

**DOING
BUSINESS
IN**

the Republic of San Marino



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IN THE REPUBLIC OF

SAN MARINO

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1. Foreword

This booklet has been prepared for the use of clients, partners and staff of HLB International member firms. It is designed to give some general information to those contemplating doing business in San Marino and is not intended to be a comprehensive document. You should consult us, therefore, before taking further action. HLB San Marino and HLB International cannot be held liable for any action or business decision taken on the basis of information in this booklet.

HLB San Marino is a member of HLB International. We offer a wide range of services relating to auditing, environmental auditing, taxation, accounting and general financial and management advice.

The board of HLB San Marino

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April 2017

2. About HLB International

Formed in 1969, HLB International is a worldwide network of independent professional accounting firms and business advisers. The network comprises member firms in 140 countries who, collectively, have 22,300 staff in over 660 offices. Member firms provide clients with a comprehensive and personal service relating to auditing, taxation, accounting and general and financial management advice.

Up-to-date information and general assistance on international matters can be obtained from any of the member firm partners of HLB San Marino listed in this booklet or from the Executive Office in London.

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3. GENERAL INFORMATION

3.1 Geography, population, climate, currency

San Marino, officially the Republic of San Marino, is a country located in southern Europe, in the central northern part of Italy. It borders Italian regions Emilia-Romagna (Province of Rimini) and Marche (Province of Pesaro and Urbino). San Marino is a landlocked country.

The Republic of San Marino covers an area of 61.19 square kilometres and its population is 32.821 inhabitants. San Marino is one of the least populated Member States of the Council of Europe and the United Nations. The capital city is San Marino. The official language is Italian. Its inhabitants are called Sammarinesi.

San Marino's climate is medium-latitude tempered with hot summers but no dry seasons. Average summer temperatures range from +20 to +30 degrees Celsius, occasional highs can reach +35 degrees. Average winter temperatures range from -4 to +14 degrees Celsius.

Even though it is not a member of the European Union, San Marino has adopted the euro as legal tender. San Marino has negotiated the right to issue a total of € 2 million in coins bearing San Marino's national designs.

3.2 History

The independence of San Marino dates back to ancient times. It is considered the most ancient republic still existing in the world. According to the tradition, it was founded on 3 September 301 A.C. by Saint Marinus, a Dalmatian stonecutter, who fled the Island of Rab during the persecution of Christians by

Roman emperor Diocletian. He established a small Christian community on Mount Titano, the highest peak in the territory of San Marino. The first written document that testifies the presence of a small human community up to the Mount Titano it is called "Placito Feretrano" and it is dated 885 A.C. Mount Titano was owned by a noblewoman from Rimini, who bequeathed it to the small community that named it after its founder "Land of Saint Marinus". Before he passed away, he is said to have declared to his followers:

« Relinquo vos	« I leave you free
liberos ab utroque	from both men »
homine »	

The two men were the Emperor, sovereign of the Roman Empire, and the Pope, head of the Roman Catholic Church. These words are the foundations of San Marino independence, as confirmed in a deed dating back to the 9th July 1296 regarding a legal dispute on revenue collection. The independence of San Marino was recognized by Pope Nicholas IV in 1291. In 1351, after the Bishop of San Leo and Montefeltro removed feudal ties, San Marino became a commune. The first two Captains Regent were elected in 1243, becoming San Marino's Heads of State. The independence of the Republic was endangered several times during its history. San Marino was briefly occupied by foreign armies twice throughout its history. In 1503 Cesare Borgia occupied the Republic for ten months until his father, Pope Alexander VI, died. Later, in 1739, Cardinal Alberoni attempted to annex San Marino to the Papal States, but he failed thanks to support by European Powers, civil disobedience and protests before Pope Clement XII.

San Marino was recognized by France under Napoleon Bonaparte in 1797 and by other European countries at the Congress of Vienna in 1815. As a token of friendship and

fraternity to the citizens of San Marino, Napoleon offered to expand its territory to the sea. San Marino kindly rejected the proposal, which would prove to be a wise political move. In his reply to Napoleon's letter, Captain Regent Antonio Onofri wrote: "The Republic of San Marino is content in its mediocrity and fears that accepting this generous offer to increase its territory might compromise its liberty at some point in the future ". This decision would prevent San Marino from being considered an ally of France at the Congress of Vienna.

Italian unification dispelled the threat of foreign invasions. A "Treaty of Friendship" signed on 22 March 1862, and revised in 1939 and 1971, guarantees San Marino's independence, promotes good nearness and encourages commercial relations.

In 2008 San Marino Historic Centre and Mount Titano was inscribed in the World Heritage List "as a testimony to the continuity of a free republic since the Middle Ages".

Historically speaking San Marino stamps and coins are one of the means used by the Country to assert its century-old sovereignty and independence all over the world. The Autonomous Philatelic and Numismatic State Corporation is entrusted with the issuance of new coins and stamps under the supervision of the Ministry of Budget and Finance. The first postage stamp, or rather the first series of "perforated rectangles" was issued on 1 August 1877. They portrayed the official coat of arms of San Marino with its distinguishing "three feathers". The numismatic history of San Marino began in 1862, when a monetary convention was signed with the Kingdom of Italy allowing San Marino to have its own currency. San Marino's tax revenue has benefited from this particular sector of its economy. Several companies active in retail trading and auctioning of collectibles have moved their businesses to San Marino.

3.3 Institutions

San Marino is a parliamentary republic. During the mediaeval period, there was, as citizens' assembly, an important instrument of Democracy called " Arengo". Originally, the word "Arengo", comes from German word "HIRING" that means "Circle", "Ring". San Marino has always maintained privileged relations with Italy. The two countries have signed several bilateral treaties and agreements. San Marino strongly affirms its sovereignty and independence by maintaining diplomatic and consular relations with many countries and establishing autonomous institutions.

The Republic of San Marino has no constitutional charter and its legal framework still refers to the *Leges Statutae Reipublicae Sancti Marini* dating back to the 17th century. However, the Declaration on the Citizens' Rights of 1974 is of a constitutional nature and can be regarded as the country's fundamental law.

San Marino institutions include:

- the Captains Regent, the two Heads of State that jointly exercise their power. Their office is mainly ceremonial. They preside over a number of State bodies. Until about 1200 they were known as Consuls, a clear reference to the two magistrates of the Roman Republic
- the Great and General Council is San Marino unicameral Parliament, composed of 60 members. It is directly elected by universal suffrage every five years using a majority system
- the Congress of State is San Marino Government, holding the executive power. It is composed of 10 Secretaries of State, i.e. Ministers,

who are chosen among the members of the Great and General Council

- the Council of the Twelve, a judiciary body that has the power of Court of Third Instance and is now subject to reform
- the Guarantors' Panel on the Constitutionality of Rules, a body responsible for constitutionality reviews established in 2002
- the *Giunte di Castello*, municipal collegiate bodies, headed by a *Capitano*, equivalent to a mayor

San Marino holds a world record: the shortest mandate of its Heads of State. The Captains Regent stay in office for six months only. They take office on 1 April and 1 October.

The Republic of San Marino has endowed itself with significant instruments of direct democracy, such as abrogative, confirmatory and consultative referendums.

3.4 Legal Aspects and Judiciary System

The institutional organisation of the Republic of San Marino rests upon Law no. 59 of 8 July 1974, Declaration on the Citizens' Rights and Fundamental Principles of San Marino Constitutional Order, as amended by Laws no. 95 of 19 September 2000 and no. 36 of 26 February 2002.

This Declaration has the value of a Constitution and is intended to establish the rules of the institutional organisation, as well as the main civil, political and social rights and the main freedoms recognised by the Republic of San Marino.

Under Article 1 of the Declaration on the Citizens' Rights, generally recognised rules of international law are an integral part of San Marino's constitutional order: the Republic is therefore committed to conforming its acts and conduct to such rules.

Therefore, international agreements on human rights are not only recognised as criteria for the interpretation of domestic legislation, or as guiding criteria in the adoption of law provisions, but also and mainly as directly applicable agreements, even in the absence of a specific implementing domestic law.

San Marino judicial system is a civil law system significantly influenced by the Italian legislation. Judges can be either San Marino citizens or foreign citizens. A criminal trial is conducted according to the inquisitorial system, as provided for by the Code of Criminal Procedure of 1878, as reformed in 1974 and by Law no. 93 of 17 June 2008 on secrecy during investigations (generally known as "Law on the Fair Trial"). The Law Commissioner conducting preliminary investigations is called the Prosecuting Judge, while the Law Commissioner making decisions is called the Deciding Judge. The Tax Prosecutor is the Requesting Judge. The *Criminal justice* system consists of two instances, the *civil justice* system consists of three instances, the *administrative justice* system consists of three instances.

3.5 The Republic of San Marino and the international relations

San Marino and Regional Organizations

The strategic geographical location of San Marino allows for special diplomatic ties and relations with Italy, which led in time to signing specific agreements and pacts. However, San Marino has been committed to joining existing international organizations, while taking part in important projects with a focus on peace and solidarity.

The Council of Europe, established in 1949, is the first of these important European regional organizations. The most remarkable achievement of this body is the European Convention on Human Rights and

Fundamental Freedoms, which was signed in Rome in 1950. San Marino became a member of the Council of Europe as early as 1988 and took over the six-month Presidency of the Committee of Ministers for the first time in 1990. After ratifying the above-mentioned Convention in 1989, San Marino has been contributing to the European Court of Human Rights with its own Judge.

San Marino is also a member of several international organizations, including organizations on human rights. San Marino has established official relations with more than a hundred countries, most of them at diplomatic level. In the framework of these relations, San Marino is always strongly committed to supporting human rights.

San Marino takes part with its own parliamentary delegations in the Inter-Parliamentary Union, the Parliamentary Assembly of the Council of Europe and the Parliamentary Assembly of the OECD, the Organization for Security and Cooperation in Europe.

In 2000 San Marino signed a monetary convention with the European Union, which entered into force in 2001, allowing San Marino to adopt the Euro as legal tender.

Although San Marino's relations with the European Union date back to the 1980s, it has not become a member country yet. San Marino has recently started negotiations to become an EU associated country.

San Marino and International Organizations

San Marino is also a member of several international organizations, including the United Nations, UNESCO, the International Monetary Fund, the International Court of Justice, the International Health Organization and the International Tourism Organization.

San Marino cooperates with the High Commissioner for Refugees.

The UN membership is undoubtedly the most remarkable achievement of San Marino in the framework of international organization membership.

3.6 Economy

Until the aftermath of World War II, the economy of San Marino was mainly based on agriculture. The initial foundations of the industrial sector were set up only in the 1960s. Tourism and retail development was prompted by the rapid tourism boom of the nearby Adriatic coast. San Marino industrial and commercial expansion started in the 1970s. The economic growth of that period can be seen in the light of the wider development of Italian peripheral areas, outside Italy's main industrial hubs.

At that stage, San Marino experienced *two growth models*: one based on local business initiative and the other based on the relocation of their business activities by foreign entrepreneurs, in particular Italians, with the aim to profiting from the competitive benefits offered by San Marino. The *lighter tax regime*, together with a *lower labour cost* and a *leaner bureaucracy*, suddenly made San Marino a very attractive place. If only a few years earlier people were forced to leave the small country in desperate search for jobs, starting from late 1980s, throughout the 1990s and until early 2000s San Marino witnessed an uninterrupted industrial *boom*.

The first global financial crisis caused by the bankruptcy of Lehman Brothers, leading to the first global recession (2009), did not spare the San Marino economy, which was also forced to rethink its economic model, that was still based on bank secrecy and anonymous companies, to move on to a

more transparent model in the light of the London G-20 outcomes.

The economy of San Marino relies on several sectors, including financial intermediation, banking, tourism, retail, philately and numismatics. In 2012 San Marino was visited by over 2 million tourists.

The agricultural sector, which was the main economic resource until the 1960s, produces wines and cheese.

A number of State-Owned Corporations are active in the sectors of public works, public utilities (electric power, water and methane gas), philately and numismatics and a dairy factory.

San Marino used to run an annual budget surplus and full employment until the early 2000s. In recent years, it has been facing a recession and was forced to take measures to reduce public debt. In spite of its current economic downturn, San Marino's unemployment rate is still one of the lowest in Europe.

4. COMPANIES

4.1 Types of companies

- Limited liability company (minimum share capital € 25,500)

If there are more than one shareholder, the 50 percent of the capital to be paid within 60 days from registration in the Register of Companies, the remaining amount can be paid within 3 years from registration.

- Joint-stock company (minimum share capital € 77,000)

If there are more than one shareholder, the 50 percent of the capital to be paid within 60 days from registration in the Register of

Companies, the remaining amount can be paid within 3 years from registration. If there is a unique shareholder, the 100 percent of the capital must be paid within 60 days from registration. Joint-stock companies must appoint an auditor.

Individuals or entities, who are interested in starting a productive, commercial or service business in San Marino can choose between a limited liability or a joint-stock company, according to the capital needed to develop their business. Any individual, who is a legal resident of San Marino, can set up as a sole trader (no company registration required).

If company turnover exceeds € 7,300,000 over a period of 2 fiscal years, the directors must appoint an internal audit team consisting of 3 members.

Banking companies must always be registered as joint-stock companies. The minimum share capital required is € 13 million.

The minimum share capital required for insurance companies is € 5 million.

The minimum share capital required for financial/fiduciary companies is € 1.56 million.

The minimum share capital required for asset management companies is € 250,000.

4.2 Authorizations

Except for reserved activities that need a previous authorization by the Central Bank or the Government, all other activities are exempt from authorization. Individuals or entities interested in starting a business in the field of reserved activities (financial companies, power utilities, telecommunications, health or scientific companies), must submit a business plan

with details about the investment and hiring plans. After either the Government or the Central Bank gives its authorization, the company can be registered at a notary office. Except for companies performing reserved activities, all other companies can be registered directly at a notary office.

4.3 Registration

Companies can be registered by one or more individuals or entities (directly or through fiduciary companies). Upon registration the directors and shareholders must file a number of documents including a certificate of good conduct and lack of criminal record.

4.4 Legal and operational headquarters

All the companies registered under San Marino Law that have been legally recognized by the San Marino Single Court can start their business at their legal and operational headquarters. The premises must comply with the requirements set out for a specific type of business, e.g. food production requires specific sanitation programmes and good practices.

4.5 Obligations

All companies must prepare every year a corporate budget and financial statements to be approved by the annual general meeting of shareholders by 31 May of the following year. Tax return and indirect tax declaration must be filed with the State Revenue Office by 30 June of the following year.

4.6 Liquidation and insolvency system

The liquidation and insolvency system of Sammarinian companies follow the rules of the Law n. 47/2006 and its modifications in particular the V Title, from article 106 to article 113.

5. TRUSTS

San Marino approved its first law on trusteeship in 2005, thus starting to take the opportunities offered by the flexibility of trusteeship. In 2004 San Marino had joined the Convention on the Law Applicable to Trusts and on their Recognition of 1 July 1985. After joining the Convention, San Marino approved new legislation to regulate Trusts. This new law introduced several remarkable features:

- consistent and comprehensive rules for settlors to set up trusts;
- regulations compatible with San Marino legislation;
- a clear and transparent legal framework for San Marino and foreign individuals or entities;
- protection against distortions or frauds ensuring that a trust, like all other legal instruments, is not used for criminal purposes;
- a pragmatically oriented system designed to promote San Marino international competitiveness while leaving room for necessary private initiative.

Finally, the coordination with the 1985 Hague Trust Convention, which is called upon by the Trust Law to regulate foreign trusts set up by non-residents, after written proof is submitted, provides San Marino with a corpus of outstanding regulations, which is assisted at international level by comments and applications that are very significant for practice in San Marino. In 2012 San Marino established the Court for Trusts and Fiduciary Relationships. The Court is competent on all cases and disputes regarding legal relations based on trust and entrustment, such as trusts, fiduciary entrustment, fideicommissary, fiduciary heir and similar legal instruments, without regard to the law by which they are governed. This makes it

advantageous to file lawsuits regarding the interpretation of trust deeds or regulations.

6 INTELLECTUAL PROPERTY

Trademarks

The Patents and Trademarks Office of the Republic of San Marino is the official body for registrations of trademarks in San Marino.

The U.S.B.M. (Patents and Trademarks State Office) has the duty to administrate the register of applications and registrations of trademarks.

In the Republic of San Marino, a trademark is protect for a period of 10 years and registration can be extended every ten years, with no limits of time.

The Republic of San Marino is a member of the Madrid Agreement and the Additional Protocol, which are International Conventions dealt with by the WIPO (World Intellectual Property Organization), whose headquarters are located in Geneva (CH).

Patents

The exclusive right granted for an invention (for example, a new product or a process which provides a new way to realize a product) is allowed for a period of 20 years.

The Republic of San Marino is a member of the Patent Cooperation Treaty (PCT), which is an international convention dealt with by the WIPO (World Intellectual Property Organization), whose headquarters are located in Geneva.

The Republic of San Marino is also a member of the European Patent Convention as of 1 July 2009.

Designs and models

In the Republic of San Marino any registered design or model shall benefit from a protection period of 5 years, which can be extended up to a maximum of 25 years.

7. INVESTMENT ATTRACTION

Law no. 71 of 27 June 2013 is specifically focused on supporting San Marino economic development. This law introduced a new set of measures to attract foreign investments to San Marino, by offering tax incentives (50 percent abatement on ordinary tax rate) to all individuals or entities starting a productive or service business in San Marino. This piece of legislation also gives foreign businessmen and their families the opportunity to take legal residence in San Marino, provided that the business will hire at least 5 workers within the following 5 years (for service businesses) or 8 workers within the following 5 years (for productive businesses).

It also grants 40, 60 or 90 percent tax exemption based on the type of plant and equipment investment, for all reinvested profits, and extends the tax exemption period up to 8 years (for investments of at least € 7 million).

Those companies that meet the objective and subjective requirements to be defined as high-tech start-ups are eligible for a number of benefits and incentives. High-tech Start-ups are exempt from the general income tax for a period of five fiscal years starting from the year of their registration in the Register of Companies.

High-tech start-ups registering as companies, can fully pay their share capital *within the following three years* from registration in the Register of Companies. High-tech start-ups are also granted a number of incentives and benefits in terms of hiring and labour cost as well as stay permit application.

San Marino signed on 8th December 2015 an agreement in order to improve the fiscal conformity with the European Countries. From that moment, the Country guarantees an automatic exchange of information on fiscal and financial matters on the private investors. This agreement represent an updating of the EU Directive n.2003/48/CE on the taxation of savings income inform of interest's payments. (known as EU with holding.)

8. AIRCRAFT REGISTRY

Thanks to its strategic location in Europe and the quality of services rendered, San Marino can offer a premier aircraft registry for private and commercial air transport operations since 29th July 2014.

San Marino is an ICAO Contracting State since 1988 and complies with all the international standards in providing safety oversight of its registered aircraft.

An experienced team delivers a service based on confidence and reliability with regard to all aspects of ownership and tax administration of aircraft. The entire T7 registration process is efficient and rapid, as it can be accomplished in 1 to 3 business days following the airworthiness inspection of the aircraft, a review of its records and the completion of any required action.

9. LABOUR LAW

One of the main concerns for foreign businesses, when they are considering relocating or opening a new branch in a foreign country is undoubtedly the local legislation on labour. In particular, they consider the flexibility or rigidity of work regulations, redundancy procedures, hiring personnel, tax and social security benefits and, finally, labour costs. In San Marino collective contracts are signed and renewed

by trade unions, trade associations (Industry, Handicraft, Commerce, etc.) and representatives of the government. Companies wishing to hire personnel can search for a candidate meeting their requirements on the hiring lists maintained at the State Office of Labour. After interviewing a candidate, the company can hire the employee on a trial period and when the period ends can decide to hire the employee, renew the trial period or make the employee redundant. If there are no workers meeting the requirements on the hiring lists, the company can hire cross-border (living outside San Marino's borders) personnel. The authorization to hire cross-border personnel is only temporary. Therefore, if the company has to make redundancies or the employee does not meet the requirements, it can simply not renew the work permit. This feature provides considerable flexibility to the system. Employees, who are legal residents in San Marino and are employed as permanent workers, can also be made redundant in case of turnover reduction or economic slowdown. Employees, who fail to meet contract rules can also be dismissed, after a number of written warnings. In cases of unfair dismissal, the employee can file a complaint which can lead to a legal dispute and lawsuit.

The high flexibility of San Marino labour market is a clear competitive advantage.

Finally, it is worth highlighting that companies recruiting job seekers, including unemployed and young people, can apply for tax and social safety benefits, as well as reimbursement of a portion of wages by the State.

In this regard, the instrument of *apprenticeship* allows to employ workers through various training procedures and gives the business the opportunity to benefit from economic incentives consisting of a

100% exemption from social security contributions to be paid by the business and a reduction in the remuneration up to 50% for a maximum of 3 years.

Incentives for re-employment and relocation of workers receiving social safety nets offer the business economic advantages in terms of reduced social security contributions to be paid by the business itself up to 50% for 2 years, in addition to savings resulting from the reduction in contractual remuneration by about 60%.

Then incentives and part of the contractual remuneration, shall be borne by the State.

10. BANKING AND FINANCIAL SYSTEM

In the last few years, the banking and financial system of San Marino, as well as most banking and financial systems that were previously based on bank secrecy, has been forced to change its development model. The London G-20 of 2009 marked a watershed with the past and led to deep transformation and adoption of the standards set out by OECD and Moneyval in the field of anti-money laundering and information exchange. Today, the Republic of San Marino fully complies with international best practices and is white listed by the OECD.

The banking system is governed by the Central Bank. The Central Bank of San Marino is vested with the same powers as any other similar supervisory body, including the power of authorization, the power of regulation, the power of enquiry, the power of action, the power of inspection. The Central Bank exercises its powers in the framework of prudential supervision to guarantee transparency and compliance with the regulations. The reserved activities that fall under its supervision and regulation include banks, financial/fiduciary companies, insurance companies, insurance promoters

and brokers, mutual investment funds and all entities active in the financial sector. The Financial Intelligence Agency, i.e. San Marino financial intelligence unit, is entrusted with conducting financial intelligence to identify financial transactions that may involve money laundering or some other criminal activity. The Financial Intelligence Agency may also be involved in identifying financing of criminal and terrorist organizations.

The financial system now includes 6 banks, 5 financial fiduciary companies, 2 insurance companies, 2 mutual investment funds, several insurance brokers and financial promoters. The 6 banks are mainly active in the retail sector with a focus on supporting those businesses who have invested their resources in San Marino. The minimum share capital for banks is € 13 million. Financial/fiduciary companies provide loans, lease of personal property and real estate, and fiduciary services. The minimum share capital for financial/fiduciary companies is € 1,560,000. Insurance companies are active in the sector of life insurance only. The minimum share capital for insurance companies is € 5 million. Mutual investment funds include open-end and closed-end mutual funds and hedge funds.

The Central Bank can authorize new financial entities after a rigorous examination of their business plan, the CV and reputation of the initiators and the professional skills of the main stakeholders.

11. TAXATION

One of the most remarkable rules introduced by Law no. 166 of 2013 on tax reform is the distinction between *resident* and *non-resident* entities that fall under different regulatory systems. Article 5 of this law provides that resident entities shall be taxed according to a worldwide principle, and therefore the whole income, whether derived from sources in or

outside its territory, in cash or in nature, regular or occasional, and without regard to its source, is taxed under General Income Tax rules (worldwide principle).

Total income, including income earned abroad, includes:

Income from capital

Income from land and buildings

Income from work or retirement pension

Income from business

Sundry income

The taxable income of resident taxpayers is the total income, including all sources of income net of deductible expenses that are provided for by the new law (this rule does not apply to exempt income or other specific income). The income of non-resident taxpayers is taxed under the territorial principle that is applicable to the income produced in San Marino only.

11.1 Corporate Profit Tax

The ordinary corporate tax rate is 17 percent plus an additional 5 percent withholding tax on profit distribution.

In order to attract new business to San Marino, starting from 2013 all new companies have been granted a 50 percent reduction of corporate tax for a period of 6 years after their registration. Therefore, the corporate tax rate is now 8.5 percent plus a 5 percent withholding tax on profit distribution. The six-year period must start within 3 years from company registration.

Annual losses can be deducted against taxable income up to 80 percent over the following three fiscal years.

11.2 Individual income taxation

The income tax rate for individuals is based on several income brackets at tax rates ranging from 9 percent to 35 percent for income over 80,000 Euro.

Dividends derived from businesses abroad are taxed at a 3 percent rate on the amount net of the withholding tax applied by the country of origin.

11.3 Import tax

In 1973 EU Member Countries adopted a uniformed tax system based on Value-Added Tax (VAT).

VAT harmonization in EU Member Countries was fundamental to develop the single market. The main feature of VAT is its proportionality to the value of goods and services that are sold or purchased. Its essence is that it is charged at all stages of production, but with the provision of a mechanism enabling firms to offset the tax they have paid on their sales of goods and services.

With Law no. 40 of 22 December 1972 San Marino introduced a tax on the importation of goods and services.

The current indirect tax system in San Marino differs from the VAT system, in that it is a single-stage tax levied on goods and related services that are imported to San Marino. The companies that are active in import-export or produce in San Marino and sell abroad can fully recover the amount paid on importation, thus reducing the impact of this tax to zero. The standard rate is 17 percent, reduced rates are 6 percent and 2 percent. The tax rate applied to plant and equipment that is imported to San Marino is 1 percent.

11.4 Treatment of dividends

Dividends from companies or entities that are not resident in San Marino do not form income of a San Marino beneficiary company for 95 percent of their amount, if they originate from foreign companies, while they are 100 percent exempt, if they originate from San Marino companies. This regulation provides a strong incentive to register fiduciary companies in San Marino.

11.5 Capital gains tax

The capital gains tax is 8 percent.

11.6 Trust taxation

The taxable income from trusts is determined by applying a 10 percent rate of return to the overall amount of profits, whether in cash or in nature, generated by the trust assets. Therefore, the tax is 1.7 percent of gross profits.

The tax income from real estate trusts is 17 percent.

11.7 Gift and inheritance

Furthermore, the current sammarinian tax regulations on inheritance and gifts are much favourable than those applied in the majority of the European countries “inter alia” in Italy, France, Germany, the UK and also in the USA and Australia.

11.8 Investment funds

San Marino investment funds are exempt from income taxation. Only those investment funds which manage real estate that is located in San Marino must pay the ordinary 17 percent tax on profits and capital gains.

The members of San Marino investment funds receiving profits and capital gains are exempt from income taxation.

To promote the development of investment funds in the field of arts, the indirect tax rate on works of art is 0.5 percent, if the artwork is more than a hundred years old, and 1 percent, if the artwork is less than a hundred years old.

Companies that are authorized by the Central bank to manage mutual funds must pay a 12 percent Corporate Income Tax.

11.9 Pex Capital Gains taxation

Capital gains arising from transfer for valuable consideration, including exchange and conferment, regarding property rights, usufruct and any other right that arising from interests in resident or non-resident, to participations in resident or non-resident companies, do not form the corporate income, i.e. participation exemption or pex. The exemption applies under the following conditions:

- a) if the participation in the company has been held uninterruptedly since the first day of the 12th month preceding the capital gains realization;
- b) if the participation falls under the category of financial fixed assets in the first annual budget prepared during the period when the participation is still in the possession company.

Capital gains from participations in real estate companies registered in San Marino are 50 percent tax exempt.

11.10 Taxation of financial instruments

The taxation of interest income from financial instruments that have been issued under San Marino law is 11 percent for bank interest income, 5 percent for repurchase agreement transactions or certificates of deposit with term of 18 months or less, and 4

percent for deposit certificates over 18 months and bonds issued by financial entities.

San Marino state bonds are exempt from taxation.

11.11 Double Tax Treaty Network

San Marino has signed double-taxation agreements with several European and non-European countries, including Austria, Barbados, Belgium, Cyprus, Croatia, Georgia, Greece, Italy, Liechtenstein, Luxembourg, Malaysia, Malta, Qatar, Romania, San Kitts and Nevis, Seychelles, Hungary.

12. CUSTOMS DUTIES

After the entry into force of the Cooperation and Customs Union, which was signed in Brussels on 16 December 1991 and entered into full legal force on 1 April 2002, the elimination of customs duties in intra-Community trade was extended to San Marino. Imports from non EU-countries are subject to the same duties as those established by the EU.

The customs union includes all products covered by Chapter 1 to 97 of the Common Customs Tariff, except products falling within the scope of the Treaty establishing the European Coal and Steel Community.

The provisions of the agreement apply to:

- a) goods produced in the Community or in the Republic of San Marino, including those obtained wholly or in part from products which come from third countries and are in free circulation in the Community or in San Marino;
- b) goods which come from third countries and are in free circulation in the Community or in the Republic of San Marino.

Products coming from third countries shall be considered to be in free circulation in the Community or in the Republic of San Marino if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied, and there has been no total or partial drawback of such duties or charges in respect of the said products.

Trade between the Community and the Republic of San Marino shall be exempt from all import and export duties and charges having equivalent effect.

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