

Art.3.2 How to calculate the three years period for de minimis aids

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Article	3.2
Key words	How to calculate the three year period for de minimis aids
Member State	ITALY
Question	<p>The new de minimis regulation (EU) 2023/2831 of 13 December 2023, Article 3.2, provides for: "The total amount of de minimis aid granted per Member State to a single undertaking shall not exceed EUR 300 000 over any period of 3 years".</p> <p>The related recital 11 states that: "The period of 3 years to be taken into account for the purposes of this Regulation should be assessed on a rolling basis. For each new grant of de minimis aid, the total amount of de minimis aid granted in the previous 3 years needs to be taken into account".</p> <p>Considering that this provision is new comparing with the "period of 3 fiscal years" laid down in regulation n.1407/2013, could you provide interpretation of the new "3 years" to be calculated?</p> <p>In particular, for example, if an aid is granted on 30 April 2024, what is the starting date (dies a quo) from which to counter the 3 years back? Namely: should we look at all aids granted as of 30 April 2022 or as of 1st January 2022?</p> <p>Many thanks in advance</p>
Creation Date	203.12.21

COMP Reply	<p>Commission Regulation (EU) 2023/2831 of 13 December 2023 provides that the total amount of <i>de minimis</i> aid granted per Member State to a single undertaking shall not exceed EUR 300 000 over any period of 3 years. According to Recital 11, the period of 3 years to be taken into account for the purposes of the Regulation should be assessed on a rolling basis. It follows that as of 1 January 2024, any <i>de minimis</i> aid can be granted up to EUR 300 000 over a period of 3 years prior to the date of grant.</p> <p>However, since there is a transitional period of 6 months pursuant to Article 7(4) Commission Regulation (EU) 1407/2013, as an alternative to immediate application of the new Regulation, <i>de minimis</i> aid can be granted up to 30 June 2024 to the extent that it complies with the requirements under that Regulation, meaning that <i>de minimis</i> aid can be granted up to EUR 200 000 EUR for a period of 3 fiscal years (i.e., fiscal year concerned and the previous two fiscal years).</p> <p>As for the calculation of the time period of 3 years, Regulation (EEC, Euratom) 1182/71 lays down the rules on how periods, dates and time limits are accounted. Article 3(1) para 2. of that Regulation reads as follows: “Where a period expressed in days, weeks, months or years is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be considered as falling within the period in question.” Article 3(2)(c) of that Regulation reads as follows: “a period expressed in weeks, months or years shall start at the beginning of the first hour of the first day of the period, and shall end with the expiry of the last hour of whichever day in the last week, month or year is the same day of the week, or falls on the same date, as the day from which the period runs. If, in a period expressed in months or in years, the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last hour of the last day of that month.”</p> <p>In the example that you provided, if an aid of EUR 200 00 EUR is granted on 30/04/2024, Regulation 1407/2013 can still apply. Hence, the calculating period will be the current tax year (2024) and the previous two fiscal years (2023 and 2022). If the aid amounts to EUR 300 000, Regulation (EU) 2023/2831 applies. The period to take into account is therefore from 30/04/2021 to 30/04/2024.</p> <p><i>Disclaimer: This reply does not represent a formal and definite position of the European Commission but is only an informal guidance provided by the services of DG Competition. It is therefore not binding and cannot create legal certainty or legitimate expectations.</i></p>
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