

Naghti l-kunsens tiegħi.

(L.S.)

Ugo Mifsud Bonnici
President

10 ta' Ġunju, 1997

ATT Nru. XI ta' l-1997

ATT biex jemenda l-Att dwar l-Iżvilupp Industrijali, Kap. 325.

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. (1) Dan l-Att jista' jissejjah l-Att ta' l-1997 li jemenda l-Att dwar l-Iżvilupp Industrijali, u għandu jinqara u jinftiehem haġa waħda ma' l-Att dwar l-Iżvilupp Industrijali, hawnhekk iżjed 'il quddiem imsejjah "l-Att prinċipali".

Titolu fil-qosor
u bidu fis-sehh.

Kap. 325.

(2) Dan l-Att jidhol fis-sehh f'dik id-data li l-Ministru responsabbli għall-Industrija jista' jistabbilixxi permezz ta' avviż fil-Gazzetta u dati differenti jistgħu jiġu hekk stabbiliti għal dispożizzjonijiet differenti jew għal għanijiet differenti ta' l-Att.

2. L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-
artikolu 2 ta'
l-Att prinċipali.

(i) fil-proviso għall-paragrafu (b) tat-tifsira ta' "bejgħ esportat", minflok il-kliem "flimkien ma' kopja awtentikata minnu ad-dokumenti relattivi ta' l-esportazzjoni" għandhom jidhlu l-kliem "flimkien ma' garanzija li l-Korporazzjoni tista' teżamina d-dokumenti relattivi ta' l-esportazzjoni", u minflok il-kliem "din id-dikjarazzjoni u dokumenti" għandhom jidhlu l-kliem "din id-dikjarazzjoni u garanzija";

(ii) minflok il-paragrafu (c) tat-tifsira ta' "bejgħ esportat" għandu jidhlo dan il-paragrafu gdid li ġej:

"(c) il-valur ta' servizzi mogħtija jew imwettqa minn kumpannija kwalifikanti li jkunu esportati mill-istess kumpannija u fil-każ ta' kumpannija li tikkwalifika taht il-paragrafu (e) tas-subartikolu (1) ta' l-artikolu 3 ta' dan l-Att

il-valur ta' servizzi mogħtija jew imwettqa lil kumpannija kwalifikanti ohra li tissodisfa d-dispożizzjonijiet tal-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 4 ta' dan l-Att;";

(iii) minflok it-tifsira ta' "kumpannija", għandha tidhol it-tifsira ġdida li ġejja:

" "kumpannija" tfisser -

Kap. 168.
Att XXV ta'
l-1995.

(a) kull soċjetà kostitwita taħt l-Ordinanza dwar is-Soċjetajiet Kummerċjali jew l-Att ta' l-1995 dwar il-Kumpanniji li tkun jew soċjetà *en nom collectif*, in akkomandita jew kumpannija ta' responsabbiltà limitata;

(b) kull korp kostitwit, inkorporat jew registrat barra minn Malta, u tax-xorta bħall-imsemmija soċjetajiet;

(ċ) kull għaqda koperativa hekk registrata kif imiss taħt il-liġi xierqa li tkun għal dak iż-żmien fis-seħh f'Malta;";

(iv) fit-tifsira ta' "kumpannija Maltija", minnufih wara l-kliem "ċittadini ta' Malta" għandhom jidhlu l-kliem "direttament jew indirettament;"; u

(v) minnufih wara t-tifsira ta' "kumpannija Maltija" għandha tidhol it-tifsira ġdida li ġejja:

Kap. 197. " "lukanda" tfisser lukanda liċenzjata bħala tali taħt l-Att dwar il-Lukandi u l-Istabbilimenti li jipprovdu Ikel, jew bini fil-kors ta' kostruzzjoni li hu maħsub li jiġi liċenzjat bħala hekk meta jitlesta;".

Emenda ta'
l-artikolu 3 ta'
l-Att
prinċipali.

3. L-artikolu 3 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem "ta' l-artikolu 24" għandhom jidhlu l-kliem "ta' l-artikolu 24, l-artikolu 24A u l-artikolu 24B";

(b) fil-paragrafu (b) tas-subartikolu (1) tiegħu, minnufih wara l-kliem "makkinarju jew tagħmir" għandu jidhol il-kliem "u riċiklaġġ jew trattament ta' skart";

(ċ) minflok il-paragrafu (e) tas-subartikolu (1) tiegħu, għandu jidhol il-paragrafu li ġej:

"(e) l-ghoti ta' servizzi minn kumpannija lil persuni mhux residenti jew lil kumpannija kwalifikanti li tissodisfa d-dispożizzjonijiet tal-paragrafu (b) tas-subartikolu (1) ta' l-artikolu 4 ta' dan l-Att, kemm jekk is-servizz jiġi mwettaq jew mogħti f'Malta jew minn Malta, iżda servizz bħal dan

irid ikun gie stabbilit mill-Ministru bhala servizz ghall-esportazzjoni kwalifikanti; jew”; u

(d) minnufih wara l-*proviso* li hemm mas-subartikolu (8) tiegħu, għandhom jidhlu dawn iż-żewġ *provisos* godda li ġejjin:

“Izda wkoll, minkejja kull dispożizzjoni ohra ta’ dan l-Att fir-rigward ta’ kumpanniji kwalifikanti inkorporati barra minn Malta, l-inċentivi u l-benefiċċji kontemplati f’dan l-Att jistgħu jiġu akkwistati biss minn kumpanniji kwalifikanti registrati bhala kumpannija barranija skond l-Att ta’ l-1995 dwar il-Kumpanniji, rigward l-attivitajiet tagħhom li jiġru nhar jew wara l-1 ta’ Jannar, 1997:

Izda wkoll l-inċentivi u l-benefiċċji kkontemplati fis-subartikolu (1) ta’ l-artikolu 6, fis-subartikolu (7) ta’ l-artikolu 8, fl-artikolu 9, fl-artikolu 15 u fl-artikolu 24B ta’ dan l-Att jistgħu jiġu akkwistati biss minn kumpannija kostitwita taht il-Liġi Maltija.”.

4. Minnufih wara l-artikolu 3 ta’ l-Att prinċipali, għandu jiżdied dan l-artikolu għid li ġej:

Żieda ta' artikolu għid 3A ma' l-Att prinċipali.

“Trasferiment ta’ negozju lil kumpannija barranija.

3A. (1) Meta permezz ta’ riżoluzzjoni straordinarja jiġi deciż li jsir it-trasferiment tal-kummerċ jew negozju ta’ kumpannija li hija kostitwita taht il-Liġi Maltija, minn issa ’l quddiem imsemmija bhala l-ewwel kumpannija, lil kumpannija registrata bhala kumpannija barranija skond l-Att ta’ l-1995 dwar il-Kumpanniji, minn issa ’l quddiem imsemmija bhala t-tieni kumpannija, u l-Korporazzjoni hija sodisfatta li l-azzjonisti benefiċċjarji ahharija ta’ dawn iż-żewġ kumpanniji huma l-istess u mhumiex residenti f’Malta,

(i) id-drittijiet u l-obbligazzjonijiet kollha ta’ l-ewwel kumpannija li johorgu mid-dispożizzjonijiet ta’ dan l-Att, jiġu meqjusa li huma d-drittijiet u l-obbligazzjonijiet tat-tieni kumpannija daqs li kieku tali drittijiet u obbligazzjonijiet kienu jappartjenu minn dejjem lit-tieni kumpannija;

(ii) it-tieni kumpannija tkun intitolata għall-inċentivi u benefiċċji kkontemplati b’dan l-Att bl-istess mod li l-ewwel kumpannija kienet tkun intitolata kieku t-trasferiment tan-negozju ma seħħx u dan irrispettivament jekk l-ewwel kumpannija gietx xolta jew le.

(2) Id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu ghandu japplika, *mutatis mutandis*, fejn kumpannija registrata bhala kumpannija barranija skond l-Att ta' l-1995 dwar il-Kumpanniji tittrasferixxi n-negozju taghha lil kumpannija kostitwita taht il-Ligi Maltija u f'dan il-każ fis-subartikolu (1) ta' dan l-artikolu "l-ewwel kumpannija" ghandha tfisser kumpannija registrata bhala kumpannija barranija skond l-Att ta' l-1995 dwar il-Kumpanniji u "it-tieni kumpannija" ghandha tfisser kumpannija kostitwita taht il-Ligi Maltija.

(3) Ghall-iskopijiet ta' dan l-artikolu kummerç jew negozju ghandu jiġi meqjus li ġie trasferit meta:

(i) l-assi tangibbli kollha ta' l-ewwel kumpannija jiġu trasferiti lit-tieni kumpannija, liema kumpannija tuża tali assi fit-twettiq ta' l-istess tip ta' kummerç jew negozju li kien jitwettaq mill-ewwel kumpannija; u

(ii) il-klijenti tat-tieni kumpannija huma sostanzjalment l-istess bhal ta' l-ewwel kumpannija.

(4) Wara li tkun sodisfatta li d-dispożizzjonijiet ta' dan l-artikolu jkunu ġew osservati, il-Korporazzjoni tista' tohrog ċertifikat ghal dan l-iskop, liema ċertifikat ghandu jikkostitwixxi prova suffiçjenti ghall-iskop ta' l-applikazzjoni ta' dan l-artikolu."

Emenda ta' l-artikolu 4 ta' l-Att prinçipali.

5. Minflok il-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 4 ta' l-Att prinçipali ghandu jidhol dan li ġej:

“(a) hija kumpannija:

(i) li ġiet ikkostitwita taht il-Ligi Maltija nhar jew wara l-1 ta' Gunju, 1987; jew

(ii) hija kumpannija inkorporata barra minn Malta u li ġiet registrata bhala kumpannija barranija skond l-Att ta' l-1995 dwar il-Kumpanniji nhar jew wara l-1 ta' Gunju, 1987 rigward biss l-attivitajiet taghha li jiġru nhar jew wara l-1 ta' Jannar, 1997; u”.

Emenda ta' l-artikolu 5 ta' l-Att prinçipali.

6. L-artikolu 5 ta' l-Att prinçipali ghandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem “sa s-sena ta' stima 2001” ghandhom jiġu mħassra;

(b) fis-subartikolu (2) tieghu, minnufih wara l-kliem “Z” = bejgh totali fis-sena ta’ stima” ghandu jidhol il-paragrafu ġdid li ġej:

“Ghall-finijiet ta’ dan l-artikolu fejn kumpannija kwalifikanti tkun biddlet id-data li fiha jaghlaq il-perjodu ta’ kontjar ghall-finijiet ta’ l-artikolu 11 ta’ l-Att dwar it-Taxxa fuq l-*Income* u l-profitti ta’ tali perjodu ta’ kontjar ghandhom jiġu intaxxati:

(a) f’xi sena ta’ stima kompriża fiż-żmien bażi;
jew

(b) f’xi sena ta’ stima rigward liema l-kumpannija titlob il-benefiċċju kontemplat b’dan l-artikolu jew l-artikolu 5A ta’ dan l-Att,

fejn in-numru ta’ ġranet kompriži f’tali perjodu ta’ kontjar ikun aktar jew anqas minn tliet mija u hamsa u sittin ġumata, il-valur tal-bejgh totali, tal-bejgh esportat u l-profitti ta’ l-imsemmi perjodu ta’ kontjar ghandu jiġi mnaqqas jew miżjud, kif ikun il-każ, billi jiġi multiplikat il-valur attwali ta’ tali bejgh totali, bejgh esportat u profitti bil-proporzjon li tliet mija u hamsa u sittin ġumata jkollhom ghan-numru attwali ta’ ġranet kompriż fl-imsemmi perjodu ta’ kontjar.”;

(ċ) fil-paragrafu (d) tas-subartikolu (3) tieghu, minnufih wara l-kliem “ma kenitx kostitwita” ghandhom jidhlu l-kliem “, jew fil-każ ta’ kumpannija kwalifikanti li tkun inkorporata barra minn Malta, tali kumpannija ma kenitx registrata bhala kumpannija barranija skond l-Att ta’ l-1995 dwar il-Kumpanniji.”;

(d) fis-subartikolu (4) tieghu, minnufih wara t-tabella li turi ż-żmien bażi applikabbli, ghandu jidhol dan il-proviso ġdid li ġej:

“Izda ż-żmien bażi ghas-sena ta’ stima 2002 u ghas-snin ta’ stima sussegwenti ghandhom jiġu determinati billi jiżdieđu b’sena wahda s-snin kompriži fiż-żmien bażi ghas-sena ta’ stima preċedenti.”; u

(e) minflok l-proviso li hemm mas-subartikolu (5) tieghu ghandu jidhol dan il-proviso ġdid li ġej:

“Izda kumpanija kwalifikanti tista’ tibbenefika mid-dispożizzjonijiet ta’ dan l-artikolu għal mhux aktar minn għaxar snin ta’ stima, liema għadd ta’ snin m’għandux għalfejn ikun konsekuttiv.”.

Zieda ta’
artikolu 5A ġdid
ma’ l-Att
prinċipali.

7. Minnufih wara l-artikolu 5 ta’ l-Att prinċipali, għandu jiżdied dan l-artikolu ġdid li ġej:

“Skema ta’
inċentivi
għall-
investment.

5A. (1) Meta kumpanija kwalifikanti tagħmel nefqa fl-akkwist ta’ assi kwalifikanti u n-nefqa totali tal-kumpanija għal dawk l-assi f’xi sena rilevanti u fis-sitt perjodi ta’ kontjar ta’ qabel:

(a) tkun ekwivalenti għal jew tkun aktar minn persentaġġ (f’dan is-subartikolu magħruf bhala “il-persentaġġ kwalifikanti”) tal-bejgħ totali tal-kumpanija għall-istess perjodu, l-*income* li tikseb tali kumpanija, mill-kummerċ jew negozju tagħha, matul is-sena rilevanti li jkun proporzjonalment attribwibbli għaż-żieda fil-bejgħ esportat tagħha kif stabbilit skond is-subartikolu (2) ta’ dan l-artikolu, għandu jiġi intaxxat b’rata mnaqqsa ta’ taxxa fuq l-*income* li tiġi determinata b’referenza għall-persentaġġ kwalifikanti kif ġej:

Persentaġġ kwalifikanti	Rata mnaqqsa ta’ taxxa fuq l- <i>income</i> applikabbli
%	%
8	17.50
9	8.75
10	0.0

Izda s-sitt perjodi ta’ kontjar ta’ qabel is-sena rilevanti għandhom ikunu perjodi ta’ kontjar li l-profitti tagħhom isiru sugġetti għall-ħlas tat-taxxa fuq l-*income* fis-sena ta’ stima 1998 jew fis-snin ta’ stima ta’ wara u, fejn il-għadd ta’ dawn il-perjodi ta’ kontjar li jiġu qabel is-sena rilevanti ikun anqas minn sitta, il-persentaġġ kwalifikanti msemmi aktar qabel f’dan il-paragrafu għandu jiġi stabbilit għall-perjodu ta’ żmien li jibda mill-ewwel ġurnata tal-perjodu ta’ kontjar li l-profitti tiegħu jsiru sugġetti għall-ħlas tat-taxxa fuq l-

income fis-sena ta' stima 1998 u li jintemm fl-ahhar jum tas-sena rilevanti:

Izda wkoll f'każ li kumpannija ma kinetx teżisti matul is-sitt snin kollha li jiġu qabel is-sena rilevanti, il-persentaġġ kwalifikanti msemmi f'dan is-subartikolu għandu jiġi stabbilit għal perjodu li matulu tkun eżistiet il-kumpannija;

jew

(b) tkun ugwali għal jew tkun aktar minn LM7,000,000, l-*income* li tikseb tali kumpannija mill-kummerċ jew negozju tagħha matul is-sena rilevanti li jkun proporzjonalment attribwibbli għaż-żieda fil-bejgħ esportat tagħha kif stabbilit skond is-subartikolu (2) ta' dan l-artikolu għandu jkun mehlus mit-taxxa fuq l-*income*:

Izda jekk:

(i) l-ghadd ta' granet kompriżi fil-perjodu ta' żmien li jibda mill-ewwel jum tal-perjodu ta' kontjar il-profitti ta' liema jsiru sugġetti għall-ħlas tat-taxxa fuq l-*income* fis-sena ta' stima 1998 u li jintemm fl-ahhar jum tas-sena rilevanti, ikun ta' anqas minn elfejn hames mija u hamsa u hamsin; jew

(ii) l-ghadd ta' granet kompriżi fis-sena rilevanti u fis-sitt perjodi ta' kuntjar ta' qabel ikun anqas jew aktar minn elfejn hames mija u hamsa u hamsin,

l-ammont ta' LM7,000,000 għandu jiġi miżjud jew imnaqqas għal ammont li tasal għalih billi timmultiplika l-ammont ta' LM7,000,000 bil-proporzjon li l-ghadd ta' granet kompriżi fil-perjodi msemmija jkollhom għal elfejn hames mija u hamsa u hamsin gurnata.

(2) L-*income* li kumpannija kwalifikanti tikseb mill-kummerċ jew minn negozju tagħha matul is-sena rilevanti u li jkun mehlus mit-taxxa fuq l-*income* jew li jiġi intaxxat b'rata mnaqqsa ta' taxxa fuq l-*income* skond id-dispożizzjonijiet ta' subartikolu (1) ta' dan l-artikolu, għandu jiġi ikkalkulat skond il-formula stabbilita fis-subartikolu (2) ta' artikolu 5 ta' dan l-Att:

Izda kumpannija kwalifikanti ma tistax titlob xi benefiċċju taht dan l-artikolu ghal xi sena ta' stima li fiha tkun talbet ukoll xi benefiċċju taht l-artikolu 5 ta' dan l-Att.

(3) Kumpannija kwalifikanti tista' tibbenefika għall-inċentiv taht id-dispożizzjonijiet ta' dan l-artikolu ghal mhux aktar minn għaxar snin ta' stima, liema għadd ta' snin m'għandux għalfejn ikun konsekuttiv.

(4) Għall-finijiet ta' dan l-artikolu:

(a) għandu jiġi eskluż kull *income* li ma jinkisbx mill-kumpannija mill-kummerċ jew negozju tagħha;

(b) l-ammont ta' bejgħ totali u ta' bejgħ esportat għandu jiġi meqjus *free on board* u f'każ ta' bejgħ li jsir fuq kuntratt ta' xogħlijiet, dan għandu jinkludi l-valur *uninvoiced* tal-materjal u *components* provduti mill-klijent.

(5) F'dan l-artikolu:—

“nefqa fl-akkwist ta' assi kwalifikanti” tfisser nefqa li ssir fl-akkwist ta' assi rigward liema tista' ssir talba għall-*allowance* għall-investiment skond artikolu 7 ta' dan l-Att, eskluża kull spiża li ssir għall-vetturi mhux kummerċjali;

“vetturi mhux kummerċjali” tfisser dawk il-vetturi li għalihom japplika s-subartikolu (3) ta' l-artikolu 14 ta' l-Att dwar it-Taxxa fuq l-*Income*;

“sena rilevanti” tfisser kull perjodu ta' kontjar ta' kumpannija kwalifikanti li jagħlaq fis-sena ta' qabel is-sena ta' stima 1998 jew kull sena ta' stima sussegwenti kif jista' jkun il-każ;

Kap. 123.

“perjodu ta' kontjar” tfisser il-perjodu ta' kontjar kif stabbilit b'referenza għal artikolu 11 ta' l-Att dwar it-Taxxa fuq l-*Income*;

“profitti” u “*income*” għandhom f'kull każ jitqiesu kif kompriżi fl-*income* taxxabli tal-kumpannija għall-finijiet tat-taxxa fuq l-*income* wara li jittiehdu in konsiderazzjoni kull inċentiv jew benefiċċju li l-kumpannija tkun akkwistat skond id-dispożizzjonijiet ta' dan l-Att.”.

8. Minflok il-paragrafu (a) tas-subartikolu (2) ta' l-artikolu 6 ta' l-Att prinċipali għandu jidhol dan li ġej: Emenda ta' l-artikolu 6 ta' l-Att prinċipali.

“(a) jekk il-Korporazzjoni tircievi t-talba għall-approvazzjoni għall-finijiet ta' dan l-artikolu aktar tard minn erbgħa u għoxrin x'ahar wara t-tmiem tas-sena li tiġi immedjatament qabel is-sena ta' stima li fiha għandu jiġi intaxxat l-*income* li dwaru tista' tingħata l-approvazzjoni; jew”.

9. Minflok subartikolu (5) ta' l-artikolu 7 ta' l-Att prinċipali għandu jidhol dan li ġej: Emenda ta' l-artikolu 7 ta' l-Att prinċipali.

“(5) F'dan l-artikolu u f'artikolu 8 ta' dan l-Att:

(a) proprjetà immobbili li tinzamm b'titolu ta' enfitewsi; u

(b) kull attiv iehor li għalih japplika dan l-artikolu u l-artikolu 8 ta' dan l-Att akkwistati permezz ta' kuntratt ta' *finance leasing* jew permezz ta' kuntratt ta' kiri li jistipula li l-proprjetà ta' l-attiv għandha tiġi jew tista' tiġi trasferita lill-inkwilin meta tkun għet imħallsa somma speċifikata ta' flus, liema kuntratt għandu f'kull każ jiġi approvat mill-Korporazzjoni,

jiġu meqjusa li qed jinzammu b'titolu ta' proprjetà assoluta.”.

10. Minnufih wara l-paragrafu (c) ta' subartikolu (3) ta' l-artikolu 9 ta' l-Att prinċipali, għandu jidhol dan il-paragrafu li ġej: Emenda ta' l-artikolu 9 ta' l-Att prinċipali.

“(d) taht id-dispożizzjonijiet ta' l-artikolu 5A ta' dan l-Att, meta ikunu qliegħ jew profitti ta' kumpannija li tkun mehlusa mit-taxxa fuq l-*income* għal kwalunkwe sena taht l-iskema ta' incēntivi għall-investment.”.

11. Minnufih wara l-proviso li hemm mal-artikolu 15 ta' l-Att prinċipali, għandu jiżdied dan il-proviso għdid li ġej: Emenda ta' l-artikolu 15 ta' l-Att prinċipali.

“Izda wkoll, f'każ illi *shareholder* ta' kumpannija kwalifikanti jkun ukoll kumpannija kkostitwita taht il-Liġi ta' Malta, id-dispożizzjonijiet ta' dan l-artikolu għandhom ikunu japplikaw bl-istess mod u daqs li kieku *x-shareholders* tat-tieni kumpannija kienu proprjetarji diretti tal-kumpannija kwalifikanti.”.

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

12. L-artikolu 16 ta' l-Att prinċipali ghandu jiġi emendat kif
gej:

(a) minflok is-subartikolu (2) tiegħu, ghandu jidhol dan li gej:

“(2) Il-Korporazzjoni tista' tagħti self kif provdut fis-
subartikolu (1) ta' dan l-artikolu, meta -

(a) l-impjant, makkinarju jew attiv fiss iehor jiġu
akkwistati bhala parti minn programm ta' investimenti
b'tul ta' mhux aktar minn tliet snin kif jista' jiġi approvat
mill-Korporazzjoni, u

(b) tali programm ta' investimenti jkun ta' mhux
anqas minn wiehed u ghoxrin elf lira Maltija.”;

(b) minflok il-paragrafu (a) tas-subartikolu (3) tiegħu, ghandu
jidhol dan li gej:

“(a) LM1,000,000 fil-każ ta' kumpanniji li jissodisfaw
il-kundizzjoni msemmija fil-paragrafu (b) tas-subartikolu (1)
ta' l-artikolu 4 ta' dan l-Att, u”; u

(ċ) minflok is-subartikolu (4) tiegħu, ghandu jidhol dan li
gej:

“(4) Ir-rata ta' imghax mitluba mill-Korporazzjoni fuq
self mogħti taħt dan l-artikolu ghandha tkun jew:

(a) ir-rata minima ta' skont skond id-direttivi
mahruga minn żmien għal żmien mill-Bank Ċentrali ta'
Malta taħt l-Att dwar il-Bank Ċentrali ta' Malta,
nieqes —

Kap. 204.

(i) żewġ punti u nofs perċentwali dwar self
mogħti taħt il-paragrafu (a) tas-subartikolu (3) ta'
dan l-artikolu, u

(ii) nofs punt perċentwali dwar kull self
iehor:

Iżda d-dispożizzjonijiet ta' l-inċiż (i) tal-paragrafu
(a) ta' dan is-subartikolu jiġu applikati biss mill-
Korporazzjoni meta r-rata minima ta' skont tkun
ekwivalenti għal jew oghla minn żewġ punti u nofs
perċentwali, u d-dispożizzjonijiet ta' l-inċiż (ii) tal-

paragrafu (a) ta' dan is-subartikolu jiġu applikati biss mill-Korporazzjoni meta r-rata minima ta' skont tkun ekwivalenti għal jew oghla minn nofs punt percentwali

jew

(b) dik ir-rata li tista' tiġi stabbilita mill-Ministru b'avviż fil-Gazzetta.”.

13. L-artikolu 18 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 18 ta' l-Att prinċipali.

(a) fis-subartikolu (4) tiegħu, wara l-kliem “ivarja r-rati” għandhom jidhru l-kliem “u l-metodi ta' aġġustament ta' dawk ir-rati”; u

(b) minnufih wara s-subartikolu (5) tiegħu, għandu jidhol dan is-subartikolu ġdid li ġej:

“(6) Il-Korporazzjoni tista' tikseb ukoll għall-kumpannija kwalifikanti bini u strutturi industrijali b'titolu ta' enfitewsi temporanja u art fi stat mhux żviluppat b'titolu ta' kera taht dawk it-termini u kundizzjonijiet li jistgħu jiġu preskritti mill-Ministru minn żmien għal żmien.”.

14. Minnufih wara l-artikolu 18 ta' l-Att prinċipali, għandu jidhol dan l-artikolu ġdid li ġej: Żieda ta' artikolu ġdid 18A ma' l-Att prinċipali.

“Child day care centres.

18A. (1) Il-Korporazzjoni tista', safejn dan ikun jaqbel ma' l-għanijiet u l-oġettivi tal-pjan industrijali tal-Gvern, tagħti lil kumpannija kwalifikanti waħidha jew flimkien ma' kumpanniji kwalifikanti oħra, struttura jew bini b'titolu ta' kera biex jiġi użat bhala *child day care centre* għal benefiċċju ta' ġenituri-impjegati ta' l-istess kumpannija kwalifikanti, ta' kumpanniji kwalifikanti oħra jew ta' fornituri ta' servizzi fl-oqsma industrijali tal-Gvern kif il-Korporazzjoni tista' tapprova skond it-termini u l-kundizzjonijiet hawn speċifikati:

(a) l-ebda kera ma tkun dovuta għall-ewwel tliet snin tal-kirja;

(b) wara dan, kera annwali tkun dovuta b'rata kull metru kwadru li ma tkunx taqbeż il-25 fil-mija tal-kera annwali kull metru kwadru li tkun dovuta għall-fabbrika allokata skond l-artikolu 18 ta' dan l-Att;

(c) il-Korporazzjoni tista' tipprovdi minghajr hlas *design package* li jkun jinkludi l-pjanti tal-*layout*, listi ta' ghamara u tagħmir li jkunu meħtieġa għaċ-ċentru u l-ispeċifikazzjonijiet għall-arja kundizzjonata, ventilazzjoni u faċilitajiet sanitarji;

(d) il-Korporazzjoni tista' wkoll tiffinanzja l-ispiza għat-twaqqif ta' ċentru bħal dan sa massimu ta' 50 fil-mija tan-nefqa totali, esklużi l-ispejjeż għall-arja kundizzjonata u l-ventilazzjoni li jistgħu jiġu ffinanzjati mill-Korporazzjoni sar-rata massima ta' 25 fil-mija ta' l-ispiza totali.

(2) Il-Korporazzjoni tista', safejn dan ikun jaqbel ma' l-għanijiet u l-oġettivi tal-pjan industrijali tal-Gvern, tippermetti lil kumpannija kwalifikanti tuża parti minn struttura jew bini miksuba għal tali kumpannija skond id-dispożizzjonijiet ta' l-artikolu 18 ta' dan l-Att bħala *child day care centre* għal benefiċċju ta' ġenituri-impjegati ta' l-istess kumpannija kwalifikanti, ta' kumpanniji kwalifikanti oħra jew ta' fornituri ta' servizzi fl-oqsma industrijali tal-Gvern taht l-istess termini u kundizzjonijiet kontemplati fil-paragrafi (a), (b), (c) u (d) tas-subartikolu (1) ta' dan l-artikolu.

(3) Kumpannija kwalifikanti li twaqqaf *child day care centre* fi struttura jew bini miżmum minnha b'titolu ta' proprjeta' assoluta, enfiċewsi jew kera mingħand terzi persuni, tista' tingħata mill-Korporazzjoni l-istess benefiċċji, u assistenza kontemplati fil-paragrafi (c) u (d) ta' subartikolu (1) ta' dan l-artikolu.

(4) Il-Korporazzjoni tista' tipprovdi wkoll l-assistenza li ġejja lil kumpanniji kwalifikanti li jwaqqfu *child day care centre* skond id-dispożizzjonijiet tas-subartikoli (1), (2) jew (3) ta' dan l-artikolu;

(a) il-finanzjament sa massimu ta' 50 fil-mija ta' l-ispiza rikorrenti approvata għal *child care* f'tali ċentru, b'dan iżda li l-ġenituri-impjegati ma jintalbox ihallsu aktar minn dik is-somma fis-sena li tista' tistabbilixxi l-Korporazzjoni;

(b) il-finanzjament ta' l-ispejjeż approvati għal tahrig inizzjali u ta' aġġornament għal *staff* li jkun adegwatament kwalifikat.

(5) Kumpannija kwalifikanti li twaqqaf *child day care centre* skond id-dispożizzjonijiet tas-subartikoli (1), (2) jew (3) ta' dan l-artikolu, tista' tinghata permess mill-Korporazzjoni biex tidhol fi ftehim ma' kumpanniji kwalifikanti ohra jew ma' fornituri ta' servizzi f'oqsma industrijali tal-Gvern rigward l-eċċess ta' postijiet f'tali ċentri.

(6) Il-Korporazzjoni tista', fid-diskrezzjoni taghha taghti lill-kumpannija kwalifikanti li topera *child day care centre* skond id-dispożizzjonijiet tas-subartikoli (1), (2) jew (3) ta' dan l-artikolu helsien mid-dazju skond l-artikolu 17 ta' dan l-Att fuq ghamara jew taghmir użati f'tali ċentru.

(7) Il-Korporazzjoni tista' fl-ghoti ta' kull ghajjnuna taht id-dispożizzjonijiet ta' dan l-artikolu timponi kull kundizzjoni li jidhrilha li tkun xierqa rigward il-hlasijiet li jistghu jintalbu għal tali servizz ta' *child day care* minghand il-ġenituri-impjegati.”.

15. Minflok l-artikolu 24 ta' l-Att prinċipali ghandu jidhol dan l-artikolu ġdid li ġej:

Emenda ta' l-artikolu 24 ta' l-Att prinċipali.

“Intrapriża
żghira.

24. (1) Il-Korporazzjoni tista', fid-diskrezzjoni taghha, taghti lil intrapriża żghira:

(a) helsien mid-dazju skond l-artikolu 17 ta' dan l-Att;

(b) bini, strutturi u art industrijali taht dawk il-kundizzjonijiet li l-Korporazzjoni tista' minn żmien għal żmien tistabbilixxi;

(c) *soft loans* skond l-artikolu 16 ta' dan l-Att; jew

(d) kull inċentiv jew benefiċċju iehor li jkun konsistenti ma' l-ghanjiet u l-iskopijiet tal-pjan industrijali tal-Gvern, hekk kif jista' jiġi preskritt mill-Ministru b'avviż fil-Gazzetta.

(2) Fis-subartikolu (1) ta' dan l-artikolu “intrapriża żghira” tfisser persuna jew kumpannija kostitwita taht il-Liġi Maltija li:

(a) qed tmexxi jew teżerċita xi kummerċ jew negozju kontemplat taht paragrafi (a) sa (h) tas-subartikolu (1) ta' l-artikolu 3 ta' dan l-Att jew kull kummerċ jew negozju iehor li jista' jiġi preskritt mill-Ministru b'avviż fil-Gazzetta; u

(b) li ghandha ta' l-anqas tnejn mill-kriterji li ġejjin li ma jaqbx it-*threshold* li l-Ministru jista' jippreskrivi minn żmien għal żmien b'avviż fil-Gazzetta:

(i) it-*turnover*;

(ii) in-numru ta' l-impjegati;

(iii) it-total tal-karta tal-bilanċ;

(iv) l-investment totali:

B'dan iżda li l-Ministru jista' jvarja l-livelli tat-*threshold* skond it-tip ta' kummerċ jew negozju mwettaq li l-Ministru jista' jispeċifika fl-istess avviż.”.

Zieda ta' artikoli
godda 24A u 24B
ma' l-Att prinċipali.

16. Minnufih wara l-artikolu 24 ta' l-Att prinċipali, għandhom jidhlu dawn iż-żewġ artikoli godda li ġejjin:

“*Soft loans*
rigward
konservazzjoni
ta' enerġija
u ilma

24A. (1) Meta l-Korporazzjoni tkun sodisfatta li f'każ ta' kumpannija kwalifikanti jew ta' kumpannija li tmexxi jew teżerċita, f'Malta, xi kummerċ jew negozju li jkun jikkonsisti primarjament fil-ġestjoni jew tmexxija ta' lukanda jew grupp ta' lukandi, ikun konsistenti ma' l-iskop u oġġettivi tal-pjan tal-Gvern rigward konservazzjoni ta' enerġija u ilma, il-Korporazzjoni tista' tagħti self lil dik il-kumpannija għall-akkwist ta' impjant, makkinarju u attivi fissi relatati, iżda eskluża art, u biex jiġu finanzjati x-xoghlijiet ta' inġinerija ċivili u infrastrutturali meħtieġa, skond it-termini u l-kundizzjonijiet hawn speċifikati.

(2) Il-Korporazzjoni tista' tagħti self kif provdut fis-subartikolu (1) ta' dan l-artikolu, meta l-impjant, makkinarju jew attiv fissi iehor jiġu akkwistati bhala parti minn programm ta' investment għall-konservazzjoni ta' enerġija jew ilma kif jista' jiġi approvat mill-Korporazzjoni.

(3) Self moghti taht id-dispozizzjonijiet ta' dan l-artikolu ma jista' fl-ebda kaz ikun aktar minn tlieta u tletin fil-mija tal-programm ta' investiment ipprogettat ghall-konservazzjoni ta' energija jew ilma kif approvat mill-Korporazzjoni, izda l-ebda self ma ghandu jkun aktar minn Lm200,000.

(4) Ir-rata ta' imghax mitlub mill-Korporazzjoni fuq self moghti taht dan l-artikolu ghandha tkun ir-rata minima ta' skont skond id-direttivi mahruqa minn zmien ghal zmien mill-Bank Ċentrali ta' Malta taht l-Att dwar il-Bank Ċentrali ta' Malta, nieqes zewg punti u nofs percentwali:

Izda d-dispozizzjonijiet ta' dan is-subartikolu jigu applikati biss mill-Korporazzjoni meta r-rata minima ta' skont tkun ekwivalenti ghal jew oghla minn zewg punti u nofs percentwali.

(5) Id-dispozizzjonijiet ta' subartikoli (4), (5), (6), (7), (8), (9) u (10) ta' artikolu 16 ta' dan l-Att ghandhom japplikaw *mutatis mutandis* ghal self moghti mill-Korporazzjoni taht id-dispozizzjonijiet ta' dan l-artikolu.

Rata
mnaqqsa ta'
taxxa ghal
rinnovament,
titjib fil-
grad u fl-
arredament
ta' lukanda.

24B. (1) Meta l-Korporazzjoni jidhrilha li f'kaz ta' kumpannija li tmexxi jew tezeċita f'Malta, xi kummerċ jew negozju li jkun jikkonsisti primarjament fil-ġestjoni jew tmexxija ta' lukanda jew grupp ta' lukandi, illi l-qliegħ jew profitti jew parti minnhom miksuba minn din il-kumpannija mill-kummerċ jew negozju taġgha jew parti minnhom fis-sena ta' stima li tibda fl-1 ta' Jannar, 1997, jew fi snin ta' stima sussegwenti, ikunu twarrbu bil-ghan ewlieni li jiġi finanzjat xi proġett ghal rinnovament jew titjib fil-grad u fl-arredament ta' lukanda jew lukandi, li jkunu proprjeta' ta' jew ġestiti jew immexxija minn kumpannija bhal din u li jkun gie approvat mill-Korporazzjoni, u li fil-fatt il-qliegħ jew profitti jew parti minnhom ikunu ntużaw għall-ghan illi għalih ikunu twarrbu, il-Korporazzjoni ghandha tohrog ċertifikat lill-kumpannija li jkun jiċċertifika dan kollu u b'dan, ir-rata tat-taxxa fuq l-*income* taxxabli fuq il-qliegħ jew profitti jew parti minnhom li jkunu hekk intużaw, ghandha titnaqqas bi sbatax-u-nofs-il punt percentwali, u fi kwalunkwe kaz bhal dan it-taxxa li hi taxxabli ghandha tiġi stmata, jew stmata mill-gdid u fejn ikun mehtieg rifiuza, skond il-kaz.

(2) Id-dispożizzjonijiet ta' subartikolu (2) ta' artikolu 6 ta' dan l-Att għandhom japplikaw *mutatis mutandis* għal kumpanniji li jikkwalifikaw għall-assistenza taht id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu.”.

Emenda ta' l-artikolu 25 ta' l-Att prinċipali.

17. L-artikolu 25 ta' l-Att prinċipali għandu jiġi emendat kif ġejj-

(a) minnufih wara s-subartikolu (3) tiegħu għandhom jidhlu ż-żewġ subartikoli ġodda li ġejjin:

“(4) Minkejja kull dispożizzjoni oħra f'dan l-Att, meta jiġi mahruġ ċertifikat skond id-dispożizzjonijiet tas-subartikolu (3) ta' dan l-artikolu, il-Korporazzjoni tista' timponi kull kundizzjoni li jidhriha li tkun xierqa, inkluż irriduzzjoni tal-perjodu tat-*tax holiday* kontemplata f'artikolu 4 ta' dan l-Att.

(5) Il-Korporazzjoni tista' fid-diskrezzjoni tagħha toħroġ ċertifikat li jeżenta kumpannija kwalifikanti mill-htigijiet ta' paragrafu (ċ) tas-subartikolu (1) ta' l-artikolu (4) ta' dan l-Att taht dawk it-termini u kundizzjonijiet li jidhriha li huwa xieraq li għandha timponi fejn:

(a) il-kumpannija hija *joint venture* bejn kumpannija Maltija jew kumpanniji Maltin kwalifikanti (f'dan is-subartikolu maghrufa bhala “l-ewwel kumpannija msieħba”) u kumpannija li teżercita l-kummerċ jew negozju tagħha barra minn Malta (f'dan is-subartikolu maghrufa bhala “it-tieni kumpannija msieħba”) u li, kieku ma kienx għal tali *joint venture*, kienet tissodisfa l-kundizzjonijiet stabbiliti permezz tal-paragrafu (ċ) tas-subartikolu (1) ta' l-artikolu 4 ta' dan l-Att; u

(b) it-tieni kumpannija msieħba jkollha ta' l-inqas 20% tal-kapital azzjonarju ordinarju bid-dritt li jivvota tal-kumpannija *joint venture*, u

(ċ) il-Korporazzjoni tkun sodisfatta li t-tieni kumpannija msieħba tkun se ġgħib fil-kumpannija *joint venture* teknoloġija innovattiva, proċessi ġodda ta' produzzjoni jew aċċess għal swieq ġodda barranin.”; u

(b) is-subartikoli (4) u (5) jiġu numerati mill-ġdid rispettivament bhala s-subartikoli (6) u (7) tiegħu.

18. L-artikolu 34 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 34 ta' l-Att prinċipali.

(a) fis-subartikolu (2) tiegħu, minflok il-kliem “dwar dawk il-hwejjeg li minhabba fihom ikun sar.” għandhom jidhlu l-kliem “dwar dawk il-hwejjeg li minhabba fihom ikun sar.”; u

(b) minnufih wara subartikolu (2) għandu jidhol il-proviso li ġej:

“Izda minkejja kull haġa li tinsab fis-subartikolu (1) ta' l-artikolu 45 ta' dan l-Att, kumpannija kwalifikanti li tagħzel li ma tinghatax jew li ma tihux inċentivi jew benefiċċji li altrimenti huma dovuti lilha taht id-dispożizzjonijiet ta' dan l-Att, ma tinzammx milli tinghata xi inċentiv jew benefiċċju ta' xorta simili li jiġi mogħti bid-dispożizzjonijiet ta' l-Ordinanza dwar Ghajnuna lil Industrijji”.

Kap. 159.

19. Minflok is-subartikolu (2) ta' l-artikolu 35 ta' l-Att prinċipali għandu jidhol dan li ġej: Emenda ta' l-artikolu 35 ta' l-Att prinċipali.

“(2) Kumpannija kwalifikanti ma tkunx intitolata għal ebda inċentiv jew benefiċċju kontemplat taht id-dispożizzjonijiet ta' dan l-Att sakemm id-dikjarazzjonijiet finanzjarji annwali tagħha u fil-każ ta' kumpannija li ma tkunx inkorporata taht il-Liġi ta' Malta d-dikjarazzjonijiet finanzjarji annwali ta' l-operazzjonijiet tagħha f'Malta, ikunu ċertifikati minn *accountant* u uditur pubbliku ċertifikat skond id-dispożizzjonijiet ta' l-Ordinanza ta' l-1962 dwar Soċjetajiet Kummerċjali jew l-Att dwar il-Kumpanniji ta' l-1995, kif applikabbli, tkun jew ma tkunx meħtieġa din iċ-ċertifikazzjoni taht l-Ordinanza jew l-Att imsemmija u sakemm kull dikjarazzjoni, kontegġi jew dokumenti oħra sottomessi bl-iskop li jiġi akkwistat xi inċentiv jew benefiċċju jiġu wkoll ċertifikati minn *accountant* u uditur pubbliku ċertifikat bl-istess mod li d-dikjarazzjonijiet finanzjarji tal-kumpannija jridu jiġu ċertifikati taht id-dispożizzjonijiet ta' l-Ordinanza jew l-Att kif imsemmi.”.

Kap. 168.

20. L-artikolu 36 ta' l-Att prinċipali għandu jiġi emendat kif ġej: Emenda ta' l-artikolu 36 ta' l-Att prinċipali.

(a) fl-ewwel proviso għas-subartikolu (2) tiegħu, minnufih wara l-kliem “l-artikolu 6” kull fejn jinsabu, għandhom jiżdiedu l-kliem “u l-artikolu 24B”;

(b) fil-paragrafu (a) tas-subartikolu (4) tiegħu, minnufih wara l-kliem “ta' l-artikolu 6” għandhom jiżdiedu l-kliem “u ta' l-artikolu 24B”; u

(ċ) minnufih wara s-subartikolu (5) tiegħu, għandhom jidhlu ż-żewġ subartikoli ġodda li ġejjin:

“(6) Meta kumpannija kwalifikanti hija kumpannija inkorporata barra minn Malta, tali kumpannija għandha turi r-Riserva dwar Inċentivi u Benefiċċji fil-karta tal-bilanċ tagħha kwantu għall-attivitajiet kummerċjali tagħha ġewwa Malta sakemm il-post ta' negozju tal-kumpannija f'Malta fir-rigward ta' liema r-riserva hija meħtieġa, jiegħaf milli jeżisti.

(7) Id-dispożizzjonijiet tas-subartikoli (2), (3) u (5) ta' dan l-artikolu għandhom japplikaw biss għal kumpanniji kostitwiti taħt il-Liġi Maltija.”.

Żieda ta' artikolu ġdid 44A ma' l-Att prinċipali.

21. Minnufih wara l-artikolu 44 ta' l-Att prinċipali, għandu jiżdied dan l-artikolu ġdid li ġej:

“L-eżer-
ċizzju tal-
funzjonijiet
tal-
Korpor-
azzjoni taħt
dan l-Att.

44A. Il-Korporazzjoni tista', bl-approvazzjoni tal-Ministru, teżerċita l-funzjonijiet u s-setgħat tagħha taħt dan l-Att permezz ta' l-aġenzija ta' persuni oħra:

B'dan iżda kull delega ta' poteri jew funzjonijiet li ssir skond id-dispożizzjonijiet ta' dan l-artikolu ma tkunx effettiva sakemm ma tiġix approvata b'mod definittiv mill-Korporazzjoni.”.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 72 tat-Tlieta, 27 ta' Mejju, 1997.

MYRIAM SPITERI DEBONO
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati.

I assent.

(L.S.)

Ugo MIFSUD BONNICI
President

10th June, 1997

ACT No. XI of 1997

AN ACT to amend the Industrial Development Act, Cap. 325.

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. (1) This Act may be cited as the Industrial Development (Amendment) Act, 1997, and shall be read and construed as one with the Industrial Development Act, hereinafter referred to as “the principal Act”. Short title and commencement. Cap. 325.

(2) This Act shall come into force on such date as the Minister responsible for Industry may by notice in the Gazette establish and different dates may be so established for different provisions or different purposes thereof.

2. Section 2 of the principal Act shall be amended as follows: Amendment of section 2 of the principal Act.

(i) for the definition of “company” there shall be substituted the following new definition:

“ “company” means:

(a) any partnership constituted under the Commercial Partnerships Ordinance or the Companies Act, 1995, being a partnership *en nom collectif*, *en commandite* or a limited liability company;

(b) any body of persons constituted, incorporated or registered outside Malta, and of a nature similar to the aforesaid partnerships;

(c) any co-operative society duly registered as such under the appropriate law for the time being in force in Malta;”;

(ii) in the proviso to paragraph (b) of the definition of “export sales” for the words “together with a copy authenticated by him of the relative export documents” there shall be substituted the words “together with an undertaking that the Corporation may examine the relative export documents”, and for the words “such declaration and documents” there shall be substituted the words “such declaration and undertaking”;

(iii) for paragraph (c) of the definition of “export sales” there shall be substituted the following new paragraph:

“(c) the value of services rendered or performed by a qualifying company which are exported by the same company and in the case of a company qualifying in terms of paragraph (e) of subsection (1) of section 3 of this Act the value of services rendered or performed for another qualifying company which satisfies the provisions of paragraph (b) of subsection (1) of section 4 of this Act;” ;

(iv) immediately after the definition of “export sales” there shall be added the following new definition:

Cap. 197. “ “hotel” means a hotel licensed as such under the Hotels and Catering Establishments Act, or a building in the course of construction which is intended to be so licensed upon completion;” ; and

(v) in the definition of “Maltese company”, immediately after the words “Maltese citizens” there shall be added the words “, directly or indirectly,”.

Amendment of section 3 of the principal Act.

3. Section 3 of the principal Act shall be amended as follows:

(a) in subsection (1) thereof, the words “of section 24” shall be substituted by the words “of section 24, section 24A and section 24B”;

(b) in paragraph (b) thereof, immediately after the words "machinery or equipment" there shall be added the following words "and the recycling or treatment of waste material";

(c) for paragraph (e) of subsection (1) thereof there shall be substituted the following paragraph:

"(e) the rendering of a service by a company to non-resident persons or to a company which satisfies the provisions of paragraph (b) of subsection (1) of section 4 of this Act, whether the service is performed or rendered in Malta or from Malta, provided such service is prescribed by the Minister to be a qualifying export service; or"; and

(d) immediately after the proviso to subsection (8) thereof, there shall be added the following new provisos:

"Provided further that notwithstanding any other provision of this Act in respect of qualifying companies incorporated outside Malta, the incentives and benefits contemplated by this Act may only be obtained by qualifying companies registered as an oversea company in accordance with the Companies Act, 1995 in respect of their activities happening on or after 1st January, 1997;

Provided further that the incentives and benefits contemplated by subsection (1) of section 6, subsection (7) of section 8, section 9, section 15 and section 24B of this Act may only be obtained by a company constituted under Maltese Law."

4. Immediately after section 3 of the principal Act, there shall be added the following new section:

Addition of new section 3A to the principal Act.

"Transfer of business to an oversea company.

3A. (1) Where by means of an extraordinary resolution it is decided to transfer the trade or business of a company constituted under Maltese Law, hereinafter referred to as the first company, to a company which is registered as an oversea company in terms of the Companies Act, 1995, hereinafter referred to as the second company, and the Corporation is satisfied that the ultimate beneficial shareholders of the said companies are the same and are not resident in Malta,

(i) all rights and obligations of the first company arising from the provisions of this Act shall be deemed to be the rights and obligations of the second company

as if such rights and obligations had always appertained to the second company;

(ii) the second company shall be entitled to the incentives and benefits contemplated by this Act to the same extent as the first company would have been entitled had the transfer of business not taken place and this irrespective of whether the first company was dissolved.

(2) The provisions of subsection (1) of this section shall apply, *mutatis mutandis*, where a company registered as an oversea company in terms of the Companies Act, 1995 transfers its business to a company constituted under Maltese Law and in subsection (1) of this section "the first company" shall mean a company registered as an oversea company in terms of the Companies Act, 1995 and "the second company" shall mean a company constituted under Maltese Law.

(3) For the purposes of this section a trade or business shall be deemed to have been transferred when:

(i) all the tangible assets of the first company are transferred to the second company, which company uses the said assets in carrying on the same kind of trade or business as that carried on by the first company; and

(ii) the customers of the second company are substantially the same as that of the first company.

(4) On being satisfied that the provisions of this section have been complied with, the Corporation may issue a certificate to that effect, which certificate shall constitute sufficient evidence for the purpose of the application of this section."

Amendment of section 4 of the principal Act.

5. For paragraph (a) of subsection (1) of section 4 of the principal Act there shall be substituted the following:

"(a) is a company which:

(i) is constituted under Maltese Law on or after 1st June, 1987; or

(ii) is a company incorporated outside Malta and has been registered as an oversea company in terms of the Companies Act, 1995 registered on or after 1st June, 1987 but only in respect of its activities happening on or after 1st January, 1997; and"

6. Section 5 of the principal Act shall be amended as follows:

Amendment of
section 5 of the
principal Act.

(a) in subsection (1) thereof, the words "up to and including the year of assessment 2001" shall be deleted;

(b) in subsection (2) thereof, immediately after the words "“Z” = total sales in year of assessment" there shall be added the following new paragraph:

“For the purposes of this section where a qualifying company has changed the date on which its accounting period ends for the purposes of section 11 of the Income Tax Act and the profits of such accounting period fall to be charged to tax:

(a) in any year of assessment comprised in a base period; or

(b) in any year of assessment in respect of which the company claims the benefit contemplated by this section or section 5A of this Act,

where the number of days comprised in the said accounting period is more or less than three hundred and sixty five days, the value of the total sales, export sales and profits of such accounting period shall be decreased or increased, as the case may be, by multiplying the actual value of the said total sales, export sales and profits by the proportion which three hundred and sixty five days bears to the actual number of days comprised in the said accounting period.”;

(c) in paragraph (d) of subsection (3) thereof, immediately after the words "was not in existence" there shall be added the words " , or in the case of a qualifying company incorporated outside Malta, such company was not registered as an oversea company in accordance with the Companies Act, 1995,";

(d) in subsection (4) thereof, immediately after the table showing the applicable base periods there shall be added the following new proviso:

“Provided that the base period for year of assessment 2002 and subsequent years of assessment shall be determined by increasing the years comprised in the base period for the preceding year of assessment by one year.”; and

(e) for the proviso to subsection (5) thereof, there shall be substituted the following new proviso:

“Provided that a qualifying company may benefit from the provisions of this section for not more than ten years of assessment, which years need not be consecutive.”.

Addition of new section 5A to the principal Act.

7. Immediately after section 5 of the principal Act, there shall be added the following new section:

“Investment incentive scheme.

5A. (1) Where a qualifying company incurs expenditure in acquiring qualifying assets and the aggregate expenditure of the company on such assets during any relevant year and in the preceding six accounting periods:

(a) is equivalent to or exceeds a percentage (in this subsection referred to as “the qualifying percentage”) of the company’s total sales during the same period, the income derived by such company, from its trade or business, during the relevant year as is proportionately attributable to its increased export sales as determined in terms of subsection (2) of this section shall be taxed at a reduced rate of income tax as is determined by reference to the qualifying percentage as follows:

Qualifying percentage	Applicable rate of reduced income tax
%	%
8	17.50
9	8.75
10	0.00

Provided that the six accounting periods preceding the relevant year shall be accounting periods the profits of which fall to be charged to income tax in year of assessment 1998 or subsequent years of assessment and, where the number of such accounting periods preceding the relevant year are less than six, the qualifying percentage referred to in this paragraph shall be determined for the period of time commencing from the first day of the accounting period the profits of which fall to be charged to income tax in year of assessment 1998 and ending on the last day of the relevant year:

Provided further that where a company was not in existence during all of the six years preceding the relevant year, the qualifying percentage referred to in this subsection shall be determined for the period of time during which such company was in existence;

or

(b) is equal to or exceeds LM7,000,000, the income derived by such company from its trade or business during the relevant year as is proportionately attributable to its increased export sales as determined in terms of subsection (2) of this section shall be exempt from income tax:

Provided that:

(i) if the number of days comprised in the period of time commencing from the first day of the accounting period the profits of which fall to be charged to income tax in year of assessment 1998 and ending on the last day of the relevant year, is less than two thousand five hundred and fifty five; or

(ii) the number of days comprised in the relevant year and in the preceding six accounting periods is less or more than two thousand five hundred and fifty five,

the amount of LM7,000,000 shall be increased or reduced to an amount arrived at by multiplying LM7,000,000 by the proportion which the number of the days comprised in the aforementioned periods bears to two thousand five hundred and fifty five days.

(2) The income derived by a qualifying company from its trade or business during the relevant year and which shall be exempt from income tax or taxed at the reduced rates of tax in accordance with the provisions of subsection (1) of this section, shall be calculated in accordance with the formula set out in subsection (2) of section 5 of this Act:

Provided that a qualifying company may not claim a benefit under this section for any year of assessment in which it has also claimed a benefit under section 5 of this Act.

(3) A qualifying company may benefit from the incentive provided for by this section for not more than ten years of assessment which years need not be consecutive.

(4) For the purposes of this section:

(a) there shall be excluded any income which is not derived by the company from its trade or business;

(b) the amount of total sales and export sales shall be calculated free on board and where the sale is made pursuant to a contract of works, it shall include the uninvoiced value of any materials and components provided by the customer.

(5) In this section:-

“expenditure in acquiring qualifying assets” means expenditure incurred in acquiring assets in respect of which an investment allowance can be claimed in terms of section 7 of this Act, excluding any expenditure incurred on non-commercial motor vehicles;

Cap. 123. “non-commercial motor vehicles” means those vehicles to which subsection (3) of section 14 of the Income Tax Act applies;

“relevant year” means any accounting period of a qualifying company which ends in the year preceding year of assessment 1998 or any subsequent year of assessment as the case may be;

Cap. 123. “accounting period” means the accounting period as determined by reference to section 11 of the Income Tax Act;

“profits” and “income” shall in all cases be taken as comprised in the company’s chargeable income for income tax purposes after account has been taken of any incentive or benefit obtained by the company under the provisions of this Act.”

8. For paragraph (a) of subsection (2) of section 6 of the principal Act there shall be substituted the following: Amendment of section 6 of the principal Act.

“(a) in respect of any application for the purpose of this section filed with the Corporation later than twenty four months after the end of the year immediately preceding the year of assessment in which the income in respect of which approval may be given falls to be charged to tax; or”.

9. For subsection (5) of section 7 of the principal Act there shall be substituted the following: Amendment of section 7 of the principal Act.

“(5) In this section and in section 8 of this Act:

(a) immovable property held by title of emphyteusis; and

(b) any other asset to which this section and section 8 of this Act applies acquired under a finance lease contract or a contract of hire which stipulates that ownership of the asset shall or may pass to the lessee when a specified sum of money has been paid, which contract is in each case approved by the Corporation,

shall be deemed to be held in full ownership.”.

10. Immediately after paragraph (c) of subsection (3) of section 9 of the principal Act, there shall be added the following paragraph: Amendment of section 9 of the principal Act.

“(d) under the provisions of section 5A of this Act, being gains or profits of a company relieved from income tax for any year under the investment incentive scheme.”.

11. Immediately after the proviso to section 15 of the principal Act, there shall be added the following new proviso: Amendment of section 15 of the principal Act.

“Provided further that where a member of a qualifying company is also a company incorporated under Maltese Law, the provisions of this section shall apply to the same extent as if the members of the latter company had owned the shares directly in the qualifying company.”.

Amendment of
section 16
of the
principal Act.

12. Section 16 of the principal Act shall be amended as follows:

(a) for subsection (2) thereof there shall be substituted the following:

“(2) The Corporation may grant loans as provided under subsection (1) of this section when -

(a) the plant, machinery or fixed assets are acquired as part of an investment programme of not more than three years duration as may be approved by the Corporation, and

(b) such investment programme is of not less than twenty one thousand Malta liri.”;

(b) for paragraph (a) of subsection (3) thereof, there shall be substituted the following:

“(a) LM1,000,000 in case of companies satisfying the condition laid down in paragraph (b) of subsection (1) of section 4 of the Act, and”; and

(c) for subsection (4) thereof there shall be substituted the following:

“(4) The rate of interest charged by the Corporation on loans granted under this section shall be either:

(a) the minimum discount rate in terms of directives issued from time to time by the Central Bank of Malta under the Central Bank of Malta Act, less:

Cap. 204.

(i) two and a half percentage points in respect of loans made under paragraph (a) of subsection (3) hereof, and

(ii) half a percentage point in respect of other loans:

Provided that the provisions of item (i) of paragraph (a) of this subsection shall be applied by the Corporation when the said minimum discount rate is at an equivalent or higher level than two and half percentage points, and the provisions of item (ii) of paragraph (a) of this subsection shall only be applied by the Corporation when the said minimum discount rate is at an equivalent or higher level than half a percentage point;

or

(b) such other rate as may be prescribed by the Minister by notice in the Gazette.”.

13. Section 18 of the principal Act shall be amended as follows: Amendment of section 18 of the principal Act.

(a) in subsection (4) thereof, after the words “vary the rates”, there shall be inserted the words, “and the method of revision of such rates”; and

(b) immediately after subsection (5) thereof, there shall be inserted the following new subsection:

“(6) The Corporation may also procure for a qualifying company industrial buildings and structures by title of temporary emphyteusis or undeveloped land by title of lease at such terms and conditions as may be prescribed by the Minister from time to time.”.

14. Immediately after section 18 of the principal Act, there shall be added the following new section: Addition of new section 18A to the principal Act.

“Child day care centres.

18A. (1) The Corporation may, consistently with the aims and objectives of the industrial policy of the Government, grant on lease to a qualifying company, on its own or jointly with other qualifying companies, a structure or building to be used as a child day care centre for the benefit of parent-employees of such a qualifying company, other qualifying companies or service providers in government industrial estates as may be approved by the Corporation in accordance with the terms and conditions herein specified:

(a) no rent shall be charged for the first three years of the lease;

(b) thereafter an annual rent shall be charged at a rate per square metre which shall not exceed 25 *per centum* of the rent per square metre per annum charged for the factory allocated in accordance with section 18 of this Act;

(c) the Corporation may also provide free of charge a design package which shall include detailed lay-out plans, lists of furniture and equipment required for the centre and specifications for air conditioning, ventilation and sanitary facilities;

(d) the Corporation may also finance the cost of the setting up of such a centre up to a maximum of 50 *per centum* of the total cost, excluding the costs for the air conditioning and ventilation, which may be financed by the Corporation up to a maximum rate of 25 *per centum* of the total cost.

(2) The Corporation may, consistently with the aims and objectives of the industrial policy of the Government, allow a qualifying company to use a portion of an industrial structure or building procured for such company in accordance with section 18 of this Act, as a child day care centre for the benefit of parent-employees of such a qualifying company or other qualifying companies, or parent-employees of service providers in government industrial estates subject to the same terms and conditions contemplated under paragraphs (a), (b), (c) and (d) of subsection (1) of this section.

(3) A qualifying company which sets up a child day care centre in a structure or building which is held by such company in full ownership, on emphyteusis or lease from third parties, may be granted by the Corporation the same benefits and assistance, as provided in paragraphs (c) and (d) of subsection (1) of this section.

(4) The Corporation may also provide the following assistance to qualifying companies setting up child day care centres in accordance with the provisions of subsection (1), subsection (2) or subsection (3) of this section:

(a) the financing of up to a maximum of 50 *per centum* of the approved recurrent costs for child care at such a centre, provided that the parent-employees may not be charged more than a maximum sum per year as may be determined by the Corporation;

(b) the financing of approved initial and refresher training costs of suitably qualified staff.

(5) A qualifying company which sets up a child day care centre in accordance with subsection (1), subsection (2) or subsection (3) of this section, may be allowed by the Corporation to enter into agreements with other qualifying companies or with service providers in government industrial estates regarding vacancies in such a centre.

(6) The Corporation may, in its discretion grant to a qualifying company operating a child day care centre in accordance with the provisions of subsections (1), (2) or (3)

of this section relief from customs duty as provided in section 17 of this Act regarding furniture or equipment to be used in such a centre.

(7) The Corporation may in granting any assistance in accordance with the provisions of this section, impose any conditions it may deem fit regarding the fees which may be charged for such child day care service on the parent-employees.”

15. Section 24 of the principal Act shall be substituted by the following:

Substitution of
section 24
of the
principal Act.

“Small
enterprises.

24. (1) The Corporation may, at its discretion, grant to a small enterprise:

(a) relief from customs duty as provided in section 17 of this Act ;

(b) industrial buildings, structures and land on such conditions as the Corporation may from time to time determine;

(c) soft loans as provided in section 16 of this Act;
or

(d) any other incentive or benefit as would be consistent with the aims and objectives of the industrial policy of the Government, as may be prescribed by the Minister by notice in the Gazette.

(2) In subsection (1) of this section “small enterprise” means a person or a company constituted under Maltese Law which:

(a) carries on or carries out a trade or business contemplated under paragraphs (a) to (h) of subsection (1) of section 3 of this Act or such other trade or business as the Minister may prescribe by notice in the Gazette; and

(b) has at least two of the following criteria not exceeding the threshold as the Minister may prescribe from time to time by notice in the Gazette:

(i) the turnover;

- (ii) the number of employees;
- (iii) the balance sheet total;
- (iv) the total investment:

Provided that the Minister may vary the threshold levels in relation to the type of trade or business carried out which the Minister may specify in the said notice.”.

Addition of
new sections
24A and 24B
to the
principal Act.

16. Immediately after section 24 of the principal Act, there shall be added the following new sections:

“Soft loans
in connection
with energy
and water
conservation.

24A. (1) Where the Corporation is satisfied that in the case of a qualifying company or of a company which carries on or carries out, in Malta, a trade or business consisting mainly of the operation or management of a hotel or group of hotels, it would be consistent with the aims and objectives of the policy of the Government regarding energy and water conservation, the Corporation may grant loans to the said company for the acquisition of related plant, equipment, machinery and other fixed assets, but excluding land, and for the financing of the necessary civil engineering and infrastructural works, in accordance with the terms and conditions herein specified.

(2) The Corporation may grant loans as provided under subsection (1) of this section when the plant, equipment, machinery or fixed assets are acquired as part of an investment programme for the conservation of energy or water as may be approved by the Corporation.

(3) Loans under the provisions of this section shall in no case exceed thirty-three per cent of the projected investment programme for the conservation of energy or water as approved by the Corporation, but no loan shall exceed Lm200,000.

(4) The rate of interest charged by the Corporation on loans granted under this section shall be the minimum discount rate in terms of directives issued from time to time by the Central Bank of Malta under the Central Bank of Malta Act, less two and a half percentage points:

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Provided that the provisions of this subsection may only be applied by the Corporation when the said minimum discount rate is at an equivalent or higher level than two and half percentage points.

(5) The provisions of subsections (4), (5), (6), (7), (8), (9) and (10) of section 16 of this Act shall apply *mutatis mutandis* to loans granted by the Corporation under the provisions of this section.

Reduced rates
of tax for
upgrading,
refurbishing
or renovation
of a hotel.

24B. (1) Where it appears to the Corporation in the case of a company which carries on or carries out, in Malta, a trade or business consisting mainly of the operation or management of a hotel or group of hotels, that the gains or profits or part thereof derived by that company from its trade or business or part thereof in the year of assessment commencing on 1st January, 1997, or in subsequent years of assessment, have been set aside for the exclusive purpose of financing a project for the upgrading, refurbishing or renovation of a hotel or hotels owned, operated or managed by such a company and as shall have been approved by the Corporation, and that the gains or profits or part thereof have in fact been used for the purposes for which they were set aside, the Corporation shall issue to such company a certificate showing compliance and thereupon the rate of income tax chargeable on the gains or profits or part thereof so used shall be reduced by seventeen and a half percentage points, and in any such case the tax chargeable shall be assessed, or reassessed and where necessary refunded, as the case may require.

(2) The provisions of subsection (2) of section 6 of this Act shall apply *mutatis mutandis* to companies qualifying for assistance under the provisions of subsection (1) of this section.”

17. Section 25 of the principal Act shall be amended as follows: Amendment of section 25 of the principal Act.

(a) immediately after subsection (3) thereof there shall be added the following new subsections:

“(4) Notwithstanding any other provision of this Act, in releasing a certificate in accordance with the provisions of subsection (3) of this section, the Corporation may impose any conditions it may deem fit including a reduction in the term of the tax holiday contemplated by section 4 of this Act.

(5) The Corporation may at its discretion issue a certificate exempting a qualifying company from the requirements of paragraph (c) of subsection (1) of section 4 of this Act under such terms and conditions it may deem fit to impose where:

(a) the company is a joint venture between an existing qualifying Maltese company or companies (in this subsection referred to as "the first partner company") and a company which carries on its trade or business outside Malta (in this subsection referred to as "the second partner company") and which, if it were not for the said joint venture, would satisfy the conditions established in paragraph (c) of subsection (1) of section 4 of this Act; and

(b) the second partner company holds at least 20% of the ordinary and voting share capital of the joint venture company; and

(c) the Corporation is satisfied that the second partner company would bring into the joint venture company innovative technology, new production processes or access to new foreign markets."; and

(b) subsections (4) and (5) thereof shall respectively be renumbered as subsections (6) and (7).

Amendment of
section 34 of the
principal Act.

18. Section 34 of the principal Act shall be amended as follows:

(a) in subsection (2) thereof, for the words "on account of which it has been made." there shall be substituted the words "on account of which it has been made."; and

(b) immediately at the end of subsection (2), there shall be inserted the following proviso:

"Provided that, notwithstanding anything contained in subsection (1) of section 45 of this Act, a qualifying company which so elects not to be granted or to take any incentive or benefit otherwise due to it under the provisions of this Act, shall not be precluded from being granted any incentive or benefit of a similar nature granted under the provisions of the Aids to Industries Ordinance."

Cap. 159.

19. Subsection (2) of section 35 of the principal Act shall be substituted by the following new subsection:

Amendment of
section 35
of the
principal Act.

Cap. 168. “(2) A qualifying company shall not be entitled to any incentive or benefit contemplated under the provisions of this Act unless its annual financial statements, and in the case of a company not incorporated under Maltese Law the annual financial statements of its operations in Malta, are audited by a certified public accountant and auditor in accordance with the provisions of the Commercial Partnerships Ordinance, 1962 or the Companies Act, 1995, as applicable, whether or not such audit is required under the said Ordinance or Act and unless all other statements, accounts or documents submitted for the purpose of acquiring any such incentive or benefit are also certified by a certified public accountant and auditor to the same effect that the company’s financial statements are to be certified under the provisions of the said Ordinance or Act as aforesaid.”

20. Section 36 of the principal Act shall be amended as follows:

Amendment of
section 36
of the
principal Act.

(a) in the proviso to subsection (2) thereof, whenever the words “section 6” occur, there shall be added thereto the words “and section 24B”;

(b) in paragraph (a) of subsection (4), immediately after the words “of section 6” there shall be added the words “and section 24B”; and

(c) immediately after subsection (5) thereof, there shall be added the following two new subsections:

“(6) Where a qualifying company is a company incorporated outside Malta, such company shall show the Incentive and Benefits Reserve on its balance sheet in respect of its business activities in Malta until the company’s place of business in Malta, in respect of which the reserve is required, ceases to exist.

(7) The provisions of subsections (2), (3) and (5) of this section shall only apply to companies constituted under Maltese Law.”

Addition of
new section 44A to
the principal Act.

21. Immediately after section 44 of the principal Act, there shall be added the following new section:

"Exercise
of the
Corporation's
functions
under
this Act.

44A. The Corporation may, with the approval of the Minister, exercise its functions and powers under this Act through the agency of other persons:

Provided that any delegation of powers or functions made in accordance with the provisions of this section will not be effective unless definitely approved by the Corporation."

Passed by the House of Representatives at Sitting No. 72 of
Tuesday, 27th May, 1997.

Myriam Spiteri Debono
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives.

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