

Arrêt de la Cour
?????? C-45/01

Christoph-Dornier-Stiftung für Klinische Psychologie
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Finanzamt Gießen

(?????? ??? Bundesfinanzhof??? ??? ?????? ?????????????? ??????????)

«??? – ??? 13, ?, ?????????? 1, ???????? ?? ??, ??? ????? ?????? 77/388/??? –
????????? ?????? – ?????????????? ?????? ??????????, ?? ?????? ??????????
????????? ??? ?????? ?????? ?????????, ?????????????? ?? ??????????, ???
????????????? ?????????? ?? ?????? ??? ?????? ??? ?????? – ????? ?????????»

????????? ??? ?????? ?????????? C. Stix-Hackl ??? 10?? ?????????? 2002 ??????? ???
????????? (?????? ???) ??? 6?? ?????????? 2003
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1..????????? ?????? – ?????????? ??? ?????????? – ????? ?????? ?????? – ???
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(?????? 77/388 ??? ??????????, ??? 13, ?, § 1, ?????. ?? ????)

2..????????? ?????? – ?????????? ??? ?????????? – ?????? ?????? ?????? – ???
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(?????? 77/388 ??? ??????????, ??? 13, ?, § 1, ?????. ??)
3..????????? ?????? – ?????????? ??? ?????????? – ?????? ?????? ?????? – ???
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(?????? 77/388 ??? ??????????, ??? 13, ?, § 1, ?????. ??)
4..????????? ?????? – ?????????? ??? ?????????? – ?????? ?????? ?????? – K???
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(?????? 77/388 ??? ??????????, ??? 13, ?, § 1, ?????. ??)

5..????????? ?????? – ?????????? ??? ?????????? – ?????? ?????? ?????? – ???
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(?????? 77/388 ??? ????????????, ????? 13, ?, § 1, ??????. ?? ??? ??)

1. ? ?????????????????? ?????? ? ?????? ?????????? ?????? ?????? ?????????? ?????????? ?????? ????
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??? ?????? ?????????? ??? ?????? ?????? ?????? ?????????????? ?????? ?? ?? ?????????????? ?
????????? ??????????, ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????????? ??? ?????? 13, ?,
????????? 1, ?????????? ??, ??? ?????? ??????? 77/388, ?????? ??? ? ?????? ??? ?????? ?????? ??????????
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????????? ???, ? ?????? ?????? ??? ?????? ?????? ??????. ??????????, ? ??? ?????? ?????? ??????????
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48, 51, ??????. 1

2.???? ???? ?????????? ??? ?????????? ??? ?????????? ??? ?????? 13, ?, ?????????? 1,
????????? ?, ??, ??? ?????? ??????? 77/388, ??? ?????? ?????? ??? ?????? ?? ????????, ???
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?? ?????? ?????????? ???????????, ??? ???????????, ??? ?????????? ?? ?????????? ???
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?????????, ?????? ?????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ???
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?? . ?????? 70, 71

3. H ??????????? ???. ???? ?????? ??????????? ??? ???? ?????? ?????? ?? ? ? ?????????????? ?????????? ???
?? ?????? ??????? ??????????? ??? ???????????, ?? ??? ???? ?? ?????????? ??? ??????????
??? ??????????? ??? ???? 13, ?, ?????????? 1, ????????? ??, ??? ???? ?????? 77/388,
??? ?????????? ?????? ?????????? ???????????, ? ?? ?????????? ??? ??? ??? ?????? ???'
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?????? 69, 74, 76, ??????. 2
4.????????? ??? ? ?????????? ???????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????????? ??????????????, ??? ?????????? ?????????? ?? ?????
13, ?, ?????????? 1, ??????? ?, ??? ?????? ?????? 77/388, ??? ?????????? ??? ?? ??????
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2222222222 22 22222 21 222222 2

5.????? ?????????????? ????. ????. ?????? ???. ?????????????? ???????. ???????. ???????. ?????????????? ???.
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????????? ??? ?????????????? (????????? ??????)
??? 6?? ?????????? 2003 (1)

??? – ?????? 13, ?, ??????????? 1, ?????????? ?? ??? ??, ??? ?????? ???????? 77/388/??? –
?????????? ?????????? – ?????????????????? ?????? ???????????, ?? ?????? ??????????
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Christoph-Dornier-Stiftung für Klinische Psychologie

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Finanzamt Gießen,

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????????? ?? ??? ??, ??? ?????? ?????? 77/388/???, ??? ???????????, ??? 17?? ????? 1977,
???? ?????????????? ?? ??????????? ?? ???????, ??? ?????????? ?? ??? ?????????? ??????
????????? ?? ?????? ?????? ?????? ?????? ?????????????? ?????: ?????????? ?????????? ??? (??
???. ??. 09/001, ?. 49),

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

?????????? ?? D. A. O. Edward, ??????????? ?? ??????? ???????, P. Jann, ??? A. Rosas (????????), ???????,
?????? ??????????: C. Stix-Hackl
?????????: H. von Holstein, ?????? ??????????,
?????????? ?? ??? ??????? ??????????? ?? ??????????:

??? ?????? Christoph-Dornier-Stiftung für Klinische Psychologie, ?????????????? ??? ?? W. Küntzel, Rechtsanwalt,
?? ????????, ?????????? ??? W.-D. Plessing ??? ?? B. Muttelsee-

Schön,
?? ?????? ??????????, ?????????????? ??? ??? J. Molde,
?? ?????????? ??? ?????????? ??????????, ?????????????? ??? ??? E. Traversa ??? K.
Gross, ?????????????? ??? ??? A. Böhlke, Rechtsanwalt,
?????? ??? ??? ?????? ??????????
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Klinische Psychologie, ??? ?????? ?????? ??? ??? ??????, ??? ?? ??????????
??? 18?? ?????????? 2002,
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1 ?? ?????? ??? 14?? ?????????? 2000, ? ?????? ?????? ??? ?????????? ??? 2
????????? 2001, ?? Bundesfinanzhof ??????, ???' ?????????? ??? ?????? 234 ??, ??????
????????? ?????? ?? ??? ?????? ??? ?????? ??? ?????? 13, ?, ?????????? 1, ??????
?? ??? ??, ??? ?????? ?????? 77/388/???, ??? ??????????, ??? 17?? ????? 1977, ???
????????? ??? ?????????? ??? ?????? ?????, ??? ?????????? ?? ??? ?????? ??????
????????? ?? ?????? ?????? ?????? ?????????????? ?????: ?????????? ?????????? ??? (??
???. ??. 09/001, ?. 49, ??? ?: ??? ?????).
2 ?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? Christoph-
Dornier-Stiftung für Klinische Psychologie (???: Dornier) ??? ??? Finanzamt Giessen (???:
Finanzamt) ?????? ?? ??? ?????? ????? ?????????????? ??? (???: ???) ???
????????? ?????????? ?????????? ??? ??? ?????????? ?????????????? ??? ???
????????? ?? Dornier ??? ?? ??? 1990 ??, ??? ??? ?????? ??? ?? ??? ??????????
?? ?????????? ??? ?? ?????? ?? ?????????????? ??? ???.
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3 ??? ???? 2, ??? 1, ??? ?????? ??????, ?????????? ??? ?? ?
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4 ?? ??? 4, ?????????? 1 ??? 2, ??? ?????? ?????? ?????????? ?? ???:
1.????????? ?? ?????????? ??? ?????? ?????? ?????????? ???, ??? ??
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?? ?????????? ??? ?????? 2, ?????????? ??? ?????????? ??? ?? ?
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2.????????? ??????????????, ??? ??? ?????? ??? ?????????? 1, ??? ?? ?
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5 ?? ?????? 13, ?, ??????????? 1, ???????? ??, ?? ??? ??, ??? ????? ??????? ?????? ??
????: ?? ??? ?????????? ?????? ?????????? ??????????, ?? ??? ?? ????? ???????????,
?? ??? ?? ?????????? ?????? ?? ?????? ?????? ?????????? ? ??? ?? ??? ??
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?)?? ?????????? ?? ?????? ?????????, ?????? ?? ?? ?????? ?????????? ??
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??????, ??? ?????????? ???????, ?????? ?????? ?????????? ?????????? ??
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?)??? ??????? ?????????? ???????????, ?? ??? ?????? ?????????????????? ??
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?? ?????????? ?????????? ?????? ?????????? ???????????, ??? ?????????????? ??
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[...]
?)?? ?????? ?????????? ?? ?????????? ?? ?????? ?????????? ???????, ?? ??? ?????? ?????????? ??
?? ??? ?????????? ???????, ??? ?????? ?????????? ?????????? ?? ??? ??? ???????????
?? ?????? ???????, ??? ?? ?????? ?????????? ?????? ?? ?????? ??????????
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6 ?? ?????? 13, ?, ??????????? 2, ??? ??? ?????? ?????? ?????????? ?? ????:
?)?? ?????? ??? ?????????? ?? ???????, ?????? ?? ?????? ??????????, ??? ? ??????????
?? ???????????, ?????? ??? ?????????? ?????????? ???????, ?????? ??? ?? ???
????????? ??? ?????????? ?????? ?????? ?????? 1, ?????????? ??, ??, ??, ??, ???, ???
?? ???, ?????????? ??? ?? ?????? ?????? ?????? ?????? ?????????? ?? ??? ??
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?? ?? ??? ?????? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????? ??????????
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?? ?????????? ??? ?????????? ?????? ?????? ?? ?????? ?????????? ?????????? ??,
?? ??????? ??? ?? ?????, ??? ?? ??? ??, ??? ?????? ?????? ?????????, ?????? ?
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?? ?????? ??? ?????????? ?????? ?????? ?????????? ?????? ?? ?????? ??????????
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????? ??? ??? ?????? ?? ?????????? ?????? ???????, ?? ?????? ?????? ?? ???
????????? ??? ?????????? ?????? ?????? ?????? ?????? ?? ?????????? ??????????????,
?? ?????? ?????????? ?????? ?????? ?????????? ?????? ?????????? ?????? ??????????
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?)?? ?????? ?????????? ??? ?? ?????????? ?????? ?????????? ?????? ?? ??? ??
?? ?????????? ?????? ?????? ?????? 1, ?????????? ??, ??, ??, ??, ???, ??? ??, ??,
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????? ??? ?????? ?????????? ??? ?? ?????? ?????? ??? ?????? ?????? ?????????? ???
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?? ?????????? ?????? ?????? ?????? ?????????? ?????? ?????????? ?????? ??????????
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? ?????? ?????????? ??????
7 ?? ?????? 4, ?????? 14 ??? 16, ??? Umsatzsteuergesetz 1980 (????? ??? ??????
????? ???????, ??? ????: UStG), ??? ?????? ??? ?? ?????? ??? ?????? ??
????????? ??? ?????????? ??? ?????? ?????? ?????, ?????????? ?? ????: ?????? ???

????????? ??? ??????????????? ??? ????? 1, ?????????? 1, ?????? 1 ??? 3, ?????
?????????:[...]
14.?? ??????? ??? ??????????? ??? ??? ?????? ??? ?????? ??? ?????????????? ??? ??????, ???
??????????, ??? ?????????? ?????????, ??? ?????????????, ??? ?????? ??? ???? ?
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 18,
????????? 1, ?????? 1, ??? Einkommensteuergesetz (????? ??? ??????????)
?????????) ? ??? ??? ?????? ??? ?????????????? ??? ?????????? ??????. ??????
????????????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ??????????????
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????? ??????, ?????? ?????? ?????????????? ?????? ??? ??? ?????? ?????? ??????
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[...]
16.?? ??????? ??? ??????????? ??? ??? ?????? ??? ?????????????? ??????????????, ??????????
????????????? ??? ?????????????? ??? ?????? ??? ?????? ?????? ??????????
??????????, ?????????? ? ?????? ?????? ?????? ???, ?????????????? ???, ???
????? ???????, ?? ??????????? ?????? ??? ?????? ??? ???????????, ?? ?????????? ??????
????????? ?? ??????????? ?????? ??????, ??????
a) ?????????? ??? ?????????? ?????? ?????????????? ??? ?????? ?????? ??????
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[...]
c)????? ??? ?????? ?????????? ?????????????? ??? ?????????????? ?????????? ??? ???
????????? ??? ?????? ???????????, ??? ?????????? ??? ?????? ?????????? ???????, ?? ??????????
????????? ??? ?????? ?????? ???, ??? ?? ?????????? ???, 40 % ??????????
??? ?????????? ?????????????? ??? ?????? ??? ?????? ?????????????? ??? ?????? 15,
????????? ?? [...].

8 ??? ??? 4, ?????? 15, ??????? ?, ??? UStG ?????????????? ?? ????????
???????: ?? ???????????, ?? ?????????? ??? ?????? ?????????? ??????? [...] ? ??
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9 ??????? ?? ?????? ??? Bundesverfassungsgericht (????????????? ??????????????)
???????????) ??? 10?? ?????????? 1999, ?? ??? 3, ?????????? 1, ??? Grundgesetz
(????????? ??????????) ?????????? ?? ?????????? ?????????????? ?????? ?
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?? ?????????? ??? ?????? ??? ?????? ?????? ?????????, ??? ?????? ?????? ??????
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10 ?? Dornier ??? ?????? ?????????? ???????, ?????????????? ?? ??????????, ?
????? ??? ?????? ??? Marbourg (?????????). ??? ?? ?????? ??? ?????????? ????????????,
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?? ?? ?? ??? ?????, ?????????? ?????????????? ?????? ?? ??????????.

11 ?? ?????????? ??? Dornier ??? ?? 1990 ?????????????? ?????????? ???
????? ??????. ??? ?????? ?????????? ??? ?????? ?????????? ?????????????? ?????????? ???
??? Heilpraktikergesetz (????? ??? ?????? ?????????? ??????????) ??? ?????? ??????????
????????? ??????????.

12 ??? ?? 1990, ??? ?? 40 % ??? ?????????? ??? ?? Dornier ?????????? ???
?? ?????????? ?????????? ??? ?????? ?????????? ?????????? ?????????? ??????????
?????????, ?????????? ?????? ?????? ?????????? ?????? ? ?????????? ??????????
????????? ??? ?????, ?????????? ?????? ?????????? ?????? ?? ?????????????? ???

?????? ?????? ??? ????? ?? ??????? ?????????? ?????????? ?????????? (Heilpraktiker).
13 To Finanzamt ??????? ??? ?? ? ?????? ?????????? ??? ?? ?????????? ??? ?? ????
Dornier ??? ?? 1990 ?????????? ??? ?? ?????????? ?????????? ??? ?? ????
??? ????? 12, ?????????? 2, ?????? 8, ??? UStG. ??????? ??? ?? ??????????
??? ?? Dornier, ?????? ??? ?? ?????????? ??? ?? ?????????? ?? ?????????? ???
????????? ??? ?? ??? ????? ?????' ?????????? ??? ?????? 4, ?????? 16, ??????? c,
??? UStG.

14 ?? Dornier ??????? ?????????? ??? ?? ??????? ????? ?????????? ????? ?? ? 1990
?????? ?? Hessisches Finanzgericht, Kassel (?????????), ?????????????? ??,
?????? ?? ?? ?????????? ??? ?? ?????????? ?????????? ?? ?? ?? ?????????? ?????
?????????, ?? ?? ??? ?????????? ??? ?? ??? ?? ?????????? ?? ?? ?????????? ?? ?? ??????????
?? ?? ??????? ?? ??????, ??? ?????? ?? ??? ?? ?????????? ?? ?? ??????????
????????????????? ?? ??????, ??? ?? ?????????? ??? ?????????????? ??
????????????????? ?? ?????????? ?? ?????????? ?????????????? ?? ?? ??????????????
????????????? ?? ?????? ?? ?? ??????????????, ?? ?????? ?? ?????? ?????????? ??
????????? ?????????? ?????????? ?????????? (Heilpraktiker), ??? ?? ?? ?? ??????.
? ?? ?????? ?????????? ?? ?? ?????????? ???????????, ??? ?? Dornier, ??? ?? ??????
????????????? ?? ??, ??? ?????????????? ?? ?? ?????? ??? ?????? ?????????????? ??
????????????? ?? ?? ?? ?????????? ???????.

15 ?? Hessisches Finanzgericht ??????? ??? ?????????? ??? ??????? 4, ??????? 16,
????????? c), ??? UStG ?????????? ??? ??????? ??? ?????????? ??? ?????????? ???
????????? ??? ??????? 13, ?, ?????????? 1, ?????????? ?, ??? ?????? ???????
???? ?? ?????????? ?????????? ??? ?? ?????????? ??????. ??????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??????, ?? ?? ?????????? ??? ?? Dornier
??? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ?? ?? ??? ?????? ???
??? ?????????? ??????.

16 ??? ??? ????????, ?? Dornier ?????? ?????? ??? ?????? ??? ?????????? ???
?????? ??? Bundesfinanzhof, ?? ??? ?????? ?????????? ?? ?????????? ?? ?????????? ??
?? ??????? ??? ?????????? ?? ?????????? ?????????? ?????????? ?????????? ??????????
1)????????? ??? ?????? ??? ?????? ?????????? ?????? ?? ??? ?????????? ???
?????? ????????, ??? ???? ?????? ??? ?????? 13, ?, ?????????? 1, ?????????? ??,
??? ?????? 77/388/???, ? ?????????? ?????? ?????? ???? ?????? ?????????? ?? ??????
????????? ??? ?????? ??? (????????? ?????? ?????? ??? ?????? ?????????? ??????????)
????????? ?? ?????? ?????? ?????? ?????????? ?????????? ?????????? ??????????
????? ??? Heilpraktikergesetz, ??? ?????? ?????? ?????? ?????? ??????;
2)??? ?? ????????, ??? ?????? ??? ?????? ?????? ?????? ??????, ?????? ?????????? ???,
??? ?????? ??? ?????? 13, ?, ?????????? 1, ?????????? ??, ??? ?????? 77/388/???,
????? ?? ??? ?????? ?????? ?????? ?????? ?????????? ?????????? ?? ???? ??????
????? ?????? ?? ?????? ?????? ?????? ?????? ?????????? (????????? ?????? ???
????????? ?????? ?? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????????
?????????), ?? ?????? ?????? ??? ?? ?????????? ?????? ??????, ?? ??????
????????? ?????????? ??? ??? ?????? ??????; ?????? ?? ?????? ? ?????????? ???
????????? ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??????????
????????? ??? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??????????
??? ??? ?????????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????????
??? ??????????;

3)????????? ??? ??? ?????? ?????? ?????????? ?????? ?????? ??? ?????? ?
???????????, ??? ??? ?????? ?????? ?????????? ??? ?????? ?????????? ?????? ??? ??
??? ??? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????????
??? ?????????? ? ??? ?????? ?????????? ??? ?????? 13, ?, ?????????? 1, ?????????? ??,
??? ?????? 77/388/???, ?? ?????? ??? ?????? ?????? ?????????? ?? ??????????
????????????? ?????????? ??? ??????;

4)?????? ? ?????????????? ?? ?????????? ?? ?????????? ?????????? ???
????????????????? ??? ?????? ?????????? ??? ??? 13, ?, ?????????? 1, ?????????? ??
??? ?, ??? ?????? 77/388/??;
??? ??? ?????????????? ??????????
17 ?????????????? ?? ?????????? ??? ?? ?????? ?????? ?????????? ?? ??? ??????????
??? ?????? 13, ?, ?????????? 1, ?????????? ??, ??? ?????? ?????? ?????? ???' ??????
????? ?? ?????? ??? ?? ?????? ?? ?????????? ??? ?????? ??? ?????????? . ? ??????
??? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
?????????, ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??????
??? ??? ?????? ???, ?????? ?????? ??? ?????? ??? ?????? ? ?????????? ??? ?????? ??????
??? ??? ?????? ??????????
18 ?? ?? ?????? ??????, ?? ?????? ?????????? ??? ?????? ?? ? ?????????? ??? ??
Dornier ?????????????? ??? ?????? ?????? ?? ?????? ??? ?????????? ??? ??? ?? ??????
????????? ??? ?????? 13, ?, ?????????? 1, ?????????? ??, ??? ?????? ??????,
????????? ???, ???, ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??????
??? ?????? ?????????? ??? ??, ???????, ??? ?????????? ??? ? ??? ?????? ??
????????? ?? ?????? ??? ?? ?????? ?????? ?? ?????????? ??? ??????????????
????????? ??? ?????? ??? ?????? ?????????? ??? ?????????????? ??? Dornier, ??? ?? ??
????????? ??? ?????????? ??? ?????? ??? ?????????? ??????????????
19 ??? ?????????? ??? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?? ??
????????? ?????????? ??? ?????????? ??? ?????????? ??? ??????????, ???
????????????? ??? ?? ??? ?????? ?????????? ??? ?????? ?????????? ???
????????????? ??? ?????????? ?? ?????????? ??? ?????? ??? ?????????? ???
????????????? ??????????, ?? ?????????? ?? ?????? ??? ?????????? ??? ?????????? ??
????????? ??? ?????? 13, ?, ?????????? 1, ?????????? ??, ??? ?????? ??????.
????????, ?? ?? ?????? ?????? ?????? ???' ?????? ?? ? ?????? ?????? ??? ??
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????????, ?? ??????????
????????? ??? ?????? ?????? ??????, ?????? ??? ?????? ??? ?????? ??? ?? ??
?????????
20 ??????, ?? ?????????? ??? ?????? ??? ?? ? ?????? ??? ?????? ?????? ?????????? ??
????? 13, ?, ?????????? 1, ?????????? ??, ??? ?????? ?????? ??? ?????????? ??? ??
????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??
????? ?????????? ?????? ? ?????????? ?????? ?????? (????????? ??? 10??
????????? 2002, C-141/00, Kügler, ?????? 2002, ?. I-6833).
21 ??? ?????? ?????? ?????? ??? ?????? ?? ?????? ? ?????????? ???, ?????????? ??? ?
????????? ??? ?????? ?????? ?????????? ?? ?????? 13, ?, ?????????? 1, ?????????? ??, ???
????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?
????? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?
????????? ??????, ? ?????????????? ?????? ??? ?????? ??? ?????????? ??? ??????
????????? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?
????? ?? ?????? ??? ?? ?????? ??????
22 ? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ?????????? ???' ??????
?? ? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? 13, ?, ?????????? 1,
????????? ??, ??? ?????? ?????? ?????? ??? ?????? ?????????? ?????? ??????????
????? ?????? ?????????? ?????????? ??? ?????? ?????? ?????????? ?????? ????
????????????? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ??????
?? ?????? ?? ?????? ??? ?????? ???, ?????? ??? ?????? ?????????? ??? ?????? ??
????????????? ??? ?? ??????
23 ??? ?????? ?????? ??? ?????? ?????? ?????????? ??? ? ?????????????? ????
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ????
?? ?????? ??? ?????? ??? ?????? ??? ?????? 13, ?, ?????????? 1, ??????????
??, ??? ?????? ??????. ?????? ???, ?????? ??? ?????? ??? ?????? ??? ??????
??? ?????? ??? ?????? ??????, ? ?????? ??? ?????? ?????????? ??? ?????? ???

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

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

36 ?? Dornier ??????????? ??? ? ?????????????? ?????? ??? ?????? ??????? ??? ?????

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

?????? ?????????? ??? ? ?????? ??? ?????? 13, ?, ?????????? 1, ?????????? ?,

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

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

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

??? ?????? ??? ?????? ??? 10?? ?????????? 2000, C-384/98, D. (????????? 2000, ?. I-

6795, ??????? 17 ?? 18), ?? ?????? ??????? ??? ?????????? ???.

37 ?? Dornier ??????????? ???, ??????? ???? ?????? ??????? ??? ? ?????????? ??? ??????

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

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

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

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

?????? ??? ?????????? ?????????????? ??????. ?? Dornier ?????????? ??? ??????

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

????? ?? ?????? ?????????? ??? ?? 1990 ??? ??????? ??? ?????? ?????????? ?????? ???????

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

38 ??? ???? ??? ?????? ??? Dornier, ?? ?????????? ?????????? ??? ?????????? ??? ???

??? ??? ?????????????? ??? ?????? 13, ?, ?????????? 1, ?????????? ?, ??? ??????

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

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

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

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

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

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

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

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

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

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

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

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

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

39 ? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ? ??? ?????? ?????? ?????????? ??????? ??

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

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

????????? 1, ?????????? ?? ??? ??, ?????????? ??? ?????? ?????? ?????????? ???

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

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

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

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

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

??????????, ?? ?????????? ??? ?????? ?????? ?????????? ? ?????????? 1, ?????????? ??,

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

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

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

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

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

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

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

????? ??? 23?? ?????????? 1988, 353/85, ??????? ??? ?????? ?????? ?????? ?????? ???

(?????? 1988, ?. 817, ?????? 32 ?? 33).

47 ???????, ??? ?????????? ??? ? ??????? ?????????? ??? ??????? 44 ??? 46 ???
????????? ???, ?? ??????? ?????????? ??? ??????? ?????????? ??? ???
????????? ??? ??????? ?????????? ??? ??????? ??????? 13, ?, ?????????? 1, ??????????
?? ??? ??, ????? ??????? ???? ???? ??????? ?????? ??? ?????? ??? ?????? ???.
????????? ???, ?? ?????????? ?????????? ???, ?????? ??? ?????? 13, ?, ??????????
1, ??????? ??, ?????? ?? ?????????? ??? ?????? ??? ?????????? ?????? ??????
????????? ?????? ?????????? ?????????? ??? ?????? ?????????? ?? ?????? ??????????
????????? ??????, ??? ? ?????????? ??? ?????? ?????????? ??????, ??? ? ???
??????, ??? ??????? ??, ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??????? ?????? ?????????? ?????? ?????????? ??? ?????? ??????????
????????? ?????? ??????? ??? ?????? ?????????? ??? ?????? ?????????? ???
(????????? ?????? ??????? ?????? ?????? ?????? ?????? ?????????? ??????, ??? 33).
????????? ??? ?? ?? ?????????? ??????, ?? ??? ?????? ???, ??? ? ?????????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ?????? ???????, ??? ?????? ?????????? ?? ?????? ??? ?????? ?????????? ???
1, ??????? ??, ??? ?????? ?? ?????????? ?????? ?????? ??? ?????? ?????????? ???
????????? ??, ??? ? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ??? ? ??????????
????????? ?????? ?????? ?????????? ?????? ?????? ??? ?????? ??? ?????? ??????????
????????? ?????? ??? ?????? ?????????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ?????????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? 13, ?, ?????????? 1, ?????????? ??.
48 ?????????? ???, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ??????, ? ?????? ?????? ?????? ?????????? ???
????????? ??? ?????? 13, ?, ?????????? 1, ?????????? ??, ??? ?????? ???
????????? ??? ?????? ?????????? (??., ??? ??? ?????? ???, ???
????????? ?????? ?????? ?????? ?????? ?????? ?????? 23). ?????? ?????? ??
????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ??, ?? ?????? ?? ?????? ?? ?????? ??? ?????????? ???, ???
????? ??? ??????, ?? ?????? ?????? ?????? ? ?????? ?????? ??? ?????? ???
(????????? ?????? D., ??? 18, ??? Kögler, ??? 38). ???
????????? ??? ? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
49 ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? 13,
?, ?????????? 1, ?????? ??, ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
50 ??? ??? ?????? ?????????? ?????????? ??? ?????? ??? ? ?????? ?????? ?????? ???, ? ???
????????? ??? 13, ?, ?????????? 1, ?????? ??, ??? ?????? ??????,
????????? ??? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??????
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
51 ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ? ?????? ??? ?
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? [...] ?????? ?? ??
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? 13, ?, ?????????? 1,
????????? ??, ??? ?????? ??????, ?????? ??? ? ?????? ??? ?????? ?????? ?????? ??
????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ???, ? ??? ?????? ?????? ??????. ?????? ???, ? ??? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???

?????? ???? ?????????? ?????????? ?????????????? ?????? ?????? ?????????????? ????
????????, ??? ?????????? ??, ?????? ??? ?????? ??? ?????????? ??? ?????????????? ??? ?????
?? ??????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????????? ????????????, ???
?? ?????????? ??? ?????????????? ?????????????? ?????????????? ?????????????? ??????.
?? ??? ?????? ??????????
52 ? ?????? ??? ?????????? ?????????? ??? ?????????? ?????????????? ??????, ??????,
?? ? ?????? ??? ?????????? ??? ?????? ??????, ??????? ??????????????, ? ??????
????????????? ??? ?????? 13, ?, ?????????? 1, ?????????? ??, ??? ?????? ??????,
????????? ??? ?????? ?????????? ?????????? ?????????? ??? ?????????? ?????????? ??????
?? ?????? ?????????? ?????? ?????????? ??? ?????????? ?????????? ?????? ? ?? ?
????????? ?????? ?????????? ?????????? ?????? ?? ??????????, ?????????????? ??????,
?? ?? ?????? ??? ?? ?????? ??? ?????????? ?????? ??? ?????????? ?????? ?????? ??????
????????? ??? ?????? ?????????? ?????????? ?????? ?? ??????????, ?????????????? ??
????? ??????, ??? ?? ?????? ??? ?????? ?????????? ?????????? ??? ??????????, ?? ??
????????? ??? ?? ?????? ?????????? ?????????? ??? ?????????? ??? ??????????, ? ?????????? ???
?? ??????, ?? ?????? ??? ?????? ?????????? ?? ?????????? ??? ?? ?????? ??? ?????? ??????
????????? ??? ?????????? ??? ??????????
53 ?? Dornier ?????????? ??? ? ?????????? ?????????? ?????????? ?????? ??????
????????? ?????? ???, ??? ?????????? ?????? ?????????????????? ?????? ?????? ???
?????????, ?????????? ?????? ??? ?????? ?????? ?? ?????? ?????????? ?????????? ??????
??????, ?? ?????????? ?????? ?? ?????? ?????? ?????????? ?????????? ?????????? ???
????????? ??? ?????? ?????????? ?? ?????? 13, ?, ?????????? 1, ?????????? ??, ???
????? ??????. ?? ??? ?????? ?????? ?? ?????????? ??? ?????? ?????????? ?????????? ???
??? ?????? ??? ?? ?????? ?????????? ??????, ??? ?? Dornier, ?? ?????????? ?????? ??
?? ?????? ??????. ?? Dornier ?????????? ?????? ???, ??? ??????????, ? ?????? ???
?????? ?? ?????????? ??? ?????? ?????????? ??? ?????????? ?????????? ??? ??????
????????? ??? ?????????? ?????????? ??? ?????????? ?????? ?? ?????? ??? ??????????????
?? ?????? ?????????? ??????????, ?????? ?? ??? Heilpraktikergesetz, ???
????????? ??? ?????????? ?????????? ??? ?????????? ?????? ??? ????? Marbourg.
54 ??? ???, ?? Dornier ?????????? ??? ?? ?????? ??? ?????????? ?????????? ???
????????? ??? ?????????? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ??? ??????????
????? ?????????? ??? ?? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?? ?????? ??? ?????????? ?????????? ??? ??????, ??? ?????????? ??? ?????? ???
??? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
?????????????. ?? ?????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? Dornier
????? ?????????? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ???
????????????? ????, ??? ?????? ?????? ?????????? ?????????? ??? ?????? ???
????????? ??? ?????????? ?? ?????????? ??? ?? ?????????? ?????? ?????? ??????. To
Dornier ?????????? ???, ??? ?????? ??????, ?? ?????????? ??? ??????????
????????? ??? ?????????? ?????????? ?????????? ?? ?????????? ??? ?????? ???
????????? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ???
55 ?? Dornier ?????? ?? ?????????? ??? ? ?????????? ?????????? ?????? ?????? ???
????????? ??? ???????, ? ?????? ?????? ?? ?????????? ??? ?????????? ??? ?????? ???
????????? ?????????????? ??? ?????? ??? ?????? ?? ?????? ?????? ??? ?????? ???
????????? ?????? ?????? ?????????? ??? ??????, ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? 13, ?, ?????????? 1, ??????????
??, ??? ?????? ??????.

56 ??? ?? ?????????? ???????, ??? ?????? ?????????? ?? ?????? ?????????? ???
????????? ???????, ?????????? ??? ? ?????? ?????? ??? ?????? ??? ??????????????
????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ???
?? ?????? 13, ?, ?????????? 1, ?????? ??, ??? ?????? ??????. ??????, ?
????????? ?????????? ?????????? ?????????? ??? ?????? ??? ?????????? ???

????????? ??????? ?????????? ?????? ?????? ?? ??????????? ???????????????, ???? ??????
?????? ?????????? ?????????? ??? ?????? ??? ?????? ?????? ?? ???? ??????? ??? ?????
??? ??????? ?????? ??? ?????? ?? ?????? ??????????????. ? ??????? ??? ???????
?????????? ?????? ?????????? ?????????? ??? ?????? ?????????????? ?????? ???????????
?? 1974 ??? 1975 ?????????????????? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
?????????? ?????? ?? ??? ?????? ??????. ?????????? ?????? ?????????????? ???
????????? ??? ?????? 13, ?, ?????????? 1, ??? ???? ?????? ??????.
57 ? ?????????? ?????????? ??????? ???, ??? ?????? ??????, ?????? ??????????
?????????? ?????? ????, ??? ?????????? ??? ???? ?????? ??? ??????????????
?????????. ??? ?????? ?????? ?????????? ?????????? ? ?????????? ?? ?????????? ??? ???
?????????? ???, ??? ?????? ??? ?????? ?????? ?????? ?? ??? ?????? ?????????????? ?
????????? ??? ?????? ??????. ? ?????????? ?????? ?? ?????? ?????????? ?????? ?? ??????????
?? ?????????? ?? ??? ?????? ?????? ?? ?? ?????????? ??????, ??? ???? ?????? ??? ??????
?? ?????????? ??? ?? ?????? ?????? ??????????, ?????? ?? ?????? ?????????? ??
????????? ??????. ?????? ?????????? ??????????, ??? ???? ?????? ?????????? ??????????
????????? ??????. ?????? ?????????? ??????????, ? ?????? ?????? ??? ??????
????????? ?????? ??? ?? ?????? ?????? ?????????? ??? ??????.
58 ? ?? ??? ?????????? ?????????? ???, ??? ???????, ?? ?????? 4, ?????? 16,
????????? c, ??? UStG ??????? ??? ?????????? ?????????????? ??? ?????? ???
???. ??? ?? ??????? ???, ??? ?? ?????? ?? ?????? ?????????? ?????????? ???
????????? ??? ?? ??? ?? ??????, ??? ?? ?????????? ?????????????? ???, ??????????
????????? ?? 40 % ??? ?????????? ??? ?? ??????????????, ?? ??????????
????????? ?????????? ?????? ?? ?????????? ?????? ?????????? ?????? ??
????????? ??? ?????????? ??? ?????? ??????, ?????? ?????????? ?????? ??? ??????
?????? ?? ?????? 13, ?, ?????????? 1, ?????????? ??, ??? ?????? ??????. ????
????????? ???, ??? ?? ?????? ?????? ??????, ? ?????????? ?????? ?????????? ???
????????? ?????????? ??? ?????? ?????? ?? ?????? ??? ?????? ??? ??????
????????? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????
59 ??? ?????, ? ?????????? ?????????? ?????????? ??? ?????? ?????? ??????????
????????? ?? ?????????? ?? ?????????? ?????????? ??? ?????? ?????? ??? ?????? ????
????? ?????????? ?????????? ??? ??????????, ? ?????? ?????????? ??? ?????? ???, ??
????? ??? ?????? ?????????? ?? ?????????? ??? ?????????????? ?????? ??????????
??? ?????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??????.
60 ? ?????? ?????????? ?????? ??? ?????? ??? ? ?????? ??? ?????? ?????? ?????????? ???
????? ??????, ?????? ??????????, ? ?????? ?????????? ??? ?????? 13, ?,
????????? 1, ??????? ??, ??? ?????? ??????, ??? ?????????? ??? ??????
????????? ??????????. ? ?????????? ?? ?????? ?????? ??? ?????? ?? ?????????? ???
????? ??????????, ?????????? ???, ??? ?? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ??????.
61 ? ?????????? ?????????? ??? ???? ?????? ?????? ?????? ?????? ??????????
????????????? ?????????? . ?????????? ?????? ??? ?????? ?????? ?????????? ??
????????????? ?? ?????? ??? ?????????? ???, ? ?????? ?? ?????????? ??
????????? ?????? ??? ?????? ?? ?????? ?????? ??? ?? ?????????? ??????,
????? ?????? ?????? ?????? ?????????? ?????? ?????? ?????? . ??? ?????? ?????????? ???
??? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ???
????? ?????????? ?????? ?????????? ?????? ?????? ?????? ??? ?????? ?????????? ???
????????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ??????.
62 ? ?????????? ?????? ?????? ??? ???? ?????? ?????????? ??? ?????????? ??? ??????
?? ?????????? ??? ?? ?????? ??? ???? ?????? ??? ?????? ?????? ?????????? ???
????. ?????????? ??? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ? ?????????? ???,
????? ??????????, ??? ?????? ????. ? ?????? ?????? ?????? ?????? ??? ??????

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

63 ??? ?????? ??? ????????, ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?? ?????? ??? ?????? ?????????? ?????????? ?????? ?????? ???
????? ?? ?????????? ??? ?????? ?????? ?? ??? ?????? ?????? ??? ?? ??? ????
?????????. ? ?????? ??? ?????? ?????? ??? ?? ?????? 13, ?, ?????????? 2, ?????????? ?,
??? ?????? ?????? ??? ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ????
????????? ??? ?????????? ??? ?????? 13, ?, ?????????? 1, ?????????? ?,
????????? ??? ??? ??????, ?? ?????? ??? ?????????? ?? ?????? ?????? ?????????,
????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ????
????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ????
????? ?????? ?????????? ?? ?? ?????? ?????? 13, ?, ?????????? ??? ?????? ??? ????
????????? ?????????? ??? ?????? ??? ?????? ??????.

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

64 ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??????, ??????
????????? ???, ?????????? ??? ?????? ??? ?????? 13, ?, ?????????? 1, ?????????? ?, ???
????? ?????? ??? ?????????? ?? ?????? ??? ?????? ?????? ??? ?? ?????????? ???
????????? ????. ?????? ?????? ??????, ???' ????, ??? ?????? ?????? ????
????????? ?????? ?? ?????? ??? ?????? ?????? ?????? ?? ??? ?????? ?????? ???
????????? ?????? ?????? ?????? ??? ?????? ?????? ?? ??? ?????? ?????? ???.
65 ? ?????? ?????? ?????? ??? ?????? ??? ?? ??? ?????? ?????????? ?????????? ?????? ???
????? 13, ?, ?????????? 2, ????????, ??? ?????? ??????, ??? ?? ?????? [?]?
????? ??? ?????? ?? ??????, ?????? ??? ?????? ?????? ??????, ??? ? ?????? ??
????????? ???, ??? ?????? ??? ?????????? ?????? ?????? ??????, ??? ?????? ??? ??
????????? ??? ?????????? ??? ?????? ?????? 1 ?????????? ?? [...] ?????????? ???
??? ?????? ??? ? ?????????? ??? ??? [...] ?????????? ??? ??????
????????? ??? ?????? ??? ?????? ?????? ???.

66 ??????, ?????????? ??? ?? ??? ?????? ?????? 13, ?, ?????????? 2, ?????????? ?, ???
????????? ?? ?????? ??? ?????? ??? ?????? ?????? ???, ?? ?????? ??? ??? ??? ??????
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ??????.

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

68 ??? ?? ?????????? ????????, ??? ?????? 4, ?????? 16, ?????? c, ??? UStG
????????? ?? ?????? ??? ?????? ?????? ??? ?????? ?? ??? ?????????? ??? ?????? ??????
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 13, ?,
????????? 1, ????????, ??? ?????? ??? ?????? ??? ?????? ?? ??? ?????? ?????? ??? ??? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??????????, ??? ?????? ??? ?????? ??? ??? ?? ??
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ??????.

69 ??? ?????? ???, ?????? ?? ?????????? ???, ??? ?????? ??? ?????? 13, ?,
????????? 1, ????????, ??? ?????? ??? ??????, ?? ?????????? ?????????? ???,
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?? ?????? ??? ?????? ??? ?????? ?? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ???' ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ???
????????? ?????? (????????? ?????? Kögler, ??? 56).

70 ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??

? ?????????? ??? ?????????? ??? ?????????? ?? ???? ???? ?????? ?????????? ?????? ??? ???
?????? ?????????? ?????? ?????? ?????? ?????? ??? ?????? ??? ???? ???? 13, ?,
????????? 1, ????????, ??? ?????? ??????. ??????????, ? ??????????????
????? ? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???? ???? ????
????????? ?? ?????? ?????????? ?????? ??? ?????? ???? ?????? ?????? ??????????????
????????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
????????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????
71 ??? ??????, ??? ???? ?????? ??? ?????? ?????? ???? ?????? ?????????? ??? ???
13, ?, ?????????? 1, ????????, ??? ?????? ??????, ??? ?????? ?????? ??? ???
?? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??
????????????? ??? ?????? ?????? ?????? ???? ?????? ?????????? ?????????? ??? ??
????????? ???.
72 ??? ????? 57 ??? 58 ??? ?????????? ?????? Kögler, ?? ??????????
????????? ???, ?????? ??? ?????????? ??? ?????????? ??? ?????? ??
????????????? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? 13,
?, ?????????? 1, ????????, ??? ?????? ??????, ?????????? ??? ?????? ?????? ???,
????????? ?? ?? ?????????? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ?????? ???,
????????? ?????? ?????? ??????. ?????? ??? ?????????? ???, ?????? ??
????????????? ? ?????????? ?????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?????? ???, ?? ?????? ??? ?????? ?????????? ??? ?????????? ???
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ???, ???
??? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????
??????????.
73 ??? ?????? ??? ?????? ??? ?????? ?????? ?????? 55 ??? ?????????? ???,
?? ?????? ??? ?????? ??? ?????? ??? ??? ?????? ??? ?????? 13, ?, ?????????? 1,
????????? ??, ??? ?????? ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????????? ? ?????? ???.
74 ??? ?????? ??? ?????? ???, ?????????? ?????? ??? ?????? ??? ?????? ?????????? ??
?????????, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????????????? ??? Dornier ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????
??? ?????? 13, ?, ?????????? 1, ????????, ??? ?????? ?????? ?????? ??????????
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??????????
??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??????
75 ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????
??? Dornier ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ???.
76 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ??? ?????? ??? ?????? 13, ?, ?????????? 1, ?????? ??, ??? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????
??? ?????? ???' ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ???, ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
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1, ?????????? ??, ??? ????? ???????, ?? ?????? ??????????? ?????? ?? ??????????,
????? ??? ?????? ??????? ?????????? ??????? ?????????? ?? ?????? ??? ??????????
????????? ??? ?????????? ??? ?????? ?????, ?? ? ?????????? ??? ?????? ??? ?????? ???
????????? ?????? ?????????? ??? ?? ??? ??????.

83 ??? ?????? ??? ??????? ? ?????? ?????????? ??? ?????? 13, ?, ?????????? 1,
????????? ??, ??? ?????? ???????, ??? ?? ?????? ??? ?????? ?????? ?????????? ??????????
????????? ??? ? ?????????? ??? ?????????? ?????? ?????? ?????????? ??? ??????
????????? ?????? ?????????? ?????????????? ?????, ??? ?????????????? ?????????????? ?????
??? ?????? ????. ??? ??????????, ??? ?????????? ??? ?????? ?????? ?????? ?????? ??
????????? ??? ?? ??? ?????? ?????? ?????? ?????? ?????????? ?????? ?????????? ?
????????? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??????????
??? ??? ?????????? ??? ? ?????? ??? ?? ??? ?????? ?????? ?????? ?????????? ?????
????? ????

84 ??? ?????? ?????? ?????? ?????? ?????? ? ?????? ???, ??? ?????? ???
????? ??? ?????? ??? ?????? ?????, ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ?? ?????? 13, ?, ?????????? 1, ?????????? ?? ??? ??, ??? ?????? ??????
????????? ?????? ??????????, ??? ?? ?????? ?????? ??? ?????? ?????? ?????????? ???
????????? ?????? ??? ?????????? ?? ??? ?????? ?????? ?????? ?????????? ??????.

??? ??? ?????????? ????
85 ?? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ? ?????? ??????????, ??? ?????? ???
? ????????, ??? ?????? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ???
????????? ??? ? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ??????
????? ??? ?????????? ?????????????? ??? ?????? ?????? ?????? ?????????? ??? ??????
????????? ?, ?' ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ?????????? ??????
??? ??? ?????? ????,

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

????????? ??? ?? ?????????? ??? ?? ?????? ?? ?????? ?? 14?? ??????????
2000 ?? Bundesfinanzhof, ??????????:
1) ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ??????????
???? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ?? ??????
??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? [...] ?????? ??
?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?? ?? ?????? 13, ?, ?????????? 1,
????????? ??, ??? ?????? ?????? 77/388/?? ?? ?????? , ??? 17?? ?????? 1977
???? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????, ??? ?????? ?????? ?? ???
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????: ??????????
????????? ???, ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ??????
????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???, ?
????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????
????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????
????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????
?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????
? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????
2)H ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? 13, ?, ?????????? 1,
????????? ??, ??? ?????? ?????? 77/388 ?? ?????? ?????? ?????? ?????? ??????????
????????? ?, ?? ?????? ?????? ??? ?????? ??? ?????? ???' ?????? ?? ?????? ??? ?????? ???
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????
?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????

3)?????????? ?? ? ??????? ?? ???? ??????????? ?? ??? 13, ?, ?????????? 1,
???????? ??, ??? ??? ????? ?????? 77/388 ??? ?????????? ?? ?? ?????? ?????? ???
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