



# REPUBLIC OF SAN MARINO

The Italian text shall be legally binding

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

*Having regard to Article 4 of Constitutional Law no. 185/2005 and to Article 6 of Qualified Law no. 186/2005;*

*Promulgate and make public the following Ordinary Law approved by the Great and General Council in its sitting of 2 June 2010:*

**LAW NO. 99 OF 7 JUNE 2010**

## **RULES FOR THE PREVENTION OF TAX EVASION THROUGH THE USE OF FORGED DOCUMENTS AND INTRODUCTION OF “CRIMINAL CONSPIRACY” AS AN AGGRAVATING CIRCUMSTANCE**

### TITLE I

#### RULES FOR THE PREVENTION OF TAX EVASION THROUGH THE USE OF FORGED DOCUMENTS

##### **Art. 1**

*(Definitions)*

1. For the purposes of this Law:
  - a) the expression “invoices or other documents for non-existing operations” means invoices or other documents having similar probative value, which have been issued for non-existing operations or services not actually rendered, either completely or partially, or which indicate amounts different from the real ones, which show that the operation is related to persons other than the real ones, or which describe operations and services other than those actually carried out;
  - b) the “purpose of evading taxes” and the “purpose of enabling third parties to evade taxes” respectively include also the purpose of obtaining an undue refund or the recognition of a non-existing tax credit, and the purpose of enabling third parties to obtain them. If the fact is committed by the director, liquidator or representative of companies, bodies or individuals, the “purpose of evading taxes” and the “purpose of avoiding payment” refer to the company, body or individual on whose behalf the interested person is acting;
  - c) the use of invoices or other documents for non-existing operations occurs when these invoices or documents are entered in the mandatory accounting records, are kept or submitted in evidence against the financial administration, or are issued to third parties;

- d) the term “taxpayer” means the taxable person required by law to pay taxes, duties and charges, as well as to fulfil all obligations envisaged by tax rules;
- e) only for the purposes of this Law, the conditions of criminal liability and admissibility provided for in Articles 199 bis, paragraph 3, 388 and 389 of the Criminal Code shall not apply;
- f) in case of issuance or use of invoices or other documents for non-existing operations or services, the reservation clause contained in Article 199 bis of the Criminal Code shall not apply (“apart from cases of complicity in the offence”).

#### **Art. 2**

*(Use and issuance of invoices for non-existing operations or services)*

1. Anyone issuing or using invoices or other documents for non-existing operations or services shall be punished with second degree imprisonment and first degree daily fine, as well as with second degree interdiction from professional or artistic activity.

#### **Art. 3**

*(False statement through the use of forged invoices)*

1. Anyone who, for the purpose of evading taxes, duties and charges, or for the purpose of enabling third parties to evade such taxes, submits false statements to the Financial Administration through the use of the invoices and documents referred to in Article 2 of this Law shall be punished with second degree imprisonment and with second degree daily fine, as well as with third degree interdiction from professional or artistic activity.

#### **Art. 4**

*(Voluntary settlement through payment)*

1. Without prejudice to the case provided for in paragraph 3 of this Article, the Judge shall apply, instead of the punishments envisaged for the crimes specified in Articles 2 and 3 above, from first to third degree daily fine and shall admit, upon request, voluntary settlement extinguishing the crime under Article 69 of the Criminal Code.
2. The term for the payment of the sum fixed by the Judge under Article 69, paragraph 2 of the Criminal Code shall not be less than 30 days. In case of non-payment within the fixed term, the Judge shall commit for trial.
3. Voluntary settlement cannot be agreed in case of relapse into crime under Article 91 of the Criminal Code, and when the amounts specified in the document referred to in Articles 2 and 3 exceeds €25,000.00.

#### **Art. 5**

*(Communications to the Tax Office)*

1. If any violation of Articles 2 and 3 is identified, Police Forces shall provide the Tax Office with any useful information to assess revenue taxes and to apply any administrative sanctions falling within the competence of said Office.

TITLE II  
AMENDMENTS TO THE CRIMINAL CODE

**Art. 6**  
*(Criminal conspiracy)*

1. After paragraph 2 of Article 287 of the Criminal Code, the following paragraph shall be introduced:

“The prison sentence shall be increased by two degrees if, for the purpose of committing offences, acquiring, either directly or indirectly, the management or, in any case, the control of economic activities, licenses, authorizations, public contracts and services, or obtaining illegal profits or advantages for themselves or others, the associates avail themselves of the power of intimidation related to the association bond and the resulting condition of subjection and silence to commit offences.”.

TITLE III  
FINAL PROVISIONS

**Art. 7**  
*(Repeal)*

1. Any provision contrary to this Law shall be repealed.

**Art. 8**  
*(Entry into force)*

1. This Law shall enter into force on the 5<sup>th</sup> day following that of its legal publication.

*Done at our Residence on 7 June 2010/1709 since the Foundation of the Republic*

THE CAPTAINS REGENT  
*Marco Conti – Glauco Sansovini*

THE SECRETARY OF STATE  
FOR INTERNAL AFFAIRS  
*Valeria Ciavatta*