

# Case C-108/99

## Commissioners of Customs & Excise

v

## Cantor Fitzgerald International

(Reference for a preliminary ruling  
from the High Court of Justice of England and Wales,  
Queen's Bench Division (Divisional Court))

(Sixth VAT Directive — Exemption for the leasing or letting of immovable  
property — Meaning — Supply of services — Third party taking  
over a lease for consideration)

Opinion of Advocate General Tizzano delivered on 23 January 2001 . . . . . I-7258

Order of the Court (Sixth Chamber), 18 March 2003 . . . . . I-7259

Judgment of the Court (Sixth Chamber), 9 October 2001 . . . . . I-7261

### Summary of the Judgment

*Tax provisions — Harmonisation of laws — Turnover taxes — Common system of value added tax — Exemptions provided for by the Sixth Directive — Exemption for the letting of immovable property — Meaning — Current lessee making payment to future lessee on assignment of the lease — Excluded  
(Council Directive 77/388, Art. 13B(b))*

The letting of immovable property for the purposes of Article 13B(b) of the Sixth Directive 77/388 on the harmonisation of the laws of the Member States relating to turnover taxes essentially involves the landlord of property assigning to the tenant, in return for rent and for an agreed period, the right to occupy his property and to exclude other persons from it. Article 13B(b) applies to the grant of leases of property but not to transactions which are merely

based on the leases or are ancillary thereto and which have not been effected by the landlord itself. Therefore, Article 13B(b) does not exempt a supply of services which is made by a person who does not have any interest in the immovable property and which consists in the acceptance, for consideration, of an assignment of a lease of that property from the lessee.

(see paras 21, 24, 34 and operative part)