

What are State Aid De Minimis levels and what are the rules for businesses?

For most organisations, the total amount of State Aid that can be paid will be equivalent to €200,000 within any three-year period. This is the equivalent of approximately £55,000 of State Aid per year.

For organisations involved in road freight transport for hire or reward, the total amount that can be paid is equivalent to €100,000 within any three-year period. If an undertaking performs road freight transport for hire or reward and also carries out other activities to which the ceiling of EUR 200 000 applies, the ceiling of EUR 200 000 shall apply to the undertaking, provided that the public body funding ensures, by appropriate means such as separation of activities or distinction of costs, that the benefit to the road freight transport activity does not exceed EUR 100 000 and that no de minimis aid is used for the acquisition of road freight transport vehicles.

Enterprise Zone status enables Lewes District Council to grant rate relief over a maximum period of five years. This is therefore equivalent to a maximum of up to approximately £275,000 per business over a five-year period, subject to any other support received by that organisation, and whether the organisation is involved in road transport. This will depend on the exchange rate at the time the aid is granted.

What counts as State Aid?

The following are all classified as State Aid and must be included in your assessment of the financial support that your organisation has received:

- State grants
- Interest rate relief
- Tax relief
- Tax credits
- State guarantees or holdings
- State provision of goods or services on preferential terms
- Direct subsidies
- Tax exemptions
- Preferential interest rates
- Guarantees of loans on especially favourable terms
- Acquisition of land or buildings either gratuitously or on favourable terms
- Provision of goods and services on preferential terms
- Indemnities against operating losses
- Reimbursement of costs in the event of success

- State guarantees, whether direct or indirect, to credit operations preferential re-discount rates
- Discount rates
- Dividend guarantees
- Preferential public ordering
- Reduction of, or exemption from, charges or taxes, including accelerated depreciation and the reduction of social contributions
- Deferred collection of fiscal or social contributions
- Assistance financed by special levies
- Capital transfers
- Certain state holdings in the capital of undertakings
- Business rates hardship relief payments
- High street support payments

What has this got to do with the council?

Your relevant council is the administrator of the business rates relief scheme. As such, the council is responsible for ensuring that any relief provided comply with State Aid regulations.

What does this mean?

The council must comply with the requirements for granting De Minimis State Aid. This means that we have to ensure compliance with strict guidelines as defined in the regulations, by collecting detailed information and a formal declaration as part of the claim process before any relief is awarded.

The council has to keep records of aid given for at least ten years and as the recipient has to keep a record of the payments made for at least three years.

Failure to complete the State Aid declaration will mean that the council is unable to consider your application for relief on Business Rates.

What is the application process and what do I need to do?

The application specifies that the business may be entitled to received State Aid to De Minimis threshold levels and makes express reference to current De Minimis regulations.

The application will ask you for information on other awards of aid provided under State Aid De Minimis regulations received in the current and two previous fiscal years.

The council also requires a signed declaration from your organisation that receiving the aid will not lead to you exceeding your State Aid De Minimis threshold or receiving aid in contravention of the exclusions set out in the regulations.

The onus is on you, as the applicant, to demonstrate that your organisation can receive the discretionary business rate relief within existing State Aid De Minimis threshold levels. Usually, where De Minimis State Aid has been provided, your organisation will have been informed by letter that the support has been provided under the relevant regulation. The council will not grant a discount to a business until it is satisfied that the threshold will not be exceeded and the signed declaration has been received.

What if some State Aid has already been granted?

If your organisation has received some State Aid in previous years, but this does not exceed the De Minimis limit, then partial relief on your business rates may be granted up to the De Minimis threshold level. If you can provide details of previous awards, the council will calculate your eligibility for this discretionary rate relief.

Who is the recipient of the aid?

When calculating the De Minimis threshold you should be aware that the recipient is taken to form the entire business enterprise where the relationships between different bodies come under the definition of a “single undertaking”. This means that any aid received by for example by a parent company or subsidiary must be included within your declaration.

For ease of reference the definition of a single undertaking is set out below and includes all enterprises having at least one of the following relationships with each other:

- (a) one enterprise has a majority of the shareholders’ or members’ voting rights in another enterprise
- (b) one enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise
- (c) one enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association
- (d) one enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders’ or members’ voting rights in that enterprise

Enterprises having any of the relationships referred to in points (a) to (d) through one or more other enterprises shall also be considered to be a single undertaking.

What if I have received other types of State Aid?

If your organisation has received State Aid under a different State Aid exemption or notification, then this may not affect your De Minimis declaration. However, you must declare support which is De Minimis aid received under:

- the European 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, as published in the Official Journal of the European Union 24 December 2013 (OJ L 352 24.12.13, p1.) (“the Regulations”)
- the 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 undertakings providing services of general economic interest; and
- any other relevant de minimis regulation

Please also declare any support towards the same costs as will be covered by the Business Rate Relief which is being provided under a state aid block exemption or notified scheme.

Only aid provided in the current fiscal year and the two previous fiscal years needs to be declared.

Who is liable for any State Aid ‘problems’?

If it emerges that the discounted business rates provided mean that your organisation has exceeded the De Minimis limit (for example, through a mis-completed declaration), then the council would be responsible for recovering the money from the organisation that has received it. Compound interest will also be applied. It is an express condition of being granted Business Rate Relief that you agree to pay back any amount that the council is obliged to recover under the state aid rules.

Details of the current reference rates used in calculating the interest rate can be found on the [European Commission's](#) website.

What if the exchange rate fluctuates?

De minimis aid is deemed granted at the moment the legal right to receive the aid is conferred on the Ratepayer irrespective of the date of payment of the de minimis aid. State Aid De Minimis threshold limits are calculated in Euros (€). For the purpose of conversion to £ Sterling, the European Commission's reference exchange rate is used as it is or was on the day that the aid was granted.

The conversion rates can be found on the [European Commission's website](#):

What are the main Exclusions from De Minimis Eligibility?

Other than the three year threshold, there are other situations where an organisation cannot receive de minimis aid. You are asked to confirm in your application that these do not apply to you. In summary aid can be granted to undertakings in all sectors, with the exception of:

- (a) aid granted to undertakings active in the fishery and aquaculture sector, as covered by Council Regulation (EC) No 104/2000 (1)
- (b) aid granted to undertakings active in the primary production of agricultural products
- (c) aid granted to undertakings active in the sector of processing and marketing of agricultural products, in the following cases:
 - (i) where the amount of the aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned
 - (ii) where the aid is conditional on being partly or entirely passed on to primary producers
- (d) aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity
- (e) aid contingent upon the use of domestic over imported goods

Where an undertaking is active in the sectors referred to in points (a), (b) or (c) and is also active in one or more of the sectors or has other activities falling within the scope of the Regulation, the Regulation shall apply to aid granted in respect of the latter sectors or activities, provided that the provider of the aid concerned ensures, by appropriate means such as separation of activities or distinction of costs, that the activities in the sectors excluded from the scope of the Regulation do not benefit from the de minimis aid granted in accordance with the Regulation.

De minimis aid cannot be given towards the same costs that are being supported under another block exemption or notified scheme if it means that the total aid would exceed what is allowed under the block exemption or notified scheme. De minimis aid could be given for separate costs however.