

## **Nru. 199**

25. 2. 2021

### **MALTA**

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#### **KAMRA TAD-DEPUTATI**

#### **HOUSE OF REPRESENTATIVES**

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ABBOZZ ta' Ligi mressaq mill-Onorevoli Clyde Caruana, M.P., Ministru għall-Finanzi u x-Xogħol, u moqri għall-Ewwel darba fis-Seduta tat-23 ta' Frar 2021.

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A BILL introduced by the Honourable Clyde Caruana, M.P., Minister for Finance and Employment, and read the First time at the Sitting of the 23rd February 2021.

**ATT sabiex jemenda l-Att dwar it-Taxxa fuq l-*Income*, Kap. 123, l-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti, Kap. 364, l-Att dwar l-Amministrazzjoni tat-Taxxa, Kap. 372, u l-Att dwar Taxxa fuq il-Valur Miżjud, Kap. 406.**

**AN ACT to amend the Income Tax Act, Cap. 123, the Duty on Documents and Transfers Act, Cap. 364, the Income Tax Management Act, Cap. 372 and the Value Added Tax Act, Cap. 406.**

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RAYMOND SCICLUNA  
*Skrivan tal-Kamra tad-Deputati*

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RAYMOND SCICLUNA  
*Clerk of the House of Representatives*



**ABBOZZ TA' LIĠI**  
**msejjah**

*ATT sabiex jemenda l-Att dwar it-Taxxa fuq l-Income, Kap. 123, l-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti, Kap. 364, l-Att dwar l-Amministrazzjoni tat-Taxxa, Kap. 372, u l-Att dwar Taxxa fuq il-Valur Miżjud, Kap. 406.*

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

**1.** It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2021 li jemenda Atti Varji tat-Taxxa. Titolu fil-qosor.

**TAQSIMA I**

**2.** Din it-Taqsima temenda l-Att dwar it-Taxxa fuq l-*Income* u għandha tinqara u tintfiehmed haġa waħda mal-Att dwar it-Taxxa fuq l-*Income*, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali". Emendi għall-Att dwar it-Taxxa fuq l-*Income*. Kap. 123.

**3.** Fis-subartikolu (6) tal-artikolu 33 tal-Att prinċipali, il-kliem "min jagħmel il-ħlas jista' jehel penali ta' mhux aktar minn tlieta u għoxrin elf euro (23,000) kif jista' jiġi preskritt mill-Ministru." għandhom jiġu sostitwiti bil-kliem "min jagħmel il-ħlas ikun ħati ta' reat u jehel, meta jinstab ħati, multa ta' mhux aktar minn tlieta u għoxrin elf euro (€23,000)". Emenda tal-artikolu 33 tal-Att prinċipali.

**4.** Fis-subartikolu (3) tal-artikolu 34 tal-Att prinċipali, il-kliem "tkun dovuta penali ta' mhux iktar minn tlieta u għoxrin elf euro (€23,000) minn min jagħmel il-ħlas kif jista' jiġi preskritt mill-Ministru." għandhom jiġu sostitwiti bil-kliem "min jagħmel il-ħlas ikun ħati ta' reat u jehel, meta jinstab ħati, multa ta' mhux aktar minn tlieta u għoxrin elf euro (€23,000)". Emenda tal-artikolu 34 tal-Att prinċipali.

TAQSIMA II

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

**5.** Din it-Taqsima temenda l-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti u għandha tinqara u tinftiehem haġa waħda mal-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-artikolu 19 tal-Att prinċipali.

**6.** Is-subartikolu (6) tal-artikolu 19 tal-Att prinċipali għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(6) Minbarra kif jista' jkun meħtieġ għall-fini ta' dan l-Att jew fejn il-Kummissarju jordna mod ieħor, kull persuna li għandha dmir uffiċjali jew li tkun impjegata fl-amministrazzjoni ta' dan l-Att hija marbuta bid-dmir ta' segretezza professjonali dwar kull haġa li tista' ssir taf biha waqt it-twettiq tas-setgħat tagħha taħt dan l-Att u ma għandhiex tikkex ir-riżultat ta' dak li ssir taf hliet lil xi awtorità kompetenti li jkollha x'taqsam mill-ġbir ta' taxxa bis-saħħa ta' dan l-Att, jew matul investigazzjoni jew prosekuzzjoni għal xi reat rilevanti. Dak l-uffiċjal li jikkex dak ir-riżultat ikun haġi ta' reat u jeħel, meta jinstab haġi, multa ta' mhux inqas minn mitejn u tletin euro (€230) u mhux aktar minn elfejn u tliet mitt euro (€2,300), jew għal priġunerija għal perjodu li ma jeċċedix sitt (6) xhur, jew dik il-multa u priġunerija flimkien.

Għall-finijiet ta' dan is-subartikolu, "reat rilevanti" tfisser reat kriminali, li ma jkunx wieħed ta' natura involontarja, li jikkonsisti f'kull att jew ommissjoni li jekk ikun imwettaq f'Malta, jew f'ċirkostanzi korrispondenti, jikkostitwixxi reat suxxettibbli għall-piena ta' priġunerija jew għal detenzjoni għal perjodu ta' sena (1) jew aktar."

TAQSIMA III

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

**7.** Din it-Taqsima temenda l-Att dwar l-Amministrazzjoni tat-Taxxa u għandha tinqara u tinftiehem haġa waħda mal-Att dwar l-Amministrazzjoni tat-Taxxa, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-artikolu 4 tal-Att prinċipali.

**8.** L-artikolu 4 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "Prim Ministru" għandhom jiġu sostitwiti bil-kelma "Kummissarju";

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

"(2) Ebda persuna maħtura taħt jew impjegata għat-tmexxija tad-dispożizzjonijiet tal-Atti dwar it-Taxxi ma tkun meħtieġa li turi xi prospett, dokument jew stima jew li tikxef jew tikkomunika xi materja jew xi haġa li ssir taf biha fil-qadi ta' dmirijietha taħt l-Atti dwar it-Taxxi hlief kif ikun meħtieġ sabiex id-dispożizzjonijiet tal-Att dwar it-Taxxi jiġu fis-seħh, jew għall-iskop, jew fil-kors, ta' investigazzjoni jew prosekuzzjoni għal xi reat magħmul kontra xi waħda mid-dispożizzjonijiet tal-Att dwar it-Taxxi, jew fil-kors ta' investigazzjoni jew prosekuzzjoni għal xi reat rilevanti."

(c) minnufih wara s-subartikolu (2) tiegħu għandu jiżdied is-subartikolu ġdid li ġej:

"(2A)Għall-finijiet ta' dan l-artikolu, "reat rilevanti" tfisser reat kriminali, li ma jkunx wieħed ta' natura involontarja, li jikkonsisti f'kull att jew ommissjoni li jekk ikun imwettaq f'Malta, jew f'ċirkostanzi korrispondenti, jikkostitwixxi reat suxxettibbli għall-piena ta' prigunerija jew għal detenzjoni għal perjodu ta' sena (1) jew aktar.";

(d) is-subartikolu (3) tiegħu għandu jiġi sostitwit bis-subartikolu ġdid li ġej:

"(3) Ebda haġa f'dan l-artikolu ma għandu jippreġudika l-obbligi internazzjonali li Kummissarju jew kwanlunkwe persuna oħra msemmija fis-subartikolu (2) jista' jkollhom, inkluż obbligi ta' kunfidenzjalità taħt l-arrangamenti magħmula taħt l-artikolu 76 tal-Att dwar it-Taxxa fuq l-*Income* u regolamenti li jimplimentaw direttivi tal-UE taħt l-artikolu 52B tal-Att dwar it-Taxxa fuq l-*Income* u ma għandux jipprevjeni l-kxif lil xi rappreżentant awtorizzat ta' xi Gvern ieħor ta' dik l-informazzjoni li tkun meħtieġa li tinkixef skont –

Kap. 123.

(a) kull arrangament magħmul taħt l-artikolu 76 tal-Att dwar it-Taxxa fuq l-*Income* inkluż il-kxif ta' dawk il-fatti li jistgħu jkunu meħtieġa biex jista' jkun hemm ħelsien kif imiss li jingħata f'Malta jew band' oħra taħt kull tali arrangament jew taħt l-artikolu 89 tal-Att dwar it-Taxxa fuq l-*Income*;

Kap. 123.

(b) kull arrangament ieħor bejn Malta u Stati oħra jew l-awtoritajiet tagħhom tat-taxxa li jkun jipprovdi għal skambju reċiproku ta' informazzjoni għal finijiet ta' taxxa."; u

(e) is-subartikolu (9) tiegħu għandu jigi mhassar.

Emenda tal-artikolu 14 tal-Att prinċipali.

9. Is-subartikolu (3) tal-artikolu 14 tal-Att prinċipali għandu jigi emendat kif ġej:

(a) il-paragrafu (a) tiegħu għandu jigi sostitwit bis-subartikolu ġdid li ġej:

"(a) Meta l-Kummissarju jkollu raġunijiet xierqa li jissuspetta li t-taxxa ġiet, qiegħda tiġi, jew ser tiġi evaža minn xi persuna, il-Kummissarju jista' jitlob, permezz ta' avviż bil-miktub lil persuna nominata, biex il-persuna nominata tipprovdi lill-Kummissarju, fiż-żmien indikat f'dak l-avviż li ma jkunx inqas minn hmistax (15)-il jum mid-data tan-notifika ta' dak l-avviż, dik l-informazzjoni u dokumentazzjoni kollha li l-persuna nominata jista' jkollha dwar proprjetà ta' kull għamla jew deskrizzjoni, trasferita jew mgħoddija lilha mingħand dik il-persuna u li l-persuna nominata tkun is-sid tagħha, jew għandha l-pussess tagħha, jew iżżommha taht kull titolu f'isem jew għall-benefiċċju ta' xi persuna bħal dik fid-data tal-imsemmi avviż jew matul iż-żmien speċifikat f'dak l-avviż li ma jibdiex iżjed kmieni minn ħames (5) snin mid-data ta' dik in-notifika.";

(b) il-paragrafu (e) tiegħu għandu jigi sostitwit b'dan li ġej:

"(e) (i) Id-dispożizzjonijiet ta' dan is-subartikolu għandhom jirbħu u għandhom japplikaw minkejja d-dispożizzjonijiet ta' kwalunkwe liġi oħra li timponi obbligi fiduċjarji tal-persuna nominata jew assoċjat lejn xi persuna, inkluż il-konsumatur tiegħu, prinċipal jew xi persuna oħra li setgħet għaddiet, għamlet tpaċija, għamlet donazzjoni jew xort' oħra trasferiet properjetà lill-persuna nnominata.

(ii) Id-drittijiet tas-suġġett tad-*data* msemmija fir-regolament 4 tar-Regolamenti dwar ir-Restrizzjoni tal-Protezzjoni tad-*Data* (Obbligi u Drittijiet), b'mod partikolari d-dritt ta' aċċess, għandu jkun restritt, parzjalment jew b'mod sħiħ, fejn tali restrizzjoni hija neċessarja u proporzjonali għal persuna nominata biex taderixxi mal-obbligi tagħha taht dan is-subartikolu.

(iii) Żvelar magħmul fiċ-ċirkostanzi li ġejjin ma għandhomx jikkostitwixxu reat taht dan il-paragrafu:

(A) żvelar lill-Kummissarju jew lil persuna awtorizzata mill-Kummissarju;

(B) żvelar magħmul mill-persuna nominata lil assoċjat jew minn assoċjat lil assoċjat ieħor li huwa meħtieġ sabiex ikun jista' jikkonforma mat-talba għall-informazzjoni tal-Kummissarju skont dan is-subartikolu;

(Ċ) żvelar magħmul fil-kors tal-proċeduri istitwiti fi kwalunkwe qorti jew tribunal jew korp amministrattiv kontra persuna nominata jew assoċjat sal-punt li l-iżvelar huma meħtieġa għad-difiża xierqa ta' persuna nominata jew assoċjat.

(D) żvelar magħmul fil-kors ta' kwalunkwe proċeduri f'xi qorti jew tribunal, jew lil korp amministrattiv jew awtorità, diment li rinunzja għal tali żvelar għiet mogħtija bil-miktub mill-Kummissarju.

(iv) f'dan il-paragrafu, "assoċjat" tfisser impjegat, soċju jew assistent tal-persuna nominata iżda ma tinkludix il-persuna jew xi waħda mill-persuni li d-dettalji tagħhom huma indikati fl-avviż maħruġ skont dan is-s ubartikolu kif meħtieġ mis-subparagrafu (ii) tal-paragrafu (ċ).";

(ċ) fis-subparagrafu (iii) tal-paragrafu (f) tiegħu, il-kliem "amministratur sempliċi ta' dik il-proprjeta;" għandhom jiġu sostitwiti bil-kliem "amministratur sempliċi ta' dik il-proprjeta.";

(d) is-subparagrafu (iv) tal-paragrafu (f) tiegħu għandu jiġi mħassar.

**10.** Fis-subartikolu (5) tal-artikolu 20 tal-Att prinċipali, il-kliem "fil-post imsemmi fis-subartikolu (1)." għandhom jiġu sostitwiti bil-kliem "fil-post imsemmi fis-subartikolu (1):" u minnufih wara għandu jiżdied il-proviso ġdid li ġej:

Emenda tal-artikolu 20 tal-Att prinċipali.

"Iżda fl-eżerċizzju tas-setgħat imsemmija u għal dan il-għan, il-Kummissarju jista' jitlob l-assistenza tal-Pulizija, li għandhom għal dan il-għan jeżerċitaw dawk il-poteri mogħtija lilhom fil-liġi."

**11.** L-artikolu 54 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 54 tal-Att prinċipali.

(a) l-artikolu 54 għandu jiġi enumerat mill-ġdid bħala l-artikolu 54(1); u

(b) wara s-subartikolu (1) tiegħu għandu jiżdied is-subartikolu ġdid li ġej:

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"(2) Il-ħlas ta' xi taxxa kif imsemmija fis-subartikolu ta' qabel tista' tiġi infurzata skont l-artikolu 40(2) tal-Att, li għandha tapplika *mutatis mutandis*, bl-istess mod li giet mogħtija f'azzjoni ċivili bejn il-Kummissarju u min ikun wettaq ir-reat."

Emenda tal-artikolu 56 tal-Att prinċipali.

**12.** Fl-artikolu 56 tal-Att prinċipali, wara l-kliem "sensja tal-Kummissarju" għandu jżied il-kliem "li ma għandhiex tinzamm bla raġuni".

#### TAQSMA IV

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

**13.** Din it-Taqsima temenda l-Att dwar it-Taxxa fuq il-Valur Miżjud u għandha tinqara u tinftiehem haġa waħda mal-Att dwar it-Taxxa fuq il-Valur Miżjud, hawn iżjed 'il quddiem f'din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-artikolu 56 tal-Att prinċipali.

**14.** L-artikolu 56 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, il-kliem "l-Prim Ministru" għandhom jiġu sostitwiti bil-kliem "l-Kummissarju";

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

"Ebda persuna li tkun maħtura taħt dan l-Att jew impjegata sabiex twettaq id-dispożizzjonijiet ta' dan l-Att ma tkunx meħtieġa li turi xi dokument jew li tikkaxxi xi haġa li tkun taf biha fit-twettiq ta' dmirijietha taħt dan l-Att ħlief b'dak il-mod li jista' jkun legalment meħtieġ bil-għan li jitwettqu fis-seħħ id-dispożizzjonijiet ta' dan l-Att, jew bil-għan jew fil-waqt ta' xi appell magħmul skont dan l-Att jew prosekuzzjoni għal xi reat kontra xi waħda mid-dispożizzjonijiet ta' dan l-Att, jew fil-kors ta' investigazzjoni jew prosekuzzjoni għal xi reat rilevanti:

Kap. 123.

Iżda d-dispożizzjonijiet ta' dan l-artikolu ma għandhomx jippreġudikaw l-obbligi internazzjonali li l-Kummissarju jew xi persuna msemmija f'dan is-subartikolu jista' jkollu, inkluż l-obbligu ta' kunfidenzjalità taħt arrangamenti magħmula taħt l-artikolu 76 tal-Att dwar it-Taxxa fuq l-*Income*."

(ċ) minnufih wara s-subartikolu (2) tiegħu, għandu jżied is-subartikolu ġdid li ġej:

"(2A)Għall-finijiet ta' dan l-artikolu, "reat rilevanti" tfisser reat kriminali, li ma jkunx wieħed ta' natura involontarja, li jikkonsisti f'kull att jew ommissjoni li jekk



ikun imwettaq f'Malta, jew f'ċirkostanzi korrispondenti, jikkostitwixxi reat suxxettibbli għall-piena ta' prigunerija jew għal detenzjoni għal perjodu ta' sena (1) jew aktar.";

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

(i) il-kliem "lill-Kummissarju tat-Taxxi Interni" għandhom jiġu mhassra;

(ii) il-kliem "kif jista' jiġi ordnat mill-Ministru" għandhom jiġu mhassra; u

(e) fis-subartikolu (5) tiegħu, il-kliem "ir-Regolament tal-Kunsill (KEE) numru 218/92 tas-27 ta' Jannar 1992 dwar koperazzjoni amministrattiva fil-qasam tat-tassazzjoni (VAT)" għandhom jiġu sostitwiti bil-kliem "ir-Regolament tal-Kunsill (KEE) numru 904/2010 tas-7 ta' Ottubru 2010 dwar koperazzjoni amministrattiva u l-ġlieda kontra l-frodi fil-qasam tat-taxxa fuq il-valur miżjud".

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### **Ghanijiet u Raġunijiet**

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Liġi huma sabiex jemendaw numru ta' dispożizzjonijiet fl-atti dwar taxxi sabiex isahħu s-setgħat tal-Kummissarju tat-Taxxi fil-ġlieda kontra l-evażjoni tat-taxxa billi jagħti aktar setgħat ta' investigazzjoni u li jippermetti l-qsim ta' informazzjoni. L-imsemmija emendi huma konformi mar-rakkomandazzjonijiet magħmula mill-Kumitat ta' Esperti dwar l-Evalwazzjoni ta' Miżuri ta' Kontra l-Hasil ta' Flus u l-Finanzjament tat-Terroriżmu (MONEYVAL).

**A BILL  
entitled**

*AN ACT to amend the Income Tax Act, Cap. 123, the Duty on Documents and Transfers Act, Cap. 364, the Income Tax Management Act, Cap. 372 and the Value Added Tax Act, Cap. 406.*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title.

**1.** The short title of this Act is the Various Revenue Acts (Amendment) Act, 2021.

**PART I**

Amendments to the Income Tax Act. Cap. 123.

**2.** 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".

Amendment of article 33 of the principal Act.

**3.** In sub-article (6) of article 33 of the principal Act, the words "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" shall be substituted by the words "the payor shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) of not more than twenty-three thousand euro (€23,000)".

Amendment of article 34 of the principal Act.

**4.** In sub-article (3) of article 34 of the principal Act, the words "the payor shall become liable to a penalty of not more than twenty-three thousand euro as may be prescribed by the Minister" shall be substituted by the words "the payor shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) of not more than twenty-three thousand euro (€23,000)".

PART II

5. This Part amends the Duty on Documents and Transfer Act and it shall be read and construed as one with the Duty on Documents and Transfer Act, hereinafter in this Part referred to as the "principal Act".

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

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

Amendment of article 19 of the principal Act.

"(6) Except as may be necessary for the purpose of this Act or where the Commissioner otherwise directs, every person having an official duty or being employed in the administration of this Act, shall be bound by the duty of professional secrecy in respect of anything which may come to his knowledge in the course of the exercise of his powers under this Act and shall not disclose the result thereof except to any authority competent in relation to the collection of duty under this Act or for the purpose, or in the course of an investigation or a prosecution for any offence committed against the provisions of this Act, or in the course of an investigation or prosecution for any relevant offence. Any such officer who otherwise discloses such result shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of not less than two hundred and thirty euro (€230) and not more than two thousand and three hundred euro (€2,300), or to imprisonment for a period not exceeding six (6) months, or to both such fine (*multa*) and imprisonment.

For the purposes of this sub-article, "relevant offence" means a criminal offence, not being one of an involuntary nature, consisting of any act or omission which if committed in Malta, or in corresponding circumstances, would constitute an offence liable to the punishment of imprisonment or of detention for a term of one (1) year or more."

PART III

7. 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 shall be referred to as the "principal Act".

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

8. Article 4 of the principal Act shall be amended as follows:

Amendment of article 4 of the principal Act.

(a) in sub-article (1) thereof, the words "Prime Minister" shall be substituted by the word "Commissioner".

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

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

(c) immediately after sub-article (2) thereof there shall be added the following new sub-article:

"(2A) For the purposes of this article, "relevant offence" means a criminal offence, not being one of an involuntary nature, consisting of any act or omission which if committed in Malta, or in corresponding circumstances, would constitute an offence liable to the punishment of imprisonment or of detention for a term of one (1) year or more.";

(d) sub-article (3) thereof shall be substituted by the following new sub-article::

Cap. 123. "(3) Nothing contained in this article prejudice the international obligations that the Commissioner or any person referred to in sub-article (2) may have, including confidentiality obligations under arrangements made under article 76 of the Income Tax Act and regulations implementing EU Directives under article 52B of the Income Tax Act and shall not prevent the disclosure to any authorised representative of any other Government of such information as is required to be disclosed in terms of -

Cap. 123. (a) any arrangement made under article 76 of the Income Tax Act including the disclosure of such facts as may be necessary to enable proper relief to be given in Malta or elsewhere under any such arrangement or under article 89 of the Income Tax Act;

(b) any other arrangement between Malta and other States or their tax authorities providing for the reciprocal exchange of information for tax purposes."; and

(e) sub-article (9) thereof shall be deleted.

9. Sub-article (3) of article 14 of the principal Act shall be amended as follows:

Amendment of article 14 of the principal Act.

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

"(a) Where the Commissioner has reasonable grounds to suspect that the tax has been, is, or may be evaded by any person, he may request, by notice in writing to a designated person, that the designated person provide the Commissioner, within the time indicated in such notice not being less than fifteen (15) days from the date of service of such notice, with all such information and documentation which the designated person may have relating to property of any kind or description, transferred or delivered to him by that person and owned, possessed, or held by the designated person under any title on behalf of or for the benefit of any such person on the date of the said notice or during the period specified in such notice not commencing earlier than five (5) years from the date of such notice.";

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

"(e) (i) The provisions of this sub-article shall override and shall apply notwithstanding the provisions of any law imposing fiduciary obligations of the designated person or associate towards any person, including his customer, principal or other person who may have delivered, settled, donated or otherwise transferred property to the designated person.

(ii) The rights of the data subject referred to in regulation 4 of the Restriction of the Data Protection (Obligations and Rights) Regulations, in particular the right of access, shall be restricted, partially or completely, where such a restriction is necessary and proportionate for a designated person to adhere to his obligations under this sub-article.

(iii) Disclosures made in the following circumstances shall not constitute an offence under this paragraph:

(A) disclosures to the Commissioner or to a person authorised by the Commissioner;

(B) disclosures made by the designated person to an associate or by an associate to another associate that are necessary in order for him to comply with the Commissioner's request for information pursuant to this sub-article;

(C) disclosures made in the course of proceedings instituted in any court or tribunal or administrative body against the designated person or associate to the extent that the disclosures are required for the proper defence of the designated person or associate;

(D) disclosures made in the course of any proceedings in any court or tribunal, or to any administrative body or authority, as long as a waiver for such disclosure has been given in writing by the Commissioner.

(iv) In this paragraph, "associate" means an employee, employer, partner or assistant of the designated person but does not include the person or any of the persons whose details are indicated in the notice issued pursuant to this sub-article as required by sub-paragraph (ii) of paragraph (c).";

(c) in sub-paragraph (iii) of paragraph (f) thereof, the words "administrator of such property;" shall be substituted by the words "administrator of such property.";

(d) sub-paragraph (iv) of paragraph (f) thereof shall be deleted.

Amendment of article 20 of the principal Act.

**10.** In sub-article (5) of article 20 of the principal Act, the words "premises referred to in sub-article (1)." shall be substituted by the words "premises referred to in sub-article (1):" and immediately thereafter there shall be added the following new proviso:

"Provided that in the exercise of the said powers and for such purpose the Commissioner may request the assistance of the Police Force, who shall for such purpose exercise such powers as are vested in them at law."

**11.** Article 54 of the principal Act shall be amended as follows:

Amendment of article 54 of the principal Act.

(a) article 54 shall be renumbered as article 54(1); and

(b) after sub-article (1) thereof there shall be added the following new sub-article:

"(2) The payment of any tax as mentioned in the preceding sub-article may be enforced in terms of article 40(2) of the Act, which shall be applicable *mutatis mutandis*, in like manner as it had been given in a civil action between the Commissioner and the offender."

**12.** In article 56 of the principal Act, after the words "sanction of the Commissioner" there shall be added the words "which shall not be unreasonably withheld".

Amendment of article 56 of the principal Act.

#### PART IV

**13.** 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".

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

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

Amendment of article 56 of the principal Act.

(a) in sub-article (1) thereof, the words "Prime Minister" shall be substituted by the word "Commissioner";

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

"(2) No person appointed under or employed in carrying out the provisions of this Act shall be required to produce any document or to divulge any matter coming under his notice in the performance of his duties under this Act except as may be lawfully required for the purpose of carrying into effect the provisions of this Act, or for the purpose or in the course of any appeal made in accordance with this Act or a prosecution for any offence against any of the provisions of this Act, or in the course of an investigation or a prosecution for any relevant offence:

Provided that the provisions of this article shall not prejudice the international obligations that the Commissioner or any person referred to in this sub-article may have, including confidentiality obligations under arrangements made under article 76 of the Income Tax Act."

(c) immediately after sub-article (2) thereof, there shall be added the following new sub-article:

"(2A)For the purposes of this article, "relevant offence" means a criminal offence, not being one of an involuntary nature, consisting of any act or omission which if committed in Malta, or in corresponding circumstances, would constitute an offence liable to the punishment of imprisonment or of detention for a term of one (1) year or more.";

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

(i) the words "to the Commissioner for Inland Revenue" shall be deleted;

(ii) the words "as may be directed by the Minister" shall be deleted; and

(e) in sub-article (5) thereof, the words "Council Regulation (EEC) No 218/92 of 27 January 1992 on administrative cooperation in the field of indirect taxation (VAT)" shall be substituted by the words "Council Regulation (EU) No 904/2010 of 7<sup>th</sup> October 2010 on administrative cooperation and combating fraud in the field of value added tax".

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### Objects and Reasons

The objects and reasons of this Bill are to amend a number of provisions in the revenue acts in order to strengthen the powers of the Commissioner for Revenue in the fight against tax evasion by giving more powers of investigation and allowing for the sharing of information. The said amendments are in line with recommendations made by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL).