



Country Guide

San Marino

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1. Overview

1.1. Government and Tax System

The Republic of San Marino is a parliamentary democratic republic city-state in Europe, completely surrounded by Italy. The highest office in the state is the Captains Regent, which exercises the Office of Head of State on the principle of collegiality. Executive power is exercised by the government. Legislative power is vested in both the government and the Great and General Council. The judiciary is independent of the executive and the legislature.

When laws have been approved by the Great and General Council, the Captains Regent has the power to promulgate and publish the laws, countersigned by the Secretary of State for Internal Affairs. If they believe the law does not comply with the principles contained in the Declaration of Rights, they have the right to ask for a new resolution, however if the Council approves the law again then it must be promulgated within 15 days.

The main tax legislation is Law No. 166 of December 16, 2013 (the "General Income Tax Law"), which provides for income tax on corporations and individuals, with additional tax provisions contained in various Decrees. San Marino tax legislation is available on the San Marino Parliament website.

The Tax Office, within the Finance and Budget Department, is the main body responsible for administering the tax system.

1.2. Currency

In San Marino, the currency is the euro.

2. Corporate Tax

2.1. Residence

In San Marino, companies are regarded as resident if they have their registered office, or the headquarters of the effective management and control, in San Marino for the majority of the tax period.¹

2.2. Tax Base - Resident Corporations

Resident companies are taxed on their worldwide taxable income.²

Capital gains are included in taxable income.³

2.3. Tax Base - Nonresident Corporations

Nonresident companies are taxed on their income derived from San Marino.⁴ San Marino source income is extensively defined in Article 5 of the General Income Tax Law.

2.4. Permanent Establishments - Domestic Law Definition

A Permanent Establishment (PE) is defined as the fixed place of business by means of which a nonresident company carries out, in whole or in part, its activity on the territory of San Marino.⁵

A PE includes:

- a place of management;
- a branch;
- an office;
- a workshop;
- a laboratory;

¹ General Income Tax Law, Article 42.

² General Income Tax Law, Article 1.

³ General Income Tax Law, Article 46(3).

⁴ General Income Tax Law, Article 42.

⁵ General Income Tax Law, Article 4.

- a mine, an oil or natural gas field, a quarry or other place of extraction of natural resources; and
- a construction or assembly or installation site, if that site or activity has a duration of more than three months.

The availability of electronic processors and related auxiliary systems that allow the collection and transmission of data and information for the sale of goods and services constitutes a permanent establishment.

2.5. Permanent Establishments - Treaty Definition

San Marino tax treaties generally follow the OECD model PE definition.

2.6. Permanent Establishments - Creation via Performance of Services

The domestic definition of a PE does not provide for the creation of a PE by the performance of services.

2.7. Tax Year - Default Taxable Year

The tax year, or tax period, is a calendar year, i.e., January 1 to December⁶

2.8. Tax Year - Reference Year for Computation of Tax

In a given tax year, taxpayers are subject to tax on income earned in that year. Thus, returns filed, e.g., in 2022 with regard to the taxpayer's liability for the 2021 tax year, will report income from 2021 and calculate tax on that basis.

2.9. Tax Year - Filing Deadline

Tax declarations must be filed by June 30 each year, with regard to the income produced in the previous calendar year.⁷

2.10. Tax Year - Schedule for Tax Payments or Deposits

The general income tax is due to be paid within the deadline for submitting that tax return, i.e., June 30. During the year, two advance installments are required, the first being due by July 31 for 35 percent and the second by November 30 for 55 percent of the tax due in the previous year, net of any foreign tax credits.⁸

2.11. Statute of Limitations

The Tax Office must provide the taxpayer with a notice of assessment by December 31 of the third year following the year of submission of return, i.e., within four years after the ending of the relevant fiscal year. This is extended to the fifth year if the taxpayer did not file a return or filed a nil return.⁹

2.12. Intercompany Dividends

Dividends paid by a resident company to a resident company, whether the companies are related or unrelated, are exempt from tax.¹⁰

Dividends paid by a nonresident company to a resident company are excluded from income in respect of 95 percent of their amount, provided the investment has been held continuously for at least 12 months.¹¹

2.13. Corporate Tax Rates - Standard Rates

The general income tax rate for corporate profits is 17 percent.¹²

High tech companies can be eligible for a reduced rate of income tax for their first three to five years, depending on the type of company.

2.14. Corporate Tax Rates - Special Reduced Rates or Regimes

There are no special reduced rates or regimes for small or medium sized companies in San Marino.

⁶ General Income Tax Law, Article 3.

⁷ General Income Tax Law, Article 93.

⁸ General Income Tax Law, Article 124.

⁹ General Income Tax Law, Article 115(3g) and (4).

¹⁰ General Income Tax Law, Article 59(3).

¹¹ General Income Tax Law, Article 59(1).

¹² General Income Tax Law, Article 43.

2.15. Taxation of Corporate Capital Gains

Capital gains on assets used in a business are taxed as ordinary income if:¹³

- the assets are sold for consideration;
- the gain is realized by way of compensation, or insurance, from the loss or damage of the assets; or
- the assets are assigned to shareholders or intended for purposes other than business activities.

The gains are taxable at the normal corporate tax rate, see Section 2.13.

Losses on assets sold for consideration, or realized by way of compensation, are deductible in full. Losses in real estate companies are deductible up to 50 percent.¹⁴

Step-up of business assets

Subject to conditions, companies and other qualifying businesses may elect to step up the value of certain business assets held on December 31, 2021, by paying a tax ranging between 3 percent and 5 percent on the revaluation credit balance. The election must be made by October 31,¹⁵

2.16. Treatment of Losses From Business Operations

The tax loss of a tax period can be deducted from taxable income to the maximum extent of 80 percent in the following three tax periods.¹⁶

However, as a response to the COVID-19 (coronavirus) pandemic, tax losses realized in the 2020 tax year may be deducted from total income in subsequent tax years without any time or amount limit.¹⁷

Losses of newly established companies in the first three tax periods can be offset against total income of the subsequent tax periods without any time limit.¹⁸

Losses cannot be carried back.

2.17. Taxation of Dividends Paid to Nonresident Corporations

Dividends paid to nonresident companies are not subject to withholding tax providing the recipient company declares to the distributing company that they are not acting on behalf of an individual.¹⁹

2.18. Taxation of Interest Paid to Nonresident Corporations

Interest paid to nonresident companies or businesses which are required to submit financial accounts, other than banks and financial institutions, is subject to withholding tax at 13 percent. This is reduced to 10 percent if the income relates to bonds or similar debt securities with duration of more than 36 months.²⁰

Withholding tax does not apply to nonresident companies in the case of income deriving from current accounts, deposits, certificates of deposit, repurchase agreements, and bonds with a San Marino issuer. In this case, the recipient is required to declare to the lender their status as a nonresident company.²¹

2.19. Taxation of Royalties Paid to Nonresident Corporations

Royalties paid to nonresident companies are subject to withholding tax of 20 percent.²²

2.20. Taxation of Payments for Services Provided by Nonresident Corporations

Services paid to nonresident companies are subject to withholding tax of 20 percent.²³

¹³ General Income Tax Law, Article 55.

¹⁴ General Income Tax Law, Article 57(1).

¹⁵ Law No. 207 of December 22, 2021, Article 40.

¹⁶ General Income Tax Law, Article 46(5).

¹⁷ Decree-Law No. 91 of May 26, 2020, Article 6(8).

¹⁸ General Income Tax Law, Article 72.

¹⁹ General Income Tax Law, Article 103(6).

²⁰ General Income Tax Law, Article 103(1).

²¹ General Income Tax Law, Article 103(4)(e).

²² General Income Tax Law, Article 102.

²³ General Income Tax Law, Article 102.

3. Personal Taxes

3.1. Domicile and Residency Requirements

Individuals are resident in San Marino when they:²⁴

- have their registered residence in San Marino for most of the tax period;
- stay for most of the tax period in the territory of San Marino; or
- have the center of vital interests in the territory of San Marino.

3.2. Tax Base for Residents

Resident individuals are taxed on their worldwide income.²⁵

3.3. Tax Base for Nonresidents

Nonresident individuals are taxed on their income derived from San Marino.²⁶

3.4. Individual Tax Rates

General Income Tax

Individuals are subject to general income tax on their taxable income at the following progressive rates:²⁷

- Income up to 10,000 euros – 9 percent
- Income from 10,000.01 to 18,000 euros – 13 percent
- Income from 18,000.01 to 28,000 euros – 17 percent
- Income from 28,000.01 to 38,000 euros – 21 percent
- Income from 38,000.01 to 50,000 euros – 25 percent
- Income from 50,000.01 to 65,000 euros – 28 percent
- Income from 65,000.01 to 80,000 euros – 31 percent
- Income over 80,000 euros – 35 percent

Specific tax rates of income tax apply to certain forms of income, including:²⁸

- self-employment and business income - 17 percent;²⁹
- emoluments for end-of-term treatment for directors – 17 percent;
- certain capital gains, including on cessation of self-employment – 8 percent;
- emoluments on termination of employment – 2.5 percent on the amount up to 5,000 euro, and 5 percent on excess;
- indemnity for termination of agency relationship and certain emoluments and gains – 12 percent;
- dividends from foreign sources on election by taxpayer – 3 percent;
- interest, premiums from foreign bonds on election by taxpayer – 8 percent;
- interest from current accounts with foreign banks on election by taxpayer – 11 percent; and
- supplementary pension benefits paid in the form of annuity or capital, on election by the taxpayer – 5 percent.

²⁴ General Income Tax Law, Article 10.

²⁵ General Income Tax Law, Article 10.

²⁶ General Income Tax Law, Article 10.

²⁷ General Income Tax Law, Annex C.

²⁸ General Income Tax Law, Article 13.

²⁹ Income from self-employment and business income are subject to separate taxation until December 31, 2021, under Article 148 of the General Income Tax Law, as amended by Article 61 of Law No. 223 of December 23, 2020.

Special Income Tax

Up to and including the 2020 tax period, taxpayers carrying out business and self-employment activities were required to pay an annual Special Income Tax as follows:

- self-employed workers – 1,000 euros;
- sole proprietorships and partnerships – 1,000 euros;
- sole proprietorships and partnerships in simplified accounting – 500 euros.

If the amount of revenues from ordinary activities relating to the previous tax period exceeded 300,000 euros, these amounts were doubled.³⁰

A tax credit is available against General Income Tax for any Special Income Tax paid. Any excess tax credit can be carried forward for the following four tax periods. However, any Special Income Tax paid is not deductible for the purpose of General Income Tax.

Special tax regime for new residents

A special tax regime is available to individuals who transfer their tax residence to San Marino, provided that they have never been tax resident in San Marino before and derive income from abroad (*Residenza atipica*).³¹ Upon application, new residents can opt to have their foreign-source income taxed at a rate of 7 percent for up to 15 years. Certain restrictions apply for the first 10 years of residence.

Tax on financial assets held abroad - IRAFE

Qualifying foreign financial assets held, directly or indirectly, by a resident individual are subject to a 0.2 percent tax on financial assets held abroad (*Imposta per il Riequilibrio delle Attivita` Finanziarie Estere* or IRAFE), if the individual has been resident in San Marino for more than five continuous years or is not subject to a special tax regime on foreign income.³² Exemptions apply, including to equity investments in unlisted foreign companies; shareholder loans; precious metals and foreign currencies; life, accident or health insurance policies; pension funds; foreign financial assets up to a total value of 20,000 euros; and foreign financial assets held as at December 31, 2021, provided they are repatriated by the deadline for filing the declaration of foreign assets and financial activities (DAPEF – see Section 3.5) due in 2022 for the 2021 fiscal year.

3.5. Individual Returns, Filing Dates and Payment

Income Tax Return

The following taxpayers are exempt from filing a tax return:³³

- individuals with only exempt income under 7,500 euros or income subject to withholding tax;
- individuals with only employment income with one employer; or
- individuals with pension income only.

Joint filing for spouses is not permitted.

Tax declarations must be filed by June 30 each year, with regard to the income produced in the previous calendar year.³⁴

The tax declaration must be filed electronically.³⁵

The General Income Tax Law does not contain any provisions allowing an extension to the filing date of the tax return.

³⁰ General Income Tax Law, Article 150.

³¹ Law No. 118 of June 28, 2010, Article 16-ter, as inserted by Law No. 223 of December 23, 2020, Article 69.

³² Law No. 207 of December 22, 2021, Article 4.

³³ General Income Tax Law, Article 84.

³⁴ General Income Tax Law, Article 93.

³⁵ General Income Tax Law, Article 86.

DAPEF

Resident individuals who own, directly or indirectly, foreign assets, financial activities and company shares are required to file the declaration of foreign assets and financial activities (*Dichiarazione delle Attività Patrimoniali e Finanziarie* or DAPEF) by June 30 of a given year, with reference to the assets, financial activities and company shares held in the previous calendar year.³⁶

Failure to comply with the filing obligation triggers the following penalties:

- omitted declaration – 20 percent of the undeclared amounts, with a minimum of 1,000 euro; for undeclared amounts exceeding 100,000 euros (500,000 euros for real estate), a penalty equal to 30 percent of the amount exceeding 100,000 euros (or 500,000 euros for real estate) applies; and
- late declaration – 500 euros, if the DAPEF is filed by December 31 of the relevant year; 1,000 euro, if the DAPEF is filed by June 30 of the following year.³⁷

IRAFE

Individuals who own qualifying foreign financial assets are also required to pay the IRAFE (see Section 3.4) by the deadline for filing the DAPEF.³⁸ Failure to pay is punishable by a fine of up to 3 times the tax due.

Late payment triggers the following fines:

- if the tax is paid within 30 days of the due date – the fine is equal to 5 percent of the tax that is paid late; and
- if the tax is paid more than 30 days after the due date – the fine is equal to 15 percent of the tax that is paid late.³⁹

³⁶ Delegate Decree No. 199 of November 13, 2020, as amended and supplemented by Delegate Decree No. 196 of December 7, 2021.

³⁷ Delegate Decree No. 196 of December 7, 2021, Articles 4 and 8.

³⁸ Law No. 207 of December 22, 2021, Article 4(5).

³⁹ Law No. 207 of December 22, 2021, Article 4(7).

About the Author



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Andrea has been an accountant and advisor at Cecchetti, Albani & Associati since 2017. In 2022 he founded SFERA Professionisti Associati, a firm that provides tax, corporate and administrative consulting services. The firm assists its clients on mergers, demergers, and acquisitions of companies. Andrea graduated in economics and accounting. He specialized in tax law, commercial law, corporate auditing and privacy consulting.

Education:

University of Bologna - Master's Degree in Personal Data Processing and Privacy Officer (2019)

University of San Marino - Higher professional training for accountants (2016)

University of Bologna - Alma Mater Studiorum - Economics and Accounting (2014) - masters course

University of Bologna - Alma Mater Studiorum - Economics and Accounting (2012) - triennial course



Vincent Cecchetti

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Education:

Many specialization courses with leading training companies.
University of Bologna - Alma Mater Studiorum - Economics and trade (1982)



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