

De minimis aid has become more accessible

1/34/24



Senior Associate, PwC Legal
Sarmīte Zakovska

This series of articles offers information on the nature of state aid, and this time we will look at a set of state aid rules that is used very widely: de minimis aid. This aid is particularly attractive because its conditions are simplified and it is more accessible than other types of aid. This article explores key changes to these rules, where you can sign up for this aid and what conditions apply.

What is de minimis aid?

De minimis aid is awarded by central or local government and defined by EU law as one that is not so substantial as to affect competition and trade between the member states. This aid is awarded on easy terms and the award is not subject to the European Commission's approval.

The de minimis rules significantly changed in late 2023 after Commission Regulation 2023/2831¹ was passed (a new de minimis regulation for the general economy). It came into force on 1 January 2024, replacing Commission Regulation No. 1407/2013,² which was applicable until 1 July 2024.

Overall, the European Commission has passed several de minimis regulations for different sectors,³ yet this article explores the one that is widely used in Latvia.

Key changes to the general de minimis rules

1. *Higher cap*: Given the inflation and the experience of applying Commission Regulation No. 1407/2013, the cap has been raised to EUR 300,000.
2. *Rolling three-year period*: Aid calculations are based on a rolling three-year period, not fiscal years. So far, the aid received in the current and last two fiscal years was examined to verify compliance with the cap. The actual three years will be considered in future.
3. *Wider scope*: Companies that process and sell fishery, aquaculture and agriculture products are now governed by Commission Regulation No. 2023/2831. They were so far governed by special de minimis regulations where a single undertaking is now capped at EUR 25,000 (there are plans to increase it to EUR 37,000) and EUR 40,000.

Things to consider before applying for de minimis aid

1. *Aid cap*: As mentioned, de minimis aid must not exceed EUR 300,000 over a three-year period. The cap applies to the entire de minimis aid received, whether from one or more aid providers in Latvia.
2. *Definition of a single undertaking*: Article 2(2) of Commission Regulation No. 2023/2831 gives a broad definition stating that all enterprises that are legally or actually controlled by one and the same enterprise are treated as a single undertaking. So, if a company is part of a group of related companies, the cap of EUR 300,000 applies to the entire group. A relationship can also

arise through an individual.

3. *Types of aid*: De minimis aid can take various forms, such as subsidy, tax relief, loan or guarantee. For loans and guarantees, Article 4 of Commission Regulation No. 2023/2831 includes specific conditions restricting the amount and duration of aid.
4. *Sectoral restrictions*: Some sectors, such as companies engaged in the primary production of agriculture, fishery and aquaculture products, are excluded from the scope of Commission Regulation No. 2023/2831. These sectors are governed by other de minimis regulations, i.e. Commission Regulation No. 1408/2013⁴ and Commission Regulation No. 717/2014,⁵ with lower caps.
5. *Aid register*: At national level, the granting and recording of de minimis aid is governed by the State Aid Control Act and the Cabinet of Ministers' Rule No. 715.⁶ Before filing an application with an aid provider, the applicant must complete a de minimis form in the aid recording system so the aid provider can make sure the proposed amount of aid will not exceed the cap.

Where can you apply for de minimis aid?

Companies can apply for de minimis aid through about 200 different aid programmes, half of which are municipal aid programmes offering exemptions from real estate tax or aid for promoting business in municipal areas. De minimis aid is widely used in programmes offered by various EU funds. The latest information on the aid programmes can be found on the EU funds website and the National Platform for Business Development.

De minimis aid is a significant tool for stimulating economy, which has now become even more accessible because of changes to the rules. We encourage companies to seek out opportunities of receiving state aid for business development and to act responsibly in complying with all the restrictions. PwC experts are happy to help you if you need in-depth advice on state aid or ways of raising public funds.

¹ Commission Regulation (EU) 2023/2831 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid

² 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

³ Commission Regulation (EU) 2023/2832 of 13 December 2023 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; 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; 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 fishery and aquaculture sector

⁴ 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

⁵ 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 fishery and aquaculture sector

⁶ The Cabinet of Ministers' Rule No. 715 of 21 November 2018, "Procedures for awarding and recording *de minimis* aid"