



# REPUBLIC OF SAN MARINO

**DELEGATED DECREE no. 89 of 23 July 2013**  
(Ratifying Delegated Decree no. 49 of 29 April 2013)

**We the Captains Regent of the Most Serene Republic of San Marino**

*Having regard to Delegated Decree No. 49 of 29 April 2013 - Provisions implementing Article 33, paragraph 1 of Law No. 150 of 21 December 2012 on "Insurance Tax" - promulgated:*

*Having regard to Article 33, paragraph 1 of Law no. 150 of 21 December 2012 and Article 1, paragraph 1 of Law no. 44 of 10 April 2013;*

*Having regard to Congress of State's Decision no. 8 adopted in its sitting of 23 April 2013;*

*Having regard to the amendments made to the above-mentioned decree when ratified by the Great and General Council in its sitting of 17 July 2013;*

*Having regard to the Great and General Council's Decision no. 3 of 17 July 2013;*

*Having regard to Article 5, paragraph 3 of Constitutional Law no. 185/2005 and to Articles 8 and 10, paragraph 2 of Qualified Law no. 186/2005;*

*Hereby promulgate and order the publication of the final text of Delegated Decree No. 49 of 29 April 2013, as amended following the approval by the Great and General Council when ratifying it:*

## **PROVISIONS IMPLEMENTING ARTICLE 33, PARAGRAPH 1, OF LAW NO 150 OF 21 DECEMBER 2012 ON "INSURANCE TAX"**

### **Art. 1** (Definitions)

For the purposes of this delegated decree, the following definitions shall apply:

- a) "insurance activity": non-life insurance activity within the meaning of letter G) of Annex 1 to the Law on companies and banking, financial and insurance services (LISF);
- b) "reinsurance activity": the activity referred to in letter H) of Annex 1 to the LISF;
- c) "policyholder": a San Marino or foreign legal entity (natural person, legal person, companies and entities not having legal personality), which concludes an insurance contract and undertakes to pay premiums to the insurance company;
- d) "non-life insurance contract": contract by which the insurance company, against payment of a premium, undertakes to compensate the insured person, within agreed limits, for the damage caused to him by an accident;
- e) "San Marino insurance company": a company authorised to carry out the activity referred to in letters G) and/or H) of Annex 1 to the LISF and subject to the supervision of the Central Bank of the Republic of San Marino;
- f) "foreign insurance company": a company authorised in its home country to carry out insurance and/or reinsurance activity;
- g) "San Marino insurance intermediary": an economic operator (natural person, sole proprietorship

or company) professionally carrying out the activity of insurance mediation referred to in Article 26 of the LISF and entered in the Register of insurance and reinsurance intermediaries, in accordance with Article 27 of the LISF;

- h) “LISF”: Law no. 165 of 17 November 2005 and subsequent amendments and integrations;
- i) “premium”: the amount that the policyholder undertakes to pay in consideration for the non-life insurance benefits envisaged by the contract”;
- j) “taxable person”: for the purposes of this delegated decree, taxable persons are San Marino and foreign insurance companies;
- l) “tax representative”: a legal entity (natural person or company), residing or having its registered office in the Republic of San Marino, appointed by the foreign insurance company authorised to conclude insurance contracts covering risks situated in San Marino, in order to fulfil the obligations provided for by this delegated decree and deriving from the application of the non-life insurance tax;
- (m) “Regulation”: the Regulation referred to in Article 8 below of this delegated decree issued by the Congress of State of the Republic of San Marino.

## **Art.2**

### *(Non-life insurance tax)*

A tax amounting to 4% of taxable income shall be levied on non-life insurance, as defined in Article 6 below. Taxable persons shall be San Marino and foreign insurance companies.

The tax shall not apply to insurance contracts entered into by the State and by the Entities of the Overall Public Sector.

## **Art.3**

### *(Appointment of tax representatives)*

For the purposes of this delegated decree, foreign insurance companies authorized to conclude insurance contracts covering risks situated in San Marino shall appoint a tax representative in San Marino in order to comply with the formalities laid down in this delegated decree and in the Regulation referred to in Article 8 below.

Tax representatives shall be held jointly and severally liable with the insurance company they represent to pay the tax and the administrative pecuniary sanctions laid down in this delegated decree.

Tax representatives shall also be obliged to keep their own register of the premiums paid under the insurance contracts concluded by foreign insurance companies covering risks situated in San Marino.

## **Art.4**

### *(Taxable insurance)*

The following shall be subject to the tax referred to in Article 2:

- a) insurance relating to immovable property or movable property contained therein that is not in commercial transit, when the immovable property is situated in San Marino;
- b) motor, ship or aircraft insurance registered or recorded in San Marino, both in respect of third party liability and damage to insured vehicles;
- c) freight insurance for goods transported from or to the Republic of San Marino, when contracts are concluded on behalf of persons residing or established in the territory of the Republic and provided that the same tax has been paid abroad for such insurance;
- d) non-life insurance other than those referred to in letters a), b) and c) above, pertaining to policyholders who have their residence in the Republic of San Marino or to legal persons, who have their registered office or establishment to which the contract relates or to which the insured persons are employed in San Marino.

The tax shall apply to premiums related to contracts entered into by San Marino or foreign insurance companies.

If the contract was concluded abroad, on the initiative of the policyholder, by a foreign insurance company, and the covered risk is situated in the Republic of San Marino, the foreign insurance company shall be in any case taxable and shall be obliged to pay the tax in accordance with the provisions of Article 9 below of this delegated decree

If the contract concluded in the Republic with a San Marino or foreign insurance company covers a risk not situated in the Republic of San Marino, the tax provided for under this delegated decree shall not be due.

**Art.5**  
*(Reinsurance tax)*

Reinsurance policies shall not be taxable, if they refer to insurance policies for which the tax has been paid.

To apply the tax referred to in the preceding paragraph, it shall be sufficient that reinsurance is recorded in the books and registers of insurance and reinsurance companies or in any other means.

**Art.6**  
*(Calculation of taxable amount)*

The tax laid down in this delegated decree shall be payable pro rata for each Euro of each premium payment. It shall become chargeable after the premium has been paid or otherwise settled, and shall not cease to be due even if the premium is, for whatever reason, repaid in whole or in part by the insurance company.

To calculate the taxable amount, the total premium shall be assessed, i.e. taking into account all options and without any deduction whatsoever.

**Art.7**  
*(Obligation to keep premium registers)*

To provide the taxable insurance referred to in this delegated decree, San Marino and foreign insurance companies shall keep, for each financial year according to their balance sheets, a register containing all premiums and options paid or otherwise settled, directly or through insurance intermediaries, pertaining to said insurance contracts.

**Art.8**  
*(Congress of State Regulation)*

The Congress of State shall, by means of an appropriate Regulation, lay down rules on how to draw up, keep and maintain the premium register referred to in Article 7 above, as well as on the monitoring and supervision activities of the competent authorities, on the fulfilments for the application of the tax provided for in this delegated decree and on keeping a special register containing all tax representatives. The Congress of State Regulation shall also govern the ethical and professional requirements for act as a tax representative.

**Art.9**  
*(Report and payments)*

San Marino insurance companies and tax representatives of foreign companies shall pay the Tax Office, within the calendar month following the previous quarter, the tax due on premiums, options and any adjustments collected in the previous quarter.

Not later than 31 May of each year, San Marino insurance companies and tax representatives shall submit to the Tax Office a report on the total amount of premiums and options collected during the previous financial year in respect of which the tax is payable and shall pay any tax adjustment.

Foreign insurance companies that have concluded, at a policyholder's initiative and without a San Marino insurance intermediary, insurance contracts covering a risk situated in San Marino, shall pay, as taxable persons, in a single tranche the total amount due on the basis of the premiums received in each year by the end of February of the following year, in accordance with procedures to be defined by the Tax Office. Upon payment, the total amount of the premiums and options received in the past year on which the tax is due shall be reported.

#### **Art.10**

##### *(Administrative pecuniary sanctions)*

Violations of the provisions of this delegated decree by San Marino and foreign insurance companies as well as by tax representatives shall be subject to the following administrative pecuniary sanctions:

- a) from Euro 1,000.00 to Euro 5,000.00 for failure to keep and maintain the premium register in accordance with the provisions of the Regulation referred to in Article 8, or failure to endorse it; 5.0. 00;
- b) from one hundred to two hundred per cent of the tax due on non-registered items, for failure to enter taxable items in the premium register;
- c) from two hundred to four hundred per cent of the tax due on the amount concealed or indicated as taxable for misstatement of the taxable amount or type of insurance in the premium register;
- d) from Euro 1,000.00 to Euro 3,000.00 for failure to present the premium register in the cases provided for in this delegated decree and for violations of other provisions of the Regulation referred to in Article 8 above;
- e) from two hundred to four hundred per cent of the tax due on the amount concealed, starting from a minimum amount of Euro 500.00 for misstatement of the taxable amount in the insurance contracts and in the relative receipts;
- f) from Euro 200.00 to Euro 1,000.00 for failure to retain the originals of the contracts provided for in the Regulation referred to in Article 8;
- g) from one hundred to two hundred per cent of the tax due on the unreported amount, starting from a minimum amount of Euro 1,000.00, for failure to submit within the prescribed deadline the report referred to in Article 9.  
1.0. 00. If the report is submitted with a delay of not more than 30 days, the sanction referred to above shall be reduced to one quarter;
- h) from two hundred to four hundred per cent of the tax due on the amount concealed, starting from a minimum amount of Euro 1,000.00 for inaccurate report pursuant to article 9;
- i) from one hundred to two hundred per cent of the tax due on the unreported amount, starting from a minimum amount of Euro 1,000.00 for failure to pay the tax or for underpayment of the tax referred to in Article 2. If payment is made within 30 days of the deadlines laid down in Article 9, the sanction shall be reduced to one quarter. Interest at the statutory rate plus two points shall be charged on late payments in accordance with the law.

In the event of a recurrence, administrative pecuniary sanctions shall be increased by five times.

#### **Art.11**

##### *(Persons authorised to detect violations of this delegated decree)*

The Tax Office shall be responsible for detecting violations of this delegated decree and for applying the relevant administrative pecuniary sanctions.

*Ex officio* assessment notices or any upward/downward adjustments shall be notified, under

penalty of forfeiture, within the second year following the date of submission of the report referred to in Article 9.

In the case of failure to submit a report, the assessment notice shall be notified within the third year following the year in which the report should have been submitted.

**Art.12**  
*(Remedies)*

Sanctions imposed under this delegated decree may be appealed to the Administrative Judge of Appeal pursuant to Article 34 of Law No. 68 of 28 June 1989.

Amounts due and not paid within the legal deadlines will be registered in accordance to Law No. 70 of 25 May 2004.

**Art.13**  
*(Assistance on exchange of information)*

The Tax Office, through the Central Liaison Office referred to in Law No. 95 of 18 June 2008 and subsequent amendments shall exchange, with the other competent authorities of the States, the information necessary to ensure the correct assessment of the tax referred to in this delegated decree, if the agreements in force at the time provide for the exchange of information on this matter.

**Art.14**  
*(Revenue item in the budget)*

The assessed tax shall be charged to a specific revenue chapter in the State Budget to be established in the Budget adjustment for the current financial year.

**Art.15**  
*(Transitional provisions)*

For premiums collected by taxable persons from the entry into force of the Regulation referred to in Article 8 until 31 December 2013, the tax shall be paid in the first month following the first quarter of 2014, together with the tax due for that quarter.

**Art.i6**  
*(Entry into force)*

This delegated decree shall enter into force on 1 July 2013. The application of the tax provided for in Article 2 shall be subject to the issuance of the Regulation referred to in Article 8, to be adopted no later than 30 November 2013.

*Done at Our Residence, on 23 July 2013/1712 since the Foundation of the Republic.*

THE CAPTAINS REGENT *Antonella Mularoni - Denis Amici*

THE MINISTER OF INTERNAL AFFAIRS *Gian Carlo Venturini*