

Case C-258/95

Julius Fillibeck Söhne GmbH&Co. KG

v

Finanzamt Neustadt

(Reference for a preliminary ruling
from the Bundesfinanzhof)

(Sixth VAT Directive — Supply of services for consideration —
Definition — Transport of workers by the employer)

Opinion of Advocate General Léger delivered on 16 January 1997 I - 5579
Judgment of the Court (Fifth Chamber), 16 October 1997 I - 5590

Summary of the Judgment

1. *Tax provisions — Harmonization of laws — Turnover taxes — Common system of value added tax — Supply of services for consideration — Definition — Transport provided for employees to their place of work by the employer free of charge in the absence of any real connection either with the work performed or the wages received — Excluded*
(Council Directive 77/388, Art. 2(1))
2. *Tax provisions — Harmonization of laws — Turnover taxes — Common system of value added tax — Supply of services for consideration — Definition — Private use of business goods — Included — Limits*
(Council Directive 77/388, Art. 6(2))

1. Article 2(1) of the Sixth Directive 77/388 on the harmonization of the laws of the Member States relating to turnover taxes is to be interpreted as meaning that an employer who provides transport for employees free of charge from their homes to the workplace where they are more than a specified distance apart, in the absence of any real connection either with the work performed or the wages received, does not effect a supply of services for consideration within the meaning of that provision.
2. Article 6(2) of the Sixth Directive 77/388 is to be interpreted as meaning that transport provided for employees free of charge by the employer between their homes and the workplace in a company vehicle serves, in principle, the employees' private purposes and thus serves purposes other than those of the business. However, that provision does not apply when, having regard to certain circumstances, such as the difficulty of finding other suitable means of transport and changes in the place of work, the requirements of the business make it necessary for the employer to provide transport for employees, in which case the supply of those transport services is not effected for purposes other than those of the business. The fact that the employer does not convey the employees in its own vehicles but commissions one of its employees to provide the transport using his own private vehicle is not relevant in that respect.