

L.N. 192 of 2010

**INCOME TAX ACT
(CAP. 123)**

**Double Taxation Relief (Taxes on Income)
(The Republic of San Marino) (Amendment) Order, 2010**

IN exercise of the powers conferred by article 76 of the Income Tax Act, the Minister of Finance, the Economy and Investment has made the following order:-

1. The title of this order is the Double Taxation Relief (Taxes on Income) (The Republic of San Marino) (Amendment) Order, 2010 and it shall be read and construed as one with the Double Taxation Relief (Taxes on Income) (The Republic of San Marino) Order, 2006, hereinafter referred to as “the principal order”. Citation.
L.N. 270 of 2006.

2. It is hereby declared:-

Amendments to have effect.

(a) that the amendments to the principal order, as specified in the Schedule to this order, have been made with the Government of the Republic of San Marino;

(b) that it is expedient that those amendments should have effect;

(c) that the Protocol specified in the Schedule to this order has entered into force on the 15th February, 2010.

SCHEDULE

Article 2

**PROTOCOL
AMENDING THE CONVENTION BETWEEN
MALTA AND THE REPUBLIC OF SAN MARINO
WITH RESPECT TO TAXES ON INCOME**

The Government of Malta and the Government of the Republic of San Marino desiring to amend the Convention between Malta and the Republic of San Marino with respect to Taxes on Income, with Protocol, signed in Valletta on 3 May, 2005 (hereinafter referred to as “the Convention”),

Have agreed as follows:

ARTICLE I

The text of Article 25 of the Convention is deleted and replaced by the following:

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 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.
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 II

Each of the Contracting States shall notify the other, through diplomatic channels, of the completion of the procedures required by their respective laws for the bringing into force of this Protocol. The Protocol shall enter into force on the date of the later of these notifications and its provisions shall have immediate effect.

ARTICLE III

This Protocol, which shall form an integral part of the Convention, shall remain in force as long as the Convention itself is applicable.

IN WITNESS WHEREOF, the undersigned duly authorised thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at Rome, on this 10th day of September 2009, in the English and Italian languages, both texts being equally authentic.

WALTER BALZAN

FOR THE GOVERNMENT OF
MALTA

BARBARA PARA

FOR THE GOVERNMENT OF
THE REPUBLIC OF SAN MARINO

