

MALTA

ATT Nru. XXXVI ta' l-1988

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

ATT biex jemenda l-Att ta' l-1981 dwar it-Taxxa fuq Dokumenti.

ACT No. XXXVI of 1988

AN ACT enacted by the Parliament of Malta.

AN ACT to amend the Duty on Documents Act, 1981.

Naghti l-kunsens tiegħi.

(L.S.)

PAUL XUEREB
Agent President

6 ta' Diċembru, 1988

ATT Nru. XXXVI ta' l-1988

ATT biex jemenda l-Att ta' l-1981 dwar it-Taxxa fuq Dokumenti.

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

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1988 li jemenda l-Att dwar it-Taxxa fuq Dokumenti, u għandu jinqara u jiftiehem haġa waħda ma' l-Att ta' l-1981 dwar it-Taxxa fuq Dokumenti, hawnhekk iżjed "il quddiem imsejjah "l-Att prinċipali".

Titolu fil-qosor u bidu fis-sehh

Att Nru. XXXI ta' l-1981.

(2) Dan l-Att għandu jibda jsehh f'dik id-data li l-Ministru responsabbli għall-finanzi jista' jstabbilixxi b'avviż fil-Gazzetta u jistgħu jiġu stabbiliti dati differenti għal dispożizzjonijiet differenti ta' dan l-Att.

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

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

(a) minnufih wara t-tifsira ta' "beni immobbli" għandha tidhol it-tifsira ġdida li ġejja:

“ “Bord” tfisser il-Bord ta' Kummissarji Speċjali għat-Taxxa fuq Dokumenti, imwaqqaf skond l-artikolu 66 ta' dan l-Att;” u

(b) wara t-tifsira ta' "Kummissarju" għandha tidhol din it-tifsira ġdida li ġejja:

“ “Kummissarju Speċjali” tfisser membru tal-Bord imwaqqaf skond l-artikolu 66 ta' dan l-Att;”.

Sostituzzjoni ta' l-artikolu 10 ta' l-Att prinċipali.

3. Minflok l-artikolu 10 ta' l-Att prinċipali għandu jidhol dan li ġej:

“Il-Kummissarju jiddeċiedi u jistmat-taxxa dovuta.

10. (1) Meta fil-fehma tal-Kummissarju l-valur espress jew dikjarat f'xi dokument li ma jkunx dokument li għalih jirreferi l-artikolu 53 ta' dan l-Att, ikun inqas mill-valur reali fiż-żmien ta' l-eżekuzzjoni tad-dokument, huwa għandu jgħaddi biex jiddeċiedi b'ordni bil-miktub l-ammont tat-taxxa dovuta u għandu jagħmel stima skond il-każ.

(2) Meta l-valur stmat mill-Kummissarju kif imsemmi qabel ikun jeċċedi l-valur espress jew dikjarat fid-dokument b'iktar minn kwart tal-valur stmat mill-Kummissarju, il-persuna li għandha thallas it-taxxa għandha, b'żieda mat-taxxa li għandha hekk tithallas skond is-subartikolu (1) ta' dan l-artikolu, thallas bhala penali somma addizzjonali li tkun daqs l-ammont ta' taxxa kalkulat fuq il-valur totali stmat mill-Kummissarju kif imsemmi qabel.”.

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

4. Fl-artikolu 24 ta' l-Att prinċipali, minflok il-kliem “kull penali dovuta taht dan l-Att” għandhom jidhlu l-kliem “kull taxxa addizzjonali u kull penali dovuta taht dan l-Att”.

Emenda ta' l-artikolu 50 ta' l-Att prinċipali.

5. Fl-artikolu 50 ta' l-Att prinċipali:

(a) minnufih qabel il-proviso tiegħu għandu jidhol dan li ġej:

“Iżda l-obbligu tan-nutar li jippubblika dak l-att ikun limitat għat-taxxa dovuta fuq dak it-trasferiment stabbilit fuq il-bażi tal-valur dikjarat fil-kuntratt u għall-penalitajiet maħsuba fl-artikoli 51 u 52 ta' dan l-Att:

Iżda wkoll in-nutar ikollu privileġġ speċjali dwar it-taxxa li għandha tithallas u li tkun thallset minnu fuq xi trasferiment magħmul b'att pubbliku, fuq il-proprjetà trasferita:

Il-privileġġ speċjali mogħti b'dan l-artikolu għandu jkun registrat min-nutar fi żmien xahrejn mid-data ta' dak l-att u għandu jkollu l-istess preferenza bħall-privileġġi maħsuba fil-paragrafu (ċ) ta' l-artikolu 2010 tal-Kodiċi Ċivili.”; u

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(b) minflok il-kliem “Iżda t-taxxa dovuta fuq il-memorandum” fil-proviso preżenti għandu jidhol il-kliem “Iżda wkoll it-taxxa dovuta fuq il-memorandum”.

Emenda ta' l-artikolu 52 ta' l-Att prinċipali.

6. Fis-subartikolu (4) ta' l-artikolu 52 ta' l-Att prinċipali, minflok il-kliem “ta' mhux inqas minn lira u mhux iżjed minn hamsin lira” għandu jidhol il-kliem “ta' mhux inqas minn għaxar liri Maltin u mhux iżjed minn hames mitt lira Maltija”.

Sostituzzjoni ta' l-artikoli 53, 53A, 53B u 53Ċ ta' l-Att prinċipali.

7. Minflok l-artikoli 53, 53A, 53B u 53Ċ ta' l-Att prinċipali għandu jidhol dan li ġej:

“Il-Kummissarju jiddeċiedi u jistmat-taxxa dovuta.

53. (1) Meta l-Kummissarju jkun sodisfatt li l-prezz ta' immobbli dikjarat fil-kuntratt tal-bejgħ ikun inqas minn tliet kwarti tal-valur reali tal-proprjetà mibjugħa, huwa għandu jgħaddi biex jiddeċiedi b'ordni bil-miktub l-ammont ta' taxxa dovuta fuq id-differenza bejn il-valur dikjarat fil-kuntratt tal-bejgħ u l-valur ta' l-immobbli kif minnu deċiż u għandu jagħmel stima skond il-każ.

(2) Il-persuna li tittrasferixxi u dik li lilha jsir it-trasferiment għandhom ikunu responsabbli *in solidum* għall-hlas tat-taxxa dovuta msemmija fis-subartikolu (1) ta' dan l-artikolu fuq dak it-trasferiment u, meta fil-fehma tal-Kummissarju il-kuntratt tal-bejgħ ma jirriflettix il-kundizzjonijiet vera tal-bejgħ, kull wiehed mill-persuna li tittrasferixxi u mill-persuna li lilha jsir it-trasferiment għandu jhallas taxxa addizzjonali li tkun daqs għaxar darbiet id-differenza bejn it-taxxa mħallsa fuq il-kuntratt tal-bejgħ u t-taxxa dovuta fuq il-valur ta' l-immobbli kif ikun gie deċiż mill-Kummissarju.

(3) Il-Kummissarju jista' jagħmel stima skond kif hemm provdut fis-subartikoli (1) u (2) ta' dan l-artikolu, f'kull żmien, fi żmien sena mill-jum li fih il-Kummissarju jkun irċieva l-avviż imsemmi fl-artikolu 52 ta' dan l-Att.”.

8. It-Taqsima VI ta' l-Att prinċipali għandha tiġi emendata kif ġej:
- (a) minflok l-intestatura “Taqsim VI” għandha tidhol l-intestatura “Taqsim VII”; u
- (b) l-artikolu 64 tagħha għandu jiġi enumerat mill-ġdid bħala artikolu 71.

9. Minnufih wara l-artikolu 63 ta' l-Att prinċipali għandha tiżdied din it-Taqsima ġdida li ġejja:

“TAQSIMA VI

Stimi — Ogġezzjonijiet — Appelli

Notifika ta' stimi.

64. (1) Il-Kummissarju għandu jinnotifika lill-persuna li jkollha thallas it-taxxa, jew lir-rappreżentant legali tagħha, b'avviż li juri l-ammont ta' taxxa li għandha tithallas, u li jindika d-drittijiet tagħha skond l-artikolu 65 ta' dan l-Att.

(2) Għall-finijiet kollha ta' dan l-Att stima għandha titqies li saret mill-Kummissarju fid-data tan-notifika ta' l-avviż imsemmi qabel.

Ogġezzjonijiet kontra stimi.

65. (1) Jekk xi persuna li tkun ġiet notifikata bi, jew li tintlaqat minn, avviż ta' stima tkun tixtieq tikkontesta dik l-istima, hija tista' tapplika għand il-Kummissarju għar-revoka jew reviżjoni tagħha permezz ta' avviż ta' ogġezzjoni bil-mik-

Sostituzzjoni tat-Taqsima VI ta' l-Att prinċipali.

Zieda ta' Taqsima ġdida għall-Att prinċipali.

tub li jkun jispeċifika r-raġunijiet għall-oġġezzjoni għall-istima u li jsir fi żmien tletin jum mid-data tan-notifika ta' l-avviż imsemmi qabel:

Izda l-Kummissarju għandu jtaqwal l-imsemmi perijodu b'mod raġonevoli skond iċ-ċirkostanzi jekk ikun sodisfatt li l-persuna ma setghetx tikkontesta l-istima minhabba l-mard, nuqqas minn Malta, jew xi raġuni xierqa oħra.

(2) Meta xi persuna li tkun oġġezzjonat kontra stima tiftiehem mal-Kummissarju dwar l-ammont ta' taxxa li għandu jithallas dwar dik l-istima, din għandha tiġi emendata skond il-ftehim, u l-avviż tat-taxxa li għandha tithallas għandu jiġi notifikat lil dik il-persuna.

(3) Jekk ma jintlahaqx ftehim kif provdut fis-sub-artikolu (2) ta' dan l-artikolu, il-Kummissarju għandu jiddeċiedi dwar it-taxxa b'ordni bil-miktub u għandu jinnotifika lill-persuna li toġġezzjona avviż li hu jirrifjuta li jemenda l-istima kif mitlub minn dik il-persuna.

Twaqqif
ta' Bord
ta' Kum-
missarji
Speċjali.

66. (1) Il-President ta' Malta jista' b'avviż fil-Gazetta jahtar Bord ta' Kummissarji Speċjali għat-Taxxa fuq Dokumenti li jkun magħmul minn *Chairman* u minn żewġ persuni oħra sabiex jisimghu u jiddeċiedi appelli skond id-dispożizzjonijiet ta' l-artikolu 67 ta' dan l-Att. Il-President ta' Malta jista' wkoll jahtar tliet persuni oħra biex jagħmluha ta' Kummissarji Speċjali, wiehed biex joqgħod minflok iċ-*Chairman* u kull wiehed mit-tnejn l-oħra biex joqogħdu minflok xi wiehed mill-Kummissarji Speċjali l-oħra kull meta iċ-*Chairman* jew xi wiehed mill-Kummissarji Speċjali l-oħra, skond il-każ, ma jkunx jista' għal xi raġuni, jaqdi dmirijietu. Kemm iċ-*Chairman* kif ukoll is-sostitut *Chairman* ikunu Maġistrat jew Maġistrat irtirat.

(2) Persuna ma tkunx tista' tiġi nominata, lanqas ma tista' tkompli bhala Kummissarju Speċjali, sakemm tkun membru tal-Kamra tad-Deputati.

(3) Kull Kummissarju Speċjali għandu, qabel ma jidhol għall-kariga tiegħu, jagħmel u jissottoskrivi dik-jarazzjoni bil-gurament fuq il-formola preskritta għal hekk quddiem il-Qorti ta' l-Appell.

(4) Kull Kummissarju Speċjali għandu jibqa' fil-kariga għal dak iż-żmien li jista' jiġi speċifikat fil-hatra tiegħu.

(5) Il-Kummissarju għandu jippubblika d-deċiżjonijiet kollha mogħtija mill-Bord fuq punti ta' liġi.

(6) Il-Bord ikollu s-setgħa li jsejjah lil kull persuna sabiex tixhed jew iġġib kotba jew dokumenti oħra quddiemu, u iċ-*Chairman* ikollu s-setgħa li jagħti l-gurament lil kull persuna li tersaq quddiem il-Bord.

(7) Il-Kummissarji Speċjali ma jkunux personalment responsabbli għal kull ghemil jew nuqqas tal-Bord magħmul jew li naqas li jsir *in bona fide* matul il-proċedimenti tal-Bord.

(8) Il-Ministru jista' jagħmel regoli li jirregolaw l-appelli lill-Bord u, bla hsara għall-ġeneralità ta' dak li ntqal qabel, jista' jagħmel regoli:

(a) li jippreskrivu l-mod li bih appell għandu jsir lill-Bord;

(b) li jippreskrivu l-proċedura li l-Bord għandu juża fis-smigh ta' appell u *r-records* li għandhom jinżammu mill-Bord;

(ċ) li jippreskrivu l-mod li bih il-Bord għandu jitleqqa' u l-postijiet fejn u l-hinijiet li fihom il-Bord għandu jagħmel il-laqgħat;

(d) li jippreskrivu d-drittijiet li għandhom jithallsu dwar appelli lill-Bord; u

(e) b'mod ġenerali sabiex id-dispożizzjonijiet ta' din it-Taqsima dwar il-Bord ikunu jistgħu jsehhu ahjar.

Apelli
lill-Bord
tal-Kum-
missarji
Speċjali.

67. (1) Kull persuna illi thoss ruhha aggravata bi stima, u ma tkunx fteħmet mal-Kummissarju dwar l-ammont ta' taxxa li għandu jithallas kif provdut fis-subartikolu (1) ta' l-artikolu 65 ta' dan l-Att, tista' tagħmel appell lill-Bord fi żmien tletin ġurnata mid-data tan-notifika lilha ta' avviż tar-rifjut tal-Kummissarju li jemenda l-istima kif mitlub.

(2) Kull persuna li tappella għandha tidher quddiem il-Bord jew personalment jew b'mezz ta' aġent.

(3) Il-piż tal-prova illi l-istima li dwarha jsir l-ilment hija eċċessiva jkun ta' l-appellant.

(4) Bla hsara għad-dispożizzjonijiet tas-subartikolu (3) ta' dan l-artikolu, il-Bord għandu jikkonferma, inaqqas, iżid jew jannulla l-istima jew jagħmel dak l-ordni dwarha li jidhirlu xieraq, iżda kull tnaqqis jew żieda bħal dawk jistgħu jsiru biss dwar dawk il-kapijiet tad-deċiżjoni tal-Kummissarju li kontra tagħhom ikun sar appell. Avviż tad-deċiżjoni tal-Bord, tad-data tagħha, u ta' kull emenda fl-istima, għandu jintbagħat lill-Kummissarju illi jordna li kopja ta' dak l-avviż tiġi notifikata hekk kif provdut fl-artikolu 70 ta' dan l-Att lill-persuna li tappella, flimkien ma' avviż li jgħarraf lil dik il-persuna bid-drittijiet tagħha skond l-artikolu 68 ta' dan l-Att.

(5) Appell magħmul lill-Bord ma jistax jiġi irtirat jew ċedut hlief bil-kunsens tal-Kummissarju.

(6) il-Bord jista' jordna l-korrezzjoni ta' kull żball aritmetiku li jagħmel f'xi deċiżjoni tiegħu fuq rikors ippreżentat minn xi waħda mill-partijiet fi żmien għaxart ijiem min-notifika lilha ta' dik id-deċiżjoni u notifikat lill-parti l-oħra.

Appelli
lill-Qorti
ta'
l-Appell.

68. (1) Kull persuna li, wara li tkun appellat lill-Bord, tħoss ruhha aggravata bid-deċiżjoni tiegħu, tista' tappella kontra d-deċiżjoni fuq punt ta' liġi biss, lill-Qorti ta' l-Appell b'rikors ippreżentat fi żmien tletin ġurnata min-notifika lilha tad-deċiżjoni tal-Bord.

(2) Il-Kummissarju jista', jekk ma jkunx sodisfatt bid-deċiżjoni tal-Bord, jappella kontra d-deċiżjoni, fuq punt ta' liġi biss, lill-Qorti ta' l-Appell b'rikors ippreżentat fi żmien tletin ġurnata mid-deċiżjoni tal-Bord.

(3) Kemm-il darba regoli magħmulin taht dan l-Att ma jipprovdur żmien itwal, għandu jingħata lill-partijiet avviż ta' sebat ijiem shah tad-data ffissata għas-smiegh ta' l-Appell.

(4) Il-Qorti tista' tikkonferma, tnaqqas, iżżid jew tannulla l-istima kif stabbilita mill-Bord jew tagħmel dak l-ordni dwarha kif jidhrilha xieraq, iżda kull tnaqqis jew żieda bħal dawk jistgħu jsiru biss dwar dawk il-kapijiet tad-deċiżjoni tal-Bord li kontra tagħhom ikun sar l-appell.

(5) Avviż ta' l-ammont ta' taxxa li għandu jithallas skond l-istima kif deċiża mill-Qorti għandu jiġi notifikat mill-Kummissarju hekk kif provdut fl-artikolu 70 ta' dan l-Att.

(6) Il-Kummissarju għandu jippubblika d-deċiżjonijiet kollha mogħtija mill-Qorti.

(7) Il-Bord imwaqqaf skond l-artikolu 29 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili jista' jagħmel regoli dwar appelli lill-Qorti ta' l-Appell taht dan l-artikolu, u jippreskrivi d-drittijiet li għandhom jithallsu għal dawk l-appelli.

Meta stima
jew stimi
emendati
jkunu
finali u
konklużivi.

69. Meta ma tkun saret ebda oġġezzjoni jew appell validu kontra stima jew meta l-ammont tat-taxxa jkun ġie miftehem skond is-subartikolu (2) ta' l-artikolu 65 ta' dan l-Att, jew meta appell ikun ġie irtirat jew ċedut, jew meta l-ammont tat-taxxa li għandha tithallas ikun ġiet stabbilit wara oġġezzjoni jew appell, l-istima kif magħmula jew miftehma jew kif stabbilita wara oġġezzjoni jew appell, skond il-każ, tkun finali u konklużiva għall-finijiet kollha ta' dan l-Att:

Iżda ebda haġa f'din it-Taqsima ta' dan l-Att ma ttelef lill-Kummissarju milli jagħti xi hlas lura jew milli jagħmel aġġustament skond id-dispożizzjonijiet ta' l-artikolu 63 ta' dan l-Att jew milli jagħmel xi stima jew stima addizzjonali li ma timplikax li tinfetħ mill-ġdid xi kwistjoni li tkun ġiet deċiża fuq appell.

Notifika
ta' avviż.

70. (1) Avviż moghti mill-Kummissarju għall-finijiet ta' dan l-Att għandu jiġi notifikat lill-persuna li lilha jkun indirizzat jew personalment jew billi jintbagħat bil-posta reġistrata fl-indirizz tan-negożju jew privat tagħha l-aħħar magħruf.

(2) Fil-każ ta' servizz b'posta reġistrata, kemm-il darba ma jiġix ippruvat il-kuntrarju, l-avviż jitqies li ġie notifikat:

(a) fil-każ ta' persuna li ttrissjedi f'Malta, mhux iktar tard mit-tielet jum wara d-data li jiġi mpostat;

(b) fil-każ ta' persuna li ma tkunx hekk ttrissjedi, fil-jum li jiġi wara dak li fih l-avviż kien jiġi riċevut normalment bil-posta.”.

10. (1) Id-dispożizzjonijiet ta' dan l-Att ma għandhom jolqtu ebda haġa legalment magħmula jew li naqset milli ssir taht l-Att prinċipali jew xi proċedimenti ġudizzjarji li jkunu pendenti quddiem xi qorti fid-data tal-bidu fis-sehh ta' dan l-Att. Dispożizzjoni
transitorja.

(2) Bla hsara għad-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, id-dispożizzjonijiet ta' dan l-Att għandhom japplikaw għal kull haġa li tkun għadha pendenti jew li ma tkunx għet finalizzata fid-data tal-bidu fis-sehh ta' dan l-Att.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 176 tad-29 ta' Novembru, 1988.

LAWRENCE GONZI
Speaker

P. MUSCAT TERRIBILE
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

PAUL XUEREB
Acting President

6th December 1988

ACT No. XXXVI of 1988

AN ACT further to amend the Duty on Documents Act, 1981.

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

Short title and commencement, Act No. XXXI of 1981.

1. (1) This Act may be cited as the Duty on Documents (Amendment) Act, 1988, and shall be read and construed as one with the Duty on Documents Act, 1981, hereinafter referred to as "the principal Act".

(2) This Act shall come into force on such date as the Minister responsible for finance may appoint by notice in the Gazette, and different dates may be appointed for different provisions of this Act.

Amendment of section 2 of the principal Act.

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

(a) immediately before the definition of "body of persons" there shall be inserted the following new definition:

""Board" means the Board of Special Commissioners for Duty on Documents, appointed under section 66 of this Act;"
and

(b) after the definition of "signature" there shall be inserted the following new definition:

""Special Commissioner" means a member of the Board appointed under section 66 of this Act;"

Substitution of section 10 of the principal Act.

3. For section 10 of the principal Act there shall be substituted the following:

"Commissioner to determine and assess the duty chargeable"

10. (1) Where in the opinion of the Commissioner the value expressed or declared in a document other than a document to which section 53 of this Act refers, is lower than the real value at the time of the execution of the document, he shall proceed to determine by order in writing the amount of the duty chargeable and shall raise an assessment accordingly.

(2) Where the value assessed by the Commissioner as aforesaid exceeds the value expressed or declared in the document by more than one-fourth of the value assessed by the Commissioner, the person liable to pay duty shall, in addition to the duty chargeable as in subsection (1) of this section, pay by way of penalty, an additional sum, equivalent to the amount of duty calculated on the total value assessed by the Commissioner as aforesaid."

4. In section 24 of the principal Act, for the words "any penalty incurred under this Act" there shall be substituted the words "any additional duty or any penalty incurred under this Act".

Amendment of section 24 of the principal Act.

5. In section 50 of the principal Act:

Amendment of section 50 of the principal Act.

(a) immediately before the proviso thereto there shall be added the following:

"Provided that the liability of the notary publishing such deed shall be limited to the duty chargeable on such transfer established on the basis of the value declared in the deed and to the penalties contemplated in sections 51 and 52 of this Act:

Provided further that the notary shall have a special privilege in respect of the duty payable and paid by him on any transfer effected by a public deed, over the immovable transferred:

The special privilege granted by this section shall be registered by the notary within two months from the date of such deed and shall have the same rank as the privileges contemplated in paragraph (c) of section 2010 of the Civil Code:"; and

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(b) for the words "Provided that the duty chargeable on the memorandum" in the present proviso there shall be substituted the words "Provided further that the duty chargeable on the memorandum".

6. In subsection (4) of section 52 of the principal Act, for the words "of not less than one pound and not more than fifty pounds" there shall be substituted the words "of not less than ten Maltese liri and not more than five hundred Maltese liri".

Amendment of section 52 of the principal Act.

7. For sections 53, 53A, 53B and 53C of the principal Act, there shall be substituted the following:

Substitution of sections 53, 53A, 53B and 53C of the principal Act.

"Commissioner to determine and assess the duty chargeable.

53. (1) Where the Commissioner is satisfied that the price of an immovable declared in the deed of sale is less than three-fourths of the real value of the immovable sold, he shall proceed to determine by order in writing the amount

of duty chargeable on the difference between the value declared in the deed of sale and the value of the immovable as determined by him and shall raise an assessment accordingly.

(2) The transferor and the transferee shall be jointly and severally liable to pay the duty referred to in subsection (1) of this section and, where in the opinion of the Commissioner the deed of sale does not reflect the true conditions of the sale, the transferor and the transferee shall each be liable to pay an additional duty equal to ten times the difference between the duty paid on the deed of sale and the duty chargeable on the value of the immovable as determined by the Commissioner.

(3) The Commissioner may raise an assessment as provided in subsections (1) and (2) of this section, at any time, within one year from the day of the receipt by the Commissioner of the notice referred to in section 52 of this Act.”.

Substitution of Part VI of the principal Act.

8. Part VI of the principal Act shall be amended as follows:

- (a) for the heading “Part VI” there shall be substituted the heading “Part VII”; and
- (b) section 64 thereof shall be renumbered section 71.

Addition of new Part to the principal Act.

9. Immediately after section 63 of the principal Act there shall be added the following new Part:

“PART VI

Assessments — Objections — Appeals

Service of assessments.

64. (1) The Commissioner shall cause to be served on the person liable to pay the duty, or on his lawful representative, a notice stating the amount of duty payable, and indicating his rights under section 65 of this Act.

(2) An assessment shall for all purposes of this Act be deemed to have been made by the Commissioner on the date of service of the notice aforesaid.

Objections against assessments.

65. (1) If any person served with or affected by a notice of assessment wishes to contest that assessment, he may apply to the Commissioner for its revocation or revision by a notice of objection in writing specifying the grounds of the objection to the assessment and made within thirty days from the date of the service of the notice aforesaid:

Provided that the Commissioner shall extend the said period as may be reasonable in the circumstances if he is satisfied that that person was prevented from contesting the assessment owing to sickness, or absence from Malta, or any other reasonable cause.

(2) Where any person who has objected to an assessment agrees with the Commissioner as to the amount

of duty payable thereunder, the assessment shall be amended accordingly, and notice of the duty payable shall be served upon such person.

(3) If no agreement is reached as provided in subsection (2) of this section, the Commissioner shall determine the duty by order in writing and serve on the person objecting a notice of his refusal to amend the assessment as desired by such person.

Establishment of Board of Special Commissioners

66. (1) The President of Malta may by notice in the Gazette appoint a Board of Special Commissioners for Duty on Documents consisting of a Chairman and two other persons for the purpose of hearing and determining appeals in accordance with the provisions of section 67 of this Act. The President of Malta may also appoint three other persons to act as Special Commissioners, one to replace the Chairman and any one of the other two to replace any of the other Special Commissioners whenever the Chairman or any of the other Special Commissioners, as the case may be, is, for any reason, unable to carry out his functions. Both the Chairman and the substitute Chairman shall be a Magistrate or a retired Magistrate.

(2) A person shall be disqualified from being appointed or from continuing to be a Special Commissioner so long as he is a member of the House of Representatives.

(3) Every Special Commissioner shall, before entering upon his office, make and subscribe a declaration on oath in the form prescribed to that effect before the Court of Appeal.

(4) Every Special Commissioner shall hold office for such period as may be specified in his appointment.

(5) The Commissioner shall publish all decisions given by the Board on points of law.

(6) The Board shall have power to summon any person to give evidence or to produce books or other documents before it, and the Chairman shall have power to administer the oath to any person appearing before the Board.

(7) The Special Commissioners shall not be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the proceedings of the Board.

(8) The Minister may make rules governing appeals to the Board and, without prejudice to the generality of the foregoing, may make rules:

(a) prescribing the manner in which an appeal shall be made to the Board;

(b) prescribing the procedure to be adopted by the Board in hearing an appeal and the records to be kept by the Board;

(c) prescribing the manner in which the Board shall be convened and the places where and the times at which the Board shall hold sittings;

(d) prescribing fees to be paid in respect of appeals to the Board; and

(e) generally for the better carrying out of the provisions of this Part relating to the Board.

Appeals to the Board of Special Commissioners.

67. (1) Any person who feels aggrieved by an assessment, and has not agreed with the Commissioner on the amount of duty payable as provided in subsection (1) of section 65 of this Act, may enter an appeal to the Board within thirty days from the date of the service upon him of a notice of the refusal of the Commissioner to amend the assessment as desired.

(2) Every person appealing shall appear before the Board either in person or by an agent.

(3) The onus of proving that the assessment complained of is excessive shall be on the appellant.

(4) Subject to the provisions of subsection (3) of this section, the Board shall confirm, reduce, increase or annul the assessment or make such order thereon as it may deem appropriate, but any such reduction or increase may refer only to those heads of the Commissioner's decision against which an appeal is entered. Notice of the Board's decision, of the date thereof, and of any amendment to the assessment shall be sent to the Commissioner who shall cause a copy thereof to be served in the manner provided in section 70 of this Act to the person appealing, together with a notice informing such person of his rights under section 68 of this Act.

(5) An appeal to the Board shall not be withdrawn or discontinued except with the consent of the Commissioner.

(6) The Board may order the correction of any arithmetical error incurred in any of its decisions on an application filed by either party within ten days from the service upon him of such decision and served on the other party.

Appeals to the Court of Appeal.

68. (1) Any person who, having appealed to the Board, feels aggrieved by its decision, may appeal against the decision, on a question of law only, to the Court of Appeal by an application filed within thirty days from the date of service upon him of the decision of the Board.

(2) The Commissioner may, if he is dissatisfied with the decision of the Board, appeal against the decision, on a question of law only, to the Court of Appeal by an application filed within thirty days from the date of the Board's decision.

(3) Unless rules made hereunder provide a longer period, seven clear days' notice shall be given to the parties of the date fixed for the hearing of the appeal.

(4) The Court may confirm, reduce, increase or annul the assessment as determined by the Board or make such order thereon as it may deem appropriate but any such reduction or increase may refer only to those heads of the Board's decision against which an appeal is entered.

(5) Notice of the amount of duty payable under the assessment as determined by the Court shall be served by the Commissioner in the manner provided in section 70 of this Act.

(6) The Commissioner shall publish all decisions given by the Court.

(7) The Board established under section 29 of the Code of Organisation and Civil Procedure may make rules concerning appeals to the Court of Appeal under this section, and prescribing the fees to be paid on such appeals.

When assessments or amended assessments are final and conclusive.

69. Where no valid objection or appeal has been lodged against an assessment, or where the amount of the duty has been agreed to under subsection (2) of section 65 of this Act, or where an appeal has been withdrawn or discontinued, or where the amount of duty payable has been determined on objection or appeal, the assessment as made or agreed to or determined on objection or appeal, as the case may be, shall be final and conclusive for all purposes of this Act:

Provided that nothing in this Part of this Act shall prevent the Commissioner from making any refund or adjustment under the provisions of section 63 of this Act or any assessment or additional assessment which does not involve re-opening any matter which has already been determined on appeal.

Service of notices.

70. (1) A notice given by the Commissioner for the purposes of this Act shall be served on the person to whom it is addressed either personally or by being sent by registered post to his last known business or private address.

(2) In the case of service by registered post, unless the contrary is proved, the notice shall be deemed to have been served:

(a) in the case of a person residing in Malta, not later than the third day succeeding the day of postage;

(b) in the case of a person not so residing, on the day succeeding that on which the notice would have been received in the ordinary course by post."

Transitory
provision.

10. (1) The provisions of this Act shall not affect anything lawfully done or omitted to be done under the principal Act or any judicial proceedings which are pending before any court on the date of the coming into force of this Act.

(2) Subject to the provisions of subsection (1) of this section, the provisions of this Act shall apply to any matter which is outstanding or has not been finalised on the date of the coming into force of this Act.

Passed by the House of Representatives at Sitting No. 176 of the 29th November, 1988.

LAWRENCE GONZI
Speaker

P. MUSCAT TERRIBILE
Clerk to the House of Representatives.