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## TAXATION OF TRUSTS REGULATED BY THE LAWS OF THE REPUBLIC OF SANMARINO AND ADMINISTERED BY AUTHORIZED TRUSTEES

We Governing Captains

The Serenissima Republic of San Marino Promulgate and send to publication the following law approved by the Great and General Council in the session of March 1, 2005.

### Art. 1 (Definitions)

1. With the present law, the following shall be referred to as:

- a) <<goods>>: any right, power, faculty, or interests susceptible to economic valuation;
- b) <<trust property>>: property or goods which are object of the trust in conformity with article 12 of the law on trusts;
- c) <<law>>: the present law and successive modifications and integrations;
- d) <<trust law>>: the law of the Republic of San Marino regulating the trust act and its successive modifications and integrations;
- e) <<tax period><: each solar year, or, if indicated otherwise, any period of trust administration non exceeding a duration of twelve months.
- f) <<authorized trustee>>: the trustees who have received authorization to practice their office in conformity with trust law;
- g) <<normal value>>: value to be determined for:

(I) stocks, obligations and other financial activities negotiated within regulating markets, according to the arithmetic average of prices established in the last solar month prior to the date of reference;

(II) other stocks, company shares, titles to or shares of the capital of public corporations different from companies, in proportion to the value of the economic capital of the company or public corporation, or, in the case of newly constituted companies or public corporations, to the entire economic value of the attributions;

(III) the obligations and other financial activities diverse from those

indicated in the previous points (I) and (II), in comparison to the normal value of titles having analogous characteristics negotiated in regulated markets and, lacking this, on the basis of other elements determinable in an objective manner;

(IV) goods different from those indicated in the previous points (I), (II), and (III), and services, on the basis of the price or payment applied on average for the goods and services of the same or similar kind, in conditions of free competition and at the same stage of marketing, in the time and place in which the goods and services were acquired or loaned, and, failing this, in the time and place nearest.

#### Art. 2

(Subjected sphere of application)

1. The law applies, notwithstanding other fiscal provisions in force thereof, to trusts instituted in conformity with the provisions contained in the law on trusts which are fiscally residents in the territory of the Republic of San Marino and which are not professionally practicing business activities, arts or other professions.
2. Trusts are to be considered as fiscally residents in San Marino if they are administered by at least one trustee who has been authorized to exercise such office in accordance with the law on trusts.

#### Art. 3

(Income tax on trusts)

1. The trust is a passive subject of the income tax on trusts.
2. The rate of income tax on the revenues of trusts is that indicated in the first clause of article 12 of the Law of October 13 1984 n.91 and subsequent modifications and integrations.
3. The duties to report, liquidate and pay the income tax on the revenues of the trust lies with the trustee, who is jointly responsible for the tax obligations of the trust.

#### Art. 4

(Statements regarding income and patrimonial and financial situations)

1. In conformity with the ends of the application of the present law, the trustee must keep the accounting of the administrative facts concerning the goods of each trust of which he practices the office of trustee. Book entries must be kept separately for each trust, in systematic form and in accordance with the provisions on proper accounting, being directed to analytically follow the variations present in trust property

consistency.

2. The trustee is to draw up the inventory of trust property, together with a written report containing the summary of the consistency and composition of the aforesaid trust property from the date in which the trust came into effect, in accordance with article 10 of the law on trusts and, successively, at least every twelve months, thereby providing evidence of the modifying events concerning the aforesaid properties. The inventory must be worded in such a way as to distinguish the capital with respect to proceeds and profits deriving from trust property.

3. The trustee must draw up a summary report of the aforementioned proceeds and profits generated and collected by the trust in each fiscal tax period.

4. The periodic inventory and summary report of the proceeds and profits generated and collected by the trust must be worded and signed by the trustee within five months from the closing date of each fiscal tax period.

#### Art. 5

##### (Determination of taxable income of trusts)

1. The taxable income of trusts is determined by applying a profitability ratio of tenpercent to the total amount of the proceeds and profits, in cash or real goods deriving from the trust property, even as compensation for lack of profit, obtained and perceived in each tax period. In the aforesaid amount the proceeds and profits deriving from estates situated in the Republic of San Marino are not to be calculated.

2. The profitability ratio indicated in clause 1 is nonetheless equal to fifty percent when proceeds and profits deriving from trust property are constituted by earnings, dividends, or shares of earnings distributed by companies or public corporations which are fiscally residents, or at least have their domicile, in States or territories having a privileged tax regime, as identified by the Regent Decree of January 24 2005 n. 2.

3. For income deriving from real estate situated in the Republic of San Marino and included in the trust property, the provisions are to be applied which regulate income tax, as for the Law of October 13 1984 n.9, and subsequent modifications and integrations, in respect to companies and public corporations having legal personality, which are fiscally resident in the territory of the Republic of San Marino. Income produced due to the holding of rights relative to the aforesaid real estate are to concur with the income determined in accordance with the previous clauses in the formation of the total income of the trust.

#### Art. 6

(Tax credit for income produced on foreign territory)

1. Taxes fully and finally paid abroad on proceeds and profits generated and perceived by the trustee on behalf of the trust are to be deductible, according to the Law of April 30 2004 n.55, from income tax due by the trust within the limit of ten per cent, or of fifty per cent in the case indicated in article 5, clause 2, of the law.

Art. 7

(Withholdings from acts of attribution of proceeds and profits)

1. Regarding acts of attribution of proceeds or profits deriving from trust property to fiscally non residents beneficiaries, defined by a specific regency decree to be issued within one hundred and twenty days from the law's coming into force, the trustee may withhold fifteen per cent of the sum or normal value of attributed goods for tax purposes. Within two months from the closing of each tax period, the trustee will communicate to the Financial Administration Branch of the Republic of San Marino the citizenship and residence of the actual economic beneficiaries of the aforesaid attributions carried out during the course of the same period, as well as the amount of the corresponding tax withholdings.

2. The trustee will not however carry out any withholding wherein, within two months from the closing of the tax period in which the attributions of proceeds and profits deriving from trust property as described in clause 1 have occurred, he likewise communicates to the Financial Administrative Branch of the Republic of San Marino the generalities of the actual economic beneficiaries of the aforementioned attributions, specifying their names and data, citizenship, residence and any other information or data requested.

3. In the case in which attribution of proceeds and profits deriving from trust property to fiscally resident beneficiaries takes place, the trustee must communicate to the Financial Administration Branch, within two months from the closing of the tax period in which it took place, the generalities of the actual economic beneficiaries of the aforementioned attributions, indicating their names and data, citizenship, and any other data or information requested.

4. The provisions of the previous clauses apply, insofar as they are compatible, even in the case of the final distribution of trust goods, although with exclusive reference to the proceeds and profits deriving from such goods.

5. The formal ways to perform the communications specified in the present article will be defined by a regency decree to be issued within one hundred and twenty days from the coming into force of the law.

6. The payment of the withholdings indicated in the present article must take

place within two months following their implementation.

#### Art. 8

(Presentation of the trust's income tax return. Payment of the trust's income tax.

Assessment of the trust's income tax.)

1. Within five calendar months from the closing of each tax period, the trustee is to present the income tax return for each trust of which he is a trustee and is to oversee the payment of the trust's income tax liquidated in conformity with the provisions of the law.
2. The formal ways to present the income tax return indicated in the previous clause and to pay the trust's income tax will be defined by a regency decree to be issued within one hundred and twenty days from the date in which the law comes into force.
3. The ex officio act of assessment or in rectification must be notified, to avoid expiration, no later than the 31st of December of the second year after that in which the tax return which the assessment refers to was presented or must have been presented. In the case in which the tax return has been omitted, or the relative act is afflicted by nullity, the assessment act must be notified no later than the 31st of December of the third year after that in which the tax return should have been presented.

#### Art. 9

(Other taxes pertaining to the trust)

1. No other tax beyond those indicated by the law is due for the acts of disposition that are cost free, and that are performed by the settlor in favour of the trustee, or through which the trust goods or the proceeds and profits deriving from the trust are attributed to the beneficiaries, even at the time of final distribution of the same, with an exception made:
  - a) for the tax to register the abstract of the act of institution of the trust in the Trust Register, which is equal to 500,00 Euros;
  - b) for the annual tax to maintain the trust registration in the aforementioned Register, equal to 250,00 Euros;
  - c) for the tax due to register the modifications of the provisions contained in the transcribed abstract in the same Register, equal to 150,00 euro;
  - d) for the tax on importations as for the Law of December 22 1972 n.40 and successive modifications, regulating the importation of goods and relative services into the Republic of San Marino;
  - e) for the Register tax as for the Law of October 29 1981 n. 85 and successive modifications, regulating the acts transferring real estate situated in the Republic of San Marino in favour of the beneficiaries, acts which, regardless of their either onerous or free nature, are nonetheless subject to the

formalities of registration, by way of the tax payment indicated in n.1 Tariff "A" , attached to the above mentioned law and subsequent modifications.

2. All acts pertaining to the trust, different from those for which the law establishes otherwise, are subject to a tax exempt registration.

3. For the payment of the taxes indicated in points a) and c) is responsible the subject who has seen to the request of the abstract registration, or to the modification of the same. Regarding the payment of taxes indicated in point b) the trustee takes care of it by January 31st of each year. The payment of the taxes indicated in points d) and e) takes place with the methods and within the timeframe respectively established by the referring laws.

#### Art. 10

(Final Clauses)

1. For all that is not covered by the present law the provisions are to be applied that regulate the prescription, verification, collection and administrative and penal sanctions in reference to companies and corporations having legal personality that are resident in the territory of the Republic of San Marino.

#### Art. 11

(Coming into force)

1. The present law comes into force the fifth consecutive day after its legal publication.

Dated in San Marino, the 22nd of March 2005/1704 d.F.R.

THE GOVERNING CAPTAINS

Giuseppe Arzilli Roberto Raschi

SECRETARY OF STATE FOR

INTERNAL AFFAIRS

Rosa Zafferani