

@import url(../../../../css/generic.css); EUR-Lex - 62000J0436 - EL

**Avis juridique important**

/

## **62000J0436**

?????? ?? ?????????? (?????? ?????) ??? 21?? ?????????? 2002. - X ??? Y ???  
Riksskatteverket. - ?????? ??? ??? ?????? ?????????????? ??????????: Regeringsrätten -  
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????????? ??? ?????? ? ?????????? ?????? ??????????. - ??????? C-436/00.

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### **?????? ???????**

1. ??????? ?????????? ??? ??????? - ??????? ?????????? - ?????????? - ??????????  
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????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ? ?????????? ?????? ?????????? -  
????????? ??? ??? ?????? ?????????? ??? ?????? ?????????? ?????? ?????? ?????? ?????????? ??????  
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(????? 43 ?? ??? 48 ??)

2. ??????? ?????????? ??? ??????? - ?????????? - ?????????? ??????????????  
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(????? 56 ?? ??? 58 ??)

### **?????????**

1. ?? ?????? 43 ?? ?? 48 ?? ??????????? ?? ?????? ?????????? ? ?????, ?? ??????????  
????????????? ?? ?? ?????? ??????? ????????, ?????????? ?? ?????????????? ?? ?? ??  
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?? ?? ?? ?? ?? ?????? ?? ?? ?????????? ?? ?? ??????? ?? ?? ??????? ?? ?? ?????????? ?? ??  
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?????????????, ? ??????? ?? ?? ?????????????? ?? ?? ?? ??????? ?????????? ??????????????, ??  
?? ??????????, ??????, ??? ? ??? ?? ?????????? ???????, ??? ?????? ?? ??????????  
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?? ?? ?? ?? ?? ?????? ?????? ?? ?? ??????? ?? ??, ???????, ??? ? ??? ?? ?? ??????  
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????????? ?? ?? ?????????? ?? ?? 43 ??.

? ?????? ?????????? ?? ?? ??????? ?? ?? ?????????? ?????? ??????????, ? ?????????????? ??  
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( ??, ?????? 36, 38, 48, 65, 75, ??????. 1 )

2. ?? ?????? 56 ?? ?? 58 ?? ?????????? ?? ?? ?????? ?????????? ? ?????, ?? ??????????  
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?? ?? ?? ?????????? ?? ?? ??????? ?????? ?????? ?? ?? ?????????????? ?? ?? ?????? ?????????? ?? ??  
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?????, ?????????? ??, ??????, ??????, ??? ?????? ?????? ?? ?? ?????? ?????????????? ?? ??  
??, ?????????? ?? ?? ?????????? ?? ?? ??????????????, ?????? ?? ?? ?????? 56 ??, ?? ?? ?? ??  
????????????? ?? ?? ??????? ?? ?? ?????????? ?????? ??????????, ?? ?? ?????????????? ?? ??  
????????????? ?? ?? ?????????????????? ?? ?? ?????????? ?????? ??????????.

( ??, ?????? 70, 72, 75, ??????. 2 )

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??? ??? ?? ??????????? ??? Regeringsrätten (???????) ??? ?? ???????????, ???'  
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X,

Y

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Riksskatteverket,

? ?????? ??????????? ??? ??????? ?? ??? ?????? ??? ?????? 43 ??, 46 ??, 48 ??, 56  
?? ??? 58 ??,

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

????????? ??? ??? ?. Wathelet, ??????? ????????, C. W. A. Timmermans (???????), D. A.  
O. Edward, P. Jann ??? A. Rosas, ????????,

?????? ??????????: J. Mischo

?????????: H. von Holstein, ?????? ??????????,

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

- ?? X ??? Y, ?????????????? ??? ??? P. Nordquist, advokat,

- ? Riksskatteverket, ?????????? ??? ??? T. Wallén, skattejurist,

- ? ?????????? ??? ??? ?????, ?????????????? ??? ??? H. G. Sevenster,

- ? ?????????? ??? ?????????? ??????????, ?????????????? ??? ??? R. Lyal ??? J. Enegren,

- ? ?????????? ??? ??? ?????, ?????????????? ??? ??? P. A. Bjørgan,

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

???? ?? ??? ?? ?????????? ?????????????? ??? X ??? Y, ?????????????? ??? ??? P.  
Nordquist, ??? ??????? ??????????, ?????????????? ??? ??? A. Kruse, ??? ???????,  
????????????? ??? ??? R. Lyal ??? J. Enegren, ??? ??? ?????????? ??? ??? ??? ???,  
????????????? ??? ??? P. A. Bjørgan, ??? ?? ?????????? ??? 20?? ?????? 2002,

???? ?? ??? ?? ?????????? ??? ?????????? ??? ??????? ??? ?????????? ??? ??? ?? ??????????  
?? 6?? ?????? 2002,

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1 ?? ??????? ??? 1?? ??????? 2000, ??? ??????? ??? ?????????? ??? 27 ???????  
2000, ?? Regeringsrätten (?????? ?????????? ??????????) ???????, ??????? ??? ??????  
234 ??, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? 43 ??, 46 ??, 48 ??, 56 ??

??? 58 ??.

2 ??? ??????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ???? ??????? ????????,  
????? ? ??? ?, ??? ?????????????? ?????????????? ?????????? ??? ?? Skatterättsnämnden  
(????????? ?????????? ??????) ??????? ?? ??? ?????????? ??? ? ?? ?, ??  
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3 ? lagen (1947:576) om statlig inkomstskatt (????? ??? ???? ?????????? ????,  
???? ?????????? (?? ????: SIL), ??????, ??? ????? ??? 3, ?????????? 1, ?????????? h,  
?????, ??????, ?????? ??? ?????? ??????, ?? ???:

«??? ?????????? ??? ?????????? ??? ??????????, ?????????? ??? ?????? 25 ??? 31, ? ????  
????????????? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ?????????, ??? ??????  
? ?????????? ??? ?????????? ??? ?????????? ??? - ?? ?????????? ?????????? ??? ??????  
??? ?????????? ??? ?????? ??? - ?????? ??????, ?????????????? ?? ??????????  
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? ?? ?????? ??? ??????????, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????? ???  
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??? ?????? ??? ?????? ??? ??? ??????.

? ?????????? ??? ?????????? ??? ??????????, ?????????? ??? ?????? ??? ?????? ??? ?????? 25  
??? 31, ? ?????? ?????????????? ??? ?????? ?????????? ??? ?????? ?????????? ?? ??????  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ?????? ?????????? ??????  
?????? ??? ?????? ? ?????????? ??? ?????? ??? ??????, ?????? ????, ??????????  
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????????? ??? ??? ??? ?????? ??? ?????? ????. ? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
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????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??????  
??????, ??? ?? ?????? ??? ??????.

[...]

??? ?????? ?????? ?????????? ?? ????, ??? ???? ???? ?????? ? ?? ?????? ??????, ??? ??  
????????? ??? ?????????? ?????? ?????????? ?????????? ?????????? ??? ?????, ??? ??  
????????? [...] ??? ?????? ??????, ??? ?????????? ?????? ??? ?????? ?????????? ??? ??  
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4 ??? ?? ?????? ??????????, ?? ?????? ?????? ?????? ?????? ??? 1998 ??? ?? 1999,  
????????? ?? ??????????????, ?? ?????????? ?????? ??? ?????? ?????????? ??? ??????

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

5 ?? ?????????????????? ?????????? ???????????????, ???? ?? ?????? ???????????, ???, ??  
???????, ? ??????? ?????? ??? ?????????????? ?????? ??? ?????????????? ??????? ????? ??  
????? ??? ?????????????? («?????? ???») ??? ?? ?????? ??????? ??? ?? ??? ?????? ??????? ??  
????? ??? ?????????????? («?????? ???») ?????????? ?? ??? ?????? ??????? ??? ?????? ??  
? ??? ??? ?????? ?????????? ?????????????? ?????? ??????? ?????? ??????? ??? ?????? ??  
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????? ??????? ???????, ?????? ??????? ???????, ?????????? ? ??? ?????? ??????? ??????? ???  
????? ??????? ??????? ???????, ?????? ??????? ???????, ?????? ???????, ?????????? . ? ??? ??????  
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????????? ???, ? ??????? ??? ?????????? ??? ??????? ??????? ??????? ??? ?????? ?????? ?????? ???  
?? ??? ?????? ??????? ??? ?????????????? ??? ?????? ??????? ??????? ?????? ?????? ?????? ???  
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? ?????????? ??? ?????????? ???' ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
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6 ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ? ??? ?????????? ??????? ??????? ???????  
?? ??????? ??? ?????? ?????????????? ??? ??????? ?????????????? ??? ??????? ??? ?????? ???????  
?? ?????????????? ??? ?????????? ??? ??????. ?????? ? ?????????, ??? ???????????, ?? ? ??????  
????????? ??????? ?????????? ??? ???????, ??? ?????? ?? ?????????? ??? ?????? ???????, ???  
????? ??? ??????? ??????? ???????, ??? ??????? ??????? ??????? ??????? ??????? ???????, ???  
?????? ???????, ? ??????? ??? ?????? 3, ?????????? 1, ??????? h, ?????? ??????, ??? SIL  
?????????? ?????????? ??? ??????? ?????????? ??? ?????? ??????? ??????? ?????? ?????? ? ??????  
????????? ??????? ??????? ??? ??????? ??? ??????? ??????? ??????? ?????? ?? ??????? ??? ??????  
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????????? ??? ?????? ??? ?????? ?????????? ??? ??????? ?????????? ??? ?????? ??? ??????? ?'  
?????. ?? ??????? ??????? ?????????????? ??? ?? ?????????????? ??? ?????? ??? ?????? ??????????????  
????? ??????? ??????? ??? ?????? ??????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???????, ????  
?????, ??????? ??? ??? ?????? ?????????? ??? ?????? ??????? ?????? ?????? ??????? ??? ?????? ??  
?? ??? ??????? ??????? ??????? ???????, ?????? ? ??????, ???????.

7 ?? ?????? ?????????? ??????????? ???, ??? ?? ?????????? ??? 2002 (??? ?????? ??  
????????? ??? 2001), ? inkomstskattelagen (1999:1229) ?? ?????????? ??? SIL. ? ??????  
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? ??????? ??????? ??? ?????? ??? ?????? ?????????? ??????? ??? ?????????? ??? ??????? ??? ??  
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8 ??????? ?? ?? ??? 13, ?????????? 4, ??? ?????????? ?????? ??? ?????????? ??? ??????? ???  
?? ??? ?????????? ??? ???????, ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???  
?? ??????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? (SFS  
1991, ????. 606), ? ?????? ??????? ??? 5 ?????????? 1991 ??? ?????? ?? ??? ??? 24  
????????? 1993 (??? ????: ?????????? ???):

«?? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? [...] ?????????? ???  
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9 ??????? ??? ?????? ??? ?????????????? ?????????? ??? ?????? ?????????? ??? ?? ??? 13,  
????????? 4, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ???

? ?????????? (????) (????????? ?????????? ??????? ?? ? ???? ?????? ?????????? ???  
????????? ??? ?? ??????????, ?????? ?? ?????????? ?????????? ?????????? ??? ??,  
1977, ??? ?????????? ??? 29 ?????? 2000).

10 ??? ????, ?? ??? 13, ?????????? 5, ??? ?????????????? ?????????? ?????? ?? ???:

«???? ??? ?????????? ??? ?????????? 4, ?? ??? ???? ??? ?????? ?????? ??????????  
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?? ??? ?????? ??? ?????? ?????????????? ?????? ?????????????? ??? ?? ??? ??????  
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?? ?????????? ?????????? ??? ??????. [...]»

11 ?????, ?? ??? 26 ??? 27 ??? ?????????????? ?????????? ?????????? ??????????  
?????????, ?? ??? ?????????? ?????????? ??? ?? ?????? ??? ?????????? ??? ?? ???.

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12 ??? ??? ?, ?????? ?????? ?????????? ?????????? ?????????? ?????????? ??????????  
*Skatterätsnämnden* ??? ?????? ?????????????? ?????????? ?????? ?? ??? ??????  
?? ?????????? ??? ?? ?????????????? ?????? ??? ?????????????? ??? ?? ??? 3,  
????????? 1, ?????? h, ??? SIL.

13 ?????? ??? ?????????? ?????????? ??? ?????????????? ?????????????? ??? ??????????  
????????? ????, ?????? ?????? ??????, ?????? ?????? ??? ?????????????? ??????, ??????????  
????????????? ?? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????  
????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????  
????????? ?? ?????? ?????? ?????? ???, ???' ????, ?????? ?? ?????? ??? ??????????  
????????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ?????????? ??????????????.

14 ?????? ??? ?????? ??????, ? ?????? ?????????????? ?????????????? ?????? ???  
????????? ????, ??? ?????? ??? ??, ??? ?????? ??????, ??? ?? ??, ??? ?????? ??????  
????? ? ?????? ?????? ?????? ??? Y SA, ??? ?????? ??????. ??? ?? ????  
????????? ??? ??????, ?? ? ??? ? ?????? ?????????? ??? ?????? ?? ?????? ?? ??????  
????????? ?????? ?????? ??? Y SA.

15 ? ? ?? ?????? ??? ?????? ?????? ??? ?????? ? ?????? ?????? ?????? ?????? ??? ??  
????? ????, ??? ???? ??, ??? ???? ?? ?????? ?????????? ??????. ?? ? ??? ? ??  
????? ??? ?????? ?????? ??? ?????? ?????? ??? ??????. ? Y SA ??? ?????? ?????? ??  
????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ? ??.

16 ?? ??? ?????? ????, ?? ? ??? ? ?????? ??? Skatterätsnämnden, ?????? ????, ??  
????? ?? ? ?????? ?????????? ?????????????? ?????????? ?? ?? ?? ? ?? ??????  
????????????? ?? ??? ?????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??????????  
????? (????? 3, ?????? 1, ?????? h, ??? ??????, ??? SIL) ? ?? ?????? ??????  
????? ?????? ?????????? ?????? (????? 3, ?????????? 1, ?????? h, ????  
?????, ?????? ??????, ??? SIL) ?????? ?? ?????????????? ?? ?????????? ??????,  
?????, ??? ?????? ??? ?????? ??? ?????????????? ?????? ???, ??????, ??? ?????????? ???  
????????? ?? ??? ??? ?????? ?????? ?????????? ??? ??? ?????? ?????????? ??? ??  
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17 ?? ??? ?????????? ?????????? ???, ??? ?????? ?????? ??? 27 ?????????? 1999, ?  
Skatterätsnämnden ?????? ??? ? ?????????? ??? ?????? ??? ??, ?? ?????????????? ???,  
?? ?????? ?? ?????????? ??? ?????? ?????? ?????????? ?????? ?????? ?????? ???

????? ??? ??????? ??? ???? ?? ???? ? ?? ?????? ??????? ?? ?????????????? ??? ??  
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18 ??? ????, ? Skatterättsnämnden ??????? ??? ?? ??????? ?????? ????? ??????????  
?????????????? ??? ??, ??? ????? ?? ??????? ?????????? ?????? ??? ?????????? ???  
????????? ?????????? ??? ?????? 58, ?????????? 1, ??????? ?\_, ??, ???????.

19 ?? ? ?? ? ??????? ??????? ??? ?? ??????? ?????? ?????? ?????? ??? Regeringsrätten,  
????????? ???, ?????? ?????, ?? ?????? ??? ? ?????????? ?????? ?? ?????????? ?? ???  
?? ?????????? ??? ????????????

20 ???????????, ???' ??????, ??????? ??? Regeringsrätten, ??? ? ??????? ???????  
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????? ?????????? ??? ?????? 56 ??, ??? ??? ?????? ?????? ???????????, ? ??????  
?????????? ??? ????? 43 ??.

21 ??? ??? ? ?? ?, ?? ?????? ??? ?????? ??? ?????????????? ?? ??? ?? ??? 58,  
????????? 1, ??, ?????? ?????? ??? ?????????? ??? ???????????, ??? ?????, ?? ???  
?????????, ??????? ??? ?????? 58, ?????????? 3, ?? . ?? ?????? ??? ?????? ???  
???? ??? ? ?? ?, ?? ?????????? ??? ?????? ??? ?????????? ??? ???????????,  
?????????????, ??? ?? ?????????? ? ?????????? ??? ?????? ??????????? ??? ???????????.

22 ??? ????, ?? ?????? ??? ?????? ?? ?????? ?? ?????????????? ?????? ??? ?????? 46 ??  
??????, ??? ?? ?????????? ??? ???????????, ?????? ?????????? ?????? ??? ?????? ???  
????????? ??????????? ? ? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????????????? ?????????????? ?????? ??? ?????? ?????????????? ?????? ??? ?????? ???  
????? ?? ?????? ?????? - ?? ?????????? ?? ?????????? ?? ??? ?????? ?????????? ?????????????? ???,  
??? ?????????? ?? ??? ?????????? ?? ??? ?????? ??? ?????? ?????????? ?????????????? ???,  
???? ? ?????????? ?????? ??? ?????? ???.

23 ?????, ?? ? ?? ? ??????????? ??? ?? ??????? ?????? ?????????? ?????? ??????????  
???? ?? ?????? 43 ?? ?? 56 ??, ??????? ??? ?????? ??????????? ?? ??? ?? ??? ?????? ???  
??????????, ??????? ??? ? ?????????? ?????? - ??? ? ??????? ???  
?????????? ?? ?????????? ?? ??? ?????? ?????????? ?????? ?????? ??? ?????? ???  
????? ?? ?????? ?????? - ?? ?????????? ?? ?????????? ?? ??? ?????? ?????????? ?????????????? ???,  
??? ?????????? ?? ??? ?????????? ?? ??? ?????? ??? ?????? ?????????? ?????????????? ???,  
???? ? ?????????? ?????? ??? ?????? ???.

24 ?????? ??? Regeringsrätten, ? Riksskatteverket (????????? ??????) ?????????? ???'  
????? ?? ?? ???? 43 ?? ?? ?????????? ?? ?????????? ??? ??, ?????? ??? ??  
?????????? ? ??????? ??? ?? ???? 3, ?????????? 1, ??????? h, ??? SIL  
????????? ??? ?????????? ???????????, ??? ?????? ?????? ?? ??? ?????????????? ???  
????????????? ?????? ?????????? ?????????? ?????? ?????? ?????????? ?? ???????????,  
???? ? ?????? ? ?????????????? ??? ?????????? ?????? ?????? ??? ?????? ??? ???????????,  
????????? ??? ??????, ??? ?????? ?????? ??? ?????? ?? ?????????? ?????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ?????????? ?????? ?????? ??? ?????????? ??? ?????? ???,  
??? ?????? 43, ?????? ???, ??, ?? ?????? ?????????? ??? ?????? ??? ?????? 43 ??.

25 ? Riksskatteverket ?????????? ?????????? ??? ? ?????????? ?????? ??? ??????????  
???? ?????? ?????? ?????????? ???, ??? ?????? ?????? ?????? ???????, ?????? ???  
????????? ?????????? ?????????? ???, ??? ???, ??? ?????, ?????? ?? ?????????? ???????  
????? ??????????. ??????, ? Riksskatteverket ?????????, ??????, ???, ??? ??  
????????? ??? ??????????, ??? ?????? ?????? ??? ?? ?????????? ?? ?????????? ?????? ??  
????? ?? ?????????? ?? ?????????? ?????? ?????? ??? ?????? ?????? ???, ??????????????  
??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???

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

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

26 ?? Regeringsrätten, ?????????? ??? ? ?????????? ??? ?????????? ?????? ???, ??????????  
??? ?? ??? ??? ??????? ??? ?????????? ?????? ???, ?????????? ?? ?????????? ???  
????????? ?? ??????? ?????????? ???????:

«????????? ?? ??? 43 EK, 46 EK, 48 EK, 56 EK ?? 58 ??, ?? ??? ?????????? ??? ?? ???  
??? ??? ?????? ??????? ??? ?????? ???????, ??????? ??? ??? ?????????? ??????????  
?????? ?????? ? ????? - ??? ? ??????? ?????????? ?????? ??????? ?????? - ??????????  
??? ??? ??????? ?????????? ??????????????? ??? ?????????????? ?????? ?????????? ??? ???  
????????????? ??????????????, ?? ? ??????? ?????????????? ?????? ??????? ?????? ???  
????? ?????? ?????????????? ?????? ?????? ?????? ?????? ?????? ??? ??? ?????? ??????????  
??????, ?????? ? ???????, ?????????? ? ??? ?????? ?????? ?????? ?????? ?????? ??? ???  
????? ?????? ?????? ?????? ??????????, ??' ?, ?? ? ?????????????? ?? ? ??????????  
????? ??? ?????? ?????? ?????????? ??????????;»

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

27 ?????? ??? ?????? ?????????? ??? ?????????? ???????, ?????? ?? ???????????, ??????, ??? ??  
????????? ??? ?????? ?????? ?? Regeringsrätten, ?????? ??????? ??????? ???  
????????? ??? ?????????? ?????????????? ?????????? ??? ?? Skatterättsnämnden  
?????? ? ? ?????????? ? ?????? ??? ?????? ?????? ???????????????, ?????? ??????????  
????????????? ??????. ???????, ??????? ? ?????? ??? ?????? ?????? ?????? ?????? ???  
????????? ???????????, ??? ???????, ??? ?????? ? ?????? ??? ?????? ??? ?????? ?????? ???????,  
????????? ??? ?????????? ?????? ??? ?? ?????? ?? ? ?????????? ?????? ?????? ?????? ???  
?????? ? ? ?????? ?????????? ?????? ?????? ?????????? ?????? (?. ??????? ??? 18??  
????????? 1999, C-200/98, ? ??? ?, ??????? 1999, ?. ?-8261, ??????? 16 ??? 22).

28 ???????, ?? ?????????????? ??????? ??? ??????? ?? Regeringsrätten ?????? ???????.

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

29 ?? ?????? ?????????? ?????? ???' ?????? ?? ???? 43 ??, 46 ?? ??? 48 ??, ??? ??  
????????? ???????????, ?????? ??? ?? ??? 56 ?? ??? 58 ??, ??? ?? ??? ??????????  
????????? ??? ???????, ?????????? ??? ?????? ???????, ??? ? ??????? ???  
?????? ??? ?????? ???, ? ?????? ?????????? ??? ?????????? ??? ?????? ??????? ???  
????????? ?????????? ?????? ?????????? ??? ?????? ?? ? ?????? ??? ?????? ??? ??  
?????????.

30 ???????????, ??????, ??? ?? ?????? ??? ?????????? ??? ??????? ??? ?????? ???  
?????? ???????, ?? ?????????? ??? ?????? ?????????? ??? ?????? - ???  
????????????? ?? ??? ?????????? ??? ?????? ?????? - ???????, ?????? ?? ??????? ??  
?? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????????? ??? ??? ??? ??? ??  
??????????, ???:

- ?? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ? ?????????? ??? ??????? ???  
??????, ?????? ? ??????, ?????????? (????? 3, ?????????? 1, ??????? h, ?????? ??????,  
????? ???????, ??? SIL) (??? ????: ?????????? ?????? ??? ??? ?),

- ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????  
?????? ??????? ???????, ?????? ? ??????, ?????????? (????? 3, ?????????? 1, ??????? h,

? ????? ?????, ?????? ???????, ??? SIL) (??? ????: ?????????????? ??????? ??????),  
- ?? ??????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????????????? ??? ?????????????? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
??????, ?????? ? ??????, ?????????? (????? 3, ?????????? 1, ??????? h, ?????? ??????, ???  
SIL) (??? ????: ?????????????? ?????? ??????).

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

32 ?????? ?? ??????????, ?? ???????, ???, ??? ?????? ???????, ??? ??? ???? ????  
????????? ?????? ??? ?????? ?????? ??? ???????, ??? ?????? ?? ?????? ??? ?????? ??????  
?? ??? ?????? ?????? ?? ?????? ??? (??., ?????? ???, ?????????? ??? 16??  
?????? 1998, C-264/96, ICI, ??????? 1998, ?. ?-4695, ????? 19, ??? ??? 15?? ??????????  
2002, C-55/00, Gottardo, ?????? 2002, ?. ?-413, ??? 32).

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

33 ? Riksskatteverket, ?????????? ??? 26?? ?????????? 1993, C-112/91,  
Werner (?????? 1993, ?. ?-429), ?????????? ??? ? ?????? ??? ?????? ????  
????????? ??? ?????????? ?????? ??? ?????? ?????? ??? ??????, ?????? ???  
????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??????. ? ?????? ??? ?????? ???  
????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?? ?????????? ??????????????  
????????? ??? ?????? ?????, ??? ??? ?????? ?????? ???, ?????????? ??? ??????  
????? ??? ?????? ?????? ?????? ???, ?? ?????? ??? ?????? ?????? ???, ??? ??????  
?? ?????????? ?????? ?????? ?, ?? ?????? ??? ?????? ?????? ?????????? ??????  
????? ?????? ?????? ?????? ?????? ??? ?????? ?? ?????????? ??????, ??? ?? ???  
?? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ?????????? ??????  
????? ??? ?????? ?????? ??????.

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

35 ???????, ?????? ?? ???????, ??????, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????? ??? ?????? ?? ?????? ??? ???????, ??? ??? ?????? ??? ?????? 43 ??, ???  
????????? ??????????.

36 ??????, ?????????? ? ?????????? ???, ??? ?????, ?????, ??? ?????????? ??????  
????? ?, ? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??????????  
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ???? ????  
????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
?? ???????, ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????  
????????? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????  
??????, ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????

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

37 ??? ?????? ??? ?????????? ?????? ?????? ?????????? ?????????? ??? ?????????? ??????????????  
??? ?????? ??? ?????? ?????? ?????? (????? ?????? ??? ?????????? ?????????????? ???),  
??? ?????? ?????? ?????? ??? ?????? (??., ?????? ?????, ?????????? ??? 13?? ?????????? 2000, C-251/98,  
Baars, ?????? 2000, ?. ?-2787, ?????? 22 ?? 28 ?? 31, ??? ?? 5?? ?????????? 2002, C-  
208/00, Überseering, ? ?????? ??? ?????? ?????????? ?????? ??? ?????? ?????? 77).  
????????? ??? ?????? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

38 ??? ?????, ????????, ??? ?????????? ?????? ?????? ???, ?????????? ??? ??????????  
??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
??? ?????? ??? ?????? 43 ??, ??? ?????????? ?????????? ?????? ?????? ?????? ?????? ?????? ??????  
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
??? ?????? ????, ??? ? ?????? ?????????? ?????? ?????? ?? ?? 48 ??, ??? ??????  
????????? ?????? ??? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?? ?????? ??  
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? (??.,  
????? ?????, ?????????? ??? 15?? ??\_? 1997, C-250/95, *Futura Participations* ??? Singer,  
????? 1997, ?. ?-2471, ????? 24, ??? ?? 21?? ?????? 1999, C-307/97, Saint-Gobain  
ZN, ?????? 1999, ?. ?-6161, ????? 35). ?? ?? ?????? ?????? ?? ?????????? ??? ?? ??????  
????? ?????? ?????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ??? ?? ?????????? ??? ?? ??????????  
??? ?????? ??? ?????? ?????? ?????? ?????? ?? ?????????? ?? ?????????? ??? ?? ?????????? ??? ?? ??????????  
????? ?????? ??? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????????? ?????? ?????? ?????? ?????? ?????? ?????? 43 ?? (??., ??? ?????? ???, ??????  
????, ?????? ??? 8?? ?????? 2001, C-397/98 ??? C-410/98, Metallgesellschaft ?..,  
????? 2001, ?. ?-1727, ????? 42).

39 ??? ????????, ? ????????, ??? ????????, ??? ????????, ??? ????????, ??? ????????, ??? ????????,  
????????? ????????, ??? ????????, ??? ????????, ??? ????????, ??? ????????, ??? ????????, ??? ????????,  
????? ??? ????????, ??? ????????, ??? ????????, ??? ????????, ??? ????????, ??? ????????, 37 ??? ????????  
??????????, ??? ??? ?????? ??? ?????? ??? ?????????? ?????? ?????? ???, ?????????? ???  
?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

40 H Riksskatteverket ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ???, ??????????  
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

41 ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ? Riksskatteverket  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

? ?????????????? ?????? ??????? ?? ?????????????? ?? ???? ???????????. ??? ?? ???? ?????????? ??????, ?  
Riksskatteverket, ??????????? ?? ???? ?????? ?? 9?? ?????? 1999, C-212/97, Centros  
(?????? 1999, ?. ?. -1459, ???? 24), ?????? ???, ?????? ?? ???? ??????? ?? ???? ???????????,  
?? ??????? ?? ???? ?????? ?????????? ??????? ?? ?????? ????? ?? ?????? ?? ??????????? ??  
????????? ?????????? ?? ???? ?????? ??????? ?? ???? ???????????, ?????????????????? ??  
????????? ??? ?????????????? ?????? ?? ???????, ?? ??????????? ?????????????? ??  
????????? ??? ?????? ?????? ?????????? ?????? ?? ??????? ?? ?????? ?? ?????? ??  
????????? ??? ?????? ?????? ?????????? ?????? ?? ??????? ?? ?????? ?? ?????? ??  
????????? ??? ?????? ?????? ?????????? ?????? ?? ??????? ?? ?????? ?? ?????? ??.

42 ???????, ?????? ?? ?????????? ???, ??? ?? ???? ?????? ??????????? ???????, ???  
?????????, ??????????? ?? ?????????????? ???????, ?? ??????????? ?????? ??  
????????????? ? ??????? ?????????? ?? ?????????????? ??????? ?? ???? ???????????,  
??????????, ??? ?????? ?? ?????????? ?? ?????????? ??????? ?? ?????? ?? ?????? ??  
????????????, ??? ?????? ?????? ???????, ??? ?????????? ??????? ?? ?????? ?? ?????? ??  
?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????????? ?? ?????? ?????? ???????????????,  
????????? (??., ?????? ???, ?????????????? ?????? Centros, ??? 25).

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

44 ?????? ?? ???????, ??? ?????, ??? ?? ??????? ?? ???? ??????? ? ??????? ?? ???? ??????  
?? ?????? ?????? ?????? ?????? ?? ?????? ?? ?????????? ?? ?????? ??????????? ??????? ??  
?? ?????? ?? ?? ?? ?? ?????? ?????????? ?????? - ???? ?? ??????? ?? ???? ??????????  
????????????? ?? ?????? ?????? ?????????? ?? ?????? ?? ?????????? ?????? ?????? ?????? ??  
? ??? ?????????? ?????? ?????????????? ?? ?????? ?????? ?? ???? ?????? ?????? - ????  
?? ??? ?? ?????? ?? ?????? ?????????? ?????????????? ?? ?????? ?????? ?????? ?????? ?? ???? ??  
??????, ???????, ?? ?????? ??? ?????? ?????????? ?????????????? ?????? ?? ?????? ??????????  
????????? (??., ?????? ???, ??? ?????? ???, ?????????????? ?????? Centros,  
????? 27).

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

46 ??????, ???????, ?? ?????????? ?? ???? ?????????? ?? ???? ?????????? ?? ?????????????? ??  
????????? ?? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????????????? ?? ?????? ??????, ??????????, ??? ?????? ?????? ?????????? ?  
Riksskatteverket, ??? ?????????? ?? ?????? 24 ??? ?????? ???????.

47 ??? ?????????? ?? ???? ?????????????? ?? ?????? ?????? ?? ???? ?????? ?? ???? ?????? ??  
?????? ?? ?????? ?????? ?????? ??????, ??? ?? ?????????? ?? ?????? ??????????? ?? ???? ?????? ???????????  
(??. ??? 6 ?? ?????? ?????? ??????), ??? ?? ?????????? ?? Riksskatteverket, ?  
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ???? ??  
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??

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

48 H Riksskatteverket ??????????? ??? ? ??????? ??? ??????? ??? ??????? ??? ?????  
?????????? ??? ??????? ??? ?????????? ??? ??????? ??? ??????? ??? ??????? ??? ??,  
?? ?? ??????, ?????????????? ??? ?????????? ??? ??????? ??? ??????? ??? ??????? ??? ??,  
??? ?????? ?????????? ??? ??????? ??? ??????? ??? ?????????? ??? ??????? ??? ??,  
????????? ??? ??? ?????????? ??? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ??,  
????????? ??? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ??,  
?????? 58, ?????????? 1 ?? 2, ?. ???????????, ? ?????????? ??? ??????? ??? ??????? ??  
?????? ?? ?????????? ?????????? ??? ?????????? ??? ?????????? ???????????, ??? ?? ??,  
??? ?????? 43 ??, ?????? ??? ??????? ??? ??????? ??? ??????? ??? ??.

49 ??????, ??? ?? ??????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??????????????  
????? ??? ?? ?????? ??? ?????????? ??? ??????? ??? ??????? ??? ??????? ??? ??,  
??????, ??? ?????? ?? ?????????? ??? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ??,  
????? ?????? ??? ?? ??????? ??? ?????????? ??? ??????? ??? ??????? ??? ??????? ??? ??,  
?????????. ??? ?????, ??????, ?? ??? ?????? ???????, ?? ?????? ?? ?????? ???????  
??? ?? ?????????? ??? ?????????? ??? ??????? ??? ?????? ??? ?? ??? ?????????? ??? ??,  
????? ??????? ??? ?? ??????? ??? ??????? ??? ?????? ??? (?, ?????? ???, ??????????????),  
?????? Futura Participations ??? Singer, ??? 26, ??? ?? ?????????? ??? ???????).

50 ?????? ?? ?????????? ??? ? ?????? ??? ?????????? ??? ?????? ??? ?? ??????? ??  
????????? ??? ?? ?????????? ??? ?? ?????? ?????????? ??? ?????? ??? ???????????  
?????? ??? ?? ??? ?????? ??? ?????????? ??? ?????? ??? ??????? ??? ??????????? ??? ??,  
????? 46 ?? ??? ?? ?????? ?? ??????? ?????????? ??? ?????? ??? ??????? ??? ???????????  
????????? ?? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ?????????? ???'  
????? ??? ?? ?????? 43 ?? (?, ?????? ???, ?????????? ??? ??????? ICI, ??? 28-  
Metallgesellschaft ?., ??? 59, ??? Saint-Gobain ZN, ??? 51). ???????????, ? ??????  
????? ??? ?????????? ??? ??????? ??? ?? ?????? ???????, ??????? ?? ???  
?????????, ?? ?????????? ??? ?????????? ??????? ??????? (?, ?????? ???,  
????? ??? 6?? ?????? 2000, C-35/98, Verkoojen, ??? 2000, ?. ?-4071, ??? 48).

51 ????????, ??? ?? ??????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???  
?????? ??? ?????????? ??? ??????? (?. ??????? ?? 28?? ?????????? 1992, C-204/90,  
Bachmann, ??? 1992, ?. ?-249, ??? C-300/90, ??????? ??? ???????, ??????? 1990, ?. ?-  
305), ? ?????????? ??? ??????? (?. ?????????? ??? ??????? ICI, ??? 26,  
??? Metallgesellschaft ?., ??? 57) ??? ?????????? ??? ??????? ??? ?????????? ???  
(?, ?????? ???, ?????? Futura Participations ??? Singer, ?., ??? 31, ??? ?? 8??  
?????? 1999, C-254/97, Baxter ?., ??? 1999, ?. ?-4809, ??? 18) ???????  
????????? ??? ?????? ??????? ?????????? ??? ??????? ?? ?????????? ???????  
????? ?? ?????????? ??? ?????????? ?????????? ??? ??????? ??????? ?? ??????? (?,  
????? ???, ??? ?????? ?????? ?????? ?????????? ?????????? ??? ??????? ??????? ??  
?????? ?? ?????????? ?????????? ??? ??????? ???????, ??????? ?? 28??  
?????? 1999, C-55/98, Vestergaard, ??? 1999, ?. ?-7641, ??? 23).

52 ??? ?????? ??????? ?? ?????????? ??? ?????? ?????????? ? Riksskatteverket ? ???  
????????? ??? ?????? ?????????? ??? ??????? ??? ??????? ?????????? ???????????, ???  
?? ?????????? ???, ??? ?????????? ?????? Bachmann ??? ??????? ???  
??????, ??? ?????? ?? ?????????? ??????? ??? ??????? ??????? ??????? ??????? ??,  
????????? ??? ??????? ??? ?????? ?????? ?????????? ??? ??????? ??????? ??? ??????? ???  
? ???????, ??????? ?????? ?????? ?????? ?????? ??? ?????????? ?????????? ??? ??????? ???  
????????? ??? ?????? ?????? ?????? ?????????? ?????????? ??? ???????, ???????, ??? ??,  
????????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ??????? ??? ?? ??? ???????,  
??????, ?????? ? ?????? ?????? ??? ?????????? ?????????? ??? ?????????? ??? ??

??? ??????? ??????????? ?????????? (??., ?????? ????, ??????????????? ???????  
Vestergaard, ??? 26, ??? ?? ??????????? ??? ??????????).

53 ??????????? ? ?????????? ???, ??? ?????? ??? ??????? ??? ?????, ?????? ?? ??????? ??  
?????? ??? ?????? ??????? ??? ?????? ??? ?????? ??????????? ?? ??? ?????? ???, ?  
?????????? ?????? ??? ?????? ??? ??????????? ??? ?????? ??? ?????, ?? ??? ?????? ???  
????? ??? ?????? ??? ??????????? ??? ?????? ??? ?????? ??? ?????? ???????????  
?????, ???' ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????????? ??? ???????????  
????? ??? ??????????? ??? ?????? ??? ?????, ??? ??????????? ?? ??? ?????? ??? ?????? ???  
?????????? ?? ?????????? ?????????? ??? ?????? ??? ?????? ??????????? ??? ???????????  
??????????, ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??????????? ??? ??????????  
?????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??????????? ??? ?????????? ???  
????????? (??., ?????? ???, ?????????? ??? 11?? ?????????? 1995, C-80/94, Wielockx,  
?????? 1995, ?. ?-2493, ??? 24, ??? Saint-Gobain ZN, ??? 57).

54 ??????, ?????? ?? ??????? ???, ?? ???? ?? ?????????? ??? ?????????? ?? ??????????  
???? ?? ?????? ???????, ??? ?????? ?? ?????????? ?????? ?? ?????????? ?? ??????????  
????? ?? 11, ??????? 4, ?? ???? ?? ?????? ??? ?????? ?????????? ?? ?? ??? ?????? ???  
?????????? ?? ?????? ??? ?????? ?????? ??? ?????, ??? ?????? ?????????? ??? ??????  
????? ???? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??????????????  
?? ?????? ?????? ??? ?????? ???, ???, ??????????, ??? ?????????? ??? ?????? ??? ??? ??  
????????? ??? ?????????? ?? ?????????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ?? ?????????? ??? ?? ?????? ?????????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ???  
?????????.

55 ? ??????? ??? ??????? ?????????? ?????????? ??? ?????????? ?? ??????????  
?????????? ???, ??? ?????? ??? ?????? ??? ?????? ?????????? ?? ?????????? ?? ??????????  
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ?? ?????????? ??  
????, ?????????? ??? ?? 13, ??????? 4, ??? ?????????? ?????? ?? ??????????  
????? ?? ?? ?????? ???????????, ??? ?? ?????? ???, ??? ?????????? ???, ??? ??  
????????? ??? ?????? ??? ?????? ?? ?????????? ?????? ?????? ?????? ??? ?????? ???  
?? ??????.

56 ?????? ?? ???????, ???????, ??? ?? ??? 13, ??????? 5, ??? ??????????  
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?? ?????? ??? ?????? ???, ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ??????.

57 ?? ??? ???????, ? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?? ?????????? ??? ?????? ???, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ???, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?????????.

58 ??????, ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????

? ?????????? ?? ??? ?????????? ?????????????? ?????? ??? ?????? ??? ?????? ?????? ?????????? ???  
????????????????? ?????????? Backmann ??? ??????? ??? ??????. ??????????????, ???  
????????? ????, ?????? ?????????? ?? ?? ?????????????? ?????????? ?? ?????? ??? ??????  
????? ??? ?????? ?????? ?????????? ?? ?????????? ??????????????, ???? ??? ?????????? ??? ????  
????????? ?????? ?????? ?????????????????? ??? ?????????? ?????? ?????? ??? ?????? ??? ??????  
??? ??? ?????????????? ??? ?????? ??????. ??????????, ?? ??? ?????????? ?????? ?????? ??? ??????  
??? ?????????? ??? ?????? ??????, ? ?????????? ?????????? ??? ?????? ?????? ??? ?????? ??????  
????? ?????? ??? ?????? ?????? ??? ?????? ?????????? ?????????? ?????????? ??? ???? ??????  
????????????? ??? ?????? ??????.

59 ?? ??? ?????? ??? ??????????, ?????????? ??? ?????? ?????? ? ?????? ?????? ?????? ??? ??  
????? ??? ?????????????? ?????????? Backmann ??? ??????? ??? ?????? ?????? (??.  
????????????? ?????????? Backmann, ??? 28, ??? ??????? ??? ??????????, ??? 20), ?  
????? ??? ?????????? ?????????? ??????? ?? ?????????????? ?? ?????? ??? ?????? ??????????  
????????? ??? ?????? ?????? ?????????? ??? ?????????? ?????????????? ??? ?? ?????? ??????  
????????? ??? ?????? ?????????? ?????????? ??? ??????????????, ?????? ?? ??? ??????  
???? ?????? ?????????? ?????? ??? ?????? ??? ?????? ?????????????? ?????? ?????? ??????  
????? ?? ??????????, ?? ??????????, ?? ?????????? ?????? ?????? ?????? ?????? ?????? ??????  
????????? ???? ?????? ?????????? ?????????? ??? ?????? ?????????????? ??? ?????? ?????? ???  
????? ?? ?????????? ?????? ?????????? ?????????? ??? ?? ?????????????? ??? ?????? ?????? ???  
????????? ??? ?????? ?????? ?????????? ?????? ?????? ?????????????? ??? ?????? ?????? ???.

60 ?? ????????, ??? ?????, ??????, ?? ?????????? ??? ?????? ?????????????? ?  
Riksskatteverket ??? ? ??? ?????????????? ??? ?????? ?????????????? ???, ????????, ???  
??? ???? ??? ?????????????? ??? ?????? ?????????? ??????, ?????? ?? ????????, ??  
?????????, ???, ?????? ??? ?????? ??? ?????? ?????????? ? ?????? ??? ?????? ??? ??????  
????? ?????? ??????, ?? ?????????????? ??? ?????? ??????????. ?? ??????????, ??????????  
????????????? ??? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????? ??? ??????  
????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ??? ?????????????? ??? ?????? ???  
????? ?????? ??????????.

61 ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?? ?????? ???  
????????? ??? ?? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ???  
????? ??? ?????? ?? ??? ?????????????? ??? ?????? ?????????? ?????????????? ??????, ???' ???,  
????????, ??? ?????????? ??? ?????, ??? ?????????? ???, ? ?????????? ??? ??????  
????????????? ??? ?????? ?????? ?????????? ?????????? ?? ?? ?????????? ?????? ??????  
?????, ??? ?????? ? ?????????? ?????? ?????????? ?????????? ??? ?????? ??? ?????????? ??????  
????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ?????? ???  
????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??????.

62 ??????, ??? ?????? ?????????? ?????????????? ? ?????????????? ??? ?????? ?? ??????????  
??? ?????? ??? ?????????????? ??? ??? ?? ? ?????????? ?????????? ??? ???? ??????????  
????????? ??? ?????????? ?????? ?????? ?????? ?????? ??? ?? ?????? ??  
????????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ??????  
????????? ? ?????? (??., ??? ?????? ???, ?????? ??? 26? ?????????? 2000, C-478/98,  
????? 2000, ?. ?-7587, ??? 45).

63 ?? ??? ??????????, ?????????? ? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ??  
????????? ??? ?????????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ?????????? ???  
?????????, ??? ?????? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ???  
??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????????? ??????, ?????? ?? ?  
????????? ?????? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ?????????? ???  
????????? ??? ?????? ?????????? ??? ?????? ?????? ???, ?? ?????? ??? ??????????  
????????? ??? ?, ? ?????????? ??? ?????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
??? ?????? ??? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ??????????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???

64 ??????, ??? ?????? ?? ??????????? ??? Riksskatteverket ???, ?????? ??? ??????? ???????  
?????? ??????? ?? ??????????????? ??? ?????? ??? ?????? 58 ??, ?? ??????????? ???  
?????????? ??????????????? ?? ??????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??  
?????????? ???????????????, ??? ?? ??????????? ???, ?? ??? ???????????, ???  
????????? ??? ??? ?? ??? 72 ??? ??????? ???????, ??? ?????? ?? ??????? ??????? ???????  
??? ?????? 58 ?? ??? ?? ??????????? ?? ??????? ??? ?????? ?????? ??? ?????? ??  
?????? ??? ??????? ??? ?????? ???.

65 ??????? ?? ??????????????, ?? ?????????????? ??????? ?????? ?? ?????? ? ???????,  
?????? ?????? ?? ?????????? ?? ??????? ?????? ?? ?????????? ???????????????, ??? ??  
????? 43 ?? ??? 48 ?? ??????????? ?? ?????? ?????????, ??? ?????? ? ??????? ???  
?????? ??? ?????? ?????, ? ?????, ?? ?????????? ?????????????? ??? ?????? ???????  
??????, ??????? ?? ?????????????? ?? ??????? ?????? ?? ?????????? ??? ??????? ??? ???????  
??? ?????? ??? ??? ?????????? ??? ?????????????? ??? ?????????????? ??? ??? ??????? ???, ?????? ?  
????????? ?????????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ? ???????????  
??????, ??? ? ???, ??????? - ??? ??? ??? ?????? ??? ? ?????????? ??? ?????? ??? ??  
??? ??????? ?? ?????????? ?? ?????? ?????????????? ?????? ??? ?????????? ?????? ???  
????????? ?????? ?????? ??? ?? ?????? ?????? ??? ?????? ?????????????? ??? - ? ??? ??????????  
?????? ??????, ? ??? ?????? ?????? ?????????? ??? ?????? ?????? ?????????? ?????? ???????.

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

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

67 ???????, ??? ??????????? ?? ???? ?? ?????? 38 ??? 65 ??? ??????? ??????????, ???  
????? ??? ??????????? ?????? ??? ?, ? ?????? ?????? ?????? ?????? ??????????  
????????????? ?????????? ??? ?????????? ??????????????. ??????????, ??? ????? ???  
????????????? ?????? ??? ?, ??? ??? ?????? 37 ??? 65 ??? ??????? ??????????  
????????? ??? ?? ??? 43 ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????  
????? ??? ? ? ?????????? ????, ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
??????, ??? ?????? ?? ?????????? ?? ?????? ?????????? ?????? ?????? ??? ?????? ???.  
????????? ?????? ??? ?? ?????????? ??? ?????????? ?????? ?????????? ??? ?????? ???.

69 ???????, ??????????? ?? ?????????? ? ?????????? ??? ? ??????? ??? ??????? ??? ??????? ???  
?????? ??? ?? ?????? ?????? ?????? ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??????, ??????

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

70 ??? ???????????????, ??? ?????, ??? ? ??????? ??? ??????? ??? ?????? ??? ?????? ???  
?????? ?????? ?? ?????????? ??? ?????? ??????? ??? ?????????? ??? ??????? ??? ?????? ???  
?? ??????????? ??? ?????? ?????? ??????? ????? ?????????????? ??? ?????? ??? ?????? ???  
????, ??? ?????? ?????? ???????, ??? ?????? ? ??????, ?????????? ???, ???????, ???????,  
???? ?????? ??? ???? ?????? ?????????????? ??? ?????? ???, ?????????? ??? ?????????? ???  
????????? ??????????, ??? ?????? ?????? ??? ?????? 56 ?? (??., ?????? ?????, ??? ??????  
????, ?????????????? ?????? ??? 26?? ?????????? 2000, ?????????? ??? ??????, ???  
18 ??? ??? ?????????? ??? ??????????).

71 ?????? ???????? ?? ???????? ?? ???????? ?? ?????? ?? ?????????????? ??? ?????? ?????? ??????????.

72 ??????, ?? ??????????? ??? ?????? ?????????? ? Riksskatteverket ?????? ?? ??  
????? 58 ?? ?????? ?? ?????? ??' ?????? ?? ??????? ??? ??????? ??? ?? ??????????????  
???? ??????????? ??? ?????????? ?????????????? ??? ?????????? ?? ?????? ??? ??????  
??? ?????? ?????? ?????? ??????? ??? ?? ?????? ??????? ?? ?????? ??? ??????????  
?????????, ??? ??????????? ??? ?????????? ??? ?????????? ??? ??? ?????????????? ???  
????????? ??? [??., ??? ?????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??????  
????????? ??? ?????????? ?? ?????????? ?? ?????????? ??? ?? ?????? 73 ?, ?????????? 1, ????????  
?, ??? ??????? ?? (?? ?????? 58, ?????????? 1, ??????? ?, ??), ??????????????  
???????? Verkoojen, ????? 43 ??? 46]. ??? ??? ?????? ??? ?????? ?? ?????????? ???  
????????, ??? ?????? ??? ?????????? ??????????????, ??? ?????? 46 ??? 63 ???  
????????? ???????, ?? ?????????? ??? ??????? ??? ?????? ?? ?????? ?????? ?????? ???  
????????? ??? ?????????? ?????? ??? ?????????? ?? ?????????, ? ?????? ?????????? ??? ?????? 70  
??? ??????? ??????.

73 ??????, ??????????? ? ?????????? ???, ??? ???, ??? ?????????? ???????????  
?????? ???? ?, ?? ??? 43 ?? ??? ??????? ??? ?????? ??? ??????? ??? ?????? ???  
????? ?????? ??????? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ??????????????  
???? ??? ?? ? ??????? ??? ??????? ??? ?????? ??? ?????? ??? ?????? ??????? ???  
???? ??? ? ?????? ??? ?????? ???????, ?? ?????? ?????????, ?????????? ???  
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? 56 ??, ? ?????? ???  
????? ?? ?????????? ??? ?????? ??? ?????? 58 ??.

74 ?????? ??? ???????????, ?????? ?? ?????? ??? ?????????? ?????????? ??? ?????? ???  
??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ??????????, ? ????????  
??? ?? ?????? 56 ?? ??? 58 ?? ?????????? ?? ?????? ???????, ??? ? ?????? ???  
?????? ??? ?????? ???, ?? ?????? ??? ?????????? ?????????? ??? ?????? ??????? ???  
????????, ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????  
??? ?????? ??? ?????? ?????????? ??? ?????????????? ??? ?????? ??? ?????? ???, ?????? ?  
????????? ?????????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
??????, ??? ? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?? ?????? ??? ?????????? ???.

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

- ?? ????? 43 ?? ??? 48 ?? ?????????? ?? ?????? ??????????, ??? ? ?????? ??? ??????  
??? ?????? ???, ? ???, ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????  
??? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

? ?????????????????? ??? ??????? ??????? ??????? ??? ?????? ? ?????????????? ????????, ????  
? ??????, ??????? - ??? ??? ?? ?????? ??? ? ?????????? ??? ?????? ?? ??? ?????? ?? ??????  
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- ?? ????? 56 ?? ??? 58 ?? ?????????? ?? ?????? ??????????, ??? ? ??????? ??? ??????  
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## **?????? ??? ?? ?????????? ????**

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76 ?? ????? ??? ????? ?????????? ? ??????? ?????????? ??? ? ?????????? ??? ???????,  
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## **??????????**

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Regeringsrätten, ??????????:

1) ?? ????? 43 ?? ??? 48 ?? ?????????? ?? ?????? ??????????, ??? ? ??????? ??? ??????  
??? ?????? ????, ? ????, ?? ?????????? ?????????? ??? ?????? ?????? ????????,  
????????? ??? ?????????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ??????? ??? ??  
??? ?? ?????????? ??? ?????????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ???????  
????????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????  
? ??????, ?????????? - ??? ??? ?? ?????? ??? ? ?????????? ??? ?????? ??? ?? ?????? ??  
????????? ?? ?????? ?????????????? ??? ?????? ??? ?????????? ??? ?????? ??? ???????  
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??????, ? ??? ?????? ?????? ?????????? ??? ?????? ?????????? ?????? ??????? ??.

2) ?? ????? 56 ?? ??? 58 ?? ??????????? ?? ?????? ??????????, ??? ? ??????? ??? ???????  
??? ?????? ????, ? ????, ?? ??????? ??????????? ??? ?????? ??????? ????????,  
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????????????????? ??? ?????????? ?????? ?????? ??? ?????? ??? ?????? ?????????????? ???????, ???  
? ??????, ?????????? ? ?????? ??? ?????? ?? ??? ?????? ?? ?????????? ?? ?????????? ?? ??????  
????????????? ?????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ???????, ???  
? ??????, ?????????? ? ?????? ??? ?????? ?? ??? ?????? ?? ?????????? ?? ?????????? ?? ??????  
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? ?????? ??? ?????????????? ???.