I assent.

(L.S.)

PAUL XUEREB
Acting President

18th November 1988

ACT No. XXXI of 1988

AN ACT further to amend the Income Tax Act, 1948

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.

Act No. LIV of 1948.

1. (1) This Act may be cited as the Income Tax (Amendment) Act, 1988 and shall be read and construed as one with the Income Tax Act, 1948, 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 of section 3 and of sections 7 to 11 shall come into force upon the publication of this Act in the Gazette; and

(b) the provisions of section 2 and of sections 4 to 6 shall come into force as from the 1st January, 1989, in respect of the year of asessment commencing on that date and of subsequent years of assessment.

Amendment of section 5 of the principal Act.

2. Immediately after the proviso to subsection (1) of section 5 of the principal Act, there shall be added the following proviso:

"Provided further that in the case of any person who is charged to tax at the rate of 15 cents in the Lm as laid down in subsection (5) of section 25 of this Act, the tax shall be payable only on any income arising in Malta and on any amount of income arising outside Malta and received in Malta.".

3. For subsection (5) of section 5A of the principal Act, there shall be substituted the following: Amendment of section 5A of the principal Act.

"(5) The provisions contained in paragraph (a) of sub-section (1) of this section shall not apply to the income of any body of persons arising from activities relating or ancillary to oil-prospecting, banking, sound or television broadcasting, film renting or insurance (excluding commissions derived from the sale of insurance by bodies of persons residing in Malta).".

4. Subsection (1) of section 8 of the principal Act shall be amended as follows: Amendment of section 8 of the principal Act.

(a) for paragraph (c) thereof there shall be substituted the following:

"(c) the interest accruing to any person who is not resident in the Island on any deposit held in a bank in Malta:

Provided that the exemption under this paragraph shall not apply —

(i) in respect of any year in which the said person is engaged in trade or business in Malta through a permanent establishment situated therein;

(ii) unless the Commissioner is satisfied that the person to whom the interest accrues is the beneficial owner thereof;"; and

(b) for paragraph (m) thereof there shall be substituted the following:

"(m) the interest which, but for the provisions of this paragraph, would be included in the total income of an individual, paid in the year immediately preceding any year of assessment by any locally registered Bank in respect of every fixed deposit in the name of such individual or in the name of any other person in respect of whom such individual is entitled to a personal deduction under paragraphs (a) and (b) of subsection (1) of section 22 of this Act, provided that where in any such year the interest paid as aforesaid in relation to such individual or to such other person exceeds eighteen Maltese liri, the provisions of this paragraph shall not apply to the amount of the excess;".

5. Section 22 of the principal Act shall be amended as follows: Amendment of section 22 of the principal Act.

(a) immediately after paragraph (a) of subsection (1) thereof there shall be added the following provisos:

"Provided that subject to the provisions of paragraph (a) of subsection (1) of section 25 of this Act, such individual shall be allowed a further deduction of one hundred Maltese

liri where both he and his wife derive income subject to tax under paragraph (a) or (b) of subsection (1) of section 5 of this Act:

Provided further that where the wife's income is less than one hundred Maltese liri, such further deduction shall be restricted to an amount equal to the wife's income;";

(b) for the proviso to paragraph (a) of subsection (4) thereof there shall be substituted the following:

"Provided that, subject to the provisions in the next following paragraph, no such deduction shall be allowed —

(i) if the individual was domiciled in Malta or ordinarily resident in Malta before the first day of January, 1958; or

(ii) if the tax upon the chargeable income of the individual is charged at the rate stipulated in paragraph (b) of subsection (4) of section 25 of this Act.".

Amendment of section 25 of the principal Act.

6. Section 25 of the principal Act shall be amended as follows:

(a) to paragraph (a) of subsection (1) thereof there shall be added the following new proviso:

"Provided that in the case of an individual entitled to a further deduction of one hundred Maltese liri or any lesser amount, as the case may be, under the provisions of the first and second proviso to paragraph (a) of subsection (1) of section 22 of this Act, the maximum amount of tax that may be reduced as a consequence of such further deduction shall not exceed forty Maltese liri;";

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

"(4) 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, 1970 —

(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 is entitled to a deduction under paragraph (a) of subsection (1) of section 22 of this Act for the same year of assessment —

For every Lm of the first Lm100 . . . . . 10c
For every Lm of the next Lm200 . . . . . 15c
For every Lm of the next Lm200 . . . . . 20c
For every Lm of the next Lm400 . . . . . 22c
For every Lm of the next Lm700 . . . . . 25c
For every Lm of the remainder 30c

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

For every Lm of the first Lm100 . . . . . 5c

For every Lm of the next Lm100 . . . . . 8c
For every Lm of the next Lm400 . . . . . 15c
For every Lm of the next Lm500 . . . . . 20c
For every Lm of the next Lm700 . . . . . 25c
For every Lm 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 Maltese 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 Lm of the chargeable income:

Provided that the minimum liability 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 Maltese 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 personal deductions.";

(c) immediately after subsection (4) thereof there shall be inserted the following new subsection:

"(5)(a)(i) The tax upon the chargeable income of any individual born in Malta who, after emigrating has returned as 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 twenty years falling within a period of twenty five 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 Maltese 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 Maltese liri shall be increased by one thousand Maltese 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 for immigration under section 7 of the Immigration Act, 1970 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 Maltese 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 personal deductions.

(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 subparagraph (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."; and

(d) for subsection (12) thereof, there shall be substituted the following:

"(12) Notwithstanding the other provisions of this section, but without prejudice to those of subsection (6), 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 Maltese lira.".

7. For subsection (2) of section 37 of the principal Act, there shall be substituted the following: Amendment of section 37 of the principal Act.

"Where any person chargeable with tax has not received the notice mentioned in subsection (1) of this section in respect of any year of assessment for which he is so chargeable, it shall be the duty of that person to give notice to the Commissioner that he is so chargeable and to file a return of income in accordance with subsection (1) of this section by not later than the 30th September, 1989 in respect of the year of assessment 1989 or prior years of assessment, and for the years of assessment after the year of assessment 1989 to give notice to the Commissioner that he is so chargeable not later than the 31st March and to file the return of income not later than the 30th September in the relative year of assessment.".

8. In subsection (2) of section 37A of the principal Act for the words "of that year:" there shall be substituted the words "of that year and to file a return in accordance with subsection (1) of this section not later than the 30th September of that year:". Amendment of section 37A of the principal Act.

9. For the proviso to subsection (1) of section 57 of the principal Act, there shall be substituted the following: Amendment of section 57 of the principal Act.

"Provided that no such appeal may be validly entered against any assessment unless payment of the amount of the tax which is not in dispute has first been made.".

10. Section 62 of the principal Act shall be amended as follows: Amendment of section 62 of the principal Act.

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

"Provided that the provisions of this subsection shall not apply to the income of any body of persons arising from activities relating or ancillary to banking, sound or television broadcasting, film renting or insurance (excluding commissions derived from the sale of insurance by bodies of persons residing in Malta) in respect of the liability of such body of persons for any year of assessment preceding the year of assessment 1990.".

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

"Provided that the provisions of this paragraph shall not apply to the income of any body of persons referred to in the proviso to subsection (2) hereof for any year of assessment preceding the year of assessment 1989.";

(c) for paragraph (a) of subsection (5) thereof there shall be substituted the following:

"(a) Any person who contravenes or fails to comply with the provisions of this section or of any rules made

thereunder shall be liable on conviction to a fine *(multa)* of not less than Lm50 and not exceeding Lm500 and to a further fine *(multa)* of not less than Lm5 but not exceeding Lm50 for every day during which the offence continues;" and

(d) the proviso to paragraph (a) and paragraphs (c), (d), (e), (f), (g) and (h) of subsection (5) thereof shall be deleted.

Amendment of section 63 of the principal Act.

11. In paragraph (b) of subsection (1) of section 63 of the principal Act for the words "thirty days" there shall be substituted the words "fifteen days".

Passed by the House of Representatives at Sitting No. 164 of the 9th November, 1988.

LAWRENCE GONZI
Speaker

P. MUSCAT TERRIBILE
Clerk to the House of Representatives

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