

DIRECT TAXATION MANUAL

THE INCOME TAX ACTS



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FOREWORD

There is no cooking without salt. Tax today is pretty much like salt, it finds its way into many areas of our modern life. "Give to Caesar that which belongs to Caesar." Our Lord's answer to the evangelical sticky tax question confronts us with our mutual inclusive moral and legal obligations on the subject. Hence the obvious implications that taxation brings in the spheres of morality and legality. "No taxation without representation" sets out our constitutional and democratic right to stand up and be counted, Thus the obvious manifestation of tax in the field of political science. Tax is a contribution levied on persons, property and business, used for the support of the state. It is painfully accepted as part of our existence and our social obligations towards our fellow countrymen. None the less, whether one needs to do this by application of proportional, aggressive or regressive taxation, remains a question that clearly manifests itself when tax becomes a punching bag on a rightist and leftist political divide. From all this there emerges the omnipresence of taxation in the field of political ideology and social welfare. Taxation in the modern state is not only a means to an end - that of collecting taxation - but it is also a macro economic tool used by economists and politicians alike, to steer the state into a planned direction .

These are but a few simple quotations and ideas which directly underpin the impact that taxation has on socio-political, economic, moral and legal studies and which, indirectly, show the intricacies and complexities of modern income tax law and practice. It is exactly these last two considerations, which this book addresses. The intricacy and complexity of income tax require a text book with the specific objective of shedding light into a long , dark tunnel of rules and regulations which each citizen of this State has a legal obligation to be aware of. Even more onerous than simple awareness is the fact that each citizen is deemed to understand all the implications of the Income Tax laws in his relations with the State.

¹ Reverend Jonathan Mayhew in a sermon in Boston in 1750

Since the enactment of the Income Tax Act in 1948 there have been only a few attempts to fill the tax-complexity divide through literature. In 1989 the Inland Revenue, in collaboration with the Malta Institute of Taxation printed Volume 1 of the Income Tax cases, "Decisions of the Court of Appeal". In 2005 a friend and a fellow member of the Institute, Dr Robert Attard published "An Introduction to Income Tax Theory". During 2007, the Inland Revenue, again in collaboration with our Institute, published Volume 1 of the income tax cases, "Decisions of the Board of Special Commissioners". Encouraged by the well deserved public response to his first book; in Dr Robert Attard, in 2008, published his second book "Principles of Maltese Tax Law". Before 1998 the only other book that had been published, but which has long been out of print was, "Notes on Income Tax in Malta" written and published by my learned friend and colleague Edwin A. Vella. In between Mr Vella's pioneering work, and Dr Attard's tax-literary kick start, there was a complete void, although it must be mentioned that in 1979 the Inland Revenue did print, if only for internal use, a "Tax Handbook for Assessors". During this period, the Inland Revenue, in collaboration with the Malta Institute of Accountants also printed Volume 1 in three parts of "Decizjonijiet tal-Bord ta' Kummissarji Speciali".

Now, in 2009, the Malta Institute of Taxation is pleased to publish this book. It is not my intention to compare and contrast the merits or demerits of this or any other particular tax publication, however, I believe I must emphasise that this book has its uniqueness as all the other publications have. In the first place, this book has been prepared by eleven authors and reviewed by an almost equal number of reviewers, all of them tax practitioners and members of the Malta Institute of Taxation. This is a first for tax literature in Malta. Naturally, it stand to reason that the contribution of so many individuals makes this book non-homogeneous in terms of style and diction, but on the other hand, this fact should contribute to the delivery of better prepared technical material since most of the authors concentrated their efforts on their field of specialisation in fiscal matters. A welcome feature of this book is that it comes with up-dates for the next two years and thus the overall

² Volumes 2,3,4 and 5 have been published in 2002, 2003, 2004 and 2006 respectively.

³ Volume 2 published in 2008.

package ensures that the user is kept up-to-date for at least three years. After this period the Institute intends to turn this work into an e-book which readers and users will be able to access over the Internet.

Users of this Manual whether you are a student, studying tax law or a taxpayer seeking to enlighten your self on a particular tax problem, or anybody else, please bear in mind that this book is intended for guidance only and as such neither the Malta Institute of Taxation nor the authors, reviewers, coordinators and the General Editor will accept any liability arising from any use or miss-use of this work. If in doubt, you should always seek professional advice.

My sincere thanks and gratitude go to everyone who contributed towards the making of this book - the Authors, the Reviewers, the Co Ordinators, the Insitute's Council members and secretarial staff.

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