

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

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

??? 3?? ?????????? 2022 (*)

«????????????? ?????????? – ????? ?????????????? ????? (???) – ?????? 2006/112/?? – ????? 122 – ?????????? ?????????? ??? ?????? ??? ?????????? ?????????? – ?????????????? ?????? ??? ?????????? ??? ?????????????? ?????? ?????????? ??? ?????????? ??? ?????????? – ?????? ?????? ??? ?????????? ??? ??????, ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? – ?????? ??? ?????????? – ?????? ??? ?????????? ?????»

???? ?????? C?515/20,

? ? ?????????? ?????? ?????????????? ?????????? ?????? ??? ?????? 267 ????, ??? ?????? ?? Bundesfinanzhof (????????????? ?????????? ?????????? ??????????, ?????????) ?? ??????? ??? 10?? ?????? 2020, ? ??? ?????? ?????? ??? ?????????? ??? 14 ?????????? 2020, ??? ?????? ??? ???

? AG

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Finanzamt A,

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

????????? ??? ??? L. Bay Larsen, ?????????? ??? ??????????, ?????????? ??? ?????? ??????????, N. Jääskinen ??? J.?C. Bonichot (?????????), ????????,

????????? ??????????: E. Tanchev

?????????: ?. Calot Escobar

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

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

- ? B AG, ?????????????? ??? ??? T. Hammer, Wirtschaftsprüfer ??? Steuerberater, ??? ??? C. Hammer, Steuerberater,
 - ? ?????????? ????????, ?????????????? ??? ??? J. Möller ??? ??? S. Costanzo,
 - ? ?????????? ????????, ?????????????? ??? ??? L. Lozano Palacios ??? ??? R. Pethke, ?????? ??? ?????????? ??? ??????, ??? ?????? ??? ?????? ??? ?????? ??????????, ?? ?????????? ??? ?????? ??? ?????? ?????? ????????,
- ?????? ??? ????????
- ???????

1 ? ??????? ?????????????? ?????????? ?????? ??? ???????? ??? ?????? 98 ??? 122 ???
??????? 2006/112/?? ??? ???????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ??????
??????? ????. ?????????????? ????? (?? 2006, L 347, ?, 1, ??? ????: ?????? ????.).

2 ? ??????? ??? ?????????? ??? ??????? ???????? ??????? ?????? ??? ??????? B AG
??? ??? Finanzamt A (?????????? ??? A, ???????) (?? ????: ?????????? ????) ???????
?? ??? ??????? ??? ?????????? ????? ?????????? ????? (??) ????
????????? ??????? ????.

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3 ??? ??? ?????????? ??? 4 ??? ?????? ????:

«? ??????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ???
????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ???,
?? ?????? ??? ??????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??????????
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????????? [??],
?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????
????????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ????.»

4 ? ?????????? ??? 7 ??? ?????? ????:

«?? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????????
????? ??? ?? ?? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ??????, ??? ??
????? ??? ?? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?????????? ??? ??????????, ??? ?????????? ??? ?? ?????? ??? ?????? ??? ??????
????????? ??? ???????.»

5 ?? ??? 96 ??? ?????? ????:

«?? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ???
????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?? ?? ?????? ??? ?????? ??? ?????? ??? ???????.»

6 ?? ??? 98 ??? ?????? ????:

«1. ?? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??????????.

2. ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ???
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???.

[...]

3. ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???
????? ?????????? ??? ?????? ??? ?????, ?? ?????? ??? ?????? ?? ?????????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ???????.»

7 ?? ?????????? III ??? ??????, ??? ?????? ?????????? ??? ?????????? ??? ??????????

?????? ? ?? ??????? ?????????? ?? ??????? ?? ??????? ?????? ?????????????? ??????????????
?? ? ?? ?????????????? ?? ???? 98 ?? ??????, ??? ?????????????? ?? «?????????» ??
????????? ?????????.

8 ?? ????? 109 ?? 122 ?? ?????? ?????????? ?? ?????????? ?? ?????????????? ?? ? ?? ?????? ??
????? ?? ? ?????? ?? ?????????? ?????????? ?????????? ??, ??? ????? ?? ? ??
????????? ?? ?????????? ?????????.

9 ?? ????? 122 ?? ?????? ?????????? ?? ????:

«?? ?????? ??? ?????????? ?? ?????????? ?????????? [...] ??? ?????????? ??
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? ??

10 ? ?????????? ?????????? (?? ?????: ??) ?????????????? ?? ?????????? | ??
????????? (??) 2658/87 ?? ??????????, ?? 23?? ?????? 1987, ?? ? ?? ?????????? ??
????????? ?????????? ?? ???? ?????? ?????????? (?? 1987, L 256, ?. 1), ??
????????????? ?? ??? ?????????? ?????????? (??) 1101/2014 ?? ??????????, ?? 16??
????????? 2014 (?? 2014, L 312, ?. 1).

11 ????????????, ??? ??????, ?? ?????????? ?????????????? ??????????:

????????? ??

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4401

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

4401 10 00

– ?????????? ?? ??????????, ?????????, ????? ??????, ?????????? ? ?? ?????????? ??????:

– ?????? ?? ?????????? ? ?? ??????????:

4401 21 00

-- ??????????

4401 22 00

-- ??? ? ?? ??? ????????

– ??????????, ?????????? ?? ?????????? ?????, ??? ?????? ?????????????? ?? ??????
??????????, ???????, ?????????? ? ?? ?????????? ??????

4401 31 00

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4401 39

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4401 39 20

-- -- ?????????????? (?.?. ?? ????? ????????)

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4401 39 30

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

12 ?? ?????? 12 ??? Umsatzsteuergesetz (????? ??? ?????? ?????? ?????? ??????) ?????? ??
????:

«(1) ? ?????????? ?????????? ?????????? ?????????? ?? 19 % ??? ?????? ?????????? ??? ??????
??? ??? ??? ?????????? ?????? (????? 10 ??? 11, ?????? 25, ?????????? 3, ??? ???
25a, ?????????? 3 ??? 4).

(2) ? ?????????? ?????????? ?????????? ??? 7 % ??? ??? ?????????? ??????:

1. ??? ????????, ??? ????????, ??? ??? ?????????? ??? ?????????? ?????????? ??? ?????? ???
????????????? ??? ?????????? 2, ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????? 49,
???????? f, ??? ??? ?????? 53 ??? 54?

[...]».

13 ?? ?????? 48 ??? ?????????? 2 ??? ?????? ??? ?????? ?? ????:

[????? ????.]

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

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

48

????, ????:

a) ?????????? ?? ??????????, ?????????, ?????? ??????, ?????? ? ?? ?????????? ???????

????????? 4401 10 00

b) ??????????, ??????????? ?? ?????????? ?????, ??? ?????????????? ?? ????
??????????, ???????, ?????????? ? ?? ?????????? ??????

????????? 4401 30

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

14 ? ??????????? ?? ?????????? ?????? ? ?????????? ??? ?????????? ?????????????? ??? ????
?????????? ?????????? ??????.

15 ? ?????????????? ?? ?????? ?????? ?????? ???????, ??? ???? ?? ?????????? ??? 2015,
????????? ??? ?? ??? ?????????????? ?????????? «Florets weiss» (??????????????
«?????????????» ?????????? ?????) ??? «Florets natur» (????????????? «?????» ?????????? ?????)
??? ?????????? ?? ?????????? ?????????????? ?????????? ??? ?????????????? ??????????
????? ?? ??????? ???.

16 ?? ?????????? ?? ?????????? ?????? ?????????????? ??? ?? ?????????? ?????????? ??? ????
?? ?????????? ?? ?????????? ?? ?????????? ??? ?? ?????????? ?????????????? ?????????? ??????. T?
?????? ?????????? ?? ?????????? ??? ?? ?????????? ?????????? ??? ?? ?????????? ??????
??? ?????????? ?? ?? ?????????? ??? ?? ??????. ?? ?????????? ?????? ?????? ?????????? ??
????????? ?? ?????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????????? ?????????????? ??? ?? ??? ??????????????
??? ?????? ???.

17 ??? ?? ?????????? ??? 2015, ? ?????????? ??? ?? ?????? ?????? ?????????? ??????
?? ?????????? ?? ?????? ??? ?? ?? ?????? ??? ?? ?????? ?. ?????????? ?????, ??? ??
????????? ?? ?????? ?????????, ?????????? ??? ?? ?????? ??? ?? ?????? ?????? ??????????
????????????? ?? ?? ??? ??? C ?????? ?? ?? «????????????? ??? ?? ?????????? ???
????????????? ?? ?????????? ?? ?????? ??? ?? ?????? ?????????????? ?? ?? ?????????? ??? ??
?????????».

18 ?? ??? ?????????? ?? ?????? ??? ?? ?? ?????????? ??? 2015, ? ?????????? ???
?????? ?? ?????? ?????? ??? ?? ?????????????? ??? ?? ?????? ??? ?? ?????? ?????????? (19 %),
?????? ?? ??? ??? ?? ?????? ??? ?? ?????????? ?? ?????? ??? ?? ?????? ??? ?? ??????????
????????? ???.

19 ? ?????????? ??? ?? ?????? ?????? ?????? ?????????? ??? ?????????????? ?????? ?????????? ???
Finanzgericht (????????????? ???????????, ???????), ?? ?????? ?????? ?? ?????? ???
?????????. ?? ?????????? ??? ?????? ??? ?? ?????????? ?????????? ?????? ??? ?? ??? ??
????? ?????? ?? ?????? ??? ?????????? ??? ?????????? ???????????, ??? ?? ??? ?? ??????????
????? ??? C ?????? ?????????? ??? ?????? ?? ?????????? ??? ?? ??? ?????? ??????????,
????????? ??? ?????????? ??? ?????? ?????????? ???.

20 ??? ? ?????????? ??? ?????? ??? ?? ?? ?????????? ??? ?????? ??? ?????? ??????????
????? ??? ?????????? ??? Finanzgericht (????????????? ???????????) ??????? ???
Bundesfinanzhof (?????????????? ??????????? ???????????, ??????????).

21 ?? Bundesfinanzhof ???????????, ??? ??????, ?? ??? ???? ?????? ??? «??????????»
????????? 122 ??? ??????? ????, ?????? ?? ??? ???? ?? ?????? ?????? ????
????????????? ?? ??????? ????.

22 ??? ???????, ?? ?????? ?????????? ??????????? ?, ??? ??? ???? ?????? ??
????????????? ??? 122 ??? ??????? ??? ?????? ???????????, ?? ??? ???? ?????? ??????????? ??
????????? ??? ??????? ?? ?????? ?????????? ?????????? ?????????? ?????? ??? ??????????
????????? ?????????????? ?? ?? ? ?? ?????? ?????????? ?????????? ??? ?????? 98,
????????? 3, ??? ?????? ??? ?????? ?????? ?????????? ?????? ?????????? ?????? ?????????? ?????
????????? ?????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

23 ??? ??????, ?? ?????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??
????????? ?? ?????? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ??????????
????????? ??? ?, ?? ?????? ?????????? ?????? ?? ???? ??? ?????? ??? ??????????
????????? ?????? ??? ?????????? ?????? ?????????? ?????????? ?????? ??? ?????? ??
????????? ?????? ??? ??????????.

24 ??? ??? ???????, ?? Bundesfinanzhof (????????????? ?????????? ??????????)
????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?????????? ??????:

«1. ??? ? ??? “?????????” ??? ???? 122 ??? [????????? ??? ????] ??? ?????? ???
????????? ??? ?????? ?????? ????, ?? ??? ???? ?????????? ?????????? ????,
????????? ?????????? ??? ??????;

2. ??? ? ?????????? ????, ?? ?????? ?????????? ?????????? ?????????? ?????????? ??? ????
??? ?????????? ?????????? ??? ?????? 122 ??? [????????? ??? ????], ??
????????? ?????????? ??? ?????? ?????????? ??? ???? ?????????? ??? ???? ?? [??],
????????? ??? ???? ?????????? ??? ?????? 98, ?????????? 3, ??? [????????? ??? ????];

3. ??? ? ?????????? ??? ?????? ?????? ?????? ?????? ??????????: ?????? ?????? ??? ???? ??
?????, ?????? ??? ?????? 122 ??? ??? ?????? 98, ?????????? 3, ??? [????????? ??? ????],
???? ???? ?????? ?? ?????????? ?? ?????? ?????????? ??? ?????? ?????????? ?????????? ??? ???? ??
??? ?????????? ?????????? ?? ?????? ?? [??], ?? ?????? ?????? ??? ?????????? ?????? ??? ???? ??
????? ???, ?????????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? ???
?????????????, ?? ?????????? ?? ?????????????? ?????????? ??? ?????? ??? ?????? ??? ??????????
????????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???? ??
????????????? ?????????????? ??? ??? ?????????? ???, ??? ???, ??? ???? ?????? ???
????????????? ?? ?????????? ?? ?????????? ??? ?????????????? ??? ?????? ??? ??????, ??????????
??? ??? ?????? (?? ??????????: ???????) ?? ?????????? ?? ?????????? ??????????????
????? ??? ?????? ??????;»

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

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

25 ?? ?? ?????? ?????????????? ???????, ?? ?????? ?????????? ?????? ???' ?????? ??
????????????? ??, ???' ??? ?????? ?????????? ??? ?????? 122 ??? ?????? ??? ???? ??, ? ?????? ??
«?????????» ?????????? ??? ???? ?? ?????, ?????? ??? ?????????? ?????? ???,
????????? ?????? ?????????? ??? ??????.

26 ?????????????? ???, ??? ????? ??????????? ??? ???????????, ??? ??? ?????????? ???
??? ?????????? ?????????? ??? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?? ??? ????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????????? ??? ?????????? ?????, ?????????? ??? ?????????????? ??? ?????????? ???
??? ?????? ??? [??????? ??? 9?? ?????????? 2021, Bundesamt für Fremdenwesen und Asyl
(????????????? ??? ?????? ?????? ??????????), C?18/20, EU:C:2021:710, ??? 32].

27 ????????, ????????, ?????????? ?????????? ?????????????? ??? ?????? 122 ??? ??????
????? ???, ? ?????? ??? «?????????» ??? ?????????????? ??? ??????? ??? ?????? ???
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????? ?????????? ??? ?????? ??? ?????? ?????????? ?? ??? ?? ?????? ????. ?? ?? ??????,
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ??? ?????.

28 ????????, ????????, ?????????? ??? ?????? ??? «?????????» ??? ?? ??? ??????
?????? ?? ?????? ???, ??????, ? ?????? ?????? ??? ?????? ??? ?????????? ??? ??????????????
(????. ??????? ??? 9?? ?????????? 2021, Phantasialand, C?406/20, EU:C:2021:720, ???
29), ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????
?????.

29 ????????, ?????????????? ??? ?? ??? 122 ??? ?????? ??? ?????? ??? ??????
?????????. ????????, ??? ?? ??? 96 ??? ?????? ???, ??? ?????????? ??? ??????
??? ??? ?????? ?????? ?????????? ?????????? ?? ??? ?????? ?????? ???, ??? ? ??????????
????????? ??? ?????????? ??? ?????? ??? ?????? ????. ????????, ? ?????????? ??????????
????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ???
122 ??? ?? ??? ?????? ???' ?????? ??? ?? ??? ??????.

30 ?? ??????? ?????????? ??????????, ?? ?????? ??? ?????? ?? ?????????? ???
[????????? ??? 29?? ?????? 2019, Inter-Environnement Wallonie ??? Bond Beter Leefmilieu
Vlaanderen, C?411/17, EU:C:2019:622, ??? 147, ??? ?? 16?? ?????? 2020, JE
(????????? ???, C?249/19, EU:C:2020:570, ??? 23] ???, ????????
??????, ?????? ?????????? ?????? ?? ?????? ??? ? ?????? ??? «?????????» ???
????????? ?? ??? ?????? ?????????? ????. ????????, ?????? ?? ?????????? ?? «?????????»,
????????? ?? ??? ?????? ??? ?????????? ?? ?????? ?????????? ???, ??? ?? ??? ?? ??? ??????
??? ?????????????? ???, ??? ?????? ??? ?????????????? ?????? ?????????????? ???,
????????? ?????? ??? ?????? ???.

31 ??? ?? ??????? ?????????? ???, ???' ?????? ?????????? ??? ?????? 122 ??? ??????
??, ?? ?????????? ??? ?? ??? ?????? ?????? ??? ?? ??? ?? ???, ????, ????.
????????????? ???, ???, ?????????? ??? ?????? ???.

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

32 ?? ?? ??????? ?????????? ???????, ?? ?????? ?????????? ?????, ???' ??????, ??
????????? ??? ?? ??? 122 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??????, ???' ?????????? ??? ?????????? ???, ??????? ?????????? ?????????? ??? ?? ??? ??
????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ???, ??????? ?? ??
????? 98, ?????????? 3, ??? ?? ??? ?????, ?????????? ???.

33 ?????????? ???, ??? ?????? ??? ?????????? ?????????? ???.

?????????????? ?? ???? ?????? ??? ???? ?????? ??? ???? ?????? ?? ???? ?????? ??
????????? ?????????? ??? ?????? ??? ?????? 98, ?????????? 1 ??? 2, ??? ??????, ?
????????? 3 ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?? ?????????? ??
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???.

34 ??????????, ? ??? ?????????? ??? ?????? ?? ?????? ??? ???? ???? ?? ?????? ???
????? 122 ??? ?????? ???, ?? ?????? ?????? ??? ?? ?????? ??? ?? ?????? ??? ?????? ??
????????? ?????? ?????????, ?????? ???, ??? ?????????? ?????? ?????? ?????? ???
????? ?????? ?? ?????? ???.

35 ?????????, ?????? ?? ???????????, ??????, ???, ??? ?????? ??? 30 ???
????????? ???????, ?? ?????? 122 ??? ?????? ??? ?????? ?????? ?????? ??????????
????????? ??? ??????, ??? ???????, ?? ?????????? ????. ???????, ??? ??????????
??? ?????? ??? ?? ??????, ???' ??????? ??? ?????????? ???, ??? ?????? ??????
????????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??????????.

36 ???????, ??????? ??? ?? ?????? 122 ??? ?????? ??? ???? ???? ??
??? ???????, ??? ?? ??????? ???????????, ?? ?????????? ??????????
????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?? ??????????
????????? ?????????? ??? ?????? ??? ?????? ??? ?? ?????????? ?? ?????????? ??' ???
??? ?????????? ?????????? ??? ?????? ??? 96 ??? ??????. ? ??????? ???
????????? ??? ???????, ??? ??? ?????????? ??? ? ?????????? ??? ?????? ?????? ???
????????? ??? ???????, ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???.

37 ???????, ??? ??????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ???
??? 98 ??? ?????? ??? (?????? ??? 27?? ?????? 2019, Belgisch Syndicaat van
Chiropraxie ??., C?597/17, EU:C:2019:544, ??? 44), ?????????? ??? ???? ???? ??
????? ???????, ??? ?????? 122 ??? ?? ?????? ??????, ??? ?????? ?????? ??? ?????? ???
?? ???????, ??? ?????????? ??? ??? ?????? ?????????? ???????, ???????
????????? ??? ?????? ?????????, ?????? ???, ??????????. ???????, ?? ?????? ???
????? ?? ?????????? ?? ?????????? ??? ?????? ?????? ??? ?? ?????? ??????????
????????? ??? ?????? ??? ?????????? ???.

38 ???????, ?????????? ??? ?????? ??? ?? ?????? ?????????? ?? ??????
????????? ???, ?? ?? ??????, ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
?? ?????? 122 ??? ?????? ??? ?? ?????????? ?? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ??? ?????? ??? ?????? ?????? ?? ?????????? ?? ?????????? ??????????
????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?? ?????????? ??? ?????? ??
????? ??? ?????? ??? ?????? ???, ?????????, ?? ?????????? ??? ??, ??? ??? ?? ??
????? 122, ?? ?????? ??? ?????? 98 ??? ??????, ??? ?? ?????????? ???.

39 ???????, ? ?????????? ??? ?? ?????? 122 ??? ?????? ??? ???? ???? ??????
????????? ??????? ??? ?? ?????????? ?????? ?????????? ?????????? ??? ???
????? ??? ?????? ??? ?????????? ?????? ?????????? ???, ??? ?????? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ?? ??????????
????????? ?????????, ??? ??? ?????????? ??? ?????????? ??? ?????? ?????? ??? ??????
??? ??? ??? ?????????? ?????? (????????? ??? 22?? ?????? 2021, Dyrektor
Izby Administracji Skarbowej w Katowicach, C?703/19, EU:C:2021:314, ??? 38, ??? ??? 9??
????????? 2021, Phantasiland, C?406/20, EU:C:2021:720, ??? 25 ??? ???
????????? ???).

40 ??? ?? ?????? ?? ??????? ???????, ??? ??????? ?????????????? ??????? ??????? ????
?????? ?? ?? ?????? 122 ??? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??????, ???' ?????????? ??? ?????? ????, ??????? ?????????? ?????????? ??? ?????? ???
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41 ?? ?? ??? ?????? ?????????????? ????, ?? ?????? ?????????? ?????? ???' ?????? ?? ?
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42 ??? ?????????????? ??? ?????? 40 ??? ??????? ??????????, ??? ?????? ?????? ????
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? ??? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
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43 ? ??? ?????? ??? ?????????? ?? ?????????? ?????????????? ?????????????? ??? ??????
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?? 9?? ?????????? 2021, PhantasiaLand, C?406/20, EU:C:2021:720, ??? 37 ??? ??
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44 ??? ?????? ??????????, ??? ?? ?????????????? ? ?????????? ?????? ?????? ????
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PhantasiaLand, C?406/20, EU:C:2021:720, ??? 38 ??? ??? ?????????? ??????????).

45 ?? ??? ??????, ?????? ?? ?????????? ?? ?? ??????? ?????? ??? ?????? ? ?????????? ??????, ??
????? ??? ?????????? ??? ?????? ??????????, ?? ?????? ?????????????? ??????????????, ???
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????????? ??? ??????????, ?????? ??? ??????, ??? ?????? ??????, ?????????? ??? ?????? ???
????????? ?????????? (??????? ?? 9?? ?????????? 2021, PhantasiaLand, C?406/20,
EU:C:2021:720, ??? 39 ??? ??? ?????????? ??????????).

46 ????????, ??? ?????? ?????????? ?????????? ?? ?????? ?? in concreto ??????
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47 ??? ??????, ??? ?????? ?????????????? ?????? ?????? ?????????? ? ?????????? ??? ? ??? ??
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????????? ?????? ???, ??? ?????? ?????? ?????????? ?????????, ?????? ??? ?? ?????? ???
????????? ??? ?????? ?????? ??????????, ??? ??? ?????????? ???, ??? ?????? ?????? ???
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48 ?????????? ??? ? ??????? ?????????? ??? ?? ??? ????? ?????????? ??? ?????? ???
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1) ???' ?????? ??????????? ?? ?????? 122 ??? ?????? 2006/112/?? ??? ???????????,
??? 28?? ?????????? 2006, ??????? ?? ?? ????? ?????? ?????? ?????? ?????????????? ????,
?? ?????????? ??? ?? ?? ????? ?????? ?????????? ??? ?? ????? ?? ?????, ?????? ???
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2) ?? ?????? 122 ??? ??????? 2006/112 ??? ?????? ?? ?????? ?? ?????? ?? ??????,
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3) ? ????? ???? ?????????????? ?????????????? ?????? ??? ?????? ??? ??? ?????????? ??? ?????? ???
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?? ??????? ?????????? ??? ?????????? ?????????? ?????????? ??? ?????? ?????????????? ???, ???
?????? ??????????, ??? ?????? ?????????? ???, ??? ?????? ?????? ??? ?????? ?????? ??????????,
????? ??????????, ??? ?????? ?????????? ???, ??? ?????? ?????? ??? ?????? ?????? ??????????,
?? ??????? ?????? ??? ?????? ?? ?????????? ?? ?????????????? ??? ?? ?????? ?????? ?????? ??????
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(???????????)

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