



REPUBLIC OF SAN MARINO

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;

Hereby promulgate and order the publication of the following Ordinary Law, approved by the Great and General Council during its sitting of 24 November 2021:

LAW n. 192 of 26 November 2021

DISPUTE RESOLUTION MECHANISMS RELATED TO TAX TREATMENT - MUTUAL AGREEMENT PROCEDURES (MAP) PURSUANT TO DOUBLE TAXATION AGREEMENTS AND TO TAX INFORMATION EXCHANGE AGREEMENTS

Art. 1

(Subject matter and scope)

1. Considering the need for the Republic of San Marino to adapt its legal system to the best international practices (and, in particular, to Action 14 of the Action Plan on Base Erosion and Profit Shifting, "Making Dispute Resolution Mechanisms More Effective") and, in particular, the need to make the dispute resolution mechanism referred to in Article 25 of the OECD Model of the International Convention on Double Taxation more effective and, consequently, to:

- adopt measures aimed at making the implementation of mutual dispute resolution mechanisms between the Republic of San Marino and the Contracting States more effective;

- implement minimum standards to ensure the effective application of these mechanisms;

this Law shall lay down the rules on mutual agreement procedures that can be activated pursuant to international conventions for the avoidance of double taxation on income and capital stipulated between the competent authority of San Marino and the competent authorities of the other Contracting States.

The bilateral Conventions for the avoidance of double taxation on income and capital are the legal basis for the activation of the mutual agreement procedures governed by this Law.

2. This Law shall also govern:

- the implementation of the obligations resulting from mutual agreement procedures by the Republic of San Marino, in accordance with the principle of good faith, and the compliance with the deadlines set by the OECD to resolve disputes through mutual agreement procedures;

- the implementation and improvement of administrative processes aimed at preventing and resolving disputes arising from international tax conventions within the time frame set by the OECD;

- access to mutual agreement procedures to resolve disputes among States by all taxpayers whenever appropriate circumstances arise.



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Art. 2

(Definitions)

1. For the purposes of this Law:
 - a) "competent authority" shall mean the competent authority of the State concerned;
 - b) "competent court" shall mean the court or other competent body of the Contracting State concerned;
 - c) "double taxation" shall mean the application of the taxes covered by an agreement or convention referred to in Article 1 of this Law to the same taxable income or capital by the Republic of San Marino and by one or more States, resulting in:
 - 1) an additional taxation;
 - 2) an increase in taxes due;
 - 3) the elimination or reduction of losses that could be used to offset taxable profits;
 - d) "person concerned" shall mean any person who is resident for tax purposes in the territory of the State or in another State and whose taxation is directly involved in a dispute;
 - e) "dispute" shall mean an action or other document or equivalent measure which gave rise or could give rise to double taxation;
 - f) "dispute resolution procedure with an independent opinion" shall mean a procedure ending with the adoption of an opinion by the Advisory Commission or the Alternative Dispute Resolution Commission based on an analysis of facts and legal sources applicable to the dispute;
 - g) "dispute resolution procedure with final offer" shall mean a procedure ending with an opinion adopted by the Alternative Dispute Resolution Commission based on one of the proposals made by each competent authority involved in the dispute.
2. The competent authority of the Republic of San Marino shall be the Ministry of Finance and Budget, represented by the Department of Finance and Budget and the Organisational Units related to it, pursuant to Law no. 188 of 5 December 2011 and subsequent amendments.
3. The competent court for the Republic of San Marino shall be the Court of the Republic of San Marino.
4. Unless the context otherwise requires, the terms not specified by this Law shall have the same meaning as in the relevant Agreement or Convention for the avoidance of double taxation on income and capital to which San Marino is a party, which is applicable as of the date of the first notification of the action that has given rise or is likely to give rise to a dispute. In the absence of a definition under such agreement or convention, an undefined term shall have the same meaning as in the domestic law of the State concerned for the purposes of the taxes to which such agreement or convention applies. Any meaning given to such term by the applicable tax laws of that State shall prevail over the meaning given to the same term by other laws of that State.

Art. 3

(MAP requests)

1. The persons concerned shall file a MAP request dealing with an action resulting in taxation not in accordance with the Convention to the competent authority of the Republic of San Marino and to the competent authority of the other States concerned.
2. The request referred to in paragraph 1 of this article shall be filed within three years from the first notification of the action or other equivalent document, or from the date of adoption of the measure or from the date the action giving rise to, or liable to give rise to taxation not in accordance with the Convention is applied, including in connection with the adjustment of profits of associated enterprises. For this purpose, the persons concerned shall refer to the domestic law of the State, which adopted the action or issued other equivalent document or measure. In case of filing a MAP request following the delivery of a tax assessment report, the three year period shall start from the notification of the subsequent application of the tax measure, if any.



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3. A MAP request shall not be prevented from being filed in accordance to paragraph 1 of this Article by tax administration procedures establishing a tax to be final and shall not require domestic court proceedings to be previously initiated.

4. If a final judgement is passed prior to the mutual agreement procedure, the San Marino competent authority shall simply notify the other competent authority of the outcome of the judgement. In such a case, if the judgement does not result in the elimination of double taxation, double taxation shall continue to exist unless the competent authority of the other Contracting State conforms its position to the decision expressed by the national court. On the contrary, if competent authorities reach an agreement eliminating double taxation before the delivery of a final judgement, a necessary precondition for the performance of the MAP is the acceptance of its contents and a judicial claims waiver by the taxpayer.

5. Taxpayers shall have the possibility to propose the suspension of the judicial proceedings pending the implementation of a MAP.

6. In the event of an adjustment made in the other Contracting State, the proceedings that has been possibly initiated and is pending in the other Contracting State shall not hinder the filing and continuation of a MAP, if the competent authority of the other contracting State agrees thereto.

7. Filing a MAP request shall not prevent involved taxpayers from having access to the legal remedies available under domestic laws, in accordance with national provisions.

8. MAP requests may be filed both with the competent authority of the Republic of San Marino and with the competent authority of the other States concerned and shall provide the same information and the name of the States concerned.

9. The request filed with the competent authority of the Republic of San Marino shall be drawn up in Italian or, if drawn up in another language, shall be accompanied by an official translation into Italian. The documents attached to the request shall be accompanied by a translation into Italian or English, alternatively. This shall be without prejudice, however, to the right of the competent San Marino authority to request an official translation into Italian of such documentation, where deemed appropriate.

10. The competent authority of the Republic of San Marino shall acknowledge receipt of the request within sixty days from the date of its receipt, and within the same period, shall inform of the receipt the competent authority of the other States concerned.

11. Each competent authority of the States concerned shall inform the other competent authorities of the language or languages they intend to use in their communications.

12. The request shall be drawn up on plain paper and delivered by hand, or sent by registered post with acknowledgement of receipt, or transmitted by the qualified electronic certified delivery service referred to in Delegated Decree no. 92 of 26 July 2018, to the Ministry of Finance and Budget of the Republic of San Marino.

13. The request shall contain the following information:

- 1) name, surname, address, tax identification number and other information necessary for the identification of the taxpayer filing the request;
- 2) name, surname, address, tax identification number and other information necessary for the identification of additional taxpayers concerned, residing in the other Contracting States;
- 3) the tax periods concerned;
- 4) detailed information concerning:
 - a) facts and circumstances of the specific case, including details of the structure of the transaction and the relationship between the persons involved (meaning any person who is resident for tax purposes in San Marino or in the other Contracting State to the bilateral convention and whose taxation is directly involved in a dispute);
 - b) the nature and date of the action or other document or equivalent measure which gave rise or is likely to give rise to double taxation (i.e. the "dispute"), including, where appropriate, the details of the income received in San Marino or in the other Contracting State and of the inclusion of such income in the taxable



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- income in San Marino or in the other Contracting State;
- c) taxes levied or payable on such income in the domestic legal system or in the other Contracting State;
- d) relevant amounts in the currencies of the Contracting States;
- 5) a copy of any supporting documents relating to the information referred to in point (3);
- 6) the applicable national and treaty provisions;
- 7) the following additional information together with a copy of any supporting documents:
- a) an explanation of the reason why the requesting taxpayer believes a dispute has arisen;
- b) details of any requests, suits and appeals initiated with respect to the dispute and any judgements or decisions of the judicial bodies relating to that dispute in both the Republic of San Marino and the other Contracting State;
- c) a declaration of a commitment by the taxpayer to reply as completely and rapidly as possible to the requests received from the competent authority during the mutual agreement procedure and to make available any additional documents that may be necessary for the purposes of preliminary investigation;
- d) a copy of the tax assessment notice, audit report or other equivalent document showing the dispute and a copy of any other document issued by the Tax Office or the tax administration of the other Contracting State, where relevant;
- 8) indication of the taxpayer's residence or of the person authorised to accept service, where communications from the tax authorities are to be served;
- 9) a statement in lieu of an affidavit, to be made pursuant to Law no. 159 of 5 October 2011, declaring that all information and documents provided together with the request are true;
- 10) information concerning any other MAP request submitted in accordance with International Agreements and Conventions on double taxation entered into by San Marino, as well as the commitment from the people concerned not to pursue the ongoing proceedings started on the same dispute following the aforementioned filing of a mutual agreement procedure.
14. Should the people concerned decide to withdraw the MAP request they have filed, they shall simultaneously notify it in writing to the competent authority of the Republic of San Marino and all competent authorities of the States concerned. Such notification shall terminate all procedures under this Law with immediate effect. The competent authority of the Republic of San Marino, upon receipt of such notification, shall promptly inform the competent authorities of the other States concerned that the procedures have been terminated.
15. Within sixty days of receipt, the competent authority of the Republic of San Marino shall notify the requests filed pursuant to paragraph 13 to all competent authorities of the States concerned.

Art. 4

(Investigation procedure)

1. The competent authority of the Republic of San Marino may ask the person concerned for specific additional information, within 90 days from the date of receipt of the request, if it considers it necessary for the purposes of investigation.
2. The persons receiving the request from the competent authority of the Republic of San Marino shall reply within ninety days from the date of its receipt and shall transmit a copy of the reply to the competent authorities of the other States concerned.
3. Within one hundred and eighty days from the date of receipt of the MAP request or within one hundred and eighty days from the date of receipt of the information referred to in paragraph 1 of this Article, if any, the competent authority of the Republic of San Marino shall assess whether the subjective and objective requirements to initiate a mutual agreement procedure have been met. In particular, it shall verify whether the applicant correctly considers that the actions of one or both States have resulted or will result in taxation not in accordance with the Convention. If a MAP concerns the refund of taxes levied in breach of



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the provisions of the Convention, San Marino Tax Office shall verify whether the request meets the admissibility requirement - including whether a request for refund has been validly filed and a decision of denial has been received or the time-limits laid down for the implied decision of rejection have elapsed. If the request is found to be admissible and well founded, the competent authority of the Republic of San Marino may decide, if the relevant conditions are met, to resolve the dispute unilaterally, without involving the other competent authorities of the States concerned and shall promptly inform the persons concerned and the competent authorities of the other States thereof. In this case, the procedure provided for in this Law shall not be followed.

Art. 5

(Decision of the competent authority on the MAP request)

1. The competent authority shall decide whether to accept or reject the MAP request if it deems the request admissible or inadmissible, respectively, within one hundred and eighty days from the date of receipt of the request, or within one hundred and eighty days from the date of receipt of the information referred to in Article 1, paragraph 4, and shall promptly notify the persons concerned and inform the competent authorities of the other States involved thereof.
2. A MAP request may be rejected in the following cases:
 - a) the request does not contain the information referred to in Articles 3 and 4, or the requested additional information was not submitted within the time limit set out in Article 4, paragraph 2;
 - b) no dispute has emerged;
 - c) the request was filed after the three-year period referred to in Article 3 paragraph 1.
3. When informing the person concerned in accordance with the provisions of paragraph 1 of this Article, the competent authority of the Republic of San Marino shall indicate the reasons for the rejection of the request.
4. If the competent authority of the Republic of San Marino has not notified a decision on the request within the time limit referred to in paragraph 1, the request shall be deemed to have been accepted.

Art. 6

(Mutual agreement procedure)

1. If the request referred to in Article 3 is accepted, the competent authority of the Republic of San Marino and the competent authorities of the other States concerned shall endeavour to resolve the dispute by mutual agreement within two years from the date of the last notification of the decision accepting the request by one of the States.
2. The time limit referred to in paragraph 1 may be extended upon a motivated written request of the competent authority of the Republic of San Marino or of the competent authority of another State concerned, if the dispute resolution reasonably requires increased efforts and both competent authorities need more time to conclude the procedure.
3. During the procedure, the competent authority of the Republic of San Marino may ask the persons concerned to provide additional information if it considers it necessary.
4. If a final judgement on the dispute is delivered before an agreement is reached, the competent authority of the Republic of San Marino shall notify such decision to the competent authorities of the other States concerned and the mutual agreement procedure shall end on the date of such notification. In such a case, if the judgement does not result in the elimination of double taxation, double taxation shall continue to exist unless the foreign competent authority conforms its position to the decision expressed by the national court.
5. When performing the agreement reached with the competent authorities of the other States concerned, following a mutual agreement procedure initiated pursuant to this Article, the competent authority of the Republic of San Marino shall inform the person concerned of the decision adopted within



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thirty days from the date of conclusion of the agreement. In such a case, if no final judicial decision has been delivered yet, in order to perform the mutual agreement, taxpayers shall indicate their acceptance of its contents and judicial claims waiver to the competent authority of the Republic of San Marino within the following thirty days. If an agreement between the competent authority of the Republic of San Marino and the competent authorities of the other States concerned has not been reached within the time limits set out in paragraph 1 or 2, the competent authority of the Republic of San Marino shall inform the person concerned about the reasons why an agreement has not been reached.

6. If the dispute resulting from a tax audit carried out by the Tax Office has been subject to a settlement, including a facilitated settlement, as governed by the rules in force, the Tax Office shall recalculate the taxes due, by increasing or decreasing their amount, where applicable, because of the MAP.

Art. 7

(Appeal against the rejection decision by the persons concerned)

1. The persons concerned may lodge an appeal to the ordinary San Marino judicial authority in accordance with the relevant provisions in force if both the competent authority of the Republic of San Marino and the competent authorities of the other States concerned have rejected their MAP request.

2. In the case referred to in paragraph 1, the persons concerned who have appealed to the competent judicial authority of the other States concerned, as the case may be, may not file a request to set up an Advisory Commission, as referred to in Article 8 below, if:

- a) the appeal is pending in accordance with the domestic law of the Contracting State concerned;
- b) the rejection decision may be further challenged in accordance with the domestic law of the Contracting State concerned;
- c) the rejection decision has been confirmed, as the case may be, by a final judgement of the judicial authority of San Marino or by the competent judicial authority of another Contracting State concerned and such decision cannot be further challenged under the national law of that State.

Art. 8

(Request for the establishment of the Advisory Commission)

1. The person concerned shall submit the request for the establishment of an Advisory Commission to access a dispute resolution procedure to the competent authority of the Republic of San Marino and to the competent authority of the other States concerned.

2. The Advisory Commission shall be established in the following cases:

- a) when a MAP request has been rejected by at least one but not all competent authorities of the other States concerned;
- b) when a MAP request has been rejected by all competent authorities of the States concerned and a judgement favourable to the person concerned has been delivered following the appeal lodged by such person against the rejection decision of the competent authority of said State concerned with the competent judicial authority of one of the States concerned, in the case referred to in paragraph 1 of Article 7;
- c) when the competent authorities of the States concerned have accepted the MAP request but have not been able to reach an agreement on how to resolve the dispute through a mutual agreement procedure within the time limits laid down in Article 6, paragraphs 1 or 2.

3. In the case referred to in paragraph 2, letter a), the person concerned may submit a request for the establishment of an Advisory Commission only if:

- a) under the domestic law of the State concerned where the rejection decision was issued, no appeal against that decision may be lodged;
- b) no dispute is pending;
- c) the person concerned has formally renounced, by means of a written declaration, to appeal against the rejection decision.



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4. The request to establish the Advisory Commission shall be submitted in writing within fifty days of receipt of the notification referred to in Article 5, paragraph 1), or Article 6, paragraph 5) or within fifty days of delivery of the decision by the competent court referred to in paragraph 2 letter b).

5. If a final judgement on the dispute has been issued, prior to the submission of the request for the establishment of the Advisory Commission pursuant to paragraph 2, letter c), the competent authority of the Republic of San Marino shall inform the competent authorities of the other States concerned of the effect of the decision to foreclose access to the dispute resolution procedure.

6. The competent authority of the Republic of San Marino shall refuse access to the dispute resolution procedure in cases where penalties for one of the offences referred to in Articles 389 et seq. of the San Marino Criminal Code have been imposed, in accordance with its domestic law, in relation to the income or capital subject to adjustment.

Art. 9

(Establishment of the Advisory Commission)

1. The Advisory Commission shall be established within one hundred and twenty days of receipt of the request and, once it has been set up, its Chairperson shall promptly inform the person concerned.

2. The Advisory Commission shall be composed of:

a) a Chairperson;

b) one representative from each competent authority concerned. Subject to the agreement of the competent authorities, the number of such representatives may be increased to two for each competent authority;

c) one independent person of standing appointed by each competent authority of the States concerned from the list referred to in Article 11. Subject to the agreement of competent authorities, the number of such appointed persons may be increased to two for each competent authority.

3. The rules for the appointment of independent persons of standing shall be agreed among the competent authorities of the States concerned. A substitute shall be appointed for each of the nominated independent member, in accordance with the rules for the appointment of independent persons of standing, for cases where the independent persons of standing are unable to perform their duties.

4. If the rules for the appointment of the independent persons of standing have not been agreed upon pursuant to paragraph 3, these persons shall be appointed by drawing lots.

5. Except where independent persons of standing have been appointed by the competent court according to paragraph 10 or by the national appointing body of the other States concerned, the Tax Office may object to the appointment of an independent person of standing for any reason previously agreed with the competent authorities concerned or for any of the following reasons:

a) that person belongs to one of the tax administrations concerned or performs duties on behalf of one of those administrations or has acted as such at any time during the preceding three years;

b) at any time during the last five years preceding the date of his appointment, that person has been holding or held a substantial shareholding or voting rights or has been or was an employee or consultant of a person concerned;

c) that person does not provide sufficient guarantees of objectivity for the resolution of the dispute;

d) that person is employed by a firm providing tax advice, or otherwise provides tax advice on a professional basis, or has acted as such at any time during a period of at least three years prior to his appointment.

6. The competent authority of the Republic of San Marino may request one of the independent persons appointed pursuant to paragraphs 3 or 4 or his substitute to disclose any interest, relationship or other issues possibly affecting the independence or impartiality of that person or that may reasonably give rise to a suspicion of partiality in the proceedings. For a period of 12 months following the decision of the Advisory Commission, independent persons of standing being part of the Advisory Commission shall not be in a situation which would have led a competent authority to oppose their appointment if they had been in that situation at the time of their appointment to the Advisory Commission.



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7. Representatives of the competent authorities and independent persons of standing appointed pursuant to paragraphs 3 and 4 shall appoint a Chairperson from the list of persons of standing provided for in Article 11. Unless otherwise agreed by the representatives of each competent authority and by the independent persons of standing, the Chairperson shall be a judge.

Art. 10

(Appointment by national judges)

1. If the Advisory Commission is not established within the time limit provided for in paragraph 1 of Article 9, the person concerned may appeal to the Head Magistrate of the Court of the Republic of San Marino to request the establishment of such Commission.
2. If the competent authority of the Republic of San Marino has not appointed at least one independent person of standing and one substitute, the person concerned may appeal to the Head Magistrate of the Court of the Republic of San Marino to request that the appointment of an independent person of standing and a substitute be made from the list referred to in article 11.
3. If the competent authority of the Republic of San Marino and the competent authorities of all other States concerned have failed to appoint independent persons of standing, the person concerned may appeal to the Head Magistrate of the Court of the Republic of San Marino and to the competent courts or national appointing bodies of the other States to request that the appointment of the two independent persons of standing be made from the list referred to in article 11. These independent persons of standing shall appoint the Chairperson by drawing lots from the list of independent persons of standing pursuant to article 9, paragraph 4.
4. The persons concerned shall submit their request for the appointment of independent persons of standing and their substitutes to each of their respective States of residence, if more than one person concerned is involved in the procedure, or to the States whose competent authorities have failed to appoint at least one independent person of standing and one substitute, if only one person is concerned.
5. The time limit for lodging the appeal to the Head Magistrate of the Court of the Republic of San Marino referred to in paragraphs 1 to 4 shall be thirty days starting from the time limit referred to in paragraph 1 of article 9.
6. The Head Magistrate of the Court of the Republic of San Marino shall decide on such appointment by means of a decree. The Registry of the Court of the Republic of San Marino shall notify the Head Magistrate's decree to the applicant and to the competent authority of the Republic of San Marino, which shall promptly inform the competent authority of the other States concerned thereof.
7. The reasons for objection applicable to magistrates shall also apply to the members of the Advisory Commission appointed by the Head Magistrate of the Court. Reasons for objection may be invoked by following the rules of procedure on the objection of magistrates as far as they are compatible.

Art. 11

(List of independent persons of standing)

1. The list of independent persons of standing shall consist of all independent persons of standing appointed by the States.
2. In order to compile the list referred to in paragraph 1, the competent authority of the Republic of San Marino shall appoint at least three persons who are competent, independent and capable of acting with impartiality and integrity, taking into account their academic and professional qualifications, their skills, experience, and the existence of any conflicts of interest.
3. Without prejudice to the requirements set out in paragraph 2, serving magistrates may also be appointed as independent persons of standing, provided that they exercised or have been exercising for at least five years decision-making functions for the purpose of procedural legitimacy and have proven experience in the tax sector.



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4. Procedures and methods for the compilation of the list of independent persons of standing to be appointed by State, as well as the removal of such persons from said list shall be established by a Congress of State Regulation.

Art. 12

(Alternative Dispute Resolution Commission)

1. The competent authorities of the States concerned may agree to establish an Alternative Dispute Resolution Commission, instead of the Advisory Commission, to express an opinion on how to resolve the dispute. The competent authorities of the States may also agree to establish an Alternative Dispute Resolution Commission in the form of a Standing Committee.
2. Without prejudice to the provisions of paragraphs 5 and 6 of article 9, the composition and form of the Alternative Dispute Resolution Commission may differ from that of the Advisory Commission.
3. An Alternative Dispute Resolution Commission may apply dispute resolution procedures or techniques to resolve the dispute in a binding way, instead of resorting to the dispute resolution procedure with independent opinion applied by the Advisory Commission as referred to in article 9. To this end, the competent authorities of the States concerned may agree on any other type of dispute resolution procedure to be applied by the Alternative Dispute Resolution Commission, including the arbitration procedure with final offer.
4. The competent authorities of the States concerned shall decide on the operating rules in accordance with article 13.
5. Unless otherwise agreed in the operating rules referred to in article 13, the provisions of articles 14, 15 and 16 shall apply to the Alternative Dispute Resolution Commission.

Art. 13

(Operating rules of the Advisory Commission or the Alternative Dispute Resolution Commission)

1. The competent authorities of the States concerned shall agree on the operating rules of the Advisory Commission or the Alternative Dispute Resolution Commission.
2. Operating rules shall include:
 - a) the description and characteristics of the dispute;
 - b) the mandate agreed by the competent authorities of the States concerning the *de facto* and *de jure* issues to be resolved;
 - c) the form of the dispute resolution body, i.e. Advisory Commission or Alternative Dispute Resolution Commission, as well as the type of alternative dispute resolution procedure, if such procedure differs from the one with an independent opinion applied by an Advisory Commission;
 - d) the timetable for the dispute resolution procedure;
 - e) the composition of the Advisory Commission or the Alternative Dispute Resolution Commission (including the number and names of members, their skills and qualifications and any disclosure of their conflicts of interest);
 - f) the rules governing the participation of the person concerned and third parties in the procedure, exchanges of written pleadings, information and evidence, costs, the type of dispute resolution procedure to be applied and other relevant procedural or organizational issues;
 - g) the logistics of the proceedings carried out by the Advisory Commission and the way it gives its opinion.
3. If an Advisory Commission is established to express an opinion pursuant to Article 8, paragraph 2, letters a) and b), only the information specified in paragraph 2, letters a), d), e), and f) of this Article shall be included in the operating rules.
4. Within one hundred and twenty days of receipt of the request to establish the Advisory Commission, the competent authority of the Republic of San Marino shall notify the following to the persons concerned:
 - a) the operating rules of the Advisory Commission or of the Alternative Dispute Resolution Commission;



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b) the date by which the opinion on the resolution of the dispute shall be adopted;
c) references to applicable legal provisions in the national law of the States and to applicable agreements or Conventions.

5. If competent authorities have not notified the operating rules to the persons concerned in accordance with paragraphs 2 to 4, the independent persons of standing and the Chairperson shall finalize such rules according to the standards established by the European Commission and shall transmit them to the persons concerned within two weeks from the date of establishment of the Advisory Commission or the Alternative Dispute Resolution Commission. In the event that the independent persons of standing and the Chairperson do not agree on the operating rules or have not notified them to the persons concerned, the latter may refer the matter to the Head Magistrate of the Court of the Republic of San Marino or to the competent court of one of the other States concerned in order to obtain the implementation of the operating rules.

Art. 14

(Costs of the dispute resolution procedure)

1. Except in the cases governed by paragraph 3 and unless the competent authorities of the States concerned have agreed otherwise, the following shall be equally apportioned among the States:

a) expenses incurred by independent persons of standing, which shall be equivalent to the average amount usually reimbursed to senior officials of the States concerned;
b) fees paid to independent persons of standing, which shall not exceed 1,000 euro per person for each day of meeting of the Advisory Commission or the Alternative Dispute Resolution Commission.

2. Costs incurred by the persons concerned shall not be borne by the States involved.

3. All expenses referred to in paragraph 1, letters a) and b) shall be borne by the persons concerned if they have submitted:

a) a written notice of withdrawal of the MAP request; or
b) a request for the establishment of the Advisory Commission following a rejection of a MAP request on the grounds specified in article 5, paragraph 2, and the decision of the Advisory Commission that the competent authorities concerned have rightly rejected the request and with the agreement of the competent authorities of the States concerned.

Art. 15

(Dispute resolution by the Advisory Commission)

1. The Advisory Commission established for the cases referred to in Article 8, paragraph 2, letters a) and b) shall adopt a decision on accepting the MAP request within six months from the date of its establishment. It shall notify the competent authorities of the States concerned of its decision within thirty days of its adoption.

2. If the Commission referred to in paragraph 1 confirms that all the conditions indicated in article 3 and in paragraph 2 of article 4 are met, the MAP referred to in article 6 shall be initiated upon request of one of the competent authorities. The competent authority concerned shall communicate this request to the aforementioned Commission, to the other competent authorities concerned and to the person concerned. In this case, the time limit referred to in article 6, paragraphs 1 and 2, shall start to run from the date of notification of the decision adopted by the Commission on the acceptance of the MAP request.

3. If none of the competent authorities has requested the initiation of a MAP within sixty days of the date of notification of the decision of the Commission referred to in paragraph 1, the latter shall issue an opinion on how to resolve the dispute.

4. The Advisory Commission established in the case referred to in article 8, paragraph 2, letter c), shall issue an opinion on how to resolve the dispute.

5. The opinions referred to in paragraphs 3 and 4 shall be issued within six months of the date of



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establishment of the Commission indicated in paragraph 1. To this end, in the case referred to in paragraph 3, the previously mentioned Commission shall be deemed to have been established on the date of expiry of the sixty-day period indicated in paragraph 3.

6. If the Commission considers that the issuance of an opinion on the dispute requires more than six months, this period may be extended by three months. In this case, the Commission shall inform the competent authorities of the States concerned and the persons concerned of such extension.

7. The Advisory Commission shall elaborate its opinion based on the provisions of the Agreements and Conventions referred to in article 1, as well as on any applicable rules of the domestic law. The Advisory Commission shall adopt its opinion by simple majority of its members. If a majority cannot be reached, the Chairperson's vote shall prevail. The Chairperson shall notify the competent authorities of the States concerned of the opinion.

8. The Commission referred to in paragraph 1 shall issue its opinions in writing.

9. In the event that a final judgement has been delivered on the dispute, after the request for the establishment of an Advisory Commission has been submitted but before the Advisory Commission has notified its opinion to the competent authority of the Republic of San Marino, the latter shall inform the other competent authorities of the States concerned and the Commission of the effects of the decision terminating the dispute resolution procedure.

10. As part of the examination of the procedures referred to in this article, the persons concerned, with the consent of the competent authorities, may provide the Advisory Commission with all information, evidence or documents that may be relevant to the decision or opinion. The persons concerned and the competent authorities shall provide information, evidence or documents upon request of the Advisory Commission. However, these competent authorities may refuse to provide information to the Commission when:

- a) to obtain such information, administrative measures contrary to national law are required;
- b) the information cannot be obtained in accordance with the national law of the State concerned;
- c) the information relates to trade, business, industrial or professional secrets or business procedures;
- d) the disclosure of such information is contrary to public order.

11. Upon request of the Advisory Commission, the persons concerned may personally appear before the Commission or through their representatives holding a general or special power of attorney. The persons concerned may also personally appear before the Commission or through their representatives holding a general or special power of attorney at their request and with the agreement of the competent authorities of the States concerned.

Art. 16

(Infringement of the obligations arising from participating in the Advisory Commission or the Alternative Dispute Resolution Commission)

1. Independent persons of standing and any other member of the Advisory Commission or the Alternative Dispute Resolution Commission shall be bound by professional secrecy, which applies to the information they receive as members of these Commissions.

2. Articles 192, 192-bis and 193 of the San Marino Criminal Code shall apply in the event of any infringement of the obligations set forth in paragraph 1.

3. The persons concerned and their representatives shall not disclose the information and documents they receive during dispute resolution procedures. To this end, they shall submit a statement to the competent authorities of the States concerned, if requested during these procedures. In the event of infringement of any confidentiality obligation by the aforementioned persons, unless the fact constitutes a crime, the competent authority of the Republic of San Marino shall apply to offenders an administrative sanction amounting to twenty-five thousand Euro.



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Art. 17

(Decision of the competent authorities following the mutual agreement procedure)

1. The competent authority of the Republic of San Marino and the other competent authorities concerned shall agree on how to resolve the dispute within six months of the notification of the opinion by the Advisory Commission or by the Alternative Dispute Resolution Commission.
2. The competent authority of the Republic of San Marino and the other competent authorities concerned may make a decision that differs from the opinion of the Advisory Commission or of the Alternative Dispute Resolution Commission. However, if they do not reach an agreement on how to resolve the dispute, they shall be bound by that opinion.
3. If the dispute resulting from an audit carried out by the tax administration has been subject to a settlement, including a facilitated settlement, as governed by the rules in force, the Tax Office shall recalculate the taxes due, by increasing or decreasing their amount, where applicable.
4. The decision made shall not set a precedent.
5. In the event that, after notification of the opinion of the Advisory Commission or of the Alternative Dispute Resolution Commission, a final judgement has been issued on the dispute, the competent authority of the Republic of San Marino shall inform the competent authorities of the other States concerned and the Commissions of the effects of the decision terminating the dispute resolution procedure.
6. The competent authority of the Republic of San Marino shall notify the person concerned of the decision about the dispute resolution within thirty days of the date on which such decision was made.
7. In the event that the notification of the decision about the dispute is not notified by the competent authority of the Republic of San Marino within the time limit referred to in paragraph 6, the person concerned may appeal to the Court of the Republic of San Marino in order to obtain the notification of said decision.

Art. 18

(Enforcement of the decisions made in the context of a MAP)

1. When enforcing the decisions adopted pursuant to articles 6 and 17, which result in a change in income or tax, the Tax Office shall order the reimbursement or relief of undue taxes or the collection of taxes due.
2. To any higher taxes due because of the recalculation pursuant to article 6, paragraph 6 and article 17, paragraph 3, interests accruing from the date when the decision adopted pursuant to articles 6 and 17 and sanctions shall be applied, unless the latter have already been applied in a facilitated way pursuant to the regulations in force. Only if the tax claim has been fully cancelled, sanctions shall be reimbursed, if the person concerned has submitted an application for refund.
3. In the case of decisions adopted because of the procedure referred to in paragraph 1, initiated by persons who have resolved the dispute in accordance with articles 6, paragraph 6, and article 17, paragraph 3, for the purposes of applying the provisions of this article, the amounts already paid shall be taken into account.
4. The decisions referred to in paragraph 1 shall be enforced if the person concerned accepts them in writing within sixty days of their notification and, at the same time, waives any possible means of redress, in respect of the subjects of the decisions referred to in articles 6 and 17. If a dispute is pending before national courts, in order to enforce the decision, the person concerned shall provide proof, within sixty days of the date on which the decision was communicated, that a waiver, even partial, of the dispute resolution and of possible means of redress has been filed before the competent judicial body.
5. The decisions referred to in paragraph 1, enforced in accordance with paragraph 4, shall be enforceable for the collection of the amounts due to the taxing body and for the payment of the amounts due to the person concerned.
6. The provisions of paragraphs 1 to 5 shall also apply if the reimbursement, relief or collection concern taxes that have become final in San Marino.



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7. In the event that the decision adopted pursuant to articles 6 and 17 is not enforced by the competent authority of the Republic of San Marino, the person concerned may appeal to the Court of the Republic of San Marino to request the enforcement of said decision.

8. The decision adopted pursuant to article 17 may not be enforced if, following an appeal by the person concerned, the Head Magistrate of the Court of the Republic of San Marino ascertains that one of the independent persons of standing appointed did not meet, when the appointment or the decision was made, the independence requirements referred to in article 9.

Art. 19

(Publicity)

1. Competent authorities may agree to publish the decisions referred to in article 17 in full, with prior consent of each of the persons concerned.

2. Where the competent authorities or the person concerned do not consent to the publication of the decisions referred to in paragraph 1 in full, the competent authorities shall publish a summary thereof. This summary shall contain a description of the dispute, subject matter, date, tax periods involved, legal basis, industry sector, a short description of the final result and an indication of the resolution method used.

3. Prior to the publication, the competent authority of the Republic of San Marino shall transmit to the person concerned the information referred to in paragraph 2. Within sixty days from the date of receipt of the information, the person concerned may request the competent authority of the Republic of San Marino not to publish information relating to any trade, business, industrial or professional secret or commercial procedure, or contrary to public order.

Art. 20

(Miscellaneous provisions)

1. The provisions in force on the protection of personal data, trade, business, industrial, professional secrets or business procedures shall apply to the information requested in accordance with articles 4, paragraph 1, and article 6, paragraph 3.

2. The initiation of a MAP shall not prevent the initiation or continuation, in domestic legal systems, of proceedings that may give rise to the imposition of sanctions relating to the same dispute.

3. In the event that proceedings for any of the conducts referred to in articles 389 et seq. of San Marino Criminal Code have been initiated in the domestic legal system in relation to the income or capital subject to adjustments and said proceedings are conducted simultaneously with one of the procedures referred to in this Law, the competent authority of the Republic of San Marino may suspend the above procedures starting from the date when the MAP request was accepted until the date of the final outcome of the proceedings.

4. If, for any reason, a dispute no longer exists, the procedure referred to in this Law shall be terminated with immediate effect. The competent authority of the Republic of San Marino shall promptly notify the persons concerned thereof and explain the reasons for the termination of the procedure.

5. In the event of suspension requested in accordance with article 3, paragraph 5 of this Law, when calculating the time limit for the cancellation of the request, which starts on the first court day following the hearing to appeal the dispute, the court days between the decree suspending the dispute and the one revoking the suspension shall not be taken into account, in accordance with point 12.0 of article 2 of Law no. 55 of 17 June 1994 and subsequent amendments.

Art. 21

(Operational rules and procedures)

1. One or more measures of the competent authority of the Republic of San Marino shall define the modalities and procedures necessary to make the provisions of this Law effective, in particular: paragraphs 1, 6, 7, 9, 10, 11 and 12 of article 3, paragraphs 1 and 2 of article 4, paragraphs 3 and 5 of article 6, paragraphs



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1 and 4 of article 8, paragraph 6 of article 17 and paragraphs 1 and 5 of article 18.

Art. 22

(Starting date)

1. The provisions of this Law shall apply to MAP requests filed as of 1 January 2022 on disputes concerning income or capital relating to the tax period starting on 1 January 2021 and subsequent tax periods.

Art. 23

(Entry into force)

This Law shall enter into force on the fifth day following that of its legal publication.

Done at Our Residence, on 26 November 2021/1721 since the Foundation of the Republic.

THE CAPTAINS REGENT

Francesco Mussoni – Giacomo Simoncini

THE MINISTER
OF INTERNAL AFFAIRS

Elena Tonnini