



## DELEGATED DECREE NO. 116 OF 24 JULY 2014 PROVISIONS ON HIGH-TECHNOLOGY START-UPS

Coordinated text with the changes arising from Delegated Decree no.  
191 of 25 November 2014, Delegated Decree no. 32 of 18 March 2015  
and Delegated Decree no. 34 of 23 March 2017

(updated as of 6 June 2018)

### LAWS MENTIONED IN THE COORDINATED TEXT AND IN THE OTHER RULES ON THIS MATTER

- [Law no. 7 of 17 February 1961](#)
- [Decree no. 15 of 26 April 1976](#)
- [Law no. 91 of 13 October 1984](#)
- [Law no. 10 of 25 January 1990](#)
- [Law no. 149 of 29 November 1991](#)
- [Law no. 99 of 25 July 2003](#)
- [Law no. 131 of 29 September 2005](#)
- [Law no. 47 of 23 February 2006](#)
- [Law no. 118 of 28 June 2010](#)
- [Delegated Decree no. 186 of 26 November 2010](#)
- [Delegated Decree no. 3 of 18 January 2011](#)
- [Law no. 91 of 26 July 2012](#)
- [Law no. 71 of 23 June 2013](#)
- [Law no. 166 of 16 December 2013](#)
- [Law no. 174 of 20 December 2013](#)
- [Law no. 40 of 31 March 2014](#)
- [Law no. 71 of 29 April 2014](#)
- [Delegated Decree no. 191 of 25 November 2014](#)
- [Delegated Decree no. 10 of 28 January 2015](#)
- [Delegated Decree no. 32 of 18 March 2015](#)
- [Law no. 118 of 30 July 2015](#)
- [Delegated Decree no. 5 of 22 January 2016](#)
- [Delegated Decree no. 30 of 11 March 2016](#)
- [Delegated Decree no. 34 of 23 March 2017](#)
- [Delegated Decree no. 121 of 26 October 2017](#)



**DELEGATED DECREE NO. 116 OF 24 JULY 2014 PROVISIONS ON  
HIGH-TECHNOLOGY START-UPS**

**TITLE I  
REQUIREMENTS FOR HIGH-TECHNOLOGY START-UPS,  
EMPLOYMENT CONTRACTS AND STAY PERMITS**

**Art. 1**

*(Object and purpose)*

1. This Delegated Decree, in order to determine favourable conditions for the creation and development of high-technology start-ups having an incubation contract with the Business Incubator of the Republic of San Marino, shall introduce the implementing measures of the provision contained in Article 21, paragraph 5 of Law no. 71 of 23 June 2013, which are aimed at:

- defining the objective and subjective requirements on the basis of which a company can be classified as a high-technology start-up;
- governing the issue of start-up stock options for employees and contract workers in the territory;
- regulating a specific type of employment contract, by way of derogation from, and in addition to, Law no. 131 of 29 September 2005;
- introducing tax incentives for investments made by other companies in high-technology start-ups;
- providing tax incentives for private individuals who invest in start-ups and who maintain their investment for a predetermined minimum period;
- introducing tax incentives in the case of repurchase of shares by the management or the founders of the high-technology start-up, as well as in the case of an industrial acquisition by another company in the management leverage buy out operations;
- providing for a type of special stay permit, by way of derogation from Law no. 118 of 28 June 2010, for partners and/or directors and/or employees in high-technology start-ups.

**Art. 2**

*(Definitions)*

1. For the purposes of this Delegated Decree:
- a) "San Marino" shall mean the territory of the Republic of San Marino;
  - b) "stock options" shall mean the option rights that give the right to purchase shares or units in a company at a certain strike price, assigned free of charge to employees or contract workers;
  - c) "high-technology start-ups" shall mean companies registered in the register of high-technology start-ups;
  - d) "venture capital companies" shall mean companies providing risk capital to finance the starting or growth of a business in sectors with high development potential;
  - e) "Taxpayer" shall mean the taxable person and/or the withholding agent;
  - f) "Business Angels" shall mean entrepreneurs, managers and professionals, who perform investment activities in the risk capital of new companies on an occasional basis.

**Art. 3**



*(Objective and subjective requirements for the classification of high-technology start-ups)*

1. Companies which meet the following objective and subjective requirements shall be classified as "high-technology start-ups":
  - a) they have an incubation contract in force with the Business Incubator of the institution managing the Science and Technology Park;
  - b) they are incorporated under San Marino law in the form of share capital companies, which have signed the incubation contract with the institution managing the Science and Technology Park within 24 months of obtaining the first license and the total value of their annual turnover related to the company's core business, as shown in the financial statements, is less than or equal to 100,000.00 euros;
  - c) in the case of partners that are legal entities, the latter are not partners in other companies incorporated under San Marino law, with the exception of venture capital funds and members of legally recognised Business Angel Associations;
  - d) they do not have any shareholding through a fiduciary mandate;
  - e) at least 35% of the share capital is owned by:
    - 1) persons employed in the company, including part-time employees but working not less than twenty hours per week, being at least third-level workers and holding bachelor or master degrees or a high school diploma, with work experience of at least two years, in areas directly connected with the development of the high-technology start-up's project; or
    - 2) a share capital company that provides services or produces goods relating to the high-technology start-up's sector and, at the same time, has at least one employee, also working part-time, but no less than twenty hours a week, being at least a third-level worker and holding bachelor or master degrees or a high school diploma, with work experience of at least two years, in areas directly connected with the development of the high-technology start-up's project. This requirement shall only be applicable to a company with an incubation contract not covering the establishment within the premises of the Business Incubator;
  - f) the sole director or the members of the board of directors, if any, shall not hold the office of sole director or member of the board of directors in other companies incorporated under San Marino law;
  - g) they hold an industrial or service licence as the core business pursuant to Law no. 40 of 31 March 2014.
2. The regime applying to high-technology start-ups shall last no more than five years from the date of first issuance of the licence.
3. If part time is used, it shall be less than five hours a day and/or twenty-five hours a week.

**Art. 4**

*(Procedures for the recognition as high-technology start-up)*

1. The Register of the high-technology start-ups shall be established at the Office for Industry, Handicraft and Trade. Entry in this register shall allow access to the benefits provided for high-technology start-ups and shall ensure maximum publicity and transparency for companies admitted to the special regime envisaged by this legislation.
2. The data of companies contained in the register shall be the following:
  - a. business name
  - b. corporate purpose and business covered by the licence
  - c. registered office and place of business
  - d. administrative body
  - e. partners
  - f. financial statements of the last three years.



3. In order to be registered in the Register of high-technology start-ups, a company shall meet the objective and subjective requirements set out in Article 3 and have filed an application for registration with the Office for Industry, Handicraft and Trade. The application and the related documents shall be sent by the Office for Industry, Handicraft and Trade, within one working day from receipt of the application and documents, to the persons referred to in paragraph 5.

4. The application shall be accompanied by the educational and service qualifications necessary to demonstrate that the subjective requirements laid down in Article 3(f)(1) are met. If the partners are Business Angels, a document issued by the reference Association shall be attached to the application, certifying that they are registered with it.

5. The verification that the requirements referred to in Article 3 are met shall be carried out by the authority of the institution managing the Scientific and Technological Park. The verification of the requirements shall be carried out within five working days from the submission of the application to the Office for Industry, Handicraft and Trade.

## **Art. 5**

### *(Incubation contract)*

1. The incubation contract referred to in Article 3(a) shall be signed, for the business incubator, by the authority of the institution managing the Science and Technology Park. The incubation contract shall be signed with persons who demonstrate to have innovative ideas in terms of product, service, process, technology, organisation or business model.

2. The incubation contract shall entail:

- a) exemption from payment of the licence fee;
- b) the possibility of paying up the entire share capital within three years of registration in the Company Register without incurring the effects referred to in Article 12, paragraph 4 of Law no. 47 of 23 February 2006 and subsequent amendments and integrations.

3. The incubation contract, together with the issuance of the licence, shall confer on the company the right to make recruitments as referred to in Article 6.

4. Companies entitled to the benefits referred to in paragraphs 2 and 3 shall apply for registration with the Register of high-technology start-ups within thirty working days of signing the contract with the institution managing the Science and Technology Park, under penalty of losing the benefits referred to above, which shall entail:

- the obligation to pay up 50% of the share capital within sixty days of registration in the Company Register;
- the obligation to pay the licence fee and therefore the suspension of the licence until the licence fee is paid;
- the termination of the employment contracts referred to in Article 6.

5. The Office for Industry, Handicraft and Trade shall monitor compliance with the terms indicated.



## **Art. 6**

*(Fixed-term employment contract for employees of high-technology start-ups)*

1. To support high-technology start-ups with instruments geared to the flexibility related to the specific activity carried out in terms of innovative projects, a fixed-term employment contract for employees of high-technology start-ups shall be created with the following characteristics:
  - a) it shall last for a maximum of thirty-six months and may also be part-time;
  - b) it may be used by the company to recruit staff only in the first three years from the issue of the license to undertake the economic activity; after this deadline, the general regulations shall apply;
  - c) it may be used by the company for a maximum of eight employees either recruited or not from the employment lists. The number of eight shall refer to the coexistence of staff employed with this type of contract.
2. The fixed-term employment contract for employees of high-technology start-ups shall be targeted to the high-technology start-up founders, even if they direct the company, and to workers holding the following qualifications: bachelor/master degree, or secondary school diploma with work experience of at least two years, in areas directly connected with the development of the high-technology start-up's project.
3. Advance notifications of recruitments under a fixed-term contract for high-technology start-ups, signed both by employer and employee and accompanied by the documents showing compliance with all requirements established, shall be sent to the Labour Office, which shall only verify the compliance with the requirements within two days of receipt of the notification. The documents submitted to the Labour Office shall include the decision of the managing entity of the Science and Technology Park, certifying that the bachelor/master degree or secondary school diploma with work experience of at least two years is directly connected with the development of the high-technology start-up's project.
4. The general labour legislation shall apply to those aspects not regulated by this Article.
5. The employees referred to in this Article cannot benefit from the incentives mentioned in Law no. 71 of 29 April 2014.
- 5 bis. Workers not living or residing in Italy may be hired provided that, if coming from non-Schengen countries, they hold a valid visa to enter the Schengen area, if this is envisaged by the Schengen Agreement. In this case, hired workers shall apply for and obtain the stay permit referred to in Article 8 within thirty working days from hiring, failing which the employment contract shall become invalid and the high-technology start-up shall no longer meet the requirements necessary for that recruitment.
- 5-ter. When the three years period of fixed-term employment contract for employees of high-technology start-up has expired, the company shall have the right to continue its employment relationship with the employee having benefited from this type of contract for the maximum period allowed, by resorting to one of the common employment contracts envisaged by San Marino legislation.



## **Art. 7**

### *(Special stay permit for employees of high-technology start-ups)*

1. Special stay permits for employees of high-technology start-ups shall be issued to foreigners employed under the contract referred to in Article 6 who intend to stay in the Republic of San Marino.

1 bis. The special stay permit referred to in the previous paragraph may be extended, also for the purposes of the provisions referred to in Article 8, if the employment relationship continues in compliance with paragraph 5-ter of Article 6.

2. This special stay permit shall have a duration of one year and may be renewed annually. The termination of the fixed-term contract referred to in Article 6 shall entail the termination of the stay permit.

3. Foreigners wishing to apply for the special stay permit for high-technology start-ups shall submit documents showing the availability of sufficient means of subsistence and adequacy of housing for the intended stay.

4. Workers coming from non-Schengen countries shall hold a valid visa to enter the Schengen area, if the Schengen Agreement envisages this.

5. Applicants for the special stay permit holding a fixed-term contract for high-technology start-ups shall submit a relevant written application to the Gendarmerie - Foreigners' Office, by showing their passport or an equivalent document deemed valid by the Gendarmerie and enclosing the following documents:

- a copy of an identity document;
- 4 passport photos;
- the employment contract referred to in Article 6;
- certificate of residence;
- family status certificate;
- criminal record issued by the San Marino Court and by the competent Authorities of the country of origin;
- certificate of pending charges issued by the San Marino Court and by the competent Authorities of the country of origin;
- declaration of availability of accommodation or a copy of the rental contract duly registered or equivalent document demonstrating the adequacy of housing;
- documents showing the availability of sufficient means of subsistence.

The stay permit shall be issued by the Gendarmerie - Foreigners' Office.

6. The controls for the acquisition of information additional to that contained in the documents referred to in the previous paragraph shall be carried out by the Gendarmerie after the issue of the stay permit.

7. The general stay permit legislation shall apply to those aspects not regulated by this Delegated Decree.

8. The maximum number of stay permits for high-technology start-ups shall amount to 100 for the year 2014. For subsequent years, the maximum number shall be established by means of a delegated decree.

8 bis. Directors and partners who are employees of high-technology start-ups may request, for themselves and for the members of their family referred to in Article 8, the residence to the Permanent Parliamentary Commission for Foreign Affairs, Emigration and Immigration according to Law no. 118 of 28 June 2010 and subsequent amendments.

## **Art. 8**

### *(Special stay permit for the family members of employees of start-ups)*

1. Foreigners holding a stay permit for employees of high-technology start-ups may request the issuance of the special stay permit for the family members of employees of start-ups for the following persons:



- not legally separated spouses, in relation to whom no proceedings are pending for separation, dissolution or termination of the civil effects of marriage, or annulment of the marriage;
- dependent children aged twenty-five or less, either legitimate, acknowledged natural or adoptive, provided that they are not married or cohabiting and, in case of minors, provided that the other parent, if known and alive, has consented or such consent has been given by the judicial authority;
- dependent children, either legitimate, acknowledged natural or adoptive, if unable to earn a livelihood due to disability.

Except for reasons of force majeure, to be duly demonstrated by the applicant for the permit, family reunification shall be requested within twelve months following the date of immigration of the applicant to San Marino and shall be released by the Gendarmerie - Foreigners' Office.

2. Foreigners requesting family reunification shall demonstrate availability of the following:

- a) adequate housing for themselves and their family members, for whom reunification is requested;
- b) annual income sufficient to support themselves and their family members, for whom reunification is requested. The income cannot be less than Euro 18,000.00 for the holder of the permit; to this, an extra amount of EUR 6,000.00 for each dependent member of the family shall be added.

2 bis. Without prejudice to bilateral conventions regulating this issue in a different way, family members holding special stay permits shall not be entitled to receive health assistance free of charge or economic or welfare assistance from the Social Security Institute and the State. Foreigners intending to apply for a special stay permit for family members of employees of start ups shall stipulate an adequate insurance policy valid in the Republic of San Marino and covering sickness, accident and maternity with a minimum annual insurance coverage equal to Euro 30,000 (thirty thousands); or shall submit documents showing medical insurance covering all risks in the country of origin, which should be considered as valid by the competent offices of San Marino Social Security Institute for each family member.

3. Special stay permits issued to foreigners included under the preceding paragraphs 1 shall entitle minors to enrol in education or vocational training courses.

3 bis. Foreigners holding a stay permit for employees of high-technology start-ups may apply for the cohabitation permit referred to in Article 15 paragraph 1 letter a) of Law no. 118 of 28 June 2010.

3 ter. The documents to be submitted for the issue of the special permit shall be those referred to in letters a) and b) of Article 14 of Delegated Decree no. 186 of 26 November 2010.

4. The workers referred to in paragraph 1 no longer complying with the requirements shall be subject to the immediate termination of their and their family members' stay permit.

#### **Art. 9**

*(Obligations for high-technology start-ups)*

1. Partners shall not be allowed to distribute profits for three calendar years from the registration referred to in Article 4.

#### **Art. 10**

*(Controlling maintenance of the requirements for high-technology start-ups)*



1. The authority of the institution managing the Science and Technology Park shall control maintenance of the requirements for the registration referred to in Article 3.
2. Lack of compliance with one or more requirements referred to in Article 3 shall entail the removal from the Register of high-technology start-ups.

## **TITLE II INCENTIVES FOR HIGH-TECHNOLOGY START-UPS**

### **Art. 11**

*(Start-up stock options)*

1. In order to determine the income from dependent work referred to in Articles 24 and subsequent Articles of Law no. 166 of 16 December 2013, the difference between the value of the shares or units issued by high-technology start-ups (on the date they are given to employees or contract workers of the start-ups) and the amount paid by the employee or contract worker shall not form part of the income from dependent work, provided that such amount is at least equal to the value of shares at the grant date.
  2. If the shareholdings, securities or rights held by the employee or contract worker represent more than 10 percent of the voting rights that can be exercised in the ordinary shareholders' meeting or of participation in the capital or assets of the high-technology start-up, the aforesaid difference shall in any case fully form part of the income from dependent work or equivalent.
  3. Exemptions shall be granted under the following circumstances:
    - a) that the shareholding in the companies indicated in paragraph 1 above is held uninterruptedly for at least twelve months and is shown in the company's accounts and in at least one financial statement;
    - b) that the shareholding is classified in the category of financial fixed assets in the first financial statement closed in the period of ownership.
- 3 bis. This provision is coherent with what is provided for in Article 5, paragraph 2, letter b) and shall apply by way of derogation from Article 15, paragraph 1 of Law no. 47 of 23 February 2006 and subsequent amendments.

### **Art. 12**

*(Tax incentives for investments made by legal persons in high-technology start-ups)*

1. For the tax periods 2014, 2015 and 2016, legal persons residing in the Republic of San Marino making contributions in cash or in kind in high-technology start-ups shall benefit from a deduction from the general income tax provided for by Law no. 166/2013 amounting to 5 percent of the relevant contributions made, up to an amount not exceeding Euro 1,800,000.00.
2. If investments are made in high-technology start-ups operating in the social sector or mainly developing innovative products and services in the field of renewable energy, technologies supporting the development of smart cities and smart communities, and the aerospace sector, the deduction provided for in paragraph 1 above shall be increased by 2 percent.
3. The benefits provided by this provision shall apply to cash contributions entered in the capital stock and in the share or unit premium reserve of high-technology start-ups or of share capital companies mainly investing in high-technology start-ups, also following the conversion of bonds convertible into newly issued shares or units.





The set-off of claims when subscribing to capital increases shall also be considered as cash contributions, with the exception of receivables resulting from disposal of goods or provision of services.

4. In order to determine whether the investment falls within a facilitated tax period, the contributions referred to in paragraph 1 above shall be recorded in the tax period under way on the date of filing, for registration in the Company Register, of the memorandum of association or of the decision to increase the capital share. Contributions resulting from the conversion of bonds, on the other hand, shall be recorded in the tax period under way on the date of conversion.

5. The benefits provided for by this legislation shall only be granted provided that investors receive and retain:

- a copy of the investment plan of the high-technology start-up, containing detailed information on the purpose of the activity envisaged, the related products, as well as on the current and forecast trend of sales;
- for investments in social or energy-related start ups, a certificate issued by the high-technology start-up certifying the purpose of its activity.

6. Entitlement to the benefits referred to in this provision shall cease if, within two years from the date on which the investment is made, the shareholdings received in return for facilitated investments are transferred (in whole or in part) against payment, including the acts concerning the creation or transfer of real rights of enjoyment, or the contributions made in other innovative start-ups.

### **Art. 13**

*(Tax deduction concerning the equity of legal persons investing in high-technology start-ups)*

1. The taxable persons referred to in Title III of Law no. 166/2013 who make contributions in cash or in kind in high-technology start-ups in the tax periods indicated in paragraph 1 of the previous Article 12, shall be entitled to deduct from their taxable income - determined in accordance with the rules provided by the same Title - a 12% amount corresponding to the increase in equity, net of the operating result for the current year, in every tax period.

2. The provisions of paragraph 1 above shall apply by way of derogation from Article 74 of Law no. 166/2013.

### **Art. 14**

*(Tax incentives for investments made by venture capital companies in San Marino high-technology start-ups)*

1. For a period ranging from a minimum of three years to a maximum of five years, venture capital companies residing in the territory of the Republic of San Marino may opt for a predetermined taxation of their taxable income for the entire duration of the regime, on the basis of objective and qualified criteria specified in the following paragraphs, which can be assumed from a specific company project.

2. The predetermined taxable income shall be calculated based on the company's business plan for the years of participation in the special scheme and on the following elements of its business plan as a whole:

- a) amount of capital and financial investments into innovative start-ups;



- b) employment plan;
  - c) type of business and its compatibility with the development strategies of the economic system.
3. Within two months from the issue of the business license, newly established venture capital companies may submit to the Tax Office an application for admission to the special scheme on unstamped paper. This application shall be accompanied by a detailed company project showing the investments and business plan for the period of participation in the special scheme. In this application, the taxpayer shall submit to the Tax Office a proposal of the predetermined taxation of income for the period of participation in the special scheme.
4. The Tax Office shall examine the documentation within ninety days of receipt of the application referred to in paragraph 2 above and shall prepare, also after discussion with the applicant company, a draft agreement.
5. In assessing admission to the scheme and in determining its duration in compliance with the limits referred to in paragraph 1, the Tax Office shall consider the elements of the business plan referred to in paragraph 2. These elements shall also be used to predetermine the taxable income and the tax to be applied to any higher income exceeding the pre-agreed income, which, with respect to the business plan, may be reduced, for each tax year, up to a maximum of thirty percent based on qualitative assessments of such elements.
6. The admission of the applicant company to the special scheme shall be deemed completed after the signing of the agreement between the company and the Tax Office. The agreement shall be binding on the Administration and the company.
7. For the tax years included in the period of admission to the special scheme, the company shall pay the income taxes provided for by law, which are calculated on the predetermined taxable income under the agreement referred to in paragraph 5 above.
8. The detailed rules for the application of this Article shall be adopted by means of a specific administrative measure.

#### **Art. 15**

##### *(Tax deductions for private investors)*

1. For the tax periods 2014, 2015, 2016 and 2017, natural persons residing in the Republic of San Marino making contributions in cash or in kind in the high-technology start-ups referred to in Article 21 of Law no. 71/2013 shall benefit from a deduction from the general income tax provided for by Law no. 166/2013 amounting to 5 percent of the relevant contributions made, up to an amount not exceeding Euro 500,000.00.
2. For the tax periods 2014, 2015, 2016 and 2017, for partnerships, the amount for which the deduction referred to in paragraph 1 above is due shall be determined for individual partners in proportion to their participation in profits, resulting from public deed or authenticated private deed. The aforesaid limit of Euro 500,000.00 shall apply to the contributions made by partnerships to high-technology start-ups.
3. If investments are made in high-technology start-ups operating in the social sector or mainly developing innovative products and services in the field of renewable energy, technologies supporting the development of smart cities and smart communities, and the aerospace sector, the deduction provided for in paragraph 1 above shall be increased by 2%.



4. Any excess deduction may be carried forward as a deduction from the gross general income tax due in subsequent tax periods, but not after the third tax period, up to its amount. Similarly, if the deduction exceeds the total reported income, the excess deduction may be offset by increasing the amount of deductible income from the total income of subsequent tax periods, but not after the third one, up to its amount.

5. The benefits provided for by this legislation shall apply to cash contributions entered in the capital stock and in the share or unit premium reserve of high-technology start-ups or of share capital companies mainly investing in high-technology start-ups, also following the conversion of bonds convertible into newly issued shares or units. The set-off of claims when subscribing to capital increases shall also be considered as cash contributions (with the exception of receivables resulting from the disposal of goods or provision of services).

6. In order to determine whether the investment falls within a facilitated tax period, the contributions referred to in paragraph 1 above shall be recorded in the tax period under way on the date of filing for registration in the Company Register of the memorandum of association or of the decision to increase the capital share. Contributions resulting from the conversion of bonds, on the other hand, shall be recorded in the tax period under way on the date of conversion.

7. The benefits provided for by this legislation shall only be entitled provided that investors receive and retain:

- a) a copy of the investment plan of the high-technology start-up, containing detailed information on the purpose of the activity envisaged, the related products, as well as on the current and forecast trend of sales;
- b) for investments in social or energy-related start-ups, a certificate issued by the high-technology start up certifying the purpose of its activity.

8. Entitlement to the benefits referred to in this provision shall cease if, within two years from the date on which the investment is made, the shares received as a result of facilitated investments are sold (in whole or in part), including the acts concerning the creation or transfer of profit participation rights, or the contributions made in other innovative start-ups.

## **Art. 16**

### *(Exemption of capital gains for non-entrepreneurs)*

1. Capital gains of natural persons who are not entrepreneurs resulting from disposal of (qualifying and non-qualifying) participations in high-technology start-ups shall be exempted.

2. The exemption referred to in paragraph 1 above shall also apply to capital gains resulting from disposal of equity financial instruments or equivalent participation agreements related to the same companies.

3. The facilitated scheme referred to in the previous paragraphs shall operate under the following conditions:

- a) the company to which the participations refer is a high-technology start-up;
- b) the capital gains must be reinvested within two years in companies doing the same business and having been established no longer than three years before;
- c) the exemption cannot in any case exceed five times the cost incurred by the company - whose participations have been disposed of - in the five years prior to their disposal, for the acquisition or production of depreciable material goods other than real estate, depreciable immaterial goods, as well as for research and development expenses.



#### **Art. 16 bis**

*(Tax exemption of capital gains in case of disposal of participations in high-technology start-ups to managers)*

1. Capital gains made by anyone and deriving from the disposal of (qualifying and non-qualifying) participations in high-technology start-ups shall not form part of taxable income, as they are entirely exempt from tax, if participations are disposed of to one or more managers employed by the same company, who have held this position for at least twelve months before the disposal of the participations.
2. The exemption referred to in paragraph 1 shall also apply to capital gains resulting from disposal of equity financial instruments or equivalent participation agreements related to the same companies.
3. The facilitated scheme referred to in the previous paragraphs shall also apply to capital gains made by the *managers* referred to in paragraph 1, provided that they have uninterruptedly held the participations in high-technology start-ups for at least twelve months.
4. The facilitated scheme referred to in the previous paragraphs shall operate under the following conditions:
  - a) the company to which the participations refer is a high-technology start-up;
  - b) the capital gains must be reinvested within two years in companies doing the same business and having been established no longer than three years before;
  - c) the exemption cannot, in any case, exceed five times the cost incurred by the company whose participations have been disposed of, in the five years prior to their disposal, for the acquisition or production of depreciable material goods other than real estate, depreciable immaterial goods, as well as for research and development expenses.
5. Disposal of participations in high-technology start-ups shall be exempt from the registration tax and from the formalities for registration provided for by Law no. 99 of 25 July 2003.
6. For the purposes of this decree, the word "*manager*" shall mean the director or executive of a high-technology start-up with decision-making powers on the start-up, and whose decision-making powers are set in a contract duly registered.

#### **Art. 17**

*(Transitional rule)*

1. Until the authority of the Institution managing the Science and Technology Park is established, the tasks and functions attributed to it by this delegated decree shall be carried out by the persons referred to in Article 21, paragraph 2, of Law no. 71/2013.



OTHER LEGISLATION

**LAW NO. 118 OF 28 JUNE 2010**

**LAW ON THE ENTRY AND STAY OF FOREIGNERS IN SAN MARINO**

**Art. 10**

*(Stay permit for employment)*

1. Stay permits for employment shall be issued to foreigners holding a work permit granted by the Labour Office according to the numbers and under the conditions envisaged by the law.
2. Stay permits for employment shall be:
  - a) seasonal with a maximum validity of 12 continuous months, renewable annually on expiry within a maximum period of thirty days. After three continuous renewals, the permit shall be considered as interrupted and the person concerned shall submit a new application;
  - b) temporary with a maximum validity of twelve continuous months, renewable annually on expiry within a maximum period of thirty days. After three continuous renewals, the permit shall be considered as interrupted and the person concerned shall submit a new application;
  - c) special, for San Marino ship crews, with a validity not exceeding the duration of the employment contract, and in any case not exceeding twelve continuous months per year; such permits may be renewed annually;
  - d) special, for nurses working at the State Hospital, with a validity up to twelve continuous months per year; such permits may be renewed annually;
  - e) special, for professors having an employment contract with the University of the Republic of San Marino requiring their weekly repeated presence in the territory, with a validity up to twelve continuous months; such permits may be renewed annually.
- e-bis) special for employees of start-ups and their family members as governed by Law no. 71 of 26 June 2013, by Delegated Decree no.116 of 24 July 2014, Delegated Decree no.10 of 28 January 2015 and by Delegated Decree no.32 of 18 March 2015.
3. Provided that the entry quotas under the delegated decree referred to in Article 19 are met, seasonal stay permits for employment may be issued to foreigners working in the tourist, hotel, commercial and agricultural sectors, who hold an authorisation for employment, granted upon specific request of the employer, to perform specific tasks connected with seasonal needs.
4. Temporary stay permits for employment may be issued to foreigners working in sectors other than those indicated in the preceding paragraph - for example assistance for the elderly, people with disabilities and the family - and established in the delegated decree referred to in Article 19, who hold an authorisation for employment, granted upon specific request of the employer, to perform specific tasks for a limited and fixed period of time.
5. Foreigners holding stay permits for employment shall be treated in the same way and shall have the same rights and duties as San Marino citizens and as resident foreigners with regard to the provision by the Social Security Institute of the following:
  - a) health assistance;
  - b) temporary economic benefits;



- c) life-long economic benefits;
  - d) allowances referred to in Decree no. 15 of 26 April 1976 and subsequent amendments and integrations for dependant family members holding ordinary stay permits.
6. To be issued a stay permit for employment, foreigners shall submit to the Gendarmerie - Foreigners' Office a certified copy of the employer's statement referred to in Article 12, as well as the authorisation for employment.
7. Seasonal or temporary migrant workers shall be required to meet the conditions indicated in the stay permit and to return to their State of provenance upon expiry of such permit. In this case, they shall have a priority right of return to San Marino in the following year for reasons of seasonal or temporary employment compared to citizens of their country who have never regularly entered the territory for employment purposes.
8. Stay permits for employment shall not be issued to cross border workers.



## LAW NO. 71 OF 27 JUNE 2013

### LAW ON SUPPORT TO ECONOMIC DEVELOPMENT

#### Art. 21

#### *(High-technology start-ups)*

1. Companies qualifying as high-technology start-ups, by virtue of the objective and subjective requirements referred to in paragraph 4, shall be recognised as such by the authority of Institution managing the Science and Technology Park, following a specific application submitted by the promoters to the Office for Industry, Handicraft and Trade.
2. Pending the establishment of the authority referred to in the paragraph above, Start-Ups shall be recognized by the coordinators of the project for the creation of the Science and Technology Park referred to in Congress of State Decisions no.41 of 25 February 2013 and no.14 of 18 March 2013.
3. High-technology start-ups shall be exempted from the payment of the general income tax, referred to in Law no. 91 of 13 October 1984 and subsequent amendments, for the five tax years starting from the registration of the start-ups in the Company Register referred to in Law no. 47 of 23 February 2006 and subsequent amendments.
4. In case of high-technology start-ups incorporated in the form of companies with share capital by way of derogation from the provisions of Article 13 of Law no. 47 of 23 February 2006 and subsequent amendments, the share capital shall be fully paid-up within three years from the date of registration in the Register of Companies.
5. The objective and subjective requirements for a company to be classified as high-technology start-up, as well as the persons verifying compliance with these requirements, shall be established by delegated decree. Moreover, for high-technology start-ups, the same delegated decree shall envisage and regulate:
  - a) the issuance of start-up stock options for employees and contract workers;
  - b) a specific type of employment contract, by way of derogation from and as a supplement to Law no. 131 of 29 September 2005;
  - c) tax incentives for investments made by other companies in start-ups;
  - d) tax incentives for private individuals investing in start-ups and maintaining the investment for a minimum specified period;
  - e) tax incentives in case of re-purchase of units by the management or founding members of start-ups, as well as in case of business acquisition by another company in management leveraged buy out operations;
  - f) special stay permits for partners and/or directors and/or employees of start-ups, by way of derogation from Law no. 118 of 28 June 2010.



**LAW NO. 40 OF 31 MARCH 2014**

**REGULATIONS GOVERNING LICENCES TO PERFORM INDUSTRIAL, SERVICE,  
HANDICRAFT AND COMMERCIAL ACTIVITIES**

**ANNEX B**

**Law no. 40 of 31 March 2014 - Regulations governing licenses to perform  
industrial, service, handicraft and commercial activities**

**Art. 2**

The amount of the fees is established as follows:

	Issuance fee	Renewal fee
Sole proprietorships:		
-handicraft, commercial, industrial	€170.00	€80.00
Companies:		
- Credit Institutions	€ 4,000.00	€ 3,500.00
- Financial companies	€ 2,400.00	€ 2,400.00
- Insurance Companies	€ 2,400.00	€ 2,400.00
-Limited liability companies, joint stock companies, unlimited partnerships and other companies	€ 1,700.00	€ 650.00
Associations and legal entities in general, excluding the cooperatives referred to in Law No. 149 of 29 November 1991, as they are exempt	€ 170.00	€ 80.00
The authorisation referred to in paragraph 1 of Article 13	€ 1,700.00	€ 650.00
Permits for street vendors	€ 500.00	€ 500.00
Permits for a fixed period issued under Article 52 of Law n. 7 of 17 February 1961 (for any individual measure):		





- permits for a period less than or equal to 15 days	€ 350.00
- authorisations referred to in Article 13, paragraph 8 for a period between 15 and 30 days	€800.00
- authorisations referred to in Article 13, paragraph 8 for a period between 30 and 180 days	€ 3,400.00

A special fee shall be established, as compensation for the costs incurred in preparing and filing the application to obtain the approval of the Congress of State. Such fee shall amount to Euro 100.00 for natural persons and Euro 250.00 for legal persons. This fee to be paid at the time of submission of the application shall not be reimbursed even in case of rejection of the application. By paying said amount, the stamp duty on documents submitted and issued during such administrative procedure, including the application, shall be considered as paid.

For the purposes of this Annex, unlimited partnerships and one-person limited liability businesses in the craft sector referred to in Articles 7 and 8 of Law No. 10 of 25 January 1990 shall be treated as sole proprietorships in the craft sector.

The activation of a second, third or fourth licence by the same economic operator shall not require the payment of the licence fee, neither at the time of the granting nor annually.

The companies qualified as start-ups pursuant to Article 21 of Law no. 71 of 27 June 2013 shall be exempt from the payment of the licence fee for the first three years after its issuance.



**DELEGATED DECREE NO. 5 OF 22 JANUARY 2016**

**REGULATIONS IMPLEMENTING LAW NO. 118 OF 28 JUNE 2010 AND  
SUBSEQUENT AMENDMENTS, UNDER ARTICLE 46  
OF LAW NO. 118 OF 30 JULY 2015**

**Art. 13**

*(Special stay permit for employees of start-ups and their family members)*

1. Applicants for the special stay permit for employees of start-ups and their family members shall submit a written application to the Gendarmerie - Foreigners' Office presenting the documentation and/or certification requested based on the provisions of Law no. 71 of 26 June 2013, Delegated Decree no. 116 of 24 July 2014, Delegated Decree no. 10 of 28 January 2015, Delegated Decree no. 32 of 18 March 2015 and subsequent amendments.



**DELEGATED DECREE NO. 34 OF 23 MARCH 2017**  
*(Ratifying Delegated Decree no. 107 of 17 August 2016)*

**AMENDMENTS TO DELEGATED DECREE NO. 116 OF 24 JULY  
2014  
RELATED TO HIGH-TECHNOLOGY START-UPS**

**Art. 6**  
(Final provisions)

1. The provisions existing before the amendments made by this delegated decree shall apply to the persons, either legal or natural, having signed the incubation contract before 31 December 2016, without prejudice to their right to opt for the application of the amendments. Opting for the new scheme shall nevertheless involve the application of the provisions referred to in Article 3, paragraph 1 letter f) of Delegated Decree no. 116/2014 and subsequent amendments. This option shall be communicated, under penalty of loss of the right to exercise such option, to the Office for Industry, Handicraft and Trade and to the Techno Science Park San Marino - Italia S.p.A. by 30 April 2017 via registered letter with acknowledgement of receipt.