

REPUBLIC OF SAN MARINO (COUNTRY PROFILE)

This document has been prepared by ANIS (*National Industry Association of the Republic of San Marino*) under the supervision of the Tax & Legal department of *KPMG in Italy*.

1 General information

San Marino, the oldest republic in the world, was founded on 3 September 301 CE. It is an enclave in Italy, between the regions of Emilia Romagna and the Marches. Approximately 15 km from the Rimini Sud tollbooth along the A14 motorway, and roughly 20 km from the Federico Fellini International Airport in Miramare, San Marino is just over 61 km² (24 square miles) in size and has an estimated population of 33,574.

1.1 Workforce and GNP (updated to December 2019)

The workforce stands at 21,634, comprising 19,962 employees and 1,672 self-employed workers.

The majority of workers are employed in the private sector, while the public sector employs 3,643 people.

Despite the economic crisis, the unemployment rate of 6.27% (in the strict sense) is still below the European average (the overall unemployment rate is 8.02%).

There are 4,934 businesses operating in various sectors. Of these, 2,675 are companies.

<i>Sector</i>	<i>Number of businesses</i>	<i>Employers</i>
Agriculture	58	32
Manufacturing	513	6.496
Construction	384	927
Merchandising	1.071	2.709
Hotels	198	992
Transport and storage	109	451
Information/communications	187	810
Financial services	70	678
Services	2.338	3.529

Manufacturing comprises various product sectors: engineering, chemical/pharmaceutical, paper, timber and furniture, clothing, and information technology. According to the latest International Monetary Fund forecast, in 2020 GDP will be approximately €1,446.7 million.

Some two million tourists visit the Republic of San Marino every year.

2 How to set up in business

2.1 Setting up a company

Non-residents, through a deed executed before a notary, may also set up companies governed by San Marino law. Banking, trust and investment services must be authorised in advance by the regulatory authority, the Central Bank of the Republic of San Marino.

2.2 *Types of entity*

2.2.1 *Private partnership*

This is a general partnership (*società in nome collettivo* – “**Snc**”). Only natural persons can be members.

2.2.2 *Corporation*

There are two types of corporations:

- a limited liability company (*società a responsabilità limitata* – “**Srl**”) with minimum quota capital of €25,500;
- a joint-stock company (*società per azioni* – “**SpA**”) with minimum share capital of €77,000.

These companies have legal personality, unlike private partnerships.

Individuals and entities can both be members of corporations.

Both joint-stock companies and limited-liability companies can have a sole member.

The shares in SpAs and the quotas¹ of Srls are registered and can be held in trust by financial companies. However, anti-money laundering legislation requires the beneficial owner to be identified.

2.2.2.1 Register of companies – Legal personality

The deed of incorporation, after registration with the tax registration office, must be entered by the notary in the register of companies held at the Office of Economic Activities. At this point the company acquires legal status.

2.2.2.2 Quota/share capital

In the case of both Srls and SpAs, at least half of the initial quota and share capital must be paid up within 120 days of the date of registration. The rest must be paid up within three years of registration.

2.2.2.3 Corporate offices

Governing body

Srls and SpAs can be managed by a sole director or by a board of directors, whose members can be residents or non-residents. If they are non-residents, they must submit the certificates required by law for the purpose of criminal background checks.

Sole statutory auditor

This role is necessary in both an SpA and an Srl in either of the following circumstances.

- The quota/share capital is €77,000 or more.
- For two consecutive years the revenue from sales of goods and services exceeds €2 million.

The sole statutory auditor must actually reside in the Republic of San Marino and be a registered auditor.

¹ Quotas are the units of ownership interest in an Srl (the equivalent of shares in an SpA).

Board of statutory auditors (collegio sindacale)

For corporations, a board of statutory auditors is mandatory if revenues from sales of goods and services exceed €7.3 million for two consecutive years. The board must have three or five members (*sindaci*). At least two of them must be registered auditors; the others must be chartered accountants, lawyers admitted to the bar, or registered notaries. The majority of the members must actually reside in the Republic.

Companies that have an obligation to appoint a board of statutory auditors (*collegio sindacale*) may appoint a registered auditor of accounts (*revisore*) or audit firm to audit their accounts and financial statements. In this case, the board of statutory auditors has no responsibility for this function.

Only companies operating in the financial and banking sectors are obliged to appoint an audit firm.

2.3 Administrative authorisations

2.3.1 Operating licences

All businesses must apply for an operating licence through the web portal OPEC www.pa.sm. The licence, upon payment of a fee of €1,700, is issued online by the Office of Economic Activities, which assigns a "trader code" formed by the letters "SM" and five figures. Each business must pay a licence fee of €650 a year.

2.3.2 Starting up

The operating licence is issued immediately upon presentation of self-certifications and the business can start to operate.

Within 180 days of obtaining their operating licence, companies must provide all the papers needed to start production and must meet all health and safety requirements.

The licence to pursue industrial, service, artisanal and commercial activities in the Republic of San Marino (as referred to in current legislation) can be replaced by Certified Activity Start Reporting ("SCIA"), in which the entrepreneur, or a professional on the entrepreneur's behalf, certifies that the business start-up requirements have been met.

To be able to provide food and beverages, prior authorisation from the Public Health Office is required.

3 Main tax aspects

3.1 Direct taxation

3.1.1 Corporate income tax

The standard corporate income tax (CIT) rate is 17%.

3.1.2 Measures to help newly established companies

For newly established companies:

- a) the general income tax rate is reduced by 50% to 8.5% for the first five years of business (this period can be postponed by two years);
- b) there is an exemption from the licence fee for the first four years.

These measures apply:

- a) to new businesses whose shareholders have not run a similar enterprise in the year preceding the date of application for the benefits;
- b) if at least one employee (even the director and even if not on the job placement list) is full-time within six months of the issuing of the licence, and one additional employee is hired within twenty-four months of the issuing of the licence.

3.1.3 Tax incentives

3.1.3.1 Hiring of employees

Employers benefit from a variable CIT credit if they increase the average number of employees by at least one.

- 5% of CIT per person hired², for enterprises whose average number of employees in the preceding financial year is five or more.
- 10% of CIT per person hired³, for enterprises whose average number of employees in the previous financial year is less than five.

This CIT credit may not exceed 25% of the total tax due.

This benefit is available provided that at least 50% of the employees are resident.

If the employer hires residents listed in one of the categories of disadvantaged workers – such as the long-term unemployed or those with a 40% or higher disability – the above percentages are increased by an additional 5% for each worker hired; however, the CIT credit may not exceed 40% of the total tax due.

3.1.3.2 Investment in capital goods

Taxable income is reduced by between 40% and 90% of net profit, up to an amount equal to investment in capital goods. This benefit, which can normally be taken for a maximum of six years, can be taken for up to eight years if the total investment exceeds €7 million.

If the investment is made in real estate, the company must – in order to benefit from this incentive – hire at least one additional open-ended contract worker.

3.1.4 Tax losses

Tax losses can be carried forward to offset a maximum 80% of the taxable income of the next three periods. This means that, after three periods, tax losses are lost if not used in full to offset taxable income.

However, tax losses which arise in the first three tax periods of a new company can be carried forward indefinitely and deducted from the income of subsequent tax periods, provided that the company's business is also a new one.

3.1.5 General principles of deductibility

Income and costs are included in the computation of taxable income on an accruals basis. Costs are tax deductible if and to the extent that they relate to the business activity.

Directors' fees are deductible only if they have actually been paid.

² The number of new employees has to be rounded down if it is not a full number (e.g. because one of them has been employed for less than 12 months).

³ See footnote 2.

The following costs can be deducted within certain limits.

- Advertising costs, including sponsorship costs, up to an amount equal to 8% of operating revenue.
- All costs of data processing, including market research, up to an amount equal to 10% of operating revenue.
- Entertainment expenses, up to an amount equal to 5% of operating revenue.

It is not possible to deduct:

- income taxes, penalties and interest resulting from late payment or non-payment of taxes, penalties for violations of the law, and interest on deferred payments;
- costs or expenses deriving from offences.

3.1.6 Assessment time limit

A notice of assessment must be served by the end of the fourth year following that in which the return is submitted. In the event of failure to submit a return, the expiry of the assessment period is extended to 31 December of the fifth year following that in which the tax return should have been submitted.

All accounts and supplementary records, as well as other documents relevant for tax assessments and inspections, must be kept for five years after the tax period to which they refer or until any tax assessment of that period ends.

3.1.7 Deduction of interest expenses

Interest expenses on loans used to purchase capital assets are not tax deductible until the assets are used or are ready to be used.

Interest expenses on loans from shareholders and individuals are deductible when paid.

3.1.8 Transfers of equity interests and dividends

Capital gains from sales of interests in resident or non-resident companies do not constitute taxable income if:

- the equity interests are held continuously for a full 12 months before they are sold;
- the equity interests are recorded as long-term investments in the first financial statements after their acquisition.

Capital losses from sales of equity interests in resident or non-resident companies are non-deductible if the above two conditions are met.

Dividends received from companies governed by the law of San Marino are not subject to CIT.

Ninety-five per cent of dividends from foreign companies are not subject to CIT, provided that the interests have been held for at least 12 months and are duly recorded in the accounts and in at least one set of financial statements. The holding period requirement can also be met after the dividends are distributed.

3.1.9 Deduction of amortisation

For tax purposes, intangible property, including goodwill paid for the purchase of a business (or its branch), can be amortised at a maximum rate of 20% on a straight-line basis. However, if the period of use of the asset is fixed by law or a contract, or is predetermined, the amortisation charge is based on that period.

Any goodwill on the acquisition by a San Marino company of an interest in a subsidiary is not deductible as it forms part of the purchase cost of the interest.

3.2 Residence

San Marino recently introduced a number of forms of residence for entrepreneurs and their directors.

3.2.1. Residence (ordinary scheme)

The Permanent Council Commission for Foreign Affairs, Emigration and Immigration has the right to grant residence (or an ordinary residence permit) to foreigners who:

- 1) hold managerial or very important positions in San Marino health or sociomedical structures, in banking, insurance and financial institutions, or in the police force;
- 2) hold managerial or very important positions in San Marino companies that employ a significant number of employees;
- 3) invest capital or have already invested it in San Marino, also by setting up subsidiaries or companies that pursue business/entrepreneurial activities and guarantee to hire a certain number of workers and make real estate investments connected to their activity (work units must be hired from the job placement lists and any company owners and their family members who are hired must be excluded from the calculation of the guaranteed number of hirings);
- 4) present business/financial programs/projects which are of particular interest and strategic value to the Republic;
- 5) donate and undertake to donate to the Republic a set of assets of cultural or social value or of general interest and value to the community, and ensure their accessibility and usability, without this necessarily entailing a business investment by the applicants;
- 6) have distinguished themselves for internationally recognized merits in the field of science, art or culture.

With some exceptions, residence is granted for the duration of the individual's professional and working activity and, ten years after the person's enrolment in the register of the resident population, residence is considered established and is extended to members of the individual's family.

3.2.2 Simplified residence

To obtain residence, the applicant must:

- hire five employees on a full-time open-ended contract, from the job placement list (regardless of the business sector);
- purchase a property worth €300,000 for the place of activity or the residence of the beneficial owner;
- take out a €30,000 health insurance policy.

Residence can be requested also by top management or people with a high level of technical and professional expertise.

3.2.3 Residence for economic reasons

Any individual who undertakes a business activity through a corporation in the Republic of San Marino is entitled to apply for and obtain residence for economic reasons, provided that the individual:

- 1) holds at least 51% of the company;
- 2a) hires, on full-time open-ended contracts, at least three employees (citizens or residents) selected from the job placement list (NB whenever the individual hires more than one worker – including those on fixed-term contracts – 50% of the workers must be selected from the job placement list);
- 2a) hires three employees on open-ended contracts (at least 50% must be selected from the job placement list and hired full time);
- 2b) hires one employee on a full-time open-ended contract from the job placement list and operates in one of the sectors whose development is being encouraged (see Delegated Decree no. 137 of 5 December 2017, Annex A);
- 3) sets up a €75,000 bank deposit or bank/insurance guarantee in favour of the *Eccellentissima Camera* when applying for residence status (to be raised to €150,000 within two years of obtaining residence or replaced by the purchase of existing real estate worth €150,000, to be used as the place of business or residence of the beneficial owner).

Residence is also granted to the spouse, cohabiting partner and children of the entrepreneur and becomes definitive after a ten-year period.

Residents for economic reasons must pay a monthly flat-rate contribution of €350 per capita and take out a medical insurance policy with an insurance office located in San Marino. The policy must be valid in San Marino and provide a minimum annual coverage of €50,000 per capita.

3.2.4 Exercising of retail trade by non-residents

Both residents and non-residents can engage in retail trade. The only exception concerns activities in town centres, where the number of business licences is limited.

3.2.5 High-tech start-up companies

Residence is offered to the directors and family members of high-tech start-up companies.

High-tech start-up companies are San Marino corporations that have signed an incubation contract with the managing body, San Marino Innovation. There are three different categories of business with a total duration of 12 years.

- First-Level Technological Start-up (SUT I): start of the innovative process (start-up) – 3-year stay;
- Second-Level Technological Start-up (SUT II): initial expansion phase (early growth) – 4-year stay;
- Highly Technological Society (SAT): consolidation phase (sustained growth), in which the company is fully and commercially operative – 5-year duration.

In addition to the residence status offered to directors and their family members, the benefits and advantages for this type of business are:

- Tax relief for a total period of 12 years.
- Share capital of €1 or more for the first three years.

- Possibility for foreign companies to create spin-offs in San Marino.
- Residence permits for all employees.
- Possibility of using up to four ‘co.co.pro’ contract workers.
- Possibility of using lean and flexible contracts to hire staff.
- Possibility of using work for equity to remunerate collaborators and employees.
- Exemption of capital gains deriving from the sale of equity investments.
- Possibility of creating research and development consortia specialized in technological research.
- Tax incentives for investments made by legal and natural persons.
- Possibility of setting up certified scientific and technological incubators, accelerators and parks.
- Possibility of acquiring the status of ‘Certified Partner’.

3.3 *Indirect taxation*

Imports of goods and services are indirectly taxed at the ordinary rate of 17%. The indirect tax paid on goods imported from abroad can be refunded if the goods are subsequently exported.

For imports of capital goods the rate is 1% and is non-refundable.

Services provided between businesses are not subject to any indirect tax.

3.4 *Purchase of real estate*

Real estate, purchased directly or under a lease agreement, is subject to the following taxes (unless adjusted by the tax authorities), which are levied on the value agreed by the parties.

- Registration tax of 5%
- Cadastral tax of 0.4%
- Public registration tax of 1%.

3.5 *Withholding tax on outbound dividends, interest and royalties*

Unless a double tax treaty (DTT) applies, income paid to non-residents is subject to the following withholding tax rates.

Dividends distributed to resident and non-resident individuals are subject to a withholding tax of 5%. Profits distributed and paid to parties other than individuals are not subject to the 5% withholding tax, provided that the recipient declares to the company distributing the profits that it is not acting on behalf of an individual.

Royalties are subject to 20% withholding tax when paid to non-resident individuals or entities.

Interest paid on loans granted by foreign companies is subject to a withholding tax of 13%, unless the loan is granted by a credit institution. Interest on loans from company members who are individuals is tax deductible on a cash basis.

Interest on current accounts and deposits is subject to an 11% withholding tax, except for non-residents.

Repurchase agreements (securities of all kinds): interest and other types of income are subject to a tax rate of 5%, except for non-residents.

Certificates of deposit: interest and other types of income are subject to 5% taxation if maturity is less than 18 months. If maturity is longer, the rate is 4%.

Bond issues: interest and other types of income are subject to a 4% withholding tax, except for non-residents.

4 European Union and international tax agreements

The Republic of San Marino is not an EU member, although there is a customs union agreement for trade with the EU. San Marino has been engaged in long-term negotiations with a view to establishing an Association Agreement by 2019.

EU directives are therefore inapplicable and do not affect direct taxation (especially dividends, interest and fees).

The Republic has signed 23 DTTs based on the OECD Model Convention and 31 Tax Information Exchange Agreements (TIEAs). The network of international agreements is currently being extended.

List of countries with which San Marino has signed DTTs and TIEAs

DTTs (23 agreements)

Austria, Azerbaijan (not ratified yet), Barbados, Belgium, Croatia, Cyprus, Georgia, Greece, Hungary, Italy, Liechtenstein, Luxembourg, Malaysia, Malta, Portugal, Qatar, Romania, Saint Kitts and Nevis, Serbia, Seychelles, Singapore, United Arab Emirates and Vietnam.

TIEAs (31 agreements)

Andorra, Argentina, Australia, Bahamas, Brazil, Canada, China, Czech Republic, Denmark, Faroe Islands, Finland, France, Germany, Great Britain, Greenland, Guernsey, Holland, India, Indonesia, Iceland, Ireland, Monaco, New Zealand, Norway, Poland, Samoa, South Africa, Spain, Sweden, Switzerland and Vanuatu.

List of DTT Agreements signed by San Marino

Country		Interest held by an individual/entity in a San Marino company > 0 =	Dividends	Interest	Royalties
AUSTRIA	PF – PG		15%	0%	0%
	PG	10%	0%	0%	0%
AZERBAIJAN	PF – PG		10%	10%	10%
	PG	25%	5%	10%	5%
BARBADOS	PF – PG		5%	5%	0%
	PG	10%	0%	5%	0%
BELGIUM	PF – PG		15%	10%	5%
	PG	25%	0%	10%	5%
	PG	10%	5%	10%	5%
CROATIA	PF – PG		10%	10%	5%
CYPRUS	PF – PG		0%	0%	0%

	PG	25%	5%	10%	5%
GEORGIA	PF		0%	0%	0%
	PG		0%	0%	0%
GREECE	PF		10%	10%	5%
	PG	25%	5%	10%	5%
HUNGARY	PF		15%	0%	0%
	PG	25%	0%	0%	0%
	PG		5%	0%	0%
ITALY	PF – PG		15%	13%	10%
	PG	25%	5%	13%	10%
LIECHTENSTEIN	PF – PG		5%	0%	0%
	PG	10%	0%	0%	0%
LUXEMBOURG	PF – PG		15%	0%	0%
	PG	10%	0%	0%	0%
MALAYSIA	PF – PG		15%	10%	10%
	PG	10%	5%	10%	10%
MALTA	PF – PG		10%	0%	0%
	PG	25%	5%	0%	0%
PORTUGAL	PF – PG		15%	10%	10%
	PG	25%	10%	10%	10%
QATAR	PF		0%	0%	5%
	PG		0%	0%	5%
ROMANIA	PF – PG		10%	3%	3%
	PG	50%	0%	3%	3%
	PG	10%	5%	3%	3%
SAINT KITTS AND NEVIS	PF – PG		10%	0%	0%
	PG	10%	7.5%	0%	0%
	PG	25%	5%	0%	0%
SERBIA	PF		10%	10%	10%
	PG	25%	5%	10%	10%
SEYCHELLES	PF – PG		0%	0%	0%
	PG	10%	5%	10%	0%
SINGAPORE	PF - PG		0%	12%	8%
UAE	PF - PG		0%	0%	0%
VIETNAM	PF – PG		15%	15%	15%
	PG	10%	10%	10%	10%

Legend: PF = individual; PG = entity

5 Labour issues, social security and pensions

5.1 *Employment and self-employment*

A social security system provides sickness and maternity benefits, family allowances, and social security cushions for employees.

The pension system guarantees workers a replacement rate of 60% to 80% of their average salary over their last 20 years of work, providing a maximum pension of €45,000 per year.

To be eligible for the minimum pension scheme, social security contributions need to have been paid for at least 20 years.

The social security contributions payable by the company amount to 27.40% of the worker's gross salary, while those payable by the worker amount to 8.30%.

5.2 *'Gestione separata' social security scheme*

Company directors (the sole director or managing and other directors), owners, and workers who collaborate with the company on a coordinated and continuous basis must register with the *gestione separata* social security system.

5.3 Employment contracts

The Unitary Collective General Labour Agreements of the various sectors are fully valid, as long as they are signed in accordance with Law no. 59/2016.

5.4 Staff recruitment

The employment of San Marino nationals and residents merely has to be communicated to the Labour Office, which is the public office exclusively in charge of job placement.

To recruit cross-border workers, an employer does not have to consult the job placement lists but must pay a contribution equal to 4.5% of the salary, which will be used to fund labour policies.

If, instead, the employer consults the lists and does not find a match for the position to be filled, a cross-border worker can be hired without having to pay any additional contribution.

5.5 Secondment

Under the Social Security Convention between Italy and San Marino, employees can be seconded between companies of the two countries. The workers remain subject to the law of their country of origin for a maximum of 36 months.

San Marino has also signed social security agreements with France and Switzerland.

6 Industrial property

Industrial property rights are protected both by the law of San Marino and by international multilateral agreements.

In the San Marino legal system there is a specific set of rules governing industrial property (Law no. 79 of 25 May 2005, as subsequently amended). This law protects exclusive rights obtained through (i) patents, utility models, plant variety property rights, and (ii) registered trademarks, drawings, patterns, trade names, designations of origin, distinctive signs other than registered trademarks, and confidential business information.

In San Marino there is a Patent and Trademarks Office (USBM) which deals with applications for the registering and protection of patents, trademarks and other similar items.

All the legal references can be found on the site <https://www.consigliograndeegenerale.sm/online/home/archivio-leggi-decreti-e-regolamenti.html>.

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