

De minimis aid declaration

Declaration within the scope of the provision of aid as referred to in the de minimis aid Regulation (OJ 2006, L379).

It is recommended that you read the explanatory notes in the annex to this form before you complete this declaration.

This declaration consists of two pages. The annex consists of three pages. It is recommended that you check carefully to verify that all pages are present.

Declaration

The undersigned hereby declares that the enterprise referred to below and the entire parent enterprise, where relevant, of which the enterprise is a member,

- ***has not been granted de minimis aid.***
 - Your enterprise has not received de minimis aid during the current tax year or the two previous tax years.
- ***has been granted de minimis aid, but for costs other than the costs for which you are now applying for aid.***
 - Your enterprise has received de minimis aid during the current tax year or the two previous tax years for other costs amounting to a total of € .

When this option is applicable to you then you will need to submit a copy attesting to the grant of the aid.

- ***has been granted de minimis aid for the same costs for which you are now applying for aid.***
 - Your enterprise has received de minimis aid during the current tax year or the two previous tax years for the same costs amounting to a total of € .

When this option is applicable to you then you will need to submit a copy attesting to the grant of the aid.

- ***has been granted other State aid for the same costs for which you are now applying for aid.***
 - State aid has already been granted for the same costs coming into consideration amounting to a total of € .

This State aid has been granted pursuant to an exemption regulation, guidelines, decision or resolution of the Council on

When this option is applicable to you then you will need to submit a copy attesting to the grant of the aid.

Completed fully and truthfully by:

..... (Name of enterprise)

..... (Registration number with Chamber of Commerce)

..... (Officer's name and position)

..... (Enterprise's address)

..... (Postcode and town/city)

.....(date)..... (Signature)

Notes to the de minimis aid declaration

These explanatory notes will serve as assistance when completing the de minimis aid declaration. No rights can be derived from these explanatory notes. The 'Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid' (OJ 2006, L 379) is determinative¹.

1. The de minimis aid Regulation and State aid

Aid the authorities² wish to grant enterprises³ could result in the disruption of competitive conditions. As this could be detrimental to trading conditions, the Treaty on the Functioning of the European Union (TFEU) imposes restrictions on granting aid (articles 107 and 108 of the TFEU).

The Commission Regulation on de minimis aid declares that State aid (such as the provision of grants) below a specific threshold does not affect trade between Member States and/or does not distort or threaten to distort competition and therefore is not regarded as State aid as referred to in the TFEU. This threshold is set at an amount of € 200,000 (€ 100,000 for enterprises in the road transport sector). The threshold for the fisheries sector is set at € 30,000. The threshold for the agricultural production sector is set at an amount of € 7,500. This amount is applicable to aid granted to each enterprise over a period of three tax years. Aid that does not exceed the specified thresholds is deemed to be 'de minimis aid'.

The authorities require this declaration to review whether the aid granted to your enterprise has complied with the requirements prescribed by the de minimis aid Regulation. In submitting this declaration you declare that the aid thresholds will not be exceeded on the provision of the current grant.

2. The enterprises to which the Regulation is applicable

The de minimis aid Regulation is applicable to small, medium-sized or large enterprises in all Dutch sectors. However, the de minimis aid Regulation may not be applied when the aid is for one of the following sectors:

- aid to enterprises that are encountering difficulties
- aid to enterprises active in the fisheries sector
- aid to enterprises active in the coal sector
- aid to enterprises that produce agricultural products⁴
- export aid or aid favouring domestic over imported products

¹ Commission Regulation (EC) No 1535/2007 of 20 December 2007 on the application of Articles 87 and 88 of the EC Treaty to de minimis aid in the sector of agricultural production is determinative for the primary production and the processing and marketing of agricultural products. The de minimis aid ceiling specified by Commission Regulation (EC) No 875/2007 of 24 July 2007 on the application of Articles 87 and 88 of the EC Treaty to de minimis aid in the fisheries sector and amending Regulation (EC) No 1860/2004 is applicable to the fisheries sector.

² An authority can be the central government, a province, municipality or water board.

³ An 'enterprise' in the meaning of European law is an entity engaged in an economic activity. An economic activity relates to the offering of goods and services on the market. The legal form of this entity and the manner in which it is financed are not of relevance. Both private law and public law legal persons can form an enterprise. The fact that the entity is a non-profit organisation (such as a foundation) is not of relevance.

⁴ The de minimis aid Regulation is applicable to enterprises active in the processing and marketing of agricultural products solely when:

- the aid is not set on the basis of the price or quantity of agricultural products procured from the primary producers or that are brought onto the market by the relevant entrepreneur, or
- the aid is granted subject to the obligation to pass on all or part of this aid to the primary producers

- aid provided to enterprises for the purchase of goods vehicles.

3. Explanatory notes to the declaration

The form relates to four situations:

- Your enterprise and your entire parent enterprise, where relevant, has not received any de minimis aid during the current tax year or the two previous tax years,
- Your enterprise and your entire parent enterprise, where relevant, has received de minimis aid during the current tax year or the two previous tax years for costs other than the costs for which you are currently applying for aid. However, when this aid is added to the aid you are currently applying for the total will not exceed the amount of € 200,000 (or € 100,000, € 30,000 or € 7,500 respectively)
- Your enterprise and your entire parent enterprise, where relevant, has received de minimis aid during the current tax year or the two previous tax years for the same costs as the costs for which you are now applying for aid, or
- Your enterprise and your entire parent enterprise, where relevant, has been granted another form of State Aid for the same costs coming into consideration for the current grant.

An enterprise is regarded as 'autonomous' when 25 % or more of its capital or voting rights is *not* owned by one enterprise or jointly by enterprises linked to one another⁵. When your enterprise *cannot* be regarded as autonomous then the determination of the amount of aid you have received will also need to take account of the aid granted to the entire parent enterprise of which your enterprise is a member.

Nature of other forms of aid

It is conceivable that your enterprise has already received another form of aid for the costs coming into consideration for the current de minimis aid. This other form of aid can, for example, consist of aid approved by the European Commission or aid that falls under a block exemption regulation.

The total amount of this State aid and the other forms of State aid received may not exceed the ceilings permitted pursuant to the relevant European Commission decision or block exemption regulation.

If you have doubts whether specific aid you have received is approved or exempted aid then you can contact the authority or administrative agency from which you received the aid.

4. Completion

Answer the questions that are applicable. *Enter all amounts in Euros.* Round off amounts to whole Euros.

⁵ See also Commission Recommendation of 6 May 2003, OJ L 124, of 20 May 2003

The form in which or the purpose for which you were granted aid is *not* of relevance. Nor is the actual payment of the aid you were granted of relevance. All amounts to be stated when completing the declaration are gross amounts before the deduction of tax. These amounts can, in addition to grants, relate to concessionary loans, the purchase of land at a price below the market value, exemptions, reductions or the waiver of direct or indirect tax, guarantees or suretyship, etc. The amounts not only relate to aid you have received from the government but also to aid you have received from other authorities. European grants also need to be taken into account.

The time at which your enterprise is deemed to have been granted aid is the time at which your enterprise acquired a legal right to the aid. More specifically, this relates to the date on which your enterprise acquired the legal right to the advantage, such as the decision awarding a grant or on taking out a loan or entering into suretyship.

5. Retention of data

The European Commission can recover unlawful aid during the period of ten years after the aid has been granted. For this reason it is also conceivable that the European Commission will subsequently request information from the Netherlands (or the authority) about the allocation of the aid to review whether unlawful aid is an issue. The authority from which you received the aid may then – when it does not possess the necessary information – request you to furnish documents demonstrating that the aid was allocated to the activities for which it was granted. This then relates to the documents that you are required to retain pursuant to the general obligation imposed on entrepreneurs to keep and retain records⁶.

Note!

You need to take good care when assessing whether the aid threshold would be exceeded in your specific case, as you will have no further recourse to the *de minimis* aid Regulation if you exceed the threshold. Acting in contravention of the aid regulations laid down in the TFEU may, in the most extreme situation, result in the recovery of aid that granted earlier!

Self-evidently, you complete solely the sections that are applicable to your situation. Above all, remember to enclose the annexes with the declaration!

⁶ Article 2:10, paragraph 1, of the Civil Code (legal persons) and Article 3:15i of the Civil Code (enterprises and practitioners of independent professions)