

Petition Proposal:

“1. Without delay, counselling, psychotherapy and psychological services are deemed an eligible expense for tax relief in line with other health expenses. This reduces costs and gives more people the chance of benefiting from those services.

1: Information Note on tax relief for medical expenses

Section 469 of the Taxes Consolidation Act 1997 (TCA 1997) provides for tax relief where an individual proves that he or she has incurred costs in respect of qualifying health expenses.

Only “health expenses” incurred in the provision of “health care”, which has been carried out or advised by (in certain circumstances) a “practitioner”, will qualify for tax relief.

Health care is defined as the “prevention, diagnosis, alleviation or treatment of an ailment, injury, infirmity, defect or disability”.

Health expenses are defined as “expenses in respect of the provision of health care” and may include, but are not limited to, the following:

- the services of a practitioner,
- diagnostic procedures carried out on the advice of a practitioner,
- maintenance or treatment necessarily incurred in connection with the services of a practitioner or diagnostic procedures carried out on the advice of a practitioner, and
- drugs or medicines supplied on the prescription of a practitioner.

A practitioner is a person who is:

- registered in the register established under section 43 of the Medical Practitioners Act 2007,
- registered in the register established under section 26 of the Dentists Act 1985, or
- in relation to health care provided outside the State, entitled under the laws of the country in which the care is provided to practice medicine or dentistry there.

In the case of counselling, psychotherapy and psychological services, relief can be allowed in circumstances where the practitioner administering the services or referring the individual for a diagnostic procedure, as the case may be, is a qualified practitioner as defined above.

It is the Department of Finance understanding that there can be significant differences in the level of qualifications and/or clinical training undertaken by individuals who provide counselling or psychotherapy services and who do not fall within the definition of practitioner

as set out above. The question as to whether counsellors or psychotherapists can be registered practitioners is a matter primarily for the Minister for Health. In this regard, the Department of Finance notes that the petition was also referred to the Minister for Health given point two on the petition which refers to the opening of registers for counsellors and psychotherapists as a matter of urgency.

The policy rationale behind income tax relief for health expenses is broadly intended to provide assistance for significant or exceptional health expenses. Tax relief on health expenses is currently one of the costliest tax reliefs, in terms of revenue foregone. In 2021, the most recent year for which data is available, approximately 567,900 taxpayer units availed of the relief with a cost in revenue foregone of €172 million (It should be noted that this figure excludes tax relief on health expenses in relation to nursing home expenses).

The Department is satisfied that the legislation provides sufficient flexibility for expenses that should qualify for tax relief. Therefore, there are no current plans to change the existing arrangements. However, as with all tax expenditures, the matter will be kept under review.

Detailed guidance material regarding tax relief for health expenses is available on Revenue's website at the following link: <https://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-15/15-01-12.pdf>

Petition Proposal:

3. That counselling and psychotherapy services become Vat exempt. While mental health services are recognised as essential services, they are also liable to a vat levy of 13.5%. Taking care of our mental health is as essential as taking care of our physical health.

In summary, the main reason that counselling and psychotherapy services cannot be made VAT exempt is because of the delay in opening up the registers of the Counsellors and Psychotherapist Registration Board. Registering with such a Board is a pre-requisite for professional medical services being recognised as such by the Department of Health and thus being exempt from VAT.

Background to VAT treatment

The VAT rating of goods and services is subject to the requirements of EU VAT law, with which Irish VAT law must comply. Under domestic legislation, professional medical care services recognised as such by the Department of Health are exempt from VAT.

Professional medical care services recognised by the Department of Health are generally 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 countries. This includes health professionals registered under the Medical Practitioners Act 2007, the Nurses Act 1985 and those engaged in a regulated profession designated under Section 4 of the Health and Social Care Professionals Act 2005.

Statutory Instrument No. 170 of 2018 (Health and Social Care Professionals Act 2005 (Regulations 2018)) of 2 July 2018 designates psychotherapists and counsellors as a regulated profession and establishes the Counsellors and Psychotherapists Registration Board. Therefore, in accordance with the law, Revenue applies the VAT exemption to the supply of medical services by these professionals as and from the date of their registration. However, it is understood that the register of Counsellors and Psychotherapists envisaged by that legislation has not yet opened. Revenue have indicated that where such services are supplied by a person who is not so registered (including where the services are provided by a person in advance of their being so registered) then the supply of the service is liable to the reduced rate of VAT, currently 13.5%.

Current status of the Counsellors and Psychotherapist Registration Board

On 27 February 2019, the then Minister for Health, Simon Harris TD, confirmed the establishment of and appointment of members to the Counsellors and Psychotherapists Registration Board, under the Health and Social Care Professionals Act 2005 (amended) to regulate the professions of Counsellors and Psychotherapists.

The thirteen members of the Counsellors and Psychotherapists Registration Board were appointed with effect from 25 February 2019.

Currently there is no date set for the opening of the registers. The Registration Board is currently undertaking the necessary work required for public protection before the opening of the registers.

The Board will consult on draft Standards of Proficiency and the draft Criteria for Education and Training Programmes for both professions in 2023. Following consultation, the Board will set its pre-registration education and training requirements, which will be issued to the professions. The Board will notify education providers of the timeline for alignment to its requirements before it will commence its programme approval process.

Questions on the establishment of the Counsellors and Psychotherapists Registration Board and their progress in opening their register are a matter for the Minister for Health.

Finally, officials from the Department of Finance are available to answer any further questions that the Members of the Committee may have.