

How to claim a customs duty waiver and track de minimis aid using TSS

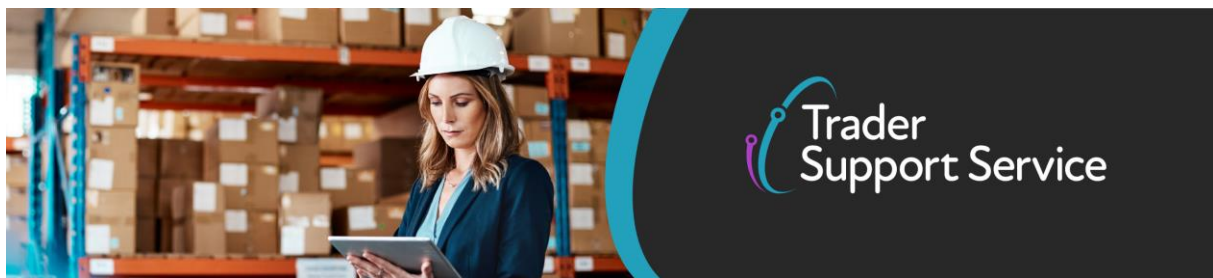


TSS User Guides

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The UK signed a trade deal with the EU at the end of 2020 that secured zero tariffs and zero quotas across all product lines. However, duties can still apply for goods moving from Great Britain into Northern Ireland deemed ‘at risk’ of moving into the EU, if the goods cannot meet the origin requirements to benefit from the UK-EU Trade and Cooperation Agreement.

This guide looks at how traders can claim customs duty waivers (subsidies) in the form of de minimis aid from the government to cover the cost of these duties and how the Trader Support Service enables them to do this.

1: Introduction

From 1 January, the way you move goods between Great Britain (GB) and Northern Ireland (NI) has changed, with new customs requirements introduced under the Northern Ireland Protocol.

While the EU-UK Trade and Cooperation Agreement includes zero tariffs and quotas across all product lines, there are still scenarios under the Protocol where duties may need to be paid.

For instance, duties may need to be paid for goods moving from Great Britain into Northern Ireland if their final consumption or sale could occur in the EU. You can find out more about when tariffs are payable in this [TSS How-to Guide](#).

The good news is that when a goods movement is deemed ‘at risk’ and duties are payable, you are entitled to claim a customs duty waiver from the government covering the cost. This will be a form of ‘de minimis state aid’ (see box, right).

There are, however, limits to the amount of state aid a national government can provide to its businesses.

WHAT IS...

De minimis state aid: A small amount of government-provided aid that is unlikely to distort competition rules.

This guide will introduce how you can claim waivers for customs duties occurring under the NI Protocol using the Trader Support Service (TSS). It will also cover how you can track in TSS



the customs duty waivers you claim, both within and outside of the TSS portal, so that you do not exceed your overall allowance.

Specific terminology

“Customs duty waivers” – the term used on gov.uk and in other public communications to describe the specific subsidies to cover the cost of ‘at risk’ tariffs for movements into Northern Ireland from Great Britain and (when the functionality is available) the rest of the world.

“Subsidy” – a sum of money granted by the state to support an industry or business. Another word for ‘state aid’.

“De minimis aid” – a specific type of subsidy or state aid governed by specific European Union regulations.

Who is this guide for?

The customs duty waiver (subsidies) on offer for ‘at risk’ goods movements is predominantly aimed at small- or medium-sized traders, or those who only occasionally move goods into NI.

While larger traders can still claim a waiver, they are more likely to have used up their de minimis aid allowance already, outside of claiming a waiver for customs duty.

Who is responsible for claiming waivers?

The responsibility for applying for customs duty waivers falls on you, the trader. It is also your responsibility to record all the de minimis aid you successfully claim both through TSS and from other sources. TSS will automatically record any customs duty waivers claimed through the TSS platform.

If you are unsure if the other state aid you have claimed is regarded as de minimis aid, you need to contact the provider for confirmation. A provider of de minimis state aid is required to tell the claimant that the funding they are providing is de minimis state aid.

You will be required to provide information regarding the de minimis state aid you claim over a rolling three-year tax period and you may face penalties if you exceed your allowance.



What TSS does and doesn't do

TSS supports you to claim a waiver for your goods movement when you are completing your supplementary declaration – you can read more about this stage of the TSS process [in the supplementary guide from this link](#).

You can also record de minimis state aid claimed outside of TSS, for tracking within the portal to ensure you do not exceed your de minimis state aid allowance.

It should be noted that TSS is not responsible for the recording and accuracy of the de minimis aid you have claimed outside of the portal. It is the trader's responsibility to ensure a correct record of the information is maintained.

It is also your responsibility to complete any customs duty waiver form supplied to you by HMRC.

The importance of record-keeping

You are required to submit a customs duty waiver form to HMRC within 10 working days of your first duty waiver claim and within 10 days of the end of every fiscal quarter in which you have made at least one duty waiver claim. To complete this form, [go here](#).

It is a government requirement that you keep up-to-date and correct records of the de minimis aid you have successfully claimed for a period of up to ten years from your last claim.

2: When customs duty waivers can be used

No duties will apply for goods moving from GB to NI, if the goods are known to be remaining in the UK. These goods are classed as being not 'at risk'.

WHAT IS...

'At risk': Applies to goods that enter NI but may later be sold or consumed within the EU (i.e. Ireland). It also applies to goods moved into NI for commercial processing, unless in one of the approved processing sectors.

Not 'at risk': Applies to goods that will be for sale to or final use by end-consumers located in the UK, moved into NI by a business authorised under the UK Trader Scheme.



If goods are moved from GB into NI and there is a possibility that they may end up being sold or consumed within the EU at a later date, these goods are deemed 'at risk' and tariffs may apply. Goods that are moved from GB to NI and are subject to commercial processing in NI are deemed to be 'at risk' in most cases.

You can see what the tariff rate for your goods will be, if they are deemed 'at risk' and are not covered by the terms of the EU-UK Trade and Cooperation Agreement (TCA), using the [online Northern Ireland Tariff tool](#).

You can find out about the rules you will need to comply with if claiming removed or reduced duties under the terms of the TCA – including the criteria by which you can prove that your goods are of UK origin – through the [guidance here](#).

Remember, you can also read the *TSS How-to Guide*, '[Tariffs on goods movements into NI](#)', for more information on how to know if your goods are 'at risk' and what your tariff liability will be if they are.

If your goods are deemed 'at risk' you may need to pay customs duties. However, you can claim a waiver in the form of de minimis state aid to cover this.

You can also claim waivers for a shipment carrying a mix of both goods moving to Northern Ireland as an end-destination and those which will be moved onwards for final sale or consumption in the EU (i.e. Ireland).

Eligibility for customs duty waivers

Before claiming a customs duty waiver, you should ensure the amount you are claiming for is within your de minimis aid allowance. Most businesses can claim up to a maximum of €200,000 of aid over three fiscal years, on a rolling basis – i.e. the current and two previous tax years.

Your de minimis state aid allowance applies to the whole of your business, referred to as a 'single undertaking'. This includes any enterprises linked to your business that have at least one of the following relationships with each other:

- 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 has the right to exercise a dominant influence over another enterprise in line with 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

For example: you must count any de minimis aid received by a parent company or subsidiary as part of your single undertaking's de minimis allowance.

Before you claim you should check that your business (as a single undertaking) has not exceeded the maximum allowance.

Remember that the €200,000 limit does not just cover waivers you claim for customs duties, but also any de minimis aid provided under other business support schemes. You can view examples of the types of aid which could count towards your allowance in the [Appendix](#).

You should check with the suppliers of the subsidies you have claimed whether the support they have given you counts towards your de minimis aid allowance.

You should also note that customs duty waivers cannot currently be claimed by businesses in the fisheries and aquaculture sector, or those involved in primary production in the agricultural sector.

When you can claim

You can claim a waiver for duty on goods you bring into Northern Ireland from Great Britain which might otherwise be charged 'at risk' tariffs if you have not exceeded the allowances at the point your import declaration is submitted.

It is currently not possible to claim a customs duty waiver for goods that might be charged 'at risk' tariffs when entering Northern Ireland from countries outside of the UK and the EU.



Also, as noted previously, it is not possible to claim a customs duty waiver if any part of your business is involved in the:

- primary production of agricultural products
- production, processing or marketing of fishery and aquaculture products

You may be able to make a retrospective claim for these goods at a later date if you have not exceeded the allowances - more guidance about this will be published shortly.

3: De minimis aid limits and timeframes

For most businesses, the maximum amount of de minimis state aid you can claim over a three-year period is €200,000. The current exception is:

- For businesses transporting freight by road for hire or reward, the maximum allowance is €100,000 over three tax years, and you cannot currently claim a customs duty waiver if your business is involved in the agricultural primary production sector or the fisheries and aquaculture sectors
- If your business operates in more than one of the above sectors, the lowest allowance will apply.

For example, if your business is both a manufacturer and a road transport freight provider, then the lower allowance of €100,000 would apply to you.

If your claim goes over the allowance for the sector that your business is in, you may be subject to recovery proceedings by HMRC and have to pay interest on the amount you have claimed.

Primary production of agricultural products

If any part of your business is involved in the primary production of agricultural products, you cannot currently claim a waiver for customs duty.

An 'agricultural product' is any product found in annex 1 to the Treaty of the Functioning of the European Union.



‘Primary production of agricultural products’ means the production of products listed in annex 1 (except fishery and aquaculture products), without any further changes to the nature of the products.

On-farm activities which are needed to prepare an animal or plant product for first sale are included in the definition of ‘primary production’. Examples of on-farm activities include:

- harvesting
- cutting and threshing of cereals
- packing eggs

Processing and marketing agricultural products

If you process and market agricultural products but are not involved in the primary production of them, this restriction does not apply. Provided you are not involved in any other sector which has a lower allowance, you are eligible for the general €200,000 limit over three tax years.

‘Processing of agricultural products’ means any action to an agricultural product which produces another agricultural product, such as making beer from hops and bread from wheat.

‘Marketing of agricultural products’ means holding or displaying products you are intending to sell or deliver or place on the market in any other way. The exceptions to this are the first sale by a primary producer to resellers or processors and any activity preparing a product for the first sale.

A sale by a primary producer to final consumers is considered marketing if it takes place in separate premises for that purpose.

Production, processing or marketing of fishery and aquaculture products

If any part of your business is involved in the production, processing or marketing of fishery and aquaculture products, you cannot currently claim a waiver for customs duty.

A ‘fishery product’ means aquatic organisms resulting from any fishing activity or products derived from them.



An 'aquaculture product' means aquatic organisms at any stage of their life cycle resulting from any aquaculture activity or products derived from them.

You can find a full list in annex 1 to the Treaty of the Functioning of the European Union.

'Processing and marketing' mean all operations, including handling, treatment, production, and distribution performed between the time of landing or harvesting and the end-product stage.

Note: You only need to complete a waiver form if you have claimed at least one waiver in the quarter.

4: Claiming and tracking de minimis aid using TSS

Updating your TSS account profile

To use TSS for tracking the amount of de minimis limit claimed against the relevant threshold for your business's industrial sector, you need to select the correct industry sector that your business operates in, from the drop down in the field **"Do you operate in one of these sectors with restricted de-minimis aid limits?"** in your TSS account profile – see screenshot below.



The TSS system will then use the relevant limit for that industrial sector, as described in [3: De minimis aid limits and timeframes](#) above. Remember if you operate in more than one sector, you must choose the sector which attracts the lowest allowance as per the rules. This [gov.uk link](#) provides guidance on industry sector and the applicable de minimis aid limits

Once you have selected and submitted the sector, the field will become "read-only". If you need to change the sector for any reason, you will have to call the TSS call centre for support



on 0800 060 8888. You need to have read the [GOV.UK guidance](#) on industry sector and the applicable de minimis aid limits before you make that call.

Making a claim via the supplementary declaration

To claim a customs duty waiver on 'at risk' goods, in the TSS portal you should, from within your supplementary declaration:

- Navigate to the 'Declaration Goods' tab at item level.
- Populate the 'NI Additional Information Codes' field, for the relevant item, with the code: **NIAID**

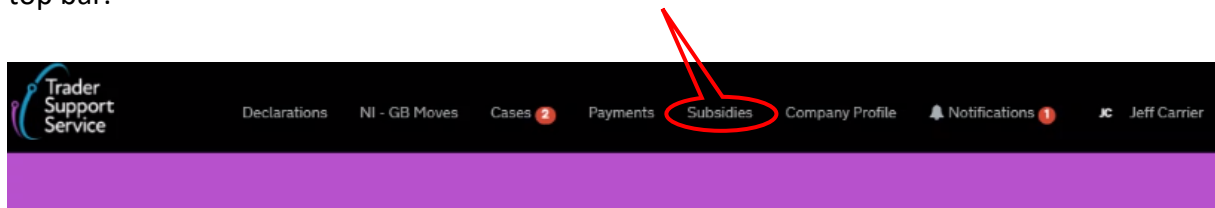
Do this for each item you wish to claim a waiver for.

For more information about completing your supplementary declarations, including information about each data field, view this [TSS How-to Guide](#).

Tracking your de minimis aid claims using TSS

TSS automatically records the customs duty waivers you claim within the portal in a subsidy claims database.

To access the subsidies recording database, a new tab is now available on your TSS portal top bar.



It is your responsibility to ensure that the details of any other de minimis state aid you have claimed, during the current rolling three tax year period, is also recorded in this TSS database, so that TSS can know and notify you of when you are about to exceed your permitted allowance.

If you do not do this, be aware that the calculations TSS makes regarding your total amount of de minimis aid claimed will be based only on what you have claimed within TSS. You will



then need to have your own record of all de minimis aid claims made within and outside of TSS to ensure you do not exceed your allowance. Once you have exceeded your limits, the dropdown “**NIAID**” will no longer be available, to prevent you from claiming de minimis aid above your limit.

Once you have recorded all de minimis aid claimed elsewhere into TSS, the fields will become “read-only”. If you need to change the amounts recorded, you will need to call the TSS call centre for support on 0800 060 8888. You need to have read the [gov.uk guidance](#) on industry sector and the applicable de minimis aid limits before you make that call.

The **subsidies** (de minimis aid) claim database will have an export function where you can export data as a pdf, Excel or CSV file. The responsibility for inputting this information into the HMRC Waiver form is solely with the trader.

Remember that the UK tax year runs from 6 April to 5 April of the next year. This means that the three-month quarter periods you can claim within end on 5 July, 5 October, 5 January, and 5 April.



Once you select the “Subsidies” tab in the ServiceNow portal, this is the page that will be displayed:

By selecting the hamburger button ≡ in the subsidy information box, you can select the export functions:

- Export to PDF
- Export to Excel
- Export to CSV

The “Subsidy information” box contains a list of all the de minimis aid/subsidies claimed by “subsidy” type:

- Those automatically populated by TSS and
- Those submitted by the trader relating to external de minimis aid claims.

Home > Subsidies

Declaration Subsidies ✕

- All Subsidies
- TSS Subsidies
- External Subsidies
- Subsidy Reporting

Subsidy Information

Date of Subsidy	Subsidy Reference	Currency Code	Entry Currency Amount	Converted Amount	Subsidy Type
28/04/2021	SUP000000000057223	GBP - United Kingdom Pounds	6106.30	€7,027.22	TSS
29/03/2021	1234	EUR - Euro	10.00	€10.00	External

Rows 1 - 2 of 2

Subsidy Usage Summary

Total Subsidy Available: €50,000.00

- TSS Subsidies Awarded: €7,027.22
- External Subsidies Awarded: €10.00
- Total Subsidies Awarded: €7,037.22

Total Subsidy Remaining: €42,962.78

Currently using: 14.07% of total allocation.

Register an External Subsidy Record

Please complete the mandatory fields below to input external subsidy records.
Note that once submitted, you will be unable to edit records.

* Subsidy Date:

* Subsidy Reference:

* Currency of Subsidy:

* Subsidy Amount:

The “Subsidy usage summary” box shows a summary of de minimis aid awarded during the previous two fiscal years and the current tax period over a rolling three-year period. It also provides information regarding the percentage used of de minimis aid.

Please note: the sector limit will be automatically populated. If you do not claim a sector, then you will not be able to claim de minimis aid and NIAID will not be available as a drop-down choice in the supplementary declaration.

In the “Register an external subsidy record” box, the trader can enter information regarding de minimis aid claims made outside the TSS customs declaration process.

Please note: the trader may need to contact the authority that supplied the state aid to determine whether the aid is deemed to be de minimis aid.



What happens when you exceed your waiver threshold?

If you have correctly recorded all the de minimis aid claimed within TSS – including those de minimis aid claims which you received outside of the TSS portal – you will receive an accurate notification via the TSS portal when you are within 10% of your state aid allowance.

Once you have exceeded this allowance, TSS will no longer accept any more claims from your account, and “NIAID” will not be available as a drop-down choice in the supplementary declaration.

National Additional Code	
<input type="text"/>	<input type="text"/>
*Country of Origin	
<input type="text"/>	American Samoa <input type="text"/>
Country of Preferential Origin	
<input type="text"/>	<input type="text"/>
*NI Additional Information Codes	
<input type="text"/>	Goods are not 'at risk' (NIREM) <input type="text"/>
<input type="text"/>	NIAID has been removed as a choice as the importer has reached the subsidy allowance limit for this contract period.
*Additional Procedure Code	
<input type="text"/>	1CL <input type="text"/>
<input type="text"/>	

Note: if you have not recorded all your de minimis aid claims accurately on TSS, it will not prevent you from potentially claiming waivers that would result in you exceeding your allowance.

If you think or know that you have exceeded this allowance, you must notify HMRC immediately.



You can do this by emailing customs.dutywaivers@hmrc.gov.uk as soon as you realise you have exceeded your allowance. You should provide the following information:

- name of person making the notification
- importer business name
- importer EORI
- email address
- contact phone number
- the sector your business belongs to (road freight transport for hire or reward, fisheries and aquaculture, agricultural primary production or other)
- total de minimis aid claimed in three tax years

Please note that you cannot use the above email address for anything else. For example, you cannot send the customs duty waivers form to this email address.

Example: NI firm buys cashmere jumpers from Cornwall

While claiming a customs duty waiver will reduce new and additional costs for moving ‘at risk’ goods from GB to NI, you may not want to claim a waiver every time you complete this movement. This is due to the limits on how much you can claim in a given timeframe.

For example, take a Northern Irish business distributing cashmere jumpers from Cornwall across the island of Ireland. Typically, this business imports a batch of 100,000 jumpers every year and three quarters of them end up in the Republic of Ireland.

The wholesale price of this jumper is £40 but there is now a 2% tariff for any that are ‘at risk’ of entering the EU (i.e. Ireland). For the 75,000 jumpers which end up in the Republic of Ireland, there is now a potential additional tariff cost of £60,000 per year.

How much can the trader claim at the time of the goods movement?

The limit of de minimis aid available is stipulated according to the industry the business is in. The trader can claim as much de minimis aid and as many times as they like, provided they are still within the subsidy limits available over a rolling three-year tax period. For this



particular business that limit will be €200,000. The de minimis aid limit could in principle be used up in the first year if the trader does not keep a firm grip on the claims made.

If we use the above example, a single product type is using £60,000 of de minimis aid (average exchange rate for the month £1.00 = €1.15045) or €69,026.90 per year. You would not be able to claim waivers for the same level of sales of cashmere jumpers into Ireland across three years, as the cost of this (€207,090.70) would exceed the €200,000 allowance.

Whilst the trader can make as many de minimis aid claims as they like within the pertinent limits, they may also wish to gauge which goods in their product range have the highest duties and how often they wish to claim, to ensure they keep within their specified limits.

I need to know more!

Fear not, help is at hand.

For queries on completing your supplementary declarations or whether your declarations are 'at risk', you can consult the TSS call centre for support on 0800 060 8888.

There is also a comprehensive set of guides on SDIs available on NICTA for you to download and read:

- [Data requirements](#)
- [Preparation steps](#)
- Step-by-step [User Guide](#)
- [User guide](#) to tariffs on goods movements into NI
- Recording of the '[Supplementary declaration demo](#)'
- Recording of the '[Tariff on goods movements into NI](#)' webinar



Appendix: other examples of aid which could be deemed de minimis aid

The following are examples of state aid, some of which could be deemed de minimis aid.

Traders should check with the authority that provided the aid to confirm whether this received counts as de minimis aid, which should be included in the trader's assessment of the financial support that they have received. This should also be included in the data for de minimis aid received on the TSS Subsidy database

- State grants
- Interest rate relief
- Tax relief
- Tax credits
- State guarantees or holdings
- State provision of goods or services on preferential terms
- Direct subsidies
- Tax exemptions
- Preferential interest rates
- Guarantees of loans on especially favourable terms
- Acquisition of land or buildings either gratuitously or on favourable terms
- Provision of goods and services on preferential terms
- Indemnities against operating losses
- Reimbursement of costs in the event of success
- State guarantees, whether direct or indirect, to credit operations preferential re-discount rates
- Discount rates
- Dividend guarantees
- Preferential public ordering
- Reduction of, or exemption from, charges or taxes, including accelerated depreciation and the reduction of social contributions
- Deferred collection of fiscal or social contributions
- Assistance financed by special levies
- Capital transfers
- Certain state holdings in the capital of undertakings
- Business rates hardship relief payments
- High street support payments