



REPUBLIC OF SAN MARINO

REGULATION no. 7 of 29 November 2013

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

Having regard to Article 8 of Delegated Decree no. 89 of 23 July 2013;

Having regard to Congress of State Decision no. 14, adopted during its sitting of 26 November 2013; Having regard to Article 5, paragraph 5 of Constitutional Law no. 185/2005 and to Article 13 of Qualified Law no. 186/2005;

Promulgate and order the publication of the following Regulation:

**REGULATION IMPLEMENTING ARTICLE 8 OF DELEGATED DECREE NO. 89
OF 23 JULY 2013 - PROVISIONS IMPLEMENTING ARTICLE 33,
PARAGRAPH 1 OF LAW NO. 150 OF 21 DECEMBER 2012 ON "INSURANCE
TAX"**

**TITLE I
GENERAL PROVISIONS**

Art. 1
(Sources of law)

1. This Regulation shall be adopted pursuant to Article 8 of Delegated Decree no. 89 of 23 July 2013.

Art. 2
(Definitions)

1. For the purpose of this Regulation,
 - a) "Delegated Decree": Delegated Decree no. 89 of 23 July 2013 introducing the tax on non-life insurance;
 - b) "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 Law on companies and banking, financial and insurance services (LISF) and subject to the supervision of the Central Bank of the Republic of San Marino;
 - c) "foreign insurance company": a company authorised in its home country to carry out insurance and/or reinsurance activity;
 - d) "San Marino insurance intermediary": an economic operator (natural person, sole proprietorship or company) professionally engaged in the activity of insurance mediation

referred to in Article 26 of the LISF and is registered in the Register of Insurance and Reinsurance Intermediaries pursuant to Article 27 of the LISF;

- e) "LISF": Law no. 165 of 17 November 2005;
- f) "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 the Delegated Decree and deriving from the application of the tax on non-life insurance;
- g) "Tax Office": Tax Office of the Republic of San Marino

TITLE II

RULES GOVERNING THE MODALITIES FOR DRAWING UP, KEEPING AND MAINTAINING THE PREMIUM REGISTER

Art. 3 *(Tax representative)*

1. Foreign insurance companies registered in the list referred to in Article 31 of Regulation no. 02/2007 issued by the Central Bank of the Republic of San Marino, shall appoint a tax representative, pursuant to Article 3, paragraph 1 of the Delegated Decree, who shall draw up, keep and maintain the premium register, and fulfil reporting and payment obligations provided for by this Regulation.

Art.4 *(Keeping of the premium register)*

1. San Marino and foreign insurance companies, registered in the list referred to in Article 31 of Regulation no. 02/2007 issued by the Central Bank of the Republic of San Marino, as well as tax representatives shall keep the premium register referred to in Article 7 of the Delegated Decree in paper and/or electronic format, in such a way as to ensure the timeliness, completeness and continuity of the records, the impossibility of modifying or deleting records without keeping track of the interventions made, and the tracking of the historical and chronological series of records.
2. The entries in the premium register of the tax representative shall be in line with the entries in the same register kept by the represented insurance company, with respect to insurance contracts subject to the tax referred to in Article 2 of the Delegated Decree.

Art.5 *(Drawing up of the premium register)*

1. The recording of each individual payment shall be made separately for each policy and for each of the insurance categories belonging to non-life insurance, distinguishing between taxable amounts and exempt amounts related to insurance and reinsurance contracts.
2. The following shall be indicated in the register for each collected amount, according to the model in Annex sub "A" to this Regulation :
 - a) San Marino insurance agency, office or intermediary with which the item is registered;
 - b) the number(s) of the policy, certificate or appendix to which the item relates;

- c) the date of the policy, when the numbers are not sufficient to identify it;
 - d) the month(s) of expiry of the arrears, current or advance premium instalments that, with respect to each continuous policy, are subsequent to the first. When the month is not in the current year, the year shall also be indicated;
 - e) the period of time to which the payment of premiums relates in the case of subscription policies, in respect of which the payment of premiums is made by periodic accounts;
 - f) the month in which the payment was made by the policyholder; When the month is not in the current year, the year shall also be indicated;
 - g) the amount collected for premium and any options;
3. The items must be entered in the register no later than the month following the quarter in which the policyholder made the payment, breaking them down into each San Marino insurance agency, office or intermediary and by periods of time for each of which the agents or other persons in charge report their accounts to the insurance company, without the need, with respect to the total, to follow the strict chronological order of said periods of time.
4. Items paid directly at the headquarters of the insurance company that are not registered with any agency or office shall be registered in order of month.
5. Moreover, amounts relating to newly issued policies and amounts relating to policies already issued may be kept in two separate registers.
6. The registered items shall be added at the end of each quarter of the financial year and the calculation shall be made at the end of each financial year by a declaration, dated and signed by the insurance company and the tax representative, stating the total amount, to be indicated in all letters, of premiums and options entered for each column of the register.
7. The amounts collected in the last quarter of the financial year that could not be entered in the register during the last quarter may be entered in the register within three months following the end of the financial year. The operations referred to in the preceding paragraph shall also be carried out for these items.
8. If several separate registers are kept, the items in each of them shall be added and the calculations shall be made as above, and the respective total amounts shall be indicated and summarised in one of these registers, with the declaration referred to in paragraph 6 above for the cumulative amount of each column of these registers.
9. Failure to comply with the obligations set forth in the preceding paragraphs shall entail the application against San Marino insurance companies and tax representatives by the Tax Office of the administrative pecuniary sanctions provided for in Article 10, paragraph 1, letters b), c) and e) of the Delegated Decree.

Art.6

(Maintenance of the premium register)

1. The premium register shall be kept at the headquarters of the San Marino and foreign insurance company and at the residence or headquarters of the tax representative.
2. This register shall be maintained for five years, to be counted from the end of the financial year to which it relates.
3. Likewise, San Marino and foreign insurance companies shall maintain the original policies relating to taxable insurance for five years from the day they ceased to have effect, . The tax representative shall maintain copies of the policies.
4. Violations of the obligations set forth in paragraphs 1, 2 and 3 shall entail the application against San Marino insurance companies and tax representatives by the Tax Office of the administrative pecuniary sanctions provided for in Article 10, paragraph 1, letters a) and f) of the Delegated Decree.

Art.7

(Obligation to submit the premium register)

1. San Marino insurance companies and tax representatives shall submit to the Tax Office, at any request, the premium register and allow its examination and the verification of its correspondence to the policies, receipts and all other documents, as well as to the reports referred to in Article 9 of the Delegated Decree.
2. If requested, they shall also provide the Tax Office with the indications and elements necessary to establish, both that the premium register corresponds to the aforementioned records and other documents, and that, for each policy, the premiums paid are duly entered in that register.
3. In the event of refusal to comply with the obligations set forth in paragraphs 1 and 2 above, the Tax Office shall apply to San Marino insurance companies and tax representatives the administrative pecuniary sanction set forth in Article 10, paragraph 1, letter d) of the Delegated Decree.

TITLE III

VERIFICATION AND CONTROL ACTIVITIES BY THE TAX OFFICE

Art.8

(Competences of the Tax Office)

1. Pursuant to Article 11 of the Delegated Decree, the Tax Office shall carry out the control and verification activities on the fulfilment of the obligations provided for by the Delegated Decree deriving from the application of the non-life insurance tax by San Marino and foreign insurance companies as well as by the tax representatives.
2. The control and verification activity on the compliance of foreign insurance companies with their obligations shall be carried out on the basis of the information, available from time to time, received in any capacity by the Tax Office.
3. The latter shall also be responsible for the application of the administrative pecuniary sanctions provided for in Article 10 of the Delegated Decree in the event of violation of the provisions contained therein and in this Regulation.

TITLE IV

FULFILMENTS FOR THE APPLICATION OF THE TAX REFERRED TO IN ARTICLE 2 OF THE DELEGATED DECREE

Art. 9

(Procedure for submitting the report referred to in Article 9 of the Delegated Decree)

1. The report, referred to in Article 9 of the Delegated Decree, shall be submitted by San Marino insurance companies and tax representatives, by electronic means, to the Tax Office by 31 May of each year. Upon submission of the report, San Marino insurance companies and tax representatives shall pay any tax adjustment.
2. In the event of delay, failure to file the report within the time limit referred to in the first paragraph, or inaccurate report, the Tax Office shall apply to San Marino insurance companies and tax representatives the sanctions provided for in Article 10, paragraph 1, letters g) and h) of the Delegated Decree.

Art. 10

(Modalities of payment of the tax)

1. San Marino insurance companies and tax representatives shall pay the tax referred to in Article 2 of the Delegated Decree to the Tax Office by the end of the calendar month following the previous quarter in which the premiums, options and any adjustments were collected.
2. Foreign insurance companies, not authorised to conclude non-life insurance contracts covering risks situated in San Marino, 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 of the tax 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.
3. In the event of late or non-payment of the tax or underpayment, the Tax Office shall apply to San Marino insurance companies, foreign insurance companies not authorised to conclude insurance contracts covering risks situated in San Marino, and to tax representatives the administrative pecuniary sanction provided for in Article 10, paragraph 1, lett. i) of the Delegated Decree.
4. In the event of delay, failure to submit the report within the time limit referred to in the second paragraph, or inaccurate report, the Tax Office shall apply to foreign insurance companies the sanctions provided for in Article 10, paragraph 1, letters g) and h) of the Delegated Decree.

Art. 11

(Assignment of the economic operator code)

1. Tax representatives of foreign companies and foreign companies not registered in the list referred to in Article 31 of Regulation no. 2 of 2007 shall apply to the Office for Industry, Handicraft and Trade for the assignment of an economic operator code in order to be able to comply with the obligations laid down in the Delegated Decree.
2. The tax representative shall submit the application referred to in the preceding paragraph to the Office for Industry, Handicraft and Trade after having been entered in the register referred to in Article 12 below.

TITLE V

RULES GOVERNING THE REGISTER OF TAX REPRESENTATIVES AND ETHICAL-PROFESSIONAL REQUIREMENTS

Art. 12

(Establishment of the Register of Tax Representatives)

1. A register of tax representatives, kept at the Central Bank of the Republic of San Marino, shall be established. The tax representatives appointed by foreign insurance companies authorised to conclude insurance contracts covering risks situated in San Marino shall be registered therein.

2. Entry in the register referred to in the preceding paragraph shall be carried out upon application made by the foreign insurance company to the Central Bank of the Republic of San Marino, accompanied by the act of appointment of the tax representative, in original or certified copy.

3. The appointment of the Tax Representative shall result from a public deed or an authenticated private deed drawn up by a San Marino notary public, or by a deed authenticated by a foreign notary public adhering to the Hague Convention of 5 October 1961, bearing the “Apostille” stamp or diplomatic legalisation.

Art. 13

(Ethical-professional requirements of the tax representative)

1. The tax representative shall meet at least one of the following requirements:
 - a) be entered in the Register of Insurance and Reinsurance Intermediaries provided for in Article 27 of the LISF;
 - b) be entered in the Register of Certified Accountants and Accounting Experts of the Republic of San Marino;
 - c) be entered in the Professional Register of Lawyers and Notaries of the Republic of San Marino;
 - d) be entered in the Register of Auditors pursuant to Law no. 146 of 27 October 2004.
2. The tax representative, to comply with the provisions of the Delegated Decree, shall meet the ethical and professional requirements deriving from the inclusion in the public Registers referred to in the first paragraph.

TITLE VI

TRANSITIONAL AND FINAL PROVISIONS

Art. 14

(Provisions relating to the 2013 financial year)

1. For premiums and options collected by taxable persons from the entry into force of this Regulation until 31 December 2013, the relevant items shall be entered in the register referred to in Article 5 no later than the month following the first quarter of 2014, together with the items relating to said quarter. The 2013 items shall therefore be included in the total amount related to the 2014 financial year, and no totalisation shall be carried out for the 2013 financial year.
2. Premiums and options collected by taxable persons from the entry into force of this Regulation until 31 December 2013 shall be included in the report referred to in Article 9 of the Delegated Decree relating to the 2014 financial year.
3. The payment of the tax referred to in the preceding paragraph shall be made separately from the payment concerning the premiums and options collected in the first quarter of 2014, albeit together with the amount due for the aforementioned quarter of 2014.
4. For taxable persons who are involved in merger operations during the period from the entry into force of this Regulation until 31 December 2013, the acquiring company may take over the obligations of the company being acquired as set forth in the preceding paragraphs, as well as the payment of the related tax as provided for in Article 15 of the Delegated Decree. In this case, the acquiring company shall therefore be entitled to keep a single register, make a single payment and submit a single report with regard to the premiums and options collected by both the acquiring company and the company being acquired during the aforementioned period of the 2013 financial year.
5. By way of derogation from Article 10 of this Regulation, foreign insurance companies, which are not authorised to conclude insurance contracts covering risks situated in San Marino, shall pay by 31 May 2014 the tax due on premiums collected from the entry into force of this Regulation until 31 December 2013.

Upon payment, they shall submit a report on the total amount of premiums and options collected, in accordance with procedures to be defined by the Tax Office.

Art. 15
(Issuance of circulars)

1. By 31 March 2014, the Tax Office shall define, by means of special circulars, the modalities to fill in the report of the total amount of the premiums referred to in Articles 9 and 10 of this Regulation, as well as the technical specifications to keep, maintain and transmit data through computer media.
2. Furthermore, the Tax Office may issue circulars implementing this Regulation and supplement and/or amend Annex sub "A" referred to in Article 5 of this Regulation.

Art. 16
(Entry into force)

1. This Regulation shall enter into force on 1 December 2013.

Done at Our Residence, on 29 November 2013/1713 since the Foundation of the Republic.

THE CAPTAINS REGENT
Gian Carlo Capicchioni - Anna Maria Muccioli

THE MINISTER OF
INTERNAL AFFAIRS
Gian Carlo Venturini

Annex sub “A”

NON-LIFE INSURANCE														REINSURANCE			
San Marino Insurance Agency Office Intermediary	Date of registration of premiums collected			Number/s of Policy Certificate or appendix	Instalment date	Period of time for subscription policies				Payment date	Taxable premiums		Exempt premiums	Agreement or Contract	Taxable Premiums		
						From		To			Amount of premiums and options	Tax amount	Amount of premiums and options		Amount of premiums and options	Tax amount	
	Day	Month	Year			Month	Year	Month	Year								
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	
1st quarter of financial year																	
2nd quarter of financial year																Total	
3rd quarter of financial year																Total	
4th quarter of financial year																Total	
Financial year supplement																Total	
Note: This table for the registration of premiums contains the minimum set of information that insurance companies shall include in their premium registers.																	OVER OF THE YEAR
This table may be adapted by insurance companies according to their needs, provided that the above-mentioned minimum information is included.																	