

Case C-167/95

Maatschap M. J. M. Linthorst, K. G. P. Pouwels and J. Scheres c. s.

v

Inspecteur der Belastingdienst/Ondernemingen Roermond

(Reference for a preliminary ruling
from the Gerechtshof 's-Hertogenbosch)

(Sixth VAT Directive — Article 9 — Supply of veterinary services)

Opinion of Advocate General Fennelly delivered on 28 November 1996 I - 1197
Judgment of the Court (Sixth Chamber), 6 March 1997 I - 1210

Summary of the Judgment

Tax provisions — Harmonization of laws — Turnover taxes — Common system of value added tax — Supply of services — Determination of the place of performance for tax purposes — Supply of veterinary services — Taxable at the place where the supplier has established his business (Council Directive 77/388, Art. 9(2))

Article 9 of the Sixth Directive 77/388 on the harmonization of the laws of the Member States relating to turnover taxes, which seeks to avoid, first, conflicts of jurisdiction, which may result in double taxation, and, secondly, non-taxation, must be interpreted as meaning that the place where the services principally and habitually carried out by a veterinary surgeon should be deemed to be supplied is the place where the supplier has established his business or has a fixed establishment from which the services are supplied or, in the absence of such a place of business or fixed establishment, the place where he has his permanent address or usually resides.

Since the principal function of a veterinary surgeon is to make a scientific assessment of animals' health, take preventive medical action, effect diagnoses and provide therapeutic treatment for sick animals, the service which he provides does not come within any of the transactions listed in Article 9(2) of the directive, under which certain services are deemed to be supplied at the place where they are physically carried out or the place where the customer has established his business or has a fixed establishment