

The following requirements have the force of law by virtue of section 4(4) of the National Insurance Contributions Act 2014:

An employer is not permitted to make any deductions from their secondary Class 1 contributions in respect of an Employment Allowance for a tax year unless the following requirements are complied with.

In order for HMRC to confirm an employer is eligible for an Employment Allowance for a tax year and to enable HMRC to monitor compliance with European State aid law, the employer must confirm either that the State aid rules apply to them – **or** that they are not undertaking economic activity (so that State aid rules don't apply to them).

Where State aid rules apply to the employer, the following information must be provided:

- the trade sector(s) in which the employer operates (agriculture, fisheries and aquaculture, road transport and industrial, or transport);
- where the employer has received State aid previously, the total amount of de minimis State aid they have received or been allocated in the year of claim and in the two tax years immediately prior to the year of claim. For employers who are connected to other employers (as per the requirements at Section 3 & Schedule 1 of NICA 2014) they need to provide to HMRC the total amount of State aid received collectively across all connected companies for this same period.

The employer must also make a declaration to HMRC confirming that:

- they have checked that their secondary Class 1 NICs liability for the previous year is less than £100K and;
- they have undertaken relevant checks with any connected companies in order to ascertain eligibility to claim; and that
- to best of their knowledge, they:
 - i. will not exceed the relevant de minimis ceiling for State aid for the sector(s) in which they operate by claiming the full annual amount of an Employment Allowance
 - ii. are the only connected company making one claim for an Employment Allowance across the whole connected group, as per the requirements at Section 3 & Schedule 1 of NICA 2014
 - iii. are not aware of any other reason why they would be excluded from claiming an Employment Allowance for any other (eligibility) reason.