



REPUBBLICA DI SAN MARINO

DELEGATED DECREE no. 15 of 1 February 2018
(Ratifying the Delegated Decree no. 128 of 31 October 2017)

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

Having regard to the promulgated Delegated Decree no. 128 of 31 October 2017 - Provisions to facilitate repatriation of capital and disclosure of assets held abroad:

Having regard to Article 17 of Law no. 94 of 7 August 2017;

Having regard to Decision no. 5, adopted by the Congress of State during its sitting of 23 October 2017;

Having regard to the amendments to the above-mentioned Decree, which were introduced at the time of its ratification by the Great and General Council in its sitting of 31 January 2018;

Having regard to Decision no. 23 of the Great and General Council adopted on 31 January 2018;

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. 128 of 31 October 2017,

as modified following the amendments approved by the Great and General Council at the time of its ratification:

**PROVISIONS TO FAVOUR THE REPATRIATION OF CAPITAL AND THE
DISCLOSURE OF ASSETS HELD ABROAD**

TITLE I

**PROVISIONS TO FAVOUR THE DISCLOSURE AND THE REPATRIATION OF
FINANCIAL ASSETS AND CAPITAL HELD ABROAD**

CHAPTER I

SCOPE OF APPLICATION

Art. 1

(Purposes)

1. The following provisions shall allow the disclosure of foreign assets or income not declared by taxpayers, also in consideration of information exchange procedures started under the international conventions signed by the Republic of San Marino.

Art. 2

(Subjective and objective scope)

1. This Delegated Decree shall apply to taxpayers who failed, in whole or in part, to submit the income tax return envisaged by Art. 86, paragraph 2 of Law no. 166 of 16 December 2013 and subsequent amendments, or who failed to declare foreign income, whatever the origin, in relation to the tax periods for which the deadlines for the assessment referred to in Article 115 of Law no. 166/2013 and subsequent amendments have not expired.

2. The objective scope of application of this Delegated Decree shall refer to the assets, in any way related to the taxpayer, for which Law no. 166/2013 and subsequent amendments provides for the obligation to declare them in the income tax return, according to the text in force when such declaration was omitted.

Art. 3

(Duration of the procedure)

1. The taxpayers referred to in Article 1 may have recourse to the regularisation or repatriation procedure by submitting the application referred to in Article 10, from the date of entry into force of this Delegated Decree until 31 May 2018, by paying the amounts due within the same deadline. In case of failure to pay within the aforementioned deadline, Article 130 of Law no. 166/2013 and subsequent amendments shall apply.

2. The completion of the regularisation and repatriation procedure shall produce the effects set forth in the subsequent articles.

Art. 4

(Determination of the value of assets held abroad)

1. For the purposes of the regularisation and repatriation of assets held abroad, the value to be indicated in the application referred to in Article 10 shall be:

- a) the normal value of the asset or the costs resulting from the purchase documents in case of buildings, plots of land, aircraft, boats and cars;
- b) the cost of purchase and the value of venture capital contributions to increase the company's assets in case of shares and non-equity participations;
- c) the nominal value in case of sums of money, and the average value of the last quarter in case of financial instruments.

2. In the event that the taxpayer is no longer in possession of the documents relating to the purchase of the assets, by way of derogation from the preceding paragraph, the value at the date of transfer shall be indicated. The value of the assets shall be indicated in the application referred to in Article 10 and any supporting documents shall be kept by the taxpayers and shown to the Tax Office in case of control.

CHAPTER II

PROCEDURES AND ASSOCIATED TAX REGIME

Art. 5

(Modalities for the repatriation of capital or assets held abroad)

1. The regularisation of assets held abroad shall be carried out through the repatriation procedure or the regularisation procedure.

2. *Paragraph deleted*

Art. 6

(Repatriation procedure)

1. The repatriation procedure shall be considered as completed when the taxpayer submits the application referred to in Article 10, pays the amounts due and transfers the assets held abroad to a San Marino bank or other San Marino authorised party under Law no. 165 of 17 November 2005 and subsequent amendments.

The transfer of money shall be deemed completed when the amount of money is credited to a current account opened with a San Marino bank. The transfer of financial instruments held abroad shall be deemed completed upon registration of the transfer to the accounts of the San Marino authorised party under Law no. 165/2005 and subsequent amendments.

2. The financial assets subject to the repatriation procedure shall be transferred to a San Marino authorised party under Law no. 165/2005 and subsequent amendments within sixty days from the date of submission of the application. The transfer of financial assets shall be attested by the taxpayer through a specific declaration.

3. The taxpayer may postpone the repatriation of declared capital for a maximum of 180 days in case of objective and proven impossibility or if such repatriation would cause a significant damage. In this case, the taxpayer shall commit through a specific declaration to meeting the requirements established.

4. Failure to repatriate within the deadlines established shall entail the application of the sanctions envisaged for omitted declaration increased by three times.

Art. 7

(Amounts due for the repatriation)

1. The recourse to the repatriation procedure shall entail the payment of the following amounts: 10% of the amount of undeclared income, for each tax period;

a)

b) 2% of the value of undeclared assets.

2. The sums due under paragraph 1, letters a) and b) may not be set off against any tax credits and cannot be deducted from any tax due by the taxpayer.

Art. 8

(Regularisation procedure)

1. The regularisation procedure shall be considered as completed when the taxpayer submits the application referred to in Article 10, separately indicating the assets held outside the territory of the Republic of San Marino, and pays the amounts due.

Art. 9

(Amounts due for the regularisation)

1. The recourse to the regularisation procedure shall entail the payment of the following amounts:

a) 20% of the amount of undeclared income, for each tax period;

b) 5% of the value of undeclared assets, or 2% in case of immovable property.

2. The sums due under paragraph 1, letters a) and b) may not be set off against any tax credits and cannot be deducted from any tax due by the taxpayer.

CHAPTER III

REQUIREMENTS AND PROCEDURES

Art. 10

(Requirements)

1. In order to have recourse to what envisaged by this Delegated Decree, the taxpayers referred to in Article 2 shall be required to submit to the Tax Office a specific application indicating: the assets held abroad, omitted in the income tax return; the relevant value determined according to the provisions of Article 4; the declaration referred to in Article 6 and the other data provided for in letter M of the income tax return model.

2. If the taxpayer has recourse to the repatriation procedure, the application shall contain a declaration stating the transfer of the assets to a financial intermediary in the Republic of San Marino or the commitment to transfer the money and financial instruments held abroad within the deadline specified in Article 6.
3. The implementing rules and the forms necessary for the enforcement of this Delegated Decree shall be issued by the Tax Office through a circular.

CHAPTER IV

EFFECTS OF THE REPATRIATION AND REGULARISATION PROCEDURES

Art. 11

(Effects of the procedures)

1. Taxpayers who have recourse to the regularisation or repatriation procedures, in relation to income subject to the procedure:
 - a) shall not be subject to tax assessment in relation to the tax periods for which the assessment deadlines have not yet expired on the date of entry into force of this Delegated Decree. This provision shall not apply if, at the date of submission of the application referred to in Article 10, the violations relating to the declaration of assets held abroad have already been established;
 - b) shall not be subject to further administrative and tax sanctions in relation to undeclared assets held abroad. The second sentence of letter a) above shall apply;
 - c) shall not be prosecuted, charged or punished for the offences referred to in Article 389 of the Criminal Code, and for other offences having tax evasion, as referred to in Article 389 of the Criminal Code, as their predicate offence.
2. From the current tax period, individuals who have recourse to this Delegated Decree shall be required to ordinarily declare income deriving from assets held abroad in violation of the provisions of Article 86, paragraph 2 of Law no. 166/2013 and subsequent amendments, which have been obtained from the beginning of said tax period.

Art. 12

(Anti-money laundering controls)

1. Recourse to the repatriation and regularisation procedures shall not exclude the application of anti-money laundering provisions.
2. The controls referred to in Law no. 92 of 17 June 2008 and subsequent amendments and in the Instructions of the Financial Intelligence Agency shall apply also in relation to this Delegated Decree.
3. For the purposes of preventing money laundering and terrorist financing, the application of this Delegated Decree shall not be valid, in any way, to establish the lawfulness of assets or funds, illegally or unlawfully held or established, both in San Marino and abroad.
4. The provisions referred to in Regulation no. 7 of 24 October 2014 shall apply insofar as compatible.

CHAPTER V
FINAL
PROVISION
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Art. 13

(Amendments to Law no. 166/2013 and subsequent amendments)

1. Article 86 of Law no. 166/2013 and subsequent amendments shall be amended as follows:

“Art. 86

(Content of the income tax return)

1. Under penalty of nullity, the income tax return shall be compiled electronically according to the instructions given by the Tax Administration.
 2. Without prejudice to the envisaged control and verification procedures, the income tax return shall be supplemented by a separate attachment containing information on the availability, either direct or indirect also through a third party, of the following:
 - a) tourist aircraft, pleasure boats, motor vehicles, real estate and plots of land, also outside the territory of the State; no obligation to indicate movable and immovable property registered in the public registers of the Republic of San Marino is envisaged;
 - b) company shares or units;
 - c) sums of money, precious metals in the raw state or melted down to produce coins, as well as financial instruments held abroad, the total amount or value of which is higher than € 10,000.00.
 3. The income tax return shall contain the indication of tourist aircraft, pleasure boats, motor vehicles, real estate and plots of land purchased or held under lease during the tax period, specifying the agreed amount and any extended payment terms.
 4. Companies and entities that do not have a registered office or administrative headquarters in the State shall indicate the address of the permanent establishment or, failing this, the personal details and address of their representative in the territory of San Marino.
2. Paragraph 1, letter m) of Article 139 of Law no. 166/2013 and subsequent amendments shall be amended as follows:
- m) violation of the obligations referred to in Article 86, paragraph 2: 15% of the value of undeclared assets. The sanction of 20% shall apply to the undeclared assets the value of which is higher than € 100,000 or € 500,000 in case of immovable property”.

Done at Our Residence, on 1 February 2018/1717 since the Foundation of the Republic

THE CAPTAINS REGENT
(*Matteo Fiorini - Enrico Carattoni*)

THE MINISTER OF
INTERNAL AFFAIRS
Guerrino Zanotti