

San Marino

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Taxation of companies and other entities in San Marino

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General aspects

Companies are subject to a general income tax. Social security contributions are also due by companies. There is no VAT system, but a tax on the import of goods is applied.

The currency is the euro.

In San Marino applies income tax on corporate profits of resident companies. However, their distributed dividends are exempt from both withholding tax and income tax.

Income tax is levied on the following entities:

- joint-stock companies (SpA);
- joint-stock companies with bearer shares (SA);
- limited liability companies (Srl);
- trusts; and
- other legal entities.

All partnerships (commercial and non-commercial), including partnerships limited by shares, are treated as transparent entities and are not subject to income tax. In such a case, the income of the entity is attributed directly to the beneficiaries.

Non-resident companies and other legal entities of every kind (excluding partnerships) are subject to general income tax on income derived from San Marino.

Resident companies and other entities are those which for the greater part of the tax year have had their legal seat or place of effective management in San Marino. The place of incorporation is not relevant.

All income derived by companies subject to general income tax is considered business income. The taxable base is the worldwide income shown in the profit and loss account prepared for the relevant tax year according to company law rules and adjusted according to tax law provisions.

The main type of exempt income is dividends. In addition, the income of trusts is exempt for 90%, but no deductions are allowed. Foundations and other non-profit organisations are tax exempt.

Dividends paid by resident companies to other companies, either resident or non-resident, are not subject to withholding tax.

Capital gains relating to assets used in a business activity must be included in business income.

Under the participation exemption regime, gains on the alienation of shares, financial instruments assimilated to shares and interests in resident or foreign companies or partnerships are exempt. The exemption applies, provided the participation has been held at least for one year. No minimum holding is required. A taxpayer must file a special application with the tax authorities before the beginning of the tax period during which exemption is to be claimed.

If the above conditions are not met, the disposal generates gross receipts, which are taxable as ordinary income.

A withholding tax of 13% applies to interests paid by resident companies (other than banks and financial institutions, see below), permanent establishment of foreign companies, businesses and professionals to resident companies. The withholding tax is reduced to 10% on interests from bonds and other securities issued by resident companies (other than banks and financial institutions) under San Marino law and with duration exceeding 36 months.

An 11% withholding tax rate applies to interest paid by Sammarinese banks and financial institutions to resident companies unless any of the following lower rates applies:

- 5% on repurchase agreement transactions regarding any type of securities;
- 5% on interest on Certificates of Deposits (CDs) with duration not exceeding 18 months;
- 4% on interest on CDs with duration exceeding 18 months; and

- 4% on interest on bonds issued by the bank or financial institution.

No withholding tax is applied when interest is paid to a bank or financial institution.

The tax withheld is creditable against the recipient's general income tax liability.

Royalties paid by resident companies to other resident companies are not subject to withholding tax (they are, however, subject to general income tax).

Intellectual property holding companies

Companies holding exclusively intellectual property can increase the value of the IP assets up to their market value; 95% of such increase can be depreciated, provided that a reserve is created for this amount. Only 30% of such reserves is taxed when distributed to the shareholders.

Companies providing intra-group services

Companies providing certain services (as defined by the law) to non-resident companies that belong to their group are granted a 95% exemption for the income generated by such activity, provided that a reserve is created for this amount. Only 30% of such reserves is taxed when distributed to the shareholders. A group may consist of affiliated companies or partnerships.

No withholding tax applies when the resident company pays income to other companies of the group, when the intra-group tax incentives apply.

Dividends received by resident companies from other resident companies are exempt from tax.

International aspects

A resident company is subject to general income tax on its worldwide income. There are no special rules for the taxation of foreign business income and foreign capital gains.

Foreign dividends and capital gains on shares in non-resident companies are exempt from income tax, if the shares are held for at least one year. No minimum holding is required. A taxpayer must file a special appli-

cation with the tax authorities before the beginning of the tax period during which exemption is to be claimed.

To avoid international double taxation an ordinary foreign tax credit is granted. The credit is calculated on a per-country basis.

In general, the tax credit covers only direct foreign taxes, i.e. withholding taxes and taxes on business income.

Non-resident companies are those which for the greater part of the tax year have not had their legal seat or place of effective management in San Marino.

Non-resident companies are subject to Sammarinese tax only on income derived from San Marino. Business income is taxable in San Marino only if derived through a permanent establishment or on behalf of a Sammarinese resident. If a permanent establishment exists, all Sammarinese-source income is taxable under a force-of-attraction principle. Income is taxed according to the same rules as those applicable to resident companies.

If a non-resident company does not have a permanent establishment it is taxed separately on any source of income.

Interest and royalties paid by Sammarinese resident companies to non-resident companies without a permanent establishment in San Marino are normally subject to a final withholding tax.

Dividends are not subject to any income or withholding tax.

In general, deductible interest payments to non-residents are subject to withholding tax at the rates applicable to interest paid to residents. In the case of non-resident recipients, the withholding tax is final.

No withholding tax is levied on interest paid to a foreign bank, financial institution or investment fund.

Royalties paid to non-resident companies are subject to a 15% final withholding tax levied on the gross amount.

Consideration for professional services provided by foreign companies are subject to 15% withholding tax.

No branch profits tax is levied in San Marino.