

A 132

I assent.

(L.S.)

GEORGE VELLA
President

12th March, 2021

ACT No. VIII of 2021

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

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

Short title.

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

PART I

Amendments to
the Income Tax
Act.
Cap. 123.

2. This Part amends the Income Tax Act and it shall be read and construed as one with the Income Tax Act, hereinafter in this Part referred to as the "principal Act".

Amendment of
article 33 of the
principal Act.

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

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

Amendment of article 34 of the principal Act.

PART II

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

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

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

Amendment of article 19 of the principal Act.

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

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

PART III

7. This Part amends the Income Tax Management Act and it shall be read and construed as one with the Income Tax Management Act, hereinafter in this Part referred to as the "principal Act".

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

Amendment of
article 4 of the
principal Act.

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

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

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

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

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

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

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

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

Cap. 123.

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

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

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

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

Amendment of article 14 of the principal Act.

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

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

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

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

S.L. 586. 09.

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

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

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

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

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

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

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

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

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

Amendment of
article 20 of the
principal Act.

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

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

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

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

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

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

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

PART IV

- 13.** This Part amends the Value Added Tax Act and it shall be read and construed as one with the Value Added Tax Act, hereinafter in this Part referred to as the "principal Act". Amendment to the Value Added Tax Act.
Cap. 406.

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

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

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

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

Cap. 123. Provided that the provisions of this article shall not prejudice the international obligations that the Commissioner or any person referred to in this sub-article may have, including confidentiality obligations under arrangements made under article 76 of the Income Tax Act.";

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

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

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

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

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

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

Passed by the House of Representatives at Sitting No. 439 of the
11th March, 2021.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

