I assent.

(L.S.)

CENSU TABONE
President

23rd November, 1990

ACT No. XXXVI of 1990

AN ACT to amend the Income Tax Act, Cap. 123.

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 and commencement. Cap. 123.

1. (1) This Act may be cited as the Income Tax (Amendment) Act, 1990, and shall be read and construed as one with the Income Tax Act, hereinafter referred to as "the principal Act".

(2) The provisions of this Act shall come into force as follows:

(a) the provisions of this section and section 8 shall come into force upon the publication of this Act in the Gazette;

(b) the provisions of section 15 shall be deemed to have come into force on the 1st February, 1989; and

(c) the provisions of the other sections of this Act shall come into force upon the publication of this Act in the Gazette, in respect of the year of assessment commencing on the 1st January, 1991 and of subsequent years of assessment.

Amendment of section 5 of the principal Act.

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

(a) in the second proviso to subsection (1) thereof for the words "subsection 8A of section 31" there shall be substituted the words "subsection (9) of section 31"; and

(b) in subsection (6) thereof for the words "sub-paragraph (ii) of paragraph (d) of subsection (1) of section 28" there shall be

substituted the words "sub-paragraph (ii) of paragraph (b) of subsection (1) of section 28".

Amendment of section 6 of the principal Act.

3. In subsection (6) of section 6 of the principal Act for the words "section 28 of this Act" there shall be substituted the words "section 28 of this Act as in force at the relative time".

Amendment of section 11 of the principal Act.

4. Subsection (l) of section 11 of the principal Act shall be amended as follows:

(a) In paragraph (l) thereof for the words "to a personal deduction under paragraphs (a) and (b) of subsection (1) of section 28 of this Act" there shall be substituted the words "to a tax rebate under paragraphs (a) and (b) of subsection (2) of section 31A of this Act without having regard to the provisions of paragraph (i) of the proviso to the said paragraph (b)"; and

(b) in paragraph (n) thereof for the words "subsection (10) of section 31" there shall be substituted the words "subsection (11) of section 31".

Amendment of section 13 of the principal Act.

5. In paragraph (e) of subsection (1) of section 13 of the principal Act for the words "section 28 (1)(d)(ii)" there shall be substituted the words "section 28 (1)(b)(ii)".

Amendment of section 14 of the principal Act.

6. In paragraph (g) of subsection (1) of section 14 of the principal Act for the words "section 28 (1)(d)(ii)" there shall be substituted the words "section 28 (1)(b)(ii)".

Amendment of section 20 of the principal Act.

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

(a) in paragraph (d) of subsection (1) thereof, for the words "subsection (12)" there shall be substituted the words "subsection (7)";

(b) in the proviso to subsection (4) thereof, for the words "five hundred and eighty-five" there shall be substituted the words "seven hundred and seventy-five"; and

(c) in subparagraph (iii) of paragraph (b) of subsection (5) thereof for the words "five hundred and eighty-five" there shall be substituted the words "seven hundred and seventy-five".

Addition of new sections 22A and 22B to the principal Act.

8. Immediately after section 22 of the principal Act, there shall be added the following new sections 22A and 22B:

"Special provisions in respect of certain profits deemed distributed.

22A. (1) A company (other than a company incorporated or registered outside Malta and not resident therein) may apply to the Commissioner in writing to have any profits which the Commissioner has ordered to be deemed distributed in terms of section 22 of this Act to be deemed distributed as follows:

(a) twenty per centum of the said profits on such date or dates as the Commissioner has ordered;

(b) eighty per centum of the said profits in the year immediately preceding the year of assessment 1991:

Provided that where an assessment raised on a shareholder as a consequence of the said deemed distribution has become final and conclusive, the assessment shall not be reopened by way of the provisions of this subsection:

Provided further that an application made by a company for the purposes of this subsection shall not be valid if it is made after the 30th June, 1991.

(2) In the case where a company is served with a deemed distribution order by the Commissioner in terms of section 22 of this Act in respect of any year immediately preceding any of the years of assessment 1984 to 1989 and after the publication of this Act in the Gazette, the company may apply to the Commissioner in writing to have the undistributed profits for the said years to be deemed distributed by the Commissioner as follows:

(a) twenty per centum of the said profits on such date or dates as the Commissioner may order;

(b) eighty per centum of the said profits in the year immediately preceding the year of assessment 1991:

Provided that an application made by a company for the purposes of this subsection shall not be valid if it is made after the lapse of 30 days from the date of service of the deemed distribution order or the 30th June 1991, whichever is the later.

(3) Notwithstanding any other provisions of this Act, where an application is made in terms of this section , the profits deemed distributed by the Commissioner shall be charged to tax on the company at the following additional rate of tax:

(a) 25c on every lira of profits deemed distributed for any year preceding the year of assessment 1990;

(b) 2c5 on every lira of profits deemed distributed for the year of assessment 1991.

(4) (a) For the purposes of this section, when the profits deemed distributed are subsequently distributed by the company to the shareholders, the dividend shall be grossed up as set out in section 21 of this Act without taking into account the tax charged additionally on the company in terms of subsection (3) of this section.

(b) The tax payable by the company under subsection (3) of this section shall not be availed of for set-off in terms of section 33 of this Act when the profits deemed distributed are subsequently distributed to the shareholders.

Further special provision in respect of profits deemed distributed.

22B. Any distribution made by a company after the 1st January, 1990 in respect of its profits for any year preceding the year of assessment 1989 shall be considered as having not been distributed in determining the amount of undistributed profits for the purposes of section 22 of this Act.".

Addition of new section 26A to the principal Act.

9. Immediately after section 26 of the principal Act, there shall be added the following new section 26A:

"Tax on wife's income computed separately.

26A. (1) Notwithstanding the provisions of section 26 of this Act, where in any year immediately preceding the year of assessment a married woman derives income subject to tax under the provisions of paragraphs (a) or (b) of subsection (1) of section 5 of this Act her husband may elect in writing that the tax on the chargeable income in respect of such income derived by his wife be computed separately. In such a case the wife's income shall not be aggregated with the husband's total income for that year of assessment.

(2) The tax computed separately for each year of assessment in respect of the wife's income referred to in subsection (1) hereof shall be charged in the name of the husband. The income shall be charged at the rates laid down in paragraph (b) of subsection (1) of section 31 of this Act and there shall be granted a tax rebate in accordance with subsection (3) of section 31A of this Act.".

Amendment of section 27 of the principal Act.

10. Section 27 of the principal Act shall be amended as follows:

(a) In subsection (3) thereof, immediately after the words "the child was unmarried" there shall be inserted the words "or has not yet reached the age of eighteen years"; and

(b) in subsection (5) thereof, for the words "sub-paragraph (iii) of paragraph (b) of subsection (1) of section 28" there shall be substituted the words "sub-paragraph (v) of paragraph (b) of subsection (2) of section 31A".

Substitution of section 28 of the principal Act.

11. Section 28 of the principal Act shall be substituted by the following:

"Resident individual.

28. (1) In the case of an individual resident in Malta in the year immediately preceding the year of assessment, who proves to the satisfaction of the Commissioner that in the year immediately preceding the year of assessment —

Dependants.

(a) he at his own expense maintained or contributed to the maintenance of a person being a relative of the individual or of the individual's spouse who was either incapacitated by old age or infirmity from maintaining himself or is the mother or sister (whether so incapacitated or not) of the individual or of the individual's spouse and/or, where the individual is unmarried or a widower, has resident with him and maintained by him a female relative of his or, if he is a widower of his deceased wife, in the capacity of a housekeeper, other than a female relative in respect of whom another individual is entitled to a deduction under the provisions of this Act, there shall be allowed a deduction of a sum not exceeding one hundred and twenty liri expended as maintenance in respect of each such relative:

Provided that —

(i) the income of the person maintained did not in the year preceding the year of assessment exceed one hundred and twenty liri;

(ii) where the income of the person maintained did not exceed one hundred liri in the year preceding the year of assessment, the deduction allowed under the provisions of this paragraph shall not exceed one hundred liri reduced by either forty liri or the income of the person maintained, whichever is the less;

(iii) where two or more individuals jointly maintained any such person as aforesaid, the deduction to be made under this paragraph shall be apportioned between them in proportion to the amount or value of their respective contributions towards the maintenance of that person;

Life insurance and other schemes or funds.

(b) (i) he has made insurance (including insurance against death by accident) on his life or on the life of his wife in any insurance company, or

(ii) he or his wife or both have made annual contributions to a pension, saving, provident or any other society or fund which may be approved by the Commissioner upon such conditions as may be prescribed,

there shall be allowed a deduction equal to the least of the following three amounts:

(a) the annual amount of the premium paid for such insurance and the annual amount of the contributions made as aforesaid;

(b) one-sixth of the total income of such individual;

(c) two hundred liri:

Provided that where the annual contributions made as aforesaid include contributions made by such individual or his wife, or by both, in accordance with the Social Security Act, 1987 the deduction allowed under this paragraph shall in no case be less than the aggregate amount of the contributions made under the said Act:

Act X of 1987.

Provided further that where an individual opts for a separate computation for the purposes of section 26A of this Act, the annual contributions made in accordance with the Social Security Act, 1987 by such an individual or his wife shall be deducted against their respective income chargeable to tax.

Professional, nursing and hospitalization fees, and disbursements for prosthetic and other aids.

(2) In the case of an individual resident in Malta in the year immediately preceding the year of assessment, who proves to the satisfaction of the Commissioner that in the year immediately preceding the year of assessment he has paid —

(i) professional fees to any medical practitioner, surgeon, dentist or midwife;

(ii) fees to any nurse;

(iii) hospitalization fees; or

(iv) the price for the acquisition of a wheelchair, crutches, orthopaedic shoes or prosthetic aids or any payment for the use of any such article,

there shall be allowed a deduction in respect of any amount so paid:

Provided that —

(a) the amounts in respect of which a deduction is allowed under this subsection shall be those paid on account of the individual benefitting from the deduction herein contemplated or of his wife, if living with or

wholly maintained by him, or on account of any other individual in respect of whom he is entitled to a deduction under subsection (1) of this section or to a tax rebate under paragraph (b) of subsection (2) of section 31A of this Act;

(b) no fees payable to a nurse and no amount payable for the acquisition or the use of any article referred to in subparagraph (iv) of subsection (2) of this section shall be admitted as a deduction unless the Chief Government Medical Officer certifies that the services in respect of which the fees were paid or the article or its use to which the payment refers, as the case may be, could not reasonably be dispensed with, and further certifies what amount may be taken into account as having been genuinely expended in respect of nursing services, or for the acquisition or the use of the said articles;

(c) where any disbursements referred to in this subsection are recoverable under insurance, social assistance or any other scheme or arrangement, a deduction under this subsection shall be allowed in respect only of such amount of the disbursements which is not so recoverable and, in any case, the total deduction allowable under this subsection in any year of assessment shall not exceed five hundred liri less any amount of the disbursements recoverable as aforesaid;

(d) where two or more individuals are entitled to a deduction under paragraph (a) of subsection (1) of this section or to a tax rebate under paragraph (b) of subsection (2) of section 31A of this Act in respect of the same dependant or child, in computing any deduction allowable under this subsection there shall not be taken into account any amount paid by each individual in respect of the dependant or child in excess of five hundred liri divided by the number of individuals so entitled;

(e) no deduction shall be allowed under this subsection unless the claim therefor is proved by receipts consigned to the Commissioner.

Chronic illnesses.

(3) In the case of an individual resident in Malta in the year immediately preceding the year of assessment, who proves to the satisfaction of the Commissioner that in the year immediately preceding the year of assessment a member of his household was suffering from one or more prescribed chronic illnesses, there shall be allowed a deduction of one hundred liri in respect of each such member:

Provided that where two or more individuals are entitled to a deduction under paragraph (a) of subsection (1) of this section or to a tax rebate under paragraph (b) of

subsection (2) of section 31A of this Act in respect of the same dependant or child, any deduction under this subsection in respect of the dependant or child shall be apportioned between the individuals in proportion to the deductions or rebates due to each under the said paragraphs.

(4) In subsection (3) of this section "member of his household" means the individual benefitting from the deduction herein contemplated, his wife, if living with or wholly maintained by him, and any other individual in respect of whom he is entitled to a personal deduction under paragraph (a) of subsection (1) of this section or to a tax rebate under paragraph (b) of subsection (2) of section 31A of this Act.

(5) For the purposes of subsections (2), (3) and (4) of this section, any references to paragraph (b) of subsection (2) of section 31A of this Act shall be construed as being references to the said paragraph without having regard to the provisions of paragraph (i) of the proviso thereto.

(6) An ecclesiastical community shall not be entitled to a deduction under any of the subsections of this section in respect of any individual member thereof.

(7) In subsection (6) of this section, in section 20, in subsection (4) of section 31 and in subsection (13) of section 31A of this Act —

"ecclesiastical community" means a number of individuals living together in a community in accordance with the rules of a religious order recognised as such by the Commissioner;

"individual member", in relation to an ecclesiastical community, means any individual, lay or religious, who formed part of such community on the thirtieth day of September during the year immediately preceding the year of assessment.

Donations to philanthropic institutions.

(8) In the case of an individual resident in Malta in the year immediately preceding the year of assessment, who proves to the satisfaction of the Commissioner by appropriate receipts that in the year immediately preceding the year of assessment he has donated money to such philanthropic institutions as may be approved by the Commissioner, by notice published in the Gazette, there shall be allowed a deduction equivalent to the amount of the donation subject to a maximum deduction of three hundred liri.".

12. Section 30 of the principal Act shall be amended as follows: Amendment of section 30 of the principal Act.

(a) for subsection (1) thereof there shall be substituted the following:

"(1) Every claim for a deduction under this Part shall be made on the appropriate prescribed form."; and

(b) in paragraph (a) of subsection (2) thereof for the words "subsection (3) of section 28" there shall be substituted the words subsection (2) of section 28".

13. Section 31 of the principal Act shall be substituted by the following: Substitution of section 31 of the principal Act.

"Normal rate of tax on individuals and certain bodies of persons.

31. (1) Saving the other provisions of this section, the tax upon the chargeable income of every person shall be charged at the following rates:

(a) in the case of an individual who is entitled to a tax rebate under paragraph (a) of subsection (2) or subsection (12) of section 31A of this Act for the same year of assessment —

For every lira of the first Lm350	10c
For every lira of the next Lm1050	20c
For every lira of the next Lm1900	25c
For every lira of the next Lm1700	30c
For every lira of the remainder	35c

(b) in the case of any other person including an individual who has opted for a separate computation for the purposes of section 26A of this Act —

For every lira of the first Lm1500	18c
For every lira of the next Lm600	20c
For every lira of the next Lm800	25c
For every lira of the next Lm1200	30c
For every lira of the remainder	35c

(2) Notwithstanding the provisions of subsection (1) of this section, the tax upon the chargeable income of any individual entitled to a tax rebate under subsections (5), (6) or (7) of section 31A of this Act shall be charged at the following special rates:

(a) in the case of an individual who had a wife living with or wholly maintained by him for the same year of assessment —

For every lira of the first Lm3230	10c
For every lira of the next Lm1000	20c
For every lira of the remainder	25c

(b) in the case of any other individual —

For every lira of the first Lm2530	10c
For every lira of the next Lm1000	20c
For every lira of the remainder	25c

(3) Nothing in subsection (2) of this section shall in any way be considered as overriding the provisions of subsection (11) of this section.

(4) The tax shall be charged at the rate of 20c on every lira of the chargeable income of —

(a) every entity to which section 20 of this Act applies; and

(b) any foundation, bequest, trust, institution, or other organization or body of persons the income whereof is specifically due to be wholly applied in providing income to members of the clergy:

Provided that where the Commissioner is satisfied that any part of such income has in fact been so applied in respect of members of the clergy resident in Malta or of ecclesiastical communities so resident, such part of the said income shall be exempt from the tax in the hands of the foundation, bequest, trust, institution or other organization or body of persons aforesaid, even where such foundation, bequest, trust, institution or other organization or body of persons is one to which subsection (2) of section 20 of this Act applies.

(5) Notwithstanding the provisions of subsection (4) of this section, no tax charged under the provisions of that subsection shall be deemed to be part of any tax available for set-off for the purpose of collection in accordance with section 33 of this Act.

(6) The tax shall be charged at the rate of 35c on every lira of the chargeable income of every —

(a) company;

(b) body corporate established by law; and

(c) undertaking required by paragraph (d) of subsection (7) of section 20 of this Act to be dealt with as separate body of persons.

Maximum rate of tax in certain cases.

(7) Saving the provisions of subsection (10) of this section, the tax chargeable under the other provisions of this section shall in no case exceed the rate of —

(a) 10c on every lira of the chargeable income of every trade union; and

(b) 30c on every lira of the chargeable income of every club or other similar non-proprietary institution if the Commissioner is satisfied that no part of the income is distributable to, or is otherwise available for the personal benefit of any proprietor or member thereof in his capacity as such.

Special rates of tax and minimum tax liability. Cap. 217.

(8) Notwithstanding the provisions of subsection (1) of this section, the tax upon the chargeable income of any individual who has been granted a residence permit under section 7 of the Immigration Act,

(a) on or after the fourteenth day of November, 1972 but before the first day of January, 1988, shall be charged at the following rates:

(i) in the case of such an individual who had a wife living with or wholly maintained by him for the same year of assessment —

For every lira of the first Lm350	10c
For every lira of the next Lm1050	20c
For every lira of the next Lm1900	25c
For every lira of the remainder	30c

(ii) in the case of any other such individual —

For every lira of the first Lm1500	18c
For every lira of the next Lm600	20c
For every lira of the next Lm800	25c
For every lira of the remainder	30c:

Provided that the minimum liability payable under this paragraph by any such individual in respect of any year of assessment shall be one thousand liri;

(b) on or after the first day of January, 1988 shall be charged:

(i) in the case of income other than that mentioned in subparagraph (ii) of this paragraph, at the rate of 15c on every lira of the chargeable income:

Provided that the minimum laibility payable under this subparagraph by any such individual in respect of any year of assessment shall, after taking into account any double taxation relief to which such individual may be entitled, be one thousand liri;

(ii) in the case of income derived from Malta and chargeable to tax under paragraphs (a) and (b) of subsection (1) of section 5 of this Act, as a separate chargeable income at the rates laid down in subsection (1) of this section without granting any tax rebate.

(9) (a) (i) The tax upon the chargeable income of any individual born in Malta who, after emigrating has returned as a resident in Malta after the first day of January 1988 shall be charged at the rates laid down in subsection (1) of this section, or if he so elects, and until such election is not renounced by him, at a rate of 15c in the Lm on his chargeable income other than income mentioned in subparagraph (ii) of this paragraph. The said election may not be availed of again once it is renounced:

Provided that the provisions of this subsection shall only apply where such an individual proves to the satisfaction of the Commissioner that either:

(a) where he had actually resided outside Malta for an aggregate period of 20 years falling within a period of 25 years which precede the first day of the year of assessment in which the individual returns as resident in Malta after the first day of January 1988, he has received in Malta at one or more times during the year immediately preceding the year of assessment an amount of income of not less than six thousand liri arising outside the Island and chargeable to tax under the provisions of this Act, provided that in the case of a married person the said amount of income of six thousand liri shall be increased by one thousand liri in respect of every dependant relative including the wife; or

(b) where he is not a Maltese national and does not satisfy the period of residence outside Malta referred to in paragraph (a) of this proviso, he satisfies conditions similar to those established by the Minister responsible
Cap. 217. for immigration under section 7 of the Immigration Act, for the issue of a residence permit as existing at the time such an individual returns to Malta:

Provided further that the minimum liability of any such individual for any year of assessment in which the individual elects to pay at the rate of 15c in the Lm shall, after taking into account any double taxation relief to which such individual may be entitled, be one thousand liri.

(ii) In the case of income derived from Malta and chargeable to tax under paragraphs (a) and (b) of subsection (1) of section 5 of this Act, such income shall be deemed to constitute chargeable income to be taxed separately at the rates laid down in subsection (1) of this section without granting any tax rebate.

(b) In the event of the decease of any individual who is charged to tax at the rate of 15c in the Lm under the provisions of paragraph (a) of the proviso to sub-paragraph (i) of paragraph (a) of this subsection, the widow shall be entitled to elect to be charged to tax in the same manner and under the same conditions as her late husband and until such election is not renounced by her, she shall be considered to have satisfied in her own right the qualifying period of absence from Malta stipulated therein.

(10) Any person who —

(a) makes default in furnishing a return in respect of the year of assessment commencing on the first day of January, 1949 or any subsequent year of assessment, shall be chargeable for such year of assessment with a tax of treble the amount of tax for which he is liable for that year under the other subsections of this section or with such lesser amount of tax as may be determined by the Commissioner but which shall in no case be less than ten liri or one-half per cent of the said amount of tax for which he is liable whichever is the greater; or

(b) omits from his return for the year of assessment commencing on the first day of January, 1949 or any subsequent year of assessment any amount which should have been included therein, shall be chargeable with an amount of tax equal to twice the difference between the tax as calculated in respect of the income returned by him and the tax properly chargeable in respect of his income as determined after including the amounts omitted,

and shall be required to pay such amount of tax in addition to the tax properly chargeable in respect of his true income:

Provided that if the Commissioner is satisfied that the default in rendering the return or any such omission was not due to any fraud, art, contrivance or gross or wilful neglect, he shall remit the whole of the said treble or additional tax and in any other case may remit such part or all of the said treble or additional tax as he may think fit:

Provided further that in the case of a body of persons the Commissioner shall not reduce any tax chargeable under paragraph (a) of this subsection to less than Lm1 or ten per cent of the total tax chargeable under the other subsections of this section for the relative year of assessment, whichever is the greater:

Provided also that where the Commissioner has sent to any person a notice referred to in subsection (3) of section 45

of this Act, such person shall be required to pay, in respect of each such notice, an additional tax as may be specified in such notice for the year of assessment in respect of which the default has occurred but which shall in no case exceed ten liri. The Commissioner may only remit this additional tax where he is satisfied that owing to absence from Malta, sickness or other reasonable cause such person was prevented from submitting a return in accordance with the provisions of section 43 or 44 of this Act:

(i) the powers conferred upon the Commissioner by this subsection shall be in addition to any right conferred upon him to commence proceedings in respect of an offence under Part XV of this Act;

(ii) any person who in determining his total income, as disclosed by his return, deducts or sets off any amount, the deduction or set-off whereof is not allowed under the provisions of this Act, or shows as an expenditure or loss any amount which he has not in fact expended or lost, shall be deemed for the purposes of this subsection to have omitted such amount from his return;

(iii) any tax charged under the provisions of this subsection shall be deemed not to be part of any tax paid or payable for the purposes of the preceding subsections of this section, or of sections 32, 80, 83, 88 and 89 of this Act;

(iv) where the default or omission has been made in connection with a return required by the provisions of this Act to be furnished by another person on behalf of a company, such company shall be liable for the additional tax chargeable under the provisions of this subsection.

(11) The tax upon the chargeable income of any person engaged in the production of petroleum produced in Malta shall be —

(a) where the gains or profits are ascertained as provided in paragraph (i) of the proviso to subsection (1) of section 13 of this Act, at the rate of fifty cents on every lira of such part of his chargeable income as is derived therefrom and at the appropriate rates set out in the other subsections of this section on that part which is not so derived; or

(b) where the gains or profits are ascertained as provided in paragraph (ii) of the proviso to subsection (1) of section 13 of this Act, at the rate of fifty cents on every lira of such part of his chargeable income as is

derived therefrom, and at the appropriate rates set out in the other subsections of this section on that part which is not so derived.

(12) Every person referred to in subsection (11) of this section shall —

(a) in the case of a person referred to in paragraph (a) thereof, have and maintain a permanent office in Malta where all contracts for the sale or disposal of petroleum produced in Malta or of rights and interests pertaining to such petroleum shall be made, and the sale or disposal prices of such petroleum or rights and interests to be used in all accounting documents and in all returns submitted for the purposes of this Act shall not be less than the values attributed thereto for royalty purposes in accordance with the terms of the licence granted to such person under the Petroleum (Production) Act, or under that Act and under the Continental Shelf Act.

Cap. 156.
Cap. 194.

(b) in the case of a person referred to in paragraph (b) thereof, have and maintain a permanent office in Malta for the conduct of operations under the licence, contract or other arrangement, as the case may be, and the values to be used by such person in all accounting documents shall, for the purposes of this Act, be established in the manner provided under paragraph (ii) of the proviso to subsection (1) of section 13 of this Act.

(13) Any person engaged in trade or business who derives gains or profits in part from the sale or disposal of petroleum produced in Malta or of rights or interests pertaining to such petroleum and in part from any other trade, business, profession or vocation shall, in respect of the first mentioned part of his trade or business, allocate a separate capital and keep separate books and other records and accounts and shall not pool the accounts of such part of his trade or business with those of his other trade, business, profession or vocation. The accounts of the trade or business, or as the case may be, that part of the trade or business of a person whereof the gains or profits are derived from the sale or disposal of petroleum produced in Malta or of rights and interests pertaining to such petroleum shall be drawn up in accordance with consistent and generally accepted accounting practice.

(14) The provisions of subsection (13) of this section shall apply *mutatis mutandis* to any person operating in Malta under a licence, contract or other arrangement as is mentioned in paragraph (ii) of the proviso to subsection (1) of section 13 of this Act.

(15) Where, during the year immediately preceding any year of assessment, any individual derives income subject to tax under paragraph (b) of subsection (1) of section 5 of this Act, being emoluments payable under a contract of employment requiring the performance of work or of duties mainly outside Malta, excluding however any service on board a ship, aircraft or road vehicle owned, chartered or leased by a Maltese company and any service for the Government of Malta, and received in respect of work or duties carried out outside Malta, or in respect of any period spent in Malta in connection with such work or duties, or on leave during the carrying out of such work or duties —

(a) notwithstanding anything to the contrary contained in this Act, such income shall be deemed to constitute the last part of that individual's total income for that year and, saving the provisions of paragraph (c) of this subsection, shall not be liable to an amount of tax in excess of —

(i) Lm300 per annum in the case of an unskilled worker;

(ii) Lm450 per annum in the case of a skilled worker;

(iii) Lm500 per annum in the case of a technician; and

(iv) Lm1,000 per annum in the case of an individual rendering managerial or professional services;

(b) in each particular case the Commissioner shall determine in his absolute discretion which of the categories set out in paragraph (a) hereof is applicable;

(c) where the said work or duties are not carried out during the whole year, the maximum amounts applicable under paragraph (a) hereof shall be reduced in the proportion which the period during which the work or duties are so carried out bears to the whole year;

(d) where the tax is reduced in accordance with the provisions of this subsection, it shall be further reduced by the amount of any contribution paid by the
Act X of 1987. individual under the Social Security Act 1987 during the period in which the relative work or duties were carried out:

Provided that when any such reduction is effected, the amount of Social Security contributions by which the tax is so reduced shall not qualify as a deduction for the purposes

of subparagraph (ii) of paragraph (b) of subsection (1) of section 28 of this Act.

(16) The tax on the income referred to in subsection (6) of section 5 of this Act shall be at the rate of ten cents on every lira thereof, and, notwithstanding anything to the contrary contained in this Act, no set-off or refund shall be granted to any person in respect of the tax so charged.

(17) Notwithstanding the other provisions of this section, but without prejudice to those of subsection (10), the Minister responsible for finance may, in the interests of economic expediency, direct by notice published in the Gazette, that:

(a) in the case of small assessments charging tax not exceeding an amount specified in the said notice, the assessment shall not be raised; and

(b) in determining the chargeable income and the amount of tax due by any person and in allowing any set-offs, the Commissioner may round up or down any amount to the nearest lira.".

Addition of new part VIIIA to the principal Act.

14. Immediately after Part VIII of the principal Act, there shall be added the following new Part VIIIA:

"PART VIIIA

Tax Rebate

Rebate of tax.

31A. (1) Subject to the provisions of this section, tax charged for each year of assessment upon the chargeable income of every individual for the year immediately preceding the year of assessment shall be rebated for that year of assessment before any set-off is made for double taxation relief and any tax deducted at source under the provisions of sections 32 and 42 of this Act.

(2) In the case of an individual resident in Malta in the year immediately preceding the year of assessment who proves to the satisfaction of the Commissioner that in the year immediately preceding the year of assessment —

Wife.

(a) he had a wife living with or wholly maintained by him there shall be granted a rebate of four hundred and forty liri provided that this does not apply where an individual has elected to have his tax liability computed separately for the purposes of section 26A in which case this paragraph shall not apply and a tax rebate in accordance with subsection (3) hereof shall be granted in respect of both husband and wife;

Children.

(b) he maintained any child, there shall be granted a rebate of twenty five liri in respect of the first and second child, of twenty liri in respect of the third child and of thirty five liri in respect of every other child:

Provided that —

(i) no rebate shall be granted in respect of a child where an allowance under section 83 of the Social Security Act, 1987 is paid to any individual in excess of one hundred and forty liri in respect of the child;

(ii) in the case where the child was sixteen years of age or over during the year immediately preceding the year of assessment, the rebate shall be of thirty-five liri where an allowance under section 84 of the Social Security Act, 1987 is paid to any individual in respect of such a child and where no such allowance is paid the rebate shall be of forty-five liri;

(iii) a rebate in respect of a male child who was not under the age of twenty-one years at any time during the year immediately preceding the year of assessment shall only be allowed if the child was receiving full-time instruction at any university, college or other educational establishment, or was serving an apprenticeship with a view to qualifying in a trade or profession, or was incapacitated by infirmity from maintaining himself;

(iv) no rebate shall be granted in respect of any child who, during the year immediately preceding the year of assessment, was entitled in his own right to an income exceeding one hundred and sixty liri other than any sum to which the child was entitled as the holder of a scholarship;

(v) for the purposes of this paragraph, the expression "child" includes a stepchild, or an adopted child, or an illegitimate child of the individual or of the individual's spouse, or a child orphan of or abandoned by the father if the Commissioner is satisfied that the individual can reasonably be considered genuinely to have assumed parental authority and responsibility over the child and, in the case where the said child is not a relative of the individual or of the individual's spouse, such authority and responsibility are assumed before the child is five years of age: but in the case of an illegitimate child or a child orphan of or abandoned by the father and not a relative as aforesaid, the rebate shall only be granted if the child was living with the individual or the individual's spouse in the year immediately preceding the year of assessment;

(vi) where, through the operation of this paragraph, two or more individuals are entitled to a rebate in respect of the same child, the rebate shall be apportioned between the individuals in proportion to the amount or value of their respective contributions towards the maintenance of the child.

Resident individual to whom subsection (2)(a) does not apply.

(3) In the case of an individual resident in Malta in the year immediately preceding the year of assessment other than an individual to whom paragraph (a) of subsection (2) of this section applies, there shall be granted a rebate of two hundred and seventy-five liri:

Provided that where an individual proves to the satisfaction of the Commissioner that he was contributing to the maintenance of a wife neither living with nor wholly maintained by him during the said year, being expenditure specifically and exclusively incurred by him by way of maintenance in respect of the said wife, there shall be granted a further tax rebate of one hundred and sixty-five liri where the amount contributed is seven hundred liri or more, and in every other case such lesser amount of further tax rebate computed by multiplying one hundred and sixty-five liri by the proportion which the amount contributed bears to seven hundred liri.

Age relief.

(4) In the case of an individual resident in Malta in the year immediately preceding the year of assessment who is 65 years or over, there shall be granted a rebate of twenty liri in addition to any other rebate to which he may be entitled under any other provisions of this section:

Provided that where such an individual had a wife living with or wholly maintained by him who is sixty-five years or over, there shall be granted a further rebate of twenty liri.

(5) In the case of an individual born outside Malta who was resident in Malta in the year immediately preceding the year of assessment and who proves to the satisfaction of the Commissioner that he has received in Malta at one or more times during the year immediately preceding the year of assessment an amount of income of not less than eight hundred liri arising outside Malta and chargeable to tax under the provisions of this Act, there shall be granted a tax rebate of two hundred and twenty-three liri where he had a wife living with or wholly maintained by him in the year immediately preceding the year of assessment and in any other case there shall be granted a rebate of one hundred and fifty-three liri:

Provided that, subject to the provisions in the next following subsection, no such rebate shall be granted if the individual was domiciled in Malta or ordinarily resident in Malta before the first day of January, 1958.

(6) The Minister responsible for finance may in his discretion authorize the application of subsection (5) of this section in regard to any individual born outside Malta, notwithstanding that he was domiciled and/or ordinarily

resident in Malta before the first day of January, 1958, if the Minister is satisfied that the said individual was absent from Malta in the period between the said date and the thirty-first day of December, 1963, saving occasional visits.

(7) In the case of an individual born in Malta who was resident in Malta in the year immediately preceding the year of assessment and who proves to the satisfaction of the Commissioner that he has actually resided outside Malta for an aggregate period of not less than twenty years after the first day of January, 1938 and that he has received in Malta at one or more times during the year immediately preceding the year of assessment an amount of income of not less than five hundred liri arising outside Malta and chargeable to tax under the provisions of this Act, there shall be granted a rebate of two hundred and twenty-three liri where he had a wife living with or wholly maintained by him in the year immediately preceding the year of assessment, and in any other case there shall be granted a rebate of one hundred and fifty-three liri:

Provided that —

(i) no such rebate shall be granted unless the Commissioner is satisfied that the individual was ordinarily resident and domiciled in Malta in the year immediately preceding the year of assessment;

(ii) in computing the said aggregate period of twenty years there shall be excluded all calendar years during which the individual was ordinarily resident in Malta, and all periods prior to a date which precedes by thirty years the first day of the year of assessment in which the individual first satisfies all the other conditions stipulated in this subsection.

(8) In subsections (5), (6) and (7) of this section —

"individual born outside Malta" means an individual not born in Malta whose parents were not domiciled in Malta or not ordinarily resident in Malta on the date of his birth or at any time during the ten years previous to such date;

"received in Malta" means the excess of the amount of income arising outside Malta and received in Malta over any sum transferred out of Malta.

(9) The rebate under subsections (5), (6) and (7) of this section shall be granted only to any individual who was entitled to a further personal deduction of five hundred liri in any year of assessment up to the year of assessment 1972, and, in the event of his decease, to his widow.

(10) In the case of an individual who has been granted a residence permit under section 7 of the Immigration Act — Cap. 217.

(a) on or after the fourteenth day of November, 1972, but before the first day of January, 1988, there shall be granted a tax rebate of three hundred and eighty-six liri where he had a wife living with or wholly maintained by him in the year immediately preceding the year of assessment and in any other case there shall be granted a rebate of two hundred and twenty-one liri;

(b) on or after the first day of January, 1988, there shall be granted a tax rebate of two hundred and sixty liri where he had a wife living with or wholly maintained by him in the year immediately preceding the year of assessment and in any other case there shall be granted a rebate of one hundred and fifty-five liri:

Provided that this paragraph shall also apply to an individual who has elected and qualifies to be charged at the rate of 15c in the Lm on the chargeable income under the provisions of subsection (9) of section 31 of this Act.

(11) An individual entitled to a tax rebate under any of the provisions of subsections (5), (7) or (10) of this section shall not be granted a rebate under the provisions of paragraph (a) of subsection (2), or of subsection (3) of this section.

(12) In the case of any individual who is not resident in Malta during the year immediately preceding the year of assessment, there shall be granted a tax rebate of twelve liri.

(13) In the case of an ecclesiastical community as defined in subsection (7) of section 28 of this Act, there shall be granted a tax rebate of one hundred and fifty-five liri in respect of every individual who was a member thereof during the year immediately preceding the year of assessment:

Provided that no rebate shall be granted under this subsection in respect of any individual member who receives any remuneration or other income from the ecclesiastical community of which he is an individual member.

(14) Where the total amount of the rebate under the provisions of this section exceeds the tax charged (before any such rebate) for the year of assessment the excess shall not be paid to the individual or available as a credit to set off his tax liability for any year of assessment.

(15) Saving the provisions of subsection (3) of this section, the provisions of section 30 of this Act shall apply *mutatis mutandis* to any claim made for a tax rebate under this section.".

Amendment of section 32 of the principal Act.

15. In subsection (6) of section 32 of the principal Act for the words "subsection (5) of section 31" there shall be substituted the words "subsection (6) of section 31".

Amendment of section 45 of the principal Act.

16. In subsection (3) of section 45 of the principal Act, for the words "subsection (9) of section 31" there shall be substituted the words "subsection (10) of section 31".

Substitution of section 70 of the principal Act.

17. Section 70 of the principal Act shall be substituted by the following:

"Assessments or amended assessments to be final.

70. Where no valid objection or appeal has been lodged within the time limited by this Part against an assessment as regards the amount of the chargeable income assessed thereby or the tax rebate granted in terms of section 31A of this Act, or where the amount of the chargeable income or tax rebate has been agreed to under subsection (4) of section 65 of this Act, or where the appeal has been withdrawn or discontinued, or where the amount of such chargeable income or tax rebate has been determined on objection or appeal, the assessment as made or agreed to or determined on appeal, as the case may be, shall be final and conclusive for all purposes of this Act as regards the amount of such chargeable income or tax rebate:

Provided that nothing in this Part shall prevent the Commissioner from making any refund under the provisions of section 79 of this Act or any assessment or additional assessment for any year of assessment which does not involve reopening of any matter which has been determined on appeal for the year.".

Amendment of section 80 of the principal Act.

18. In the proviso to subsection (1) of section 80 of the principal Act for the words "subsection (10) of section 31", there shall be substituted the words "subsection (11) of section 31".

Amendment of section 81 of the principal Act.

19. In subsection (1) of section 81 of the principal Act for the words "tax chargeable under this Act" there shall be substituted the words "tax charged on the chargeable income at the rates laid down in Part VIII of this Act less any tax rebate granted under Part VIIIA, where applicable".

20. In subsection (7) of section 83 of the principal Act, for the words "subsection (10) of section 31", there shall be substituted the words "subsection (11) of section 31". Amendment of section 83 of the principal Act.

Passed by the House of Representatives at Sitting No. 442 of the 14th November, 1990.

LAWRENCE GONZI
Speaker

P. MUSCAT TERRIBILE
Clerk to the House of Representatives.

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