VAT and Medical Services

This document should be read in conjunction with Paragraphs 2(3) and 2 (7) of Schedule 1 to the Value-Added Consolidation Act 2010 (VATCA 2010).

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1. General exemption from VAT

The supply of certain medical services qualify for exemption from VAT. Provisions for the VAT exemption applicable to medical services are contained in Paragraphs 2(3) and 2(7) of Schedule 1 to the Value - Added Tax Consolidation Act 2010. Details of the relevant provisions are as follows:

Professional medical care services recognised as such by the Department of Health and Children (other than dental or optical services), but only if those services are not supplied in the course of carrying on a business that wholly or partly consists of selling goods.

Other professional medical care services that, on 1 January 2010, were recognised by the Revenue Commissioners as exempt activities.

These provisions transpose Article 132 (1) (c) of the VAT Directive 2006/112/EC on which Irish VAT law is based. (See Appendix A).

Exemptions for Dental and Optical services, referred to above, and services provided by hospitals, nursing homes, clinics or similar establishments are contained in separate provisions in Schedule 1 Part 1 of the VAT Act. This guidance does not deal with those exemptions.

2. Medical Professionals

Professional medical care services recognised by the Department of Health and Children, and which qualify for VAT exemption, are generally taken as referring to those medical care services supplied by health professionals who are enrolled, registered, regulated, or designated on the appropriate statutory register provided for under the relevant legislation in force in the State or equivalent legislation applicable in other Member States. The exemption also applies to a number of other professional medical care services that, on 1 January 2010, were recognised by the Revenue Commissioners as carrying on exempt activities. See Appendix A for details.

For the purposes of this guidance the term doctor includes the professions of General Practitioner (GP), Specialist Physician and Medical Consultant in all branches of medicine. Medical services provided by such health care professionals, within the profession in which they are registered to practice, will normally qualify for VAT exemption.

Certain services supplied by persons designated under the Health and Social Care Professionals Act 2005 also qualify for exemption. See Appendix A for details.
In general, services supplied by a pharmacist are taxable. However, certain qualifying medical services authorised by the Minister for Health to be administered by pharmacists, such as the provision of flu vaccinations, will also qualify for the exemption for medical services.

In some cases health care professionals supply their services through an incorporated entity. The Court of Justice of the European Union (CJEU), in the case of *Kugler C -141/00*, held that the exemption is not dependent on the legal form of the taxable person supplying the medical services. Therefore, the exemption can apply where services are supplied through such an entity.

Such professionals who supply their services in this way should contact their Revenue District for information regarding the VAT treatment of supplies and the implications for other taxes such as PAYE/PRSI on wages and salaries.

### 3. Qualifying Medical Services

It is important to note that it is not just the status of the person providing the service that determines whether it is exempt from VAT but also the actual service that is being provided and the purpose for which it is being provided. In general the full range of medical services carried out for the purposes of protecting, including maintaining or restoring a patient’s health, or diagnosing, treating, and if possible, curing diseases and health disorders will qualify for exemption.

Those services also include the following when provided by a recognised medical professional:

- Post-offer of employment medical examinations including medical fitness to operate machinery and undertake manual work
- Health surveillance services, including sight and hearing tests
- Health screening, stop smoking, and stress management programmes
- Cosmetic surgery procedures where it is clearly shown that they are required to maintain or restore a patient’s health or to treat a patient’s disease or illness
- Vaccination programmes to protect employees where there is a high risk of transmission of infectious diseases.

Relevant decisions of the CJEU will be examined in determining if the exemption applies to a specific medical service.

### 4. Decisions of the CJEU

The CJEU has considered a number of cases covering the general application of exemptions and determined that the exemptions must be interpreted strictly as they are a departure from the normal position that VAT should be charged on all supplies of goods and services.
The exemption for medical services contained in Article 132(1)(c) of the 2006 VAT Directive must also be narrowly interpreted. While a service may be supplied by a medical practitioner and described as medical it must also come within the guidelines laid down in the various decisions of the CJEU before it qualifies for the exemption.

The CJEU has examined the nature and scope of the medical exemption in a number of cases, the most significant of which are referred to below.

In the d’Ambruminel Case C-307/01 the CJEU held that Article 132 (1)(c) of the VAT Directive is to be interpreted as meaning that the exemption provided for in that Article does not cover activities undertaken by a doctor consisting in establishing, as an expert appointed by a court or pension insurance institution, whether an applicant for a pension is or is not suffering from disability, incapacity to work, or invalidity, the purpose of which is the preparation of an expert opinion rather than therapeutic.

The decisions of the CJEU provide that not all services effected in the exercise of the medical or paramedical professions qualify for the exemption but only those carried out for the purposes of protecting, including maintaining or restoring, a patient’s health, or diagnosing, treating, and if possible, curing diseases and health disorders. As a consequence, some services supplied by recognised medical and health care professionals will be subject to VAT.

The CJEU held that the following services qualified for exemption as medical services:

- Therapeutic care provided as part of an outpatient service by qualified nursing staff – Kugler Case C-141/00
- Physcotherapeutic treatment given by qualified psychologists - Dornier Case C-45/01
- Conducting medical examinations or taking blood and other samples to test for the presence of disease on behalf of employers and insurers or certifying medical fitness to travel where such services are intended principally to protect the health of the person concerned - d’Ambruminel Case C-307/01
- Medical tests prescribed by a medical practitioner but carried out by a third party, such as a laboratory, which allow patients to be observed and examined before it becomes necessary to diagnose care for or heal potential illness. - Lu P Case C-106/05.
The CJEU held that the following activities did **not** qualify for exemption as medical services:

- Genetic tests carried out by a doctor to establish paternity - **D Case C-384/98**
- General care and domestic help provided as part of an outpatient service - **Kugler Case C-141/00**
- Provision of a doctor’s report on a person’s state of health for the purposes of a war or disability pension claim or of personal injury litigation given that the principal purposes of the service effected is to provide the third party with the necessary element for taking a decision and the main purposes of such service is not the protection of that persons health - **Unterpertinger Case C-212/01**.

The decisions of the Court have the effect of denying VAT exemption for services that do not have the effect of protecting a patient’s health or diagnosing, treating, or curing health disorders.

**5. Composite Supplies**

If a registered medical practitioner supplies a service that is not recognised under the Health and Social Care Professionals Act, such as Homeopathy or Acupuncture, then that supply will, when supplied separately or when supplied in conjunction with a supply of goods, not qualify for exemption but will be treated as taxable.

However in certain circumstances the whole supply, consisting of the exempt medical service and the taxable service, may qualify for exemption if it can be shown that a composite supply, of which the exempt medical service is the principal supply, is involved.

A composite supply is defined in the VAT Act as a supply made by a taxable person to a customer comprising two or more supplies of goods or services or any combination of these supplied in conjunction with each other, one of which is a principal supply.

In the case of a composite supply the tax chargeable on the total consideration which the person is entitled to receive for that composite supply shall be at the rate appropriate to the principal supply but if the principal supply is exempt then tax shall not be chargeable on that composite supply.

If a qualifying medical professional makes a composite supply for a single consideration of exempt services and taxable services and the exempt services are regarded as the principal supply then the entire supply is treated as exempt. An example would be a doctor provides qualifying professional exempt medical services and as part of that service also supplies a taxable homeopathic service. If it can be shown that the homeopathic service is supplied as part of a composite supply of exempt and taxable services and the exempt service is the principal supply then the entire supply can be treated as exempt.
6. Taxable Activities

Generally the following services are taxable: Services, although supplied by recognised medical practitioners, which do not have the purpose of protecting the health of a patient or diagnosing, treating, or curing diseases or health disorders,

A medical service not recognised under the provisions of the Health and Care Professionals Act 2005

Others services, such as work absence advice programmes given to employers, medicals carried out for statutory purposes, statements of health for applicants for Visa purposes, and medical reports prepared for statutory authorities, are all subject to VAT. A list of typical taxable services is included in Appendix B.

7. Rates of VAT

Qualifying medical services, referred to at paragraph 3 above, are exempt from VAT.

Taxable medical services are liable to VAT at the reduced rate if they consist of services for the care of the human body. Otherwise they are liable to VAT at the standard rate.

A list of taxable medical services together with their relevant VAT rate is included in Appendix B. A more detailed list of Medical Services and relevant VAT rates is available on the VAT Rates Database.

8. Place of Supply of Services.

New rules with regard to VAT and the place of supply of services came into effect on 1 January 2010. The general rule is that the place of supply for services supplied to a taxable person i.e. a person engaged in business activities, is where that person is established. In the case of services received in Ireland by a taxable person from a supplier based abroad the place of supply is in Ireland and, unless these services qualify for exemption here that taxable person must account for any VAT due on the reverse charge basis. The place of supply of services supplied to a non-taxable person is the place where the supplier is established.

9. Obligation to register for VAT

Persons, who supply services in the state on the basis of a contract for services and not as an employee, must register for VAT if their turnover from the supply of taxable services exceeds an annual threshold of €37,500. They are not obliged to register for VAT if their turnover is below that threshold but may do so if they wish. Full details on registration requirements and procedures are set out on www.revenue.ie.
It is unlikely that many GPs will exceed the registration threshold in relation to taxable services when account is taken of the overall likely level of taxable services and this is distributed among the number of GPs in practice in the State. On the other hand, a significant number of Specialist Physicians and Medical Consultants should have taxable services whose total annual value will most likely exceed the registration threshold.

10. Input credit

In computing the amount of tax payable in respect of a taxable period an accountable person may deduct the VAT charged on most goods and services which are used for the purposes of his or her taxable supplies, subject to certain exclusions (e.g. entertainment). No deduction may be made for the VAT on goods and services used for any other purposes and in particular for medical services that are exempt from VAT. In the case of dual use inputs, that is, where goods and services are not used solely for the purposes of either deductible supplies or activities or non-deductible supplies or activities, then the VAT involved must be apportioned between the deductible activities and the non-deductible activities. The apportionment method used must reflect the extent to which the dual use inputs are used for the purposes of the persons deductible supplies or activities and have due regard to the range of that persons total supplies and activities.

11. Records

A VAT registered person must keep records of all business transactions, which affect or may affect his or her liability to VAT and entitlement to deductibility. The records must be kept up to date and must be sufficiently detailed to enable a person to accurately calculate liability or repayment and also to enable Revenue to verify the underlying transactions, if necessary.
Appendix A

Medical Professionals who are treated as carrying on exempt activities when they provide qualifying medical services.

Persons registered under the Medical Practitioners Act 2007.

Persons registered under the Nurses Act 1985.

The following Health or Social Care Professionals designated under Section 4(1) of the Health and Social Care Professionals Act 2005;

- Dietician
- Occupational Therapist
- Orthoptist
- Physiotherapist
- Psychologist
- Radiographer
- Speech and Language Therapist

Other Professional Medical Services recognised as exempt by the Revenue Commissioners on 1 January 2010;

- Chiropodists
- Chiropractors
- Osteopaths
## Appendix B

### List of Taxable Services

<table>
<thead>
<tr>
<th>Medical Service</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fee charged for access to medical records</td>
<td>Standard Rate</td>
</tr>
<tr>
<td>Acupuncture</td>
<td>Reduced Rate</td>
</tr>
<tr>
<td>Aromatherapy</td>
<td>Reduced Rate</td>
</tr>
<tr>
<td>Bio Energy Healing</td>
<td>Reduced Rate</td>
</tr>
<tr>
<td>[*] Clinical Biochemist Services</td>
<td>Standard Rate</td>
</tr>
<tr>
<td>Clinical Research Trials</td>
<td>Standard Rate</td>
</tr>
<tr>
<td>Homeopathy</td>
<td>Reduced Rate</td>
</tr>
<tr>
<td>Cosmetic Surgery Procedures that are not qualifying medical procedures</td>
<td>Reduced Rate</td>
</tr>
<tr>
<td>Cranial Naturopath Complementary Medicine</td>
<td>Reduced Rate</td>
</tr>
<tr>
<td>Diet counselling</td>
<td>Reduced Rate</td>
</tr>
<tr>
<td>Eating Distress Counselling and Therapy</td>
<td>Reduced Rate</td>
</tr>
<tr>
<td>Ergonomic Assessments</td>
<td>Standard Rate</td>
</tr>
<tr>
<td>Fitness Certificates (For Visa applications)</td>
<td>Standard Rate</td>
</tr>
<tr>
<td>Health Counselling</td>
<td>Reduced Rate</td>
</tr>
<tr>
<td>Herbalist Services</td>
<td>Reduced Rate</td>
</tr>
<tr>
<td>Holistic Therapy Services</td>
<td>Reduced Rate</td>
</tr>
<tr>
<td>Hypnotherapy and Neuro Linguistics Programme</td>
<td>Reduced Rate</td>
</tr>
<tr>
<td>Laser Treatment for cosmetic purposes</td>
<td>Reduced Rate</td>
</tr>
<tr>
<td>Lifestyle Counselling</td>
<td>Standard Rate</td>
</tr>
<tr>
<td>Massage Services</td>
<td>Reduced Rate</td>
</tr>
<tr>
<td>Medico Legal Reports</td>
<td>Standard Rate</td>
</tr>
<tr>
<td>Medical Reports for Statutory Purposes e.g. fitness to drive certificates, fitness reports on prospective adopters</td>
<td>Standard Rate</td>
</tr>
<tr>
<td>[*] Medical Scientist Services</td>
<td>Standard Rate</td>
</tr>
<tr>
<td>Naturopath Services</td>
<td>Reduced Rate</td>
</tr>
<tr>
<td>Psychotherapy Services</td>
<td>Reduced Rate</td>
</tr>
<tr>
<td>[*] Social Care Worker Services</td>
<td>Standard Rate</td>
</tr>
<tr>
<td>[*] Social Worker Services</td>
<td>Standard Rate</td>
</tr>
<tr>
<td>Work absence advice programmes for employers</td>
<td>Standard Rate</td>
</tr>
</tbody>
</table>

* Designated under the Health Care Professionals Act 2005 but not treated as exempt.