

## FOCUS ON ...

## EXPERTISE



March 2022

## Aid for fixed costs and related aid

The so-called "fixed cost" aids and related aids were introduced in order to cover part of the negative Earnings Before Interest, Tax, Depreciation and Amortisation (EBITDA) of companies. Numerous decrees have been issued to supplement the schemes. After describing the various "fixed cost" and related aid schemes, we will present the conditions for accounting for aid and undue payments, and then we will explain the certificates to be produced after the close of the financial year concerning the net result relating to the eligible periods of aid received.

### Fixed cost aid

A **"fixed costs" aid**, complementary to the solidarity fund, is introduced by decree 2021-310 of 24 March 2021 in order to partially cover the negative EBITDA of companies affected by the Covid-19 health crisis. It concerns the **period from January to September 2021**.

The aid is capped at €10m for the company or group.

The "fixed costs" aid is divided into 3 schemes:

- **The "original" fixed cost aid.**
- **"Seasonality" fixed cost aid** which focuses on companies with seasonal activity,
- **The "group" fixed cost aid** supplements the amount of aid where this has been capped within a group.

The fixed cost aid stopped at the end of September 2021.

### "Fixed cost rebound" aid and "new business rebound"

Decree 2021-1430 of 3 November 2021 introduces the **"fixed cost rebound" aid** which takes over from the solidarity fund and the "fixed cost" aid. It is determined over the period from January 2021 **to October 2021** but takes into account the amount of "fixed costs" aid previously received.

It is limited over the reference period to a ceiling of €10m calculated at group level (€2.3m for the "new business rebound" aid).

### Points of attention :

- The payment of the "rebound fixed costs" aid **cancels**, if necessary, the aid applications submitted,

in respect of **"fixed cost" aid for one of the eligible periods from January 2021 to September 2021 and not yet investigated by the Public Finances Directorate General (DGFiP).**

- The "fixed rebound costs" aid **cannot be combined with the "rents, fees and charges" aid (see below).**

### Fixed cost consolidation" aid

The **"fixed consolidation costs" aid** was introduced by decree 2022-111 of 2 February 2022. It aims to compensate for the operating losses of companies affected by the epidemic recovery over the period from **December 2021 to January 2022**. The aid is capped at €12 million, taking into account all the "fixed costs" and "rebound fixed costs" aid already granted.

### Common core of the different aids "Fixed costs"

#### Turnover

For this aid, the company must have lost more than 50% of the reference turnover (same months in 2019).

#### EBITDA fixed costs

The EBITDA "fixed costs" is calculated, for each eligible period concerned, by a chartered accountant, a trusted third party, or by the company with verification by the auditor, on the basis of the company's general ledger or trial balance on the basis of the following formula: accounts # (70+74+751\*) - accounts # (60+61+62+63+64+651\*)

\*As of March 2021.

The aid amounts to 70% of the opposite of the negative "fixed costs" EBITDA (90% for micro and small enterprises) for each eligible period.

A small enterprise is an enterprise with fewer than 50 employees and an annual turnover or annual balance sheet total not exceeding €10 million.

A micro-enterprise is an enterprise with fewer than 10 employees and an annual turnover or balance sheet total not exceeding €2 million.

### Certificate of turnover and EBITDA "fixed costs"

Applications for "fixed costs", "fixed costs rebound" and "fixed costs consolidation" aid are subject to a certificate from the chartered accountant. Where the company's accounts are certified by an auditor, this certificate may be replaced by a certificate from the company and a certificate from the auditor, an independent third party.

### Net result

"Fixed cost", "rebound fixed cost" and "fixed cost consolidation" aids are subsidies which must be reimbursed only if the annual accounts show a net result for each eligible period which is higher than the "fixed cost" EBITDA of the period which enabled aid to be received. This net result is determined at the time of the closure of the annual accounts and the amount found to be undue must be entered in the accounts for the same financial year.

### Specific aid schemes

#### Aid for "rents, fees and charges".

This aid is intended to compensate for the rents or fees and charges of establishments closed to the public for the months of **February to May 2021** and which could not be fully covered by aid from the solidarity fund and "fixed costs" aid.

Applications for "rents, fees and charges" aid are subject to a certificate from the accountant. Where the company's accounts are certified by an auditor, this certificate may be replaced by a certificate from the

company and a certificate from the auditor, an independent trusted third party.

**This aid is not subject to a cap on net income. Consequently, there is no second certificate to be produced after the end of the financial year on the net result.**

**Aid for "rents, fees and charges" cannot be combined with aid for "rebound fixed costs" or this is a "new business rebound".**

#### « Back-up » aid

This specific aid, introduced for the months of **December 2021 and January 2022**, is intended for businesses whose activity is prohibited from receiving the public and which have suffered a loss of turnover of at least 50%.

The aid amounts to 100% of the "reinforcement" expenses and is limited to €2.3 million at group level, this ceiling covering all aid paid since March 2020 under the solidarity fund and similar aid. The "reinforcement" expenses include the accounts # (60+61+62+63+64).

Applications for "reinforcement" aid must be accompanied by a certificate from a chartered accountant or a certificate from the company and its auditor stating the "reinforcement" costs, turnover and reference turnover for the eligible period.

**This aid is not subject to a cap on net income. Consequently, there is no second certificate to be produced after the end of the financial year on the net result.**

#### The conditions for accounting for aid and undue payments

The France's national accounting standards body ANC (Autorité des Normes Comptables) recalled, for the company accounts, that only the benefits realised (certain in their principle and amount) and acquired at the closing date of a financial year can be entered in the result of this financial year. Thus, when the entity has materialised its decision to apply for aid and complies with the conditions, it recognises, depending on its nature, the aid or grant either as income or as a reduction in expenses.

The assessment of the amount to be recognised must take into account all the determination rules provided by the schemes, including any Overall caps (at company level, at group level, for eligible periods, for the financial year, for the period of the different aids).

If there is uncertainty about whether certain conditions have been met and/or about the estimated amount to which they are entitled:

- **If the liability (the undue payment) is certain, a debt is credited** against the debit of account 74. This debt is cleared when the undue payment is made,
- **If the liability (undue payment) is uncertain, a provision for expenses is recorded.** This is the case when there is a risk that all or part of the aid will be challenged during an audit and be returned (in whole or in part).

Where the aid was paid on the basis of a calculation of intra-annual EBITDA and is capped according to the net result of the same periods determined at the time of the closure, the undue amount found is to be recorded in the accounts of this closed financial year.

## Capping on the net result of the year

The company must determine the net result for the entire period in which the aid(s) was obtained and determine any undue payments.

### ***If the company is subject to the obligation to have its accounts audited by a statutory Auditor***

The company must prepare a document describing how the net result has been calculated over the entire period for which aid has been requested and communicate it to the auditor within a timeframe compatible with the performance of his work.

During the audit of the annual accounts, the auditor ensures, in application of his work program, that the aid received has been correctly evaluated, that there is a ceiling (application of the de minimis ceilings, at the level of the company and the group, net result) and that the aid and any undue payments or provisions have been correctly accounted for.

The auditor shall issue a certificate stating the net result for the whole year he period for which aid has been requested. This certificate must be produced at the latest within one month of signing the report on the annual and consolidated accounts. The company's document is attached to this certificate of the auditor.

The certificate, issued at the close of the financial year 2021, covers the periods relating to the periods included in the financial year. Those relating to periods after the closing date (e.g. 01/2022) will be covered by the certificate for the year-end 2022.

If, over all the eligible periods for which the company will have received the "fixed costs" aid, the net result is higher than the "fixed costs" Gross Operating Surplus, the company shall send the auditor's certificate to the DGFIP, no later than 3 months after it is signed by the auditor.

### ***Points of attention :***

- Whether or not the auditor has drawn up the certificates attached to the application for aid, he or she must carry out the necessary checks to issue the certificate on the net result of the periods concerned and ensure that any aid and undue payments or provisions have been correctly accounted for.
- Controls should be performed upstream, during the audit of the annual accounts, to ensure that the accounts are free from material misstatement (including the existence of any undue payments or provisions that are not recognised in the closed accounts).

### ***If the company is not required to have its accounts audited by a statutory auditor***

It is up to the company, once its 2021 accounts have been approved, to verify the final information against what is stated in the accountant's certificates provided for each eligible period.

If, over all the eligible periods for which the undertaking has received fixed cost aid, the net result is greater than the sum of gross operating surplus for the same periods, the company sends the information to the DGFIP within 3 months of the approval of the annual accounts.

## Finding of undue payment and Consequences

On the basis of the auditor's certificate or the information provided by the company, the DGFIP establishes an undue payment which is equal to the difference between:

- The sum of aid received over the eligible periods,
- 70% (or 90% for small companies) of the negative net result,
- Or "fixed costs" aid seasonality and group if the net result is positive.

This undue payment gives rise to the issue of a collection order by the DGFIP.

### Example of calculation

Period	EBE « fixed costs »	Help
January	- 80 000 €	=70 %*(-EBE eligible fortnightly period) = <b>84 000 €</b>
February	- 40 000 €	
March	+ 10 000 €	No support
April	+ 15 000 €	
May	+ 20 000 €	No support
June	- 20 000 €	=70%*(-EBE bimonthly period eligible monthly mesh) = <b>14 000 €</b>
Total EBITDA "fixed costs" eligible periods aid received	- 140 000 €	<b>98 000 €</b>

Period of aid affected	Net result
January 2021	- 100 000 €
February 2021	- 20 000 €
June 2021	- 10 000 €
Total over eligible periods aid received	- 130 000 €

The net result (-130 000 €) is higher than the EBITDA.

The "fixed costs" (-140,000 €).

### Undue payment to be made to the administration:

$€98,000 - (70\% * €130,000) = €7,000$ .

### Total aid received by the company

$€98\ 000 - €7\ 000 = €91\ 000$ .

## Sanctions

If the beneficiary is found not to have complied with the obligations laid down in the decrees concerning the net result, **the company will reimburse all the sums received in respect of the fixed costs aid.**





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