

State Aid compliance – Block Exemption

Methods of achieving State aid compliance – fit in block exemption

In 2008 the European Commission adopted the so-called General Block Exemption Regulation (GBER) to consolidate the various other instruments that had existed previously into one convenient place and thus simplify matters. Put simply, provided aid can be fitted into the different categories set forth in GBER and kept to the individual limits also set out, the aid may be given without the need for individual Commission notification. This is the point of GBER, to make life easier and simpler for Member States when aiding those areas of activity the EU has deemed beneficial to subsidise, and in amounts that are not so big as to particularly endanger free competition. A non-exhaustive table of the most commonly used GBER aid methods is as follows:

Type of GBER aid measure	GBER Maximum aid Intensity (aid portion as % of total project cost)	Total amount authorised under GBER (amounts in excess require individual notification to Commission for prior approval)
Regional investment and employment aid (NB. available in areas qualifying for regional assistance only – only the statistically poorest regions qualify – see regional aid for UK map 2007-2013)	Regional aid intensity under the respective regional aid map; + 20% for small enterprises; +10% for medium enterprises	For large investment aid projects (where total project costs exceed EUR 50m) up to 75% of the maximum aid allowed in the area concerned, assuming project of €100m total cost (eg. if area qualifies @15%, then maximum aid = €11.25m and if area qualifies @10%, then maximum aid €7.5m)
Research and development	100% Fundamental research (ie. blue sky R&D with no direct practical application in view): 50% Industrial research (ie. acquiring new knowledge and skills to develop new products or processes or bring about significant improvements in existing ones) : 25% Experimental development (ie. basic R&D for developing new, altered or improved products, processes or services): +10% for medium enterprises +20% for small enterprises +15% for certain types of collaborative research (maximum cap 80%)	Fundamental research: €20m per undertaking per project. Industrial research: €10m per undertaking per project. Experimental development: €7.5m per undertaking per project
Technical feasibility studies	65% for industrial research studies; 40% for experimental	Fundamental research: €20m per undertaking per project.

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	development studies (+10% for SMEs)	Industrial research: €10m per undertaking per project. Exp. devpt: €7.5m per undertaking per project
Industrial property rights costs for SMEs	Fundamental research: 100% Industrial research: 50% Experimental development: 25%	€5m per undertaking per project
Aid for innovation advisory services and innovation support services to SMEs	Technology assistance and transfer, incubation consultancy and back office services, training, promotional services etc. If by certified provider 100% of eligible costs, if by non-certified provider 75% of eligible costs	€200,000 per undertaking over a cumulative three year period
Aid to young, innovative enterprises (small enterprises)	One off aid for undertakings less than 6 years old and with an aid budget at least 15% of its operating costs for one of the three preceding years	€1m per undertaking (€1.25m or €1.5m in assisted areas)
Aid for the loan of highly qualified personnel by research organisations (eg. universities) or large undertakings to SMEs	50% of secondment costs per person working on R&D and in a post newly created	Maximum period of 3 years
Training	25% Specific training (ie. for skills not readily transferable to any employer) 60% General training (ie. for skills which are transferable) +10 for disabled or disadvantaged workers +20 for small enterprise +10 for medium enterprise (Maximum cap of 80%)	€2m per undertaking training project
Investment in exceeding EU standards for environmental protection	35% +10% for medium enterprises; +20% for small enterprises	€7.5m per undertaking per project
Acquisition of transport vehicles	35% +10% for medium	€7.5 m per undertaking per

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beyond Community	enterprises; +20% for	project
Investment in energy saving measures	60% (of extra investment costs (net of operating benefits): +10% for medium enterprise; +20% for small	€7.5m per undertaking per project
Investment in high efficiency cogeneration	60% (of extra investment costs (net of operating benefits): +10% for medium enterprise; +20% for small	45% +10% for medium enterprises; +20% for small enterprises
Investment in the promotion of energy from renewable energy	45% +10% for medium enterprises; +20% for small enterprises	€7.5m per undertaking per Project
Aid for environmental studies	50% of the cost of the study relating to green energy investments +10% for medium enterprises; +20% for small enterprises	
SME investment and employment	20% for small enterprises 10% for medium enterprises	€7.5 m per undertaking per Project
SME investment in processing & marketing agricultural products	50% in assisted areas; 40% in all other regions	€7.5m per undertaking per project
Consultancy for SMEs	50%	€2m per undertaking per project
SME participation in fairs	50%	€2m per undertaking per project

The above is non-exhaustive and hides many further nuances which must be borne in mind, but nevertheless is a useful quick reference point.

For large enterprises they can benefit from GBER but only within the framework of a pre-notified scheme. Thus regional aid for large enterprises can be provided within the framework of the English Property Scheme, R&D aid for large enterprises within the framework of the Collaborative R&D Scheme and Regional Growth Fund aid (including important sub-programmes like Growing Places Fund and Advanced Manufacturing Supply Chain Initiative) within the RGF Scheme. It should be noted that the incentive effect requirements for large enterprises are more stringent than those for SMEs and may require a counterfactual analysis of the project with and without the aid.

Of course, it should be recalled that the maximum amount figures given are not absolute – GBER simply says that if these amounts are to be exceeded, an aid will need notifying to the European Commission for prior approval before it may be given. It may reasonably be expected that DBIS will prefer projects that do not require such notification, but the biggest projects attracting the biggest job creations undoubtedly will, and this need not ultimately be a problem, just a delay factor.

Outside GBER, the other well-known block exemption is known as "de minimis". This effectively states that for minor amounts (up to €200,000 per undertaking in any three year period), they are so small as to be of no consequence. This is unlikely to be of much use in a GBER project requesting aid in excess of £1m, but can be very important in circumstances where there may be multiple beneficiaries, for example so-called "programme bids".

Disclaimer : This table is provided by way of indication only and should not be taken as a substitute for legal advice. The area of law is complex and legal advice should be obtained before implementing these provisions.

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