

**TITLE IV
INCENTIVE MEASURES**

**CHAPTER I
DE-TAXATION OF REINVESTED PROFITS**

Art. 61

(De-taxation of reinvested profits)

1. Annual balance sheet profits, earned by persons performing business activities regardless of their legal form and provided they are in ordinary accounting regime, which are invested in capital goods in the same business, shall not constitute taxable income for the purposes of direct taxation, in accordance with the provisions set out in the Articles below.
2. These provisions shall apply to businesses which, at the date of submission of the project referred to in Article 65, have at least five employees employed on an open-ended contract, or three employees provided they are San Marino citizens or residents employed on an open-ended contract. If, throughout the duration of the project, the number of the aforesaid employees falls below five or three, all benefits shall cease to apply, with the effects referred to in Article 67.
3. De-taxation referred to in this Article shall also be granted to businesses in different accounting regimes, provided that they adopt ordinary accounting from the financial year following that of approval of the project .

Art. 62

(Investments subject to incentives)

1. Investments shall include business projects providing for:
 - a) the introduction of technological advances to improve existing products or production processes, or the acquisition of plants or technologies aimed at creating new products or production processes, provided that such interventions do not have an adverse impact on the employment plan of the business;
 - b) construction, acquisition, renovation or extension of immovable property to improve existing production processes or to introduce new ones in case of business projects providing for the recruitment of at least five employees, of whom 60% shall be on an open-ended contract;
 - c) the acquisition of plants, machinery or technological processes aimed at achieving consistent energy and water savings or significant reductions in pollutants according to parameters, coefficients and methods suited to represent the considerable and substantial energy savings and lower pollutant load, as established by specific sector regulations and with appropriate certificates.
2. Such investments may be made either by direct purchase or through financial leasing contract. In this case, the value of the capital good is given by the price paid by the lessor business for the purchase of goods and related services.
3. The amount of the investments referred to above shall not be less than:
 - a) € 50,000.00 for the investments referred to in paragraph 1, letter a);
 - b) € 300,000.00 for the investments referred to in paragraph 1, letter b) in the case of constructions and acquisitions, and not less than € 150,000.00 in the case of renovations and extensions;
 - c) € 20,000.00 for the investments referred to in paragraph 1, letter c).
4. The immovable property referred to in paragraph 1, letter b), owned or leased, shall not be disposed of before ten years have elapsed from the authorisation referred to in Article 66. By way of derogation from the foregoing, the replacement of the immovable property shall be permitted prior to the deadline mentioned above, on the basis of an assessment of consistency with the objectives of the project, subject to authorisation from the Tax Office.
5. Investments subject to incentives shall also include important business projects, submitted by persons that are well-established in their specific sector, to be implemented in the sector of tourism, aimed at further upgrading accommodation undertakings, as well as businesses

providing food, tourism and cultural services, which involve the construction, acquisition, renovation or extension of immovable property. If the realization of the investments mentioned above involves changes to the existing town planning regulations, the time required for their approval, as referred to in Article 3 of Law no. 87/1995 (Single Text of building and town-planning laws), shall be reduced by half.

Art. 63

(Coefficients - Methods of application)

1. For the purposes of tax treatment, the following shall not constitute taxable income:
 - a) 60% of annual operating profits for the interventions referred to in letter a) of Article 62, paragraph 1;
 - b) 40% of annual operating profits for the interventions referred to in letter b) of Article 62, paragraph 1;
 - c) 90% of annual operating profits for the interventions referred to in letter c) of Article 62, paragraph 1;Without prejudice to the maximum coefficients indicated above, in the event of cumulation of the interventions referred to in Article 62, paragraph 1, letters a) and b), the maximum percentage of non-taxable income shall be 70%.
2. The tax benefits under this Chapter shall be granted up to the value of the investment, authorised under Article 66, within the fifth year following that of the authorisation.
3. The profits that do not constitute taxable income shall be placed in a special budgetary fund and be tied up for five years from the generation of such profits.
4. If the value of the total investment exceeds € 7,000,000.00, the tax benefits set out in this Chapter I shall be granted within the seventh year following that of the authorisation.
5. Where the average level of employment of the business has been stable in the year of generation of the profits with respect to the level existing at the end of the year preceding that of access to the benefits, the allocation to the special fund may be made only for the amount of the general income tax corresponding to tax benefit enjoyed.
6. In order to guarantee the payment of the amount of the general income tax not paid as a result of the allowances granted, the economic operator shall be required to sign a declaration of tax payables, consenting the registration of a lien on the assets concerned by the investment. The formalities concerning such deeds, including related deeds, shall be exempt from stamp, registration and mortgage taxes.

Art. 64

(Deadline for submission of the project and for starting the investment)

1. Investment projects shall be submitted no later than one hundred twenty days from the start of their implementation in accordance with the procedures laid down in the following articles.
2. The investment, under penalty of loss of the benefits, shall start not later than twelve months from the authorisation.

Art. 65

(Content of the investment project)

1. Investment projects shall be submitted to the Office of Industry, Handicraft and Trade and shall contain:
 - a) a report on the compliance of the project with the requirements specified in this Chapter I;
 - b) an indication of the time for implementation which shall be no longer than five years from the start of the project;
 - c) the amount of investments;
 - d) the expected period of use of the assets concerned by the investment;
 - e) an indication of any increase in the number of employees.

Art. 66

(Outcome of the examination)

1. Within a period of thirty days from the submission of the application, the Office of Industry, Handicraft and Trade shall inform the applicant and the Tax Office of the outcome of the examination and, at the same time, may grant authorisation for access to the benefits referred to in this Title.

Art. 67

(Extensions - controls - irregularities)

1. The investments indicated in the project shall be carried out and completed within the period specified in the project subject to the five-year limit, unless an extension is granted by the Office of Industry, Handicraft and Trade due to proven circumstances. In any case, such an extension may not exceed additional twelve months.
2. Within three months after the deadline for the implementation and conclusion of any investment project, the Office of Industry, Handicraft and Trade shall carry out adequate and accurate checks to ensure that the investment realised complies with the authorised project .
3. Benefits shall cease to be granted to those businesses in relation to which the Office of Industry, Handicraft and Trade identifies:
 - a) serious irregularities and discrepancies with respect to the authorised project;
 - b) non-compliance with the deadlines and requirements laid down in this Chapter I.
4. The loss of the benefits shall be established through a measure of the Office of Industry, Handicraft and Trade and be notified to the taxpayer and the Tax Office within fifteen days from the date of the measure.
5. As a result of said loss, the Tax Office shall assess the higher tax and interest as well as the penalties envisaged by this Law; by way of derogation from the latter, the assessment shall not be time-barred until 31 December of the year following that in which the benefits referred to in this Chapter are no longer enjoyed.

Art. 68

(Prohibition to cumulate benefits and coordination rules)

1. It shall be prohibited to cumulate the tax benefits provided for in this Chapter I with any form of subsidised credit for the same investment projects, as well as with the allowances, with respect to the same investment, established by Decree no. 100 of 20 July 2004 and the energy savings benefits under Law no. 72 of 7 May 2008 and by Delegated Decree no. 158 of 21 September 2010 and subsequent amendments.

CHAPTER II TAX INCENTIVES FOR EMPLOYMENT SUPPORT

Art. 69

(Incentives to increase employment)

1. Economic operators, including the self-employed, that increase the average number of employees, shall benefit from a reduction in the tax base to the extent and in the manner set out in this Title IV, Chapter II.
2. For the purposes of applying the provisions of this Chapter II, "the average number of employees" shall be intended as the algebraic sum of subordinate employees, whether on an open-ended or temporary contract, in the reporting year, weighted by the number of months of the year in which they are employed by the economic operator. Month of employment shall be intended as the month in which the employee is employed for a minimum of sixteen calendar days.
3. The benefits referred to in this Chapter II shall be granted to the businesses that, prior to the increase in employees, employ at least five workers or at least three workers, provided that they are San Marino citizens or residents, who are hired on an open-ended contract under the preceding paragraphs. The limit mentioned above shall be raised to ten workers for manufacturing businesses.

Art. 70

(Extent and procedures to benefit from the incentive)

1. The reduction referred to in Article 69 above shall be granted in the tax year in which, compared with the previous year, the average number of employees has increased to at least three workers.
2. The extent of the reduction shall be equal to:
 - a) 15% for increases equal to or higher than three workers and less than five workers, provided that at least 50% of them are recruited from the unemployment lists;
 - b) 25% for increases equal to or higher than five workers, provided that at least 50% of them are recruited from the unemployment lists.
3. The reduction referred to in the preceding paragraph shall also be granted for the two tax years following the year in which the increase takes place, provided that over the same years there are no reductions in the percentage of increase required to enjoy the benefit. If, during the above-mentioned years, the business further increases the average number of employees over the minimum thresholds referred to in preceding paragraph 2, it shall be entitled to benefit from a further reduction for that year and for the next two years, subject to the conditions and the measures set out in this Article.
4. The benefits referred to in this Article shall no longer be granted to businesses making collective redundancies and/or reducing their personnel in accordance with the rules on employment, within the limitation period of the assessment for the tax year in which the benefit is enjoyed.
5. The businesses making collective redundancies and/or reducing their personnel in accordance with the rules on employment, shall be denied access to the benefits referred to in this Chapter for two years following the collective redundancy or the personnel reduction.

**CHAPTER III
INCENTIVES FOR NEWLY ESTABLISHED BUSINESSES**

Art. 71

(Application of the provisions of Title IV, Chapters I and II, to newly established economic activities)

1. The requirement referred to in paragraph 2 of preceding Article 61 shall not apply to businesses that start the investment project in the first three tax years from the date of start-up of the new business.
2. The requirement referred to in paragraph 3 of Article 69 shall not apply to economic activities in the first three tax years from the date of start-up of the new business.
3. With reference to the preceding paragraphs, the date of "start-up of new business" shall mean the date of issuance of the licence. The benefits shall be granted to anyone who has not ceased, in the year prior to the date of application, to carry out a business similar to that for which access to the benefits is applied for.
4. The businesses referred to in this Article may choose that the benefits referred to in Article 61 above be granted starting from the second year of activity following the year of start-up.

Art. 72

(Tax loss carry forward for newly established businesses)

1. By way of derogation from the provisions of Article 30, paragraph 4, and of Article 46, paragraph 5, tax losses made in the first three tax periods from the date of establishment of the new business may be calculated to reduce the total income of subsequent tax periods without any time limit, provided that they relate to a new economic activity.

Art. 73
(Additional incentives)

1. New business activities carried out in the form of sole proprietorship or as self-employment, whose owners have not exercised an economic activity in the 12 months preceding the filing of the application and are unemployed, shall be granted the following benefits:
 - a) exemption from payment of the fee for the first issue of the licence;
 - b) exemption from payment of the annual licence fee for the first three years of operation of the business;
 - c) tax exemption of business income or self-employment income equal to 50% for the first six years of operation of the business;
 - d) tax credit on programmes relating to staff training, technological innovation and development, the criteria of which shall be defined in a special delegated decree.
2. The incentives provided for in this Article shall also be granted to subordinate employees with a registered residence in the Republic of San Marino, who have terminated their employment relationship in order to start an economic activity or an activity as self-employed that does not constitute a mere continuation of the previous activity and business relationship.
3. The provisions referred to in this Article shall also apply to share capital companies or cooperatives starting a new economic activity, provided that their partners or beneficial owners have never exercised any economic activity in San Marino, or if residents, they meet the conditions referred to in paragraphs 1 and 2 above.
4. The provisions of this Article shall apply in relation to economic activities started after 2 July 2013.

CHAPTER IV
INCENTIVES FOR THE CAPITALISATION OF BUSINESSES

Art. 74
(Tax deduction for equity)

1. In each tax period the taxable persons referred to in Title III may deduct from taxable income, determined in accordance with the rules laid down in the aforesaid Title, a percentage corresponding to the increase in equity, net of the results of the current year.
2. The deductible share of equity shall be equal to 10% of the capital increase, calculated as described in the preceding paragraph. The deduction percentage mentioned above may be changed by means of a delegated decree and possible limitations may be placed on the application of the provisions referred to in this Article.
3. The non-deducted percentages in a tax period shall not be calculated to reduce the taxable income of subsequent tax periods.
4. The calculation of the capital increase referred to in paragraph 1 shall not include the profit reserves established under the provisions of Chapter I of this Title IV and the reserves required by law.
5. In case of reductions in equity decided by the shareholders' meeting and not due to operating losses, the business shall return, on a proportional basis, the benefits enjoyed.

CHAPTER V
FINAL PROVISIONS AND PROVISIONS COMMON TO TITLE IV

Art. 75

(Final provisions and provisions common to Title IV)

1. The benefits referred to in Chapters I and II of this Title may be cumulated with each other. However, for each tax year, the amount of the reductions shall not exceed 80% of taxable income.
2. The businesses which, by 31 December 2014, convert their temporary employment relationships into permanent employment relationships may, for the same tax year and for the next two years, benefit from the reductions referred to in Article 69 to the extent and in the manner established therein.
3. The provisions of Title IV shall be amended by delegated decree.