



# REPUBBLICA DI SAN MARINO

**DECRETO CONSILIARE 23 settembre 2021 n.165**

**Noi Capitani Reggenti  
la Serenissima Repubblica di San Marino**

*Visto il combinato disposto dell'articolo 5, comma 3, della Legge Costituzionale n.185/2005 e dell'articolo 11, comma 2, della Legge Qualificata n.186/2005;*

*Vista la delibera del Consiglio Grande e Generale n.21 del 15 settembre 2021;*

*Promulghiamo e mandiamo a pubblicare:*

**RATIFICA DELLA CONVENZIONE TRA LA REPUBBLICA DI SAN MARINO E  
IL PRINCIPATO DI ANDORRA PER ELIMINARE LA DOPPIA IMPOSIZIONE  
IN MATERIA DI IMPOSTE SUL REDDITO E SUL PATRIMONIO E PREVENIRE  
L'EVASIONE E L'ELUSIONE FISCALE**

## **Articolo Unico**

Piena ed intera esecuzione è data alla Convenzione tra la Repubblica di San Marino e il Principato di Andorra per eliminare la doppia imposizione in materia di imposte sul reddito e sul patrimonio e prevenire l'evasione e l'elusione fiscale (Allegato A), firmata a San Marino il 25 maggio 2021, a decorrere dall'entrata in vigore della Convenzione, in conformità a quanto disposto dall'articolo 29 della Convenzione medesima.

*Dato dalla Nostra Residenza, addì 23 settembre 2021/1721 d.F.R*

**I CAPITANI REGGENTI**  
*Gian Carlo Venturini – Marco Nicolini*

**IL SEGRETARIO DI STATO  
PER GLI AFFARI INTERNI**  
*Elena Tonnini*

**CONVENTION**  
**BETWEEN**  
**THE REPUBLIC OF SAN MARINO**  
**AND**  
**THE PRINCIPALITY OF ANDORRA**  
**FOR THE ELIMINATION OF DOUBLE TAXATION**  
**WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**  
**AND THE PREVENTION OF TAX EVASION AND AVOIDANCE**

The Republic of San Marino and the Principality of Andorra (hereinafter, the Contracting States),

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters,

Intending to conclude a Convention for the elimination of double taxation with respect to taxes on income and on capital without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third States),

Have agreed as follows:

**ARTICLE 1**  
**PERSONS COVERED**

1. This Convention shall apply to persons who are residents of one or both of the Contracting States.
2. For the purposes of this Convention, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Contracting State shall be considered to be income of a resident of a Contracting State but only to the extent that the income is treated, for purposes of taxation by that State, as the income of a resident of that State.

3. This Convention shall not affect the taxation, by a Contracting State, of its residents except with respect to the benefits granted under paragraph 3 of Article 7, paragraph 2 of Article 9 and Articles 18, 19, 22, 23, 24 and 26.

## **ARTICLE 2**

### **TAXES COVERED**

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are in particular:
  - a) In Andorra:
    - i. corporate income tax (impost sobre societats);
    - ii. personal income tax (impost sobre la renda de les persones físiques);
    - iii. tax on income for fiscal non-residents (impost sobre la renda dels no residents fiscals);
    - iv. tax payable on the increase in value in immovable property (impost sobre les plusvàlues en les transmissions patrimonials immobiliàries) (hereinafter referred to as “Andorran tax”).
  - b) In San Marino:
    - i. the general income tax (imposta generale sui redditi - IGR) which is levied:
      1. on individuals;
      2. on bodies corporate and proprietorships;even if collected through a withholding tax (hereinafter referred to as “San Marino tax”).
4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

**ARTICLE 3**  
**GENERAL DEFINITIONS**

1. For the purposes of this Convention, unless the context otherwise requires:
  - a) the term "Andorra" means the Principality of Andorra and, when used in a geographical sense, means the territory of the Principality of Andorra;
  - b) the term "San Marino" means the state of the Republic of San Marino and, when used in a geographical sense, means the territory of the Republic of San Marino;
  - c) the term "person" includes an individual, a company and any other body of persons;
  - d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
  - e) the term "enterprise" applies to the carrying on of any business;
  - f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
  - g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
  - h) the term "competent authority" means:
    - i. In Andorra, the Minister in charge of Finance or his authorized representative;
    - ii. In San Marino, the Ministry of Finance or its authorized representative, and, for the purposes of Article 26 "Exchange of information", the Central Liaison Office of the Republic of San Marino.
  - i) the term "national", in relation to a Contracting State, means:
    - i. any individual possessing the nationality or citizenship of that Contracting State; and
    - ii. any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;
  - j) the term "business" includes the performance of professional services and of other activities of an independent character.
2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires or the competent authorities agree to a different meaning pursuant to the provisions of Article 24, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

**ARTICLE 4**  
**RESIDENT**

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
  - a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
  - b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
  - c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
  - d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where, by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to determine by mutual agreement the Contracting State of which such person shall be deemed to be a resident for the purposes of the Convention, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by this Convention except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting States.

**ARTICLE 5**  
**PERMANENT ESTABLISHMENT**

1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term “permanent establishment” includes especially:
  - a) a place of management;
  - b) a branch;
  - c) an office;
  - d) a factory;
  - e) a workshop;
  - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and
  - g) an agricultural pastoral or forestry exploitation.
3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.
4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:
  - a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
  - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
  - c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
  - d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
  - e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity;
  - f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs *a) to e)*, provided that such activity or, in the case of subparagraph f), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.
- 4.1 Paragraph 4 shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same Contracting State and
  - a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of this Article, or

b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

5. Notwithstanding the provisions of paragraphs 1 and 2, but subject to the provisions of paragraph 6, where a person is acting in a Contracting State on behalf of an enterprise and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are

a) in the name of the enterprise, or

b) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use, or

c) for the provision of services by that enterprise,

that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business (other than a fixed place of business to which paragraph 4.1 would apply), would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. Paragraph 5 shall not apply where the person acting in a Contracting State on behalf of an enterprise of the other Contracting State carries on business in the first-mentioned State as an independent agent and acts for the enterprise in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such enterprise.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

8. For the purposes of this Article, a person or enterprise is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person or enterprise shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and

value of the company's shares or of the beneficial equity interest in the company) or if another person or enterprise possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise or in the two enterprises.

## **ARTICLE 6**

### **INCOME FROM IMMOVABLE PROPERTY**

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

## **ARTICLE 7**

### **BUSINESS PROFITS**

1. Profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other State.
2. For the purposes of this Article and Article 22, the profits that are attributable in each Contracting State to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the



functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

3. Where, in accordance with paragraph 2, a Contracting State adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting States and taxes accordingly profits of the enterprise that have been charged to tax in the other State, the other State shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged on those profits. In determining such adjustment, the competent authorities of the Contracting States shall if necessary consult each other.
4. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

## **ARTICLE 8**

### **INTERNATIONAL SHIPPING AND AIR TRANSPORT**

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.
2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

## **ARTICLE 9**

### **ASSOCIATED ENTERPRISES**

1. Where
  - a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
  - b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

## **ARTICLE 10**

### **DIVIDENDS**

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:
  - a) 0% percent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 percent of the capital of the company paying throughout a 365 day period that includes the day of the payment of the dividend (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganisation, such as a merger or divisive reorganisation, of the company that holds the shares or that pays the dividend);
  - b) 5% percent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term “dividends” as used in this Article means income from shares, “jouissance” shares or “jouissance” rights, mining shares, founders’ shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other

Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

## **ARTICLE 11**

### **INTEREST**

1. Interest arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.
2. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
4. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.
5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have

been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

## **ARTICLE 12**

### **ROYALTIES**

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, royalties arising in a Contracting State may also be taxed in that State according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.
3. The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraph 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. However, the person paying the royalties, whether or not a resident of a Contracting State, has in a State a permanent establishment to which the obligation to pay the royalties was incurred, and the burden of these , then such royalties shall be deemed to arise in the State where the permanent establishment is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

**ARTICLE 13**  
**CAPITAL GAINS**

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.
3. Gains that an enterprise of a Contracting State that operates ships or aircraft in international traffic derives from the alienation of such ships or aircraft, or of movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.
4. Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests, such as interests in a partnership or trust, deriving, at any time during the 365 days preceding the alienation, more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.
5. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.

**ARTICLE 14**  
**INCOME FROM EMPLOYMENT**

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
  - a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and

- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
  - c) the remuneration is not borne by a permanent establishment which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Contracting State in respect of an employment, as a member of the regular complement of a ship or aircraft, that is exercised aboard a ship or aircraft operated in international traffic, other than aboard a ship or aircraft operated solely within the other Contracting State, shall be taxable only in the first-mentioned Contracting State.

#### **ARTICLE 15 DIRECTORS' FEES**

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

#### **ARTICLE 16 ENTERTAINERS AND SPORTSPERSONS**

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from that resident's personal activities as such exercised in the other Contracting State may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsperson acting as such accrues not to the entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by entertainers or sportspersons if the visit to that State is wholly or mainly supported by public funds of the other Contracting State or political subdivisions or local authorities thereof. In such a case, the income is taxable only in the Contracting State in which the entertainer or the sportsperson is a resident.

**ARTICLE 17**  
**PENSIONS**

Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

**ARTICLE 18**  
**GOVERNMENT SERVICE**

1.
  - a) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
  - b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
    - i. is a national of that State; or
    - ii. did not become a resident of that State solely for the purpose of rendering the services.
2.
  - a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
  - b) However, such pensions and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

**ARTICLE 19**  
**STUDENTS AND BUSINESS APPRENTICES**

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

**ARTICLE 20**  
**OTHER INCOME**

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

**ARTICLE 21**  
**CAPITAL**

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State may be taxed in that other State.
3. Capital of an enterprise of a Contracting State that operates ships or aircraft in international traffic represented by such ships or aircraft, and by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.



**ARTICLE 22**  
**ELIMINATION OF DOUBLE TAXATION**

1. Where a resident of San Marino derives income or owns capital which may be taxed in Andorra in accordance with the provisions of this Convention (except to the extent that these provisions allow taxation by Andorra solely because the income is also income derived by a resident of Andorra or because the capital is also capital owned by a resident of Andorra), San Marino shall allow:

- a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Andorra;
- b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Andorra.

Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in Andorra.

Where in accordance with any provision of the Convention income derived or capital owned by a resident of San Marino is exempt from tax in San Marino, San Marino may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

2. Subject to the provisions of the law of Andorra regarding the elimination of double taxation which shall not affect the general principle hereof, double taxation shall be eliminated as follows:

- a) Where a resident of Andorra derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in San Marino, Andorra shall allow as a deduction from the tax of that resident an amount equal to the tax paid in San Marino.

Such deduction shall not, however, exceed that part of the Andorran tax, as computed before the deduction is given, which is attributable to such items of income derived from San Marino.

- b) Where a resident of Andorra derives income or owns capital which, in accordance with the provisions of this Convention, is exempt from tax in Andorra, Andorra may in order to calculate the amount of tax on the remaining income or capital of the resident, take into account the income or capital that has been exempted.

**ARTICLE 23**  
**NON-DISCRIMINATION**

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.
3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
4.
  - a) Except where the provisions of paragraph 1 of Article 9, paragraph 5 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.
  - b) Where a permanent establishment situated in a State receives dividends, interest or royalties arising in the other State corresponding to property or rights effectively connected with that permanent establishment, such income shall be taxable in the other State in accordance with the provisions of paragraphs 1 and 2 of Article 11 and paragraphs 1, 2 and 4 of Article 12. The first-mentioned State shall eliminate double taxation according to the terms set forth in paragraphs 1 and 2 of Article 22. This provision shall apply irrespective of the location of the head office of the enterprise on which the permanent establishment depends.

5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

**ARTICLE 24**  
**MUTUAL AGREEMENT PROCEDURE**

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of either Contracting State. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.
4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

**ARTICLE 25**  
**EXCHANGE OF INFORMATION**

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the

administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or their local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.
3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:
  - a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
  - b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
  - c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*).
4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.
5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

## **ARTICLE 26**

### **MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS**

1. The provisions of the Convention shall not affect the fiscal privileges of members of diplomatic missions, consular posts or permanent delegations to international organizations, under the general rules of international law or under the provisions of special agreements.

## **ARTICLE 27**

### **REFUNDS**

1. Taxes collected in a Contracting State through a withholding tax shall be refunded upon request of the interested party where the right to levy such taxes is limited by the provisions of this Convention.
2. Refund claims to be submitted within the time limits set forth in the laws of the Contracting State which has to make the refund, shall be accompanied by an official declaration of the Contracting State of which the taxpayer is a resident stating that such taxpayer meets the requirements to be entitled to the benefits of this Convention.
3. The competent authorities of the Contracting State shall decide by mutual agreement, in accordance with the provisions of Article 24 of this Convention, the mode of application of this Article.

## **ARTICLE 28**

### **ENTITLEMENT TO BENEFITS**

1. Notwithstanding any other provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention. Before a resident of a Contracting State is denied such benefits in the other Contracting State by reason of the preceding sentence, the competent authorities of the Contracting States shall consult with each other.
2. Where a benefit under this Convention is denied to a person under provisions under paragraph 1, the competent authority of the Contracting State that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this

benefit, or to different benefits with respect to a specific item of income or capital, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement. The competent authority of the Contracting State to which the request has been made will consult with the competent authority of the other State before rejecting the request made under this paragraph by a resident of that other State.

## **ARTICLE 29**

### **ENTRY INTO FORCE**

This Convention shall enter into force on the date of the last notification by both Contracting States of the completion of their domestic procedures of ratification necessary for its entry into force. The provisions of the Convention shall have effect:

- a) with respect to taxes withheld, to the amounts collected as from 1 January of the calendar year next following that in which this Convention enters into force; and
- b) with respect to the other taxes on income, to the taxes referred to taxable periods as from 1 January of the calendar year next following that in which this Convention enters into force.

## **ARTICLE 30**

### **TERMINATION**

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention not earlier than 5 years from its entry into force, through diplomatic channels, by giving notice of termination at least six months before the end of the calendar year. In such event, the Convention shall cease to have effect:

- a) with respect to taxes withheld, to the amounts collected as from 1 January of the calendar year next following that in which the notification of termination is given; and
- b) with respect to the other taxes on income, to the taxes referred to taxable periods as from 1 January of the calendar year next following that in which the notification of termination is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Convention.

Done in duplicate in two originals at San Marino, this 25<sup>th</sup> May, 2021, in the Italian, Catalan and English languages, each text being equally authentic. In case of divergence on the interpretation, the English text shall prevail.

For the Republic of San Marino

For the Principality of Andorra

Marco Gatti  
Minister of Finance and Budget  
and Transport

Eric Jover Comas  
Minister of Finance and Spokesman

## PROTOCOL

At the signing today of the Convention between the Republic of San Marino and the Principality of Andorra for the Elimination of Double Taxation with respect to Taxes on Income and on Capital and the Prevention of tax evasion and avoidance, the undersigned have agreed upon the following provisions, which shall form an integral part of this Convention:

### **I. With reference to paragraph 1 of Article 4 (Residence):**

1. An investment fund and a pension fund or scheme of a Contracting State is considered to be a resident of that State. For this purpose:
  - a) the term “investment fund” means,
    - i. in the case of Andorra, an investment fund according to the Law 10/2008, of 12 June, on the regulation of the collective investment undertakings under Andorran law, and any other law or regulation that may develop, replace or modify this law in the future;
    - ii. in the case of San Marino, an investment fund according to the Law no. 165 of 17 November 2005, on companies and banking, financial and insurance services, and any other law or regulation that may develop, replace or modify this law in the future;
    - iii. any other investment fund, arrangement or entity of a Contracting State which the competent authority of that Contracting State determines to regard as an investment fund for the purpose of this paragraph; and
  - b) the term “pension fund or scheme” means:
    - i. in the case of Andorra, a pension fund or scheme within the meaning of the Law 12/2017, of 22 June, on regulation and supervision of insurance and reinsurance in the Principality of Andorra, and any other law or regulation that may develop, complement, replace or modify this law in the future;
    - ii. in the case of San Marino, an entity or arrangement established in San Marino that is treated as a separate person under the taxation laws of San Marino and:
      - 1) that is established and operated exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits to individuals and that is regulated as such by San Marino or one of its political subdivisions or local authorities; or
      - 2) that is established and operated exclusively or almost exclusively to invest funds for the benefit of entities or arrangements referred to in subdivision i);
  - c) any other pension fund or scheme of a Contracting State which the competent authority of that Contracting State determines to regard as a pension fund or scheme for the purpose of this paragraph.



**II. With reference to Articles 10 (Dividends) and 27 (Refunds):**

In order to apply the limitations in Article 10 and the procedure in Article 27, the taxpayer should provide the following documents:

1. Where the taxpayer is an individual, a tax residence certificate issued by the Tax Authority of the tax residence State.
2. Where the taxpayer is a company, a tax residence certificate issued by the Tax Authority of the tax residence State and an incorporation certificate or equivalent.

**III. With reference to Article 24 (Mutual agreement procedure):**

San Marino positively acknowledges Andorra's proposal to include arbitration as a means of dispute resolution in Article 24 "Mutual Agreement Procedure" and will thus explore the feasibility of accepting the inclusion of arbitration in the Convention.

**IV. With reference to Article 25 (Exchange of Information):**

1. As regards the exchange of information upon request, as provided for in Article 25 of the Convention, the provisions of the Agreement between the Republic of San Marino and the Principality of Andorra for the exchange of information on tax matters, signed on 21 September 2009, shall apply until the Convention enters into force. From that date on, any request of information will be made under the Convention.
2. Notwithstanding the entry into force of the Convention, requests for information may be made in respect to taxable periods for which requests for the information may have been made under the Agreement between the Republic of San Marino and the Principality of Andorra for the exchange of information on tax matters, signed on 21 September, 2009.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Protocol.

Done in duplicate at San Marino this 25<sup>th</sup> May, 2021, in two originals in the Italian, Catalan and English languages, each text being equally authentic. In case of divergence on the interpretation, the English text shall prevail.

For the Republic of San Marino

For the Principality of Andorra

Marco Gatti

Eric Jover Comas

Minister of Finance and Budget  
and Transport

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