

EN
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Answer given by Mr Moscovici
on behalf of the European Commission
(10.1.2019)

The EU Value Added Tax (VAT) Directive¹ provides for a mandatory VAT exemption for hospital services and medical care provided by public bodies, hospitals, centres for medical treatment and other duly recognised establishments of the kind, as well as medical care provided in the exercise of medical and paramedical professions, based on the definition of each Member State.

It follows that an exemption is granted on the basis of three factors: the status of the service provider, the actual service that is being provided, and the purpose for which this service is being provided. The scope of any such exemption must be interpreted strictly.

The Court of Justice of the European Union has stipulated that the term “medical care” refers to services which have as their principal purpose the diagnosis, treatment and, in so far as possible, cure of diseases or health disorders². Services effected for prophylactic purposes may also benefit from the exemption³. In this regard, the Court has held that psychotherapeutic treatment given by qualified psychologists constitutes medical care⁴. The scope of services qualifying for an exemption is determined by each Member State⁵. Likewise, Member States enjoy discretion as regards the status of the service provider. Each Member State may thus determine the medical and paramedical professions that shall benefit from the exemption.

The Commission is aware that Ireland applies a 13.5 % VAT rate to counselling and psychotherapy services, treating them as non-exempt medical services⁶. The Commission confirms that these services may only be eligible for a VAT exemption if the conditions laid down in the VAT Directive, as interpreted by the Court, are met, both in terms of the service in question and the service provider.

¹ Article 1321(b) and (c) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, OJ L 347, 11.12.2006.

² Case C-384/98, D., paragraph 18, ECLI:EU:C:2000:444.

³ Case C-212/01, Unterpertinger, paragraph 40, ECLI:EU:C:2003:625.

⁴ Case C-45/01, Dormier, paragraphs 50 and 51, ECLI:EU:C:2003:595.

⁵ Within the limits imposed by EU legislation and settled case law.

⁶ Although Ireland exempts medical and related services provided by psychiatrists and psychologists, medical services provided by psychotherapists are subject to a reduced VAT rate of 13.5%; however, if the psychotherapist is also qualified as a psychologist, the service will be eligible for exemption.