



REPUBLIC OF SAN MARINO

DECREE-LAW no. 61 of 31 May 2012
(Ratification of Decree-Law no. 31 of 28 March 2012)

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

In view of the promulgated Decree-Law no. 31 of 28 March 2012 – "Urgent measures to support the economic system and different tax provisions":

In view of the necessity and urgency referred to in Article 2, paragraph 2, point b) of Constitutional Law no. 183 of 15 December 2005 and Article 12 of Qualified Law no. 184 of 15 December 2005, and specifically the necessity and the urgency to:

- *adopt intervention measures to tackle structural damage undergone by real property due to exceptional snowfalls occurred in February of the current year;*
- *adopt measures to support the economic system with particular reference to the protection and promotion of investment given the different and complex transactions that are being reorganised in the economic sectors, as well as the need to adapt tax payment conditions to the growing needs of taxpayers to pay tax with other tax credits and spread out tax payments;*
- *issue interpretive tax provisions to supplement the regulations in force for the purpose of their proper and consistent application, given the approaching deadlines for tax payment provided by them;*

In view of Resolution no. 18 of the State Congress adopted at the meeting of 20 March 2012;

In view of the amendments made to the above-mentioned decree at the time of its ratification by the Great and General Council at the meeting of 25 May 2012;

In view of Articles 8 and 9, paragraph 5, of Qualified Law no. 186/2005;

Are promulgating and ordering the publication of the final text of Decree-Law no. 31 of 28 March 2012 as amended following the amendments approved by the Great and General Council at the time of its ratification:

URGENT MEASURES TO SUPPORT THE ECONOMIC SYSTEM AND DIFFERENT TAX PROVISIONS

TITLE I EXTRAORDINARY MEASURES TO TACKLE THE SEVERE CLIMATIC EVENTS OCCURRED IN FEBRUARY 2012

Art. 1

Without prejudice to the maximum amount of payable loans referred to in Article 1, paragraph 2, of Law no. 109 of 3 August 2009, the terms referred to in Article 5, paragraph 1 of the same and Article 1, first paragraph of the relevant implementing Regulation no. 2 of 22 October

2009, already amended by Article 27, second paragraph of Law no. 68 of 21 December 2009, by Article 4 of Decree-Law no. 172 of 26 October 2010, by Article 1 of Decree-Law no. 42 of 24 February 2011 and by Article 1 of Decree-Law no. 146 of 20 September 2011, are extended to 30 June 2012.

Art. 2

Due to the heavy snowfalls that occurred on the territory in February 2012 and resulted in damage to real property and movable assets intended for economic activities, as an extraordinary matter of urgency, the following measures are adopted.

In paragraph 2, Article 4, of Law no. 109 of 3 August 2009, the following letters g) and h) are added:

- "g) investments concerning the repair and/or reconstruction of buildings intended as premises for economic activities that underwent structural damage due to the meteorological events of an exceptional nature, identified by the specific decree defining the maximum intervention measure and the eligibility conditions for the integration and/or change of those provided for by this law;
- h) investments concerning the repair and/or replacement of machinery and equipment damaged as a result of the events referred to in letter g) above."

According to letters g) and h), paragraph 2, Article 4 of Law no. 109 of 3 August 2009, as amended by this decree, investments may be funded for a maximum amount of €1,000,000.00, and benefit from an interest subsidy to be borne by the State of no more than 80 % of the approved interest rate.

Without prejudice to the provisions of the previous paragraph, the loan amount is calculated based on the cost estimates for the investments and taking into account any conditions for compensation deriving from active insurance policies on real property covered by intervention measures.

Companies that suffered damage amounting to less than 20,000.00 Euro are not eligible for loans on the investments referred to under letters f) and g), paragraph 2, of Article 4 of Law no. 109 of 3 August 2009.

Only in relation to investments provided for in Article 4, paragraph 2, letters g) and h) of Law 109/2009, as integrated by the provisions of this decree, can licensed agricultural operators also be entitled to the benefits of the same Law. Entitlement to the interest subsidy referred to in Law no. 109/2009 is incompatible with entitlement to the interest subsidy referred to in Articles 20 and 21 of Law no. 96 of 20 September 1989, with an exception for professional agricultural operators who can benefit, in relation to the aforesaid investments, from the contribution referred to in Article 5 below.

The investments referred to in paragraph 2 above shall be eligible even in cases where renovation works are borne by the lessee or lessor company within the context of a leasing contract. In this case, the application must be submitted by the aforementioned company and be accompanied by the owner's authorisation to carry out the works.

If the company applying for access to the benefits is the owner of the property, and the property is being leased, including as a financial lease, to another company, the provisions for access to benefits of Law no. 109 /2009 referred to in Article 3, paragraph 2, point b, are verified by adding the number of employed staff with a permanent contract of both companies. These provisions do not apply to the companies referred to in paragraph 6 above.

Moreover, no eligibility is granted to loans for repairs and/or reconstruction works that, when the damage occurred, were in breach of current urban planning and construction regulations.

Art. 3

Without prejudice to access to all types of incentives as provided for by Law no. 109 of 3 August 2009 and by Decree-Law no. 146 of 20 September 2011, in assessing applications for extraordinary credit funding, priority is given to investments referred to in points g) and h), paragraph 2, of Article 4 of Law no. 109 of 3 August 2009 as amended by Article 2 above, with the exception of investments for the renovation of buildings in which as of 31 January 2012 no economic activities are being conducted. Applications concerning this latter kind of investment can be admitted to entitlement to the benefits of Law no. 109/2009 only after the assessment of applications concerning the types referred to in letters a), b), c), d), e) and f) of Article 4 of the same. To this end, funding applications for investments referred to in points g) and h) must be submitted by 31 May 2012.

Art. 4

To access the benefits referred to in Article 3 above, the companies that suffered damage shall submit:

- cost estimates for repairs, reconstruction and/or purchase of damaged real property and movable assets;
- sworn appraisal on the cause and amount of damage;
- documentation concerning compliance of the damaged construction works with urban planning and construction regulations.
- copy of the insurance policy on damaged real property or movable assets, or absence-of-insurance statement.

Art. 5

In order to indemnify part of the losses suffered by agricultural operators due to heavy snowfalls occurred on the territory in February 2012, an extraordinary economic measure is carried out, to be attributed to chapter 2-4-6735 "Funding under Law no. 96 of 20/09/1989 on contributions and premiums" for operators who suffered damaged, following the transfer of funds according to Article 25 of Law no. 30 of 18 February 1998.

The Regulations of the Commission for Environmental and Agricultural Resources establish forms and methods of application of the aforesaid economic measure similarly to the provisions of Article 4 of this decree.

For the purposes referred to in the first paragraph and by way of exception, in derogation of the provisions of Article 1, first paragraph of Law no. 37 of 25 October 1973, the Consortium managing the Solidarity Fund has resolved to use the "Solidarity Fund" also to indemnify or compensate for the economic damage caused by the atmospheric events referred to in the first paragraph, whose effects have caused the deterioration or loss of trees.

Art. 6

By way of exception and by way of derogation from the requirements set out in Article 3 of Law no. 110 of 15 December 1994 as subsequently amended, citizens and residents who are owners of real property that have undergone structural damage due to heavy snowfalls occurred on the territory in February 2012, are eligible, within the limits of the resources of the relevant chapters of the budget,

for the soft loan referred to in Article 32, first paragraph, letters d), e) and f) of the aforesaid Law no. 110/1994 as subsequently amended for measures aimed at repairing real property.

The documentation to be submitted to the Commission for Supported Housing for access to the benefits provided for in the first paragraph above is the documentation referred to in Article 4 of this decree.

Art. 7

By way of exception and by way of derogation from the provisions of Article 25, second paragraph of Law no. 30 of 18 February 1998, in order to find the necessary financial resources to support the urgent expenses relating to the route snow service carried out due to the atmospheric events of February 2012, the State Congress has the right to arrange for transfers of funds between chapters of the same Department even if this belongs to different expenditure titles.

TITLE II

URGENT MEASURES AIMED TO SUPPORT THE ECONOMIC SYSTEM

Art. 8

In order to support processes for the reorganisation of the banking sector, the term referred to in Article 8 of Decree-Law no. 158 of 25 November 2009 was extended to 31 December 2012.

To supplement Article 1 of Decree-Law no. 169 of 11 October 2011 following the opinion of the Committee for Credit and Savings, access is granted to tax benefits and credit facilities governed by it also to Banks that, in the context of transactions authorised by the Central Bank, acquire the liabilities of San Marino banking entities placed in extraordinary administration.

The provisions of Article 27 of Law no. 30 of 18 February 1998 shall also apply to cases where additional revenue results from income derived from measures provided for by the judicial authority for the confiscation of sums of money to be paid to the State.

The provisions referred to in paragraph 3 above shall apply in the manner laid down in Article 27 of Law no. 30 of 18 February 1998, subject to a balanced budget and within the limits of the resources for the State of the sums being confiscated.

Art. 9

As a partial amendment and integration of the provisions referred to in Article 27 of Law no. 91/1984 as subsequently amended and supplemented, in order to support intra-group reorganisation processes, the transfer of shares in San Marino companies by foreign companies in favour of other companies belonging to the same group of companies does not constitute a speculative purpose. Therefore, any capital gain, determined according to the second paragraph of the same Article, is exempt for the purposes of applying income tax. If the acquiring company sells the investment to entities external to the group of companies within five years from the date of purchase, the amount of any capital gain made is increased by the amount of exempt capital gain as specified above.

Art. 10

In order to streamline and simplify the relations between Tax Authority and taxpayers relatively to the management of debit/credit positions against the Tax Office and pending completion of the project for the implementation of the "tax account", tax credit deriving from annual tax return for the purposes of a refund on import tax, the tax return and related attachments and the withholding tax declaration may be used for payment:

- a) of general income tax, related advances and connected sums;
- b) of tax on imports, also through payment of any balance due for the annual single-phase return and related sums;
- c) of other sums to be paid to the Tax Office, including interest and sanctions, excluding withholding tax on interest in accordance with Law no. 81 of 25 May 2005.

The above-mentioned provisions already apply starting from applications in the process of being defined whose limitation period has not yet expired.

Art. 11

As a partial amendment of the provisions of Article 34 of Law no. 70 of 25 May 2004 and Article 5 of Decree no. 39/2004, the established maximum duration of payment extensions for amounts owing in the register pursuant to the aforementioned Law, is 60 months.

Art. 12

In partial derogation of Article 6, paragraph 11, of Law no. 73 of 31 March 2010, exclusion from entitlement to benefits from the Earning Supplement Fund, for reasons other than force majeure, and Special Economic Indemnity for the spouse, first-degree relatives and in-laws of the business owner, is limited to the first five years of work carried out continuously at their family member's company.

Entitlement to the above is granted to family members of the company Director who are categorised under the same degree of kinship, who have carried out work at the company on a continuous basis for over five years.

For the purposes of determining the amount of welfare support referred to in the first paragraph, no consideration is to be given to any job classification at higher levels occurred in the 24 months preceding admission to the income integration or support treatment.

The family member of the business owner or Director, as identified in the previous paragraphs, is excluded from entitlement to benefits from the Earning Supplement Fund, for reasons other than force majeure, and to Special Economic Indemnity in case s/he is a shareholder, regardless of the percentage of capital share or amount of shares owned, or if s/he has been a shareholder in the 12 months preceding the application for admission to the income integration or support treatments.

Art. 12 bis

Paragraph 1 of Article 8/bis (Shareholder's collaboration) referred to in Decree-Law no. 156 of 5 October 2011 is replaced as follows:

"1. All shareholders who own units or shares amounting to no less than 25% of the share capital, and whose work that they carry out for the company is not classified as work under an

employment contract, must notify the Labour Office of the special work relationship between them and the company that they co-own".

Art. 12 ter

The term of fifteen days provided for by the second and third paragraphs of Article 52 of Law no. 7 of 17 February 1961 for occasional work on the territory carried out by legal firms, must be understood as relating to working days and, for activities subject to simple advance authorisation issued by the Employment Office pursuant to the third paragraph of the same Article, for a period nonetheless not exceeding 30 days/person.

Within a calendar year, the legal firm may obtain up to three simple advance authorisations for works lasting for 15 working days or less, and in no case greater than the aforesaid days/person, in excess of which the company is required to obtain the trading permit pursuant to the second paragraph of Article 57 and current provisions in force.

Advance authorisation cannot be issued in the following 6 months to the legal firm that has been sanctioned by the Labour Office for irregular work or for failure to obtain permission to carry out the activity in the Republic.

Art. 13

In Article 6 of Delegated Decree no. 147 of 26 October 2009, the following paragraphs are added: "Likewise, the Work Commission may adopt the appropriate resolution for regulations concerning irregular and occasional work in companies for the Management of leisure, sports, performing arts and not-for-profit cultural activities.

The use of irregular and occasional work is allowed also in the sectors of trade and service or production crafts with premises and direct relationship with the public exclusively in cases where staff on medically certified sick leave must be replaced urgently".

With reference to Article 5, paragraph 2, of Law no. 158/2011, the calculation of the contribution to separate management must be paid on sums actually paid to the employee regardless of the minimum income referred to in Article 11, paragraphs 1 and 2 of the same law.

Art. 14

Individuals appointed in share capital companies as sole director, chairman of the board of directors or chief executive officer are allowed to carry out, both in the administrative headquarters and in the executive offices of the company, corporate functions except for any inclusion in the company's productive industrial/handicraft cycle.

The above-mentioned position must be shown in the company's certificate of good standing.

The individuals referred to in the first paragraph are subject to taxes and insurance if and in the manner required by relevant existing regulations.

TITLE III

DIFFERENT TAX PROVISIONS

Art. 15

In Article 18 of Decree-Law no. 172/2010, the following paragraphs are added after paragraph 3:

"All persons referred to in Articles 19 and 20 of Law no. 91 of 13 October 1984 who are obliged to pay advance taxes under the terms provided for by paragraph 3 above, must issue two equal advances of General Income Tax for the ongoing tax period, each proportioned to half of:

- a) 50% of the General Income Tax on income from self-employment declared for the previous tax year;
- b) 70% of the General Income Tax on corporate income declared for the previous tax year.

Natural persons shall calculate the above advances after deduction of the mandatory social security contributions as indicated in the tax return for the aforesaid tax period, and social security contribution to be calculated on the income declared in the same year. The amount of general tax to which the advances are to be made proportioned is determined as follows: General Income Tax rates, i.e. proportional taxes, are applied to the taxable income obtained according to the above provisions; subjective tax deduction is subtracted from the amount thus obtained for the exempt share as provided for by law.

Payment of advances is not due if, before the date of payment, the economic activities are suspended or terminated."

Art. 16

The second paragraph of Article 38 of Law no. 200/2011 is amended as follows:

"Tax must be paid by 31 March 2012 directly at bank branches or through compensation with tax credits available at the cash counter of the Tax Office. In the case of joint individual licenses, tax payment refers to the economic activity as a whole and not for the single joint licence holder. Similarly, in the case of associations among professionals required to fill in Framework "M". For the first three years of business operation, reference is made to the first license issue or, in the case of the self-employed individuals, to the original registration with the Labour Office."

In addition to the parties referred to in paragraph 4 of Article 38 of Law no. 200/2011, the following are exempt from applying the minimum income tax:

- parties who are already required to pay tax on the authorisation to carry out the reserved activities referred to in Article 53 of Law no. 168/2009;
- non-profit-making institutions, foundations and associations and all parties exempt from submitting a tax return referred to in Law no. 91/1984 as subsequently amended and supplemented;
- cooperatives, consortia and other assimilated institutions.

Economic activities exempt from applying the minimum income tax pursuant to Article 38, paragraph 4, point b), of Law no. 200/2011, reactivating their license after 31 March 2012, are required to pay the minimum income tax to the level of the proportion of amount established for the same activities, corresponding to the period comprised between the license reactivation date and 31 December 2012.

As a derogation to the provisions of Article 38 of Law no. 200/2011, the beneficiaries of the tax benefits referred to in Law no. 134 of 24 November 1997 "Law supporting young and female entrepreneurs" are required, regardless of the legal form of their business, to pay the minimum income tax for the amount of € 300.00.

Failure to pay, or insufficient payment of, the minimum income tax within the period specified by Article 38 of Law no. 200/2011, verified by the Tax Office by the normal time limits of the verifying action, involves the application of the administrative monetary sanction equal to 15% of tax due. Payment with a delay of 30 days or less gives rise to the application of an administrative monetary sanction of 5% of tax due; for delays of more than 30 days, the administrative monetary sanction amounts to 15% of tax due. In accordance with applicable law, interest at the legal rate plus two percentage points is charged to delayed payments. No repayment orders shall be issued for breaches concerning tax payment (sanctions and interest) if the relevant amount does not exceed 10.00 Euro. When the amount due does not exceed 10.00 Euro on an annual basis, no payment or reimbursement is required.

Art. 17

The third paragraph of Article 35 of Law no. 200/2011 is amended as follows:

"The provisions referred to in Article 13, second, third, seventh and eighth paragraphs of Law no. 184/2011 shall apply also in relation to the tax referred to in this Article, to the extent applicable. To this purpose, in the aforesaid Article, references to the year 2010 are to be understood as references also to the year 2011."

The fourth paragraph is added to Article 35 of Law no. 200/2011:

"In the event of failure to pay or insufficient payment, the procedures referred to in Law no. 91/1984, as subsequently amended and supplemented, applicable to non-payment of General Income Tax, shall be adopted".

Art. 18

As provided for by Article 39, fifth paragraph of Law no. 91 of 13 October 1984 as subsequently amended and supplemented, withholding tax on compensation paid to non-residents from 1 January 2012, only in the case of staff with coordinated and ongoing per-project contracts as referred to in Article 18 of Law no. 131/2005, must be made on the mandatory proportion of social security contribution to be paid by the employee.

Art. 19

The deadline for payment of tax on the authorisation to carry out reserved activities as referred to in Article 53 of Law no. 168/2009 is suspended in relation to persons who have submitted by 31 December of the year before the reference year, formal applications to the Supervisory Authority resulting in their cancellation from the register of authorised parties pursuant to Law no. 165 of 17 November 2005. The above suspension shall have effect up to the 30th day from the date of cancellation from the Register of Authorised Parties. Within the aforementioned period, the party is required to pay tax on the authorisation to carry out reserved activities in an amount equal to the proportion of the sum provided for by Article 53 of Law no. 168/2009, corresponding to the period elapsed between the first day of January of the year in which cancellation from the Register of Authorised Parties takes place, and the cancellation date of the same.

Banks and financial institutions in administrative compulsory liquidation are exempted from payment of the registration fee on fiduciary mandates referred to in Article 38 of Law no. 172 of 16 December 2004, given the revocation of the authorisation to conduct reserved activities and the consequently changed legal status of fiduciary relations.

The transfer of fiduciary mandate contracts between supervised parties while maintaining the same mandator and the same object, for the purposes of applying the provisions referred to in Article 38 of Law no. 172 of 16 December 2004, involves the annual payment of a registration fee on fiduciary mandate contracts of € 50.00.

Art. 20

The investments referred to in Article 7, paragraph 1, of the Delegated Decree no. 65/2007 must be made and concluded within the time-limit stated in the project itself, without prejudice to the four-year limit, and with the exception of extensions granted by Industry, Trade and Crafts Office, justified by proven circumstances. This extension, however, despite being justified by proven circumstances, may nevertheless not exceed a further twenty-four months.

Done at our Residence, on 31 May 2012/1711 s.F.R.

THE CAPTAINS REGENT
Maurizio Rattini – Italo Righi

THE SECRETARY OF STATE
FOR INTERNAL AFFAIRS
Valeria Ciavatta

