effect:

(a) the income derived from the work, loans, or credit or from the transfer of the ownership or any rights on the immovable property to which such work, loans, or credit is related, shall be deemed to constitute separate chargeable income for the purpose of this sub-article;

(b) in determining the chargeable income derived from the said work, loans, or credit, the total deductions allowable under this article against such income shall not exceed the amount of the said income; and

(c) in determining the chargeable income derived from the transfer of the ownership or any rights on such immovable property, no loss is to be allowed under the provisions of article 14(1)(g), in so far that such loss arises as a result of deducting any amounts paid or payable in respect of the work, loans, or credit referred to in this sub-article:

Provided that paragraph (c) shall not apply with respect to income derived from loans or credit, where it can be proved to the satisfaction of the Commissioner that the amount paid or payable in respect of the loans or credit referred to in this sub-article reflect the amount that would have been paid or payable if the persons referred to in this sub-article were not related.

For the purpose of this sub-article -

(i) an individual is deemed to be related to another person if that other person is a body of persons of which the said individual is, directly or indirectly, a shareholder, partner or member; and

(ii) two bodies of persons are deemed to be related persons if they are directly or indirectly controlled or beneficially owned as to more than twenty-five per cent by the same persons."

C 1246

Amendment of article 14A of the principal Act.

11. In article 14A of the principal Act, for the words "the Courts of Malta", wherever they occur, there shall be substituted the words "the Courts of Malta or the Courts of another country as the Commissioner may approve".

Amendment of article 34 of the principal Act.

12. Immediately after the second proviso to sub-article (2) of article 34 of the principal Act, there shall be added the following new sub-article:

"(3) Where an account is not rendered to the Commissioner in the manner required under this article, the payor shall become liable to a penalty of not more than twenty-three thousand euro (€23,000) as may be prescribed by the Minister."

Amendment of article 47 of the principal Act.

13. In article 47 of the principal Act, for the words "(whether before or during liquidation)" there shall be substituted the words "(whether before or during liquidation) and any distributions from the untaxed account".

Amendment of article 51 of the principal Act.

14. Article 51 of the principal Act shall be amended as follows:

(a) in sub-article (2) thereof, immediately after the words "the said scheme and the consequent advantage." there shall be added the following words "A person who disagrees with an order served upon him as aforesaid shall have the same rights to object to that order and to appeal from a decision of the Commissioner refusing that objection as if that order were an assessment issued under the Income Tax Management Act and the relevant provisions of that Act relating to objections and appeals shall apply *mutatis mutandis*.";

(b) in paragraph (a) of sub-article (4) thereof, for the words "article 14(1)(g)" there shall be substituted the words "articles 5(10)(b) and 14(1)(g)"; and

(c) in sub-article (5) thereof, in the definition of "scheme", for the words "transfer of assets" there shall be substituted the words "transfer of assets, increase in the share capital of a company".

Amendment of article 56 of the principal Act.

15. In sub-article (17) of article 56 of the principal Act, for the words "the last part of that individual's total income" there shall be substituted the words "the first part of that individual's total income".

PART III

16. (1) This Part amends the Duty on Documents and Transfers Act, and it shall be read and construed as one with the Duty on Documents and Transfers Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Duty on Documents and Transfers Act. Cap. 364.

(2) The provisions of this Part, other than article 26 hereof, shall come into force on such date as the Minister responsible for finance may, by notice in the Gazette, establish, and different dates may be so established for different provisions or different purposes of this Part.

(3) Article 26 shall be deemed to have come into force on 1st January, 2010.

17. In article 2 of the principal Act, for the definition "transfer" there shall be substituted the following:

Amendment of article 2 of the principal Act.

Cap. 386. " "transfer" includes any assignment, conveyance, sale, partition, donation, settlement of dowry, sale by instalments, redemption of ground rent and any acquisition under any other title, including a declaratory public deed as is referred to in article 371(4) of the Companies Act, and any occurrence that is deemed to be a transfer in accordance with the provisions of article 42B of this Act, but, except where specifically provided in this Act, does not include any transfer *causa mortis*;"

18. Article 4 of the principal Act shall be substituted by the following:

Substitution of article 4 of the principal Act.

"4. Subject to the provisions of Part III, Title I of this Act, a document subject to duty under this Act, shall become so subject either from its origin if it is executed in Malta or by reason of its use if it is executed outside Malta."

19. Sub-article (1) of article 6 of the principal Act shall be substituted by the following:

Amendment of article 6 of the principal Act.

"(1) Subject to the provisions of Part III, Title I of this Act, a document executed outside Malta shall be chargeable with duty when use thereof is made in Malta, if such document would have been so chargeable according to the provisions of this Act, had it been executed in Malta."

Substitution of
article 25 of the
principal Act.

20. Article 25 of the principal Act shall be substituted by the following:

"25. Notwithstanding the provisions of any other article in this Act, including articles 4 and 6, there shall be charged on any policy of life insurance which is not renewable every year, wherever such policy is executed or used, a duty of ten cents for every one hundred euro or part thereof of the sum assured:

Provided that duty under this article shall only be chargeable on policies where the policyholder is resident in Malta, or in the case where the policy holder is a legal person, where such policy holder is incorporated or otherwise created in Malta:

Provided further that persons referred to in article 47(3) shall in no case be deemed to constitute persons referred to in the first proviso of this article."

Substitution of
article 27 of the
principal Act.

21. Article 27 of the principal Act shall be substituted by the following:

"27. Notwithstanding the provisions of any other article in this Act, including articles 4 and 6, there shall be charged on every policy of insurance, wherever such policy is executed or used and in respect of which article 25 does not make specific provision, a duty of ten cents for every euro or part thereof of the agreed yearly premium, or, if a compounded premium is agreed upon as a lump sum payment, or a once only premium is otherwise payable, then of that agreed consideration:

Provided that -

(a) the minimum duty chargeable under this article shall be eleven euro and sixty-five cents (€11.65);

(b) where the premium payable is less than eleven euro and sixty-five cents (€11.65), the minimum duty chargeable shall be reduced to ten per centum of the amount of premium so payable;

(c) no duty shall be chargeable on any policies of insurance in respect of Aviation, Marine Cargo, Marine Hull or Boat, Credit and Suretyship, and Medical Cover;

Cap. 403. (d) duty under this article shall only be chargeable on policies relating to risks referred to in the definition of the term "risk situated in Malta" contained in article 2(1) of the Insurance Business Act;

Cap. 403. (e) persons referred to in article 47(3) shall in no case be deemed to constitute persons as referred to in paragraph (d) of the definition of "risk situated in Malta" in the said article 2(1) of the Insurance Business Act."

22. Sub-article (6) of article 32 of the principal Act shall be amended as follows:

Amendment of article 32 of the principal Act.

(a) the whole sub-article shall be renumbered as paragraph (a) thereof and the words "For the purposes of this subarticle, "a group of companies" shall have the same meaning assigned to it in article 42." shall be deleted; and

(b) immediately after paragraph (a) thereof, as renumbered, there shall be added the following new paragraphs:

"(b) For the purposes of this sub-article, two companies form part of the same group of companies where the individual direct or indirect beneficial owners of the companies are the same and each such individual holds, directly or indirectly, substantially the same proportion of the nominal share capital and voting rights in each of the said companies.

(c) For the purposes of paragraph (b), an individual is deemed to hold substantially the same proportion of the nominal share capital and voting rights in each of the said companies where the difference between the proportions held in each company does not exceed twenty percent.

(d) Where an individual holds, directly or indirectly, less than five percent of the nominal share capital and voting rights in only one of the companies referred to in paragraph (a), such individual shall, for the purpose of this sub-article, not be taken into account in determining whether the individual direct or indirect beneficial owners of the companies referred to in the said paragraph are the same:

Provided that if more than one individual holds,

directly or indirectly, less than five percent of the nominal share capital and voting rights in one of the said companies, this paragraph shall not apply where together such individuals hold, directly or indirectly, five percent or more of the nominal share capital and voting rights in the company."

Amendment of
article 42 of the
principal Act.

23. Article 42 of the principal Act shall be amended as follows:

(a) immediately after paragraph (c) of sub-article (1) thereof, there shall be added the following new paragraph:

"(d) on a transfer of real value in marketable securities as referred to in article 42B."; and

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

"(2) (a) Where it results that seventy-five percent or more of the assets, excluding all current assets other than immovable property, of the company referred to in article 42B, or of the company whose marketable securities are transferred *inter vivos* or are transmitted *causa mortis* in respect of persons from whom the transfer *causa mortis* originates who died on or after the 1st January, 2000, consists of any immovable property or any right over an immovable, the duty chargeable in virtue of subarticle (1) shall be increased by three euro for every one hundred euro or part thereof of the amount or value of the consideration or the real value of the marketable security, whichever is the higher.

(b) Where a company referred to in paragraph (a) owns, directly or indirectly, shares in any other company having seventy-five percent or more of its assets, excluding all current assets other than immovable property, consisting of any immovable property or any right over an immovable, hereinafter referred to as the "property company", the duty chargeable in virtue of subarticle (1) shall be increased by three euro for every one hundred euro or part thereof of the amount or value of the consideration or the real value of the marketable security, whichever is the higher:

Provided that this paragraph shall not apply where the company referred to in paragraph (a) holds, directly or

indirectly, less than ten percent of the nominal share capital and voting rights of the property company:

Provided further that this paragraph shall not apply where the duty chargeable in virtue of subarticle (1) has been increased by three euro for every one hundred euro or part thereof in accordance with paragraph (a).

(c) For the purpose of determining the amount or value of the consideration or the real value of such marketable security in paragraphs (a) and (b) there shall not be deducted any liability in excess of the value of all assets excluding the value of any such immovable property or any real right thereon.

(3) The real value of shares in a company is a percentage of the real value of the company corresponding to the higher of -

(a) the percentage of the issued share capital represented by the nominal value of those shares, and

(b) the percentage of the total voting rights in the company represented by the total voting rights attached to those shares:

Provided that in determining the real value of shares in a company after the change in voting rights referred to in article 42B, the percentage of the real value of the company shall be the amount corresponding to the lower of paragraphs (a) and (b).

(4) Subject to the provisions of sub-article (2)(c), the real value of the marketable security referred to in this article and article 42B shall be determined in accordance with rule 5(6) and (7) of the Capital Gains Rules and references to the market value of a company in such rule shall be deemed to be references to the real value of a company."

24. Immediately after article 42A of the principal Act there

Addition of new article to the principal Act.

shall be added the following new article:

"Reduction of
real value of
shares.

42B. Where the real value of shares held by a person (hereinafter referred to as the "transferor") in a company has been reduced as a result of a change in the issued share capital of such company, or a change in any rights attached to such shares, and such value so reduced passes into other shares in or rights over the company, held by any other person (hereinafter referred to as the "transferee"), the transferor shall be deemed to have made a transfer of such value so reduced to the transferee, calculated by taking into account the difference between the real value of the shares held immediately before and after the said change and duty shall be chargeable in accordance with article 42.

For the purpose of this article, a change in the issued share capital of a company shall include a reduction in the share capital of such company."

Amendment of
article 49 of the
principal Act.

25. Article 49 of the principal Act shall be renumbered as sub-article (1) thereof and immediately thereafter there shall be added the following new sub-article:

"(2) Duty as provided in article 42B shall be paid to the Commissioner by the transferee acquiring value within fifteen working days from the date of the change referred to in the said article. Such shareholder shall submit together with the payment referred to above any other documents, forms and details as may be prescribed."

Deletion of
article 52A of
the principal
Act.

26. (1) Article 52A of the principal Act shall be deleted.

(2) Notwithstanding the repeal of article 52A of the principal Act, no payment made and which was due prior to the said repeal shall be held to have been made without being due or invalidly as a consequence of the said repeal and any payment still due under the said article 52A in respect of any period prior to the repeal of the said article shall remain due.

Amendment of
article 64 of the
principal Act.

27. Sub-article (1) of article 64 of the principal Act shall be substituted by the following:

"(1) No person or authority shall, where a transfer is subject to duty under this Act, register any transfer, reduction,

or allotment of company shares whether in the name of a transferee or any other person claiming through or under him or otherwise before ascertaining that a notice of such transfer has been lodged with the Registrar of Companies in accordance with this Act."

PART IV

28. (1) This Part amends the Income Tax Management Act, and it shall be read and construed as one with the Income Tax Management Act, hereinafter in this Part referred to as "the principal Act".

Amendments to the Income Tax Management Act.
Cap. 372.

(2) The provisions of this Part shall come into force on such date as the Minister responsible for finance may, by notice in the Gazette, establish, and different dates may be so established for different provisions or different purposes of this Part.

29. In sub-article (1) of article 29 of the principal Act, for the words "properly addressed and posted." there shall be substituted the words "properly addressed and posted:", and immediately thereafter there shall be added the following proviso:

Amendment of article 29 of the principal Act.

"Provided that where such notice is not made because the taxpayer could not be found or for other reasons attributable to him and the Commissioner publishes a notice in the Gazette and in one or more daily newspapers stating that a notice has been made and inviting the taxpayer to call for it at the Department, then such notice shall also be deemed to have been duly notified."

30. In sub-article (5) of article 31 of the principal Act, for the words "additional assessment or assessments." there shall be substituted the words "additional assessment or assessments:", and immediately thereafter there shall be added the following proviso:

Amendment of article 31 of the principal Act.

"Provided that if there is evidence that, after being requested by the Commissioner by means of a notice in writing, such person failed to produce without any reasonable excuse any records, documents, accounts and electronic data within thirty days from the date of service of such notice and an order in writing by the Commissioner referred to in article 33(5) has been issued, such person shall not be allowed to produce such records, documents, accounts and electronic data before the Board of Special Commissioners or in any Court of law."

31. Paragraph (b) of article 36 of the principal Act shall be substituted by the following new paragraph:

Amendment of article 36 of the principal Act.

"(b) notwithstanding the provisions of article 34(7), where the assessment complained of has been raised by the Commissioner in accordance with the provisions of article 30(1)(b) or (2) or (3), or of article 31(5), no evidence shall be considered by the Board as sufficient to warrant any change in the assessment concerning that income if the person appealing against the Commissioner's decision has failed to provide the records, documents, accounts and electronic data in accordance with the proviso to article 31(5);".

Amendment of article 38 of the principal Act.

32. In article 38 of the principal Act, for the words "against an assessment" there shall be substituted the words "against an assessment or order" and for the words "the assessment as made" there shall be substituted the words "the assessment or order as made".

Amendment of article 40 of the principal Act.

33. Article 40 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof:

(i) in paragraph (c) thereof, for the words "final and conclusive assessment" there shall be substituted the words "final and conclusive assessment or order"; and

(ii) in the proviso thereto, for the words "in article 44(1)(b)" there shall be substituted the words "in articles 44(1)(b) or 44(2A)(c)"; and

(b) in sub-article (2) thereof, for the words "of article 44(1)(b)," there shall be substituted the words "of articles 44(1)(b) or 44(2A)(c)."

Amendment of article 43 of the principal Act.

34. Article 43 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof, for the words "article 5(1)(a)(i) and (ii)" there shall be substituted the words "article 5(1)(a)";

(b) in the proviso to paragraph (b) thereof, for the words "according to the deed." there shall be substituted the words "according to the deed:" and immediately thereafter there shall be added the following new provisos:

"Provided further that in the case of a transfer of securities, as defined in article 5 of the Income Tax Act, involving a transfer of a controlling interest in accordance

with prescribed rules, the provisional tax payment shall be equivalent to 7% of the higher of the market value or the consideration, and in the case of a transfer to which article 5(9A) of the Income Tax Act applies, such payment shall be made within fifteen days from the date the chargeable company ceases to be a member of the group:

Provided also that in the case of a transfer of value in securities, as provided for in paragraph (13)(b)(ii) of article 5 of the Income Tax Act, the provisional tax payment shall be equivalent to 7% of the gains or profits referred to in the said paragraph."; and

(c) in sub-article (3) thereof, for the words "as the case maybe." there shall be substituted the words "as the case may be:" and immediately thereafter there shall be added the following new proviso:

"Provided that in the case of a transfer of securities, as defined in article 5 of the Income Tax Act, involving a transfer of a controlling interest in accordance with prescribed rules, the 20% shall be calculated on the higher of the market value or the consideration.".

35. Sub-article (3) of article 44 of the principal Act shall be substituted by the following sub-article:

Amendment of article 44 of the principal Act.

"(3) No opposition other than that specifically provided for in this Act shall stay the issue or execution of any executive act obtained thereunder or the paying out of the proceeds of any warrant or sale by auction carried out in pursuance thereof.".

36. Article 48 of the principal Act shall be amended as follows:

Amendment of article 48 of the principal Act.

(a) immediately after subarticle (1) thereof, there shall

be added the following new subarticles:

"(1A) Notwithstanding the provisions of subarticle (1), in no case shall any refund be made to any person in respect of the year of assessment 1999 or any subsequent year of assessment unless and until such person has filed all tax returns, which are required to be furnished under this Act, in respect of the years of assessment 1999 up to and including the year of assessment preceding the year in which the refund would have been payable but for the application of this sub-article.

Cap. 406. (1B) Notwithstanding the provisions of subarticle (1), in no case shall any refund be made to any person registered under article 10 of the Value Added Tax Act, unless and until such person has filed all tax returns required to be furnished under article 27 of the said Act in respect of tax periods up to and including the last complete tax period in the year preceding that in which the refund would have been payable but for the application of this sub-article.";

(b) the present provisions of subarticle (2B) thereof shall be renumbered as paragraph (i) of subarticle (2B), and immediately thereafter there shall be added the following new paragraph:

"(ii) In the case of a person to whom subarticles (1A) or (1B) apply, any refund which would have been payable but for the provisions of the said subarticles, shall become due or shall be deemed to have become due, as the case may be, on the last day of the twelfth month following that in which the tax returns referred to in the said subarticles were furnished."

PART V

Amendments to
the Excise Duty
Act.
Cap. 382.

37. (1) This Part amends the Excise Duty Act, and it shall be read and construed as one with the Excise Duty Act, hereinafter in this Part referred to as "the principal Act".

(2) Articles 38, 39 and 40 shall come into force on such date as the Minister responsible for finance may, by notice in the Gazette, establish.

(3) Articles 41 and 42 shall be deemed to have come into force

on the 10th November 2009.

38. Article 16 of the principal Act shall be amended as follows: Amendment of article 16 of the principal Act.

(a) in sub-article (1) thereof, for the words "shall be guilty of an offence and shall for every such offence be liable, on conviction, to a fine (*multa*) not exceeding eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87).", there shall be substituted the words "shall be guilty of an offence and shall for every such offence be liable on conviction to a fine (*multa*) of not less than five hundred euro (€500) and not more than twenty-five thousand euro (€25,000)"; and immediately thereafter there shall be added the following proviso:

"Provided that in the case of a conviction relating to the evasion or attempted evasion of excise duty, the offender shall be liable to a fine (*multa*) of not less than three times the excise duty on such excise goods, which fine may exceed twenty-five thousand (€25,000) euro"; and

(b) sub-article (2) thereof shall be deleted.

39. Immediately after article 16 of the principal Act there shall be added the following new article: Addition of new article to the principal Act.

"Penalty instead of proceedings in terms of this Act.

"16A Without prejudice to any other provision of this Act relating to forfeiture of goods in favour of the Government, in the case of an irregularity committed by an offender which, if undetected, would involve loss of excise duty on excise goods not exceeding one thousand euro (€1000), the Comptroller may, on acknowledgement of the committed offence by the offender, refrain from instituting proceedings in terms of this Act and impose a penalty equivalent to three times the excise duty endangered, which penalty shall not be less than two hundred and fifty euro (€250)."

40. In paragraph (c) of article 17 of the principal Act, for the words "are not duly delivered at such place," there shall be substituted the words "are not duly delivered at such place; or", and immediately thereafter there shall be added the following new paragraph: Amendment of article 17 of the principal Act.

"(d) are brought into Malta and the payment of excise

duty has been evaded or an attempt has been made to evade the payment thereof,".

41. The Third Schedule to the principal Act shall be amended as follows:

(a) for the words in the "Rates of Excise Duty" column thereof in respect of the item "Cigarettes", there shall be substituted the following:

"50.0% of the retail price plus 22.00 Euro per 1000 cigarettes but not less than 117.00 Euro per 1000 cigarettes";

(b) for the words in the "Rates of Excise Duty" column thereof in respect of the item "Cigars and Cigarillos", there shall be substituted the following:

"16.25 Euro per 1000 units";

(c) for the words in the "Rates of Excise Duty" column thereof in respect of the item "Hand-Rolling Tobacco", there shall be substituted the following:

"72.50 Euro per kg.";

(d) for the words in the "Rates of Excise Duty" column thereof in respect of the item "Other Smoking Tobacco", there shall be substituted the following:

"72.50 Euro per kg.";

(e) for the words in the "Rates of Excise Duty" column thereof in respect of the item "Pipe Tobacco", there shall be substituted the following:

"23.40 Euro per kg."; and

(f) for the words in the "Rates of Excise Duty" column thereof in respect of the item "Chewing Tobacco and Snuff", there shall be substituted the following:

"31.56 Euro per kg.".

42. The Fourth Schedule to the principal Act shall be amended as follows:

(a) for the words in the "Rates of Excise Duty" column thereof in respect of the item "Electricity falling under CN Code

2716", there shall be substituted the following:

"1.00 Euro per MWh"; and

(b) for the words in the "Rates of Excise Duty" column thereof in respect of the item "Coal and Coke falling within CN Codes 2701, 2702 and 2704", there shall be substituted the following:

"0.30 Euro per 1 gigajoule, gross calorific value".

PART VI

43. (1) This Part amends the Eco-Contribution Act, and it shall be read and construed as one with the Eco-Contribution Act, hereinafter in this Part referred to as "the principal Act".

Amendment to
the Eco-
Contribution
Act.
Cap. 473.

(2) The provisions of this Part shall come into force on such date as the Minister responsible for finance may, by notice in the Gazette, establish, and different dates may be so established for different provisions or different purposes of this Part.

44. Immediately after article 13B of the principal Act there shall be added the following two new articles:

Addition of new
articles to the
principal Act.

"Statements
and
assessments to
constitute
executive title.

13C. Any statement issued by the competent authority and any assessment issued in terms of article 13A showing any amount of eco-contribution due by a person shall, unless the contrary is proved, be sufficient evidence that that amount is due to the competent authority by that person and shall constitute an executive title within the meaning and for the purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.

Cap. 12.

Validity of
statements, etc.

13D. (1) Any statement, assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Act shall not be deemed to be void or voidable for want of form or be affected by the reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Act.

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

Amendment of article 16 of the principal Act.

45. Immediately after sub-article (2) of article 16 of the principal Act, there shall be added the following sub-articles:

"(3) No criminal proceedings under this Act shall be taken except at the instance or with the sanction of the competent authority, and proceedings that have been so taken may, at any time before final judgment, be withdrawn at the request of the competent authority.

Cap. 9.

(4) Notwithstanding the provisions of the Criminal Code, the Attorney General shall have a right of appeal to the Court of Criminal Appeal from any judgment given by the Court of Magistrates in respect of criminal proceedings under this Act.

(5) The institution of proceedings or the imposition of a penalty for any offence under this Act shall not relieve any person from prosecution under any other law or from liability to the payment of any tax for which he is or may be liable under this Act, and the institution of proceedings or the imposition of a penalty for any offence under any other law or the payment of any tax under this Act shall not relieve any person from any prosecution or penalty under this Act in respect of an offence committed against this Act.

(6) In any criminal proceedings under this Act the competent authority or any other officer designated by the competent authority may, notwithstanding the provisions of any other law, produce the evidence, plead and otherwise conduct the prosecution instead of or jointly with the police.

(7) Should the evidence of the competent authority or of the officer designated by the competent authority as aforesaid be required as part of the case for the prosecution, he shall be heard before assuming the duties of a prosecuting officer unless the necessity of his giving evidence arises at a later stage: provided that the Commissioner or other officer as aforesaid may state the facts constituting the offence before giving evidence."

PART VII

46. The following obsolete articles are hereby repealed:

Repeal of
certain obsolete
articles in
various Acts.

(a) article 44(c) of the Budget Measures Implementation Act, 2003 - Act II of 2003;

(b) articles 15 and 16 of the Various Laws (Amendment) Act, 2003 - Act IX of 2003; and

(c) article 48 of the Budget Measures Implementation Act, 2004 - Act II of 2004.

Objects and Reasons

The objects of this Bill are to implement various Budget measures and other administrative measures.