

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE ABELA
President

16 ta' April, 2010

ATT Nru I tal-2010

ATT biex jimplimenta diversi miżuri ta' l-Estimi 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'ligi dan li ġej:-

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

TAQSIMA I

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

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

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

(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 Kap. 161.
Lokali (*Stock* u Titoli Reġistrati), b'dawk il-pattijiet u kondizzjonijiet

hekk kif l-istess Ministru jista' japprova.

Skop.

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

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

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

(c) 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

Emenda tal-Ordinanza dwar il-Pensjonijiet. Kap. 93.

6. (1) Din it-Taqsima temenda l-Ordinanza dwar il-Pensjonijiet, u għandha tinqara u tiftiehem haġa waħda mal-Ordinanza dwar il-Pensjonijiet, hawn iżjed 'il quddiem f'din it-Taqsima msejha "l-liġi prinċipali".

(2) Id-dispożizzjonijiet ta' din it-Taqsima għandhom jitqiesu li dahlu fis-seħħ fl-1 ta' Jannar, 2010.

Emenda tal-artikolu 8Ċ tal-liġi prinċipali.

7. Fil-paragrafu (b) tas-subartikolu (2) tal-artikolu 8Ċ tal-liġi prinċipali, minflok il-kliem "Uffiċċju Nazzjonali tal-Verifika." għandhom jidhlu l-kliem "Uffiċċju Nazzjonali tal-Verifika, Management Systems Unit, Malta Information Technology and Training Services Ltd u Malta Information Technology Agency".

Emenda tal-artikolu 12 tal-liġi prinċipali.

8. L-artikolu 12 tal-liġi prinċipali għandu jiġi emendat kif ġej:

(a) l-artikolu preżenti għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tiegħu, u l-imsemmi subartikolu (1) kif enumerat mill-ġdid għandu jiġi emendat kif ġej:

(i) minnufih wara l-kliem "kariga oħra fis-servizz ta' Malta," għandhom jizdiedu l-kliem "jew jiġi jew ikun f'xi żmien wara li jkun rtira nħatar f'kariga mwaqqfa mill-Kostituzzjoni li tkun ukoll kariga pensjonabbli taht din l-Ordinanza,";

(ii) minnufih wara l-kliem "u wara jirtira f'ċirkostanzi li taħthom jista' jiġi mogħti pensjoni,"

għandhom jiżdiedu l-kliem "jew jitlaq mill-kariga fit-tmien tal-ħatra jew tal-ħatra mill-ġdid tiegħu skond il-każ,";

(iii) minnufih wara l-kliem "jew ta' meta fl-aħħar irtira għal kollox mis-servizz ta' Malta," għandhom jiżdiedu l-kliem "jew mill-imsemmija kariga mwaqqfa mill-Kostituzzjoni,"; u

(iv) fil-proviso għas-subartikolu (1), il-kliem "li jkun irċieva qabel." għandhom jiġu sostitwiti bil-kliem "li jkun irċieva qabel:" u minnufih wara għandu jiżdied dan il-proviso ġdid li ġej:

"Izda ukoll fil-każ ta' uffiċjal li jkun irtira għall-ewwel darba minn xi waħda mill-karigi, postijiet jew pożizzjonijiet imsemmija fil-paragrafi (a), (b) jew (ċ), bl-esklużjoni tal-proviso, tas-subartikolu (2) tal-artikolu 2 tal-Att dwar l-Amministrazzjoni Pubblika, id-dispożizzjonijiet ta' dan is-subartikolu għandhom japplikaw biss jekk l-irtirar għal kollox mis-servizz ta' Malta jew mill-kariga mwaqqfa mill-Kostituzzjoni ta' dak l-uffiċjal ikun seħħ qabel l-1 ta' Jannar, 2010."; u

(b) minnufih wara s-subartikolu (1) kif enumerat mill-ġdid għandu jiżdied dan is-subartikolu ġdid li ġej:

"(2) Minkejja d-dispożizzjonijiet l-oħra ta' din l-Ordinanza jew ta' kull liġi oħra jew ta' regolamenti oħra, meta persuna tkun id-detentur ta' xi waħda mill-karigi, postijiet jew pożizzjonijiet imsemmija fil-paragrafi (a), (b) jew (ċ), bl-esklużjoni tal-proviso, tas-subartikolu (2) tal-artikolu 2 tal-Att dwar l-Amministrazzjoni Pubblika, dik il-persuna tista', meta tiġi impjegata mill-ġdid fis-servizz ta' Malta wara li tkun irtirat mis-servizz ta' Malta jew meta tkun ġiet miżmuma fl-impjieg fis-servizz ta' Malta minkejja li tkun laħqet l-età ta' wieħed u sittin sena, matul dak il-perjodu fl-impjieg wara l-età ta' wieħed u sittin sena, tirċievi u tkompli tirċievi kull pensjoni, inkluża kull gratifikazzjoni jew pensjoni kommutata, mingħajr ma jsir ebda tnaqqis hlief kif stipulat f'din l-Ordinanza, iżda l-imsemmi perjodu ta' impjieg mill-ġdid jew ta' żamma fl-impjieg m'għandux jittiehed f'konsiderazzjoni għal xi skop ieħor ta' din l-Ordinanza."

TAQSIMA III

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

9. (1) Din it-Taqsima temenda l-Att dwar it-Taxxa fuq l-*Income* u għandha tingara u tiftiehem haġa waħda ma' l-Att dwar it-Taxxa fuq l-*Income*, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjah "l-Att prinċipali".

(2) (a) L-artikoli 13(a)(i) u 13(b)(iv) għandhom jitqiesu li dahlu fis-sehħ fl-10 ta' Novembru, 2009.

(b) L-artikoli 15(b), 16, 17, 18, 19, 20 u 27(a) għandhom jidhlu fis-sehħ mis-sena ta' stima 2011.

(ċ) L-artikolu 10(a) għandu jitqies li dahal fis-sehħ mill-1 ta' Mejju 2004.

(d) L-artikoli 10(b), 10(ċ), 10(d), 10(e), 15(a), 15(ċ) u 23 għandhom jitqiesu li dahlu fis-sehħ mis-sena ta' stima 2009.

(e) L-artikoli 11, 14, 24, 28, 29 u 30 għandhom jitqiesu li dahlu fis-sehħ fl-1 ta' Jannar 2009.

Emenda tal-
artikolu 2 tal-
Att prinċipali.

10. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fit-tifsira "kumpannija", minflok il-kliem "jew soċjetà "anonima":" għandhom jiġu sostiwiti l-kliem "jew kumpannija ta' responsabbiltà limitata jew kull kumpannija oħra mwaqqfa b'dak il-mod taħt xi liġi oħra li qiegħda fis-sehħ f'Malta:";

(b) fit-tifsira "sehem b'ekwità", minflok il-kliem "sehem tal-kapital tal-azzjonijiet f'kumpannija meta dak is-sehem jagħti l-jedd lill-azzjonist li jivvota, li jaqsam fil-profitti li jkun hemm għat-taqsim bejn l-azzjonisti u l-attiv li jkun hemm biex jitqassam fil-każ ta' xoljiment ta' dik il-kumpannija, u "azzjonijiet b'ekwità", "azzjonist b'ekwità" u "sehem f'azzjonijiet b'ekwità" għandhom jiftiehem f'dan is-sens;" għandhom jiġu sostitwiti l-kliem "sehem tal-kapital tal-azzjonijiet f'kumpannija li ma tkunx kumpannija li għandha proprjetà, meta dak is-sehem jagħti tal-inqas tnejn minn dawn il-jeddijiet li ġejjin lill-azzjonist (hawn iżjed 'il quddiem msejja drittijiet ta' "sehem b'ekwità"):

(i) il-jedd lill-azzjonist li jivvota;

(ii) li jaqsam fil-profitti li jkun hemm għat-taqsim bejn l-azzjonisti u

(iii) li jaqsam fl-attiv li jkun hemm biex jitqassam fil-każ ta' xoljiment tal-imsemmija kumpanija,

u l-frażijiet "azzjonijiet b'ekwità", "azzjonist b'ekwità" u "sehem f'azzjonijiet b'ekwità" għandhom jiftiehm u f'dan is-sens:

Iżda l-Kummissarju għandu jkun jista' jiddetermina illi sehem b'ekwità jeżisti anke fejn dak is-sehem mhuwiex sehem tal-kapital tal-azzjonijiet f'kumpanija jew ma jikkonsistix biss f'dak is-sehem tal-kapital tal-azzjonijiet f'kumpanija, iżda meta jkun jista' jiġi muri illi jkun hemm b'mod sostanzjali illi f'kull hin tkun intitolata għal tal-inqas tnejn mid-drittijiet ta' sehem b'ekwità";

(è) fil-paragrafu (a) tat-tifsira "kont ta' *income* barrani" minflok il-kliem "minn sehem parteċipanti jew mid-disponiment minn dak is-sehem" għandhom jiġu sostitwiti l-kliem "minn sehem parteċipanti f'kumpanija mhux residenti f'Malta jew mid-disponiment minn dak is-sehem";

(d) it-tifsira "sehem parteċipanti" għandha tiġi emendata kif ġej:

(i) il-paragrafu (a) għandu jiġi sostitwit b'dan li ġej:

"(a) kumpanija jkollha sehem dirett ta' għal tal-anqas għaxra fil-mija tal-azzjonijiet b'ekwità ta' kumpanija li l-kapital tagħha jkun kollu jew in parti maqsum f'ishma, liema sehem jagħti d-dritt għal tal-anqas għaxra fil-mija ta' xi tnejn minn dawn li ġejjin:

(i) il-jedd lill-azzjonist li jivvota;

(ii) li jaqsam fil-profitti li jkun hemm għat-taqsim bejn l-azzjonisti; u

(iii) l-attiv li jkun hemm biex jitqassam fil-każ ta' xoljiment ta' dik il-kumpanija:

Iżda l-Kummissarju għandu jkun jista' jiddetermina li d-disposizzjonijiet ta' dan il-paragrafu huma sodisfatti anke meta l-imsemmi livell minimu ta' drittijiet jeżisti fiċ-ċirkostanzi msemmija fil-proviso tat-tifsira "sehem b'ekwità";

(ii) fil-paragrafi (b), (è), (d) u (f) tiegħu, il-

kliem "mhux residenti f'Malta" kull fejn jidhru għandhom jiġu mhassra;

(iii) fil-paragrafu (e) tiegħu, minflok il-kliem "azzjonist b'ekwità li tinvesti somma minima ta' miljun, mija u erbgha u sittin elf euro (1,164,000) (jew somma ekwivalenti f'munita barranija) f'kumpannija li ma tkunx residenti f'Malta u dak l-investment fil-kumpannija mhux residenti f'Malta jinżamm għal perjodu kontinwu ta' mhux inqas minn 183 ġurnata" għandhom jiġu sostitwiti l-kliem "azzjonist b'ekwità li għandu investiment li jirrappreżenta valur totali, kif fid-data jew dati li fihom ġie akkwistat, ta' mill-anqas miljun, mija u erbgha u sittin elf euro (€1,164,000) (jew somma ekwivalenti f'munita barranija) f'kumpannija u dak is-sehem fil-kumpannija jinżamm għal perijodu kontinwu ta' mhux inqas minn 183 ġurnata";

(iv) fil-proviso għat-tifsira, minflok il-kliem "li jagħti l-jedd lill-possessur tiegħu għal dritt ta' votazzjoni, għall-profitti li jistgħu jitqassmu u għall-assi li jistgħu jitqassmu f'każ ta' xoljiment tal-imsemmi korp ta' persuni, u t-terminu "azzjonist b'ekwità" għandu jinftiehem skond hekk;" għandhom jiġu sostitwiti l-kliem "li jagħti l-jedd lill-possessur tiegħu għal tal-inqas tnejn minn dawn il-jeddijiet li ġejjin:

(a) il-jedd lill-azzjonist li jivvota;

(b) li jaqsam fil-profitti li jkun hemm għat-taqsim; u

(ċ) il-jedd għall-attiv li jkun hemm biex jitqassam fil-każ ta' xoljiment ta' dak il-korp ta' persuni,

u l-kliem "azzjonist b'ekwità" għandhom jiftiehem f'dan is-sens:

Iżda l-Kummissarju għandu jkun jista' jiddetermina illi sehem b'ekwità jezisti anke fejn dik il-kumpannija partikolari m'għandhiex sehem tal-kapital tal-azzjonijiet f'kumpannija jew ma jikkonsistix biss f'dak is-sehem tal-kapital tal-azzjonijiet f'kumpannija, iżda tista' turi b'mod sostanzjali illi f'kull hin tkun intitolata għal tal-inqas tnejn mid-drittijiet ta' sehem b'ekwità:

Iżda wkoll f'każ ta' sehem li jaqa' taħt il-

limiti tal-paragrafu (a) hawn qabel, id-disposizzjonijiet ta' dan il-paragrafu jitqiesu li ġew sodisfatti anke meta l-livell minimu ta' intitolamenti msemmija f'dak il-paragrafu jeżistu f'kull żmien b'referenza għaċ-ċirkostanzi msemmija fil-proviso tat-tifsira "sehem b'ekwità";"; u

(e) minnufih wara t-tifsira "kumpannija b'kummerè internazzjonali" għandha tiżdied it-tifsira ġdida li ġejja:

" "kumpannija ta' proprjetà" għandha tfisser kumpannija li għandha proprjetà immobbli sitwata f'Malta, jew xi drittijiet fuq dik il-proprjetà, jew kumpannija li għandha, direttament jew indirettament, ishja jew interessi f'korp ta' persuni li għandhom proprjetà immobbli sitwata f' Malta jew xi drittijiet fuq dik il-proprjetà:

Iżda meta kumpannija jew korp ta' persuni li jkollhom sengħa jew negozju, ikollhom proprjetà immobbli sitwata f'Malta jew xi drittijiet fuq dik il-proprjetà, li tikkonsisti biss f'fabbrica, maħżen jew uffiċċju li jintuża biss biex ikunu jistgħu jkomplu dik is-sengħa jew negozju, dik il-kumpannija jew korp ta' persuni għandhom, għall-fini ta' din it-tifsira, jitqiesu li m'għandhomx proprjetà immobbli jew xi drittijiet fuq dik il-proprjetà jekk m'għandhomx iżjed minn hamsin fil-mija tal-attiv li jikkonsisti fi proprjetà immobbli sitwata f'Malta u ma jwettqux xi attività li l-*income* minnha jkun derivat direttament jew indirettament minn proprjetà immobbli sitwata f'Malta;".

11. Minnufih wara l-artikolu 4 tal-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

Żjieda ta' artikolu 4A ġdid mal-Att prinċipali.

"Profitti jew *income* qabel bdil fir-residenza jew domicilju.

4A. Meta persuna:

(i) tibdel ir-residenza tagħha u ssir residenti f'Malta u ma kienet fl-ebda żmien domiciljata jew residenti f'Malta qabel dik il-bidla fir-residenza; jew

(ii) tibdel id-domicilju tagħha u ssir domiciljata f'Malta u fl-ebda żmien ma kienet domiciljata jew residenti f'Malta qabel dik il-bidla fid-domicilju; jew

A.L. 415 tal-
2007.

(iii) tkun "kumpannija li tirriżulta mill-amalgamazzjoni" li hija registrata f'Malta kif stabbilit fis-subregolament (2) tar-regolament 3 tal-Cross-border Mergers of Limited Liability Companies Regulations (hawn iżjed 'il quddiem imsejha "Cross-border Mergers Regulations") u l-ebda attiv li kien proprjetà tal-kumpannija fil-ġurnata tal-amalgamazzjoni ma kien proprjetà ta' xi kumpannija ta' amalgamazzjoni li tkun domiciljata u, jew residenti f'Malta fi kwalunkwe żmien qabel id-data tal-amalgamazzjoni partikolari,

u tagħmel għażla għall-finijiet ta' dan il-paragrafu permezz ta' avviż bil-miktub lill-Kummissarju, l-attiv kollu li huwa sitwat barra minn Malta u li ġie akkwistat minnha, jew f'każ ta' kumpannija li tirriżulta mill-amalgamazzjoni, minn kull kumpannija li tkun ser tingħaqad li mhix residenti, qabel il-bidla msemmija aktar 'il fuq fid-domicilju jew residenza jew qabel id-dhul fis-sehħ tal-amalgamazzjoni (li kull waħda minnhom hawn iżjed 'il quddiem tissejjah "għrajja"), għandu jitqies, għall-finijiet sabiex jiġi kkalkulat kull *income* li ma kienx ikun soġġett għat-taxxa li kieku inqala' qabel ma sehhet il-għrajja partikolari, li kien attiv akkwistat fid-data li sehhet il-għrajja partikolari, bi prezz li jkun pruvat għas-sodisfazzjon tal-Kummissarju li huwa l-valur tas-suq li kellu fid-data tal-imsemmija għrajja:

Iżda dik l-għażla m'għandhiex tkun disponibbli sakemm il-persuna partikolari teżerċita l-għażla sa mhux iktar tard mit-tmien tas-sena ta' stima li tiġi minnufih wara s-sena bażi li fiha ssehħ il-għrajja."

Emenda tal-
artikolu 5 tal-
Att prinċipali.

12. 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," għandhom jidhlu l-kliem "negozju, avvjament, permessi

ta' negozju,";

(ii) fis-subparagrafu (iii) tiegħu, minflok il-kliem "ta' dak it-trust." għandhom 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) (i) 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 jiżdied il-proviso ġdid li ġej:

"Izda wkoll fejn ammont li jkun qiegħed għall-kreditu ta' xi wieħed mill-kontijiet ta' riżerva ta' kumpannija, hliet il-fond ta' riżerva għall-fidi ta' kapital u profitti disponibbli għad-distribuzzjoni, jiġi applikat biex jiġu mħallsa sa kull limitu xi ishma allokatu mill-kumpannija, il-kost li kien intefaq għall-akkwist ta' daww l-ishma għandha tkun zero";

(ii) minnufih wara l-paragrafu (f) tas-subartikolu (3) tiegħu għandu jiżdied il-paragrafu ġdid li ġej:

"(g) fil-każ ta' trasferiment ta' ishma elenkati f'borża rikonoxxuta taħt l-Att dwar is-Swieq Finanzjarji, li mhumiex titoli fi skema ta' investiment kollettiv u li mhumiex eżentati mit-taxxa taħt id-dispożizzjonijiet tal-paragrafu (b) tal-artikolu 5(6):

(i) il-valur tat-trasferiment m'għandu fl-ebda każ jeċċedi l-valur fis-suq tal-imsemmija ishma minnufih wara li jiġu mdaħħla fil-lista, u

(ii) il-prezz ta' akkwist li jiġi kkunsidrat

ghandu jkun il-prezz ta' akkwist tal-ishma oriġinali:

Ghall-finijiet ta' dan il-paragrafu "ishma oriġinali" għandu jkollha l-istess tifsira mogħtija lilha fil-paragrafu (b) tal-artikolu 5(6).";

(d) fil-paragrafu (b) tas-subartikolu (6) tiegħu, il-kliem "f'kumpannija" għandhom jiġu mhassra u minflok il-kliem "skema ta' investiment kollettiv;" għandhom jidhlu l-kliem "skema ta' investiment kollettiv:" u minnufih wara għandhom jiżdiedu l-proviso ġodda li ġejjin:

"Izda l-eżenzjoni kif provduta f'dan il-paragrafu m'għandhiex tapplika fejn it-trasferiment ikun sar minn persuna li kellha l-imsemmija ishma jew l-ishma oriġinali, minnufih qabel l-imsemmija ishma jew l-ishma oriġinali kienu mdahhla fil-lista: Ghall-finijiet ta' dan il-paragrafu "ishma oriġinali" tfisser l-ishma miżmuma minn persuna li kienu mdahhla fil-lista u li jirrapprezentaw l-ishma li qed jiġu trasferiti:

Izda wkoll meta dik il-persuna kellha ishma f'kumpannija minnufih qabel kienu mdahhla fil-lista u akkwistat ukoll iktar ishma mdahhla fil-lista fl-istess kumpannija wara d-dhul inizjali tal-ishma fil-lista tal-kumpannija, kull trasferiment tal-ishma li jsir minn dik il-persuna għandu l-ewwel jitqies li jkun trasferiment ta' ishma akkwistati wara d-dhul fil-lista inizjali:

Izda wkoll id-disposizzjonijiet taż-żewġ proviso minnufih qabel dan għandhom japplikaw biss meta l-ishma trasferiti ġew ammessi għall-ħruġ fl-1 ta' Jannar, 2010 jew wara.";

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

"(iii) Meta l-attiv imsemmi fil-paragrafu (i) jikkonsisti fi proprjetà immobbli sitwata f'Malta jew ishma f'kumpannija ta' proprjetà, id-disposizzjonijiet ta' dan is-subartikolu għandhom japplikaw biss meta il-proprjetarji beneficijarji individwali tal-kumpannija msemmija fil-paragrafu (i) huma l-istess u kull wieħed minn dawk l-individwi għandu direttament jew indirettament, sostanzjalment l-istess perċentwali ta' interess fil-kapital azzjonarju nominali u drittijiet ta' vot f'kull waħda mill-imsemmija kumpanniji. Ghall-finijiet ta'

dan il-paragrafu "kumpannija ta' proprjeta'" tfisser kumpannija li għandha proprjeta' immobbli sitwata f'Malta, jew xi drittijiet fuq dik il-proprjeta', jew kumpannija li għandha, direttament jew indirettament, ishma jew interessi f'korp ta' persuni li għandhom proprjeta' immobbli sitwata f'Malta jew xi drittijiet fuq dik il-proprjeta':

Izda għall-finijiet ta' dan il-paragrafu individwu jitqies li għandu sostanzjalment l-istess perċentwali ta' interess fil-kapital azzjonarju nominali u drittijiet ta' vot f'kull waħda mill-imsemmija kumpanniji meta d-differenza bejn il-perċentwali ta' interess li għandu f'kull kumpannija ma teċċedix l-għoxrin fil-mija:

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

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

Izda wkoll dan il-paragrafu kollu m'għandux japplika, fejn il-kumpanniji msemmija fil-paragrafu (i) ta' dan is-subartikolu huma proprjeta' sa tmenin fil-mija jew iżjed, direttament jew indirettament, ta' kumpannija, li t-titoli tagħha huma elenkati f'borża rikonoxxuta taħt l-Att dwar is-Swieq Finanzjarji.";

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

"(9A) (a) Jekk kumpannija ("il-kumpannija li għandha tiġi ntaxxata") ikollha ishma f'kumpannija, liema ishma jkunu ġew akkwistati mingħand kumpannija oħra, u dak l-akkwist kien eżenti mit-taxxa taħt l-artikolu 5(9), dan is-subartikolu għandu japplika jekk il-kumpannija li

għandha tiġi ntaxxata ma tibqax membru tal-grupp oriġinali 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 ma japplikawx għal każijiet meta kumpannija ma tibqax membru tal-grupp oriġinali billi tiġi stralċjata jew xolta jew bhala riżultat tal-istralċ jew ix-xoljiment ta' membru ieħor tal-grupp oriġinali:

Izda meta kumpannija ma tibqax membru tal-grupp oriġinali billi tiġi stralċjata jew xolta, sabiex ikun jista' jiġi stabbilit jekk il-kumpannija li għandha tiġi ntaxxata ma tibqax membru tal-grupp oriġinali taht il-paragrafu (b), dik il-kumpannija għandha titqies li tkompli teżisti.

(b) Il-kumpannija li għandha tiġi ntaxxata m'għandhiex tibqa' membru tal-grupp oriġinali, jekk dik il-kumpannija u l-kumpannija li mingħandha tkun akkwistat l-ishma msemmija fil-paragrafu (a) ma jibqgħux jissodisfaw id-disposizzjonijiet tal-paragrafi (i) u (iii) tal-artikolu 5(9) u dik id-deċiżjoni għandha ssir b'referenza għall-istess individwi msemmija fil-paragrafu (iii) tal-istess artikolu li jkun gie meqjus biex jiġi stabbilit jekk iż-żewġ kumpanniji msemmija f'dan il-paragrafu ssodisfawx id-disposizzjonijiet tal-paragrafi (i) u (iii) tal-artikolu 5(9) fid-data tal-akkwist imsemmi fil-paragrafu (a) aktar qabel:

Izda meta l-akkwist imsemmi fil-paragrafu (a) ta' dan is-subartikolu jkun sar qabel l-ewwel ta' Jannar 2010, il-paragrafu (iii) tal-artikolu 5(9) m'għandux jitqies għall-finijiet ta' deċiżjoni jekk il-kumpannija ma tibqax membru ta' grupp.

(c) Għall-finijiet ta' dan is-subartikolu l-kliem "grupp oriġinali" għandu jfisser iż-żewġ kumpanniji msemmija fil-paragrafu (b) iżjed 'il fuq, u l-proprjetarji benefiċjarji individwali diretti jew indiretti ta' dawn l-istess kumpanniji li ġew meqjusa biex jiġi stabbilit jekk id-disposizzjonijiet tal-paragrafi (i) u (iii) tal-artikolu 5(9) ġewx sodisfatti fid-data tal-akkwist imsemmi fil-paragrafu (a) aktar qabel:

Izda meta iż-żewġ kumpanniji msemmija f'dan il-paragrafu huwa proprjetà diretta jew indiretta ta' kumpannija sa 80% jew iktar, li t-titoli tagħha huma elenkati f'borża rikonoxxuta taht l-Att dwar is-Swieq Finanzjarji, il-kliem "grupp oriġinali" għandu jfisser iż-żewġ kumpanniji msemmija iżjed 'il fuq u l-kumpannija li

t-titoli tagħha huma elenkati fl-imsemmija borża kif eżistenti fid-data tal-akkwist imsemmi fil-paragrafu (a) aktar qabel:

Iżda wkoll meta individwu jakkwista ishma bħala donazzjoni eżenti mit-taxxa taht id-disposizzjonijiet tal-artikolu 5(2)(e), jew trasferiment *causa mortis*, dak l-individwu għall-finijiet ta' dan is-subartikolu għandu jitqies li kellu dawk l-ishma minn dik id-data ta' qabel li fiha dawk l-ishma kienu ġew akkwistati qabel id-data tad-donazzjoni jew it-trasferiment *causa mortis*.

(d) Meta l-kumpanija li għandha tiġi ntaxxata ma tibqax membru tal-grupp għandha titqies għal kull fini ta' dan l-artikolu daqs li kieku, minnufih wara l-akkwist tal-ishma msemmija fil-paragrafu (a) ta' dan is-subartikolu, kienet ittrasferiet u minnufih reġgħet akkwistat l-ishma f'dak iż-żmien.

(e) Il-kost bażiku u d-data tal-akkwist tal-ishma li għandhom jiġu meqjusa għall-finijiet sabiex 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 għall-eżenzjoni skont is-subartikolu (9) jew permezz ta' hruġ ta' ishma minnhom, liema tiġi l-aktar tard.

(f) (i) Sabiex jiġu aċċertati l-qligħ jew il-profitti li jsiru taht dan is-subartikolu, il-kost li kien intefaq għall-akkwist tal-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-ogħla.

(ii) Ishma akkwistati fil-25 ta' Novembru, 1992 jew wara għandhom jiġu valutati fuq il-kost li jintefaq fl-akkwist tagħhom:

Iżda meta ammont li jkun qieghed għall-kreditu ta' xi wiehed mill-kontijiet ta' riżerva ta' kumpanija hliet il-fond ta' riżerva għall-fidi tal-kapital u profitti disponibbli għad-distribuzzjoni, jiġi applikat biex jiġu mħallsa sa kull limitu xi ishma mahruġa mill-kumpanija, il-kost li kien intefaq għall-akkwist ta' dawk l-ishma għandu jkun żero.

(g) Kull qligh jew telf fuq it-trasferiment imsemmi fil-paragrafu (d) iktar 'il fuq għandu jiġi meqjus li jkun dovut lill-kumpannija li għandha tiġi ntaxxata minnufih qabel il-kumpannija ma tibqax membru tal-grupp skont il-paragrafu (b).

(h) Għall-finijiet tal-paragrafu (a) ta' dan is-subartikolu l-frazi "ishma f'kumpannija" għandha tfisser ishma f'kumpannija li, fid-data tal-akkwist imsemmi fl-imsemmi paragrafu kellha, direttament jew indirettament, xi proprjetà immobbli sitwata f'Malta u l-imsemmija proprjetà jew xi parti minnha tkun għadha, direttament jew indirettament, proprjetà ta' dik il-kumpannija fid-data li ma tibqax membru tal-grupp skont id-disposizzjonijiet tal-paragrafu (b) ta' dan is-subartikolu. Għall-finijiet ta' dan il-paragrafu kumpannija titqies li għandha indirettament proprjetà immobbli jekk hija għandha, direttament jew indirettament, ishma jew interessi f'korp ta' persuni li għandhom proprjetà immobbli sitwata f'Malta.

(i) Meta skont il-paragrafu (d) ta' dan is-subartikolu l-kumpannija li għandha tiġi ntaxxata għandha titqies bħala li kienet ittrasferiet u minnufih reġghet akkwistat l-ishma, u xi qligh li għandu jiġi ntaxxat jew telf kapitali jkun dovut lill-kumpannija li għandha tiġi ntaxxata fuq l-imsemmi trasferiment, il-qligh li għandu jiġi ntaxxat jew it-telf kapitali fuq l-imsemmi trasferiment għandu jiġi meqjus bħala dovut mhux lill-kumpannija li għandha tiġi ntaxxata iżda lil kumpannija relatata ("kumpannija A") jekk -

(i) fi żmien meta jkun dovut il-qligh li għandu jiġi ntaxxat jew it-telf kapitali fuq il-meqjus trasferiment, il-kumpannija A kienet inkorporata f'Malta, u

(ii) għażla kongunta taht dan il-paragrafu ssir mill-kumpannija li għandha tiġi ntaxxata u l-kumpannija A biex il-qligh li għandu jiġi ntaxxat jew it-telf kapitali jitqies bħala dovut lill-kumpannija A, u

(iii) dik l-għażla kongunta tkun saret permezz ta' avviż mogħti lill-Kummissarju mhux iktar minn tnax-il xahar wara t-tmiem tal-perjodu ta' kontjar tal-kumpannija li għandha tiġi ntaxxata jew tal-kumpannija A (liema minnhom jiġi qabel) fiż-żmien

meta kien dovut il-qligh li għandu jiġi ntaxxat jew it-telf kapitali fuq l-imsemmi trasferiment, u

(iv) it-taxxa proviżorja pagabbli skont l-artikolu 43 tal-Att dwar l-Amministrazzjoni tat-Taxxa, tiġi mħallsa mill-kumpannija A bir-rata ta' hamsa u tletin fil-mija tal-valur fis-suq tal-ishma meqjusa bħala trasferiti fil-perjodu preskritt fl-imsemmi artikolu.

Għall-finijiet ta' dan il-paragrafu l-kumpannija A hija relatata mal-kumpannija li għandha tiġi ntaxxata jekk iż-żewġ kumpanniji jiffurmaw grupp għall-finijiet tal-artikolu 5(9) fiż-żmien meta jkun dovut il-qligh li għandu jiġi ntaxxat jew it-telf kapitali fuq l-imsemmi trasferiment u "iż-żmien meta jkun dovut il-qligh li għandu jiġi ntaxxat jew it-telf kapitali fuq l-imsemmi trasferiment" tfisser iż-żmien li fih, permezz tal-paragrafu (d), il-qligh jew it-telf ikun meqjus bħala dovut lill-kumpannija li għandha tiġi ntaxxata.";

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

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

"Izda meta jkun hemm tnaqqis proporzjonat fiż-żamma ta' azzjonijiet tal-azzjonisti kollha, b'dan illi l-proporzjon taż-żamma ta' azzjonijiet ta' kull azzjonist fir-rigward tan-numru, tat-tip, ta' klassi, tad-drittijiet tal-vot u l-valur tal-ishma jkun l-istess qabel u wara li jsir it-tnaqqis, għandu jitqies illi ma jkun sar l-ebda telf jew qligh minn dak it-trasferiment.";

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

"(ii) Meta l-valur fis-suq tal-ishma miżmuma minn persuna ("min jagħmel it-trasferiment") f'kumpannija jitnaqqas bħala konsegwenza tal-bidla fil-kapital azzjonarju mahruġ ta' dik il-kumpannija, jew bidla f'xi

drittijiet ta' vot marbuta ma' dawk l-ishma, u dak il-valur jgħaddi f'ishma oħra jew fid-drittijiet fuq il-kumpannija miżmuma minn persuna oħra ("min jakkwista"), min jagħmel it-trasferiment għandu jitqies li għamel it-trasferiment ta' dak il-valur hekk imnaqqas lil min jakkwista. Kull qligħ jew profitt għandu jiġi kkalkulat billi tiġi kkunsidrata d-differenza fil-valur fis-suq tal-ishma miżmuma minnufih qabel u wara l-imsemmija bidla:

Iżda dan il-paragrafu m'għandux japplika meta l-bidla fil-kapital azzjonarju maħruġ jew bidla fid-drittijiet tal-vot ma tipproduċix xi bidla fil-proprjetarji benefiċjarji individwali diretti jew indiretti tal-imsemmija kumpannija jew fil-proporzjon tal-valur tal-imsemmija kumpannija rappreżentata mill-ishma proprjetà ta' kull wieħed minn dawk l-individwi benefiċjarji direttament jew indirettament:

Iżda wkoll dan il-paragrafu m'għandux japplika meta l-bidla fil-kapital azzjonarju maħruġ tikkonsisti fi hruġ ta' ishma f'kumpannija bhala konsegwenza tal-iskambju ta' ishma mar-ristrutturazzjoni tal-kumpanniji eżenti mit-taxxa taħt id-disposizzjonijiet tal-artikolu 5(14):

Iżda wkoll dan il-paragrafu m'għandux japplika meta l-imsemmija kumpannija hija kumpannija li t-titoli tagħha huma elenkati f'borża rikonoxxuta taħt l-Att dwar is-Swieq Finanzjarji:

Iżda wkoll dan il-paragrafu m'għandux japplika meta t-trasferiment tal-valur isir mill-persuna li tittrasferixxi għall-persuna imsemmija fil-paragrafu (i) tal-artikolu 5(2)(e):

Iżda wkoll dan il-paragrafu m'għandux japplika meta l-imsemmija kumpannija mhijiex "kumpannija ta' proprjetà" u jkun jista' jintwera għas-sodisfazzjon tal-Kummissarju illi l-imsemmija bidla issir għal raġunijiet kummerċjali *bona fide* u ma tiffurmax parti minn skema jew arrangamenti li tagħhom l-għan ewlieni, jew wieħed mill-għanijiet ewlenin huwa li jiġi evitat il-hlas tat-taxxa. Għall-finijiet ta' dan il-paragrafu "kumpannija ta' proprjetà" tfisser kumpannija li

għandha proprjetà immobbli sitwata f'Malta, jew xi drittijiet fuq dik il-proprjetà, jew kumpannija li għandha, direttament jew indirettament, ishja jew interessi f'korp ta' persuni li għandhom proprjetà immobbli sitwata f'Malta jew xi drittijiet fuq dik il-proprjetà."; u

(iii) fil-paragrafu (è) tiegħu minflok il-kelma "imsemmi" għandhom jidhlu l-kliem "imsemmija fil-paragrafu (b)(i)"; u

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

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

Emenda tal-artikolu 5A tal-Att prinċipali.

(a) is-subartikolu (3) tiegħu għandu jiġi emendat kif ġej:

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

(ii) fil-paragrafu (h) tiegħu, minflok il-kliem "b'dak il-mod li jista' jkun preskritt;" għandhom jidhlu l-kliem "b'dak il-mod li jista' jkun preskritt:" u minnufih wara għandu jiżdied il-proviso li ġej:

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

(b) is-subartikolu (4) tiegħu għandu jiġi emendat kif ġej:

(i) fil-paragrafu (è) tiegħu, minflok il-kliem "jitbattal il-fond:" għandhom jidhlu l-kliem "jitbattal il-fond iżda wkoll illi dan il-paragrafu għandu japplika biss meta t-trasferiment ma kienx taxxabli taht id-dispożizzjonijiet tal-artikolu 4(1)(a) kieku ma kienx għad-dispożizzjonijiet ta' dan l-artikolu:";

(ii) fil-paragrafu (f) tiegħu, minflok il-kliem "li

kieku kien trasferiment li kien japplika ghalih l-artikolu 5 kien jikkwalifika għall-helsien mit-taxxa taht l-artikolu 5(9):" għandhom jidhlu l-kliem "kien jikkwalifika għall-helsien mit-taxxa taht l-artikolu 5(9) kieku ma kienx għad-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 jżied il-proviso ġdid li ġej:

"Izda 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:

Izda wkoll fuq trasferiment sussegwenti tal-imsemmija proprjetà magħmul fil-perjodu ta' seba' snin wara d-data tal-akkwist tagħha kif stabbilit skont it-tieni proviso tal-paragrafu (b) tas-subartikolu (3), il-kost u d-data tal-akkwist tal-imsemmija proprjetà għandhom, fejn il-persuna li tittrasferixxi tagħzel li teskludi t-trasferiment mill-kamp ta' applikazzjoni ta' dan l-artikolu, ikunu l-kost oriġinali u d-data msemmija fl-artikolu 5(9)(i)."; 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 jidhru 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 "ma tibqax membru tal-grupp" għandhom jiġu sostitwiti l-kliem "ma tibqax membru tal-grupp oriġinali", u minflok il-kliem "hames snin" għandhom jiġu sostitwiti l-kliem "sitt snin", u minflok il-kliem "bħala riżultat tal-istralċ jew ix-xoljiment ta' membru ieħor tal-grupp." għandhom jidhru l-kliem "bħala riżultat tal-istralċ jew ix-xoljiment ta' membru ieħor tal-grupp:", u minnufih wara l-paragrafu (a) għandu jiżdied il-proviso li ġej:

"Iżda meta kumpannija ma tibqax membru tal-grupp oriġinali billi tiġi stralċjata jew xolta, għall-finijiet sabiex jiġi stabbilit jekk il-kumpannija li għandha tiġi ntaxxata ma tibqax membru tal-grupp oriġinali taħt il-paragrafu (b), dik il-kumpannija għandha tibqa' titqies li komplet teżisti.";

(ii) il-paragrafu (b) tiegħu għandu jiġi mhassar u sostitwit b'dan li ġej:

"(b) Il-kumpannija li għandha tiġi ntaxxata m'għandhiex tibqa' membru tal-grupp oriġinali, jekk dik il-kumpannija u l-kumpannija li mingħandha tkun akkwistat il-proprjetà msemmija fil-paragrafu (a) ma jibqgħux jissodisfaw id-disposizzjonijiet tal-paragrafi (i) u (iii) tal-artikolu 5(9) u dik id-deċiżjoni għandha ssir b'referenza għall-istess individwi msemmija fil-paragrafu (iii) tal-istess artikolu li ġie meqjus biex jiġi stabbilit jekk iż-żewġ kumpanniji msemmija f'dan il-paragrafu ssodisfaw id-disposizzjonijiet tal-paragrafi (i) u (iii) tal-artikolu 5(9) fid-data tal-akkwist imsemmi fil-paragrafu (a) aktar qabel:

Iżda meta l-akkwist imsemmi fil-paragrafu (a) ta' dan is-subartikolu sar qabel l-ewwel ta' Jannar 2010, il-paragrafu (iii) tal-artikolu 5(9) m'għandux jitqies għall-finijiet ta' deċiżjoni jekk il-kumpannija ma tibqax membru ta' grupp.";

(iii) il-paragrafi eżistenti (ċ), (d), u (e) għandhom ikunu enumerati mill-ġdid bħala paragrafi (d), (e), u (f) rispettivament u fil-paragrafu (d) kif enumerat mill-ġdid minflok il-kliem "akkwist ta' proprjetà" għandhom jiġu sostitwiti l-kliem "akkwist ta' proprjetà msemmi fil-paragrafu (a) ta' dan is-subartikolu";

(iv) minnufih wara l-paragrafu (b) għandu jiżdied il-paragrafu ġdid li ġej:

"(ċ) Għall-finijiet ta' dan is-subartikolu l-kliem "grupp oriġinali" għandu jfisser iż-żewġ kumpanniji msemmija fil-paragrafu (b) iżjed 'il fuq, u l-proprjetarji benefiċjarji individwali diretti jew indiretti ta' dawn l-istess kumpanniji li ġew meqjusa biex jiġi stabbilit jekk id-disposizzjonijiet tal-paragrafi (i) u (iii) tal-artikolu 5(9) ġewx sodisfatti fid-data tal-akkwist imsemmi fil-paragrafu (a) aktar qabel:

Iżda meta ż-żewġ kumpanniji msemmija fil-paragrafu (b) imsemmi iżjed 'il fuq, huma proprjetà diretta jew indiretta ta' kumpannija sa 80% jew iktar li t-titoli tagħha huma elenkati f'borża rikonoxxuta taht l-Att dwar is-Swieq Finanzjarji, il-kliem "grupp oriġinali" għandu jfisser iż-żewġ kumpanniji msemmija iżjed 'il fuq u l-kumpannija li t-titoli tagħha huma elenkati fl-imsemmija f'borża kif eżisteni fid-data tal-akkwist imsemmi fil-paragrafu (a) aktar qabel:

Iżda wkoll meta individwu jakkwista ishma bħala donazzjoni eżenti mit-taxxa taht id-disposizzjonijiet tal-artikolu 5(2)(e), jew trasferiment *causa mortis* dak l-individwu għall-finijiet ta' dan is-subartikolu għandu jitqies li kellu dawk l-ishma minn dik id-data ta' qabel li fiha dawk l-ishma kienu ġew akkwistati qabel id-data tad-donazzjoni jew it-trasferiment *causa mortis*."; u

(v) minnufih wara il-paragrafu (f) kif enumerat

mill-ġdid għandu jiżdied il-paragrafu ġdid li ġej:

"(g) Meta skont il-paragrafu (d) ta' dan is-subartikolu l-kumpannija li għandha tiġi ntaxxata titqies li kienet ittrasferiet u minnufih reġgħet akkwistat il-proprjetà, it-taxxa li għandha tithallas fuq l-imsemmi trasferiment skont il-paragrafu (f) għandha titqies li mhux dovuta mill-kumpannija li għandha tiġi ntaxxata iżda mill-kumpannija relatata ("kumpannija A") jekk -

(i) il-kumpannija A tkun inkorporata f'Malta;

(ii) għażla kongunta taht dan il-paragrafu ssir mill-kumpannija li għandha tiġi ntaxxata u l-kumpannija A biex it-taxxa li għandha tithallas fuq l-imsemmi trasferiment titqies bħala dovuta mill-kumpannija A;

(iii) dik l-għażla kongunta tkun saret permezz ta' avviż mogħti lill-Kummissarju mhux iktar tard minn hmistax-il ġurnata tax-xogħol mid-data li fiha l-kumpannija li għandha tiġi ntaxxata ma tibqax membru tal-grupp kif provdut fil-paragrafu (b); u

(iv) it-taxxa li għandha tithallas imsemmija fil-paragrafu (f) tithallas mill-kumpannija A fil-perjodu msemmi fl-imsemmi paragrafu.

Għall-finijiet ta' dan il-paragrafu l-kumpannija A hija relatata mal-kumpannija li għandha tiġi ntaxxata jekk iż-żewġ kumpanniji jiffurmaw grupp għall-finijiet tal-artikolu 5(9) fiż-żmien li l-grupp oriġinali jieqaf jeżisti."

14. Fis-subartikolu (1) tal-artikolu 6 tal-Att prinċipali, minflok il-kliem "kull individwu li jkun impjegat ta', jew jagħti servizzi lil kumpannija fis-servizzi ta' investiment, kif imfisser fl-artikolu 15" għandhom jiġu sostitwiti l-kliem "kull individwu li jkun impjegat ta', jew jagħti servizzi lil kumpannija fis-servizzi ta' investiment li għandha liċenzja għal servizzi ta' investiment taht l-artikolu 6 tal-Att dwar Servizzi ta' Investiment jew kumpannija li hija rikonoxxuta mill-awtorità rilevanti kompetenti għall-finijiet tal-artikolu 9A tal-imsemmi Att, u li l-attivitajiet tagħha jinkludu biss l-għoti ta' pariri

Emenda tal-artikolu 6 tal-Att prinċipali.

dwar maniġġjar, amministrazzjoni, zamma fis-sigurtà jew investment għal skemi ta' investment kollettiv kif imfissra fl-Att imsemmi iktar qabel,".

Emenda tal-
artikolu 12 tal-
Att prinċipali.

15. L-artikolu 12 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (ċ)(ii) tas-subartikolu (1) tiegħu, il-kelma "*disposal*" (fil-verżjoni bl-Ingliż biss) għandha tiġi sostitwita bil-kelma "*transfer*" u minflok il-kliem "u ta' xi azzjonijiet jew sigurtajiet f'kumpannija (li biex ikun evitat kull dubju jinkludi fidi, likwidazzjoni jew kanċellament) li ma tkunx kumpannija li l-attiv tagħha jkun jikkonsisti biss jew prinċipalment fi proprjetà immobbli li tinsab f'Malta:" għandhom jiġu sostitwiti l-kliem "u ta' xi azzjonijiet jew sigurtajiet f'kumpannija (li biex ikun evitat kull dubju jinkludi fidi, likwidazzjoni jew kanċellament) li mhijiex kumpannija li għandha proprjetà u għall-finijiet ta' dan il-paragrafu l-kelma "*trasferiment*" għandu jkollha l-istess tifsira mogħtija lilha taht l-artikolu 5(1)(b):";

(b) fil-paragrafu (t) tas-subartikolu (1) tiegħu, minflok il-kliem "il-Qrati ta' Malta", kull fejn jinsabu, għandhom jidhru l-kliem "il-Qrati ta' Malta jew il-Qrati ta' pajjiż iehor kif il-Kummissarju jista' japprova";

(ċ) fil-paragrafu (u) tas-subartikolu (1) tiegħu, il-kelma "*disposal*" (fil-verżjoni bl-Ingliż biss) għandha tiġi sostitwita bil-kelma "*transfer*" u minnufih wara t-tieni proviso tiegħu, għandhom jiżdedu l-proviso ġodda li ġejjin:

"Izda wkoll fir-rigward ta' ishma partecipanti f'kumpanniji residenti f'Malta, id-disposizzjonijiet ta' dan il-paragrafu għandhom japplikaw biss għall-qligħ jew profitti li ġejjin mit-trasferiment ta' dawk il-kumpanniji:

Izda wkoll għall-finijiet ta' dan il-paragrafu l-kelma "*trasferiment*" għandu jkollha l-istess tifsira mogħtija lilha taht l-artikolu 5(1)(b)."; u

(d) minnufih wara paragrafu (u) tas-subartikolu (1) kif emendat, għandu jiżded il-paragrafu ġdid li ġej:

"(v) *Royalties* jew *income* simili miksub minn privattivi rigward invenzjonijiet, kemm jekk waqt sengħa, negozju, professjoni jew vokazzjoni jew xort'oħra, soġġetti għat-twettiq ta' dawk it-termini u kondizzjonijiet (inklużi xi limiti fuq l-ammont massimu ta' *income*

eżentat) u jikseb dawk id-determinazzjonijiet kif jista' jiġi preskritt:

Iżda meta xi *income* li huwa eżenti mit-taxxa skont dan il-paragrafu jinkiseb minn kumpannija, id-distribuzzjoni tal-profitti partikolari permezz ta' dividend minn dik il-kumpannija għandha tkun ukoll eżenti mit-taxxa f'idejn l-azzjonisti, iżda meta l-persuna li tirċievi dak id-dividend hija kumpannija (hawn iżjed 'il quddiem imsejha "it-tieni kumpannija"), kull dividend imħallas lill-membri tat-tieni kumpannija għandu, sal-limitu li dak id-dividend jithallas mill-profitti li huma eżentati skont dan il-paragrafu, ma jiġix intaxxat taħt dan l-Att, u meta membru tat-tieni kumpannija jkun ukoll kumpannija, id-disposizzjonijiet ta' dan il-proviso għandhom japplikaw *mutatis mutandis* daqs li kieku ir-referenzi għat-tieni kumpannija kienu riferenzi għal dak il-membri, u l-prinċipju stabbilit f'dan il-proviso għandu jibqa' japplika sakemm il-profitti eżentati msemmija f'dan il-paragrafu jiġu distribwiti permezz ta' dividend:

Iżda wkoll meta dawk ir-royalties jew *income* simili jinkisbu minn kumpannija, din l-eżenzjoni m'għandhiex tapplika meta l-kumpannija tkun uriet dak l-*income* bhala parti mill-*income* tagħha li għandu jiġi ntaxxat fil-prospett magħmul skont l-artikolu 10 tal-Att dwar l-Amministrazzjoni tat-Taxxa."

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

Emenda tal-artikolu 14 tal-Att prinċipali.

"(4) Meta persuna ddaħhal *income* minn xogħol magħmul fuq jew fir-rigward ta' proprjetà immobbli li tinsab ġewwa Malta, li jikkonsisti f'senserija jew servizzi professjonali, xogħol ta' kostruzzjoni, maniġġjar ta' proġetti ta' kostruzzjoni u xogħol ta' nies tas-sengħa, jew mill-għoti ta' self jew minn kull forma ta' kreditu għall-iffinanzjar tal-akkwist, żvilupp, kostruzzjoni, modernizzar, rinnovar ta' proprjetà 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' dik il-proprjetà immobbli jew xi drittijiet fuq dik il-proprjetà immobbli li magħhom dak ix-xogħol, self, jew kreditu huwa relatat, għall-finijiet

ta' dan is-subartikolu għandu jitqies bhala *income* li għandu jiġi ntaxxat separatament;

(b) sabiex jiġi stabbilit l-*income* li għandu jiġi ntaxxat mill-imsemmi xogħol, it-total ta' tnaqqis permess taht dan l-artikolu kontra dak l-*income* m'għandux jeċċedi l-ammont tal-ħlas riċevut jew li għandu jiġi riċevut għall-imsemmi xogħol; u

(ċ) sabiex jiġi stabbilit l-*income* li għandu jiġi ntaxxat miksub mit-trasferiment ta' dik il-proprjetà immobbli jew xi dritt fuq dik il-proprjetà immobbli, it-total ta' tnaqqis permess taht dan l-artikolu kontra dak l-*income* m'għandux jeċċedi l-ammont tal-ħlas riċevut jew li għandu jiġi riċevut għal dik l-imsemmija proprjetà immobbli jew xi dritt fuq dik il-proprjetà immobbli, safejn dak l-eċċess ikun jikkonsisti f'dawk l-ammonti mħallsa jew li għandhom jithallsu rigward ix-xogħol, self, jew kreditu msemmi f'dan is-subartikolu.

Għall-finijiet ta' dan il-paragrafu l-ammonti kollha mħallsa jew li għandhom jithallsu rigward l-imsemmi xogħol, self, jew kreditu għandhom, għall-finijiet biex jiġi stabbilit l-*income* li għandu jiġi ntaxxat, jiġu kkunsidrati biss wara li kull tnaqqis ieħor permess ikun ġie kkunsidrat:

Izda 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 tħallas jew li kellu jithallas kieku l-persuni msemmija f'dan is-subartikolu ma kenux qraba.

Għall-finijiet ta' dan is-subartikolu -

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

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

17. 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.

18. Fl-artikolu 14Ċ tal-Att prinċipali, minflok il-kliem "liċenzjat jew reġistrat ta' *childcare*, miżati li jirrigwarda servizzi ta' *childcare* għat-tfal tiegħu huwa għandu" għandhom jiġu sostitwiti l-kliem "ta' *bona fide*, miżati li jirrigwardaw servizzi ta' *childcare* għat-tfal tiegħu li kienu taħt it-tnax-il sena, huwa għandu", u minnufih wara artikolu 14Ċ għandu jiżdied il-proviso ġdid li ġej:

Emenda tal-artikolu 14Ċ tal-Att prinċipali.

"Izda l-Ministru jista' b'regoli jippreskrivi l-kondizzjonijiet li taħthom dan it-tnaqqis għandu jkun permess."

19. Minnufih wara l-artikolu 14E tal-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

Żjieda tal-artikolu 14F ġdid mal-Att prinċipali.

"Prova ta' hlas ta' miżati.

14F. Jekk individwu jġib prova għas-sodisfazzjon tal-Kummissarju li huwa jkun hallas miżati rigward studji tiegħu f'istituzzjoni rikonoxxuta ta' edukazzjoni terzjarja, kemm jekk lokalment kemm jekk barra minn Malta, għandu jingħata tnaqqis fir-rigward tal-*income* tiegħu rigward dawk il-miżati b'dak il-mod u soġġett għal dawk il-kondizzjonijiet li jistgħu jkunu ordnati."

20. L-artikolu 29 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 29 tal-Att prinċipali.

(a) l-artikolu eżistenti għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1);

(b) fis-subartikolu (1) kif enumerat mill-ġdid, il-kliem "negozju ta' trasport bl-ajru jew" għandhom jiġu mħassra; u

(ċ) minnufih wara s-subartikolu (1) kif enumerat mill-ġdid għandu jiżdied is-subartikolu ġdid li ġej:

"(2) Meta persuna jkollha, tikri jew topera xi wieħed jew iktar inġenji tal-ajru jew magni tal-inġenji tal-ajru (irrispettivament mill-pajjiż tar-reġistrazzjoni tal-imsemmi inġenju tal-ajru jew magna tal-inġenju tal-ajru) li jiġu użati jew imhaddma fit-trasport internazzjonali ta' passiġġieri jew oġġetti, kull *income* ta' dik il-persuna li jkun miksub jew inkella li jinqala' mill-proprietà ta', kirja, jew operazzjoni ta' dak l-inġenju tal-ajru jew magna tal-

inġenju tal-ajru, għandu għall-finijiet tal-Att dwar it-Taxxi, jitqies li nqala' minn barra minn Malta minkejja li l-inġenju tal-ajru jasal, jew jopera minn xi ajruport f'Malta."

Emenda tal-artikolu 33 tal-Att prinċipali.

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

(a) l-ewwel proviso tas-subartikolu (1) tiegħu għandu jiġi sostitwit b'dan li ġej:

"Iżda meta r-riċevitur jikseb *income* ta' investiment imsemmi fl-artikolu 41(a)(viii), it-taxxa għandha tiġi mnaqssa bir-rata speċifikata fl-artikolu 56(6) jew dik ir-rata oħra li tista' tiġi preskritta u regoli jistgħu jiġu preskritti dwar kif id-dispożizzjonijiet dwar *income* ta' investiment għandhom jiġu applikati f'ċirkostanzi partikolari."; u

(b) it-tieni proviso tas-subartikolu (1) tiegħu għandu jiġi mħassar.

Emenda tal-artikolu 34 tal-Att prinċipali.

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

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

Emenda tal-artikolu 41 tal-Att prinċipali.

23. Is-subparagrafu (i) tat-tifsira ta' "riċevitur" fil-paragrafu (ċ) tal-artikolu 41 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"(i) persuna li hija residenti f'Malta waqt is-sena li fiha *income* ta' investiment ikun pagabbli lilu jew ikun pagabbli lil persuna taht is-subparagrafi (ii) jew (iii) ta' dan il-paragrafu (hlief persuna li waqt dik is-sena wettqet negozju bankarju taht l-Att dwar il-Kummerċ Bankarju, jew persuna li wettqet negozju ta' assigurazzjoni jew xi kumpannija oħra (hawn iżjed 'il quddiem imsejha "kumpannija proprjetà ta' u kkontrollata") li hija proprjetà ta' u kkontrollata, direttament jew indirettament, minn dawk il-persuni, esklużi kumpannija proprjetà ta' u kkontrollata li ma twettaqx negozju bankarju jew ta' assigurazzjoni li hija elenkata f'borża rikonoxxuta taht l-Att dwar is-Swieq Finanzjarji u rigward liema l-Kummissarju, fid-diskrezzjoni tiegħu, kien hareġ deċiżjoni li dik il-kumpannija taqa' taht il-limiti ta' din it-tifsira, jew kumpannija li hija

reġistrata taht l-artikolu 24 tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta, jew".

24. Is-subartikolu (6) tal-artikolu 43 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 43 tal-Att prinċipali.

(a) il-paragrafu (ċ) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(ċ) Meta individwu residenti f'Malta jkollu jedd jibbenefika, direttament jew indirettament, mill-profitti (kemm jekk distribwiti u kemm jekk mhux distribwiti) ta' kumpannija li tkun applikat id-dispożizzjonijiet tal-artikolu 12(1)(u) għal xi *income* jew qligħ tagħha, dak l-individwu għandu jitqies li jkun irċieva, f'dak iż-żmien li l-imsemmija kumpannija kienet bagħtet il-prospett ta' taxxa li fiha l-imsemmi *income* jew qligħ li kieku ġew intaxxati iżda minhabba fil-fatt li applikat l-imsemmija eżenzjoni jew l-aħħar data li fiha dak il-prospett ta' taxxa jkun dovut biex jiġi sottomess, liema minnhom tiġi qabel, tant minn dak l-*income* li jikkorrispondi għall-jedd tiegħu, dirett jew indirett, li jirċievi dak l-*income* bħala dividend jew b'mod ieħor permezz ta' jew minn xi persuna jew entità bi kwalunkwe mod u għall-finijiet ta' dan il-paragrafu jekk il-kumpannija tkun diġà ddistribwiet dak l-*income* jew qligħ jew parti minnu għandu jitqies illi dik id-distribuzzjoni ma saritx."; u

(b) il-paragrafu (f) tiegħu għandu jiġi emendat kif ġej:

(i) fis-subparagrafu (i), minflok il-kliem "rikonoxxuta taht l-Att dwar is-Swieq Finanzjarji" għandhom jiġu sostitwiti l-kliem "stabbiliti mill-Kummissarju għall-finijiet ta' din id-dispożizzjoni"; u

(ii) fis-subparagrafu (ii), minflok il-kliem "mhumiex elenkati f'borża u li ma jkunux negozjati ta' spiss" għandhom jiġu sostitwiti l-kliem "mhumiex elenkati f'borża rikonoxxuta u li ma jkunux negozjati ta' spiss".

25. 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.

26. 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-imsemmija skema u l-vantaġġ li johroġ minnha." għandhom jiżdedu 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 mahruġa taht l-Att dwar l-Amministrazzjoni ta' Taxxa u d-dispożizzjonijiet relevanti 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.

għej:

27. L-artikolu 56 tal-Att prinċipali għandu jiġi emendat kif

(a) fis-subartikolu (12) tiegħu, minnufih wara l-paragrafu (ċ) għandu jiżded dan il-paragrafu ġdid li għej:

"(d) Meta persuna tkun hadet azzjoni taht Proċedura għall-Ftehim Reċiproku skont ftehim imsemmi fl-artikolu 76 ta' dan l-Att inkluża l-Konvenzjoni 90/436/KEE tat-23 ta' Lulju 1990 fuq l-eliminazzjoni tal-hlas għal taxxa doppja f'konnessjoni mat-tiswija ta' profitti ta' intrapriżi assoċjati, kull taxxa addizzjonali li għandha tiġi ntaxxata skont il-paragrafu (ċ) ta' dan is-subartikolu m'għandhiex tapplika għall-perjodu bejn id-data meta l-imsemmija azzjoni taht il-Proċedura għall-Ftehim Reċiproku jibda u d-data meta l-kwistjoni tiġi konkluża taht l-imsemmija proċedura:";

(b) fis-subartikolu (17) minflok il-kliem "l-aħħar parti tal-*income* totali ta' dak l-individwu" għandhom jiġu sostitwiti l-kliem "l-ewwel parti tal-*income* totali ta' dak l-individwu";

(ċ) minnufih wara s-subartikolu (20) għandu jiżded dan is-subartikolu ġdid li għej:

"(21) Meta, matul is-sena minnufih qabel is-sena ta' stima 2011, jew kull sena ta' stima sussegwenti, individwu li, għall-finijiet ta' dan is-subartikolu, ma jitqiesx li huwa resident ordinarju f'Malta jikseb *income*

sugġett ghat-taxxa taht l-artikolu 4(1)(b), li jkunu emolumenti li jithallsu taht kuntratt kwalifikat ta' impjeg, u li jiġu riċevuti dwar xogħol jew dmirijiet li jsiru f'Malta, jew dwar xi perjodu barra minn Malta f'konnessjoni ma' dak ix-xogħol jew ma' dawk id-dmirijiet, jew waqt *leave* matul il-qadi ta' dak ix-xogħol jew dmirijiet, minkejja kull haġa kuntrarja li tinsab f'dan l-Att, dak l-individwu jista' jagħżel li dak l-*income* jiġi ntaxxat bir-rata ta' 15-il ċenteżmu (€).15) għal kull euro:

Iżda:

(a) meta l-imsemmija għażla tkun saret, l-*income* li huwa ntaxxat bl-imsemmija rata għandu jitqies li jikkostitwixxi l-ewwel parti tal-*income* totali ta' dak l-individwu għas-sena ta' stima inkwistjoni u t-taxxa fuq il-bqija tal-*income* għandha tiġi kkalkulata bir-rata jew rati li jkunu applikabbli għal dak il-bqija tal-*income* li kieku l-għażla ma saritx;

(b) meta l-imsemmija għażla ssir, l-ammont minimu ta' *income* li għandu jkun intaxxat bl-imsemmija rata rigward is-sena ta' stima inkwistjoni għandu jitqies li jkun dak l-ammont kif jista' jkun preskritt u t-taxxa fuqu m'għandhiex tkun inqas mit-taxxa li tirriżulta mill-applikazzjoni tal-imsemmija rata fuq l-ammont minimu meqjus;

(ċ) l-applikabbiltà ta' dan is-subartikolu għandha tkun sugġetta għal dawk il-kondizzjonijiet u restrizzjonijiet kif jista' jiġi preskritt, inklużi:

(i) il-kondizzjonijiet li taħthom individwu għandu jitqies li mhuwiex resident ordinarju f'Malta u li taħthom l-kuntratt ta' impjeg għandu jitqies bħala kuntratt kwalifikat ta' impjeg għall-finijiet ta' dan is-subartikolu;

(ii) il-perjodu massimu jew in-numru ta' snin li dwarhom l-imsemmija għażla tista' ssir;

(iii) il-proċedura li għandha tintuża biex issir l-imsemmija għażla;

(iv) dawk il-kondizzjonijiet u restrizzjonijiet oħra li l-Ministru jista' jqis xierqa."; u

(d) minnufih wara s-subartikolu (21) ġdid għandu jżied dan is-subartikolu ġdid li ġej:

"(22) F'każ ta' qligħ kapitali miksub minn persuna mit-trasferiment ta' ishma elenkati f'borża rikonoxxuta taħt l-Att dwar is-Swieq Finanzjarji li mhumiex titoli fi skema ta' investiment kollettiv, u mhumiex eżenti minn taxxa taħt id-dispożizzjonijiet tal-paragrafu (b) tal-artikolu 5(6), dak l-*income* għandu jitqies li jikkostitwixxi *income* li għandu jiġi ntaxxat separatament bir-rata ta' 15-il ċenteżmu (€0.15) għal kull euro."

Emenda tal-artikolu 59 tal-Att prinċipali.

28. Fl-artikolu 59 tal-Att prinċipali, il-kliem "kumpannija residenti f'Malta" għandhom jiġu sostitwiti bil-kliem "kumpannija reġistrata f'Malta".

Emenda tal-artikolu 80 tal-Att prinċipali.

29. Fil-paragrafu (b) tal-artikolu 80 tal-Att prinċipali, il-kliem "skond il-ligijiet ta' territorju barra minn Malta." għandhom jiġu sostitwiti bil-kliem "skont il-ligijiet ta' territorju barra minn Malta, inkluż, f'każ ta' talba għall-helsien, li għalihom il-paragrafi (a) u (b) tal-artikolu 82 japplikaw, mit-taxxa imposta taħt l-Att dwar it-Taxxi."

Emenda tal-artikolu 81 tal-Att prinċipali.

30. Fl-artikolu 81 tal-Att prinċipali, il-kliem "li jithallas f'territorju barra minn Malta" għandhom jithassru.

TAQSIMA IV

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

31. (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 msejjaħ "l-Att prinċipali".

(2) Id-dispożizzjonijiet ta' din it-Taqsima, hlief l-artikolu 43 tagħha, għandhom jidhlu fis-seħħ f'dik id-data li l-Ministru tal-Finanzi jista' jistabbilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jiġu hekk stabbiliti għal dispożizzjonijiet differenti u għal skopijiet differenti ta' din it-Taqsima.

(3) L-artikolu 43 għandu jitqies li ġie fis-seħħ fl-1 ta' Jannar, 2010.

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

" "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) u 354(3) 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*;"

Kap. 386.

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

"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-orijini tiegħu, jekk ikun magħmul f'Malta, jew minhabba fl-użu li jsir minnu jekk ikun magħmul barra minn Malta."

34. 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 fuq 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."

35. 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, inkulzi l-artikoli 4 u 6, għandha tithallas fuq kull polza ta' assigurazzjoni fuq il-ħajja 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 msemija fl-artikolu 47(3) ma għandhom f'ebda każ jitqiesu bħala li jikkostitwixxu l-persuni msemija fl-ewwel proviso ta' dan l-artikolu."

Sostituzzjoni tal-artikolu 27 tal-Att prinċipali.

36. L-artikolu 27 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

"Taxxa fuq poloz ta' assigurazzjoni.

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 taht dan l-artikolu tkun hdax-il euro u hamsa u sittin ċenteżmu (€11.65);

(b) meta l-*premium* li jithallas ikun inqas minn hdax-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;

Kap. 403.

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

Kap. 403.

(e) il-persuni msemija 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."

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

Emenda tal-artikolu 32 tal-Att prinċipali.

(a) is-subartikolu kollu għandu jiġi enumerat mill-ġdid bhala l-paragrafu (a) tiegħu; u

(b) minnufih wara l-paragrafu (a) tiegħu, kif enumerat mill-ġdid, għandu jiżdied il-paragrafu ġdid li ġej:

"(b) Id-disposizzjonijiet tal-paragrafu (a) għandhom japplikaw biss meta l-proprjetarji benefiċjarji individwali, diretti jew indiretti, ta' kumpannija msemmija fl-imsemmi paragrafu huma l-istess u kull wiehied minn dawk l-individwi għandu, direttament jew indirettament, sostanzjalment l-istess perċentwali ta' interess fil-kapital azzjonarju nominali u drittijiet ta' vot f'kull waħda mill-imsemmija kumpanniji.

Għall-finijiet ta' dan il-paragrafu, individwu jitqies li għandu sostanzjalment l-istess perċentwali ta' interess fil-kapital azzjonarju nominali u drittijiet ta' vot f'kull waħda mill-imsemmija kumpanniji meta d-differenza bejn il-perċentwali ta' interess miżmuma f'kull waħda mill-kumpanniji ma teċċedix għoxrin fil-mija:

Izda meta individwu jkollu, direttament jew indirettament, inqas minn għoxrin 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 il-paragrafu, m'għandux jiġi kkunsidrat biex jiġi stabbilit jekk il-proprjetarji benefiċjarji individwali, diretti jew indiretti, tal-kumpanniji msemmija fil-paragrafu (a) humiex l-istess:

Izda wkoll jekk iktar minn individwu wiehied ikollu, direttament jew indirettament, inqas minn għoxrin fil-mija tal-kapital azzjonarju nominali u drittijiet ta' vot f'waħda biss mill-kumpanniji msemmija, il-proviso ta' qabel dan m'għandux japplika jekk dawk l-individwi flimkien ikollhom, direttament jew indirettament, għoxrin fil-mija jew iżjed tal-kapital azzjonarju nominali u drittijiet ta' vot f'dik il-kumpannija:

Izda wkoll dan il-paragrafu kollu m'għandux japplika, meta l-kumpanniji msemmija fil-paragrafu (a) ta' dan is-subartikolu huma direttament jew indirettament proprjetà ta' kumpannija sa' tmenin fil-mija jew iżjed li t-

titoli tagħha huma elenkati f'borża rikonoxxuta taht l-Att dwar is-Swieq Finanzjarji."

Emenda tal-
artikolu 42 tal-
Att prinċipali.

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

(a) fil-proviso tal-paragrafu (b) tas-subartikolu (1) tiegħu, il-kliem "li ma jkollhomx proprjetà immobbli hlief għal dawk il-fondi, kif jistgħu jiġu stabbiliti" għandhom jiġu mhassra;

(b) minnufih wara s-subparagrafu (iii) tal-proviso tal-paragrafu (b) tas-subartikolu (1) tiegħu, għandhom jiżdiedu l-*provisos* ġodda li ġejjin:

"Izda wkoll fejn il-kumpanniji msemmija fil-proviso li jiġi minnufih qabel dan ikunu proprjetarji, direttament jew indirettament, ta' proprjetà immobbli jew drittijiet fuq immobbli, il-proviso li jiġi minnufih qabel għandu japplika biss meta il-proprjetarji benefiċjarji individwali, diretti jew indiretti, tal-kumpanniji msemmija fl-imsemmi proviso huma l-istess u kull wiehed minn dawk l-individwi jkollu, direttament jew indirettament, sostanzjalment l-istess perċentwali ta' interess fil-kapital azzjonarju nominali u d-drittijiet ta' vot f'kull waħda mill-imsemmija kumpanniji kemm qabel kif ukoll wara t-trasferiment jew skambju, kif ikun il-każ. Id-disposizzjonijiet tal-paragrafu (b) tal-artikolu 32(6) għandhom jgħoddu *mutatis mutandis* għall-finijiet sabiex issir dik id-deċiżjoni. Għall-finijiet ta' dan il-proviso kumpannija titqies bhala li tkun proprjetarja indiretta ta' proprjetà immobbli jew xi drittijiet fuq immobbli jekk ikollha, direttament jew indirettament, xi ishma jew interessi f'korp ta' persuni li jkun proprjetarju ta' proprjetà immobbli jew xi drittijiet fuq immobbli:

Izda wkoll il-proviso li jiġi minnufih qabel m'għandux japplika meta l-kumpanniji msemmija huma, direttament jew indirettament, proprjetà ta' kumpannija sa tmenin fil-mija jew iżjed li t-titoli tagħha huma elenkati f'borża rikonoxxuta taht l-Att dwar is-Swieq Finanzjarji.";

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

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

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

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

(b) Meta l-kumpannija msemmija fl-artikolu 42B jew il-kumpannija li l-valur negozjabbli tagħha huwa trasferit 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 proprjeta immobbli, jikkonsistu f'xi proprjeta immobbli jew xi dritt fuq xi immobbli, hawn iżjed 'il quddiem imsejha "kumpannija ta' proprjeta", 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:

Iżda l-paragrafu (b) iżjed 'il fuq għandu japplika biss meta l-valur aggregat ta':

(i) proprjeta immobbli jew xi dritt fuq immobbli proprjeta ta' kumpannija ta' proprjeta jew kumpanniji (kif rappreżentati permezz tal-perċentwali ta' interess miżmuma f'dik il-kumpannija jew kumpanniji), u

(ii) proprjeta immobbli jew xi dritt fuq immobbli proprjeta tal-kumpannija msemmija fl-artikolu 42B jew li l-valur negozjabbli tagħha huwa trasferit,

huwa indaqs jew jeċċedi l-hamsa u sebghin fil-mija tat-total tal-attiv mhux kurrenti tal-kumpannija ta' proprjeta jew kumpanniji (kif rappreżentati permezz tal-perċentwali

ta' interess miżmuma f' dik il-kumpannija jew kumpanniji) jew tal-kumpannija msemmija fl-artikolu 42B jew li l-valur negozjabbli tagħha huwa trasferit, mingħajr ma jingħata kas il-valur fuq il-ktieb tal-ishma miżmuma direttament jew indirettament fil-kumpannija ta' proprjetà jew kumpanniji u jiġu meqjusa t-total tal-attiv kurrenti li jikkonsisti fi proprjetà immobbli:

Iżda wkoll il-paragrafu (b) m'għandux japplika meta t-taxxa li għandha tithallas skont is-subartikolu (1) tkun żdiedet bi tliet euro għal kull mitt euro jew parti minnhom skont il-paragrafu (a) ta' dan is-subartikolu.

(ċ) Sabiex jiġi stabbilit l-ammont jew il-valur tal-korrispettiv jew tal-valur reali ta' dak il-valur negozjabbli jew il-valur reali tal-kumpannija msemmija fl-artikolu 42B, ma għandu jitnaqqas ebda dejn li jkun jeċċedi l-valur tal-attivi kollha minbarra l-valur ta' dik il-proprjetà immobbli jew xi dritt reali fuqha hliet -

(i) self mill-bank fuq l-ispiza tal-akkwist u benefikati tal-akkwist tal-proprjetà immobbli jew xi dritt reali fuqha; jew

(ii) dejn registrat fir-Registru Pubbliku fuq l-ispiza tal-proprjetà immobbli hawn qabel imsemmija, fejn dak id-dejn huwa registrat fi żmien tliet xhur mid-data tal-akkwist tal-imsemmija proprjetà,

li f'kull każ tingieb prova dwaru billi jintwerew dawk id-dokumenti għas-sodisfazzjon tal-Kummissarju, skond ma jista' jitlob il-Kummissarju."; u

(e) minnufih wara s-subartikolu (2) kif sostitwit, għandhom jiżdiedu s-subartikoli ġodda li ġejjin:

"(3) Il-valur reali ta' ishma f'kumpannija huwa l-perċentwali tal-valur reali tal-kumpannija li jikkorrispondi għall-ogħla -

(a) tal-perċentwali tal-kapital azzjonarju mahruġ rappreżentat mill-valur nominali ta' dawk l-ishma, u

(b) tal-perċentwali tad-drittijiet totali ta' vot fil-kumpannija rappreżentata mid-drittijiet totali ta'

vot marbuta ma' dawk l-ishma.

(4) Il-Ministru responsabbli għall-finanzi jista' jagħmel regoli taħt dan l-Att jew l-Att dwar it-Taxxa fuq l-*Income* għall-implimentazzjoni tad-disposizzjonijiet ta' dan l-artikolu u tal-artikolu 42B u, minghajr hsara għall-generalità ta' dak li ntqal qabel, dawk ir-regoli jistgħu jipprovdu għal:

(a) il-mod li bih għandu jiġi stabbilit il-valur reali tal-kumpannija;

(b) il-mod li bih għandu jiġi stabbilit il-valur reali ta' titoli negozjabbli;

(ċ) il-mod li bih għandu jiġi stabbilit trasferiment tal-valur reali f'titoli negozjabbli kif previst fl-artikolu 42B; u

(d) kull haġa oħra li tista' tiġi preskritta taħt dan l-artikolu."

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

Żjieda ta' artikolu 42B 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 azzjonarju maħruġ ta' dik il-kumpannija, jew bidla f'xi drittijiet ta' vot 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:

Izda dan l-artikolu ma għandux japplika meta:

(i) il-bidla fil-hruġ tal-kapital azzjonarju jew bidla fid-drittijiet ta' vot ma tipproduċix xi bidla fil-proprjetarji benefiċjarji individwali, diretti jew indiretti, tal-imsemmija kumpannija jew fil-proporzjon tal-valur reali tal-imsemmija kumpannija rappreżentata mill-ishma, proprjetà benefiċjarja diretta jew indiretta ta' kull wiehed minn dawk l-individwi; jew

(ii) il-bidla fil-hruġ tal-kapital azzjonarju tikkonsisti fi hruġ ta' ishma f'kumpannija, bħala riżultat ta' skambju ta' ishma minn kumpannija għal oħra eżentati mit-taxxa taht id-disposizzjonijiet tal-artikolu 42(1); jew

(iii) it-trasferiment ta' valur huwa riżultat ta' bidla fid-drittijiet ta' vot u dak it-trasferiment ikun sar minn dak li ser jittrasferixxi għall-persuna msemmija fil-paragrafu (i) tal-artikolu 5(2)(e) tal-Att dwar it-Taxxa fuq l-*Income*; jew

(iv) l-imsemmija kumpannija hija kumpannija bit-titoli tagħha li huma elenkati f'borża rikonoxxuta taht l-Att dwar is-Swieq Finanzjarji; jew

(v) l-imsemmija kumpannija mhijiex "kumpannija ta' proprjetà" u jkun jista' jintwera għas-sodisfazzjon tal-Kummissarju illi l-imsemmija bidla ssir għal raġunijiet kummerċjali *bona fide* u ma tiffurmax parti minn skema jew arrangamenti li tagħhom l-għan ewlieni, jew wiehed mill-għanijiet ewlenin, huwa li jiġi evitat il-hlas tat-taxxa. Għall-finijiet ta' dan il-paragrafu "kumpannija ta' proprjetà" tfisser kumpannija li għandha proprjetà immobbli sitwata f'Malta, jew xi drittijiet fuq dik il-proprjetà, jew kumpannija li għandha, direttament jew indirettament, ishma jew interessi f'korp ta' persuni li għandhom proprjetà immobbli sitwata f'Malta jew xi drittijiet fuq din il-proprjetà."

40. Il-proviso tas-subartikolu (2) tal-artikolu 43 tal-Att prinċipali għandu jiġi sostitwit biż-żewġ proviso ġodda li ġejjin: Emenda tal-artikolu 43 tal-Att prinċipali.

"Iżda avviż mogħti kif imsemmi qabel jista' jistipula illi mhux se japplika wkoll għal trasferimenti oħra ta' valuri negozjabbli eżegwiti barra minn Malta li jistgħu jsiru fil-futur mill-istess persuna, li f'dak il-każ dik il-persuna ma tkunx mitluba li tagħti avviż ta' dawk it-trasferimenti sussegwenti:

Iżda wkoll avviż m'għandux jingħata meta taxxa ma tkunx dovuta taħt xi disposizzjonijiet ta' dan l-Att."

41. L-artikolu 47 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 47 tal-Att prinċipali.

(a) minnufih wara s-subartikolu (2) tiegħu, għandu jiżdied dan il-paragrafu ġdid li ġej:

"Għall-finijiet ta' dan l-artikolu akkwisti jew disponimenti ta' valuri negozjabbli għandhom jinkludu trasferiment ta' valur reali ta' valuri negozjabbli kif imsemmija fl-artikolu 42(1)(d)."; u

(b) minnufih wara l-paragrafu (e) tas-subartikolu (3) tiegħu, għandhom jiżdiedu l-*provisos* ġodda li ġejjin:

"Iżda ż-żamma ta' valuri negozjabbli fil-kumpannija jew kumpanniji msemmija fil-paragrafi (ċ), (d) jew (e) u fit-twettiq ta' attivitajiet tan-negozju magħhom, għandhom jitqiesu li jikkostitwixxu interessi ta' negozju barra minn Malta:

Iżda wkoll għall-finijiet sabiex jiġi stabbilit jekk kumpannija msemmija fl-artikolu 384 tal-Att dwar il-Kumpanniji tissodisfax id-disposizzjonijiet ta' dan il-paragrafu, l-operat ta' dik il-kumpannija f'Malta biss għandu jiġi kkunsidrat."

42. 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: Emenda tal-artikolu 49 tal-Att prinċipali.

"(2) It-taxxa kif prevista fl-artikolu 42B għandha tithallas lill-Kummissarju mill-persuna li takkwista l-valur fi żmien hmistax-il gurnata 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.

43. (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 mingħajr ma kien dovut jew b' mod invalidu bhala 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.

44. 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 ohra li tagħmel talba permezz ta' min jirċevihom jew tahtu qabel ma jaċċertaw li jkun ingħata avviż ta' dak it-trasferiment lir-Registatur tal-Kumpanniji skont dan l-Att."

TAQSIMA V

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

45. 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".

Emenda tal-artikolu 29 tal-Att prinċipali.

46. 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 jiżdied il-poviso ġdid li ġej:

"Izda meta dik in-notifika ma ssehħx minhabba li t-*taxpayer* ma jkunx jista' jinsab jew minhabba raġunijiet ohra attribwibbli lilu u l-Kummissaju 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."

Emenda tal-artikolu 31 tal-Att prinċipali.

47. 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 jiżdied il-proviso ġdid li ġej:

"Izda jekk ikun hemm prova li, wara li tiġi mitluba mill-Kummissarju, permezz ta' avviż bil-miktub, dik il-persuna mingħajr raġuni tajba tonqos milli tipprezenta xi *records*,

dokumenti, kontijiet jew *data* elettronika fi zmien tletin jum mid-data tan-notifika ta' dik l-ordni u tkun ħarġet ordni bil-miktub mill-Kummissarju kif imsemmi fl-artikolu 33(5), dik il-persuna ma ghaandhiex tithalla tipprezenta dawk ir-*records*, dokumenti, kontijiet jew *data* elettronika quddiem il-Bord tal-Kummissarji Speċjali jew f'xi Qorti tal-Gustizzja."

48. 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 għandha titqies mill-Bord bhala 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 mingħajr xi skuża raġonevoli r-*records*, dokumenti, kontijiet jew *data* elettronika skont il-proviso għall-artikolu 31(5);".

49. 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.

50. 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 konkluziva" għandhom jidhlu l-kliem "l-istima finali u konkluziva 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)".

51. L-artikolu 43 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 43 tal-Att prinċipali.

(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) tas-subartikolu (1) tiegħu, minflok il-kliem "skond il-kuntratt." għandhom jidhlu l-kliem "skont il- kuntratt:" u minnufih wara għandhom jiżdiedu l-*provisos* godda li ġejjin:

"Iżda wkoll 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, it-taxxa proviżorja li tithallas għandha tkun ekwivalenti għal sebgha fil-mija 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 ntaxxata ma tibqax membru tal-grupp:

Iżda wkoll fil-każ ta' trasferiment ta' valur f'titoli, kif previst fis-subartikolu (13)(b)(ii) tal-artikolu 5 tal-Att dwar it-Taxxa fuq l-*Income*, it-taxxa proviżorja li tithallas għandha tkun ekwivalenti għal sebgha fil-mija tal-qligh jew profitti msemmija fl-istess subartikolu.";

(ċ) fil-paragrafu (a) tas-subartikolu (2) tiegħu, minflok il-kliem "xi trasferiment ta' beni li ma jkunx suġġett għat-taxxa fuq qligh kapitali, jew għat-taxxa taht id-dispożizzjonijiet tal-artikolu 4 tal-Att dwar it-Taxxa fuq l-*Income*;" għandhom jiġu sostitwiti l-kliem "xi trasferiment ta' beni li ma jkunx suġġett għat-taxxa taht id-dispożizzjonijiet tal-artikoli 5 u 12 tal-Att dwar it-Taxxa fuq l-*Income* meta min ser jagħmel it-trasferiment jissottometti l-formola preskritta lill-Kummissarju, fejn jistipula liema dispożizzjoni hija applikabbli u kull dokument rilevanti iehor li l-Kummissarju jista' jqis neċessarju:

Iżda t-taxxa proviżorja għandha f'kull każ tithallas jekk l-artikolu 33 tal-Att dwar it-Taxxa fuq l-*Income* huwa applikabbli bħala riżultat tat-talba għall-eżenzjoni prevista taht l-artikolu 12(1)(u) tal-imsemmi Att"; u

(d) 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:

"Iżda wkoll 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-ghoxrin fil-mija għandha tiġi kkalkulata fuq l-ogħla bejn il-valur fis-suq u, jew il-korrispettiv.".

52. L-artikolu 44 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 44 tal-Att prinċipali.

(a) fis-subartikolu (2B) tiegħu, minnufih wara l-paragrafu (b), għandu jiżdied il-paragrafu ġdid li ġej:

"(ċ) ma għandu jgħaddi ebda imgħax fuq xi taxxa li għandha tithallas fiċ-ċirkostanzi meta persuna ħadet azzjoni taħt Proċedura għall-Ftehim Reċiproku skont ftehim imsemmi fl-artikolu 76 ta' dan l-Att inkluża l-Konvenzjoni 90/436/KEE tat-23 ta' Lulju 1990 fuq l-eliminazzjoni tal-ħlas għal taxxa doppja f'konnessjoni mat-tiswija ta' profitti ta' intrapriżi assoċjati, għall-perjodu bejn id-data meta l-imsemmija azzjoni taħt il-Proċedura għall-Ftehim Reċiproku tibda u d-data meta l-kwistjoni tiġi konkluża taħt l-imsemmija proċedura."; u

(b) is-subartikolu (3) għandu jiġi sostitwit b'dan li ġej:

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

53. 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 rifiżjoni 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-rifiżjoni 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 taht dan l-Att minn xi persuna registrata għall-finijiet tal-Att dwar it-Taxxa fuq il-Valur Miżjud, sakemm u sa meta dik il-persuna tkun bagħtet kull prospett ta' taxxa jew dikjarazzjonijiet, kif mitlub li jiġu sottomessi għall-finijiet tal-Att dwar it-Taxxa fuq il-Valur Miżjud 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 bħala l-paragrafu (i) tas-subartikolu (2B), u minnufih wara għandu jidied 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-tnax-il xahar wara dak ix-xahar li fih intbagħatu l-prospetti tax-taxxa msemmija f'dawk is-subartikoli.";

(ċ) (i) minnufih wara l-paragrafu (a) tas-subartikolu (4) tiegħu, għandu jidhol il-proviso ġdid li ġej:

"Izda l-kondizzjonijiet imnizzla fil-paragrafi (i) u (ii) iktar 'il fuq m'għandhomx japplikaw rigward dividendi mħallsin minn xi kumpannija registrata f'Malta lil xi azzjonist riċevitur li huwa rreġistrat għall-finijiet tal-artikolu 48(4) jew l-artikolu 48(4A) ta' dan l-Att.";

(ii) il-paragrafu (ii) tal-aħħar proviso għas-subartikolu (4) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(ii) persuna residenti f'Malta, registrata għall-finijiet sabiex tagħmel talba skont dan is-subartikolu f'dak il-mod kif jista' jiġi preskritt, tista' wkoll titlob rifużjoni tat-taxxa kkontemplata f'dan is-subartikolu rigward id-dividendi mħallsa mill-profitti allokatu fuq kont ta' *income* barrani meta dak id-dividend jithallas:

1. minn kumpannija li kienet kumpannija

reġistrata f'Malta fl-ewwel ta' Jannar 2007 jew wara iżda ma kenitx residenti f'Malta qabel dik id-data; u

2. minn xi kumpannija li kienet eżerċitat l-għażla tagħha skont il-paragrafu (i) tal-proviso tal-artikolu 48(4A)(b) ta' dan l-Att; u

3. minn xi kumpannija oħra reġistrata f'Malta mill-profitti miksuba mill-imsemmija kumpannija rigward perjodi ta' kontjar li bdew fl-ewwel ta' Jannar 2011.";

(d) fis-subartikolu (4A) tiegħu, minflok il-paragrafu (bb) tas-subproviso għall-paragrafu 2 tal-proviso (i) mal-paragrafu (b) tiegħu, għandu jiġi sostitwit dan li ġej:

"(bb) Il-Kummissarju jista', fid-diskrezzjoni tiegħu, jiddetermina illi l-paragrafu 2 iktar 'il fuq japplika għall-kumpannija jekk ikun tal-opinjoni illi huwa probabbli illi fil-futur previst iktar minn nofs il-profitti tal-kumpannija li jkunu ser jiġu distribwiti jkunu jikkonsistu f'xi waħda mill-kategoriji jew fil-kategoriji kollha ta' *income* li ġejjin:

- profitti li jkunu ser jiġu allokat i lill-kont ta' *income* barrani;

- profitti li mhumiex soġġetti għat-taxxa li iżda li kieku jiġu xort'oħra allokat i lill-kont ta' *income* barrani;

- dividendi riċevuti minn kumpannija b'kummerċ internazzjonali, inklużi, fejn applikabbli, dividendi mħallsa wara li l-kumpannija tkun eżerċitat l-għażla taht il-paragrafu 1 tal-proviso (i);

- *income* miksub mill-proprjetà ta' u/jew iċ-*chartering* ta' bastiment *tonnage tax* kif imfisser fir-Regolamenti tal-2004 dwar Bastimenti Merkantili (Tassazzjoni u Hwejjeġ oħra li għandhom x'jaqsmu ma' Organizzazzjonijiet ta' Bastimenti);

- *income* miksub mill-proprjetà ta' u, jew iċ-*chartering* ta' kull vapur, jott, dgħajsa u

kwalunkwe bastiment ieħor li f'kull każ ma jkunx bastiment *tonnage tax* kif imfisser fir-Regolamenti tal-2004 dwar Bastimenti Merkantili (Tassazzjoni u Hwejjeġ oħra li għandhom x'jaqsmu ma' Organizzazzjonijiet ta' Bastimenti) iżda l-*income* imsemmi aktar qabel kien miksub minn kumpannija li kienet originarjament inkorporata u soġġetta għar-Regolamenti tal-2004 dwar Bastimenti Merkantili (Organizzazzjonijiet ta' Bastimenti - Kumpanniji Privati), li l-għanijiet tagħha kienu ristretti kif mitlub taht dawk ir-Regolamenti;

- *income* ta' xi kumpannija li tikkwalifika għall-benefiċċji skont ir-regolamenti 4, 5 jew 6 tar-Regolamenti tal-2001 dwar il-Promozzjoni tan-Negozju"; u

(e) fis-subartikolu (8) tiegħu, minflok il-kliem "wara l-aħħar tax-xahar li fih il-ħlas lura jkun dovut" għandhom jidhlu l-kliem "wara l-ġurnata li fiha l-ħlas lura jkun dovut".

TAQSIMA VI

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

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

(2) L-artikoli 55, 56, 57, 58 u 59 sa 63 għandhom jidhlu fis-seħħ f'dik id-data li l-Ministru tal-Finanzi jista' jistabbilixxi b'avviz fil-Gazzetta.

(3) L-artikoli 64 u 65 għandhom jitqiesu li daħlu fis-seħħ fl-10 ta' Novembru 2009.

Emenda tal-
artikolu 13 tal-
Att prinċipali.

55. L-artikolu 13 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (2) tiegħu minflok il-kliem "ħdax-il elf u sitt mija u sitta u erbgħin euro u sebġha u tmenin ċenteżmu (11,646.87)" għandhom jidhlu l-kliem "ħamsa u għoxrin elf euro (€25,000)"; u

(b) fis-subartikolu (3) tiegħu minflok il-kliem "erba' mija u ħamsa u sittin euro u sebġha u tmenin ċenteżmu (465.87)" għandhom jidhlu l-kliem "ħamsa u għoxrin elf euro (€25,000) jew ammont li jkun daqs tliet darbiet id-dazju li jkollu

jithallas fuq xi oġġetti li dwarhom ikun sar ir-reat, skond liema piena tkun l-iktar għolja".

56. L-artikolu 16 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 16 ta' l-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "ikun hati ta' reat u għandu għal kull reat bħal dak jehel, meta jinsab hati, multa ta' mhux aktar minn hax-il elf u sitt mija u sitta u erbghin euro u sebgha u tmenin ċenteżmu (11,646.87)." għandhom jidhlu l-kliem "ikun hati ta' reat u għandu, għal kull reat bħal dak jehel, 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 jizdied il-proviso li ġej:

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

Izda wkoll, terz minn dak l-ammont għandu jitqies bħala dejn ċivili addebitat u li jithallas lid-Dipartiment tad-Dwana."; u

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

57. Minnufih wara l-artikolu 16 tal-Att prinċipali għandu jizdied l-artikolu ġdid li ġej: Zjieda ta' artikolu 16A ġdid mal-Att prinċipali.

"Penali minflok proċeduri skont dan l-Att.

16A. Minkejja 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 nkixfixx, kienet twassal għal telf ta' dazju tas-sisa ta' mhux iktar minn elf euro (€1,000), il-Kontrollur, filwaqt li jagħmel il-konfiska tal-oġġetti, jista', jekk min 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)."

58. L-artikolu 17 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej: Sostituzzjoni tal-artikolu 17 tal-Att prinċipali.

"17. (1) Jekk oġġetti dazjabbli -

(a) jiġu depożitati jew jinħbew f'xi post bil-ghan li ssir frodi kontra l-Gvern għar-rigward tad-dazju tas-sisa li għandu jingabar bis-saħħa ta' dan l-Att; jew

(b) jitnehhew b'mod klandestin jew mhux legittimu minn jew 'il barra minn xi maħżen tas-sisa jew xi post fiż-żgur li fihom dawk l-oġġetti dazjabbli jkunu ġew debitament depożitati; jew

(ċ) wara li jkunu ġew konsenjati minn xi maħżen tas-sisa jew xi post fiż-żgur ieħor fejn ma jsirx hlas ta' dazju sabiex jittiehdu f'xi post li jkun awtorizzat mill-Kontrollur, dawk l-oġġetti ma jiġux debitament konsenjati f'dak il-post; jew

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

f'kull każ bhal dan, dawk l-oġġetti dazjabbli jiġu konfiskati, u min jagħmel ir-reat jehel iktar minn hekk il-pieni stabbiliti fl-artikolu li jiġi minnufih qabel dan l-artikolu.

(2) B'żjieda ma' dan, il-vetturi, il-bastimenti jew mezzi oħra ta' garr, uzati jew li ser ikunu uzati għal importazzjoni, fl-iżbark, fit-twarrib, fiż-żamma, fil-ħabi, jew fil-garr ta' oġġetti li d-dazju tagħhom ma jkunx imħallas jew li jkunu, taht dan l-Att, soġġetti għal konfiska flimkien mal-proprjetà, mobbli jew immobbli, illi fiha jinstabu l-oġġetti li d-dazju tagħhom ma jkunx imħallas jew li jkun soġġett għal konfiska, għandhom jiġu konfiskati:

Iżda ebda bastiment ma jkun soġġett għal konfiska taht id-disposizzjonijiet ta' dan l-artikolu jekk ma jkunx ta' portata anqas minn mitejn u hamsin tunnellaġġ nett ta' reġistru.

(3) Għal dawk li huma bastimenti ta' mitejn u hamsin tunnellaġġ nett ta' reġistru jew iżjed, il-Kontrullur, f'kull każ li fih, fil-fehma tiegħu, xi uffiċjal responsabbli ta' dak il-bastiment ikun, b'għemil jew bi traskuraġni, imdaħhal fil-fatt, jista' jipproċedi bil-mod kif jingħad fl-artikolu 36, u bla h'sara għall-appell imsemmi f'dak l-artikolu, għall-kundanna ta' dak il-bastiment f'somma ta' hamsa u għoxrin elf euro (€25,000). U għal dan il-hsieb, il-Kontrullur jista' jitlob, fil-każ ta' bastiment imsemmi f'dan is-subartikolu, li tiġi mqiegħda f'idejh somma ta' hamsa u għoxrin elf euro (€25,000) b'kawtela tad-deċiżjoni li 'l quddiem tagħti l-qorti, u fin-nuqqas ta' dan id-depożitu, il-Kontrullur jista' jzomm dan il-bastiment.

(4) M'hemm ebda jedd ta' azzjoni kontra l-Kontrullur għal danni kkaġunati bil-hlas tad-depożitu jew billi jkunu nżammu xi oġġetti, vettura jew bastiment taht dan l-artikolu.

(5) Il-kliem "uffiċjal responsabbli" f'dan l-artikolu jfissru l-kaptan, l-uffiċjali u l-inġinieri ta' bastiment, u fil-każ ta' bastiment awtorizzat għat-trasport ta' passiġġieri, il-*purser* jew iċ-*chief steward*.

(6) Fil-kelma "traskuraġni" jidhlu l-każijiet li fihom oġġetti mhux tan-nies tal-ekwipaġġ, jiġu misjuba f'post jew postijiet fejn bir-raġun ma kienx imisshom ġew imqieghda kieku l-uffiċjali li jkollhom is-sorveljanza ta' dak il-post jew postijiet qagħdu attenti kif imiss, fiż-żmien tat-tagħbija tal-bastiment jew wara."

59. Fis-subartikolu (4) tal-artikolu 18 tal-Att prinċipali minflok il-kliem "hdax-il elf u sitt mija u sitta u erbgħin euro u sebgħa u tmenin ċenteżmu (11,646.87)" għandhom jidhlu l-kliem "ħamsa u għoxrin elf euro (€25,000)".

Emenda tal-artikolu 18 tal-Att prinċipali.

60. Fis-subartikolu (1) tal-artikolu 25 tal-Att prinċipali, minflok il-kliem "jistgħu jinżammu minn dak l-uffiċjal tas-sisa" għandhom jidhlu l-kliem "għandhom jinżammu minn dak l-uffiċjal tas-sisa".

Emenda tal-artikolu 25 tal-Att prinċipali.

61. Fis-subartikolu (1) tal-artikolu 26 tal-Att prinċipali, minflok il-kliem "jistgħu jiġu konfiskati" għandhom jidhlu l-kliem "għandhom jiġu konfiskati".

Emenda tal-artikolu 26 tal-Att prinċipali.

62. Minnufih wara l-artikolu 29 tal-Att prinċipali għandu jiżdied l-artikolu ġdid li ġej:

Żjieda tal-artikolu 29A ġdid mal-Att prinċipali.

"Setgħa għall-ghoti, rifjut jew irtirar ta' awtorizzazzjoni.

29A. (1) Il-Kontrollur jista' jagħti lil, jirrifjuta li jagħti jew jirtira awtorizzazzjoni mingħand persuna sabiex taġixxi bhala negozjant tas-sisa registat jew ta' kustodju ta' maħżen awtorizzat.

(2) Il-Kontrollur jista' jirrifjuta li jagħti jew jirtira awtorizzazzjoni skont is-subartikolu (1) jekk fl-opinjoni tal-Kontrollur:

(a) fejn l-applikant huwa persuna naturali, l-applikant ma jkunx persuna idonea u adatta;

(b) fejn l-applikant huwa soċjetà, xi wiehed mis-soċji ma jkunx persuna idonea u adatta;

(ċ) fejn l-applikant huwa kumpannija, xi direttur, azzjonista jew uffiċjal tal-kumpannija li tkun involuta fit-tmexxija jew kontroll tal-kumpannija, ma tkunx persuna idonea u adatta.

(3) Persuna naturali, soċjetà jew kumpannija hija meqjusa illi mhix persuna idonea jew adatta, kemm-il darba fost oħrajn:

(a) fl-attivitajiet tagħha mal-Kontrollur tkun nieqsa mill-onestà, integrità u kompetenza; jew

(b) mhix finanzjarjament stabbli; jew

(ċ) kisret xi waħda mid-disposizzjonijiet ta' dan l-Att jew ta' xi Att ieħor relatat mad-dwana; jew

(d) instabet hatja li kkommettiet reat kriminali jew xi offiża oħra relatati ma' proprjetà u sigurtà pubblika, fiduċja pubblika, dħul finanzjarju tal-gvern u servizzi finanzjarji.

(4) Kull persuna li thoss ruħha aggravata b'deċiżjoni meħuda mill-Kummissarju skont is-subartikolu (3), tista' tappella taħt l-artikolu 31 lill-Bord ta' Appelli dwar Dazju tas-Sisa."

Emenda tal-artikolu 31 tal-Att prinċipali.

63. Fis-subartikolu (1) tal-artikolu 31 tal-Att prinċipali, minflok il-kliem "taħt l-artikolu 30" għandhom jidhlu l-kliem "taħt l-artikoli 29A u 30".

Emenda tat-Tielet Skeda li tinsab mal-Att prinċipali.

64. It-Tielet Skeda li tinsab mal-Att prinċipali għandha tiġi emendata kif ġej:

(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";

(c) 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.".

65. Ir-Raba' Skeda li tinsab mal-Att prinċipali għandha tiġi emendata kif ġejj:

Emenda tar-Raba' Skeda li tinsab mal-Att prinċipali.

(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 VII

66. (1) Din it-Taqsima temenda l-Att dwar it-Taxxa fuq il-Valur Miżjud u għandha tinqara u tiftiehem haġa wahda mal-Att dwar it-Taxxa fuq il-Valur Miżjud, hawnhekk iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

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

(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 jew għanijiet differenti ta' din it-Taqsima.

Emenda tal-artikolu 24 tal-Att prinċipali.

67. Fis-subartikolu (2) tal-artikolu 24 tal-Att prinċipali minflok il-kliem "skond liema tkun l-aktar tardiva." għandhom jidhlu l-kliem "skond liema tkun l-aktar tardiva:" u minnufih wara għandu jiżdied il-proviso li ġej:

"Iżda meta persuna li jkollha hlas lura li għandu jithallas lilha skond dan is-subartikolu tonqos li tibgħat, sad-data meta jintalab il-hlas lura, prospett ta' taxxa għas-sena ta' stima 1999 jew snin ta' stima li jiġu wara sad-data li jkun meħtieġ li jintbagħat skond id-disposizzjonijiet ta' l-Att dwar l-Amministrazzjoni tat-Taxxa u dan in-nuqqas ikompli saż-żmien li l-hlas lura għandhu jithallas, tali hlas lura m'għandux jithallas lil dik il-persuna u għandu jinżamm mill-Kummissarju sakemm il-prospett ta' taxxa jintbagħat; iżda wkoll li minkejja xi provvedimenti oħra f'dan il-Att, ma jkun dovut ebda mgħax mill-Kummissarju għall-perjodu li fih il-hlas lura jinżamm minhabba n-nuqqas li jintbagħat prospett ta' taxxa għall-finijiet tal-Att dwar l-Amministrazzjoni tat-Taxxa."

Emenda tal-artikolu 30 tal-Att prinċipali.

68. Fis-subartikolu (2) tal-artikolu 30 tal-Att prinċipali, minnufih wara l-kliem "akkwisti intra-Komunitarji tagħha" għandhom jidhlu l-kliem "u x-xiri fejn il-klijent ikun responsabbli li jhallas it-taxxa skont l-artikoli 20(2)(b) u 20(2)(c) tal-Att".

TAQSIMA VIII

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

69. 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 msejjjah "l-Att prinċipali".

Żjieda ta' artikoli 13C u 13D godda mal-Att prinċipali.

70. Minnufih wara l-artikolu 13B tal-Att prinċipali għandhom jiżdiedu ż-żewġ artikoli godda li ġejjin:

"Stqarrijiet u stimi jikkostitwixxu titolu eżekuttiv.

Kap. 12.

13C. 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.

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, mahruġ jew magħmul taħt jew għall-għanijiet ta' dan l-Att."

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

Emenda tal-
artikolu 16 tal-
Att prinċipali.

"(3) Ma għandhom jinbdew ebda procedimenti kriminali taħt dan l-Att hlief 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.

Kap. 9.

(4) Minkejja d-dispożizzjonijiet tal-Kodici 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' ħlas ta' xi taxxa li għandha jew li jista' jkollha tħallas taħt dan l-Att u l-bidu ta' proċedimenti jew l-impożizzjoni ta' xi piena għal xi reat taħt xi liġi oħra jew il-ħlas 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 taht dan l-Att jew taht xi regolamenti magħmula taht dan l-Att, l-awtorità kompetenti, jew kull uffiċjal ieħor li jissemma' minnha tista', minkejja d-dispożizzjonijiet ta' kull liġi oħra, iġġib il-provi, tittratta u b'kull mod ieħor tmexxi l-prosekuzzjoni minflok il-Pulizija jew flimkien magħha.

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

TAQSIMA IX

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

72. 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.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 205 tal-24 ta' Marzu, 2010.

LOUIS GALEA
Speaker

PAULINE ABELA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE ABELA
President

16th April, 2010

ACT No. I of 2010

AN ACT to implement various budget measures 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:

1. The short title of this Act is the Budget Measures Implementation Act, 2010. Short title.

PART I

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

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. Interpretation. Cap. 174.

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. Authority to raise loan.

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.

Purpose. 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

Amendment to the Pensions Ordinance. Cap. 93. 6. (1) This Part amends the Pensions Ordinance, and it shall be read and construed as one with the Pensions Ordinance, hereinafter in this Part referred to as "the principal law".

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

Amendment of article 8C of the principal law. 7. In paragraph (b) of subarticle (2) of article 8C of the principal law, for the words "National Audit Office." there shall be substituted the words "National Audit Office, Management Systems Unit, Malta Information Technology and Training Services Ltd and Malta Information Technology Agency.".

Amendment of article 12 of the principal law. 8. Article 12 of the principal law shall be amended as follows:

(a) the present article shall be renumbered as subarticle (1) thereof and the said subarticle (1) as renumbered shall be amended as follows:

(i) immediately after the words "office in the service of Malta" there shall be added the words ", or is or was after his retirement appointed to an office established by the Constitution also being a pensionable office under this Ordinance,";

(ii) immediately after the words "retires in circumstances in which he may be granted a pension," there shall be added the words "or leaves office at the end of his appointment or re-appointment as the case may be,";

(iii) immediately after the words "on his previous or final retirement from the service of Malta," there shall be added the words "or from the said office established by the Constitution,"; and

(iv) in the proviso thereto, the words "the gratuity already paid." shall be substituted with the words "the gratuity already paid:" and immediately thereafter there shall be added the following new proviso:

"Provided further that in the case of an officer who has retired for the first time from one of the offices, posts or positions mentioned in paragraphs (a), (b) or (c), excluding the proviso, of subarticle (2) of article 2 of the Public Administration Act, the provisions of this subarticle shall only apply if the final retirement from the service of Malta or from the office established by the Constitution took place before the 1st January, 2010."; and

(b) immediately after subarticle (1) as renumbered there shall be added the following new subarticle:

"(2) Notwithstanding the other provisions of this Ordinance or of any other law or other regulations, when a person is the holder of one of the offices, posts or positions mentioned in paragraphs (a), (b) or (c), excluding the proviso, of subarticle (2) of article 2 of the Public Administration Act, such person may, on being re-employed in the service of Malta after his retirement from the service of Malta or on being retained in employment in the service of Malta beyond the age of sixty-one years, during such period in employment after the age of sixty-one years receive and continue to receive any pension, including any gratuity or commuted pension, without any reduction except as specified under this Ordinance, provided that the said period of re-employment or of retention in employment shall not be taken into consideration for any other purposes of this Ordinance.".

PART III

Amendments to
the Income Tax
Act.
Cap. 123.

9. (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".

(2) (a) Articles 13(a)(i) and 13(b)(iv) shall be deemed to have come into force as from the 10th November, 2009.

(b) Articles 15(b), 16, 17, 18, 19, 20 and 27(a) shall come into force as from the year of assessment 2011.

(c) Article 10(a) shall be deemed to have come into force as from the 1st May 2004.

(d) Articles 10(b), 10(c), 10(d), 10(e), 15(a), 15(c) and 23 shall be deemed to have come into force as from the year of assessment 2009.

(e) Articles 11, 14, 24, 28, 29 and 30 shall be deemed to have come into force as from the 1st January 2009.

Amendment of
article 2 of the
principal Act.

10. Article 2 of the principal Act shall be amended as follows:

(a) in the definition "company", for the words "or a partnership anonyne:" there shall be substituted the words "or a limited liability company or any company constituted as such under any other law in force in Malta:";

(b) in the definition "equity holding", for the words "a holding of the share capital in a company when the shareholding entitles the shareholder to a right to votes, to profits available for distribution to shareholders and to assets available for distribution on a winding up of that company, and "equity shares", "equity shareholder" and "equity shareholding" shall be construed accordingly;" there shall be substituted the words "a holding of the share capital in a company which is not a property company, when the shareholding entitles the shareholder to at least any two of the following rights (hereinafter referred to as "equity holding rights"):

(i) a right to votes;

(ii) a right to profits available for distribution to shareholders; and

(iii) a right to assets available for distribution on a winding up of that company,

and "equity shares", "equity shareholder" and "equity shareholding" shall be construed accordingly:

Provided that the Commissioner shall be entitled to determine that an equity holding exists even where such holding is not a holding of the share capital in a company or does not consist solely of such a holding of share capital, but where it can be demonstrated that in substance there is at any time an entitlement to at least two of the equity holding rights;"

(c) in paragraph (a) of the definition "foreign income account", for the words "derived from a participating holding or from the disposal of such holding" there shall be substituted the words "derived from a participating holding in a company not resident in Malta or from the disposal of such holding";

(d) the definition "participating holding" shall be amended as follows:

(i) paragraph (a) shall be substituted by the following:

"(a) a company holds directly at least ten percent of the equity shares of a company whose capital is wholly or partly divided into shares, which holding confers an entitlement to at least ten percent of any two of the following:

(i) right to vote;

(ii) profits available for distribution; and

(iii) assets available for distribution on a winding up:

Provided that the Commissioner shall be entitled to determine that the provisions of this paragraph are satisfied even where the said minimum level of entitlement exists in the circumstances referred to in the proviso to the definition of "equity holding";

(ii) in paragraphs (b), (c), (d), and (f) thereof, the words "not resident in Malta" wherever they appear shall be deleted;

(iii) in paragraph (e) thereof, for the words "an equity shareholder which invests a minimum sum of one million, one hundred and sixty-four thousand euro

(1,164,000) (or the equivalent sum in a foreign currency) in a company not resident in Malta and that investment in the company not resident in Malta is held for an uninterrupted period of not less than 183 days" there shall be substituted the words "an equity shareholder which holds an investment representing a total value, as on the date or dates on which it was acquired, of a minimum of one million, one hundred and sixty-four thousand euro (€1,164,000) (or the equivalent sum in a foreign currency) in a company and that holding in the company is held for an uninterrupted period of not less than 183 days";

(iv) in the proviso to the definition, for the words "entitles the holder to a right to votes, to profits available for distribution and to assets available for distribution on a winding up of the said body of persons, and the term "equity shareholder" shall be construed accordingly;" there shall be substituted the words "entitles the holder to at least two of the following rights:

(a) a right to vote;

(b) a right to profits available for distribution;
and

(c) a right to assets available for distribution on a winding up of the said body of persons,

and the term "equity shareholder" shall be construed accordingly:

Provided that the Commissioner shall be entitled to determine that an equity holding exists even where the particular company does not have a holding in the share capital in a company or does not consist solely of such a holding of share capital, but it can demonstrate that in substance it holds an entitlement to at least two of the equity holding rights:

Provided further that in the case of a holding falling within the purport of paragraph (a) above, the provisions of the said paragraph shall be deemed to be satisfied even where the minimum level of entitlement referred to in that paragraph exists at any time by reference to the circumstances referred to in the proviso to the definition of "equity holding"; and

(e) immediately after the definition "prescribed" there shall be added the following new definition:

" "property company" shall mean a company which owns immovable property situated in Malta, or any rights over such property, or a company which holds, directly or indirectly, shares or interests in a body of persons which owns immovable property situated in Malta or any rights over such property:

Provided that where a company or body of persons carrying on a trade or business owns immovable property situated in Malta or any rights over such property, consisting only of a factory, warehouse or office used solely for the purpose of carrying on such trade or business, such company or body of persons shall, for the purpose of this definition, be treated as not owning immovable property or any rights over such property if not more than fifty percent of its assets consist of immovable property situated in Malta and it does not carry on any activity the income from which is derived directly or indirectly from immovable property situated in Malta;".

11. Immediately after article 4 of the principal Act, there shall be added the following new article:

Addition of new article 4A to the principal Act.

"Profits or income prior to a change in residence or domicile.

4A. When a person:

(i) changes his residence and becomes resident in Malta and he was at no time domiciled or resident in Malta prior to such change in residence;
or

(ii) changes his domicile and becomes domiciled in Malta and he was at no time domiciled or resident in Malta prior to such change in domicile;
or

L.N. 415 of 2007

(iii) is "a company resulting from the merger" which is registered in Malta as set out in sub-regulation (2) of regulation 3 of the Cross-border Mergers of Limited Liability Companies Regulations (hereinafter referred to as "Cross-border Mergers Regulations") and none of the assets owned by the company on the day of the merger was owned by any merging company which is domiciled and, or resident in Malta at any time prior to the date of the particular merger, and has made an election for the purpose of this paragraph by notice in writing to the Commissioner, all assets which are situated outside Malta and which were acquired by him, or in the case of a company resulting from the merger, by any non-resident merging company, prior to the above-mentioned change in domicile or residence or prior to the entry into force of the merger (each of which shall hereinafter be referred to as "occurrence"), shall be deemed, for the purpose of calculating any income that would not have been subject to tax had it arisen before the particular occurrence would have taken place, to be assets acquired on the date of the particular occurrence, at a cost which is proved to the satisfaction of the Commissioner to be the market value which it had on the date of the said occurrence:

Provided that such an election shall not be available unless the particular person exercises the election by not later than the end of the year of assessment immediately following the basis year in which the occurrence takes place."

Amendment of article 5 of the principal Act.

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

(a) paragraph (a) of subarticle (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 subarticle (9A) and from a transfer of value in securities as provided for in subarticle (13)(b)(ii).";

(b) in paragraph (b) of subarticle (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 subarticles (9A) and (13)(b),";

(c) (i) in the proviso to paragraph (c) of subarticle (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, other than a capital redemption reserve and profits available for distribution, is applied in paying up to any extent any shares allotted by the company, the cost of acquisition of such shares shall be zero;"

(ii) immediately after paragraph (f) of subarticle (3), there shall be inserted the following new paragraph:

"(g) in the case of a transfer of shares listed on a stock exchange recognised under the Financial Markets Act, not being securities in a collective investment scheme and not being exempt from tax under the provisions of paragraph (b) of article 5(6):

(i) the transfer value shall in no case exceed the market value of the said shares immediately upon being admitted to listing, and

(ii) the cost of acquisition taken into account

shall be the cost of acquisition of the original shares:

For the purpose of this paragraph "original shares" shall have the same meaning assigned in paragraph (b) of article 5(6).";

(d) in paragraph (b) of subarticle (6) thereof, the words "in a company" shall be deleted and for the words "collective investment scheme;" there shall be substituted the words "collective investment scheme:" and immediately thereafter there shall be added the following new provisos:

"Provided that the exemption provided for in this paragraph shall not apply where the transfer is made by a person who held the said shares or the original shares, immediately before the said shares or the original shares were admitted to listing: For the purpose of this paragraph "original shares" means the shares held by a person which have been admitted to listing and which represent the shares being transferred:

Provided further that where such person held shares in a company immediately prior to their listing and also acquired further listed shares in the said company after the initial listing of shares in the company, any transfer of shares made by such person shall first be deemed to be a transfer of the shares acquired after the initial listing:

Provided also that the provisions of the immediately preceding provisos shall only apply where the shares transferred were admitted to listing on or after the 1st January, 2010.";

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

"(iii) Where the asset referred to in paragraph (i) consists of immovable property situated in Malta or shares in a property company, the provisions of this subarticle shall only apply where the individual direct or indirect beneficial owners of the companies referred to in paragraph (i) are the same and each such individual holds, directly or indirectly, substantially the same percentage interest in the nominal share capital and voting rights in each of the said companies. For the purpose of this paragraph "property company" shall mean a company

which owns immovable property situated in Malta, or any rights over such property, or a company which holds, directly or indirectly, shares or interests in a body of persons which owns immovable property situated in Malta, or any rights over such property:

Provided that for the purpose of this paragraph an individual is deemed to hold substantially the same percentage interest in the nominal share capital and voting rights in each of the said companies where the difference between the percentage interest held in each company does not exceed twenty percent:

Provided further that where an individual holds, directly or indirectly, less than twenty percent of the nominal share capital and voting rights in only one of the said companies, 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 said companies are the same:

Provided also that if more than one individual holds, directly or indirectly, less than twenty 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, twenty percent or more of the nominal share capital and voting rights in that company:

Provided also that the whole of this paragraph shall not apply, where the companies referred to in paragraph (i) of this subarticle are directly or indirectly owned as to eighty percent or more by a company whose securities are listed on a stock exchange recognised under the Financial Markets Act.";

(f) immediately after subarticle (9) as amended, there shall be added the following new subarticle:

"(9A) (a) If a company ("the chargeable company") holds shares in a company, which had been acquired from another company, and such acquisition was exempt from tax under article 5(9), this subarticle shall apply if the chargeable company ceases to be a member of the original group before the lapse of six years from the date of the said acquisition. References in this subarticle to a company ceasing to be a member of a group do not apply

to cases where a company ceases to be a member of the original group by being wound up or dissolved or in consequence of another member of the original group being wound up or dissolved:

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

(b) The chargeable company shall cease to be a member of the original group, if such company and the company from which it had acquired the shares referred to in paragraph (a) no longer satisfy the provisions of paragraphs (i) and (iii) of article 5(9) and such determination shall be made by reference to the same individuals referred to in paragraph (iii) of the said article taken into account in determining whether the two companies referred to in this paragraph satisfied the provisions of paragraphs (i) and (iii) of article 5(9) on the date of the acquisition referred to in paragraph (a) above:

Provided that where the acquisition referred to in paragraph (a) of this subarticle took place before the 1st January 2010, paragraph (iii) of article 5(9) shall be disregarded for the purpose of determining whether a company ceases to be a member of a group.

(c) For the purpose of this subarticle the term "original group" shall mean the two companies referred to in paragraph (b) above, and the individual direct or indirect beneficial owners of the said companies who were taken into account in determining whether the provisions of paragraphs (i) and (iii) of article 5(9) had been satisfied on the date of the acquisition referred to in paragraph (a) above:

Provided that where the two companies referred to in this paragraph are directly or indirectly owned as to eighty percent or more by a company whose securities are listed on a stock exchange recognised under the Financial Markets Act, the term "original group" shall mean the two companies referred to above and the company whose securities are listed on the said stock exchange as existing on the date of the acquisition referred to in the paragraph

(a) above:

Provided further that where an individual acquires shares in terms of a donation exempt from tax under the provisions of article 5(2)(e), or a transfer *causa mortis*, such individual shall be deemed for all the purposes of this subarticle to have held such shares from the date such shares were previously acquired in an acquisition preceding the date of the donation or the transfer *causa mortis*.

(d) 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 referred to in paragraph (a) of this subarticle, it had transferred and immediately re-acquired the shares at that time.

(e) 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 subarticle (9) or by means of an allotment, whichever is the later.

(f) (i) For the purpose of ascertaining the gains or profits arising under this subarticle, 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 other than a capital redemption reserve and profits available for distribution, is applied in paying up to any extent any shares allotted by the company, the cost of acquisition of such shares shall be zero.

(g) Any gain or loss on the transfer referred to in paragraph (d) above 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 (b).

(h) For the purpose of paragraph (a) of this subarticle the term "shares in a company" shall mean shares in a company which, on the date of the acquisition referred to in the said paragraph owned, directly or indirectly, any immovable property situated in Malta and the said property or any part thereof is still, directly or indirectly, owned by such company on the date it ceases to be a member of the group in accordance with the provisions of paragraph (b) of this subarticle. For the purpose of this paragraph a company is treated as indirectly owning immovable property if it holds, directly or indirectly, shares or interests in a body of persons which owns any immovable property situated in Malta.

(i) Where in accordance with paragraph (d) of this subarticle the chargeable company is treated as having transferred and immediately reacquired the shares, and a chargeable gain or a capital loss accrues to the chargeable company on the deemed transfer, the chargeable gain or capital loss accruing on the deemed transfer shall be treated as accruing not to the chargeable company but to a related company ("company A") if -

(i) at the time of accrual, company A was incorporated in Malta, and

(ii) a joint election under this paragraph is made by the chargeable company and company A to treat the chargeable gain or capital loss as accruing to company A, and

(iii) such joint election is made by notice given to the Commissioner not later than twelve months after the end of the accounting period of the chargeable company or company A (whichever is the earlier) in which the time of accrual fell, and

(iv) provisional tax payable in accordance with article 43 of the Income Tax Management Act, is paid by company A at a rate of thirty-five percent of the market value of the shares deemed transferred within the period prescribed in the said article.

For the purpose of this paragraph company A is related to the chargeable company if both companies form a group for the purposes of article 5(9) at the time of accrual and "time of accrual" means the time at which, by virtue of paragraph (d), the gain or loss is treated as accruing to the chargeable company.";

(g) subarticle (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 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, it shall be deemed that no loss or gain has arisen from the transfer.";

(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 ("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 voting rights attached to such shares, and such value passes into other shares in or rights over the company held by any other person ("the transferee"), the transferor shall be deemed to have made a transfer of such value so reduced to the transferee. 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:

Provided that this paragraph shall not apply where the change in the issued share capital or change in voting rights does not produce any change in the individual direct or indirect

beneficial owners of the said company or in the proportion in the value of the said company represented by the shares owned beneficially directly or indirectly by each such individual:

Provided further that this paragraph shall not apply where the change in the issued share capital consists of an allotment of shares in a company as a result of an exchange of shares on a restructuring of holdings exempt from tax under the provisions of article 5(14):

Provided also that this paragraph shall not apply where the said company is a company whose securities are listed on a stock exchange recognised under the Financial Markets Act:

Provided also that this paragraph shall not apply where the transfer of value is made by the transferor to a person referred to in paragraph (i) of article 5(2)(e):

Provided also that this paragraph shall not apply where the said company is not a "property company" and it can be shown to the satisfaction of the Commissioner that the said change is effected for *bona fide* commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes is avoidance of liability to tax. For the purpose of this paragraph "property company" shall mean a company which owns immovable property situated in Malta, or any rights over such property, or a company which holds, directly or indirectly, shares or interests in a body of persons which owns immovable property situated in Malta, or any rights over such property."; and

(iii) in paragraph (c) thereof, for the words "in question" there shall be substituted the words "referred to in paragraph (b)(i)"; and

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

13. Article 5A of the principal Act shall be amended as follows: Amendment of article 5A of the principal Act.

(a) subarticle (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 resident in Malta;"

(b) subarticle (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:

Provided also that on a subsequent transfer of the said property made within a period of seven years after the date of the acquisition thereof as determined in accordance with the second proviso to paragraph (b) of subarticle (3), the cost and date of acquisition of the said property shall, where the transferor elects to exclude the transfer from the scope of this article, be the original cost and the date referred to in article 5(9)(i)."; and

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

(c) subarticle (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) subarticle (12A) thereof shall be amended as follows:

(i) in paragraph (a) thereof, for the words "ceases to be a member of the group" there shall be substituted the words "ceases to be a member of the original group", and 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 immediately after paragraph (a) the following proviso shall be added:

"Provided that where a company ceases to be a member of the original group by being wound up or dissolved, for the purpose of determining whether the chargeable company ceases to be a member of the original group under paragraph (b), such company shall be deemed to have remained in existence.";

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

"(b) The chargeable company shall cease to be a member of the original group, if such company and the company from which it had acquired the property referred to in paragraph (a) no longer satisfy the provisions of paragraphs (i) and (iii) of article 5(9) and such determination shall be made by reference to the same individuals referred to in paragraph (iii) of the said article taken into account in determining whether the two companies referred to in this paragraph satisfied the provisions of paragraphs (i) and (iii) of article 5(9) on the date of the acquisition referred to in paragraph (a) above:

Provided that where the acquisition referred to in paragraph (a) of this subarticle took place before the 1st January 2010, paragraph (iii) of article 5(9) shall be disregarded for the purpose of determining whether a company ceases to be a member of a group.";

(iii) the present paragraphs (c), (d), and (e) shall be renumbered as paragraphs (d), (e), and (f) respectively and in paragraph (d) as renumbered for the words "acquisition of the property" there shall be substituted the words "acquisition of the property referred to in paragraph (a) of this subarticle";

(iv) immediately after paragraph (b), there shall be added the following new paragraph:

"(c) For the purpose of this subarticle the term "original group" shall mean the two companies referred to in paragraph (b) above, and the individual direct or indirect beneficial owners of the said companies who were taken into account

in determining whether the provisions of paragraphs (i) and (iii) of article 5(9) had been satisfied on the date of the acquisition referred to in paragraph (a) above:

Provided that where the two companies referred to in paragraph (b) above are directly or indirectly owned as to eighty percent or more by a company whose securities are listed on a stock exchange recognised under the Financial Markets Act, the term "original group" shall mean the two companies referred to above and the company whose securities are listed on the said stock exchange as existing on the date of the acquisition referred to in paragraph (a) above:

Provided also that where an individual acquires shares in terms of a donation, exempt from tax under the provisions of article 5(2)(e), or a transfer *causa mortis* such individual shall be deemed for all the purposes of this subarticle to have held such shares from the date such shares were previously acquired in an acquisition preceding the date of the donation or the transfer *causa mortis*."; and

(v) immediately after paragraph (f) as renumbered, there shall be added the following new paragraph:

"(g) Where in accordance with paragraph (d) of this subarticle the chargeable company is treated as having transferred and immediately reacquired the property, the tax chargeable on the deemed transfer in accordance with paragraph (f) shall be treated as being due not by the chargeable company but by a related company ("company A") if:

(i) company A is incorporated in Malta;

(ii) a joint election under this paragraph is made by the chargeable company and company A to treat the tax chargeable on the deemed transfer as being due by company A;

(iii) such joint election is made by notice given to the Commissioner not later than fifteen working days from the date on which the chargeable company ceases to be a member of the group as provided in paragraph (b); and

(iv) the tax chargeable referred to in paragraph (f) is paid by company A within the period referred to in the said paragraph.

For the purpose of this paragraph company A is related to the chargeable company if both companies form a group for the purposes of article 5(9) at the time the original group ceases to exist."

14. In subarticle (1) of article 6 of the principal Act, for the words "any individual who is an employee of, or provides services to, an investment services company, as defined in article 15" there shall be substituted the words "any individual who is an employee of, or provides services to, an investment services company which holds an investment services licence issued under article 6 of the Investment Services Act or a company which is recognised by the relevant competent authority for the purposes of article 9A of that said Act, and whose activities solely comprise the provision of management, administration, safekeeping or investment advice to collective investment schemes as defined in the aforesaid Act,".

Amendment of article 6 of the principal Act.

15. Article 12 of the principal Act shall be amended a follows:

Amendment of article 12 of the principal Act.

(a) in paragraph (c)(ii) of subarticle (1) thereof, the word "disposal" (in the English version only) shall be substituted with the word "transfer" and for the words "and of any shares or securities in a company (which for the avoidance of doubt includes redemption, liquidation or cancellation) which is not a company the assets of which consist wholly or principally of immovable property situated in Malta:" there shall be substituted the words "and of any shares or securities in a company (which for the avoidance of doubt includes redemption, liquidation or cancellation) which is not a property company and for the purpose of this paragraph the word "transfer" shall have the same meaning assigned to it under article 5(1)(b):";

(b) in paragraph (t) of subarticle (1) thereof, 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";

(c) in paragraph (u) of subarticle (1) thereof, the word "disposal" shall be substituted with the word "transfer" and immediately after the second proviso thereof, there shall be added the following new provisos:

"Provided also that in respect of participating holdings in companies resident in Malta, the provisions of this paragraph shall only apply to gains or profits derived from the transfer of such holdings:

Provided further that for the purpose of this paragraph the word "transfer" shall have the same meaning assigned to it under article 5(1)(b);" and

(d) immediately after paragraph (u) of subarticle (1) as amended, there shall be added the following new paragraph:

"(v) Royalties and similar income derived from patents in respect of inventions, whether in the course of a trade, business, profession or vocation or otherwise, subject to the satisfaction of such terms and conditions (including any limits on the maximum amount of the exempt income) and obtaining such determinations as may be prescribed:

Provided that where any income which is exempt from tax in terms of this paragraph is derived by a company, the distribution of the particular profits by way of dividend by such company shall also be exempt from tax in the hands of the shareholders, so however that where the person in receipt of such dividend is itself a company (hereinafter referred to as "the second company"), any dividend paid to the members of the second company shall, to the extent that such dividend is paid out of profits which are exempt in terms of this paragraph, not be charged to tax under this Act, and where a member of the second company is again a company, the provisions of this proviso shall apply *mutatis mutandis* as though references to the second company were references to that member, and the principle set out in this proviso shall continue to be applied for as long as the exempt profits referred to in this paragraph are distributed by way of dividends:

Provided further that where such royalties or similar income are derived by a company, this exemption

shall not apply where the company has shown such income as part of its chargeable income in the return made pursuant to article 10 of the Income Tax Management Act."

16. Immediately after subarticle (3) of article 14 of the principal Act, there shall be added the following new subarticle: Amendment of article 14 of the principal Act.

"(4) Where a person derives income from work carried out on or in relation to immovable property situated in Malta, 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 such immovable property or any right thereon to which such work, loans, or credit is related, shall be deemed to constitute separate chargeable income for the purpose of this subarticle;

(b) in determining the chargeable income derived from the said work, the total deductions allowable under this article shall not exceed the amount of the consideration received or receivable for the said work; and

(c) in determining the chargeable income derived from the transfer of such immovable property or any right thereon, the total deductions allowable under this article shall not exceed the consideration received or receivable for the said immovable property or right thereon, in so far that such excess consists of any amounts paid or payable in respect of the work, loans, or credit referred to in this subarticle.

For the purpose of this paragraph any amounts paid or payable in respect of the said work, loans, or credit shall for the purpose of determining the chargeable income to be taken into account only after all other allowable deductions have been taken into account:

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 subarticle reflects the amount that would have been paid or payable if the persons referred to in this subarticle were not related.

For the purpose of this subarticle -

(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 percent by the same persons."

Amendment of article 14A of the principal Act.

17. 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 14C of the principal Act.

18. In article 14C of the principal Act, for the words "children to a licensed or registered" there shall be substituted the words "children who were below the age of 12 years to a *bona fide*", and immediately after article 14C, the following new proviso shall be added:

"Provided that the Minister may by rules prescribe the conditions under which this deduction shall be allowed."

Addition of new article 14F to the principal Act.

19. Immediately after article 14E in the principal Act, there shall be added the following new article:

"Proof of payment of fees.

14F. If an individual proves to the satisfaction of the Commissioner that he has paid fees in respect of his studies at a recognised tertiary education institution, whether locally or abroad, he shall be allowed a deduction against his income in respect of such fees in such manner and subject to such conditions as may be prescribed."

Amendment of article 29 of the principal Act.

20. Article 29 of the principal Act shall be amended as follows:

(a) the existing wording shall be numbered as subarticle (1);

(b) in subarticle (1) as renumbered, the words "the business or air transport or" shall be deleted; and

(c) immediately after subarticle (1) as renumbered, the following new subarticle shall be added:

"(2) Where a person owns, leases, or operates any one or more aircraft or aircraft engine (irrespective of the country of registration of the said aircraft or aircraft engine) which is used for or employed in the international transport of passengers or goods, any income of such person which is derived or otherwise arises from the ownership, leasing, or operation of such aircraft or aircraft engine shall, for the purposes of the Income Tax Acts, be deemed to have arisen outside Malta regardless of whether the aircraft may have called at, or operated from, any airport in Malta."

21. Article 33 of the principal Act shall be amended as follows: Amendment of article 33 of the principal Act.

(a) the first proviso to subarticle (1) thereof shall be substituted by the following:

"Provided that where the recipient derives investment income referred to in article 41(a)(viii), tax shall be deducted at the rate specified in article 56(6) or such other rate as may be prescribed and rules may also be prescribed on how the investment income provisions are to be applied in particular circumstances."; and

(b) the second proviso to subarticle (1) thereof shall be deleted.

22. Immediately after the second proviso to subarticle (2) of article 34 of the principal Act, there shall be added the following new subarticle: Amendment of article 34 of the principal Act.

"(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 41 of the
principal Act.

23. Sub-paragraph (i) of the definition "recipient" in paragraph (c) of article 41 of the principal Act shall be substituted by the following:

"(i) a person who is resident in Malta during the year in which investment income is payable to him or which is payable to a person under sub-paragraphs (ii) or (iii) of this paragraph (other than a person who during that year carried on banking business under the Banking Act, or a person carrying on the business of insurance or any other company (hereinafter "owned and controlled company") which is owned and controlled, directly or indirectly, by such persons, excluding an owned and controlled company not carrying on the business of banking or insurance which is listed on a stock exchange recognised under the Financial Markets Act and in respect of which the Commissioner, at his discretion, has issued a determination that such company falls within the purport of this definition, or a company which is registered under article 24 of the Malta Financial Services Authority Act), or".

Amendment of
article 43 of the
principal Act.

24. Subarticle (6) of article 43 of the principal Act shall be amended as follows:

(a) paragraph (c) thereof shall be substituted by the following:

"(c) Where an individual resident in Malta is beneficially entitled, directly or indirectly, to the profits (whether or not distributed) of a company which has applied the provisions of article 12(1)(u) to any of its income or gains, such individual shall be deemed to have received, at the time that the said company has submitted its tax return in which the said income or gains would have been charged to tax but for the fact that it applied the said exemption or the last date on which such a tax return is due to be submitted, whichever is the earlier, so much of that income or gains as corresponds to his, direct or indirect, entitlement to receive that income or gains by way of dividend or other means through or from any person or entity in any manner whatsoever and for the purpose of this paragraph if the company would have already distributed such income or gains or part thereof it shall be deemed that no such distribution has been made.";and

(b) paragraph (f) thereof shall be amended as follows:

(i) in sub-paragraph (i), for the words

"recognised under the Financial Markets Act" there shall be substituted the words "determined by the Commissioner for the purpose of this provision"; and

(ii) in sub-paragraph (ii), for the words "not listed on such a stock exchange and not frequently traded" there shall be substituted the words "not listed on such a recognised stock exchange or not frequently traded".

25. 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 47 of the principal Act.

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

Amendment of article 51 of the principal Act.

(a) in subarticle (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 subarticle (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 subarticle (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".

27. Article 56 of the principal Act shall be amended as follows:

Amendment of article 56 of the principal Act.

(a) in subarticle (12) thereof, immediately after paragraph (c), there shall be added the following new paragraph:

"(d) Where a person has taken action under a Mutual Agreement Procedure in terms of an arrangement referred to in article 76 of this Act including Convention 90/436/EEC of 23 July 1990 on the elimination of double taxation in connection with the adjustment of profits of

associated enterprises, any additional tax chargeable in terms of paragraph (c) of this subarticle shall not apply for the period between the date when the said action under the Mutual Agreement Procedure is initiated and the date when the issue is concluded under the said procedure:";

(b) in subarticle (17), 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";

(c) immediately after subarticle (20) there shall be added the following new subarticle:

"(21) Where, during the year immediately preceding the year of assessment 2011 or any subsequent year of assessment, an individual who for the purposes of this subarticle, is not deemed to be ordinarily resident in Malta derives income subject to tax under article 4(1)(b), being emoluments payable under a qualifying contract of employment, and received in respect of work or duties carried out in Malta, or in respect of any period spent outside Malta in connection with such work or duties, or on leave during the carrying out of such work or duties, then, notwithstanding anything to the contrary contained in this Act, that individual may opt to have the said income charged to tax at the rate of 15 cents on every euro:

Provided that:

(a) where the said option is exercised, the income that is charged to tax at the said rate shall be deemed to constitute the first part of that individual's total income for the year of assessment in question and the tax on the remaining income shall be calculated at the rate or rates that would have been applicable to that remaining income had the option not been exercised;

(b) where the said option is exercised, the minimum amount of income which shall be chargeable to tax at the said rate in respect of the year of assessment in question shall be deemed to be such amount as may be prescribed and the tax thereon shall not be less than the tax which results from applying the said rate on the deemed minimum amount;

(c) the applicability of this subarticle shall be subject to such conditions and restrictions as may be prescribed, including:

(i) the conditions under which an individual is to be deemed as being not ordinarily resident in Malta and under which a contract of employment is to be deemed as a qualifying contract of employment for the purposes of this subarticle;

(ii) the maximum period or number of years for which, the said option may be exercised;

(iii) the procedure to be used for the exercise of the said option;

(iv) such other conditions and restrictions as the Minister may deem fit."; and

(d) immediately after the new subarticle (21) there shall be added the following new subarticle:

"(22) In the case of capital gains derived by a person from the transfer of shares listed on a stock exchange recognised under the Financial Markets Act, not being securities in a collective investment scheme, and not being exempt from tax under the provisions of paragraph (b) of article 5(6), such income shall be deemed to constitute separate chargeable income to be taxed separately at the rate of 15 cents (€0.15) on every euro."

28. In article 59 of the principal Act, for the words "company resident in Malta" there shall be substituted the words "company registered in Malta". Amendment of article 59 of the principal Act.

29. In paragraph (b) of article 80 of the principal Act, for the words "under the laws of a territory outside Malta." there shall be substituted the words "under the laws of a territory outside Malta, including, in the case of a claim for relief to which paragraphs (a) and (b) of article 82 applies, tax imposed under the Income Tax Acts.". Amendment of article 80 of the principal Act.

30. In article 81 of the principal Act, the words "which is payable in a territory other than Malta" shall be deleted. Amendment of article 81 of the principal Act.

PART IV

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

31. (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".

(2) The provisions of this Part, other than article 43 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 43 shall be deemed to have come into force on 1st January, 2010.

Amendment of article 2 of the principal Act.

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

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) and 354(3) 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*;"

Substitution of article 4 of the principal Act.

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

"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."

Amendment of article 6 of the principal Act.

34. Subarticle (1) of article 6 of the principal Act shall be substituted by the following:

"(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."

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

Substitution of article 25 of the principal Act.

"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."

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

Substitution of article 27 of the principal Act.

"Duty on policies of insurance.

"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."

Amendment of article 32 of the principal Act.

37. Subarticle (6) of article 32 of the principal Act shall be amended as follows:

(a) the whole subarticle shall be renumbered as paragraph (a) thereof; and

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

"(b) The provisions of paragraph (a) shall only apply where the individual, direct or indirect, beneficial owners of the companies referred to in the said paragraph are the same and each such individual holds, directly or indirectly, substantially the same percentage interest in the nominal share capital and voting rights in each of the said companies.

For the purpose of this paragraph an individual is deemed to hold substantially the same percentage interest in the nominal share capital and voting rights in each of the said companies where the difference between the percentage interest held in each company does not exceed twenty percent:

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

Provided further that if more than one individual holds, directly or indirectly, less than twenty percent of the nominal share capital and voting rights in one of the said companies, the preceding proviso shall not apply where

together such individuals hold, directly or indirectly, twenty percent or more of the nominal share capital and voting rights in that company:

Provided also that the whole of this paragraph shall not apply, where the companies referred to in paragraph (a) of this subarticle are directly or indirectly owned as to eighty percent or more by a company whose securities are listed on a stock exchange recognised under the Financial Markets Act."

38. Article 42 of the principal Act shall be amended as follows: Amendment of article 42 of the principal Act.

(a) in the proviso to paragraph (b) of subarticle (1) thereof, the words "which do not own any immovable property other than such premises as may be prescribed" shall be deleted;

(b) immediately after sub-paragraph (iii) of the proviso to paragraph (b) of subarticle (1) thereof, there shall be added the following new provisos:

"Provided further that where the companies referred to in the immediately preceding proviso own, directly or indirectly, any immovable property or rights over an immovable, the immediately preceding proviso shall only apply where the individual, direct or indirect, beneficial owners of the companies referred to in the said proviso are the same and each such individual holds, directly or indirectly, substantially the same percentage interest in the nominal share capital and voting rights in each of the said companies both before and after the transfer or exchange, as the case may be. The provisions of paragraph (b) of article 32(6) shall apply *mutatis mutandis* for the purpose of making such determination. For the purpose of this proviso a company is treated as indirectly owning immovable property or any rights over an immovable if it holds, directly or indirectly, any shares or interests in a body of persons which owns immovable property or any rights over an immovable:

Provided also that the immediately preceding proviso shall not apply, where the said companies are, directly or indirectly, owned as to eighty percent or more by a company whose securities are listed on a stock exchange recognised under the Financial Markets Act.";

(c) immediately after paragraph (c) of subarticle (1) thereof, there shall be added the following new paragraph (d):

"(d) on a transfer of real value in marketable securities as provided for in article 42B.";

(d) subarticle (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 the company referred to in article 42B, or whose marketable securities are transferred holds, directly or indirectly, shares in a 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 paragraph (b) above shall only apply where the aggregate value of:

(i) immovable property or any right over an immovable owned by a property company or companies (as represented by the percentage interest held in such company or companies), and

(ii) immovable property or any right over an immovable owned by the company referred to in article 42B or whose marketable securities are transferred,

is equal to or exceeds seventy-five percent of the total non-current assets of the property company or companies (as represented by the percentage interest held in such company or companies) and of the company referred to in article 42B or whose marketable securities are transferred, disregarding the book value of shares held, directly or indirectly, in the property company or companies and taking into account total current assets consisting of immovable property:

Provided further that paragraph (b) 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) of this subarticle.

(c) For the determining of the amount or value of the consideration or the real value of the marketable security or of the real value of the company referred to in article 42B, 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 other than -

(i) a bank loan relating to the cost of acquisition and improvements of the immovable property or real right thereon; or

(ii) a debt registered at the Public Registry relating to the acquisition cost of the aforesaid immovable, where such debt is registered within three months from the date of acquisition of the said immovable,

proved in each case by the production of such documents to the satisfaction of the Commissioner, as the Commissioner may require."; and

(e) immediately after subarticle (2) as substituted, there shall be added the following new subarticles:

"(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.

(4) The Minister responsible for finance may make rules under this Act or the Income Tax Act for the implementation of the provisions of this article and article 42B and, without prejudice to the generality of the foregoing, such rules may provide for:

(a) the manner in which the real value of a company is to be determined;

(b) the manner in which the real value of marketable securities is to be determined;

(c) the manner in which a transfer of real value in marketable securities as provided for in article 42B is to be determined; and

(d) any matter that may be prescribed under this article."

Addition of new article 42B to the principal Act.

39. Immediately after article 42A of the principal Act there 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 voting 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:

Provided that this article shall not apply where:

(i) the change in the issued share capital or change in voting rights does not produce any change in the individual, direct or indirect, beneficial owners of the said company or in the proportion in the real value of the said company represented by the shares owned beneficially, directly or indirectly, by each such individual; or

(ii) the change in the issued share capital consists of an allotment of shares in a company, as a result of an exchange of shares from one company to another exempt from duty under the provisions of article 42(1); or

(iii) the transfer of value is the result of a change in voting rights and such transfer is made by the transferor to a person referred to in paragraph (i) of article 5(2)(e) of the Income Tax Act; or

(iv) the said company is a company whose securities are listed on a stock exchange recognised under the Financial Markets Act; or

(v) the said company is not a "property company" and it can be shown to the satisfaction of the Commissioner that the said change is effected for *bona fide* commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes is avoidance of liability to duty. For the purpose of this paragraph "property company" shall mean a company which owns any immovable property situated in Malta, or any rights over such property, or a company which holds, directly or indirectly, shares or interests in a body of persons which owns any immovable property situated in Malta, or any rights over such property."

40. The proviso to subarticle (2) of article 43 of the principal Act shall be substituted by the following two provisos:

Amendment of article 43 of the principal Act.

"Provided that a notice given as aforesaid may stipulate

that it will apply also to other transfers of marketable securities executed outside Malta that may be made in the future by the same person, in which case that person will not be required to give notice of such further transfers:

Provided further that notice shall not be given where duty is not chargeable under any of the provisions of this Act."

Amendment of article 47 of the principal Act.

41. Article 47 of the principal Act shall be amended as follows:

(a) immediately after subarticle (2) thereof, there shall be added the following new paragraph:

"For the purpose of this article acquisitions or disposals of marketable securities shall include a transfer of real value in marketable securities as referred to in article 42(1)(d)."; and

(b) immediately after paragraph (e) of subarticle (3) thereof, there shall be added the following new provisos:

"Provided that the holding of marketable securities in, and the carrying on of business activities with, a company or companies referred to in paragraphs (c), (d) or (e) shall be deemed to constitute business interests outside Malta:

Provided further that for the purpose of determining whether a company referred to in article 384 of the Companies Act satisfies the provisions of this paragraph, only such company's operations in Malta shall be taken into consideration."

Amendment of article 49 of the principal Act.

42. Article 49 of the principal Act shall be renumbered as subarticle (1) thereof and immediately thereafter there shall be added the following new subarticle:

"(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.

43. (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.

44. Subarticle (1) of article 64 of the principal Act shall be substituted by the following: Amendment of article 64 of the principal Act.

"(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 V

45. 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.

46. In subarticle (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."

47. In subarticle (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."

Amendment of article 36 of the principal Act.

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

"(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 without any reasonable excuse the records, documents, accounts and electronic data in accordance with the proviso to article 31(5);".

Amendment of article 38 of the principal Act.

49. 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.

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

(a) in subarticle (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 subarticle (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.

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

(a) in subarticle (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) of subarticle (1), for

the words "according to the deed." there shall be substituted the words "according to the deed:" and immediately thereafter the following new provisos shall be added:

"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 seven percent of the higher of the market value and 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 subarticle (13)(b)(ii) of article 5 of the Income Tax Act, the provisional tax payment shall be equivalent to seven percent of the gains or profits referred to in the said subarticle.";

(c) in paragraph (a) of subarticle (2) thereof, for the words "any transfer of assets not subject to tax on capital gains, or to tax under the provisions of article 4 of the Income Tax Act;" there shall be substituted the words "any transfer of assets not subject to tax under the provisions of articles 5 and 12 of the Income Tax Act where the transferor submits to the Commissioner the prescribed form, stating which provision is applicable, and any other relevant documents which the Commissioner may deem necessary:

Provided that provisional tax shall in any case be paid if article 33 of the Income Tax Act is applicable as a result of claiming the exemption provided for under article 12(1)(u) of the said Act;"; and

(d) in subarticle (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 twenty percent shall be calculated on the higher of the market value and the consideration.".

Amendment of
article 44 of the
principal Act.

52. Article 44 of the principal Act shall be amended as follows:

(a) in subarticle (2B) thereof, immediately after paragraph (b), there shall be added the following new paragraph:

"(c) no interest shall run on any tax payable in circumstances where a person has taken action under a Mutual Agreement Procedure in terms of an arrangement referred to in article 76 of this Act including Convention 90/436/EEC of 23 July 1990 on the elimination of double taxation in connection with the adjustment of profits of associated enterprises, for the period between the date when the said action under the Mutual Agreement Procedure is initiated and the date when the issue is concluded under the said procedure."; and

(b) subarticle (3) shall be substituted by the following:

"(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."

Amendment of
article 48 of the
principal Act.

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

(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 subarticle.

Cap. 406. (1B) Notwithstanding the provisions of subarticle (1) of this article, in no case shall any refund be made under this Act to any person registered for the purpose of the Value Added Tax Act, unless and until such person has filed all tax returns or declarations required to be furnished for the purpose of the Value Added Tax 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 subarticle.";

(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.";

(c) (i) immediately after paragraph (a) of subarticle (4) thereof, there shall be inserted the following new proviso:

"Provided that the conditions set out in paragraphs (i) and (ii) above shall not apply in respect of dividends paid by any company registered in Malta to any recipient shareholder who is registered for the purpose of this article 48(4) or article 48(4A) of this Act.";

(ii) paragraph (ii) of the last proviso to subarticle (4) thereof shall be substituted the following:

"(ii) a person resident in Malta, registered for the purpose of making a claim in terms of this subarticle in such manner as may be prescribed, may also claim a tax refund contemplated by this subarticle with respect to dividends paid from profits allocated to the foreign income account when such dividend is paid:

1. by a company which was a company registered in Malta on or after 1 January 2007 but was not resident in Malta before that date; and

2. by any company which has exercised its option in terms of paragraph (i) of the proviso to article 48(4A)(b) of this Act; and

3. by any other company registered in Malta out of profits derived by the said company in respect of accounting periods which commenced on or after 1 January 2011.";

(d) in subarticle (4A) thereof, for paragraph (bb) of the sub-proviso to paragraph 2 of proviso (i) to paragraph (b) thereof, there shall be substituted the following:

"(bb) The Commissioner may, in his discretion, determine that paragraph 2 above applies to a company if he is of the opinion that it is likely that in the foreseeable future more than half of the distributable profits of the company will consist of any or all of the following categories of income:

- profits that will be allocated to the foreign income account;

- profits which are not subject to tax but which would otherwise be allocated to the foreign income account;

- dividends received from an international trading company, including, where applicable, dividends paid after that company has exercised the option under paragraph 1 of proviso (i);

- income derived from the ownership and, or chartering of any tonnage tax ship as defined in the Merchant Shipping (Taxation and Other Matters Relating to Shipping Organisations) Regulations, 2004;

- income derived from the ownership and, or chartering of any ship, yacht, boat and any other vessel (in each case not being a tonnage tax ship as defined in the Merchant Shipping (Taxation and Other Matters Relating to Shipping Organisations) Regulations, 2004) provided that the aforesaid income is derived by a company which was originally incorporated in terms of and

subject to the Merchant Shipping (Shipping Organisations - Private Companies) Regulations, 2004 and whose objects were restricted as required under such Regulations;

- income of any company qualifying for benefits in terms of regulation 4, 5 or 6 of the Business Promotion Regulations, 2001:"; and

(e) in subarticle (8) thereof, for the words "following the end of the month in which the refund becomes due" there shall be substituted the words "following the day on which the refund becomes due".

PART VI

54. (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".

Amendments to the Excise Duty Act.
Cap. 382.

(2) Articles 55, 56, 57, 58 and 59 to 63 shall come into force on such date as the Minister responsible for finance may, by notice in the Gazette, establish.

(3) Articles 64 and 65 shall be deemed to have come into force on the 10th November 2009.

55. Article 13 of the principal Act shall be amended as follows:

Amendment of article 13 of the principal Act.

(a) in subarticle (2) thereof, for the words "eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87)" there shall be substituted the words "twenty-five thousand euro (€25,000)"; and

(b) in subarticle (3) thereof, for the words "four hundred and sixty-five euro and eighty-seven cents (465.87)" there shall be substituted the words "twenty-five thousand euro (€25,000) or an amount equal to three times the duty payable on any goods in respect of which the offence is committed, whichever shall be the higher".

56. Article 16 of the principal Act shall be amended as follows:

Amendment of article 16 of the principal Act.

(a) in subarticle (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 euro (€25,000)

Provided further that one-third of this amount shall be deemed as a civil debt owed and payable to the Department of Customs."; and

(b) subarticle (2) thereof shall be deleted.

Addition of new article 16A to the principal Act.

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

"Penalty instead of proceedings in terms of this Act.

16A. Notwithstanding 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, whilst he forfeits the goods 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)."

Substitution of article 17 of the principal Act.

58. Article 17 of the principal Act shall be substituted by the following:

"17. (1) If any excise goods -

(a) are deposited or concealed in any place with intent to defraud the Government of the excise duty leviable under this Act; or

(b) are clandestinely or illegally removed from or out of any tax warehouse or place of security in which

such excise goods have been duly deposited; or

(c) after having been delivered from any tax warehouse or other place of security without payment of duty for removal to any place authorised by the Comptroller, are not duly delivered at such place; or

(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,

in every such case, such excise goods shall be forfeited, and the offender shall moreover be liable to the penalties laid down in the last preceding article.

(2) Furthermore, all vehicles, vessels and other means of transport, used or intended to be used for the importation, landing, removal, keeping, concealing or conveyance of any uncustomed or other goods liable to forfeiture under this Act together with the property, whether movable or immovable, within which the uncustomed or goods liable to forfeiture are found, shall be forfeited:

Provided that no vessel shall be liable to forfeiture under the provisions of this article unless such vessel is under two hundred and fifty tons net registered tonnage.

(3) With regard to any vessel of or exceeding two hundred and fifty tons net registered tonnage, it shall be lawful for the Comptroller, in any case in which in his opinion a responsible officer of such vessel is implicated either actually or by neglect, to take proceedings in the manner prescribed by article 36 and subject to appeal as laid down in that article, for condemnation of the said vessel in a sum of twenty-five thousand euro (€25,000). And for this purpose the Comptroller may require, as to any vessel referred to in this subarticle, the deposit in his hands of a sum of twenty-five thousand euro (€25,000) to abide by the decision of the court, and in default of payment of such deposit, the Comptroller may detain such vessel.

(4) No claim for damages shall lie against the Comptroller in respect of the payment of any deposit or the detention of any vessel, vehicle or other goods under this article.

(5) The expression "responsible officer" in this article means and includes the master, mates and engineers of any

vessel, and in the case of a vessel carrying a passenger certificate, the purser or chief steward.

(6) The expression "neglect" includes cases where goods unowned by any of the crew are discovered in a place or places in which they could not reasonably have been put if the responsible officers having supervision of such place or places had exercised proper care, at the time of the loading of the ship or subsequently."

Amendment of article 18 of the principal Act.

59. In subarticle (4) of article 18 of the principal Act, for the words "eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87)" there shall be substituted the words "twenty-five thousand euro (€25,000)".

Amendment of article 25 of the principal Act.

60. In subarticle (1) of article 25 of the principal Act, for the words "may be detained by such excise officer" there shall be substituted the words "shall be detained by such excise officer".

Amendment of article 26 of the principal Act.

61. In subarticle (1) of article 26 of the principal Act, for the words "may be seized" there shall be substituted the words "shall be seized".

Addition of new article 29A to the principal Act.

62. Immediately after article 29 of the principal Act there shall be added the following new article:

"Power to grant, refuse or withdraw authorization.

29A. (1) The Comptroller may grant to, refuse to grant or withdraw an authorization from a person to act as a registered excise trader or authorized warehouse keeper.

(2) The Comptroller may refuse to grant or withdraw an authorization according to subarticle (1) if in the opinion of the Comptroller:

(a) where the applicant is a natural person, the applicant is not a fit and proper person;

(b) where the applicant is a partnership, any of the partners are not fit and proper persons;

(c) where the applicant is a company, any director, shareholder or officer of the company who would be involved in the direction or control of the company is not a fit and proper person.

(3) A natural person, partnership or company shall be deemed to be unfit and proper, if amongst others:

(a) they lack honesty, integrity or competence in their dealings with the Comptroller of Customs; or

(b) they lack financial soundness; or

(c) such person has contravened any of the dispositions of this Act or any other Act relating to customs; or

(d) such person has been found guilty of committing a criminal offence or any other offence relating to property and public security, public trust, government revenue or financial services.

(4) Any person who feels aggrieved by a decision taken by the Comptroller according to subarticle (3), may appeal under article 31 to the Excise Duty Appeals Board."

63. In subarticle (1) of article 31 of the principal Act, for the words "under article 30" there shall be substituted the words "under articles 29A and 30".

Amendment of article 31 of the principal Act.

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

Amendment of the Third Schedule to the principal Act.

(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.".

Amendment to
the Fourth
Schedule to the
principal Act.

65. 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 VII

Amendment to
the Value Added
Tax Act.
Cap. 406.

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

(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.

Amendment of
article 24 of the
principal Act.

67. In subarticle (2) of article 24 of the Act for the words "whichever is the later." there shall be substituted the words

"whichever is the later:" and immediately thereafter there shall be added the following proviso:

"Provided that where a person to whom a refund is payable in terms of this subarticle has, by the date the refund claim is made, failed to submit a return of income in respect of the year of assessment 1999 or any subsequent years of assessment by the date required to be submitted in terms of the provisions of the Income Tax Management Act and such failure persists until the date such refund becomes payable, any such refund shall not be paid to such person and shall be withheld by the Commissioner until such time as the said return of income is submitted; and provided further that notwithstanding any other provisions of this Act, no interest shall be due by the Commissioner in respect of the period during which the said refund was withheld on account of failure to submit a return of income for the purposes of the Income Tax Management Act."

68. In subarticle (2) of article 30 of the principal Act, immediately after the words "intra-Community acquisitions" there shall be inserted the words "and purchases made for which the customer is liable for the payment of the tax pursuant to articles 20(2)(b) and 20(2)(c) of the Act".

Amendment of article 30 of the principal Act.

PART VIII

69. 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.

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

Addition of new articles 13C and 13D 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.

71. Immediately after subarticle (2) of article 16 of the principal Act, there shall be added the following subarticles:

"(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 IX

72. 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.

Passed by the House of Representatives at Sitting No. 205 of the 24th March, 2010.

LOUIS GALEA
Speaker

PAULINE ABELA
Clerk to the House of Representatives