

**No. 49411**

---

**Australia  
and  
San Marino**

**Agreement between the Government of Australia and the Government of the Republic of San Marino for the exchange of information relating to taxes. San Marino, 4 March 2010**

**Entry into force:** *11 January 2011 by notification, in accordance with article 13*

**Authentic text:** *English*

**Registration with the Secretariat of the United Nations:** *Australia, 6 March 2012*

---

**Australie  
et  
Saint-Marin**

**Accord entre le Gouvernement de l'Australie et le Gouvernement de la République de Saint-Marin relatif à l'échange de renseignements en matière fiscale. Saint-Marin, 4 mars 2010**

**Entrée en vigueur :** *11 janvier 2011 par notification, conformément à l'article 13*

**Texte authentique :** *anglais*

**Enregistrement auprès du Secrétariat des Nations Unies :** *Australie, 6 mars 2012*

[ ENGLISH TEXT – TEXTE ANGLAIS ]

AGREEMENT BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE  
GOVERNMENT OF THE REPUBLIC OF SAN MARINO FOR THE EXCHANGE OF  
INFORMATION RELATING TO TAXES

The Government of Australia and the Government of the Republic of San Marino ("the Contracting Parties"), desiring to conclude an Agreement concerning the exchange of information relating to taxes, have agreed as follows:

**Article 1**

**Object and Scope of the Agreement**

The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Contracting Parties concerning taxes covered by this Agreement. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters. Information shall be exchanged in accordance with the provisions of this Agreement and shall be treated as confidential in the manner provided in Article 8. The rights and safeguards secured to persons by the laws or administrative practice of the Requested Party remain applicable to the extent that they do not unduly prevent or delay effective exchange of information.

**Article 2**

**Jurisdiction**

A Requested Party is not obligated to provide information which is neither held by its authorities nor in the possession or control of persons who are within its territorial jurisdiction.

### **Article 3**

#### **Taxes Covered**

- 1       The existing taxes which are the subject of this Agreement are:
  - (a)   in Australia, taxes of every kind and description imposed under federal laws administered by the Commissioner of Taxation; and
  - (b)   in San Marino, taxes of every kind and description imposed by domestic laws.
- 2       This Agreement shall also apply to any identical or any substantially similar taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes. The Agreement shall also apply to such other taxes as may be agreed in an exchange of letters between the Contracting Parties. The competent authorities of the Contracting Parties shall notify each other of any substantial changes to the taxation and related information gathering measures covered by this Agreement.
- 3       This Agreement shall not apply to taxes imposed by states, municipalities, or other political subdivisions, or possessions of a Contracting Party.

### **Article 4**

#### **Definitions**

- 1       For the purposes of this Agreement, unless otherwise defined:
  - (a)   the term "Applicant Party" means the Contracting Party requesting information;
  - (b)   the term "Australia", when used in a geographical sense, excludes all external territories other than:

- (i) the Territory of Norfolk Island;
- (ii) the Territory of Christmas Island;
- (iii) the Territory of Cocos (Keeling) Islands;
- (iv) the Territory of Ashmore and Cartier Islands;
- (v) the Territory of Heard Island and McDonald Islands; and
- (vi) the Coral Sea Islands Territory,

and includes any area adjacent to the territorial limits of Australia (including the Territories specified in this subparagraph) in respect of which there is for the time being in force, consistently with international law, a law of Australia dealing with the exploration for or exploitation of any of the natural resources of the exclusive economic zone or the seabed and subsoil of the continental shelf;

(c) the term "San Marino" means the territory of the Republic of San Marino, including any other area within which the Republic of San Marino, in accordance with international law, exercises sovereign rights or jurisdiction;

(d) the term "collective investment fund or scheme" means any pooled investment vehicle, irrespective of legal form. The term "public collective investment fund or scheme" means any collective investment fund or scheme provided the units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed by the public. Units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed "by the public" if the purchase, sale or redemption is not implicitly or explicitly restricted to a limited group of investors;

(e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

(f) the term "competent authority" means:

- (i) in Australia, the Commissioner of Taxation or an authorised representative of the Commissioner;
- (ii) in San Marino, the Minister of Finance or an authorized representative of the Minister.

- (g) the term "Contracting Party" means the Republic of San Marino or Australia as the context requires;
- (h) the term "criminal laws" means all criminal laws designated as such under domestic law irrespective of whether contained in the tax laws, the criminal code or other statutes;
- (i) the term "criminal tax matters" means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the Applicant Party;
- (j) the term "information" means any fact, statement or record in any form whatever;
- (k) the term "information gathering measures" means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information;
- (l) the term "person" includes an individual, a company and any other body of persons;
- (m) the term "principal class of shares" means the class or classes of shares representing a majority of the voting power and value of the company;
- (n) the term "publicly traded company" means any company whose principal class of shares is listed on a recognized stock exchange provided its listed shares can be readily purchased or sold by the public. Shares can be purchased or sold "by the public" if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;
- (o) the term "recognized stock exchange" means any stock exchange agreed upon by the competent authorities of the Contracting Parties;
- (p) the term "Requested Party" means the Contracting Party requested to provide information; and