

????????? ??? ?????????????? (????? ?????)

??? 21?? ?????????????? 2013 (*)

«???? ??????? ??? – ?????? 17, ??????????? 2, ????????? ?? – ?????????? ??????????? ??? ??????
???????? – ?????? ??????? ??????? ??? ?????? ??????? ?????? ?????? ?????? ??? ?????? –
????????? ?????????? ??? ??????? ?????? – ??????????? ?????????? ?????????? ?????????????? ???
????????? ??????? ??????? ??? ???????, ? ?????? ??????? ??????? ??? ??? ???
?????????? ??? ??????? ??????? ??????? ?????????? ?????????? ??????»

???? ??????? C-104/12,

?? ?????????? ?? Bundesfinanzhof (???????) ?? ?????? ??? 22?? ?????????? 2011, ? ?????? ?? 29 ?????????? 2012, ??? ?????? ??? ????

Finanzamt Köln-Nord

???

Wolfram Becker,

?? ?????????? (????? ????),

?????????? ?? A. Tizzano, ?????? ???????, M. Berger, A. Borg Barthet, E. Levits ???
J.-J. Kasel (??????), ???????,

?????? ??????????: V. Trstenjak,

?????????: A. Calot Escobar,

????????? ???? ???? ?????????? ??????????????,

????????????? ?????? ??? ?????????????? ??? ??????????;

— ? ?????????? ???????, ?????????????????? ??? ??? T. Henze ??? ??? K. Petersen.

- ? ?????????? ?????????? ?????????????????? ??? ??? B.-R. Killmann ??? ??? C. Soulay.

????????? ??? ?????????? ??? ?????, ??? ?????? ?? ?????? ????????????, ?? ?????????? ??
????????? ??? ?????? ?????????? ??????????.

????????? ??? ?????????

?????????

1 ? ??????? ?????????????? ?????????? ?????? ??? ?????????? ??? ??????? 17, ?????????? 2,
????????? ??, ??? 22, ?????????? 3, ?????????? ??, ??? ?????? ?????? 77/388/??? ???
??????????, ??? 17?? ????? 1977, ??? ?????????????? ??? ??????????? ??? ????????,
??? ?????????? ?? ??? ?????? ?????? ?????? ?????? – ??? ?????? ?????? ??? ?????? ??????????????
?????: ?????????? ?????????? ??? (?? ????. ????. 09/001, ?. 49), ??? ?????????? ?? ???
????? 2001/115/?? ??? ??????????, ??? 20?? ?????????? 2001 (?) L 15, ?. 24, ??? ???:

????? ???????).

2 ? ?????? ??? ???????????? ??? ?????? ???????? ???????? ?????? ??? Finanzamt Köln-Nord (??? ????: Finanzamt) ??? ??? Wolfram Becker, ?? ??????????? ?? ???????? ???????? ??? ?????? ?????????????? ??? (??? ????: ???) ???????? ??? ???????? ? W. Becker ??? ?????????? ??? ?????? ??? ?????? ???????? ???????? ?????? ?????????? ?? ??? ??? ??? ?? ?????? ????.

?? ?????? ?? ??????

? ?????????? ??? ??? ?????

3 ?? ?????? 17, ??????????? 2, ????????? ??, ??? ????? ???????, ??? ??????????????? ??
?? ????? 28?? ??? ??????? ??????, ?????? ?? ????:

«???? ?? ?????? ??? ?? ?????? ? ?? ?????????? ?????????????????? ??? ?? ?????????????????? ???
????????????????? ??????? ???, ? ?????????????? ??? ?? ?????????????? ?? ?????????? ??? ??
????, ??? ?? ?????????? ????:

?)) ???? ?????????? ? ?????????? ???? ?????????? ??? ?????? [???] ??? ?? ?????? ??? ???
????????? ? ?????????? ?? ??? ?????????? ??? ??? ??? ?????????? ??? ??? ?????????? ???
? ?????????? ?? ??? ?????????? ??? ????? ?????????? ??? ??? ???».

4 ????? ?? ?????? 18, ??????????? 1, ?????????? ??, ??? ?????? ???????;

?) ??? ??? ???????????? ??? ????? 17, ?????????? 2, [?????????] ??, ????????, ?? ???????
?????????, ?? ?????? ??? ?????????? ??? ?? ????? 22, ?????????? 3».

5 ??????? ?? 22, ?????????? 3, ??????? ??, ?????? ????????, ??? ???.
??????, ??? ?????????????? ?? ? ???? 28? ??? ?????? ?????, ?? ?????????? ???
????????? ??' ?????????? ?? ?????????? ?? ? ???? ?????? ??????, ??? ???.
?????? ??, ?? ?????????? ?? ?????? ????? ?? ? ?????????? ?? ?????????? ???.
???? ?? ?? ?? ?????? ??.

? ?????????? ??????????

6 ????? ?? ?????? 15, ??????????? 1, ????? ???????, ??????? 1, ??? ????? ??? 2005 ???
??? ????? ?????? ??????? (Umsatzsteuergesetz 2005, *BGBI.* 2005 I, ? 386, ??? ????: UStG),
????????????????? ??????? ?? ???????, ?? ??? ???????, ?? ????? ??? ??? ???????, ??? ??????? ??????????
???? ??? ??????? ??? ??????????? ??? ????? ?????????? ??? ????? ?????????? ??? ??? ??????? ???
????????????? ???.

7 ? ??????? ???????????, ??? ? ? ????? 15, ?????????? 2, ????? ???????, ?????? 1,
??? UStG ??? ?????? ??? ????? ? ?????????????????? ?????????????? ??? ?? ??????????
????????????? ??????.

? ??????? ? ?? ?????? ?????? ??? ?? ?????????????? ??????????

8 ????? ???? ?????? ??? ?????????????? ?????????????? ??? ?????????? ??? ?????? ??????, ?
W. Becker ????? ??????? ?????????? ??? ?????? ? ?????????? ?????? ??? A-GmbH (??? ????:
A), ??????? ?????????????? ??? ?????? ??? ?????????? ??????. ? W. Becker ??? ? X ????

????????????? ??? A, ??? ?????? ? ?????????? ?????? ?????????? ??? ?????? ?????? ??????
????????????? ??? ?????????? ?????????????? ?????? ?????????? ?????? ??? .? P,
????????????? ??? A, ??????? ??????, ??????, ?????????????? ??? ?????? ??????.

9 ?? W. Becker ??? A ?????????? ?? ?????? ??? ?????????? ?????? ?????? ??????, ???
??? ?????? ??? UStG. ??? ???????, ?? W. Becker ??? A ?????????? ?? ??? ??? ??????
????????? ???, ?????? ? W. Becker ???????, ?? «?????????» ??????
?????????, ?? ??? ?????????? ?????????? ??? ?????? ?????????? ??? ??????????
??? ??? ?????????? ??? ??? A.

10 ??? ??? ?? ?????? ??? ? ?????? ?????? ?????? ?????????????? ??? ?????? ?????????? ?? ???
????????? ??? ??? ??? ?????? ??????, ? ?????? ?????? ?????????? ??? ?????? ?????????? ???
??? ??? W. Becker ??? ??? P. ???????, ?????? ?????????? ??? A ???????, ??? ???
?? ?????? ??? ???????, ?????? ??? ?????????? ?????????? ??? ?????????? ?? ???
????????? ??? ?????? ?????????? ?????????? ?????????? ???, ?? ?????????? ?? ??? ??????
?? ?????????? ??? ?????????? ?????????. ??? ?? ?????? ??? ?? ?????? ?????????? ???, ??? ??????
?? ?????????? ?? ?????? ??? ?????????? ?? ?????????? ?????????? ?? ?????????? ??????????
? ?????????? ?' ??? ?????? ??? W. Becker ??? ??? P, ??? ?? ?????? ?????????? ???
????? ??? ?????? ??? ?????? ???.

11 ?? ?????? ??? ?????? ??? ?????? ?????? ?? ?????? ??? W. Becker ??? ??? P ??????
????? ??? ?????? ?????????? ???, ???' ?????? ??? ?????? ??? ?????? ??? ??????????
????? ??? ?????? ???.

12 ??? ?????? ??? ?????? ?????????? ?????????? ???, ? W. Becker ??? ? P
????????????? ??? ?????? ??? ?????? ???, ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?? ?????? ?????????, ?? ?????? ??? ?????????? ??? W. Becker
????? ???, ?? ?????????????, ??? ??, ?? ?? ?????? ??? ?????????? ??? P ??? ?
????, ?? ?????????????, ??? A ??????. ?????? ?? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ?? ?, ? ?????? ?????????? ??? W. Becker ??? P ??
????????? ???, ??? ?????? ??? ?????? ???.

13 ?? ?????? ??? ?????? ?? ?????? ??? A. ? W. Becker, ?? «?????????»
????????? ??? A, ?????? ??? ?????? ???, ?????? ?? ??? 2005, ?? ?????? ???
??? ??? ?????? ???.

14 ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???, ?
Finanzamt ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? W. Becker. ??? ??? ??????
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? Finanzamt, ? W. Becker ??????
????????? ??? Finanzgericht Köln, ? ?????? ???.

15 ?? Bundesfinanzhof, ??? ?????? ?????????? ??? ?????? ? Finanzamt, ?????????? ??
??? ?????? ??? ?????? ?????????? ???, ??? ?? ?????? ??? ?????? ??? ?????? ???, ? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????????, ? Finanzamt ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

16 ??????, ???, ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ? ??????
????? ??? ?????? ?????? ??? ?????? ??? ?????? (????? ? 8?)
????? 2000, C-98/98, Midland Bank, ?????? 2000, ? I-4177, ??? 32) ??? ??? ???
????????? ??? ?????? ??? ?????? (????? ? 6?) 1995, C-4/94,

BLP Group, ??????? 1995, ?. I-983, ???? 24). ?? ??????????, ?????????????? ?????? ???
????????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??????
????????????? ?????????? ??? ?????????? ? ?????????? ??? ? ?? ??? ?????? ?????? ?????? ??????
??? ?????? ??? ?????????? ??? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? . ??????
?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?
????? ??? A, ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ???.

17 ??????, ?? ?????????? ??? ?????????? ??? ??????, ??????, ?? ?????????? ?? ?
????????? ?????? ??? ?? ?????????? ?????? ??? ?????????? ?????? ?????????????? ?????
????????? ??? (????? ??? 8?? ?????????? 2007, C-435/05, Investrand, ??????
2007, ?. I-1315, ??? 33). ?????? ?????? ??? ?????? ?????? ??? ?????? ??????, ?????? ??
????????? ?????? ??? ?? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ???, ??????
????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??????
????????? . ?? ????????, ????????, ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????
?? ?? ??? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ??? A. ?? ??
????? ????????, ? W. Becker, ?? ?????????? ?????? ??? A, ??? ?????? ??? ??
????? ??? ??? ??? ??? ??????.

18 ?????? ??? ????????????, ?? Bundesfinanzhof ?????????? ?? ?????????? ???
?????? ??? ?????????? ??? ?? ??????? ??? ?????????? ?? ?????????? ?? ?????????? ????????????
?????????:

«1) ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????, ?? ?? ?????????? ??? ??????????????, ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? «?? ???? ?????????????? ???
????????????? ??? ?????? ???», ??? ?? ?????? ??? ?????? 17, ?????????? 2, ?????????? ?,
?? [????? ??????], ??????????

– ?????? ??? ?????????????? ?????????????? ??? ?????????? ??? ?????????????? ??? ??
????????? ??? (?? ??????????: ?????????? ?????????? ?????????????? ??? ??? ??
????????? ??? ?????????? ?????????? ?????????? ??????);

– ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? (?? ??????????:
????????? ?????????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????);
2) ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
17, ?????????? 2, ?????????? ?, ??? [????? ??????], ? ?????????? ??? ?????? ?, ? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? 3, ????????, ??? ?????? ??? ?????? ??? [????? ??????];»

?? ?? ?????????????? ??????????

?? ?? ?????? ??????

19 ??? ?? ?????? ?????????? ??? ?????? ?????? ?????? ??????, ???' ?????, ?? ?????????? ???,
????? ?????? ????????, ? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????????????
????????? ?????? ??? ?????? ? ?????????????? ?????? ?????? ??? ?????? ?????? ??????
????????? ???, ???????, ???????, ?????? ?????? ?????????? ?? ?????????? ??? ?????? ??? ??????????
????? ??? ?????? ?????? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

???????????? ???? (?. ??????? Midland Bank, ??????????????, ??? 24, ??? 22??
????????? 2001, C-408/98, Abbey National, ??????? 2001, ?. I-1361, ??? 26, ???
Investrand, ?????????????, ??? 23). ?? ??????? ?????????? ??? ??? ??? ??? ??????? ???
????????? ??? ??????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ?????? (?. ?????????????? Midland Bank, ??? 30, ???
Abbey National, ??? 28).

20 ?????????? ??????????????, ????, ??? ? ?????????? ??? ?????? ??? ?????? ???
?????????, ???? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????????????
?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
?????????, ???? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
??? ???, ?? ??????, ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??????. ?? ?????? ??? ?, ??????, ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ?????? ??? (?., ??????, ?????? Midland
Bank, ??????????, ??? 31, ??? 26?? 2005, C-465/03, Kretztechnik, ??????
2005, ?. I-4357, ??? 36).

21 ?????, ???????, ?? ?????????? ???, ?? ??? ???? «?????? ??? ?????
????» ??? ?????? ?? ?????? ?????? ??? ?????, ?? ?????????? ???
????????? ??? ?? ??? ?????? ?????? ?????????? ?????? ?????? ?????? ??????????????
????????? ??????. ??????, ?????????? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??????, ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ?????? ??????, ??? ??? ??? ??????????, ??? ?????? ???
????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
(?., ??????, ?????????? Midland Bank, ??? 25).

22 ?????, ??? ?? ?????????? ?????? ???, ??? ?????? ?????????? ??? ?????? ???
????? ?????? ??? ?? ?????? ?????? ??? ?????? ??? ?????? ??????????, ?????? ??
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??
????????? ?????? (?., ??????, ?????????? Midland Bank, ??? 25) ??? ??
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?? ?? ??????????
????????? ??? ?????? ??? ?????? ???.

23 ??????, ? ?????? ?? ?????????? ??? ?????? ??? ?????? ?? ?????????? ???
?? ?????? ?????? ???, ? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? (?., ??????,
????????? BLP Group, ??????????, ??? 24, ??? 9?? 2001, C-108/99, Cantor
Fitzgerald International, ?????? 2001, ?. I-7257, ??? 33, ??? 29?? 2009, C-
29/08, SKF, ?????? 2009, ?. I-10413, ??? 47).

24 ?? ?????????? ???, ??????, ?????????? ??? ?????, ??????, ?? ??????????, ???
?? ?????????? ???, ?? ?????????? ???, ?? ?????????? ??? ?????? ??? ?????? ???
????????? ???, ?? ?????????? ??? ?????? (?., ??????, ?????????? ???, ???
Midland Bank, ??? 32, ???, ???' ??????, ??? ?????? ?? ?????? ??? ?????? ??
????????? ???, ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? 14??
????????? 1985, 268/83, Rompelman, ?????? 1985, ?. 655, ??? 24).

25 ? ?????????? ??? ?????? ???, ?????????? ?? ?????????? ?? ?????????? «????? ???

?????? ??????» ??????? ?????????? ??????? ??? ?? ??????? ??? ?????????????? ?????
?????????????????, ???? ??? ?????? ??? ??????? ?????????????, ?????? ?? ?????????????? ????
????????????? ??? ??????? ??? ??????? ?????? ? ??? ??????? ?????????? ???, ??? ??????
??? ?????????? ??? ?? ??????? ??? ?? ?????????? ?????? ???' ??????, ?? ??? ?????? 33
??? 36 ??? ?????????????? ?????????? ??? Investrand, ???, ?????? ? ?????? ???
????????????? ?????????????? ??? ??????? ??? ?????????? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ???????, ??? ?????? ?? ?????? ?????? ??? ?????????? ?????? ???
????? ?????? ?????? ??? ?? ??? ??????????.

26 ???????, ??? ?? ?????? 25 ??? 34 ??? ??????? ??? ?????? ?????????? ??? ??
?????????, ???? ??? ?????? ?????????? ???? ??? ?????? ?????? ??? ?????????? ??? ??
????????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?? ???
????? ???, ??????????, ?? ?????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?? ??? ??????????
????? ??? ??????????, ??????, ?????, ??? ? Investrand BV ??? ??? ?????????? ????
????????? ?????? ?????????? ?????? ?????? ??? ?????? ??? ??? ?????? ??? ?????? ??? ??
????? ??? ?????? ??? ?????? ?????? ??????. ???????, ?????????? ???, ??? ? Investrand
BV ??? ?????????? ??? ??? ?? ??? ?????? ?????? ??? ?????? ???, ??? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ???.

27 ?? ???????, ?? ?? ?????? 34 ??? ?????????????? ?????????? Investrand,
??? ? ?????????? ??? Investrand BV ??? ?????????? ?? ?????? ??? ?????? ?????????? ???
??? ?????? ??? ?????????? ??? ?? ??? ?????? ?????? ??? ?????????? ?? ?????????? ???
????????? ??? ?????? ?????????? ??? ?????? ???????, ??? ??? ?????? ??? ?????? ???
????, ??? ?????? ??? ?????? ??? ???????, ?? ?????????? ?????? ??? ?????? ???
????????? ???.

28 ??????, ?????? ?? ?????????? ???, ?? ?? ?????? ?????????? ?????? Investrand
BV, ?? ?????????? ??? ?????????? ???, ?????????? ??? ?????? ??? ?????????? ???, ??
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ?? ??????????
????????? ?????? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ???
???' ?????? ??? ?? ?????? 33 ??? ?? ??? ?????? ???, ???, ?????? ??? ? Investrand BV ???
????????? ??? ?????? ?????????? ???????????, ? ?????? ??? ?? ?????? ???, ?????????? ??
????????? ??? ?????? ???, ?? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ???.

29 ??? ?? ???????, ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?
?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ???, ?????? ??? ?? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ???.

30 ?? ??????????, ????, ???? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

?????? ?????????? ??? ??????? ?????????? ??? ?? ?????? 16 ??? ??????? ??????????, ?? ??????? ???????
????????? ??? ?? ?????? ??? ?????????????? ?????????? ??? ?? ?????? ??? A, ?????? ???
?????? ?????? ? ?????? ?????????? ??????? ??? ?? ?????? ????. ?? ?????? ??????????
????????? ??? ?? ?????? ??? ?????? ???, ?????? ??? ?????????????? ?????????????? ???, ??
????????? ?? ??? ?? ?????? ?????????? ??????? ??? ?????? ??? ?????????? ?? ?????????? ??? ??????????
??? ?? ?????? ??? ?????? ??? ?????????? ??????? ??? ?????? ??? ?????????? ??? ?????????? ??? A.

31 ???????, ?? ?????? ?????????? ?????????? ???, ??? ?? ?????????? ??? ?? ???
????????? ??? ?? ??? ?? ?????? ??? ?????????, ?? ?????????? ??? A ??? ?????? ???
????????? ??? ?? ?????? ??? ?????????? ?????? ?????? ??? ?? ???, ??????,
????????? ??? ?? ?????? ?????????? ??????? ??? ?????? ??? ?????????? ?? ??? ?? ??? ?????? ???
?????? ??? ?? ?????? ??? ?????????? ?????? ?????????? ??? A. ??????????,,
????????? ?? ?????????? ??? ?? ?????? ??? ?????????? ?????? ??? ?????? ?? ?????????? ???
????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???
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32 ??????, ?????? ?????????? ?? ?????????? ??? ?? ?????????? ??? ?? ?????? ??? ?? ?????? ???
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(??., ??????, ?????? ?? 22?? ?????????? 2010, C-277/09, RBS Deutschland Holdings,
????? 2010, ?. I-13805, ????? 54), ?????????? ?? ?????? ??? ?????? ?? ?????? ??? ?????? ???
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33 ??? ??????, ??? ?????? ?????? ?????? ?? ?????? ?? ?????? ??? ? ?????? ??? ? ?????? ???
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???? ?? ?????? ??? ?????? 17, ?????????? 2, ??????? ??, ??? ?????? ????,
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34 ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ?
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35 ?????? ??? ? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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????????????? ?????? ???», ??? ??? ?????? ??? ?????? 17, ?????????? 2,
????????? ??, ??? ?????? ?????? 77/388/???, ??? ?????? ??????, ??? 17?? ????? 1977,
???? ?????????? ??? ?????????? ??? ?????? ??????, ??? ?????????? ?? ???
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?? 20?? ?????????? 2001, ?????????? ?????? ??? ?????????????? ??????????????
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(?????????)

* ?????? ??????????: ? ??????????.