

## Nru. 85

19. 5. 89

### MALTA

#### KAMRA TAD-DEPUTATI

#### HOUSE OF REPRESENTATIVES

ABBOZZ ta' Liġi mressaq mill-Onorevoli Emmanuel Bonnici, M.P., Ministru għall-Iżvilupp Terzjarju u moqri għall-Ewwel darba fis-Seduta tal-15 ta' Mejju, 1989.

A BILL introduced by the Honourable Emmanuel Bonnici, M.P., Minister for Development of Tertiary Sector and read the First time at the Sitting of the 15th May, 1989.

ATT biex jemenda l-Att ta' l-1988 dwar l-Offshore Trusts.

AN ACT further to amend the Offshore Trusts Act, 1988.

P. MUSCAT TERRIBILE  
*Skrivan tal-Kamra tad-Deputati*

P. MUSCAT TERRIBILE  
*Clerk to the House of Representatives*

## ABBOZZ TA' LIĠI

### msejjah

*ATT biex jemenda l-Att ta' l-1988 dwar l-Offshore Trusts.*

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. Dan l-Att jista' jissejjaħ l-Att ta' l-1989 li jemenda l-Att dwar *l-Offshore Trusts*, u għandu jinqara u jiftiehem haġa waħda ma' l-Att ta' l-1988 dwar *l-Offshore Trusts*, hawnhekk iżjed 'il quddiem imsejjah "l-Att prinċipali".

Titolu fil-qosor.

Att XXXV  
ta' l-1988.

2. Fl-artikolu 2 ta' l-Att prinċipali, it-tifsira ta' "proprjetà immobbli sitwata f'Malta" għandha tithassar.

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

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

Emenda ta'  
l-artikolu 6 ta'  
l-Att prinċipali.

"(b) il-proprjetà tat-*trust* ma tkunx tinkludi xi proprjetà sitwata f'Malta:

Iżda xi azzjonijiet fi jew obbligazzjonijiet ta' kumpannija li tkun kumpannija *offshore* taht l-Att għandhom jitqiesu li ma jkunux sitwati f'Malta;"

4. Minflok is-subartikolu (6) ta' l-artikolu 18 ta' l-Att prinċipali għandu jidhol dan is-subartikolu li ġej:

Emenda ta'  
l-artikolu 18 ta'  
l-Att prinċipali.

"(6) Mal-hatra ta' *trustee* ġdid kull haġa mehtieġa biex il-proprjetà tat-*trust* tiġi vestita fi jew taht il-kontroll tat-*trustee* għal dak iż-żmien għandha, u tista' tkun mehtieġa mit-*trustee* jew xi benefiċjarju li, ssir."

5. Fis-subparagrafu (iii) tal-paragrafu (a) tas-subartikolu (2) ta' l-artikolu 37 ta' l-Att prinċipali, minflok il-kliem "ta' xi" għandhom jidhlu l-kliem "jew xi".

Emenda ta'  
l-artikolu 37 ta'  
l-Att prinċipali.

Emenda ta' l-artikolu 38 ta' l-Att prinċipali.

6. Fis-subartikolu (2) ta' l-artikolu 38 ta' l-Att prinċipali, minflok il-kliem "setgħa oħra lill-Qorti" għandhom jidhlu l-kliem "setgħa oħra mogħtija lill-Qorti".

Emenda ta' l-artikolu 44 ta' l-Att prinċipali.

7. Minflok is-subartikolu (1) ta' l-artikolu 44 ta' l-Att prinċipali għandu jidhol dan is-subartikolu li ġej:

"Kap. 123

(1) It-taxxa li tithallas taht l-Att dwar it-Taxxa fuq l-*Income*, jew taht xi liġi oħra li tissostitwixxi dik il-liġi, fuq l-*income* ta' *offshore trust* u fuq xi *income* ta' benefiċjarju li jirriżulta minn dik it-*trust*, għandha tkun ta' mitejn lira għal kull sena ta' stima, u għandha tithallas mit-*trust* lill-Awtorità għan-nom tal-Kummissarju tat-Taxxi Interni mhux iżjed tard mill-aħħar ta' Jannar ta' kull sena li tiġi wara dik tar-registrazzjoni tat-*trust*."

Emenda ta' l-artikolu 46 ta' l-Att prinċipali.

8. Fis-subartikolu (1) ta' l-artikolu 46 ta' l-Att prinċipali, il-kliem "ta' l-1948" għandhom jithassru.

Emenda ta' l-artikolu 47 ta' l-Att prinċipali.

9. L-artikolu 47 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fit-test Ingliż tas-subartikolu (3) tiegħu, minflok il-kelma "adaptions" għandha tidhol il-kelma "adaptations";

(b) fl-imsemmi subartikolu (3), minflok il-kliem "għal dmirijiet bhala diretturi jew segretarji ta' kumpanniji *offshore* għandhom jiftiehm bħala riferenzi għad-dmirijiet ta' *trustees*" għandhom jidhlu l-kliem "għal diretturi jew segretarji ta' kumpanniji *offshore* jew għad-dmirijiet tagħhom għandhom jiftiehm bħala riferenzi għal *trustees* jew għad-dmirijiet tagħhom".

Emenda ta' l-artikolu 48 ta' l-Att prinċipali.

10. Fl-artikolu 48 ta' l-Att prinċipali, il-kliem "u ebda persuna hliet kumpannija *nominee* awtorizzata kif imsemmi hawn fuq ma tista' tiġi maħtura *trustee* ta' *offshore trust*" għandhom jithassru.

Emenda ta' l-artikolu 51 ta' l-Att prinċipali.

11. Fit-test Ingliż tas-subartikolu (3) ta' l-artikolu 51 ta' l-Att prinċipali, minflok il-kliem "this Act, the Act or omission constituting the offence can be attributed directly to a person or persons clearly identifiable," għandhom jidhlu l-kliem "this Act, the act or omission constituting the offence can be attributed directly to a person or persons clearly identifiable,".

Emenda ta' l-Iskeda li tinsab ma' l-Att prinċipali.

12. Fl-Iskeda li tinsab ma' l-Att prinċipali, minflok il-kliem "l-Att ta' l-1948 dwar it-Taxxa fuq l-*Income*" għandhom jidhlu l-kliem "l-Att dwar it-Taxxa fuq l-*Income*, Kap. 123".

### Għanijiet u Raġunijiet

L-Għan ta' l-Abbozz huwa li jikkjarifika ċerti dispożizzjonijiet ta' l-Att prinċipali li jistgħu jagħtu lok għal interpretazzjoni erronja.

## A BILL

## entitled

*AN ACT to amend the Offshore Trusts Act, 1988.*

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. This Act may be cited as the Offshore Trusts (Amendment) Act, 1989, and shall be read and construed as one with the Offshore Trusts Act, 1988, hereinafter referred to as "the principal Act". Short title.  
Act XXXV  
of 1988.
2. In section 2 of the principal Act, the definition of "immovable property situated in Malta" shall be deleted. Amendment of  
section 2 of the  
principal Act.
3. For paragraph (b) of subsection (2) of section 6 of the principal Act there shall be substituted the following paragraph: Amendment of  
section 6 of the  
principal Act.

"(b) the trust property does not include any property situated in Malta:

Provided that any shares in or debentures of a company which is an offshore company under the Act shall be deemed not to be situated in Malta;"
4. For subsection (6) of section 18 of the principal Act there shall be substituted the following subsection: Amendment of  
section 18 of the  
principal Act.

"(6) On the appointment of a new trustee anything requisite for vesting the trust property in or under the control of the trustee for the time being shall be, and may be required by the trustee or any beneficiary to be, done."
5. In sub-paragraph (iii) of paragraph (a) of subsection (2) of section 37 of the principal Act, for the words "of any" there shall be substituted the words "or any". Amendment of  
section 37 of the  
principal Act.

Amendment of section 38 of the principal Act.

6. In subsection (2) of section 38 of the principal Act, for the words "power to the Court" there shall be substituted the words "power given to the Court".

Amendment of section 44 of the principal Act.

7. For subsection (1) of section 44 of the principal Act there shall be substituted the following subsection:

"Cap. 123

(1) The tax chargeable under the Income Tax Act, or under any enactment replacing that law, on the income of an offshore trust and on any income of a beneficiary arising from such trust, shall be two hundred liri for each year of assessment, and shall be payable by the trust to the Authority on behalf of the Commissioner of Inland Revenue not later than the end of January of each year following that of the registration of the trust."

Amendment of section 46 of the principal Act.

8. In subsection (1) of section 46 of the principal Act, the number "1948," shall be deleted.

Amendment of section 47 of the principal Act.

9. Section 47 of the principal Act shall be amended as follows:

(a) in the English text of subsection (3) thereof, for the word "adapptions" there shall be substituted the word "adaptations";

(b) in the said subsection (3), for the words "to duties as directors or secretaries of offshore companies shall be construed as references to the duties of trustees" there shall be substituted the words "to directors or secretaries of offshore companies or to their duties shall be construed as references to trustees or to their duties".

Amendment of section 48 of the principal Act.

10. In section 48 of the principal Act, the words "and no person other than a nominee company authorised as aforesaid may be appointed trustee of an offshore trust" shall be deleted.

Amendment of section 51 of the principal Act.

11. In the English text of subsection (3) of section 51 of the principal Act, for the words "this Act, the Act or omission constituting the offence can be attributed directly to a person or persons clearly identifiable," there shall be substituted the words "this Act, the act or omission constituting the offence can be attributed directly to a person or persons clearly identifiable,".

Amendment of Schedule to the principal Act.

12. In the Schedule to the principal Act, for the words "*Income Tax Act, 1948*" there shall be substituted the words "*Income Tax Act, Cap. 123*".

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### Objects and Reasons

The Object of this Bill is to clarify certain provisions of the principal Act which could give rise to misinterpretation.