

COVID-19 Business Grant - State Aid and UK Subsidy allowance guidance

What is state aid and subsidy allowance?

Subsidies, formerly state aid is any advantage granted by public authorities through state resources on a selective basis to any organisations that could potentially distort competition and trade in the European Union (EU).

The definition of state aid/subsidies is very broad because 'an advantage' can take many forms. It is anything which an undertaking (an organisation engaged in economic activity) could not get on the open market.

State aid/subsidy allowance rules

State aid/subsidy allowance rules can (among other things) apply to the following:

- Grants (Covid and non-Covid)
- loans
- tax breaks, including enhanced capital allowances
- the use or sale of a state asset for free or at less than market price

The rules can apply to funding given to charities, public authorities and other non-profit making bodies where they are involved in commercial activities.

In principle, state aid is not allowed in the EU. However, some state aid is beneficial to the economy and supports growth and other policy objectives. State aid can be given to support a wide variety of activities including research and development, environmental protection and aid for small to medium-sized businesses. The state aid rules allow for good aid, which is necessary to deliver growth and other important objectives.

The UK supports the need for effective state aid rules to prevent distortion of competition and to create an open and competitive market in the EU on which UK firms can fairly compete and grow.

Please note that Coronavirus Job Retention Scheme grants (Furlough) is not considered as State Aid as was available to all businesses.

Guidance for Business Grants awarded up to and including the 31 December 2020

The EU State aid rules no longer apply to subsidies granted in the UK following the end of the transition period, which ended on 31 December 2020.

European Union laws restrict the amount of state funding businesses can receive. This includes government grants, loans, or tax reductions. Local Restrictions Support Grants count towards your state aid allocation. The EU State aid rules no longer apply to subsidies granted in the UK following the end of the transition period, which ended on 31 December 2020. The EU state aid rules that applied: 200,000 Euros received over a three-year period which covers the current financial year, running from April 2020 to March 2021, and the two preceding financial years, plus 800,000Euros received over the period March 2020 to December 2020.

Guidance for Business Grants awarded from the 1 January 2021

From the 1 January 2021 the UK has been bound by its international subsidy control obligations, principally the Trade & Cooperation Agreement (TCA) with the EU.

The TCA has a provision for Small Amounts of Financial Assistance (SAFA) which replaces the EU State aid de minimis rules. Under SAFA a business can receive up to 325,000 Special Drawing Rights (currently equivalent to about £330K) in a three-year period without the subsidy control rules applying. De minimis State aid (but not other kinds of State aid) cumulates towards the limit. Both the procedures you describe in your message below (for businesses not having previously received de minimis State aid and for businesses that have) seem fine to me and doing it electronically is OK.

Additional Information

Difficulty in undertaking

'Undertaking in difficulty' means an undertaking in respect of which at least one of the following circumstances occurs:

1. In the case of a limited liability company (other than an SME that has been in existence for less than three years) where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case where deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, 'share capital' includes, where relevant, any share premium.
2. In the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years) where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses
3. Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria for being placed in collective insolvency proceedings at the request of its creditors.
4. Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee or has received restructuring aid and is still subject to a restructuring plan.
5. In the case of an undertaking that is not an SME, where, for the past two years: (1) the undertaking's book debt to equity ratio has been greater than 7.5 and (2) the undertaking's EBITDA interest coverage ratio has been below 1.0.

A business that is determined to be an 'undertaking in difficulty' can only receive grants up to the Small Amounts of Financial Assistance Allowance limit.

For more information on any of the above please visit <https://www.gov.uk/guidance/state-aid>