

**A.L. 83 ta' l-2003**

**ATT DWAR IT-TAXXA FUQ L-INCOME  
(KAP.123)**

**Ordni ta' l-2003 li jemenda l-Ordni dwar Helsien  
mit-Taxxa Doppja (Taxxa fuq l-Income)  
(Renju tal-Belġju)**

BIS-SAHHA tas-setghat moghtija bl-artikolu 76 ta' l-Att dwar it-Taxxa fuq l-Income, il-Ministru tal-Finanzi ghamel dan l-Ordni li ġej:-

**1.** It-titolu ta' dan l-ordni hu Ordni ta' l-2003 li jemenda l-Ordni dwar Helsien mit-Taxxa Doppja (Taxxa fuq l-Income) (Renju tal-Belġju), u ghandu jinqara u jiftiehem haġa wahda ma' Ordni ta' l-1976 dwar Helsien mit-Taxxa Doppja (Taxxa fuq l-Income) (Renju tal-Belġju), hawn iżjed 'il quddiem imsejjah "l-ordni prinċipali".

Titolu.

A.L. 108 ta' l-1976.

**2.** Qieghed jiġi hawnhekk dikjarat:-

Ftehim  
Supplimentari u  
Protokoll.

(a) li l-emendi għall-ordni prinċipali speċifikati fl-Iskeda li tinsab ma' dan l-ordni saru mal-Gvern tar-Renju tal-Belġju bil-ghan li jinghata helsien mit-taxxa doppja dwar it-taxxi li ġejjin imposti bil-liġijiet tar-Renju tal-Belġju:

- (i) it-taxxa fuq l-income individwali;
- (ii) it-taxxa fuq l-income korporata;
- (iii) it-taxxa fuq l-income fuq entitajiet legali;
- (iv) it-taxxa fuq l-income fuq persuni mhux residenti;
- (v) l-imposta speċjali assimilata mat-taxxa fuq l-income individwali;

maghduda hlasijiet bil-quddiem, is-surcharges fuq dawk it-taxxi u hlasijiet bil-quddiem, u s-supplimenti ghat-taxxa fuq l-income individwali;

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(b) illi huwa spedjenti li dawk l-emendi ghandu jkollhom sehh;

(c) illi l-Ftehim Supplimentari speċifikat fl-Iskeda li tinsab ma' dan l-ordni dahal fis-sehh fis-17 ta' Ottubru, 2002.

## SKEDA

**FTEHIM SUPPLIMENTARI**  
**LI JEMENDA L-FTEHIM BEJN L-ISTAT TA' MALTA**  
**U R-RENJU TAL-BELĠJU**  
**GHALL-HELSEN MIT-TAXXA DOPPJA**  
**U THARIS MINN EVAŻJONI FISKALI,**  
**U L-PROTOKOLL,**  
**IFFIRMATI FI BRUSSEL FIT-28 TA' ĠUNJU, 1974**

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Il-Gvern ta' l-Istat ta' Malta u l-Gvern tar-Renju tal-Belġju, billi jixtiequ jagħmlu Ftehim Supplimentari biex jemendaw il-Ftehim bejn ir-Renju tal-Belġju u l-Istat ta' Malta għall-helsien mit-taxxa doppja u tharis minn evażjoni fiskali, u l-Protokoll, iffirmati fi Brussel fit-28 ta' Ġunju, 1974 (hawn iżjed 'il quddiem rispettivament imsejjha bhala "il-Ftehim" u "il-Protokoll"), ftehm u kif ġej:

### Artiklu I

Paragrafu (3) ta' l-Artiklu 2 tal-Ftehim għandu jithassar u jiġi sostitwit b'dan li ġej :

“(3) It-taxxi eżistenti li għalihom japplika dan il-Ftehim huma, b' mod partikolari:

- (a) Fil-Belġju :
  - (i) it-taxxa fuq l-*income* individwali;
  - (ii) it-taxxa fuq l-*income* korporata;
  - (iii) it-taxxa fuq l-*income* fuq entitajiet legali;
  - (iv) it-taxxa fuq l-*income* fuq persuni mhux residenti;
  - (v) l-imposta speċjali assimilata mat-taxxa fuq l-*income* individwali;

inklużi hlasijiet bil-quddiem, is-*surcharges* fuq dawk it-taxxi u hlasijiet bil-quddiem, u s-supplimenti għat-taxxa fuq l-*income* individwali, (hawn iżjed 'il quddiem imsejjha “it-taxxa tal-Belġju”).

- (b) F'Malta:

it-taxxa fuq l-*income*, inklużi hlasijiet bil-quddiem ta' taxxa sew jekk bi tnaqqis minn ras il-ghajn jew xort'ohra, hawn iżjed 'il quddiem imsejjha “it-taxxa ta' Malta”).”.

## Artiklu II

Dan is-subparagrafu (ċ) li ġej għandu jiżded f'paragrafu (3) ta' l-Artiklu 11 tal-Ftehim :

“(ċ) imghax fuq pretensjonijiet debitorji kummerċjali - inklużi pretensjonijiet debitorji rappreżentati b'istrumenti negozjabbli - kif jirriżultaw minn pagamenti deferiti għal oġġetti, merkanzija jew servizzi fornuti minn intrapriża ta' Stat Kontraenti għandhom ikunu eżenti mit-taxxa fl-Istat Kontraenti l-iehor.”

## Artiklu III

It-titolu u t-test ta' l-Artiklu 16 tal-Ftehim għandu jithassar u jiġi sostitwit b'dan li ġej :

### MANAGERS TA' KUMPANNIJI

(1) Id-drittijiet ta' diretturi u pagamenti oħra simili li jinkisbu minn residenti ta' Stat Kontraenti fil-kapaċità tiegħu bħala membru tal-bord tad-diretturi jew ta' xi organu simili ta' kumpannija residenti ta' l-Istat Kontraenti l-iehor jistgħu jiġu intaxxati f'dak l-Istat l-iehor.

Din id-disposizzjoni għandha wkoll tkun tapplika għal pagament miksub dwar it-twertiq ta' funzjonijiet li, taht il-liġi ta' l-Istat Kontraenti li tiegħu l-kumpannija tkun residenti, jitqiesu bħala funzjonijiet ta' xorta simili bħal dawk imwettqa minn persuna msemmija f'dik id-disposizzjoni.

(2) Ir-rimunerazzjoni li tinkiseb minn persuna msemmija fil-paragrafu (1) mill-kumpannija għar-rigward tat-twertiq tal-funzjonijiet ta' kuljum ta' xorta managerjali jew teknika u r-rimunerazzjoni li residenti ta' Stat Kontraenti jirċievi għar-rigward ta' l-attività personali tiegħu bħala soċju ta' kumpannija, li ma tkunx kumpannija b'shem azzjonarju, li jkun residenti ta' l-Istat Kontraenti l-iehor, jista' jiġi intaxxat skond id-disposizzjonijiet ta' qabel ta' l-Artiklu 15, bhallikieku r-rimunerazzjoni kienet rimunerazzjoni ta' impjegat għar-rigward ta' xi impjeg u bhallikieku riferenzi għall-impjegat kienu riferenzi għall-kumpannija.”

## Artiklu IV

It-test ta' l-Artiklu 18 tal-Ftehim għandu jithassar u jiġi sostitwit b'dan li ġej :

“(1) Bla hsara għad-disposizzjonijiet tal-paragrafu (2) ta' l-Artiklu 19, pensjonijiet u rimunerazzjoni oħra simili li tiġi mħallsa lil residenti ta' Stat Kontraenti bħala korrispettiv għal impjeg imghoddi, għandhom ikunu taxxabli biss f'dak l-Istat.

(2) Madankollu, pensjonijiet u *allowances* oħra, perjodiċi jew mhux perjodiċi, imħallsa taht il-leġislazzjoni tas-sigurtà soċjali ta' Stat Kontraenti jew taht xi skema pubblika organizzata minn Stat Kontraenti sabiex jissupplementa l-benefiċċji ta' dik il-leġislazzjoni, għandhom jiġu intaxxati f'dak l-Istat.”

## Artiklu V

Is-subparagrafi (a), (b) u (ċ) tal-paragrafu (1) ta' l-Artiklu 23 tal-Ftehim ghandu jithassar u jiġi sostitwit b'dan li ġej:

“(a) Meta residenti tal-Belġju jikseb *income* jew ikun jippossjedi oġġetti kapitali li jistgħu jiġu intaxxati f'Malta skond id-disposizzjonijiet ta' dan il-Ftehim, li ma jkunux daww tas-subparagrafu (b) tal-paragrafu (2) ta' l-Artiklu 10, tal-paragrafi (2) u (7) ta' l-Artiklu 11 u tal-paragrafi (2) u (5) ta' l-Artiklu 12, il-Belġju ghandu jeżenta dak l-*income* jew daww l-oġġetti kapitali mit-taxxa imma jista', fil-kalkolu ta' l-ammont tat-taxxa fuq l-*income* jew kapital li jifdal ta' dak ir-residenti, japplika r-rata ta' taxxa li kien kieku japplika li kieku dak l-*income* jew oġġetti kapitali ma kienux eżentati.

(b) (i) Bla hsara għad-disposizzjonijiet tal-liġi tal-Belġju għar-rigward tal-fatt li t-taxxi mhallsa barra l-pajjiż jitqiesu bħala kreditu kontra t-taxxa tal-Belġju, meta residenti tal-Belġju jikseb oġġetti ta' l-*income* aggregat tiegħu għall-finijiet tat-taxxa tal-Belġju li huma dividendi taxxabli skond il-paragrafu (2) (b) ta' l-Artiklu 10, mhux eżenti mit-taxxa tal-Belġju skond is-subparagrafu (ċ) ta' dan l-Artiklu, jew imghax taxxabli skond il-paragrafi (2) jew (7) ta' l-Artiklu 11, jew *royalties* taxxabli skond il-paragrafi (2) jew (5) ta' l-Artiklu 12, it-taxxa ta' Malta li tingabar fuq dak l-*income* għandha titqies bħala kreditu kontra t-taxxa tal-Belġju fir-rigward ta' dak l-*income*.

(ii) Il-Belġju għandu wkoll iqis il-kreditu li hemm provdut dwaru f'(i) ta' dan is-subparagrafu għar-rigward ta' taxxa li tithallas fuq dividendi jew imghax minn investiment dirett li huma taxxabli f'Malta bis-sahha tal-Ftehim u tal-liġi ġenerali ta' Malta meta dik it-taxxa tkun temporanjament mogħtija lura jew imnaqqsa taħt disposizzjonijiet speċjali mfassla biex jipromwovu l-iżvilupp ekonomiku ta' Malta.

Dak il-kreditu għandu japplika għall-ewwel hames snin li dwarhom il-Ftehim Supplimentari jkun effettiv; madankollu l-awtoritajiet kompetenti ta' l-Istati Kontraenti jistgħu jikkonsultaw lil xulxin biex jistabbilixxu jekk dan il-perjodu ta' żmien ikunx se jiġi mtawwal jew le.

Il-frazi “dividendi jew imghax minn investiment dirett” tfisser dividendi imhallsa għar-rigward ta' ishma jew imghax imhallas għar-rigward ta' pretensjonijiet debitorici li huma direttament u għal żmien li jidm konnessi ma' proġetti ta' żvilupp industrijali jew kummerċjali f'Malta.

(ċ) Meta kumpannija li tkun residenti tal-Belġju jkollha ishma f'kumpannija li tkun residenti f'Malta, id-dividendi li jiġu lilha mhallsa mill-kumpannija l-aħhar imsemmija u li jistgħu jiġu intaxxati f'Malta skond is-subparagrafu (b) tal-paragrafu (2) ta' l-Artiklu 10, għandhom ikunu eżenti mit-taxxa korporata fuq l-*income* fil-Belġju taħt il-kondizzjonijiet u fil-limiti li hemm provdut dwarhom fil-liġi tal-Belġju.”

## Artiklu VI

Paragrafu (2) tal-Protokoll huwa imhassar. B'konsegwenza ta' dan, l-enumerar tal-paragrafu (1) ghandu jkun eliminat.

## Artiklu VII

(1) Dan il-Ftehim Supplimentari ghandu jkun ratifikat u l-istrumenti ta' ratifika ghandhom jigu skambjati fi Brussel kemm jista' jkun malajr.

(2) Il-Ftehim Supplimentari ghandu jibda jsehh 30 gurnata wara d-data ta' l-iskambju ta' l-istrumenti ta' ratifika, u d-disposizzjonijiet tieghu ghandu jkollhom sehħ:

(a) Fil-Belġju :

(i) dwar it-taxxi dovuti minn ras il-ghajn fuq *income* akkreditat jew li jithallas fi jew wara l-1 ta' Jannar 1993;

(ii) dwar it-taxxi li ma jkunux it-taxxi dovuti minn ras il-ghajn, fuq *income* ta' xi perjodu taxxabli li jintemm fi jew wara l-31 Dicembru 1992.

(b) F'Malta, dwar it-taxxi li jingabru ghal xi sena ta' stima li tibda fi jew wara l-1 ta' Jannar 1993.

## Artiklu VIII

Dan il-Ftehim Supplimentari, li ghandu jiffirma parti integrali tal-Ftehim u l-Protokoll, ghandu jibqa' fis-sehh ghal daqstant kemm il-Ftehim u l-Protokoll jibqghu fis-sehh.

B'XIEHDA TA' DAN, is-sottoskritti, awtorizzati kif imiss mill-Gvernijiet rispettivi taghhom, iffirmaw dan il-Ftehim Supplimentari.

MAGHMUL fi Brussel, illum tlieta u ghoxrin ta' Gunju 1993, in duplikat fl-ilsien Ingliz.

GHALL-GVERN  
TA' L-ISTAT TA' MALTA :

Guido de MARCO  
Ministru ta' l-Affarijiet Barranin

GHALL-GVERN  
TAR-RENGU TAL-BELĠJU :

Willy CLAES  
Ministru ta' l-Affarijiet Barranin

L.N. 83 of 2003

**INCOME TAX ACT  
(CAP.123)**

**Double Taxation Relief (Taxes on Income)  
(Kingdom of Belgium) (Amendment) Order, 2003**

IN exercise of the powers conferred by article 76 of the Income Tax Act, the Minister of Finance has made the following order:-

1. The title of this order is the Double Taxation Relief (Taxes on Income) (Kingdom of Belgium) (Amendment) Order, 2003, and it shall be read and construed as one with the Double Taxation Relief (Taxes on Income) (Kingdom of Belgium) Order, 1976, hereinafter referred to as “the principal order”. Citation.  
L.N. 108 of 1976.

2. It is hereby declared:- Supplementary  
Agreement and  
Protocol.

(a) that the amendments to the principal order specified in the Schedule to this order have been made with the Government of the Kingdom of Belgium with a view to affording relief from double taxation in relation to the following taxes imposed by the laws of the Kingdom of Belgium:

- (i) the individual income tax;
- (ii) the corporate income tax;
- (iii) the income tax on legal entities;
- (iv) the income tax on non-residents;
- (v) the special levy assimilated to the individual income tax;

including the prepayments, the surcharges on such taxes and prepayments, and the supplements to the individual income tax;

(b) that it is expedient that those amendments should have effect;

(c) that the Supplementary Agreement specified in the Schedule to this order has entered into force on the 17<sup>th</sup> October, 2002.

SCHEDULE

**SUPPLEMENTARY AGREEMENT  
AMENDING THE AGREEMENT BETWEEN THE STATE OF MALTA  
AND THE KINGDOM OF BELGIUM  
FOR THE AVOIDANCE OF DOUBLE TAXATION  
AND THE PREVENTION OF FISCAL EVASION,  
AND THE PROTOCOL,  
SIGNED AT BRUSSELS ON JUNE 28, 1974**

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The Government of the State of Malta and the Government of the Kingdom of Belgium, desiring to conclude a Supplementary Agreement to amend the Agreement between the Kingdom of Belgium and the State of Malta for the avoidance of double taxation and the prevention of fiscal evasion, and the Protocol, signed at Brussels on June 28, 1974 (hereinafter respectively referred to as “the Agreement” and “the Protocol”), have agreed as follows:

**Article I**

Paragraph (3) of Article 2 of the Agreement shall be deleted and replaced by the following :

“(3) The existing taxes to which this agreement shall apply are, in particular :

(a) In Belgium :

- (i) the individual income tax ;
- (ii) the corporate income tax ;
- (iii) the income tax on legal entities ;
- (iv) the income tax on non-residents ;
- (v) the special levy assimilated to the individual income tax ;

including the prepayments, the surcharges on these taxes and prepayments, and the supplements to the individual income tax, (hereinafter referred to as “Belgian tax”).

(b) In Malta :

the income tax, including prepayments of tax whether made by deduction at source or otherwise, (hereinafter referred to as “Malta tax”).”

## **Article II**

The following subparagraph (c) shall be added in paragraph (3) of Article 11 of the Agreement :

“(c) interest on commercial debt-claims - including debt-claims represented by negotiable instruments - resulting from deferred payments for goods, merchandise or services supplied by an enterprise of a Contracting State shall be exempt from tax in the other Contracting State.”

## **Article III**

The title and the text of Article 16 of the Agreement shall be deleted and replaced by the following :

### **“COMPANY MANAGERS**

(1) Directors’ fees and other similar payments derived by a resident of a contracting State in his capacity as a member of the board of directors or a similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

This provision shall also apply to payment derived in respect of the discharge of functions which, under the law of the Contracting State of which the company is a resident, are regarded as functions of a similar nature as those performed by a person referred to in the said provision.

(2) Remuneration derived by a person referred to in paragraph (1) from the company in respect of the discharge of day-to-day functions of a managerial or technical nature and remuneration received by a resident of a Contracting State in respect of his personal activity as a partner of a company, other than a company with share capital, which is a resident of the other Contracting State, may be taxed in accordance with the provisions of Article 15, as if the remuneration were remuneration of an employee in respect of an employment and as if references to the employer were references to the company.”

## **Article IV**

The text of Article 18 of the Agreement shall be deleted and replaced by the following :

“(1) Subject to the provisions of paragraph (2) of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

(2) However, pensions and other allowances, periodic or non periodic, paid under the social security legislation of a Contracting State or under a public scheme

organised by a Contracting State in order to supplement the benefits of that legislation shall be taxed in that State.”

### **Article V**

Subparagraphs (a), (b) and (c) of paragraph (1) of Article 23 of the Agreement shall be deleted and replaced by the following:

“(a) Where a resident of Belgium derives income or owns items of capital which may be taxed in Malta in accordance with the provisions of this Agreement, other than those of subparagraph (b) of paragraph (2) of Article 10, of paragraphs (2) and (7) of Article 11 and of paragraphs (2) and (5) of Article 12, Belgium shall exempt such income or such items of capital from tax but may, in calculating the amount of tax on the remaining income or capital of that resident, apply the rate of tax which would have been applicable if such income or items of capital had not been exempted.

(b) (i) Subject to the provisions of the Belgian law regarding the allowance as a credit against Belgian tax of taxes paid abroad, when a resident of Belgium derives items of his aggregate income for Belgian tax purposes which are dividends taxable in accordance with paragraph (2) (b) of Article 10, not exempt from Belgian tax in accordance with subparagraph (c) hereof, or interest taxable in accordance with paragraphs (2) or (7) of Article 11, or royalties taxable in accordance with paragraphs (2) or (5) of Article 12, the Malta tax levied on that income shall be allowed as a credit against Belgian tax relating to such income.

(ii) Belgium shall also allow the credit provided for in (i) of this subparagraph in respect of tax chargeable on dividends or interest derived from direct investment which are taxable in Malta by virtue of the Agreement and the general law of Malta where such tax is temporarily remitted or reduced under special provisions designed to promote the economic development of Malta.

Such credit shall apply for the first five years for which the Supplementary Agreement is effective; however the competent authorities of the Contracting States may consult each other to determine whether this period of time shall be extended or not.

The term “dividends or interest derived from direct investment” means dividends paid in respect of shares or interest paid in respect of debt-claims which are directly and durably connected with industrial or commercial development projects in Malta.

(c) Where a company which is a resident of Belgium owns shares in a company which is a resident of Malta, dividends which are paid to it by the latter company and which may be taxed in Malta in accordance with subparagraph (b) of paragraph (2) of Article 10, shall be exempt from the corporate income tax in Belgium under the conditions and within the limits provided for in Belgian law.”

### **Article VI**

Paragraph (2) of the Protocol is deleted. Consequently the numbering of paragraph (1) has to be eliminated.

### **Article VII**

(1) This Supplementary Agreement shall be ratified and the instruments of ratification shall be exchanged at Brussels as soon as possible.

(2) The Supplementary Agreement shall enter into force 30 days after the date of exchange of instruments of ratification, and its provisions shall have effect:

(a) In Belgium:

(i) with respect to taxes due at source on income credited or payable on or after the 1st of January 1993 ;

(ii) with respect to taxes other than taxes due at source, on income of any taxable period ending on or after the 31st day of December 1992.

(b) In Malta, with respect to taxes which are levied for any year of assessment beginning on or after the 1st day of January 1993.

### **Article VIII**

This Supplementary Agreement, which shall form an integral part of the Agreement and the Protocol, shall remain in force as long as the Agreement and the Protocol remain in force.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this Supplementary Agreement.

DONE at Brussels, this twenty third day of June 1993, in duplicate in the English language.

FOR THE GOVERNMENT  
OF THE STATE OF MALTA :

Guido de MARCO  
Minister of Foreign Affairs

FOR THE GOVERNMENT  
OF THE KINGDOM OF BELGIUM :

Willy CLAES  
Minister of Foreign Affairs

