

COVID STATE AIDS AFFIDAVIT

NEWSLETTER NO. 9/2022



The Revenue Agency published its Regulatory Provision No. 143438 dated 27/04/2022 containing procedure, filing deadlines and contents of the form of **Affidavit for Covid State Aids** received based on Communication from the European commission of 19 March 2020 C (2020) 1863 final “*Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak*” aimed to enable beneficiaries to benefit from ceilings in Section 3.1 “Limited amount of aid” and Section 3.12 “Aid in the form of support for uncovered fixed costs” in the Communication from the European commission of 19 March 2020.

06 MAY 2022

WHO IS REQUIRED TO FILE THE FORM

All economic players that **received state aids** falling under the so-called "umbrella" scheme[1] are required to file an **Affidavit** stating that they meet the conditions in Sections 3.1 and 3.12 of the *Temporary Framework for state aids to support the economy in the Covid-19 epidemiologic outbreak*.

If the Affidavit was already delivered upon filing an application for state aids which required it, a "general" affidavit is not required unless the beneficiary later benefitted from extra aids in addition to the ones listed in article of 1 of the "Support Decree". In this case, the Affidavit has to be filed disclosing information on any additional state aids received at a later stage, including the ones already listed in the previously filed affidavit.

The affidavit must in any case be filed if:

- The beneficiary benefitted from any other relief granted with respect to local property tax IMU without filling in section C in the prior Affidavit;
- The beneficiary exceeded relevant ceilings and is required to pay back any amounts received in excess of such ceilings;
- The beneficiary opted to "allocate" such measure partly to Section 3.12, as the relevant conditions were met, and partly to Section 3.1 of the Temporary Framework, if the ceiling was still available.

[1] The so-called "umbrella scheme" is the set of all relief measures in article 1, paras. from 13 to 15, of DL No. 41 of 22 March 2021, "Support Decree" (converted with amendments into Law 69/2021), approved under the «Temporary framework for state aid measure to support the economy in the current COVID-19 outbreak», Communication from the European commission dated 19 March 2020 C(2020) 1863 final.



CONTENTS OF THE FORM

The Affidavit needs to list all relief measures that the taxpayer benefited from and that fall under Sections 3.1 and 3.12. This includes both the ones under article 1, para. 13, and all other aid received, including any measure other than non-tax aids.

The following **list** includes (by way of example) **more significant aids** subjected to monitoring and control:

- Exemption from payment of the 2019 IRAP balance and of the first 2020 IRAP tax advance;
- Non-returnable contribution under art. 25 of DL 34/2020;
- Tax credit for leases of real estate other than for residential purposes, and for leases of business;
- Tax credit for adapting work environments;
- Exemption from payment of the first and second installments of the 2020 IMU (local property tax) for the tourism industry;
- Exemption from the payment of the 2021 IMU for the tourism and entertainment industries;
- Non-returnable grant under articles 1, 1-bis, and 1-ter of DL 137/2020;
- Cancellation of the second IMU instalment for businesses included in the list of ATECO codes in Annexes 1 and 2 to DL 137/2020;
- Non-returnable grant for food and beverage businesses;
- Non-returnable grant under art. 1 of DL 41/2021 for economic players and under art. 1-ter for startups;
- Additional tax reliefs connected to the COVID-19 outbreak, under art. 5 DL 41/2021;
- Exemption from payment of the special television license fee rate for hospitality facilities;
- Exemption from payment of the first IMU instalment for real estate owned by taxpayers that meet the conditions to obtain the non-returnable grant;
- Non-returnable grants under art. 1 of DL 73/2021.

For the above aids, taxpayers need to check the box in Section A corresponding to the section of the Temporary Framework under which aids need to be regarded as received.



CONTENTS OF THE FORM

The **ceilings** listed below apply to state aids referred to above and received in compliance with the conditions and restrictions in **Section 3.1** of the Temporary Framework:

- €800.000 per single undertaking or €120.000 for enterprises operating in fishing and aquaculture and €100.000 for enterprises operating in the primary production of agricultural products, for aids received from 19 March 2020 to 27 January 2021;
- €1.800.000 per single undertaking or €270.000 for enterprises operating in fishing and aquaculture and €225.000 for enterprises operating in the primary production of agricultural products, for aids received from 28 January 2021 to 30 June 2022.

The following ceilings apply to aids referred to above received in compliance with the conditions in **Section 3.12** of the Temporary Framework and specifically the conditions in paragraph 87 of the Communication from the European Commission of 19 March 2020 C (2020) 1863 final:

- €3.000.000 per single undertaking, for aids received from 13 October 2020 to 27 January 2021;
- €10.000.000 per single undertaking, for aids received from 28 January 2021 to 30 June 2022.

If the declaring taxpayer is in a relationship of control with other undertakings, that is relevant for the purposes of the definition of the **single undertaking**[2], as per the European definition of undertaking used for the purposes of State aids, then section B needs to be filled in to disclose the tax identification numbers of the entities that are in a relationship of control. The Affidavit also needs to include any amounts exceeding the ceilings which the beneficiary intends to pay back voluntarily or to subtract from any aid received at a later time which are covered by the relevant ceilings.



[2] Under EU Regulation 1407/2013, several enterprises are regarded as “single undertaking” where:

- one enterprise has a majority of the shareholders’ or members’ voting rights in another enterprise;
- one enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
- 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;
- 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.

These relations among enterprises may also be “indirect”. Accordingly, a single undertaking subsists even when these relations occur through one or more other enterprises.

The other fundamental element to consider is that, for the purposes of determining the existence of a single undertaking, only companies located in the same EU country are considered.

FILING PROCEDURE AND DEADLINES

The Affidavit must be **filed electronically from 28/04/2022 to 30/06/2022**:

- Directly by the taxpayer; or
- Engaging a person for the e-filing.

The form is transmitted electronically through:

- the web services in the personal account section of the Revenue Agency's website;
- the on-line IT channels of the Revenue Agency, in compliance with the requirements defined in technical specifications.

In the 5 days following filing of the Affidavit, the system delivers a receipt which certifies that the document was processed. If the document is rejected, it indicates the reasons for rejection and the Affidavit needs to be retransmitted in the following 5 days.

A new Affidavit may be filed - by 30 June 2022 - replacing a previously filed one. So, the most recently filed affidavit replaces any and all previous ones.



CONTACT US

We invite you to speak with your contact professional within the Firm for any further explanation