I assent.

(L.S.) **MYRIAM SPITERI DEBONO**
President

17th December, 2024

ACT No. XXXVIII of 2024

AN ACT to amend 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 and commencement.

1. (1) The short title of this Act is the Value Added Tax (Amendment) Act, 2024 and this Act shall be read and construed as one with the Value Added Tax Act, hereinafter referred to as the "principal Act".

Cap. 406.

(2) This Act shall come into force on 1st January 2025.

Amendment to the Arrangement of Act.

2. The arrangement of Act shall be amended as follows:

(a) the words "FIFTH SCHEDULE Exemptions Part One - Exempt with credit supplies Part Two - Exempt without credit supplies Part Three - Exempt intra-community acquisitions Part Four - Exempt importations Part Five – Definitions" shall be substituted by the words "FIFTH SCHEDULE Exemptions";

(b) the words "SIXTH SCHEDULE Thresholds Part One - Small undertakings Part Two - Acquisitions threshold Part Three - Distance sales threshold" shall be substituted by the

words "SIXTH SCHEDULE Small Enterprises"; and

(c) the words "FOURTEENTH SCHEDULE Special Cases Part One - Professional services Part Two - Second-hand goods, works of art, collectors' items and antiques Part Three - Supplies by retailers and by civil, mechanical and electrical engineering contractors Part Four - Travel agents Part Five - Tax in danger Part Six - Investment gold Part Seven - Special scheme for electronically supplied services" shall be substituted by the word "FOURTEENTH SCHEDULE Special Cases".

Amendment of article 2 of the principal Act.

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

(a) in the definition "acquisitions threshold" the words "Part Two of the Sixth Schedule" shall be substituted by the words "Part Three of the Third Schedule";

(b) immediately after the definition of "customs duty suspension regime" there shall be added the following new definitions:

""Council Directive 2006/112/EC" means Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as may be amended from time to time;

"Council Regulation (EU) No. 904/2010" means Council Regulation (EU) No. 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (recast), as may be amended from time to time;";

(c) immediately after the definition "Tribunal" there shall be added the following new definition:

""VAT" or "value added tax" shall mean any value added tax as referred to in Council Directive 2006/112/EC;".

Amendment of article 4 of the principal Act.

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

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

"(a) on every supply of goods or of services that takes place in Malta made on or after 1 January 1999 for consideration by a taxable person acting as such;";

(b) paragraph (b)(i) thereof shall be substituted by the following new sub-paragraph:

"(i) it is an acquisition of goods, other than new means of transport and excise goods, made by a taxable person acting as such, or a non-taxable legal person, where the vendor is a taxable person acting as such who is not eligible for the exemption for small enterprises provided for in Article 284 of Council Directive 2006/112/EC and where such vendor is not covered by Articles 33 and 36 of the said Directive;".

5. Article 10 of the principal Act shall be amended as follows: Amendment of article 10 of the principal Act.

(a) the proviso to sub-article (4) thereof shall be substituted by the following new provisos:

"Provided that such person shall be relieved of the obligation to be registered in accordance with this sub-article when such person notifies the Commissioner that any of the special schemes provided for in accordance with Chapter 6 of Title XII of Council Directive 2006/112/EC shall be used to declare and pay the tax which such person is liable to pay, in line with the provisions of the respective special scheme, by not later than ten (10) days from the date of such supply:

Provided further that a taxable person who is not established in Malta but is established in another Member State shall be relieved of the obligation to be registered in accordance with this sub-article when the Commissioner is notified, and approves, the use by such person of the special scheme for small enterprises provided for in accordance with Chapter 1 of Title XII of Council Directive 2006/112/EC.";

(b) sub-article (6) thereof shall be amended as follows:

(i) paragraph (c) thereof shall be substituted by the following new paragraph:

"(c) any person whose registration under article 11 is cancelled in accordance with sub-articles (6), (7) or (8) thereof, in cases where such person would be liable to apply for registration under this article;";

(ii) immediately after paragraph (c) thereof, as

substituted, there shall be added the following new paragraph:

"(d) any person whose registration under article 11B is cancelled in accordance with sub-article (3) thereof, in cases where such person would be liable to apply for registration under this article.";

(c) sub-article (7) thereof shall be substituted by the following new sub-article:

"(7) A registration in accordance with paragraphs (a) and (d) of sub-article (6) shall take effect as from the date the taxable person should have been registered under this article. A registration in accordance with paragraph (c) of sub-article (6) shall take effect as from the date the registration under article 11 is cancelled. A registration in accordance with paragraph (b) of sub-article (6) shall take effect as from the date such person applies to be registered under this article.";

(d) in sub-article (9) thereof the words "Council Regulation (EU) No. 904/2010 of the 7th October 2010, or of any other Council Regulation (EU) which substitutes or amends the said Council Regulation (EU)" shall be substituted by the words "Council Regulation (EU) No. 904/2010";

(e) immediately after sub-article (9), as amended, there shall be added the following new sub-article:

"(10) A person registered under this article who ceases to be required or entitled to be registered under this article, if he were not so registered, shall within fifteen (15) days from the occurrence of this event apply with the Commissioner to cancel his registration under this article.".

Substitution of article 11 of the principal Act.

6. Article 11 of the principal Act shall be substituted by the following new article:

"Special scheme for small enterprises for supplies made within Malta.

11. (1) When a taxable person established in Malta who is not registered under this article qualifies as a small enterprise in terms of the provisions of Part One of the Sixth Schedule he may apply to the Commissioner to be registered under this article.

(2) The Commissioner shall register under this article any person who has submitted an application under sub-article (1) if he is satisfied that such person is eligible for such registration in accordance with the provisions of Part One of the Sixth Schedule:

Provided that such registration shall only take effect as from the date the Commissioner receives the application under sub-article (1) from the taxable person, or from the date of commencement of the economic activity of the taxable person, whichever is the later.

(3) Any person registered under this article shall be subject to the provisions of Part One of the Sixth Schedule.

(4) When a person is, immediately before his registration under this article, registered under article 10 the Commissioner shall, upon the registration of such person under this article, cancel the registration under article 10.

(5) A person registered under this article:

(a) may, at any time, apply to the Commissioner for the cancellation of his registration under this article;

(b) shall, within fifteen (15) days from the date on which such person no longer qualifies as a small enterprise in terms of the relevant provisions of Part One of the Sixth Schedule, apply to the Commissioner for the cancellation of the said registration;

(c) shall, within fifteen (15) days from the cessation of his economic activity, apply to the Commissioner for the cancellation of such registration.

(6) When a taxable person submits an application for the cancellation of his registration under this article pursuant to paragraph (a) of sub-article (5), such cancellation shall apply with effect from the first day of the following calendar month.

(7) When a taxable person submits an application for the cancellation of his registration under this article pursuant to paragraph (b) of sub-article (5), such cancellation shall apply with effect from the first day of the calendar month following the date on which such taxable person no longer qualifies as a small enterprise.

(8) Where the Commissioner has reason to believe that the taxable person no longer qualifies as a small enterprise in terms of the relevant provisions of Part One of the Sixth Schedule, the Commissioner shall cancel the registration of that taxable person under this article with effect from the date that such taxable person no longer qualifies as a small enterprise as may be determined by the Commissioner:

Provided that the Commissioner shall immediately upon the cancellation of a registration under this article, register that person under article 10 if, in the opinion of the Commissioner, such person is liable to apply for registration in terms of the said article.

(9) Without prejudice to sub-articles (6), (7) and (8), the Commissioner may at any time cancel the registration of a person under this article if he has reason to believe that such person does not carry on or has ceased to carry on an economic activity or that it is not likely that his economic activity shall include any activities other than those exempt activities without credit supplies.

(10) Without prejudice to the other provisions of this article, a taxable person registered under this article which carries out any of the following transactions shall also be required to register under article 12 in accordance with the provisions thereof if such person:

(a) makes intra-Community acquisitions of goods subject to VAT pursuant to article 4(b);

(b) receives services for which he is liable to pay VAT pursuant to article 20;

(c) supplies of services within the territory of another Member State for which VAT is payable solely by the recipient.".

Addition of new articles to the principal Act.

7. Immediately after article 11 of the principal Act, as substituted, there shall be added the following new articles:

"Special scheme for small enterprises for supplies made within other Member States.

11A. (1) A taxable person established in Malta qualifying as a small enterprise in terms of the provisions of Part Two of the Sixth Schedule, who makes supplies of goods and services within the territory of another Member State, and who intends to avail of the exemption in terms of the special scheme for small enterprises applicable in the respective Member State in which the supplies are made in accordance with Chapter 1 of Title XII of Council Directive 2006/112/EC, may apply to the Commissioner to be registered under this article.

(2) The Commissioner shall register under this article any person who has submitted an application under sub-article (1) if he is satisfied that that person is eligible for such registration in accordance with the provisions of Part Two of the Sixth Schedule:

Provided that such registration shall only take effect as from the date notified by the Commissioner to the taxable person.

(3) Any person registered under this article shall be subject to the provisions of Part Two of the Sixth Schedule.

(4) A person registered under this article:

(a) may, at any time, apply to the Commissioner for the cancellation of his registration under this article;

(b) shall, within fifteen (15) working days from the date on which such person is no longer eligible to avail of the special scheme for small enterprises in terms of the provisions of Part Two of the Sixth Schedule in any Member State, apply to the Commissioner for an update or cancellation of such registration, as the case may be;

(c) shall, within fifteen (15) working days from the date on which the Union annual turnover of that person referred to in the Sixth Schedule exceeds the Union threshold referred to in the same Schedule, apply to the Commissioner for the cancellation of the said registration.

(5) The Commissioner shall cancel the registration of a person under this article with immediate effect:

(a) in cases where the Commissioner has reason to believe that the taxable person is no longer eligible to avail of the special scheme for small enterprises in terms of the provisions of Part Two of the Sixth Schedule;

(b) if such person notifies the Commissioner through the established web portal designated for this purpose by the Commissioner, that such person no longer intends to avail himself of the special scheme for small enterprises in all Member States, or whose Union annual turnover referred to in the Sixth Schedule exceeded the Union threshold referred to in the said Schedule;

(c) if such person notifies the Commissioner through the established web portal designated for this purpose by the Commissioner, or it may otherwise be presumed by the Commissioner, that the economic activity of such person has ceased.

Special scheme for small enterprises for persons not established in Malta.

11B. (1) A taxable person who is not established in Malta but is established in another Member State shall be deemed to have applied to register under this article once the Commissioner is notified by the Member State in which such person is established in accordance with Chapter Xa of Council Regulation (EU) 904/2010 of the person's intention to avail itself of the exemption for small enterprises in relation to supplies of goods and services made in Malta:

Provided that the registration of such person under this article shall only be deemed to be effective as from the date the Commissioner notifies the Member State of establishment, through the designated electronic means for this purpose, of his approval to register the said person under this article in accordance with the provisions of Part Three of the Sixth Schedule.

(2) The Commissioner shall notify by electronic means the Member State of establishment of his approval or otherwise in accordance with sub-article (1) within fifteen (15) working days after receiving the information referred to in Article 37a(1)(a) of Council Regulation 904/2010.

(3) The Commissioner may cancel the registration of a person under this article with immediate effect where the Commissioner has reason to believe that the taxable person is no longer eligible to avail himself of the special scheme for small enterprises in terms of the provisions of Part Three of the Sixth Schedule and notify the Member State of establishment of such person without delay of the date on which the said person has ceased to be eligible for the exemption for small enterprises in relation to supplies of goods and services made in Malta.

(4) The Commissioner may cancel the registration of a person under this article with immediate effect where the Commissioner is notified pursuant to Article 37a of Regulation (EU) 904/2010 that the person intends to cease to apply the exemption for small enterprises to supplies of goods and services in Malta, or is not eligible to benefit from such an exemption.".

8. Article 12 of the principal Act shall be amended as follows: Amendment of article 12 of the principal Act.

(a) immediately after sub-article (3) thereof there shall be added the following new sub-article:

"(3a) A taxable person established in Malta, other than a taxable person registered under article 10, who supplies services within the territory of another Member State for which VAT is payable solely by the recipient of the service pursuant to Article 196 of Council Directive 2006/112/EC, shall apply to be registered under this article by not later than the date on which he supplies such service.";

(b) sub-article (4) thereof shall be substituted by the following new sub-article:

"(4) The Commissioner shall register under this article any person who in his opinion is liable to apply for such registration in terms of sub-articles (1), (3) or (3a) or who submits an application for registration when he is so entitled in terms of sub-article (2).";

(c) immediately after sub-article (8) thereof there shall be added the following new sub-article:

"(8a) A person registered under this article in the circumstances mentioned in sub-article (3a) may apply for the cancellation of his registration at any time if he no longer supplies services for which the recipient is liable to pay VAT.";

(d) sub-article (9) thereof shall be substituted by the following new sub-article:

"(9) The value of intra-Community acquisitions for the purpose of this article shall be determined in accordance with Part Three of the Third Schedule.";

(e) paragraph (b) of sub-article (10) thereof shall be substituted by the following new paragraph:

"(b) if such person is entitled to have his registration under this article cancelled and applies for such a cancellation in accordance with sub-article (6) or (7) or (8) or (8a), in which case the cancellation shall take effect on 1st January of the year in which the application is made.".

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Substitution of article 13 of the principal Act.

9. Article 13 of the principal Act shall be substituted by the following new article:

"13. (1) An application for registration or for the cancellation of a registration in accordance with this Part shall be submitted electronically through the established web portal designated by the Commissioner for this purpose and shall contain the information requested therein.

(2) The Commissioner shall allocate a registration number to every person registered under articles 10, 11, 11A or 12 and shall make, through the established web portal designated by the Commissioner for this purpose, electronically available a registration certificate to every such person containing the registration number, the article under which the registration was made, the effective date of the registration and such other particulars as the Commissioner may deem appropriate. The Commissioner may change the registration number of any person as he may consider necessary and shall notify the said person of any such change.

(3) A registration number allocated under articles 10 or 12 shall have the prefix "MT" in accordance with ISO International Standard 3166 - alpha 2. A registration number allocated under article 11 shall not have such a prefix and shall not be treated for any purposes of this Act as a value added tax identification number.

(4) A registration number allocated under article 11A shall be the same registration number as that allocated to the person under article 10 or 11 in accordance with sub-article (3) but with the suffix "EX" added to it.

(5) When the registration of a person under articles 10, 11, 11A or 12 is cancelled, the Commissioner shall serve a notice on such person indicating the effective date of the cancellation.

(6) The cancellation of the registration of a person shall not relieve that person from any liability incurred in accordance with this Act by virtue of anything done before the date of the cancellation or from the obligation to submit an application for a fresh registration in any of the circumstances under which he is required to apply for registration in terms of any provision of this Part.

(7) A number of persons regarded as a single taxable person in terms of article 5(6) shall be registered as one (1) person.

(8) The Minister may by regulations exempt any person or class of persons from any of the provisions of this Part and may by such regulations make such an exemption subject to such conditions and limitations as may be prescribed.

(9) Any person registered under articles 10, 11, 11A or 12 shall, within fifteen (15) days from the occurrence of any of the following events, inform the Commissioner of such event electronically through the established web portal designated by the said Commissioner for this purpose and including any information requested therein:

(a) in cases where there is a change in circumstances that affects the particulars declared in the application for his registration under articles 10, 11, 11A or 12 or otherwise furnished to the Commissioner in connection with his registration or appearing in the registration certificate;

(b) in cases where there is the cessation or transfer of his economic activity or part thereof; or

(c) such other event as may be prescribed by the Commissioner.".

Substitution of article 17 of the principal Act.

10. Article 17 of the principal Act shall be substituted by the following new article:

"17. (1) The Commissioner shall allocate a tax period to every person registered under articles 10, 11, 11A and 12.

(2) Except as otherwise provided in this article, a tax period means a period of three (3) calendar months commencing on the first day immediately following the end of the preceding tax period.

(3) The Minister may by regulations prescribe in respect of such class or classes of persons as may be specified in the said regulations a tax period of either more or less than three (3) months.

(4) The first tax period of a person registered under articles 10 or 12 shall commence on the date that such person is registered in accordance with the said articles, and end on such date as may be determined by the Commissioner:

Provided that such a period shall not exceed one (1) year.

(5) When, during a tax period of a person, his registration under articles 10 or 12 is cancelled, such period shall end on the last day of the month in which that cancellation is made and shall be the last tax period of the said person, saving the allocation of a new tax period to that person should he be subsequently registered again under the said articles 10 or 12.

(6) The Commissioner may by means of a notice served on a person registered under articles 10 or 12 in any particular case vary any tax period for such person in such manner as may be specified in the said notice.

(7) Notwithstanding the other provisions of this article, the relevant provisions relating to the tax periods of a person registered under articles 11 and 11A to the extent provided in the Sixth Schedule shall apply to persons registered under those articles.".

Amendment of article 27 of the principal Act.

11. Sub-article (2) of article 27 of the principal Act shall be substituted by the following new sub-article:

"(2) Every person whose registration under article 10 is cancelled shall provide the Commissioner with a tax return relating to the last tax period within thirty (30) days from the date on which he is served with a notice referred to in article 13(5) or within such longer period as may be specified in the said notice:

Provided that this sub-article shall not apply when the registration under article 10 is cancelled in the circumstances mentioned in article 11(3).".

Substitution of article 30 of the principal Act.

12. Article 30 of the principal Act shall be substituted by the following new article:

"30. (1) Every person registered under articles 11 and 11A shall furnish the Commissioner with the periodical declarations relating to his economic activity by such means and at such intervals as may be specified in the Sixth Schedule.

(2) Every taxable person registered under article 10 shall submit a recapitulative statement electronically through the established web portal designated by the Commissioner for this purpose and include any information requested therein at such intervals as the Minister may by regulations prescribe for the following supplies:

(a) intra-Community supplies of goods exempt in accordance with items 3(1) and 3(4) of Part One of the Fifth Schedule;

(b) the supply of goods which were supplied to him by way of intra-Community acquisition of goods which satisfy the conditions referred to in item 2(2) of Part Three of the Third Schedule;

(c) services, other than services that are exempted from VAT in the Member State where the transaction is taxable, and for which the recipient is liable to pay the tax made to taxable persons and non-taxable legal persons identified for purposes of value added tax.

(3) Every taxable person and non-taxable legal person shall make such statements and shall produce such information and documents as may be reasonably required by the Commissioner for any purpose of this Act or as may be prescribed.".

Addition of new article to the principal Act.

13. Immediately after article 30 of the principal Act, as substituted, there shall be added the following new article:

"Declarations and other notices by persons registered under article 12.

30A. A person registered under article 12 shall furnish the Commissioner with a notice of payment in terms of article 21(5) and declarations of his intra-community acquisitions and purchases made for which the customer is liable for the payment of the tax pursuant to articles 20(2)(b) and 20(2)(c) on such form as the Minister may be regulations prescribe. The provisions of article 27(4) with respect to tax returns shall apply *mutatis mutandis* to the delivery of the said form.".

Amendment of article 38 of the principal Act.

14. Paragraph (a) of sub-article (2) of article 38 of the principal Act shall be substituted by the following new paragraph:

"(a) being required to furnish a declaration in terms of article 30(1) or article 30A, does not furnish such declaration within the time stipulated in the relevant provisions of this Act shall be liable to an administrative penalty of ten euro (€10) for every month or part thereof that elapses from the date by which the declaration should have been furnished in accordance with this Act and the date when it is actually furnished to the Commissioner:

Provided that such administrative penalty shall in no case exceed one hundred and twenty euro (€120) for each such

declaration; and".

Amendment of article 39 of the principal Act.

15. Sub-article (3) of article 39 of the principal Act shall be substituted by the following new sub-article:

"(3) Any person who, being required to give notice or provide information under articles 13 or 15, does not give that notice or information within the time stipulated in the relevant provisions of this Act shall be liable to an administrative penalty of twenty euro (€20) for every month or part thereof that elapses from the date on which the notice or information should have been given in accordance with those articles and the date when such notice or information is given to the Commissioner:

Provided that such administrative penalty shall in no case exceed two hundred and fifty euro (€250) for each such notice or information.".

Substitution of article 51 of the principal Act.

16. Article 51 of the principal Act shall be substituted by the following new article:

"51. (1) Any person who makes any supply, other than a supply in respect of which a tax invoice is required to be issued in terms of article 50, shall provide to the person to whom the supply is made an invoice, receipt or other document which shall be issued in the form and in the manner and shall contain the details indicated in the Thirteenth Schedule.

(2) The provisions of sub-article (1) shall not apply to supplies which are exempt without credit in accordance with Part Two of the Fifth Schedule other than supplies referred to under sub-item 16(1) of Part Two of the said Schedule.".

Amendment of article 56 of the principal Act.

17. In sub-article (5) of article 56 of the principal Act 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 or of any such other Council Regulation as may be prescribed" shall be substituted by the words "Council Regulation (EU) No. 904/2010 or of any such other Council Regulation as may be prescribed".

Amendment of article 77 of the principal Act.

18. Paragraphs (h) to (k) of article 77 of the principal Act shall be substituted by the following new paragraphs:

"(h) applies to be registered under articles 11 or 11A in circumstances indicating that he knows or could with due diligence have known that he is not entitled to be so classified;

(i) being registered under articles 11 or 11A and not being eligible to remain so registered does not apply for the cancellation of such registration in the manner required and within the time stipulated in this Act;

(j) being registered under articles 11 or 11A purports in connection with any transaction not to be so registered for the purpose of obtaining any financial gain;

(k) not being registered under articles 11, 11A or 11B purports in connection with any transaction to be so registered for the purpose of obtaining any financial gain;".

Passed by the House of Representatives at Sitting No. 294 of the 10th December, 2024.

ANĠLU FARRUGIA
Speaker

ELEANOR SCERRI
Clerk of the House of Representatives

VERŻJONI ELETTRONIKA

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