

@import url(../../../../css/generic.css); EUR-Lex - 61992J0291 - EL

**Avis juridique important**

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# 61992J0291

?????? ?? ?????????? ?? 4?? ???????? 1995. - FINANZAMT UELZEN ??? DIETER ARMBRECHT. - ?????? ?? ?????????????????????????????????: BUNDESFINANZHOF - ??????. - ??? - ????????????????? - ??????. - ?????? C-291/92.

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????????????? ????, ?????? ?? ?????? ?????????????? ?? ?????? ??? ?????? ?????? ?????? \*  
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(?????? 77/388 ??? ??????????, ?????? 2 PAR 1, 17 PAR 2 ??? 20 PAR 2)

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????? ?????? 77/388 ??? ?? ?????????? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ??????  
?? ??? ?????? ?????? ???????, ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ??????  
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??????, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
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?? ?? ?????? ??? ?????? ?????????????? ?????. ??? ?????? ?????? ???, ? ?????? ?????? ????  
?? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ????  
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????????? ??? ?????? ?????? ?? ??????????, ???' ???? ??? ?????? ??? ?????? ??? ?????? ??????  
?? ?? ??? ?????? ???, ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ???  
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??????, ???? ?????? ???????, ?????? ?? ??????????? ?????, ???? ??? ?????? ??????? ??? ??????  
17, ?????????? 2, ??? ?????? ??? ?????? ?? ?????? ??????????? ???????, ???? ?? ?????? ???  
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??? ????? ?? ??????????? ?????? ??? Bundesfinanzhof (?????????) ??? ?? ???????????, ???'  
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*Finanzamt Uelzen*

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*Dieter Armbrecht,*

? ??????? ?????????????? ?????????? ?? ??? ???? ?????????? ??? ?????? 5, ??????????? 1, 17,  
?????????? 2, ??? 20, ?????????? 2, ??? ???? ?????? 77/388/??? ??? ??????????, ???  
17?? ??? 1977, ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????, ??? ??????? ??  
???? ?????? ?????? ?????? \* ????? ?????? ?????? ?????????????? ????: ??????????  
????????? ??? (?? ????. ??? 09/001, ?. 49),

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

?????????? ?? G. C. Rodriguez Iglesias, ???????, F. A. Schockweiler, P. J. G. Kapteyn, C. Gulmann ??? P. Jann, ??????? ????????, G. F. Mancini, J. C. Moitinho de Almeida, J. L. Murray (????????), D. A. O. Edward, G. Hirsch ??? H. Ragnemalm, ????????

????????? ??????????????: *F. G. Jacobs*

??????????; L. Hewlett, ??????? ??????????.

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

\* ? D. Armbrecht, ?????????????????? ??? ??? Bernd Kleemann, ????????????, ????????????

\* ? ?????????? ????????, ?????????????? ??? ??? Ernst Roeder, Ministerialrat ???  
????????????? ?????????? ?????? ????????????, ??? ??? Claus-Dieter Quassowski,  
Regierungsdirektor ??? ??? ???????????,

\* ? ?????????? ??? ?????????? ??????????, ?????????????? ??? ??? Henri Etienne, ?????? ?????? ???????.

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Christel Kuwert, Ministerialraetin ??? Niedersaechsisches Finanzministerium, ??? D. Armbrecht,  
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1993,

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?? ?????????? ??? 15?? ?????????? 1993,

?????? ???? ?? ?????? ??? 13?? ?????????? 1994 ??? ?????????? ??? ??????????  
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\* ??? D. Armbrecht, ?????????????? ??? ??? Bernd Kleemann,

\* ??? ?????????? ??????????, ?????????????? ??? ??? Ernst Roeder,

\* ??? ?????? ??????????, ?????????????? ??? ??? Edwige Belliard, ??????????  
????????? ??? ?????????? ?????????? ?????????? ??? ?????????? ??????????, ??? ??? Jean-  
Louis Falconi, ?????????? ?????????? ?????????? ??? ?????? ????????????,

\* ??? ?????????? ??????????, ?????????????? ??? ??? Luis Fernandes, ?????????? ???  
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???????????, ??? ??? Angelo Seica Neves, ?????? ??? ?????? ????????????,

\* ??? ?????????? ??? ?????????? ??????????, ?????????????? ??? ??? Lindsey Nicoll, ???  
Treasury Solicitor' s Department,

\* ??? ?????????? ??? ?????????? ??????????, ?????????????? ??? ??? Juergen Grunwald,  
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Christel Kuwert, ??? D. Armbrecht, ??? ?????????? ?????????? ??? ??? ??????????, ??? ??  
????????? ??? 14?? ?????? 1995,

???? ?????? ??? ?????? ?????????? F. G. Jacobs ??? ?????? ??? ?????????? ??? ?????????? ???  
????????? ??? 6?? ?????? 1995,

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1 ?? ?????? ??? 28?? ?????? 1992, ? ?????? ?????? ??? ?????????? ??? ?????????? ??? 1? ??????  
1992, ?? Bundesfinanzhof ??????, ?????? ??? ?????? 177 ?? ?????? ???, ???  
????????????? ?????????? ?? ??? ??? ?????? ??? ?????? 5, ?????????? 1, 17, ??????????  
2, ??? 20, ?????????? 2, ??? ?????? ?????? 77/388/???, ??? ??????????, ??? 17?? ???  
1977, ??? ?????????? ??? ?????????? ??? ?????? ???, ??? ?????????? ?? ??? ??????  
????? ?????? \* ?????? ?????? ??? ?????? ?????????????? ????: ?????????? ????????????

???? (?? ???. ???, 09/001, ?, 49, ??? ????: ??????).

2 ?? ?????????? ????. ??????? ???. ??????? ?????????? ???. D. Armbrecht ????. ?????????? ???.  
??? Finanzamt Uelzen (??? ????: Finanzamt) ????. ?????????? ???. ?????????? ???. ??? ???.  
????????? ???. 1981 ???. ?????? ???????.

3 ? D. Armbrecht, ????????, ??? ?????? ??????? ?? ??? ?????? ?????????????? ??  
??????????, ??? ?????????? ?? ??????? ?? ??? ?????? ?????????????? ?? ???????  
?????????. ?? 1981, ?????? ?? ??????? ?? ??? ?????? ??? 1 150 000 ?????????? ??????  
(DM) "????? ?? 13 %".

4 ??????? ??? ?????? 4, ??????????? 9, ??????? a, ??? Umsatzsteuergesetz 1980  
(?????????? ??? ?? ???? ?? ???? ?????? ???????, ??? ????: UStG), ?? ??????? ???  
?????????? ??? ?? ???? ?????????? ??? Grunderwerbsteuergesetz (????? ??? ?? ????  
?????????? ???) ?????????????? ??? ?? ???? ?????? ??????. ??????, ?? ??? 9  
?? UStG ??????? ??? ?? ?????????????? ??? ?? ???? ?? ?????????? ??? ?? ??? ??????? ??  
?????????? ??? ?? ?, ??? ?? ????? ?????????????? "????? ??? ?? ?????????????? ??? ?? ????  
?? ??????? ??? ?????????? ??? ??" . ? D. Armbrecht ??????? ?? ?????????? ??? ???????  
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5 ??? ?????? ??? ?????? ?????? ???????? ??? ?? ??? 1981, ? D. Armbrecht ??????? ??  
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????????????? ??? ?????????????? ??????. ?????????, ?????? ??? ?????????????? ???  
??? ??? ?????? ?????? ?? ??? 157 705 DM ??? ?????????? ??? ?????? ???  
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????? ??? ??????????.

6 ??????? ???????, ?? Finanzamt ??????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ???  
?????? ????????. ? D. Armbrecht ??????? ??? ?????? ?????????? ?????? ?????? ???  
Finanzgericht Niedersachsen. ?? ?????????? ??? ?????????? ??? ?????? ?? ???  
????????????? ?? ??? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ??? ?? ???  
?????? ??????????, ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ???  
????????? ???, ?? ??? ?????? ?????????? ??? ?????? . ?????? ? D. Armbrecht ??? ???  
????????? ??? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?? ?????????? ???  
?????????, ??? ??????, ??? ?? Finanzgericht, ??? ??? ??? ?????????? ???.

"1) ?????????? ?? ??? ??? ??????? ?? ?????????????? ?? ?????????????????? ?? ??? ??????????,  
????? ??? ??????? ?? ?? ??? ????? ??????, ?????????? ?????????????? ?? ??? ??? ??? ??????  
??? ?????? 5, ?????????? 1, ??? ??????;

2) ??????? ?? ?????? ?? ?????? ?????????????????? ?? ?????????? ???????, ??? ??  
????????? ?? ???? ?????? ?? ??????????????, ?????????????????? ?? ?????????? ??? ??  
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?????????? 2, ??? ??????, ? ?????????? ?? ?????????????? ????? ?? ??? ?? ??? ?? ?????? ???  
????????????? ?????????????????? ????? ?? ??????????;

3) ?????? ? ?????????????? ?? ?????????? ?? ?????????????? ??' ?????????? ?? ?????? 20,  
????????? 2. ?? ??????? ?? ?????????? ?? ?????????????? ?? ?????????????????? ?? ???

????????????? ?????? ??? ??????;"

8 ?? ?????? 2, ?????????? 1, ??? ?????? ?????? ??? ?????? ?????????????? ??? ??  
????????? ??? ?? ?????? ??? ?? ?????? ?????????? ??? ?????????????? ?? ?? ??????  
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9 ??????? ?? 5, ?????????? 1, ??? ??????, "??"'????????? ??????' ?????????? ?  
????????? ?? ??????? ?? ??????? ?????? ?????? ?????? ?????? ?? ??????"

10 ?? ?????? 13, ?????? ?, ??? ??????? ?????????? ??? ?????? ?????????? ??? ??? ?????? ?????????? ??? ??????, ?????? ??? ??????:

"?) [??] ?????????? ?????? ? ?????? ?????? ??? ?? ?????????? ?? ??? ??????, ???  
??? ?????????? ??? ?? 4, ?????????? 3, ?????????? ?'

?)[??] ??????????? ?? ?????????????? ???????, ????. ???. ?????????????? ???. ???. 4,  
?????????? 3. ?????????? ?!. ??????? ???. ??????????????".

11 ?? ?????? 13, ?????? ?, ??? ??????? ?????????? ???? ?????? ??? ?????????? ?????? ??? ?????????? ?????? ??? ?????????? ?????? ?:

"?? ?????? ???? ?????????? ?? ???? ?????? ?????? ?????????????? ???? ???? ?????? ?????????? ??????????  
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?) (..)

?) ??? ?????????????? ??????? ???. ???? (...) ?' ??? ?'.

?? ?????? ?? ???? ??????? ?? ??????????? ?? ?????? ?? ?????? ?? ??????????? ?? ???????,  
?????????? ?? ??? ?? ????? ?? ??????? ?? ?????? ?? ?????? ?? ??????????? ?? ??????? "

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12 ????? ?? ???? ?? ???? ??????, ? ?????????? ?????????? ?????????????? ??? ?? ?? ??????? ??  
D. ?rmbrecht ????????, ???? ?? ?????????? ?????? ???????, ?????? ?????? ??? ?? ???????  
????? ?????????????? ??? ??????????????. ???????, ???? ??? ?? ??? ??????????, ?? ????  
?? ???????? ?? ??? ??? ??? ??? ????? ?????? ?????????? ?????????? ??? ???????.

13 ???????, ?? ??? 5, ?????????? 1, ??? ?????? ??? ?????????? ??? ?? ?????? ??  
????????????? ?????????? ??????????, ? ?????? ?????? ?? ?????????? ??? ??  
????????? ?????? ??????, ?? ?????????? ??? ?????????? ??? ? ?????? ??? ??????,  
????? ? ?????? ????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??????  
????????? ??? ?????????? ??????, ??? ?? ?????? ?? ?????????? ?? ? ??????????  
??? ?????? ?????? ??????, ??? ?????? ??? ??? ??? ?????? ?????? ??? ??????????  
??? ???, ?????? ??? ?? ?????? ?????????? ??? ?????????? ?????? ??? ??????  
????? (????? ??? 8? ?????????? 1990, C-320/88, *Shipping and Forwarding Enterprise*  
Safe, ?????? 1990, ?. ?-285).

14 ???????, ? ??????? ?? ?????????? ???????, ?? ????? ?? ?????? ?? ????? ?? ?????  
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? ?????, ??? ??? ?????????? ??? ???????????? ??? ???? ??? ?????? ??? ?????? 2,  
?????????? 1, ??? ??????.

16 ??? ?? ?????? ??? ?????? 2, ?????????? 1, ??? ?????? ?????????? ???, ??? ?? ?????? ?  
????? ??? ?? ?????????????? ???, ? ?????????? ??? ?????? ??? ?????? ?? ?????? "???"  
?? ?????? ??? ???".

17 ????, ? ?????????? ??? ?????? ??? ?????? ?????????????? ??? ?????? ?? ?????? ???  
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18 ??? ???????, ??? ???? ?????????? ??? ?????? ?????????????? ??? ?????? ??? ?????? ???  
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19 ??? ?????? ??? ??????, ??? ?????, ??? ?????????? ??? ?????????? ??? ?????? ??? ????  
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??? ?? ?????? ??? ?????? ?????????????? ???.

20 ??? ? ??????? ??? ?????? ??? ?????? ?????????????? ??? ?????? ??? ?????????? ?? ??????????  
??? ?????? ??? ?????????? ??? ??????, ?? ?? ?????? ??? ?????? ?????????? ??? ?????? ?? ??????  
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??? ??? ??? ?????? ??? ?????? ??? ??????, ??? ??? ?????? ??? ?????? ??? ?????? ?????? ??????  
?? ?????????? ?? ??? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ??????  
? ?????????? ??? ? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ???  
??? ??? ?????? ??? ?????????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???.  
????????? ??? ?????? ?????????? ??? ??????, ??? ?????, ??? ?????????? ??? ?????? ?????? ???  
????????? ?? ?????????? ?? ??? ?????? ??? 11?? ?????? 1991 ??? ?????? C-97/90,  
Lennartz (?????? 1991, . ?-3795), ??? ?????? ?? ??? ?????? ?? ?????? ?????? ?????????? ???  
????????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ???  
????????? ?? ?????? ?????????? ??? ?????? ?????? ?????? ?????, ???????, ?????? ????  
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21 ??? ?????????? ? ?????? ?????????? ??? ?????? 50 ??? ?????? ???, ? ??????  
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?? ?? ?????????? ??????. ??????, ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
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??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

22 ??? ??????, ? ?????????? ?????????? ??? ?????? ?? ?????????? ??? ?? ?????? 13, ????,  
??? ??????, ?????? ?????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ??  
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????? ??????, ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
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23 ? ?????? ??? ??? ?????????? ?? ??? ??????. ?? ?????? ?????? ??? ?????????? ???  
?? ???? 13, ????, ??? ?????? ?????????? ??? ?? ?????? ??? ?????? ??? ??????????  
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???? ???, ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????  
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24 ??? ?????? ??????? ????????, ???????, ? ??????? ???, ??? ?? ?????????? ???, ??? ?? ?????????? ???, ??? ??  
?????? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ??????? ?? ?????????? ???, ??? ?? ?????? ???, ???, ???  
?? ??????? ???, ??? ?????? ???, ??? ???????, ?? ??? ?? ?????? ???, ??? ?????? ???, ???, ??? ?? ??????? ???,  
????????? ???, ??? ?????? ???, ??? ??????? 2, ?????????? 1, ??? ???????.

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25 ?? ?? ??????? ??????? ???, ?? ?????? ?????????? ???' ?????? ??, ??? ??  
????????? ???, ??? ?????? ?????? ???, ??? ?????? ???, ??? ?? ?????? ??, ??? ?? ?????????? ???, ???  
????? ???, ??? ??????? ?? ?? ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ??????? ???, ???, ???  
?? ?? ??????? ???, ??? ?????? ???, ??? ??????? ???, ??? ?????? ???, ??? ?????? ???, ???, ??? ??????? ???,  
???? ?? ?? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???,  
???? ?? ?? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???,  
???? ?? ?? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???,  
??, ??? ?? ?? ??????? ???, ??? ??????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?? ?? ???,  
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26 ?? ??? 17, ?????????? 2, ??????? ?!, ??? ?????? ??????? ???, ??? ?? ??????? ???, ??? ?? ??????? ???  
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?????? ???, ? ?????????? ???, ??? ?? ?????? ???, ??? ?? ?????? ???, ??? ?? ?????? ???, ??? ??  
????? ?????? ???????, ??? ?????????? ???, ??? ?????????? ???, ??? ?????????? ???, ??? ?????????? ???, ??? ??  
????? ?? ?? ??????? ???, ??? ?????????? ???, ??? ?????? ???.

27 ????? ??? ?????? ??? ?? ?????? ?????????????????? ??? ?? ?????????????? ?????????????? ??????????????  
?????? ?????? ? ?????????? ???, ??? ?? ?????? ???, ??? ?? ?????? ???, ??? ?? ?????? ???, ??? ??  
??????, ??? ?????????? ? ?????????? ???, ??? ?? ?????? ???, ??? ?? ?????? ???, ??? ?????????? ???, ??? ??

28 ??? ?????????? ???, ?? ? ?????????? ???, ??? ?? ?????????? ???, ??? ?? ?????? ???, ??? ?? ??????? ???  
????? ?????? ???, ??? ?? ?????????? ???, ??? ?? ?????????? ???, ??? ?? ?????????? ???, ??? ?? ?????? ???, ??? ??  
????? ???, ??? ?????????? ???, ??? ?? ?????? ???, ??? ?? ?????? ???, ??? ?? ?????????? ???, ??? ?? ?????? ???  
????????? ???, ??? ?????????? ???, ??? ?? ?????? ???, ??? ?? ?????? ???, ??? ?? ?????????? ???, ??? ??  
????????? ???, ??? ?????? ???!, ??? ??????. ???, ??? ?? ?????? ???, ??? ?? ?????? ???, ??? ?? ?????? ???  
????????? ???, ??? ?????? ???, ??? ?? ?????? ???, ??? ?? ?????? ???, ??? ?? ?????? ???, ??? ?? ?????? ???,  
????????? ???, ??? ?? ?????? ???, ??? ?? ?????? ???, ??? ?? ?????? ???, ??? ?? ?????? ???, ??? ??  
17, ?????????? 2, ??????? ?!, ??? ??????.

29 ??????, ??? ?????? ?????? ?????? ?????? ? ?????? ???, ???, ??? ?? ?????? ?????? ??????????  
????? ???, ???  
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17, ?????????? 2, ??? ??????.

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30 ?? ?? ?????? ??????? ???, ?? ?????? ?????????? ???, ??? ?? ?????????? ???, ??? ?? ?????????? ???, ???  
????????, ? ?????? ?????????? ???' ?????? ???, ??? ?? ?????? 20, ?????????? 2, ???  
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31 ?? ?????? 20, ?????????? 2, ??? ?????? ?????????? ?? ???:

"?????? ?? ?? ?????? ??????????, ? ?????????????? ?????????? ?????? ?????????? ??????  
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32 ???????, ??? ?????????? ??? ??? ?????????? ??? ??????? ???????, ?? ?????????? ??????????  
?? ?????? ?????????? ??? ?? ????? 17, ?????????? 2, ??? ?????? ?????? ??? ?? ??????  
??? ?????? ??? ??? ?????? ??? ??????????, ? ?????????????? ??? ?? ??????????  
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33 ????? ??????????, ??? ????? ??????? ?????????? ? ?????????? ??? ? ?????????????????? ???  
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34 ?? ?????? ?? ?????? ?????????????? ? ??????????, ? ????????, ? ?????????????? ?????????? ???  
? ?????????? ?? ??????? ?????????? ?????? ?? ? ?????????? ?? ?????????? ?? ?????????? ??, ??  
?????? ?????????? ?????????????? ??? ??????????, ??? ??????????. ?????????? ?? ?  
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Bundesfinanzhof, ??????????:

3) ? ?????????????? ??? ??????????, ? ?????? ?????????????? ???' ?????????? ??? ?????? 20,  
????????? 2, ??? ?????????????? ??????, ?????? ?? ?????????? ???? ??? ?????? ???  
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