

RSM Belgium | Tax Tax Insights January 2022

VAT exemption for para(medical) professionals

Since January 1st 2022, the scope of the VAT exemption for (para)medical cares has been amended.

End of 2021, the Ministry of Finance has published extended guidelines (Circular Letter 2021/C/144 of 20 December 2021) in which tolerances are also foreseen to give practitioners time to comply with their new VAT obligations.

WHAT ARE THE CHANGES ?

1. Extension of the personal scope

Nothing changes for the provision of medical cares in the context of a hospitalization.

However, outside the context of a hospitalization, the VAT exemption is no longer limited to practitioners of regulated (para)medical professions. Unregulated practitioners with an equivalent level of qualification through appropriate training may also benefit from this exemption. However, before applying it, non-regulated practitioners are required to inform the administration upfront via a special declaration.

2. Limitation of the material scope

From now on, the application of the exemption is limited to medical services with a therapeutic purpose, whether these services are provided in the context of a hospital stay or not.

It only covers **personal medical care services** aimed at diagnosing, treating or curing illnesses or health abnormalities but also at preventing, protecting, maintaining or restoring health. The medical care services entitled to benefit from the VAT exemption are therefore only those that pursue a **therapeutic goal**. It is the purpose of the act that will determine its eligibility for exemption and not its content.

This therapeutic character shall be determined by each practitioner to the best of his/her knowledge and belief, under the marginal control of the administration. In this respect, the inclusion of services in the RIZIV nomenclature, their eligibility for reimbursement or the issuance of a medical certificate will serve as rebuttable presumptions. If these presumptions are not applicable or if the administration challenges them, the practitioner shall substantiate the therapeutic goal by all legal means (including the patient's medical file).

Services exclusively pursuing aesthetic goals are excluded, regardless of the capacity of the provider, whether or not they are included in the RIZIV nomenclature or give rise to a right to reimbursement (these presumptions are not applicable in this case).

RSM Belgium wishes, through this document, to provide general information, without the information contained in this document being considered as an opinion. The editorial staff shall endeavour to compose this edition as accurately as possible. However, we cannot guarantee that this information will always be accurate when it is received or that it will always be accurate in the future.

Non-exhaustive lists of procedures that are and are not entitled to VAT exemption are available in the circular.

CONSEQUENCES

Insofar as practitioners (also) perform acts that do not/no longer fall under the medical exemption, the following obligations shall be met:

- Non-regulated professionals wishing to apply the exemption shall submit the special declaration in advance to VAT.medcare.exemption@minfin.fed.be;
- Submission of a VAT identification application or change of activity via "Myminf" by 31 January 2022 at the latest;
- If the turnover subject to VAT does not exceed EUR 25,000/year, the small business scheme can be used (the threshold must take into account all activities);
- If applicable: filing of periodic VAT returns (nil returns can be filed during the first three months provided that all transactions are finally reported by 20th May at the latest);
- Correct use of the VAT number, issuance of invoices and maintenance of proper accounting.

In addition, it must be taken into account of the change in VAT status (from normal or mixed taxable person to fully exempt taxable person or vice versa) and its consequences on the exercise of the right to deduct VAT and on any adjustments to be made to capital goods.

TOLERANCES

In the context of these changes, the administration has provided several tolerances:

In addition to the above-mentioned tolerances relating to the date for submitting an application for VAT identification or a change of activity and the filing of "nil" returns, the tax authorities allow the application of the "old regime" to:

- Services performed/completed by 30th June 2022 at the latest, provided that they were agreed with the patient by 31st December 2021 at the latest;
- Services already provided by 31st December 2021 at the latest, but for which a liability cause arises after that date.

In the event of a tax audit for the year 2022, the administration will be flexible in applying these new rules.

If you have any questions regarding this topic, don't hesitate to contact our RSM Belgium | Tax team (tax@rsmbelgium.be).

RSM Belgium | Tax

RSM Belgium wishes, through this document, to provide general information, without the information contained in this document being considered as an opinion. The editorial staff shall endeavour to compose this edition as accurately as possible. However, we cannot guarantee that this information will always be accurate when it is received or that it will always be accurate in the future.