

De minimis aid statement

We advise you to read the explanatory notes attached to this form before filling it in.

Statement

The undersigned hereby states that the business enterprise named below

- has not been granted de minimis aid
 - Over the period from _____ (start date of the tax year two years before the date of signing of this statement) to _____ (date of signing of this statement), no de minimis aid was granted.

- was granted limited de minimis aid
 - For the period from _____ (start date of tax year two years before the date of signing this declaration) until _____ (date of signing of this statement) de minimis aid (in any form or for any purpose) was granted totalling € _____

Whether this de minimis aid has already actually been paid is irrelevant. Please attach a copy of the documents showing the granting of the aid to this statement.

- has already been granted other aid in respect of the same eligible costs
 - For the same eligible costs, state aid has already been granted totalling € _____

This state aid was granted pursuant to an exemption regulation, framework regulation or a Commission decision dated _____

Please attach a copy of the documents showing the granting of state aid for the same eligible costs to this statement.

Thus completed fully and truthfully by:

_____(Company name)
_____(CoC registration number)
_____(Name of officer and position)
_____(Company address)
_____(Postcode and city)
_____(date) _____(Signature)

Explanatory note de minimis aid

This note serves as an aid for completing the de minimis statement. No rights may be derived from this explanatory note. Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJEU 2013, L352/1), or the regulations for de minimis aid for the agriculture and fisheries sectors, or for compensation of costs for the operation of services of general economic interest (SGEI) are decisive.

The de minimis regulation and state aid

State aid rules in the Treaty on the Functioning of the European Union (Articles 107 and 108 TFEU) impose restrictions on public authorities if they want to grant aid to business enterprises. This de minimis statement is necessary for the government to verify that the benefit you are undertaking from this de minimis aid fits within the conditions set by European state aid rules.

In the de minimis regulation, the European Commission has stated that aid measures (such as grant aid) up to a certain threshold do not affect trade between member states and do not distort competition and are therefore not considered state aid within the meaning of the TFEU. This threshold is set at an amount of €200,000 (€100,000 for business enterprises carrying out road haulage on behalf of third parties). A threshold of €30,000 applies to the fisheries sector. For the agricultural production sector, the threshold is set at €15,000.

This amount applies per business enterprise over a period of three tax years. Aid not exceeding these threshold amounts is classified as 'de minimis aid'.

The de minimis regulation can be used for small, medium or large enterprises. In addition to enterprises in the sectors mentioned that are subject to a particular de minimis regulation, the de minimis regulation (No 1407/2013) does not apply in certain cases to aid to enterprises active in the processing and marketing of agricultural products. Aid for work related to exports to third countries or Member States and aid contingent on the use of domestic rather than imported goods is also excluded.

One enterprise

The de minimis ceiling applies to one enterprise. Article 2(2) of the de minimis regulation (No 1407/2013) specifies what is deemed to be a single enterprise. This is because two (or more) enterprises may have a certain connection with each other and be considered as one enterprise under this regulation. Examples include having a majority of the voting rights of another enterprise's shareholders, the right to appoint or dismiss board members of another enterprise and the right to exercise a dominant control over another enterprise.

Amount of de minimis aid

By means of this statement you have indicated that the current grant for your enterprise does not exceed the de minimis threshold. You should therefore check whether any de minimis aid was provided to your enterprise by a government organisation during the current and previous two tax years. If so, you should have been notified by the government agency. So it is not just aid you have received from a municipality or ministry: all de minimis aid counts. If the threshold is exceeded, the enterprise can no longer rely

¹ For the agricultural primary production sector, see Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector. For the fisheries sector, see Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the fisheries and aquaculture sector. For SGEI, see Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to enterprises providing services of general economic interest.

² An enterprise in the European law sense is an entity engaged in an economic activity. An economic activity is the offering of goods and services on the market. The legal form of this entity or the way it is financed is irrelevant here. Both private law and public law legal persons may constitute an enterprise. The fact that there is no profit motive (as with an association) is irrelevant.

³ A public authority can be either the central government, the province, the municipality or a water authority. It may also be the case that an implementing agency is authorised to provide support on their behalf.

on the de minimis regulation. Acting in breach of state aid rules can ultimately lead to the aid granted being claimed back!

The amounts to be used when completing the statement are gross amounts before taxes. Apart from subsidies, this may include loans on favourable terms, sale of land at below market value, exemptions, reductions or remission of direct or indirect taxes, etc.

Under certain conditions, it is possible to apply the regulation to loans and guarantees with a duration of more than three years.

The de minimis aid is deemed to be granted at the time when your company acquires a legal right to the aid, irrespective of the date on which the de minimis aid is paid to the company. Specifically, this means the date on which a decision to award a subsidy (or grant a benefit by, for example, taking out a loan or guarantee) to your enterprise was taken.

Concurrence with regular state aid

Your enterprise may have already received state aid for the same costs that are eligible for the current de minimis aid that was approved by the European Commission or falls within the scope of the General Block Exemption Regulation⁴, the Agricultural Block Exemption Regulation⁵, the Fisheries Exemption Regulation⁶ or the exemption decision on compensation of costs for the operation of services of general economic interest (SGEI)⁷. The total amount of de minimis aid and this state aid must not exceed the ceilings allowed under the relevant European Commission decision or exemption regulation. If you are in doubt as to whether certain aid you have received is approved or exempted aid, you can contact the government or implementing agency from which you received the aid about this.

The form covers three situations:

- your enterprise did not receive any de minimis aid at all during the current and previous two tax years,
- your enterprise received de minimis aid during the current and previous two tax years. However, the amount of current proposed aid and that of the earlier aid added together does not exceed €200,000 (€100,000/€30,000/€15,000 respectively), or
- your undertaking has already received other forms of state aid for the same costs eligible for the current proposed aid.

Data retention

The European Commission can recover unlawful aid for up to 10 years after it has been granted. There is therefore a possibility that the European Commission may subsequently request information from the Dutch government or Dutch public authorities about how the aid was spent in order to be able to ascertain whether the aid may have been unlawful. In such a case, the public authority from which you received the aid may – if it does not have that information itself – ask you for documents proving that the aid was spent on those activities for which it was granted. These are documents that you must keep under the general record-keeping and retention obligation for entrepreneurs⁸.

⁴ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.

⁵ Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agriculture, forestry and rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union.

⁶ Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to enterprises active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union.

⁷ Commission decision of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain enterprises entrusted with the operation of services of general economic interest.

⁸ Article 2:10(1) of the Dutch Civil Code (legal persons) and Article 3:15i of the Dutch Civil Code (companies and independent professionals).