



REPUBLIC OF SAN MARINO

DELEGATED DECREE NO. 29 of 11 March 2014

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

Having regard to Article 18, paragraph 5, Article 20, paragraph 1, Article 28, paragraph 1, and Article 37 of Law no. 71 of 27 June 2013;

Having regard to Congress of State Decision no. 2, adopted during its sitting of 11 March 2014;

Having regard to Article 5, paragraph 3 of Constitutional Law no. 185/2005 and to Articles 8 and 10, paragraph 2 of Qualified Law no. 186/2005;

Promulgate and order the publication of the following Delegated Decree:

DELEGATED DECREE IMPLEMENTING ARTICLES 18, 20, 28, 37 OF LAW NO. 71 OF 27 JUNE 2013 - LAW ON SUPPORT TO ECONOMIC DEVELOPMENT

TITLE I MEASURES AIMED AT ATTRACTING FOREIGN INVESTMENTS

CHAPTER I ACCESS TO BENEFITS

Art. 1

(Priority investment sectors under Article 18, paragraph 5 of Law no. 71 of 27 June 2013)

1. Priority business projects shall include projects involving:
 - a) the production of technologically advanced goods or services;
 - b) the sector of green economy;
 - c) the sector of hospitality and tourism;
 - d) the sector of entertainment and leisure aimed at promoting the territory and tourist offer;
 - e) the trade sector;
 - f) the sector of arts and culture;
 - g) the settlement in the territory of management, development, marketing, international relations, training and research activities;
 - h) traditional productive sectors with low environmental impact;
 - i) the healthcare and pharmaceutical sectors.

Art. 2

(Recruitment parameters referred to in Article 18, paragraph 5 of Law no. 71 of 27 June 2013)

1. Business projects shall meet the following recruitment requirements:
 - a) minimum requirement to recruit at least 5 people for projects different from those pertaining to industrial production activities;

b) requirement to recruit at least 8 people for projects pertaining to industrial production activities.

60% of the recruitment requirement referred to in letters a) and b) shall be met within the first two years.

2. The people referred to in letters a) and b) of the preceding paragraph shall be recruited from the unemployment lists; the possible recruitment of partners and their family members shall not be relevant to the minimum recruitment requirement under the preceding paragraph.

3. In case of particularly highly specialised business projects, it shall be possible, at the time of submission of the business project, to apply for a number of non-resident workers exceeding that indicated in paragraphs 1 and 2 above and in Article 3 hereunder, provided that such staff holds specific qualifications necessary to start the business project. In this case, the Technical Assessment Committee may express a favourable opinion enabling the Directorate of the Labour Office to issue the work permit for non-resident staff. Such permit may be issued regardless of the availability in the unemployment lists of people having the necessary professional skills required.

4. The application referred to in paragraph 3 above shall be properly substantiated with supporting documents. These recruitments shall not be relevant for the purposes of access to the simplified regime referred to in Article 16 of Law no. 71 of 27 June 2013.

5. In case of business projects designed to take over an existing undertaking in accordance with the provisions of Article 15 of Law no. 71 of 27 June 2013, where such undertaking has not met the minimum recruitment requirements indicated in paragraph 1, the staff necessary to reach the minimum number shall be recruited within the time-limits indicated in said paragraph. The recruitment of the staff necessary to reach the minimum number shall be relevant for the purposes of access to the tax benefits and simplified regime.

6. If the existing undertaking taken over pursuant to Article 15 of Law no. 71 of 27 June 2013 has met the minimum recruitment requirements envisaged by this Article, such requirements shall continue to be met for at least 5 years. The maintenance of minimum recruitment requirements for the period indicated shall be relevant for the purposes of access to the tax benefits and simplified regime.

Art. 3

(Mode of application of the simplified regime referred to in Article 18, paragraph 5 of Law no. 71 of 27 June 2013)

1. Access to the simplified regime referred to in Article 16 of Law no. 71/2013 shall be granted to the following persons:

- a) an entrepreneur or another person referred to in letters b) and c) of Article 16 of Law no. 71/2013 in relation to a business project that meets the minimum recruitment requirements envisaged in the preceding Article;
- b) an entrepreneur and another person referred to in letters b) and c) of Article 16 of Law no. 71/2013 if the business project provides for a recruitment plan of over 20 employees;
- c) an entrepreneur and two other persons referred to in letters b) and c) of Article 16 of Law no. 71/2013 if the business project provides for a recruitment plan of over 30 employees;

2. The simplified regime, if applied for, shall also be granted to family members of the persons referred to in letters a), b) and c) of Article 16 of Law no. 71/2013, as identified in appropriate documents.

3. Family members shall include the spouse, minor children and unmarried cohabiting children of full age.

4. After 10 years following registration in the register of the resident population, and once the requirements foreseen by the business project have been met, the residence based on a simplified regime referred to in the preceding paragraphs of this Article shall be considered as established.

5. For the purposes of the application of the simplified regime, the impediments mentioned in paragraphs 1 and 2 of Article 17 of Law no. 118 of 28 June 2010 shall not apply.

Art. 4

(Capital guarantees in favour of the State referred to in Article 18, paragraph 5 of Law no. 71 of 27 June 2013)

1. Within 60 days following approval of the business project by the Technical Assessment Committee, and in any case before completion of the procedure for registration in the register of the resident population, a bank or insurance guarantee equal to 300,000.00 euro shall be issued to the State by a San Marino supervised entity, pursuant to Law no. 165 of 17 November 2005 and subsequent amendments, as well as to the relevant implementing decrees. The guarantee shall be deposited with the State Lawyers' Office. The purchase of a real estate, provided that its value is at least equal to the amount of the guarantee, resulting from the purchase or financial leasing contract, shall constitute an alternative to the bank or insurance guarantee.
2. In any case, within 12 months following approval of the business project, a real estate investment worth the above-mentioned minimum value shall be made, and, as a consequence, the bank or insurance guarantee shall be released. In case of a real estate investment made via financial leasing, an initial fee account equal to the value of the guarantee referred to in the preceding paragraph shall be paid; if this is not the case, the bank or insurance guarantee shall be maintained for the same amount until the end of the five-year plan under Article 18, paragraph 5, letter c).
3. The real estate subject to lien or guarantee shall act as collateral in favour of the State to collect credits of the Public Administration arising from the benefits under Law no. 71/2013, as well as other tax receivables or contributions, and finally in favour of workers in order to guarantee the repayment of any unpaid wages, until the end of the business plan submitted and referred to in Article 18, paragraph 5, letter c) and of any extension granted pursuant to Article 22, paragraph 1 of Law no. 71/2013.
4. The conditions referred to in the preceding paragraphs shall be referred to the single application for residence, including any family members.

Art. 5

(Self-subsistence of persons)

1. The persons referred to in Article 16 of Law no. 71/2013 shall have the necessary means to ensure their self-subsistence and to meet their health care needs for the first 24 months of residence in the territory; throughout this period, the latter shall be guaranteed through the conclusion of an appropriate insurance policy against the risk of illness, accident, maternity and health care with a minimum annual coverage of 30,000 euro.
2. Such conditions shall be guaranteed also for family members.

Art. 6

(Business plan referred to in Article 18, paragraph 5, letter c) of Law no. 71 of 27 June 2013)

1. In accordance with Article 18, paragraph 5, letter c) of Law no. 71 of 27 June 2013, the business plan shall contain information on the implementation of the business project, specifying the relevant starting date.
2. In case of application for access to the simplified regime referred to in Article 16 of Law no. 71/2013, it shall be necessary to indicate also the date from which the persons referred to in letters a), b), c) and d) of Article 18, paragraph 5 of the same Law actually reside in the territory, specifying any temporal differentiation.

Art. 7

(Application modalities referred to in Article 20, paragraph 1 of Law no. 71 of 27 June 2013)

1. The subjective requirements referred to in Article 20, paragraph 1 of Law no. 71/2013 are those prescribed by the provisions in force relating to retail trade, while objective requirements are defined in Article 8 hereunder.
2. Article 20 of Law no. 71/2013 shall also apply to limited liability companies or joint stock companies, already established and operating for at least 10 years as of 31 December 2013, provided that they meet the objective requirements referred to in Article 8 hereunder, have no outstanding debt with the public administration and submit a request therefor by 30 June 2014.

Art. 8

(Objective requirements referred to in Art. 20, paragraph 1 of Law no. 71 of 27 June 2013)

1. The objective requirements referred to in Art. 20, paragraph 1 of Law no. 71/2013 shall be the following:
 - a) exercise of trade activities in a single room, whose minimum area shall be of at least 200 square meters, or in more adjacent rooms, whose total area shall be of at least 200 square meters. Where the place or places of activity are located, in whole or in part, in the historic centre, these shall be intended as adjacent for the purposes of meeting the requirement of the minimum area referred to in this paragraph;
 - b) purchase of the place of the activity referred to in letter a), or multi-year lease contract with guarantee deposit in favour of the State of San Marino for an amount of 150,000.00 euro;
 - c) recruitment of at least 2 workers from the unemployment lists.
2. The objective requirements referred to in paragraph 1 shall continue to be met for 10 years also in case of changes in the ownership structure.

Art. 9

(Limitation on access to the benefits in the start-up phase)

1. The companies referred to in Title II of Law no. 71/2013 shall not have access to the benefits envisaged by Delegated Decree no. 93 of 24 July 2013 - Provisions on subsidised credit to support companies - for the first 3 years of activity.
2. The companies referred to in Title II of Law no. 71 of 27 June 2013 that are not newly established and are entitled to benefits deriving from the application of laws on subsidised credit previously granted upon the entry into force of Delegated Decree no. 93 of 24 July 2013 and subsequent amendments or that, after the entry into force of the latter and of the relevant amendments, are entitled to the benefits deriving therefrom, shall continue to be entitled to these benefits until their exhaustion, if authorised before the taking over of the company.

CHAPTER II INCENTIVES TO SUPPORT THE TOURISM SECTOR

Art. 10

(Tax incentives for the selling of a minimum quota of individual overnight stays in the Republic under Article 28, paragraph 1 of Law no. 71 of 27 June 2013)

1. The tax benefits provided for in this Article shall be granted to tourist intermediation undertakings based in the Republic, which promote arrivals in the accommodation and hospitality facilities present in the territory as identified by Title II of Law no. 22 of 27 January 2006.

2. The fees arising from the sale of overnight accommodation services, although included in tourist packages, shall not be taxable to the extent of 50%, provided that the following conditions are met:

- a) in the tax year of reference, services are sold corresponding to at least 200 overnight stays in the territory;
- b) services are sold on one's own behalf or through an authorised agent, whose contract was signed prior to each tax year of reference.

3. The benefit referred to in the preceding paragraph shall be enjoyed only in the tax year in which the overnight accommodation services were sold.

4. The percentage referred to in paragraph 2 above, without prejudice to the conditions envisaged therein, shall be increased to 65% in case the overnight accommodation service sold is included in tourist packages that have as their object travel, vacation and "all inclusive" circuits resulting from the combination of at least 2 services in the territory among transport, accommodation and tourist services not ancillary to transport or accommodation, and the package includes a minimum of two consecutive overnight stays per person.

Art. 11

(Incentives for the upgrading and expansion of the hotel and hospitality facilities referred to in Article 28, paragraph 1 of Law no. 71 of 27 June 2013)

1. To encourage expansion of the accommodation offer in the territory, the rate referred to in Article 63, paragraph 1, letter b) of Law no. 166/2013 shall be increased by a further 30% in cases where the interventions envisaged in Article 62, paragraph 1, letter b) are aimed at obtaining an increase in the number of beds destined to the public and have as their object expansion and upgrading, or envisage interventions for the development of accessible tourism, of hotels and hospitality facilities, including bed & breakfasts, provided for in Articles 14, 15, 16, 17, 18 and 19 of Law no. 22/2006 and subsequent integrations.

2. The benefits referred to in the preceding paragraph shall be granted even if the business project does not provide for recruitment increases, but in this case the rate referred to in Article 63, paragraph 1, letter b) of Law no. 166/2013 shall be reduced to 25%.

3. The upgrading and expansion works referred to in this Article shall be completed with an end-of-work certificate by 31 December 2018.

Art. 12

(Discount on energy consumption of accommodation facilities operating on an annual basis referred to in Article 28, paragraph 1 of Law no. 71 of 27 June 2013)

1. Hotel and hospitality facilities as identified in Title II of Law no. 22/2006 that are open to the public on an annual basis and do not resort to closing periods as permitted by law, shall be entitled, upon request, to a contribution in the form of a tax credit of a maximum value of 5% of their annual costs related to the consumption of electricity and natural gas. The tax credit may be used by undertakings in the tax period during which the benefit is accrued and shall be indicated in their tax return. The tax credit may also be used as a partial reduction, for a maximum amount of 50%, of the special tax on income referred to in Article 150 of Law no. 166/2013 for the following year.

2. Discount on energy consumption shall be valid for the years 2014 and 2015 but it may be extended and modified in terms of amount through a delegated decree.

Art. 13

(Contribution reductions referred to in Art. 28, paragraph 1 of Law no. 71 of 27 June 2013)

1. Hotel and hospitality facilities as identified in Title II of Law no. 22 of 27 January 2006 that are open to the public on an annual basis and do not resort to closing periods as permitted by law, shall be entitled, upon request, to a contribution relief of 10% in relation to a maximum of 3 workers employed by the undertaking during the months of January, February and March, recruited from the unemployment lists with any type of employment contract. Throughout this working period, the undertakings referred to in this paragraph shall not request access to the Wage Supplementation Fund referred to in points 2 and 3 of paragraph 2 of Article 11 of Law no. 73/2010. The relief provided under this paragraph shall be cumulative with other contribution reductions envisaged by the laws in force.
2. The commercial businesses of the Historic Centre of San Marino and the facilities selling food and beverages that are subject to mandatory evening opening during tourist-oriented events and located in the streets of particular tourist interest referred to in Article 123 of Law no. 87 of 19 June 1995, except for Piazzale Campo della Fiera and Piazza Mercatale, shall be entitled, upon request, to a contribution relief for the months of June, July and August to the extent of 10% in relation to one worker recruited from the unemployment lists and employed for each place of commercial activity subject to mandatory evening opening. The relief provided under this paragraph shall be cumulative with other contribution reductions envisaged by the laws in force.
3. The expenses deriving from this Article shall be covered by Chapter 2-4-7460 "Special fund for interventions on employment and reduction of labour costs" of the State Budget.

CHAPTER III

INCENTIVES FOR THE DEVELOPMENT OF THE AUDIOVISUAL INDUSTRY

Art. 14

(Tax incentives referred to in Article 37, paragraph 1 of Law no. 71 of 27 June 2013)

1. National or foreign undertakings active in the audiovisual industry having a permanent establishment in the territory and realising, in whole or in part, film, audiovisual or theatre projects in San Marino, shall be entitled to the following tax benefits:
 - a) reduction of taxable income equal to 50% of the costs incurred in the territory related to each production;
 - b) reduction of the ordinary single-stage tax of 50%, subject to the application of the rates applying to capital goods.
2. In addition to the benefits referred to in paragraph 1, the undertakings indicated therein shall be entitled to a contribution relief up to a maximum of 20% for each worker recruited for the purposes of implementing the recruitment plans approved by the Ministry of Labour. Through its approval, the Ministry of Labour shall determine the extent and duration of the contribution relief taking into account the number of workers employed and the form and duration of hiring. The benefit referred to in paragraph 2 shall not exceed 24 months from the time of hiring.

Art. 15

(Taxation of private funding for film production referred to in Article 37, paragraph 1 of Law no. 71 of 27 June 2013)

1. Donations from individuals or businesses, entities, banks, foundations and associations in favour and in support of film productions recognised as a value added for the promotion of culture, places and tourism or of the State, shall be fully deductible for the purposes of determining the taxable income.

2. The productions referred to in paragraph 1 shall be established through a Congress of State Decision.

Art. 16
(Transitional rule)

1. The acts and measures taken and all the effects produced on the basis of the provisions of Delegated Decree no. 165 of 10 December 2013 shall remain valid.
2. Applications already submitted shall be examined in accordance with this Delegated Decree.

Done at Our Residence, this 11 March 2014/1713 since the Foundation of the Republic

THE CAPTAINS REGENT
Gian Carlo Capicchioni - Anna Maria Muccioli

THE MINISTER
OF INTERNAL AFFAIRS
Gian Carlo Venturini