

@import url(../../../../css/generic.css); EUR-Lex - 61994J0215 - EL

Avis juridique important

/

61994J0215

???????? ??? ??????????? (?????? ?????) ??? 29?? ??????????? 1996. - Jürgen Mohr ???
Finanzamt Bad Segeberg. - ?????? ??? ?? ?????? ?????????????? ??????????:
Bundesfinanzhof - ????????. - ??? - ?????? ??? ??????? ?????????? - ??????? ??????????
??? ??????? ????? - ?????????? ??? ?????????? ?????? ??? ?????????? (???)
1336/86. - ?????? C-215/94.

???????? ??? ??????????? ??? ??????????? 1996 ?????? I-00959

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

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

++++

?????????? ?????????? * ?????????? ??? ?????????? * ????? ?????? ?????? * ?????
?????? ????? ?????????????? ????? * ??????? ?????????? ??? ????? * ??????
????????? * ??????? ??????????, ??? ??????????, ??? ?????????? ?????? * ???
????????? ??? ?????? ??? ?????? ??????????

(?????????? 1336/86 ??? ?????????? ?????? 77/388 ??? ??????????, ???o 6 PAR 1, ???
????? 11, ????, ?, PAR 1, ????. ?')

??????????

? ? ????? 6, ?????????? 1, ??? 11, ????, ?, ?????????? 1, ????????' , ??? ?????? ???????
77/388, ??? ?????????? ??? ?????????? ??? ??????? ??? ?????, ??? ?????????? ?? ??? ?????
?????? ???????, ?? ??? ????? ???????, ??????, ??? ?????? ??? ?????? ?????????? ???,
????????, ??? ?????????? ??? ?????? ?????????? ??? ?????, ?????? ?? ?????????? ??? ??
?????? ??? ? ?????????? ?????????????? ??? ?????????? ???????, ??? ?????????? ??? ??
?????? ??? ?????????? 1336/86 ??? ?????? ??? ????? ?????????? ???????????, ???
????????? ?????? ????????. ???????, ? ?????????? ?????? ??? ????? ?????????? ???
????????? ??? ?????? ?????? ???????.

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

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

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

??????.

???????

???? ?????? C-215/94,

??? ??? ?? ??????????? ?????? ??? *Bundesfinanzhof* ??? ?? ???????????, ???' ??????????

?? ?????? 177 ??? ??????? ??, ?? ??? ????? ???????, ??? ?????? ??? ??????? ???

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

Juergen Mohr

???

Finanzamt Bad Segeberg,

? ?????? ??????????? ?? ??????? ?? ??? ?????? ?? ?????? 6, ?????????? 1, ???

11, ????, ?, ??????? 1, ??????? ?', ?? ?????? ??????? 77/388/???, ?? ???????????, ???

17?? ??? 1977, ??? ??????????? ?? ??????????? ?? ??????? ??, ??? ??????? ???

???? ?????? ?????? ?????? * ????? ??????? ?? ????? ?????????????? ?????: ??????????

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

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

?????????? ?? ??? D. A. O. *Edward*, ??????? ???????, J.-P. *Puissochet*, J. C. *Moitinho de Almeida*, C. *Gulmann* (?????????) ?? *L. Sevon*, ???????,

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

?????????: *H. A. Ruehl*, ?????? ??????? ????????????,

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

* ? ?????????? ???????, ?????????????? ??? ??? *Ernst Roeder*, *Ministerialrat* ???

?????????? ?????????? ???????????, ?? *Bernd Kloke*, *Oberregierungsrat* ??? ???

??????????,

* ? ??????? ???????, ?????????????? ??? ??? *Catherine de Salins*, ?????????????? ???

?????????? ??????? ?????????? ??? ?????????? ???????????, ?? ??? *Jean-Louis Falconi*,

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

* ? ??????? ???????, ?????????????? ??? ??? ??????? *Umberto Leanza*, ????????????

?? ?????????? ??????????? ??? ??????? ??? ?????????? ???????????, ?? ??? *Maurizio Fiorilli*,
avvocato dello Stato,

* ? ??????? ??? ?????????? ???????????, ?????????????? ??? ??? *Juergen Grunwald*, ????

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

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

???? ?? ?????? ??? ?????????? ??????????? ??? *Mohr*, ?????????????? ??? ??? *Ronald Hansen*, ?????????? ???????, ??????????? ??? ??????????? ???????????, ?? *Finanzamt Bad Segeberg*, ?????????????? ??? ??? *Rolf Karl Krauss*, *Ministerialrat* ??? ????????

????????????? ??? ?????????? ??? ?????????? ??????? Schleswig-Holstein ??? ????, ???
????????? ??????????, ?????????????? ??? ??? Bernd Kloke, ??? ??????
?????????, ?????????????? ??? ??? Frederic Pascal, charge de mission ??? ??????
????? ?????? ??? ?????????? ?????????? ??? ??? ??????, ??? ??? ??????, ?????????????? ???
??? Juergen Grunwald, ??? ?? ?????????? ??? 12?? ?????? 1995,

???? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
??? 23?? ?????? 1995,

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

??????

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

1 M? ??????? ??? 21?? ??????? 1994, ? ?????? ??????? ??? ?????????? ??? 25 ??????
1994, ?? Bundesfinanzhof ??????, ?????? ??? ?????? 177 ??? ??????? ?, ???
????????? ?????? ?? ??? ??? ?????? ??? ?????? 6, ?????????? 1, ??? 11, ???
?, ?????????? 1, ?????? ?', ??? ?????? ?????? 77/388/???, ??? ??????????, ??? 17??
????? 1977, ??? ?????????? ??? ?????????? ??? ?????? ?????, ??? ?????????? ?? ???
????? ?????? ?????? * ?????? ?????? ?????? ?????????????? ?????: ??????????
????????? ??? (?? ????. ??? 09/001, ?. 49, ??? ????: ??????).

2 ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? Juergen Mohr ??? ???
Finanzamt Bad Segeberg (?? ????: Finanzamt).

3 O Mohr ??? ?????????? ??? ?????????? ?????????????? ??? ?????? ??? ?????? ??? ??????
????????? ?????????????? ??? ?????????? ??? 1987 ??????? ??? Bundesamt
fuer Ernaehrung und Forstwirtschaft (????????????? ?????????? ?????????? ??? ???) ???
????? ?????????? ??? ?????? (???) 1336/86 ??? ??????????, ??? 6?? ???
1986, ??? ??? ?????? ??? ?????????? ??? ??? ?????? ?????????? ???
????????????? (?? L 119, ?. 21). ?? ??? ?????? ??? ?????? ??? ?????????? ??
????????????? ??? ?????? ?????? ??? ?? ?????????? ?????????????? ??????????
????????? ??? ?????? ??? ?????? ?????????? ??????.

4 ??? 23 ?????????? 1987, ?? Bundesamt ?????? ??? ?????? ??? ??? ?????? ??? ??????
??? ??? 385 980 ?????????? ??? (DM), ?? ??? ?????? ?????????? ??' ????. ??? ????????, ?
Mohr ?????? ??? ?????? ??? ??? ?????????? ??? ?????????? ??? ?? ?????? ???????,
????????? ???, ?????????? ??? ?????? ???, ??? ?????? ?????? ??????.

5 ??? ?????????? ??? ?????? ??? ?????? ??? ??? ?????? ?????? ??? ?? 1987, ? Mohr
??? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ??? ???????, ??
????????? ???.

6 ?? Finanzamt ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????? ??? ??????????
??? ??? ??????, ?????? ??? ??? ?????????? ??? ?????????? ??? ???????, ??? ?? ???????
?? ?? ??? ?????? ?????????? ??? ?????? ?????? ??????.

7 ??? ?????????? ??? ?????? ??? Finanzgericht ??? ?????? ??? Finanzamt, ?
Mohr ??? ?? ?????? ??? ?????? ??? Bundesfinanzhof.

"1) ?????????? ?? ??????????? ????? ????? ??????, ?? ?????? ?????????????? ?????????? ??
????????? ??????????, ?????????? ??? ?????? ?????? ??? ?????? 6, ?????????? 1, ??? ??????
????????? 77/388/??? ??? ???????????, ??? 17?? ????? 1977, ??? ?????????????? ???
?????????? ??? ?????? ?????, ??? ?????????? ?? ??? ????? ?????? ?????? ??????; "

2) ????????? ? ??? ??? ??? ????? ?????????????? ?????????????? ?????? ??? ?????????????? (???)
1336/86 ??? ???????????, ??? 6?? ??? 1986, ??????????? ??? ??? ????? ?????? ??? ?????? 11,
????? ?, ?????????? 1, ???????? ?' , ??? ?????? ?????? ?????? ?????? ??????;"

10 ?????? ?? ??????? 2, ??????? 1, ??? ???????, ??????????? ?????? ???? ????? ?????????????? ?????? "??
?????????? ?????? ???? ?? ??????? ??????????, ??? ?????????????????? ?? ?????? ?????? ?????????? ??????
??? ?????????? ??? ?????? ??? ?????????? ??? ?????, ??? ?????? ??? ?????? ??? ?????? ?????? ??????
?????".

11 ?? ?????? 6, ??????????? 1, ??????:

"?? '?????? ?????????? ?????????? ???. ???? ???? ? ???? ???? ???. ??????? ??????? ??????? ?????? ???.
???. ?????? ???. ?????? 5.

? ?????? ???? ??????? ?? ???????????, ?????? ????, ??:

(...)

* ?????????? ?? ???? ?????????? ? ?????? ??????? ? ??????????????,

(...)"

12 ?? ?????? 11, ?????? ?, ??????????? 1, ?????????? ?', ?????????? ??? ? ???? ?????????? ???
????? "??? ??? ?????????? ??? ?????? ??? ??? ?????? ??????????" ?????????? ?? "?????????
????????? ?? ??????????, ??? ?????? ?????? ? ?????????? ?? ?????? ??? ??? ?????? ??? ?????? ???
????????? ?? ??? ?????? ??? ?????????? ?? ??? ?????????? ?? ??? ?????? ??? ?????? ??? ??????
????????????? ?? ??? ?????? ??? ?????????? ?? ??? ?????????? ?? ??? ?????? ??? ?????? ??? ??????
?????".

13 ? ?????????? 1336/86 ??????????, ??? ????? ? ?????? ?????????????? ??? ?????? 12
??? 19 ??? ?????????? ???, ??? ?????? ?????? ?????? ??? ?????? ? ?????????? ??????????
????????????? ?? ?????????? ??? ?????? ?????? ???????.

14 ????? ??? ????? ?????????????? ??? ????? ?? ?????????????? ???, ??? ?? ?????????????? ?
????????? ??? ??????????? ??? ??' ??????? ?????????? ??? ?????????????? ? ??????? ???
????????? ?????????? ??????????, ??????? ?? ?????????? ??? ?????????? ??? ??????????
????????????????? ??? ?? ?????????? ??? ??????? ??? ?????? ??? ?????? ?????????? ??? ??
?????????, ??????? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ?????????? ??????????????
????????????????? , ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??????????????
????????????? ?????????? ?? ?????? ??? ?????? ?????? ??????.

15 ???, ?? ??? 1, ?????????? 1, ??? ??????, ??? ?????????? ?????????? ???, "?????"
??? ?????? ??? ?????????????? ??? ?? ?????? ??? ?????? ??? ?????????? ? ?????? ??????????
(...), ?????????? ?????????? ?? ?????? ?????? (...) ? ?????? ?????????? ??? ?????? ??????????
????????????? ?????????? ?? ??????????????". ?? ?????? 2, ?????????? 2, ?????? ???, ???
??? ?????? ??? ?????? ??? ?????? ?? ?????? ??, "????????? ??? ?????? ??? ?????? ????
????????? ?????????? ???' ?????? ??? 4 ECU ?????? ??? 100 ??????????
????????? ? ?????????? ?????? (...)". ??? ?? ?????? 2, ?????????? 3, ?? ?????? ???
????????? ?? ?????????? ??? ?????????????? ??? ?????? ?????? ?????????? ?? ??? ????
?????????.

16 ? ?????????? ??? ? ?????? ?????????? ?????????? ??? ? ?????????????????? ???
????????? ??? ?????????? ?? ?????????? ?????????? ??? ?????? ??? ?????? 2 ?? 6, ?????????? 1, ???
?????.

17 ?? ??? ?????????? ?????????? ??? ? ?????? ??? ? ?????????? ??? ? ?????????? ???
????????? ??? ?????????? ??? ? ?????????? ??? ? ?????? ??? ? ?????????? ??? ? ??????????
????????? ??? ?????????? ??? ? ?????? ??? ? ?????????? ??? ? ?????????? ??? ? ??????????
??? ?????????? ??? ? ?????? ??? ? ?????? ??? ? ?????????? ??? ? ?????????? ??? ? ??????????
????????? 1981, 154/80, Coöperatieve Aardappelenbewaarplaats, ?????? 1981, ?. 445,
??? ??? 3?? ?????? 1994, C-16/93, ??lsma, ?????? 1994, ?. ?-743). ??? ??? ??????
????????? , ? ?????? ?????????? ?? ??? ?????????? ??? ? ?????????? ??? ? ?????? ??? ????
????? 6, ?????????? 1, ?????? ??????, ??? ??????, ?????? ??? ?????? ??? ???? ??
????????? ??? ?????????? ?????? , ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ???? ??
????????? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???? ??
????????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???? ?? 11, ??? ?,
????????? 1, ?????? ?', ??? ??????.

18 ??? ? ?????? ??? ?????? ??? ?????? ?? ?????? ???.

19 ?????? ?? ?????????? ???, ??? ?? ?????? 2, ?????????? 1, ??? ?????? ??????
67/227/??? ?? ??????????, ??? 11?? ?????? 1967, ??? ?? ?????????? ???
????????? ??? ?????? ???, ??? ?????? ?? ??? ?????? ?????? ?????? ?????? ?????? (?? ???.
09/001, ?. 3), ? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????? ??? ??? ??????.

20 ???, ?? ??? ?????????? ??? ? ??????, ??? ?????? ?????? ?????????? ??? ?? ?????? ???
????????? ?????? ??? ???.

21 ??? ?????????? ? ?????? ?????????? ??? ?????? 27 ??? ?????????? ???, ?? ?? ??
????????? ?? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ???? ??
?? ?????????? ?? ?????????? ?????? ???, ? ?????? ??? ???? ?????? ??? ?????? ??? ???? ??
????????? ??? ??? ??? ??????, ??? ?????? ??? ?? ?????? ?????? ?????? ??? ???? ??
????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

22 ??? ??? ??????? ??????, ? ??????? ??? ?????????? ??? ?????? ?????? ???????
????????????? ?? ?????????????? ?? ?????????????? ??? ??? ?????? ??? ??? ?????? ??????????
???? ??? ????? ?????? ?????? ??? ??? ?????? ?? ?????????? ?? ?????????? ? ??????????
??? ?? ????? ?????? ?? ?????????? ??? ?????? ??????. ??????, ? ?????? ??? ?? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??? ?????? ??? ?????? 6, ?????????? 1,
??? ??????.

23 ??????, ??? ?????????? ?????? ?????? ?? ??? ? ?????? ??? ?? ??? 6,
????????? 1, ??? 11, ??? ?, ?????? 1, ?????? ?!, ??? ?????? ?????? ??
????????? ??? ??? ?????? ??? ? ?????? ?????? ?????????? ??? ?????????? ???????, ???
????????? ??? ?????? ??? ?????? 1336/86 ??? ?????? ??? ??? ??????
?????????, ??? ?????? ?????? ?????? ?????? ??????, ? ?????????? ?????? ??? ??????
????????? ??? ?????? ?????? ?????? ?????? ??????.

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

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

24 ?? ??? ??? ?????? ?????????? ? ???????, ? ?????? ??? ? ?????? ??????????,
????? ??? ? ?????? ??? ?????????? ??????????, ?? ?????? ?????? ?????????? ???
?????????, ??? ??????????. ?????? ??? ? ?????? ?????????? ??? ?? ??? ???
????????? ??? ?????? ?????? ??? ?????????? ?????????????? ??? ?????? ?????? ???
????? ??????????, ?' ??? ?????????? ?? ?????????? ??? ??? ?????????? ???.

??????????

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

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

????????? ??? ??? ?????????? ??? ??? ?????? ?? ?????? ??? 21?? ?????? 1994 ??
Bundesfinanzhof, ??????????:

? ???? 6, ?????? 1, ??? 11, ??? ?, ?????? 1, ?????? ?!, ??? ?????? ??????
77/388/??? ??? ??????????, ??? 17?? ??? 1977, ??? ?????????? ??? ?????????? ???
????? ????, ??? ?????? ?? ??? ?????? ?????? ?????? * ??? ?????? ?????? ???
????????????? ????: ?????????? ?????????? ???, ?????? ?? ?????????? ??? ???
????? ??? ? ?????? ?????? ?????????? ??? ?????????? ??????, ??? ?????????? ???
????? ??? ?????? (???) 1336/86 ??? ???????, ??? 6?? ??? 1986, ??? ???
????????? ?????????? ??? ??? ?????? ?????????? ??? ?????????? ??? ??????????????, ???
????? ??? ??? ?????? ?????? ??????????, ??? ?????? ?????? ?????? ?????? ???, ?
????????? ??? ?????? ??????.