Downloaded via the EU tax law app / web

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

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

??? 21?? ??????? 2018 (*)

«??????????? ????????? – ???????? ?????????? ??? ????????? ??? ????????? ??? ???????? – ??????????? – ????? ??? ?????????? ??? ??????????? ?? ??????????? ?????????? ?????????? ?? ??????? ????? (?????) – ????????? ??? ??????????? ??? ???????? ??? ???????? ?? ?????? ????? ?? ????? ??? ???????? ???? ???????? – ???????? ??? ?????????? ??? ??????????? ??? ???????? ??? ???????? ?? ?????? ????? ?? ????? ??? ???????? ???? ??????? – ?????????????? ????? – ???????? ???????? ??? ??????????? ???????? ?????? ??? ?????? ????? – ?????? ??? ??????????? ?????????? – ?????????????»

???? ??????? C?480/16,

?? ??????????? ?????? ????????????? ????????? ??????? ??? ?????? 267 ????, ??? ??????? ?? Østre Landsret (??????? ??? ?????????? ???????????, ?????) ?? ??????? ??? 31?? ????????? 2016, ? ????? ???????? ??? ?????????? ???? 5 ??????????? 2016, ??? ??????? ??? ?????

Fidelity Funds,

Fidelity Investment Funds,

Fidelity Institutional Funds

????

Skatteministeriet,

??????????? ???:

NN (L) SICAV,

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

?????????? ??? ???? J. L. Da Cruz Vilaça, ??????? ????????, E. Levits (????????), A. Borg Barthet, M. Berger ??? F. Biltgen, ????????,

??????? ???????????: P. Mengozzi

??????????: L. Carrasco Marco, ?????????? ?????????,

??????? ????? ??? ??????? ?????????? ??? ??????? ??? ??’ ??????????? ?????????? ??? 5?? ????????? 2017,

??????????? ????? ??? ??????????? ??? ????????:

– ?? Fidelity Funds, Fidelity Investment Funds ??? Fidelity Institutional Funds, ?????????????? ??? ???? P. Farmer, barrister, ??? J. Skaadstrup Andersen, advokat,

– ? NN (L) SICAV, ?????????????? ??? ??? E. Vistisen, advokat,

– ? ?????? ????????, ?????????????? ??? ???? C. Thorning ??? J. Nymann?Lindegren, ?????????????? ??? ??? S. Horsbøl Jensen, advokat,

– ? ????????? ????????, ?????????????? ??? ???? T. Henze ??? R. Kanitz,

– ? ????????? ????????, ?????????????? ??? ??? M. Bulterman ??? B. Koopman, ????? ??? ??? ??? J. Langer,

– ? ????????? ????????, ?????????????? ??? ???? W. Roels ??? R. Lyal, ?????????????? ??? ??? H. Peytz, avocat,

???? ?????? ??? ?????? ?????????? ??? ???????? ??? ????????? ??? ???? ?? ?????????? ??? 20?? ?????????? 2017,

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

???????

1 ? ?????? ???????????? ????????? ????? ??? ???????? ??? ?????? 56 ??? 63 ????.

2 ? ?????? ???? ?????????? ??? ??????? ??? ??????? ???????? ?????? ??? Fidelity Funds, Fidelity Investment Funds ??? Fidelity Institutional Funds ??? ??? Skatteministeriet (?????????? ??????????, ?????), ??????? ?? ?????? ?????????? ??? ?????????????? ???? ???? ????? ??? ??? ?????????? ??? ???? ??????????? ?? ???????? ?????? ??? ???? 2000 ??? 2009 ??? ???????? ??? ???????? ??? ?????.

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

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

3 ? ?????? 85/611/??? ??? ??????????, ??? 20?? ?????????? 1985, ??? ??? ?????????? ??? ??????????, ??????????? ??? ?????????? ????????? ??????? ?? ?????????? ?????????? ????????? ????????? ?? ??????? ????? (?????) (?? 1985, L 375, ?. 3), ???? ?? ??????????, ??????? ?? ??? ??????? ?????????? ????? ???, ?? ???????, ???? ????? ???? ?????????? ????????? ????????? ?? ??????? ????? (?????) ??? ???????? ??? ????? ????, ?????????? ?????? ??????? ???? ????? ??? ????? ?????????? ????, ??? ?????? ????, ?? ???? ????, ?? ???????????? ???? ??? ??? ?????????? ??? ???????? ?? ??????????. ? ?????? 85/611 ???????????? ???????????? ???? ??????????, ??? 1?? ??????? 2011, ??? ??? ?????? 2009/65/?? ??? ?????????? ??????????? ??? ??? ??????????, ??? 13?? ??????? 2009, ??? ??? ?????????? ??? ???????????, ??????????? ??? ?????????? ????????? ??????? ?? ?????????? ?????????? ????????? ????????? ?? ??????? ????? (?????) (?? 2009, L 302, ?. 32), ? ????? ?????? ?? ??????????? ???.

?? **??????** ??????

4 ?? ????? 1, ?????? 5a, ??? lov om indkomstbeskatning af aktieselskaber m.v. (????? ???? ??? ????? ????????) ????????? ??? ?? ????? ??? ????? ?? ?????????? ???? ???? ??? ????? ?????????? ?? ???? ????, ??? ?? ????? 1, ?????? 6, ??? ????? ????? ????? ??

?????????? ??? ?????????? ?????????? ??? ????????? ???? ????????? ??? ?????? 16 C ??? lov om påligningen af indkomstskat til staten (????? ???? ????????????? ??? ?????? ??? ????? ??????????, ??? ????: ligningslov) ??? ???????? ??? ?????.

5 ?? ????? 2, ?????????? 1, ???????? c, ??? ????? ???? ??? ????? ???????? ?????? ??? ?? ????? ??? ?? ?????? ?????????? ?????????? ??? ??? ????? ?? ?????????? ???? ???? ??? ????? ????????????? ??? ??? ?????????? ??? ???? ?????????? ??? ???????? ??? ???????? ??? ?????, ? ?? ??????????? ???? ?????????? ????????? ????? ???? ?? ?????????? ??? ????? ??? ???? ???? ??? ?????.

6 ???? ?? ????? 65, ?????????? 1, ??? kildeskatteloven (????? ???? ??? ????? ???? ????) ? ??????? ???? ???????? ?????????? ???????? ??? ??????? ??? ????? ?????? ?? ????????? ?????????? ???? ???? ???? ???????? ??? ?? ???????? ????????, ????? ?? ????? ????????. ? ?????????? ??? ?????????????? ???? ???? ????? ???? ?????????? ?? 25 % ??? ?? 2000 ??? ???????? ?? 28 % ??? ??? ??????? ??? ?? 2001 ??? ?? 2009.

7 ??????? ?? ?? ?????? ????????, ? ?????????? ??? ?????????????? ???? ???? ????? ????????? ?? 15 % ???? ?? ????? ??? ??????? ??? ????? ??????? ? ???????????? ????? ????? ??????????? ?? ??????????? ?????????? ?? ??? ??????? ?????, ??????? ????????? ??? ??? ??????? ??? ?????? ??????????, ??????????? ????? ???????? ????????? ? ????????? ?????????? ????????? ???? ?????????? ?????. ??? ???? ?????????????? ??? ????????? ???? ????????? ?????, ? ?????? ????????? ??????, ???? ?????, ?? ??? ?????????? ?? 15 %, ??????? ?? ??? ?? ???? ???????. ? ????????? ??????, ????????, ?? ??????? ????????? ????? ??? ?????????? ????????? ??? ????? ???????? ?????? ??? ????????? ??? ?????? ??? ??? ??????? ??? ????? ??????? ? ???????????? ?????.

8 O ????? ???? ??? ????? ???? ???? ???? ???????? ????? ????? ??? ???????? ??? ?????, ?? ?????? ???????? ????????, a priori, ???? ?? ???? ??????? ??? ?? ?????????? ??? ??????????. ??????, ???? ????????? ??? ??? ????????? ??? ?????? 65, ?????????? 8, ??? ????? ?????, ? ???????? ?????????? ?????? ?? ???????? ??????? ??????? ?? ???? ??????? ?? ???????? ?????????? ???? ?????????? ?????????? ??? ????????? ???? ????????? ??? ?????? 16 C ??? ligningslov (??? ????: ?????????? ?????????? ??? ?????? 16 C) ???????????? ??? ??? ?????????? ?????.

9 ???? ??? ?????? ??? ?????????? ????????? ???? ??? ????? ???? ????, ? ???????? ?????????? ????? ????? ??? ?????????? ????? ??? ?? ????????? ???? ?????????? ?????????? ??? ?????? 16 C ??? ???? ?????????? ????? ???? ????. ???????????, ???? ?? ????? 38 ??? ?????????? ????????? ???? ??? ????? ???? ????, ???? ????? ?????? ?? ????? ???????????? ????????? ??? ?? ????? ????????? ??? ??? ?????????? ????? ???? ???? ??? ??? ??????????, ??? ??? ???, ??????, ??? ????????? ??? ????????? ??? ???????? ??? ????? 1, ?????? 6, ??? ????? ???? ??? ????? ????????, ??? ???????? ??????? ??? ?????, ???, ????????, ??? ???????? ??? ???????? ?????????? ?????????? ??? ?????? 16 C. ? ????? ??? ??????? ??? ????? ??? ??? ?????? ??? ??????????? ??? ?????? 16 C ??? ligningslov ??? ??????????? ??? ??? ?????????? ????? ???? ???? ??? ??? ??????????.

10 ?? ????? 16 C ??? ligningslov ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????? 16 C.

11 ????????????, ????? ??? ?????????? ??? ????? ????? ??? 1? ??????? 2005, ??? ?? ???????????? ???? ????? ?? ?????????? ?????????? ??? ?????? 16 C, ?????? ?? ???????? ??? ???????? ????. ? ???????? ??????? ???????? ?? ???? ??? ?? ?????????? ??? ?????????? ??? ??????? ?????????? ?????????? ???? ????? ???? ??????????? ???.

12 ?? ??????? ??? ??? ????????? ??? ????????? ???????? ????????????? ??? ????? 16 C, ?????????? 2 ??? 6, ??? ligningslov. ??????? ?? ??? ????????? 2 ??? ?????? ?????, ? ???????? ??????? ????? ?? ???????? ??? ?????? ??? ??? ??????? ????? ??? ??????????? ???? ?? ?????????? ????, ??????????? ????? ?????? ??? ???????. ?? ????? 16 C, ?????????? 3, ??? ligningslov ????????? ??? ???? ??? ????????? ????? ?????????????? ???? ???? ?????????? ??? ??????????? ??? ?? ???? ?????, ?????? ????? ?? ?????, ?? ????????? ??? ???????, ?? ????? ??? ?????????? ??? ?????????????????? ????????, ????? ??? ?? ????????? ??? ?????????? ???????. ???? ?? ????? 16 C, ?????????? 4 ??? 5, ??? ligningslov, ?? ?????????? ?????????? ??? ?????? 16 C ??????? ?? ?????????? ??? ?? ???? ???? ?????????? ?????? ??? ????? ???????????.

13 ??????? ??? ???????? ??? ????? 407, ??? 1?? ??????? 2005, ??? ??? ??? ?????????? ??????, ??? ??? ??????? ??? ???????? ??? ?????????? ?????????? ??? ?????? 16 C ??? ?????????? ????? ?? ????? ???????? ???? ???????? ??????? ????? ???????????. ? ??????? ??? ???????? ???? ??????????, ??????, ?? ????????? ??? ??? ?????????? ??? ? ??????? ????? ????????? ???? ????????? ????????? ????????, ??? ??????????? ??? ??????? ??? ??????????, ???? ???????????? ????? ???? ????, ? ????? ??????????? ??? ??? ????????? _____.

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

14 ?? ????????? ??? ?????? ????? ????? _____, ???? ??? ?????? ??? ??????? 85/611, ??? ????? ??? ???? ????, ??????????, ??? ??????? ???????? ??? ??? ???????????. ?? ?????????? ???? ?? ???????? ????????????? ??? ????? ????? ?????????? ???????????? ??? ??? ?????????? ?? 10 % ??? ????????. ?? ???????? ??? ?????????? ?? ????????? ??? ?????? ????? ????? ????????? ?? ??????? ??? ????????? ??? _____, ???? ??? ?????????? ?????? ???? _____ ??? ??????? ?????? _____. ??????, ?? ????????? ??? ?????? _____ ??? ??? ??????? ?????????? ????? ?? ???????? ??? ?????????? ???????? ??? ?????????? ?????????? ??? ?????? 16 C ???? ?????????? ?? ?????????? ???? ???? ?????????? _____ ?? ?????????? ???? 2005 _____ ?????????? ?????? ?????????.

15 ?? ????????? ??? ?????? _____ ???????? ??????? ??? ??????? ??????? ?????? ?????????? ??? ??????????????? ???? ???? _____ ??? ??? ?????????? ??? ???? ??????????? ?? ???????? ?????? ??? ???? 2000 ??? 2009 ??? ???????? ?????????? ??? _____, ??????????? ??? ?? _____ ??? ???????? ??? _____ ???????, ?? ???????? ?? ???? ?????????? ???? ???????? _____, ?? ?????????? ??? ??? ?????????? _____ ???? ????. ???????????, ? ?????? ????????? ??????? _____ ??? ??????????? ?????????, ?????? ? ??????? _____ ?? ??????? ??? _____ ??? ?? ????????? ?? ?????????? ??? ?????? ??? ?????????? ??? _____ ??? ??????? ?????????? ??????????. ?? _____ ??? ???????? ???? ???????? ??? ???????, ?? ??????, ?? ??????? ??? _____ ??? ??? ??????????? _____ ??? _____ ??????? ? ?????????? ??????? ?? ??????? ?? ??????? ??????????, ???? ??????? ???? _____ ??? _____ ?????? ??????? ?? ?? ???????, ??????, ???? ??? ?????? ???????????, ??? ??????? ?? ???? ?????????? ?? ?????? ??? ????????? ??? ??? ?????????? _____ ???? ????.

16 ???????, ?? ????????? ??? ?????? _____ ???????, ???, ???? ??? ?? ??? ??????? ??

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

17 ?? ????????? ?????????? ??????? ??????? ??? ?? ?????? ???????? ???? ?? ??????????, ?? ????????? ??????????, ?? ????? ??? ???????? ??? ????? ??? ?? ????? ??? ???????? ?? ???? ?????? ????? ?? ?????????? ?? ?????????? ?????????? ?????????? ???? ????? ?? ????????? ??? ?????????? ??? ???????? ??? ???????? ??? ?????. ??????, ?? ????????? ???? ??? ????? ??? ? ?????????? ????? ?????????????, ??????, ??? ??? ?????? ?????????? ??? ??????? ??? ?????????? ?????????? ???, ????????, ??? ??? ?????? ??????????? ??? ????????? ????????? ??? ?????????? ???????? ?????? ??? ?????? ?????.

18 ??? ??????? ????, ?? ???????? ???? ???????? ??? ?????? ????? ????????? ?? ???? ?? ??? ? ?????????? ???? ?????????? ?????????? ??????? ?????????? ??? ????????? ??????????, ???? ?? ????????? ??? ?????? ????? ??????????? ??? ? ?????????? ????? ??? ?????? ?? ???????????? ????? ??? ????? ??? ???????? ?? ????????? ?????????? ??? ???, ?? ???? ??????????, ? ?????? ??????? ?????????? ?? ????? ??? ????? ???????? ??? ?? ??????????? ? ?????????? ??? ?????.

19 ??? ??? ???????? ?????, ?? Østre Landsret (??????? ??? ?????????? ??????????, ?????) ????????? ?? ?????????? ??? ??????? ??? ?????????? ??? ?? ???????? ??? ?????????? ?? ???? ??????????? ???????:

«?????????? ???? ?? ????? 56 ?? (??? ????? 63 ????), ?? ????? ????? ??? ???????? ?????????? ??? ?????????, ? ???? ?? ????? 49 ?? (??? ????? 56 ????), ?? ????? ????? ??? ???????? ?????? ?????????, ??? ?????????? ????????, ???? ?? ??????? ???? ???????? ??? ?????? ?????, ??? ?? ????? ????????? ????? ?? ?????? ?????????? ???? ?????? 85/611 [...] ???????????? ???? ???? ??? ??? ?????????? ??? ????????? ??? ??????? ????????, ???? ?????????? ??????? ????? ??????? ?? ?????? ????????? ??? ????? ???? ????, ???? ?????? ?????????? ???? ????? ?? ??? ???????? ??????? ???? ???? ??????????? ???? ??? ??? ?????? ???????????? ????? ???? ???? ???? ?????? ??????????? ?????????? ??? ???????? ??????? ??? ??? ?????? ???????????? ????? ???? ???? ???? ????? ???? ??????????? ????;»

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

20 ???? ??? ???????? ??? ????????? ??? ??????? ??????????, ?? ????????? ??? ?????? ????? ???????, ?? ????????? ??? ?????????? ??? ?????????? ??? ?????????? ???? 18 ?????????? 2018, ?? ????????? ? ????????? ??? ?????????? ??????????, ???’ ???????? ??? ?????? 83 ??? ?????????? ?????????? ??? ??????????.

21 ???? ??????? ??? ????????? ????, ?? ????????? ??? ?????? ????? ???????????, ???’ ??????, ??? ?? ????????? ??? ??????? ?????????? ?????????? ?? ????????? ?? ???? ??? ?????? ??? ?? ???? ??? ?????????? ??? ?????? 16 C ??? ligningslov. ?????????, ? ????? ??? ??????? ?????????? ??? ????????? ????? ??? ??? ???????? ??? ???????? ??? ?????? ????????? ?? ????????? ???????? ??????? ????? ???? ?? ???????? ??? ?? ?????????? ??? ??????? ???? ????? ?????? ??? ?????????? ??????? ??? ??????????.

22 ???????, ?????? ?? ?????????? ???, ??????? ??? ?????? 252, ??????? ??????, ????, ? ??????? ?????????? ?????????? ???????, ?? ????? ?????????? ??? ??????????, ????????????? ????????? ??? ??? ????????? ?? ??????, ??????? ?? ??? ????????? ??? ?????????? ??? ?????????? ??????, ???????? ??? ????????? ???. ?? ?????????? ???

?????????? ???? ??? ??? ????????? ??? ??????? ?????????? ???? ??? ??? ?????????? ????? ??? ?????? ????? ????????? ???? ?? ???? ????????? (??????? ??? 22?? ??????? 2017, Federatie Nederlandse Vakvereniging ?.??., C?126/16, EU:C:2017:489, ????? 31 ????? ??? ???? ??????????? ?????????).

23 ????????????? ??????, ??? ??????? ????, ??? ? ?????????? ??? ??????????? ??? ?????????? ?????? ??? ? ?????????? ??????????? ??? ??????????? ??? ?????????? ?????????? ??? ?????????????? ????? ?? ??????????? ??????????? ?? ???????? ??? ????????? ??? ??????? ?????????? (??????? ??? 25?? ????????? 2017, Polbud – Wykonawstwo, C?106/16, EU:C:2017:804, ????? 23 ??? ???? ??????????? ?????????). ? ???????? ??????????? ??? ???? ?????????????? ?? ??? ????????? ??? ??????? ??????????, ????? ??? ?? ????? ?? ???????? ??? ???????? ? ??????? ??????????? ?? ??? ????????? ??? ?????, ??? ???????, ???????, ???? ????????? ?????? ???? ??? ??? ????????? ??? ?????????? ??????????? (????????? ??? 25?? ????????? 2017, Polbud – Wykonawstwo, C?106/16, EU:C:2017:804, ????? 24, ??? ??? 29?? ????????? 2017, King, C?214/16, EU:C:2017:914, ????? 27 ??? ???? ??????????? ?????????).

24 ?? ?? ??????????? ??????? ?? ??? ?????? ??? ?? ???? ??? ?????????? ??? ????? ?? ????? 16 C ??? ligningslov, ?? ????????? ??? ?????? ????? ?????????? ?? ?????????? ???? ????????? ??? ??????? ?????????? ???????????? ??? ????????? ??? ????????? ??? ?????? ??? ????? ???? ??? ??????????? ??? ?????? ?? 2005, ???? ???? ????????? ??? ??? ?????? ???????????? ????????, ??? ?? ?????????? ??? ???? ??? ??????? ??? ?? ?????????? ??? ??? ??? ??????????? ??? ??????????? ???? ??? ?? ??????????? ???????. ????, ???? ????????? ??? ?? ????????? ??? ??????????? ???? ??????????? ?????, ? ??????? ??????? ??????????? ??? ??????????? ??? ??? ????????? ??? ??????? ?? ?????????? ??????? ??? ??????????.

25 ??????, ???? ?? ????? 83 ??? ?????????? ??????????, ?? ?????????? ??????, ??????????, ???? ??????? ??? ?????? ?????????, ?? ???????? ??? ????????? ??? ?????????? ??????????, ????? ?? ?????? ??? ??? ???? ??????????? ??????? ? ???? ???? ????????, ???? ?? ???? ??? ??????????? ?????, ??????????? ??? ?????????? ??????????? ???????? ?? ??????? ??????????? ??????? ??? ??? ????????? ??? ??????????, ? ????? ????, ???? ??????? ??? ????????, ?? ?????????? ?????????? ?? ????????? ?? ?????????? ??? ??? ?????? ??? ???????? ???????? ?????? ??? ???????? ? ??? ???? ?? ????? 23 ??? ?????????? ??? ??????????? ??? ?????????? ?????? ?????????????.

26 ?? ??????????, ?? ??????????, ???? ?????? ??? ?????? ??????????, ?????? ??? ???????? ??? ?? ???????? ???????? ??????????? ?? ????????? ??? ????????? ??? ????????? ??????????? ??? ??? ??? ?? ???????? ??? ??? ??????? ??? ???????? ????????? ???????????, ??????????, ? ??????????, ??? ????????? ??? ??? ??????? ??? ?????, ?? ????????? ??? ???????? ??????? ??????? ?? ?? ?????? ????????? ??? ?? ????????????? ?? ?????????? ?????????? ??? ?????? 16 C, ??????????? ??????? ??? ??????????.

27 ??????? ??? ????????????, ??? ????????? ????? ?? ????????? ? ????????? ??? ?????????? ??????????.

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

28 ?? ?? ??????? ???, ?? ?????? ?????????? ?????, ???’ ??????, ?? ??????????? ??? ?? ????? 56 ??? 63 ???? ????? ??? ?????? ??? ??????????? ?? ??????? ??????? ??????, ???? ? ??????? ???? ????? ????, ??????? ??? ?????? ?? ????????? ??? ??????????? ??? ????????? ??? ?????? ????? ???? ??????? ?? ????????? ???? ???????? ????? ?????????? ?? ??????????? ????? ???? ????, ??? ?? ????????? ??? ??????????? ?? ????? ??? ???????

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

29 ??? ??? ????????? ??? ???????? ???? ????? ???? ??????? ???????? ???? ????? ?????? ?? ?????? ?????????? ????????? ???, ??????????? ?? ????? ????????? ??? ??? ??????????? ????? ???? ????, ? ????? ??????, ??????, ?? ??????? ??? ????? ???, ????????, ?? ???????? ??? ???????? ?????????? ?????????? ??? ?????? 16 C.

30 ??? ?? ??????? ??? ???????? ????, ? ????? ?????? ?? ?????? ??? ??????????? ??? ?????? 16 C ??? ligningslov ???, ??????????, ??????? ?? ?? ??????? ??? ????? ???? ??? 1? ??????? 2005, ?? ????????? ??? ?? ?????? ?? ???????? ??????? ??? ?? ??????????? ??????????? ????? ???? ???? ??? ??? ???????? ????? ??? ???? ??????????? ???. ???? ??? ?? ??? ??????????, ??? ?????????? ????? ?? ?????? ???????? ?? ???????? ??????? ????? ???????????, ????, ??? ??? ??????? ??? ??? ?? ???? ????????, ? ??????? ????? ?????? ?? ?????? ???? ????????? ???? ????????? ???????? ? ????? ??????????? ??? ??????? ??? ??????????, ???? ???????????? ????? ???? ????, ? ????? ??????????? ??? ??? ?? ???? ????????. ?? ????? ??? ???????? ??? ????? ??? ??? ????? ??????? ??? ???????? ??? ?????????? ?????????? ??? ?????? 16 C ?????????? ?? ??????????? ????? ???? ???? ??? ??? ?????????? ??? ???? ??????????? ??? ???????? ??? ???????? ??? ?????? ????? ????.

31 ??? ?? ?????????? ????????, ??? ??? ???????????? ??????? ??? ??????????, ???, ???? ??? ??????? ???? ????? ???? ???????, ????? ?? ????? ??? ????? ??? ???? ???? ??? ????? ????????? ?? ?????? ????????? ??? ??? ??????????? ????? ???? ????. ???? ????????? ??? ??? ????????? ??? ??????? ??????????? ??? ??? ???????? ??? ?????? ?????, ???????? ???? ????? ??? ??? ??????? ??? ????? ?????? ???’ ????? ?? ?????? ??? ??????????? ??? ?????? 16 C ??? ligningslov, ??? ??????, ??????, ???? ??? ????????? ??? ?? ?????????? ??? ??? ??????? ??? ?? ???? ?????? ?????, ?? ????? ??? ????????? ??? ??? ??????????? ????? ???? ???? ??? ??? ?????????? ??? ??????????? ??? ???????? ??? ???????? ??? ?????.

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

32 ????????? ??? ?? ??????????? ??????? ?????????? ??? ?? ?????? ???? ??? ?????? 56 ???? ??? ??? ??? ?????? 63 ????, ?????? ?? ????????????, ???’ ?????, ?? ???, ??????????, ?? ???? ????? ?????? ??????? ???? ? ??????? ???? ????? ???? ?????? ?? ????????? ??? ?????? ??? ????????? ??????? ????????? ??? ??? ????????? ??????????? ??? ?????????.

33 ???????, ??? ????? ????????? ????????? ??? ?????? ?? ?????????? ????? ?? ??????????? ??? ???????? ?????????? (????????? ??? 13?? ????????? 2012, Test Claimants in the FII Group Litigation, C?35/11, EU:C:2012:707, ????? 90 ??? ???? ??????????? ?????????, ????? ??? ??? 5?? ??????????? 2014, Hervis Sport- és Divatkereskedelmi, C?385/12, EU:C:2014:47, ????? 21 ??? ???? ??????????? ?????????).

34 ?? ???????? ??? ?????? ????? ??????? ?????? ?????????? ??? ????????????? ????? ???? ???? ??? ??? ?????????? ??? ??????????? ?? ???????? ?????? ??? ???? 2000 ??? 2009 ????? ????????? ??? ?????? ????? ??? ???????? ?????????? ??? ????? ??? ?? ?????????? ?? ?? ?????? ??? ?????? ??????? ????????? ? ????? ?????????? ?? ?????????? ????????? ??? ??? ?? ???? ?????????? ????? ???? ???? ???? ????? ????? ??? ???????? ??? ????? ??? ??????? ??? ??????????? ??? ????? ?? ????? 16 C ??? ligningslov.

35 ? ??????? ???? ????? ???? ?????? ??????? ???? ???????? ?? ?????????? ?? ?????????? ?????????? ?????????? ??? ???????????? ??? ???? ?????.

36 ???????, ?????? ?? ????? ????? ??? ? ??????? ???? ????? ???? ????????? ???????? ???? ???????? ?????????? ??? ?????????.

37 ???????, ????? ??? ?? ???????? ??? ? ??????? ???? ????? ???? ????????? ???? ?? ?????????? ?? ???????????, ?? ?????????? ? ?? ??????? ???????? ?????????? ??? ????????????? ???? ????? ??? ??????? ?? ???? ?????? ????? ???? ??? ????????? ??? ??????, ???? ??????? ??????? ????????? ?????????, ?? ??????????? ???? ????????? ??? ?????????? ???????? ??? ?????????? ???????????? ???? ????? ?????????? ?? ????????? ??? ???????????? ???? ?? ???? ????? ??? ??? ??????? ??? ????? ??? ??? ??????????? ??? ???????? ??????? ??? ?? ?????? ??? ????????? ??????? ????????? (??., ??? ??? ?????? ????, ??????? ??? 17?? ?????????? 2009, Glaxo Wellcome, C?182/08, EU:C:2009:559, ????? 51 ??? ???? ??????????? ?????????). ????????????, ? ????????? ???? ????? ??? ??????????? ?? ????? ?? ??? ???????? ?????????? ??? ????????? ??? ?????? ?? ????????? ?? ????? [??????? ??? 26?? ????? 2016, NN (L) International, C?48/15, EU:C:2016:356, ????? 41].

38 ???????, ???? ????????? ??? ?? ???????? ??? ??????? ?? ?????? ??????????, ?? ?????????? ??? ????????? ??? ?????? ????? ??? ????? ????? ?????????? ???????????? ??? ???????? ?????????? ?? 10 % ??? ????????? ???????? ????????????? ??? ?????, ??? ???????????? ?? ??? ? ????????? ???????????? ??? ???????? ?????????? ??? ???????????? ??????????.

39 ???????, ? ???????? ??? ??????????? ??????? ?????? ?? ????? ??? ?? ?????? ??? ?????? 63 ????.

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

40 ???? ????? ????????, ??? ????? ??? ???????????? ??? ?? ????? 63, ?????????? 1, ????, ?? ?????????? ??? ???????? ????????, ?????????????? ?????? ??? ??????? ?? ?????????? ???? ????????? ????????? ??? ??? ????????????? ?????????? ?? ?????? ????? ? ?? ?????????? ???? ????????? ??? ?? ???? ??????? ?????? ??? ??? ????????????? ?????????? ?? ???? ????? (??????? ??? 10?? ????? 2012, Santander Asset Management SGIIC ?.??., C?338/11 ??? C?347/11, EU:C:2012:286, ????? 15 ????? ??? ???? ??????????? ?????????).

41 ?? ??????????, ??????? ??? ???????? ???? ????? ???? ????????, ?? ????? ??? ???????? ??? ????? ??? ??????? ??? ???????? ?? ???? ?????? ????? ??????????, ???? ????? ?? ????????? ??? ?????????? ?? ?????? ??? ???????? ??? ???????? ??? ?????, ?? ?????????? ??????????.

42 ???????????, ?? ????????? ??? ?????????? ??? ???????? ??? ???????? ??? ????? ?? ????? ?????????? ???? ???????? ?????????? ?? ?????????? ????? ???? ????.

?????????, ?? ????? ??? ???????? ??? ????? ??????? ?? ?????????? ??? ??? ??????????? ????? ???? ???? ??? ?? ????????? ????, ??? ??? ?????????? ??? ??????? ??? ??????????? ??? ?????? 16 C ??? ligningslov.

43 ??????????? ?????????? ????? ???? ???? ??? ??? ?????????? ??? ???????????? ?? ????? ?????????? ???? ???????? ??? ????????????? ???? ????? ?????????? ???? ??????? ????? ?? ?????????? ?? ?????????? ??? ??? ?????? ?????????? ????? ???? ????, ? ??????? ???? ????? ???? ?????? ??????? ????????? ?? ??????? ?????????? ??? ?????????? ??? ???????????? ?? ?????????? ???? ???????? ?????.

44 ??? ?????? ???????? ?????????? ????????? ?? ?????????, ??????, ???? ?????????? ???? ???????? ????? ??? ?? ?? ?????????????????? ?????????? ?? ?????????? ??? ????? ???????? ???, ????????, ???? ????????? ??? ????????? ??? ????? ??? ?? ?? ?????????? ??????? ?? ???????? ?????????? (??????? ??? 10?? ????? 2012, Santander Asset Management SGIIC ?.??., C?338/11 ??? C?347/11, EU:C:2012:286, ????? 17).

45 ????????, ? ??????? ???? ????? ???? ?????? ????????? ??????? ?????????? ??? ????????? ?????????? ??? ?????????, ? ??????, ????????, ??????????? ??? ?? ????? 63 ????.

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

46 ???? ?? ????? 65, ?????????? 1, ???????? ??, ????, ?? ????????? ??? ?????? 63 ???? ??? ?????? ????????? ?? ???????? ??? ?????? ????? ?? ?????????? ??? ??????? ????????? ??? ?????????? ???? ?????????? ?? ?????? ?????????? ?????? ????????????? ??? ??? ?????????? ???? ???? ????????? ???? ????? ??? ???????? ???? ? ??? ???? ???? ????? ????? ??????????? ?? ???????? ????.

47 ? ??????? ????, ??? ????? ??? ??????? ?????????? ??? ?? ????????? ???? ??? ????????? ?????????? ??? ?????????, ?????? ?? ?????????? ?????. ????????, ? ?? ???? ??????? ??? ?????? ?? ?????????? ??? ??? ?????? ??? ???? ?????????? ??????? ??? ????????? ?????? ??? ????????????? ???????? ??? ????? ????????? ???? ? ??? ??????? ?????? ????? ??? ?????? ????????? ?? ???????? ???? ????? ???? ?????? ??????? ?? ?? ??????? ???. ???????????, ? ?????????? ??? ?????????? ??? ????? 65, ?????????? 1, ???????? ??, ???? ??????????? ??? ?? ????? 65, ?????????? 3, ????, ?? ????? ????????? ??? ?? ??????? ????????? ???? ?????? ?????????? ? ?????????? 1 ??? ?????? ????? «??? ??????? ?? ????????? ???? ???? ?????????? ?????????? ???? ????????????? ?????????? ??? ????????? ??????? ??? ????????? ??? ??? ????????, ???? ???????? ??? ????? 63 [????]» (??????? ??? 10?? ???????? 2014, Emerging Markets Series of DFA Investment Trust Company, C?190/12, EU:C:2014:249, ??????? 55 ??? 56 ????? ??? ???? ??????????? ?????????).

48 ??????, ????????, ?? ????? ???????? ?????? ??? ??????????? ???????????? ??? ?????????? ????? ??? ?????? 65, ?????????? 1, ???????? ??, ???? ??? ??? ????????????? ??? ?? ????? 65, ?????????? 3, ???? ??????????. ???? ???? ????????? ??? ?? ????????? ??? ??????????, ?????????? ??? ?????? ?????????? ????????? ???? ? ??????? ???? ????? ???? ?? ?????? ?? ???????? ??? ??????????? ?? ??? ????????? ??? ???????? ???? ????????? ?????????? ??? ?????????, ? ?????????? ?????????? ?????? ?? ????? ?????????? ??? ??? ????? ????????????? ?????????? ? ?? ????????????? ??? ?????????? ???? ??????? ?????????? (??????? ??? 10?? ????? 2012, Santander Asset Management SGIIC ?.??., C?338/11 ??? C?347/11, EU:C:2012:286, ????? 23 ????? ??? ???? ??????????? ????????).

49 ??????, ???????, ?? ????????? ?? ?? ??????? ??? ????????? ????? ????? ????? ??? ???????? ??? ????? ? ?????????? ?? ?????????? ??? ??? ??????????? ????? ???? ???? ????????????? ??? ???????????? ??????? ?? ???? ??? ????????? ??? ????? ??? ???????? ??? ?????, ??????, ??? ??? ????? ??? ???????? ???? ????????, ????????.

50 ???????, ??? ?? ????????? ??? ??????????? ?????????, ??????, ??? ? ????????? ?????????? ? ?? ???? ???????????? ??????????? ?? ??? ????????? ????????? ?????? ?? ?????????? ??????????? ????? ??? ?????? ??? ??????????? ??? ??? ???????? ??????? ?????????, ????? ??? ??? ??????????? ??? ??? ??????????? ??? ????????? ????? (??????? ??? 2?? ??????? 2016, Pensioenfonds Metaal en Techniek, C?252/14, EU:C:2016:402, ????? 48 ??? ???? ??????????? ?????????).

51 ????????, ????? ?? ??????? ???????? ?????????? ??? ??????????? ??? ??? ??????? ????????? ?????? ?? ??????????? ????? ??????????? ?? ????????? ?? ? ??????????? ??????????? ??? ???????? ??? ??? ?? ???? ????????? ???????? ???????? ???? ????????????? ???????? ??? ??????????? (????????? ??? 10?? ????? 2012, Santander Asset Management SGIIC ?.??., C?338/11 ??? C?347/11, EU:C:2012:286, ????? 28, ????? ??? ??? 2?? ??????? 2016, Pensioenfonds Metaal en Techniek, C?252/14, EU:C:2016:402, ????? 49).

52 ???? ????????? ??? ??? ??????????? ??? ??????? ??????????, ? ??????? ???? ????? ???? ??????? ???? ?? ?????, ??????, ?? ???????????? ? ??????? ??? ??????????? ??????????? ?????? ??? ??????? ??? ????????? ?? ???????? ??? ???????? ??? ????? ???? ???? ????? ??? ??? ??????? ??? ????????? ????????? ?? ???????? ??? ???????? ??? ?????. ? ??????? ???? ????????? ???? ?? ????? ?????????? ?????????? ??? ?? ????????? ??? ?? ????????? ???????????? ??? ??????? ??? ??????? ????? ??? ??? ??????? ??? ??????????? ???. ????????, ? ?? ???? ??????? ????????? ??? ?? ??????????? ??? ?? ????????? ??? ??????????? ??? ???????? ??? ???????? ??? ????? ??? ?????????? ??? ?? ?????????? ??????? ??? ????????? ??? ?????? ???? ??? ????????? ???? ??? ??????? ??? ????? ??? ??? ?????????? ???????? ???? ???? ??????? ????.

53 ???? ????? ??? ????? ????? ??? ??????????? ? ?????? ????????, ??? ?? ????????? ??? ??????????? ????????? ???, ?? ???? ?? ????? ??? ????????? ?????? ????? ??? ??? ???????? ? ??? ?????????? ??? ??????????? ? ??? ?????? ??????????? ??????????? ??? ??????????? ??? ????????? ???? ??????? ??????? ??????, ?? ?????????? ???? ??????? ?????????? ???????? ??? ?????????? ???’ ?????? ?? ????????? ????????? ?? ?????? ??? ?????????? ???????? ?? ?????? ???????? ?? ???? ?????? ????? (??????? ??? 25?? ????????? 2012, ???????? ???? ???????, C?387/11, EU:C:2012:670, ????? 48 ??? ???? ??????????? ?????????).

54 ??????, ?????? ?????? ????? ????????? ????, ????????? ? ????? ????????, ??? ??? ??????????? ??? ???? ??? ?????????? ???? ??????? ???? ??? ??? ?????????? ???? ???????? ????????, ???? ????? ?? ?????????? ??? ??????????? ??? ????????? ???? ??????? ???????, ? ????????? ??? ?? ???? ?????????? ???? ???????? ???????? ????? ?????????? ?? ??? ????????? ??? ?????????? ???? ??????? (??., ??? ??? ?????? ????, ??????? ??? 25?? ????????? 2012, ???????? ???? ???????, C?387/11, EU:C:2012:670, ????? 49 ??? ???? ??????????? ?????????).

55 ???????????, ???? ????????? ? ?????? ??? ?? ???? ?????? ??? ??????????? ??????????? ??? ?????? ??????? ??????????? ? ?????? ??????????? ???????????, ??????????? ??????????? ???????? ????? ?? ???? ?????? ?????. ???? ????????? ????, ??????????? ?? ?????????? ???? ???????? ?????????? ???????? ?? ??? ?????????? ??

????????? ??? ????????? ??????????? ??? ?????????, ??? ????? ??????????, ????????, ?? ????? 63 ????, ?? ?????? ??? ????? ??????? ? ?????????? ??????? ??????? ?? ??????? ????, ??? ??????? ??? ???????????? ??? ?? ?????? ??? ?????? ?????????? ??? ??? ???????? ? ??? ?????????? ??? ??????????? ? ??? ?????? ?????????? ???????????, ?? ?????????? ???? ???????? ???????? ?? ????????? ??? ????? ???????????? ?? ??? ?????????? ???? ??????? (??., ??? ??? ?????? ????, ??????? ??? 25?? ????????? 2012, ???????? ???? ???????, C?387/11, EU:C:2012:670, ????? 50 ??? ???? ??????????? ?????????).

56 ????????? ??? ?? ???????? ??? ?????? ??????? ?? ??????? ?? ?????????? ??? ??????????? ??? ??? ??????????? ??? ?????????? ???? ???????? _____, ?? ????? _____ ?????????? ?? ????????? ????????? ?? ?????? ??? ????? ??? ???????? ??? ????? ???? _____ ??? ??????? ?????? ??????????? ??????????? ??? ?????????? ??? ????????? ?? ?????????? ??? ????? ???????? (????????? ??? 20?? ????????? 2011, ???????? ???? ?????????, C?284/09, EU:C:2011:670, ????? 58, ????? ??? ??? 10?? ????? 2012, Santander Asset Management SGIIC ?.??., C?338/11 ??? C?347/11, EU:C:2012:286, ????? 42).

57 ? ???????? ?????? ??? ???????? ? ?????? ????????? ??????????, ???’ ??????, ??? ??? ??? ???????? ?? ?????????? ??? ???? ?????????? ??? ?????????? ??? ????????? ?? ?????????? ??? ????? ????????, ???? ?? ????????? ?? ??????? ??? ??????????? ???? ??? ??????? ??? ??????????? ??? _____. ? ?????? _____ ?????? ?? ???????? ?? ??? ???????? ???, ??? ?? ??????? ??? ???????? ??? ?????????? ?????????? ??? ?????? 16 C, ??? ???????? ?? ????????? ??? ??? ??????????? _____ ???? ????, ? _____ ??? ??????? ??? _____ ?????? ?? ??????????? ?? _____ ??? ??????????? ??? ??????????? _____ ???? ???? ??? ??? ????????? ???????? ??? ???? ??????????? ???????? ?, ???? ??? ???????????? ??? ??????? ?? 2005, ??? ??? ????????? ???????? ??? ??????????? ??????? ?? ??? ????????? ??? ?????? 16 C ??? ligningslov.

58 ?? ???????? ??? ?????? ??? ??????, ?????????, ?? ???????? ?? _____ ????????? ???? ???????? ??? ????????? ?? ?????? ?? ??????????? _____ ???? ???? ???? ??? ??????? ?????? _____ ??? ??? ?????????? ??? ???????? ? ?? ???? _____. ? _____ _____ ???????? ??? ?????????? ??????? ??? ????????? ??? ?????? _____ ??? ?? ??????????? ????????, ? ???? ??? ?????? ????????? ??? ?????? _____ ???? ??? ???, ???’ _____, ??? ?? ????????? ??? ???????? ? ?? ???? ??????????.

59 ??????, ??????????? _____ ??? ??????, ??? ??????????? ??? ??? ??????????? ??? ???????? ???? _____ ???? ?????????, ? ???????? ????, ??? ?????????????? ??????? ?? ??????? ?????? ???? ?????????? ??? ??????? ??? _____ ??? ???? ?????????? ?????????? ???? ????????, ??? ?????? ?? ???????? ??????????.

60 ???????????, ???????? ? ?????? ??? ???????? ???? _____ ???? ????????? _____ ?? ?????????? ?? ??????? ??????????? ??? ??? ?????????? _____ ???? ??? ?????? ??? ?? ???? _____, ????????? ?? ??????????? ?????? ?? ?????????, ???’ _____, ?? ?????????? ??????????? ??? ???????? ???????? _____ ??? ??? ??????????? ??? ??????? ??? ??? ? ?????????? ??????? ??? ??????????????????.

61 ??????, _____ ??? ??????? ???? ???????? ?????? ?? ???? ??????????? ??? _____ ?? ?????????? ???? ???????? ??? _____ ??? ??? ??? ??????????? ??? ?????? ?? ?? ???? ?????? _____ ?????? ?? ??????? ?? ?????????? ??? ???????. ??? ??? _____ ????, ? ??????? ???? ???????? _____ ????????? ?? ???????????? ????????? ????????? ?? ??? _____ ??? ??????? ??? _____.

62 ???????, ?? ???????? ??? ?????? ??? ?????? ?? ??????????? ???? ??????????? ???

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

63 ??? ??? ???????? ?????, ????????????? ??? ?? ??????? ??? ????? ?? ????????? ???? ??????? ????? ????? ?? ?????????? ?? ?????????? ??? ??? ??????????? ????? ???? ???? ??? ????????????? ??? ??? ?????? ????????????? ??????????? ??????????? ???? ????? ???? ????? ?????? ??? ???????? ??? ???????? ?? ???? ?????? ?????, ???? ??? ????????? ??? ??????.

64 ??????, ???? ??????? ??????????? ?????? ?? ????? ?????? ????? ??? ????????????? ??? ??????????? ?????? ??????? ???????????, ????? ????????? ?? ??????????? ??? ???????? ??? ?????? ??? ????? ????????? ??? ??? ?????????? ?? ???????? ??? ??? ???????? ??? ?????? ????? ????? (??????? ??? 24?? ????????? 2016, SECIL, C?464/14, EU:C:2016:896, ????? 56).

65 ?? ??????????? ??? ???????? ??????????? ??? ?????????? ??????? ??? ? ???????? ???? ????? ???? ??????????? ??? ????????? ??????????? ??? ????????? ????????????? ??? ??? ?????? ?? ?????????? ? ?????? ??? ??????? ??????????? ??????????. ? ?????? ??? ? ????????? ????????? ???????, ???????, ??? ? ??????????? ????? ????????????? ??? ??? ?????? ??????????? ??? ????????? ????????? ??? ??????????? ???????? ?????? ??? ?????? ?????.

66 ?????? ?? ?????????, ??????, ?? ? ?????? ?? ??????????? ? ????????? ??? ????????? ????????? ??? ??????????? ???????? ?????? ??? ?????? ????? ?????? ?? ???????????? ?? ??????? ??? ??? ?????? ????? ??????? ???? ????? ?????????? ???? ??????? ????? ?? ?????????? ????????? ??? ??? ??????????? ????? ???? ???? ??? ??? ?????????? ??? ??????????? ??? ?????????? ???? ??????? ????????.

67 ? ?????? ??? ? ????????? ????????? ??????????? ??????? ??? ?? ?? ?????????? ?? ???????? ??? ?????? ?? ????????? ???????? ??? ??? ??????????? ????? ???? ???? ??? ??? ?????????? ??? ??????????? ????? ?????????? ???? ???????? ?????, ????? ?? ?????? ?? ?????? ?? ??????????? ????? ???? ?? ??????? ??? ?????????? ????? ???????????, ?? ??????????? ?? ?? ?? ?????????? ?? ?????? ??????????? ??? ?????????? ????? ?? ??? ??????? ?? ?????????? ??? ??????????? ??? ??????????? ??? ???????????????? ??? ?????? ???.

68 ? ???????? ??? ????? ??? ??? ?????????? ??? ? ?? ???????? ????? ?????????? ???? ???????? ????? ??? ???????? ???? ????? ???? ????????? ?? ??????? ?? ?????????? ??????????? ??? ????????? ????????? ??? ??????????? ???????? ??? ??? ?? ?????? ????? ??? ????????? ??????, ????????? ??? ?? ???????? ??? ?????? ??? ?????????? ??????????? ??? ??? ????? ??? ???? ??? ??? ?????????? ??? ??????????? ????? ?????????? ???? ???????? ????? ??? ? ?????????? ??? ?????????? ???? ??? ???????? ???? ?????? ?????????? ?? ?????????? ????? ??? ????? ??????.

69 ???????, ?????? ?? ?????????? ???, ???????, ? ????????? ??? ????????? ??? ??????????? ???????? ?????? ??? ?????? ????? ??????? ?? ?????????? ?????????? ???? ??????? ??????????? ????? ?? ???????????? ?????????? ??? ???????? ???? ?????????? ??????????? ????? ??? ?????????? ?????? (??????? ??? 12?? ?????????? 2013, Imfeld ??? Garcet, C?303/12, EU:C:2013:822, ????? 68 ????? ??? ???? ??????????? ?????????).

70 ????? ? ?????????????? ????? ?????? ?? ????? ?????? ????? ?????? ?? ??????? ???????? ????????? ?? ????????? ??????????? ?????? ?? ??????????? ?? ????????

??????? ?????? ?? ??????? ?? ?????????? ??? ?????????? ?? ????? ?? ??? ????????????? ??? ????????? ??? ?????? ??? (??????? ??? 10?? ????? 2012, Santander Asset Management SGIIC ?.??., C?338/11 ??? C?347/11, EU:C:2012:286, ????? 47 ????? ??? ???? ??????????? ?????????).

71 ??????, ?? ?????????? ???? ?????? ???, ??? ?? ?????? ??? ?????? ????? ???????, ???? ???? ??????? ???? ????? ???? ?????????, ?? ?? ?????????? ???? ?????????? ???? ??????? ????? ??? ?????????? ????????? ???????? ??????????, ??? ?????? ?? ?????????? ??? ?????? ??????????? ??? ????????? ????????? ??? ?????????? ???????? ?????? ??? ?????? ????? ??? ?? ???????????? ?? ?????????? ??? ?????????? ???? ???????? ????? ??? ???????? ?????? ?????????? (??????? ??? 10?? ????? 2012, Santander Asset Management SGIIC ?.??., C?338/11 ??? C?347/11, EU:C:2012:286, ????? 48 ????? ??? ???? ??????????? ?????????).

72 ???????, ?? ????????? ??? ??????????? ?? ?????????? ???? ???????? ????? ??? ???????? ??? ???????? ??? ????? ????? ??? ?????????? ??? ???????? ??? ?????? ?? ????? ??? ?????????? ????????.

73 ?? ??????? ??? ? ?????????? ??? ?????????? ?????????? ??? ??????? ??? ??????? ??? ????? ??? ???????? ???? ??????? ??? ?????? ?? ???????????? ??? ??????? ???? ????? ???? ??????????.

74 ???????????, ??????, ???? ??????????? ??? ????? 61 ??? ???????? ?????????, ?? ???????? ??? ?????? ???? ??? ??????? ???????? ????? ????? ??????????? ??? ?????????? ???? ???????? ????? ?? ?????? ????? ???????? ????????.

75 ????????, ?? ??????? ??? ?????? ????? ?????????? ???? ???? ???? ??? ??? ?????????? ??? ?????????? ????? ?????????? ???? ???????? ????? ???? ??? ????????? ???????????? ??? ????? ??? ??? ??????? ??? ???????? ??? ???????????????? ??? ???? ?????????? ?????? ??? ????????? ??????????? ??? ??????? ?? ??????????? ?? ???????? ??? ??????? ?????? ?? ??????? ?? ?????????? ??? ?????????? ?? ????? ?? ????????????? ??? ????????? ??? ?????? ???, ????, ?????????, ???????????? ??? ??????? ?????????? ???????? ??? ????? ?? ?????????? ??? ????????? ????????? ??? ?????????? ???????? ?????? ??? ?????? _____.

76 ? ?????? ?????????? ??? ????????? ????? ??? ??????, ????????, ?? ????????? ??? ?? ???????????? ??? ??????? ???? ????? ???? ?????????? ??? ????????? ?????????? ??? ?????????.

77 ????????, ?????? ?? ?????????? ???, ???? ??????????? ?? ?????????? ??? ???????? ??????????? ??????? ??? ??????????, ? ?????????? ??? ???????? ??? ??? ???????? ??? ???????? ???? ????? ???? ?????????? ????????? ?????? ?? ???????????? ??? ??? ?????? ?????????? ??? ??????? ??? ??????? ?????????? ?????????.

78 ???????????, ???? ??? ?????????? _____, ????????? ?????? ????????? ?????? ??? ????????? ??? ??? ?????????? _____ ???? ????, ???? _____ ?? ????????? ??? ???????????? _____ ????????? ??????? _____, ??? ??? ?????????? ??? ?? ???? _____ ?? ?????????? ???? ???? ???? ??? ??? ????????? ??? ????????? _____ ??????????? ????.

79 ???????, ?????? ?? ????????? ??? ?? ????????? ???? ?????? ??? ? ?????? ?????????? ??? ??????? ?????????? ????????? ?????? ?? ???????????? ??????? _____ ?? ????????? ??? ?????????? ????????? (??????? ??? 10?? ????? 2012,

Santander Asset Management SGIIC ?.??., C?338/11 ??? C?347/11, EU:C:2012:286, ????? 50 ????? ??? ???? ??????????? ?????????).

80 ??????, ??????????? ?? ??????????? ?????????? ??????????? ???? ?? ??? ????????????? ????, ??????, ???? ????? ?????????, ?? ?????????? ? ?????? ?????? ????????? ?????? ??? ??????? ??????????? ????????????? ??? ??? ????????????? ??? ??? ??????????? ?????????? ??????????, ? ?? ????????? ??? ????????? ????? ?????? ?? ????????? ????? ??? ?????? ??? ???????? ????????? (??????? ??? 10?? ????? 2012, Santander Asset Management SGIIC ?.??., C?338/11 ??? C?347/11, EU:C:2012:286, ????? 51 ????? ??? ???? ??????????? ?????????).

81 ???????, ???? ??????????? ???? ??????? 29 ??? 31 ??? ???????? ????????, ? ????? ?????? ?? ????? ????????? ??? ??? ??????????? ????? ???? ???? ??? ??? ?????????? ??? ??????????? ??? ??????? ??? ??????? ??? ?????, ??? ??? ??? ??? ?????????? ?????????? ??? ???????????, ?????? ??? ? ????? ???? ??? ???? ??? ??? ????? ??? ??? ?????? ?? ???????? ??????? ? ?? ????????? ????????? ???????? ??? ??? ?????? ??????????? ??????????? ????? ???? ????.

82 ???? ????????? ? ??????? ??????????? ??? ?????? 72 ??? ????????? ???, ? ??????? ???? ????? ???? ?????? ??????? ?????? ??? ???????? ??? ????? ??? ???????? ??? ????? ??? ??? ??????????? ????? ???? ???? ??? ??? ?????????? ??? ?????????? ?? ???????? ???????, ?????????? ? ??????????, ???? ??? ??????????? ????, ?? ?????? ?????????? ?? ???????????, ??? ????? ????, ??? ???? ?? ???? ???????????. ?? ??????????? ??? ?????????? ????? ????? ??? ???????? ??? ?????, ??? ?? ????? ????????? ??? ??? ??????????? ????? ???? ????, ??????????????, ???’ ?????, ??? ?? ?????????? ??? ??????????, ??? ????????????? ??? ???? ??????????? ??????, ??? ??????? ??? ??????????? ??? ?????.

83 ?????? ????? ?? ??????????? ????? ?? ??????? ??? ????? ?? ????? ??? ???????? ??? ????? ????? ?? ?????????? ?? ?????? ??? ????????? ??? ??? ??????????? ????? ???? ???? ?????? ????? ????? ??? ????? ???????? ??? ?? ??????????? ? ?????? ??? ???????? ???? ????? ???? ??????????? ??????????.

84 ???? ????????? ? ??????? ??????????? ??? ?????? 80 ??? ????????? ???, ? ????????? ?????? ??? ???????? ???? ????? ???? ??????????? ?????????? ?? ???????? ?? ?????????? ??? ?? ????? ??? ???????? ?? ?????? ????? ???? ??? ????????? ??? ?????? ??? ??????? ??? ??????????? ??? ?????? 16 C ??? ligningslov ????????? ?? ?????? ??? ????????? ??? ??? ??????????? ????? ???? ????, ??? ??? ????????? ??? ?? ??????? ??????????? ????? ???????????, ?? ??? ????? ?????????? ??? ?????????? ?????, ??? ?? ?????????? ??????????? ???? ??? ?? ??????? ??? ????? ?? ?????????? ?????????? ??? ?????? 16 C ??? ???????? ??? ????? ?????? ?? ??????????, ?? ???????????, ??? ??? ????????? ???????? ??? ??????????? ??????? ?? ?? ??????? ????. ?? ?? ????????? ????? ?? ???? ????? ?? ?????? ??? ????????? ?????, ??? ???? ?? ???? ?????, ?? ?????????? ????? ???????? ??????????? ??? ?? ?????? ????????.

85 ???????, ? ?????? ?????????? ????? ????? ?? ?????? ???????? ?? ???? ?????? ????? ???? ??? ????????? ??? ?????? ??? ??????? ???? ????? ??? ?????? 16 C ??? ligningslov ??? ????????? ??? ??? ??????????? ????? ???? ???? ?????? ?? ??????????? ?????????? ??? ?????????? ??? ??????????? ????? ??????????? ???? ??? ????????? ??? ?????, ?????? ??? ????? ??????? ???????? ?? ??? ????? ??? ????????? ? ?????? ???????.

86 ????????, ??????????? ? ?????????? ??? ? ??????????? ??? ????? ??????????? ? ???????? ??? ???????? ???? ????? ???? ??????????? ???????? ??? ?????? ??

???????????? ??? ??? ?????? ??????????? ??? ??????? ??? ??????????? ??????????.

87 ??????????? ????? ??? ????????????, ??? ????????? ??????? ?????? ?? ????? ? ???????? ??? ?? ????? 63 ???? ???? ??? ?????? ??? ??????????? ?? ??????? ??????? ??????, ???? ? ??????? ???? ????? ????, ??????? ??? ?????? ?? ????????? ??? ??????????? ??? ??????? ??? ??????? ??? ?????? ????? ???? ?? ????????? ???? ???????? ????? ?????????? ?? ??????????? ????? ???? ????, ??? ?? ????????? ??? ??????????? ?? ????? ??? ??????? ??? ???? ?????? ????? ???????????? ??? ??? ??????????? ?????, ??? ??? ?????????? ??? ? ?? ???? ?????????? ????????? ?? ???????? ??????? ???? ???? ??????????? ??? ? ????????? ?????????? ??? ???????? ??????? ??? ?????????? ???? ??? ??? ????????? ????? ????????, ??????????? ? ???????????, ??? ???? ??????????? ???.

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

88 ????????? ??? ? ??????? ?????????? ???? ?? ???? ???? ????????? ??? ?????? ????? ??? ????????? ?????????????? ??? ??????? ??????? ??? ????????? ??????????, ?’ ???? ??????????? ?? ????????? ??? ??? ?????????? ??????. ?? ????? ??? ????? ??????????? ???? ???????? ??????????? ??? ??????????, ???? ??? ?? ??? ????????, ??? ??????????.

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

?? ????? 63 ???? ???? ??? ?????? ??? ??????????? ?? ??????? ??????? ??????, ???? ? ??????? ???? ????? ????, ??????? ??? ?????? ?? ????????? ??? ??????????? ??? ??????? ??? ??????? ??? ?????? ????? ???? ?? ????????? ???? ???????? ????????? ?????????? ?????????? ?? ??????? ????? (?????) ?????????? ?? ??????????? ????? ???? ????, ??? ?? ????????? ??? ??????????? ?? ????? ??? ??????? ??? ???? ?????? ????? ???????????? ??? ??? ??????????? ?????, ??? ??? ?????????? ??? ? ?? ???? ?????????? ????????? ?? ???????? ??????? ???? ???? ???????????? ??? ? ????????? ?????????? ??? ???????? ??????? ??? ?????????? ???? ??? ??? ????????? ????? ????????, ??????????? ? ???????????, ??? ???? ???????????? ???.

(?????????)

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