

Case C-48/97

Kuwait Petroleum (GB) Ltd
v
Commissioners of Customs & Excise

(Reference for a preliminary ruling
from the VAT and Duties Tribunal, London)

(Sixth VAT Directive — Sales promotion scheme —
Goods supplied on redemption of vouchers — Supply for consideration —
Price discounts and rebates — Definition)

Opinion of Advocate General Fennelly delivered on 9 July 1998	I - 2325
Judgment of the Court, 27 April 1999	I - 2346

Summary of the Judgment

1. *Tax provisions — Harmonisation of laws — Turnover taxes — Common system of value added tax — Basis of assessment — Rebates and price discounts — Meaning — 100% discount — Not covered*
(Council Directive 77/388, Art. 11A(3)(b))
2. *Tax provisions — Harmonisation of laws — Turnover taxes — Common system of value added tax — Taxable transactions — Handing over of goods, offered as gifts, in exchange for vouchers obtained on purchasing a product — Whether taxable — Requirement*
(Council Directive 77/388, Art. 5(6))

1. On a proper construction of Article 11A(3)(b) of the Sixth Directive 77/388, regarding the factors which do not go to make up the taxable amount for VAT purposes, the terms 'rebates' and 'price discounts' cannot be applied to reductions covering the whole cost of supplying redemption goods.

on those goods. The application by an oil company of goods which are disposed of to a purchaser of fuel in exchange for vouchers which he has obtained in varying quantities, depending on the volume of fuel purchased, on payment of the full retail price for fuel from the pump — under a sales promotion scheme in the context of which the goods are classed as gifts and no portion of the price paid by the purchaser represents the value of the vouchers or of the goods for which they are redeemed — constitutes a disposal free of charge and must, where the goods are not of small value, be treated as a supply for consideration on which VAT is payable.
2. Article 5(6) of the Sixth Directive 77/388 treats as a supply made for consideration a taxable person's disposal free of charge of goods forming part of his business assets, where input VAT was deductible