

???????? C-255/02

Halifax plc ??.??.

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Commissioners of Customs & Excise

(?????? ?? VAT and Duties Tribunal, London,

???? ???? ??????? ?????????????????? ??????????)

«???? ??????? ??? — ?????? 2, ??????? 1, ?????? 4, ??????????? 1 ??? 2, ?????? 5,
?????????? 1, ??? ????? 6, ??????????? 1 — ??????????? ??????????? — ??????????
????? — ??????? ?????????? — ??????????? ?????? — ??????? ?? ??????? ?????? ???
????????? ??????????? ??????????????»

????????????? ??? ?????????? ?????????????? M. Poiares Maduro ??? 7?? ?????????? 2005

????????? ??? ?????????????? (????? ?????????? ??????????) ??? 21?? ?????????????? 2006

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

1. ?????????? ?????? — ?????????? ??? ?????????? — ????? ?????? ?????? —
????? ?????? ?????? ?????? ?????????????? ?????? — ?????????? ?????? — ?????? ??????

(?????? 77/388 ??? ???????????, ??? 2, ??? 1, 4 §§ 1 ??? 2, 5 § 1 ??? 6 § 1)

2. ?????????? — ?????? — ?????? — ?????? — ?????? — ??????

(?????? 77/388 ??? ????????????, ??? 17)

1. ?????????? ?????????? ?????? ? ?????? ?????????? ??? ?????????? ??????????????,
??? ??? ?????? ??? ?????? 2, ?????? 1, ??? ?????? 4, ?????????? 1 ??? 2, ??? ?????? 5,
????????? 1, ??? ??? ?????? 6, ?????????? 1, ??? ?????? ??????? 77/388, ???
????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ?? ??? ?????? ??????
????????, ??? ?????????? ?? ??? ?????? 95/7, ?? ?????? ??? ?????? ??
????????????? ?????? ??? ?????? ?????????? ?? ?? ??? ?????? ??????, ?????? ??? ??????
????????????? ?? ??? ?????? ??? ?????? ?????????? ??????????????, ?????? ??? ???
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?????????, ?? ??????? ??? ?????????????? ??? ????? ?? ???? ?????????????? ??????????????????
????? ?? ???? ?????????????? ??? ????? ?? ???? ??????????????, ?? ???? ?????????? ??
????????????? ??????? ??????? ??? ????? ???????, ????? ?? ???? ????? ??????????????
????????? ??? ?????????????? ?????????????? ??? ????? ?? ???? ?????????????? ??? ??????
?????. ???????, ? ?????????? ??? ?????????????? ????? ?? ?????????? ?????????? ?? ????? ??
????????? ??? ?????????? ??? ?????????????? ??? ????? ?? ???? ?????????? ??? ?????
????????? ??? ?????????? ??? ?????????????? ??? ????? ?????????????? ?????, ?????? ?? ??????????
????????? ??????? ??? ?? ?????????????? ??? ?????????? ??? ????? ?? ?????????? ??? ?????
????????????? ?????? ???????, ?? ?? ???? ?????????????? ??? ?????, ????? ?????????????? ??????????

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

(???. ?????? 55-57, 59-60, ??????. 1)

2. ? ??? ?????? 77/388, ??? ?????????????? ??? ?????????? ??? ?????? ?????? ???
????????? ?? ??? ?????? ?????? ?????????, ??? ?????????????? ?? ??? ?????? 95/7, ???
??? ?????? ??? ?????? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ?????????????? ?????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?????? ??? ?????????? ??????.

? ?????????? ??? ?????? ?????????????? ?????????? ??????????, ??????, ??? ?
????????? ??????, ??? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??
????????? ?????????? ??? ?????? ?????? ?????? ??? ??? ?????? ?????????? ??? ?????????? ???
????? ??? ??? ?????????? ??????, ?????? ?? ?????????? ??? ?????? ?????????? ??? ?????????? ???
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????????? ?????????? ?? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
?? ?????????? ??????. ??? ?????? ???, ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??????, ?????????? ???/?
????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???
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?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??????.

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

(?? . ??????? 74-75, 80-81, 85-86, 94-98, ??????. 2-3)

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

?? 21?? ?????????? 2006 (*)

«???? ?????? ??? – ??? 2, ?????? 1, ?????? 4, ?????????? 1 ??? 2, ?????? 5,
????????? 1, ??? ?????? 6, ?????????? 1 – ?????????? ?????????? – ??????????
????? – ?????? ?????? – ?????????? ?????? – ?????????? ?? ?????? ?????? ???
????????? ?????????? ??????????»

???? ?????? C-255/02,

?? ?????????? ?????? ?????? ?????????? ?????????? ?????? 234 ??,
?? ?????? ?? VAT and Duties Tribunal, London (?????? ??????), ?? ?????? ?? 27??
????? 2002, ? ?????? ?????? ??? ?????????? ??? 11 ?????? 2002, ?? ?????? ???
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Halifax plc,

Leeds Permanent Development Services Ltd,

County Wide Property Investments Ltd

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Commissioners of Customs & Excise,

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

????????? ??? ??? ?. ??????, ??????, P. Jann, C. W. A. Timmermans, A. Rosas, K.
Schiemann, J. Makarczyk, ??????? ??????, S. von Bahr (??????), J. N. Cunha
Rodrigues, R. Silva de Lapuerta, K. Lenaerts, P. K?ris, E. Juhász ??? ?. ??????, ????????,

?????? ??????: M. Poiares Maduro

?????????: K. Sztranc, ??????? ????????,

?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ??' ?????????? ?????????? ???
23?? ??????? 2004,

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

– ? Halifax plc, ? Leeds Permanent Development Services Ltd ??? ? County Wide Property
Investments Ltd, ?????????????? ??? ??? K. P. E. Lasok, QC, ??? M. Patchett-Joyce,

barrister, ??????????? ??? S. Garrett, solicitor,

– ? ?????????? ??? ??????? ??????????, ?????????????? ??? ??? J. Collins ??? R. Caudwell, ?????????????? ??? ??? J. Peacock ??? C. Vajda, QC, ????? ??? ??? ??? M. Angiolini, barrister,

– ? ??????? ????????, ?????????????? ??? ??? G. de Bergues ??? C. Jurgensen-Mercier,

– ? ???????, ?????????????? ??? ??? D. J. O'Hagan, ?????????????? ??? ??? A. M. Collins, SC,

– ? ??????? ??? ?????????? ??????????, ?????????????? ??? ??? R. Lyal,

???? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ??? ?? ?????????? ??? 7?? ??????, 2005,

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

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1 ? ?????? ?????? ?????????? ?????????????? ?????????? ??? ?????? ??? ?????? ?????? 77/388/??? ??? ??????????, ??? 17?? ????? 1977, ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? – ??? ?????? ??? ?????? ??? ?????????????? ????: ?????????? ?????????? ??? (?? ????. ??? 09/001, ?. 49), ??? ?????????????? ?? ??? ?????? 95/7/E? ??? ??????????, ??? 10?? ?????? 1995 (?? L 102, ?. 18, ??? ????: ??? ??????).

2 ? ?????? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? Halifax plc (???: Halifax), ??? Leeds Permanent Development Services Ltd (???: Leeds Development) ??? ??? County Wide Property Investments Ltd (???: County), ??????, ??? ??? Commissioners of Customs & Excise (???: Commissioners), ????????, ??? ?????? ??? ?? ?????? ??? ?????????? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????????? ??? (???: County) ??? ?????? ?????? ???? Leed Development ??? ? County ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? Halifax plc Group.

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

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

4 ?????? ??? ?????? 4, ?????????? 1, ??? ?????? ??????, ?????????? ?? ?????????? ??? ?????? ?????? ?????????? ??? ??????, ??? ?????? ?????? ??????, ??? ??? ??? ?????????? ?????????? ??? ?????? ??? ?????? 2 ??? ?????? ?????? ????. ? ?????? ??? «????????? ??????????» ?????? ??? ?????? ?????? 2 ?? ?????????? ????. ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

5 ??? ?? ??? 5, ?????????? 1, ??? ?????? ?????? ?????? ??????, «[?] “????????? ??????” ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

6 ????? ?? ?????? 6, ??????????? 1, ??? ????? ??????, «[?] “?????? ??????????” ??????????
???? ?????? ? ?????? ??? ??????? ??????? ?????? ??? ?????? ??? ?????? ??? ?????? 5».

7 ?????? ?????? 13, B, ?????????? ??, ??? ????? ?????????? ?????????? ???, ???, ??? ??????????
????????? ??? ?????????????? ??? ?????? ???, ?? ?????? ??? ?????????????? ?? ??????
?????????. ??????, ??? ?? ????? 13, ?, ????? ??????, ?????????? ??, ??? ?? ????? ??????
????????? ??? ?? ????? ????? ?????????? ?? ?????????? ????? ?????????????? ??? ???
????????? ?????????? ?????????????? ??, ??? ?????????? ?????.

8 ?? ?????? 13, ?, ?????????? ??, ??? ?????? ?????????? ?????? ??? ?? ?????? ???
????????????? ?? ???? ?? ?????????? ?????????????? ?? ???? ?? ?????? ?? ??????????????????
?????????.

9 ?? ?????? 17, ?????????? 2, ??????? ??, ??? ?????? ?????? ??????? ?????? ?? ??:
«????? ?? ?????? ???? ?? ?????? ? ?? ?????????? ?????????????????? ?? ?? ?? ?????????????? ??
????????????? ??????? ??, ? ?????????? ?? ?? ?? ?????????? ?? ?? ??????? ?? ?? ??
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?) ??? ??????????? ? ?????????????? ??? ??????????? ??? ?????????? ??? ?????????????? ??? ?????????? ??? ?????????????? ???
??? ?????? ??? ??? ?????????????? ? ?????????? ?? ??? ??????????, ??? ?????? ??? ??? ??????????
??? ??? ?????????????? ? ?????????? ?? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???».

10 ????? ?????? ?? ?????? ??? ?????????????? ??? ?????? ?????????????? ??? ?????
????????????? ?????????? ??? ??? ?????????????? ?????? ??? ?????????? ??????????
????????? ??? ?????????? ??? ??? ?????????? ?????????? ??????????, ?? ?????? 17, ?????????? 5,
????? ??????, ??? ?????? ??????? ?????????????? ??? «? ??????? ?????????? ??? ?????? ??? ????
??? ?????? ?????????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????????? ???
????????? ??? ?????? ??????????».

11 ????? ?? ??????? ?????? ??? ?????? ?????? ???????????, «[?] ?????????? ??? ??????????????,
???? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????????? ??? ?? ?????????? ??? ??, ????, ??????
?? ?? ?????? 19».

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

12 ? Halifax ?????? ?????????? ??????. ?? ?????????? ??? ?????? ?????? ?????????? ??????????????,
??? ?????? ?????????? ???, ??? ??? ??? . ??? ??? ??? ?????? ??? ?????????? ?????????????? ??????????????
??? ?????????? ??? ?????? ???, ???????? ?? ?????????? ?? 5 % ??? ?????????????? ???
??? ??? ??????.

13 ??????? ?? ??? ?????????????? ??? Halifax, ? Leeds Development ?????? ??????????????
?????? ?? ? County ?????? ?????????????? ??? ?????????????? ???????.

14 ??? ???. ??????? ???. ?????????? ???. ?????????? ???. ? Leeds Development ??? ? County
????? ???. ??? ???. ??????? ???. ??????? Halifax plc Group ? ????? ?????? ???. ??????????
???????, ? Halifax Property Investments Ltd (??? ????: Property), ????? ???. ?????????? ???.
Halifax ??? ???. ??????? ???. ??????????. ? Leeds Development ??? ? County ????.
?????????? ???. ??????? ???. ??????? ???. ??????? ???. ??? ???. ? Property ??? ???. ????????????.

15 ??? ??? ?????? ??????? ?? ???? ?????????? ?? ???? ??????????????, ? Halifax ?????? ??
????????? ?? ???? ?????? («call centres») ?? ?????? ?????????? ?? ???? ??????, ?????? ??
Cromac Wood ??? ??? Dundonald ??? ?????? ??????????. ??? Livingston ??? ?????? ??

??? West Bank, ??? ?????????? ??? Leeds, ??? ?????????????? ??????, ??? ??? ?????
???? ??????? ?????? ?? ??????? ??? 125 ?????? ??? ? ??? ????? ??????? ? ???
??? ??? ????? ??????.

16 ???' ????, ?????? ??? 17 ?????????? 1999 ?????? ?????????????? ??? ??????? ???
Cromac Wood ?? ??? Cusp Ltd, ?????????? ?????????? ??? ?????????????? ??????. ???
???????, ?? ?????????? ??? 28?? ?????????? 2000, ?????????? ??? ??
?????? ??? ? County ??????? ??? ?????????? ??? ??? ????? ?????????? ???.

17 ?????? ??? 29?? ?????????? ??? 6?? ?????? 2000, ? Halifax, ? Leeds
Development, ? County ??? ? Property ?????? ?????? ?????? ??? ?????? ???????.
??? ??? ?????? ??? ?????? ?????? ??? ?? ?????? ?????????? ??? ?????? ?????? ???
????? ??? ??? ??? ??????.

18 ??? ?????? ?? ??????? ??? Cromac Wood, ??? Dundonald ??? ??? Livingston, ??? 29
????????? ??? 2000, ? Halifax ?????? ?????? ??? ?? Leeds Development ????
?? ?????? ?????? ?? ??? ?????? ?????? ?????? ??? ?? Leeds Development
?? ?????? ?? ??? ?? ?????? ?????? ?????? ??? ?? ?????? ?????? ??? ?? ??
????????? ??? ?????? 59 000 000 GBP.

19 ? Halifax ??? ? Leeds Development ?????? ?????? ?????? ?? ?????? ??? ??????
????????? ?????? ?????? ??? ?? ?????? ?????? ??? ?? ?????? ?????? ???, ?
Leeds Development ?????? ?????? ??? ?? Halifax ??? ?????? ??? 120 000 GBP, ??
?? ?????? ?????? 20 000 ?? ??. ? Leeds Development ?????? ??? Halifax ???
????????? ??? ?????? ??? ?? ?????? ??? ?????? ?, Halifax ?????? ?????? ?? ??
Leeds Development ?????? ?? ?????? ?? ??? ?????? ?????? ???, ????? ?????? ???,
????????? ??? ?????? ?????? 20 ????, ?? ?????? ??? ?????? ?? ??
????????? ?? ?????? ??? ?????? ?? ?? 99 ???.

20 ??? 29 ?????????? 2000, ? Leeds Development ?????? ?????? ??????
????????? ??? ?????????? ?? ??? County, ?????? ??? ?????? ? ?????????? ???
?? ?????? ???, ? ?? ?????? ???, ???, ?????? ?????????? ?????? ??? ?????????? ???
Cromac Wood, ??? Dundonald ??? ??? Livingston, ?????????? ??? ?? ???? ?
Leeds Development ??? ?????? ?? ?????????? ?? ??? ?????????? ?? ?????? ???
????????? ??? ?? Halifax.

21 ??? ??? ??? ?????? ?, Halifax ?????? ??? ?????? ?????????? ?????????? ???
?? ?????? ??? ?????? ??? ?? Leeds Development ?????? ??? ?????? ?????????? ???
?? ??? ?? ??? ?????? ?, ?????? ??? 44 815 000 GBP. ?? ??? ???? ?????? ???
????????? ?????? ??? ?? ?????? ?????? ?? ?????? ?????? ??? ?? ?????? ???
Leeds Development. ? ?????? ??? ?????? ?? ?????? ?????? ?? ???, ?? ???
????????? ??? ?? ??? 6 600 000 GBP, ??? County ?? ?????????? ??? ?? ???
?? ?????????? ??? ?? ??? ???? ?????? ?????? ???, ?? ?????? ??? ?????????? ???
???? ?????????? ??? ?? ??? ?????? ??????, ?? ?????? ??? ?????? ?????????? ??
????????? ?????? ??? ?? ??? ?????? ???, ?? ?????? ??? ?????? ?????????? ?,
??? ?????? ??? Leeds Development ?????? ????.

22 ? 29? ?????????? 2000 ??? ?????? ? ?????? ?????? ??? ?????? ??? ?????????? ?? ??
????????? ? ?????? ??? Leeds Development ??? ??? ?????????? ??? 2000. ? ?????? ???
????????? ?????? ?? ??? ?????? ?????? ??? ?????????? ??? ?????? 6 700 000 GBP ??????.

23 ??? 1? ?????? 2000, ?????????? ??? 44 815 000 GBP, ?????? ?????????? ???,
???' ?????? ??? Leeds Development, ?? ?????? ??? ?????? ??? ?????? ???

????? ??? County.

24 ??? 6 ??????? 2000, ??????? ?? ???? 29?? ?????????? 2000, ? Halifax
????????? ??? Leeds Development ?? ??????? ??? Cromac Wood, ??? Dundonald ???
Livingston, ??? ?????? ??? ?????????? ?????? 7 400 000 GBP ??????, ??? ??? ?????
????????? ?????????? ?????????? ??? ??? ??? ??????. ?? ?? ??? ????? ?????????? ???
?? ??? ??? ????? ?????? ??? ?????? ?????? ?????? ??????.

25 ??? ??? ??????????, ? Leeds Development ?????? ?????? ??? ?????????? ??
?????????, ??? ?????? ???, ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
Property ??? ?? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ???
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ???
??? ??? . ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
??? ?? ?????? ??? Leeds Development ?????? ?????? 180 000 GBP. ? Property ??????
??? ?????????? ?? ?????????? ??? ?????? ??? Cromac Wood, ??? Dundonald ???
Livingston ??? Halifax, ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ??????????
?? ??? ?? ?????? ??? ?????? ? Property ??? Leeds Development ??? ?? ??????
??? ?????????? ??? ??? ?????????? ??? ?????? . ? Property ?????????? ?? ??????
????????? ?????? 85 000 GBP ??? ??? ?????????? ??????.

26 ??? ??? ?? ??????? ??? West Bank, ??? Leeds, ??? 13 ?????? 2000, ? Halifax ???
? Leeds Development ?????? ?????? ?????? ??? ?????? ??? ?????????? , ??? ??? ???
????????? ??? ??? ?????????? ?????? . ? Halifax ?????? ??? 41 900 GBP, ?? ??? ??????
???? ??? ?????? ??? 6 000 ?? ???, ??? ??? ?????? ?????? ??? ?????? ??? ?????????? ???
Leeds Development ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ??????
???? ??? . ? Halifax ?????????? ??? ?????? ?????? ??? ??? Leeds Development ???
3 000 000 GBP ??????, ?????? ??? ?????? ??????.

27 ??? ??? ??????????, ? Leeds Development ??? ? County ?????? ??????
????????? ??? ?????????????? . ? Leeds Development ?????? ?? ??????????????
????? ??? ? County ??? ? ?????? ??? ?????? ?????????? ?????????? ???
????????????? ??? ?????????????? ?????? , ?????? ??? ??? 3 000 000 GBP, ?? ???
????? 455 000 ?????? ??? . ?? ?? ?????? ??? ??? ??? ?????? ??? 2000, ? Leeds
Development ?????? ??? ?????? 455 000 GBP ?? ?????????? ??? ??? ??? ???
?????.

28 ??? 6 ??????? 2000, ? Halifax ?????????? ??? Leeds Development ?? ??????? ??
????????? ??? West Bank ??? ?????? ?????? ??? ?? ??? ???? ??? Leeds
Development ?????? ??? ?????????? ??? ??? ??? ?? ??? ?????? ??? ??? Property
???? ?????? ??? . ?? ??? ??? ?????? , ? Property ?????? ??? ?????????? ?? ?????? ??
????????? ??? ? Halifax.

29 ?????????? ?? ?????????? ??? ?????????? ??? ?????? ?????????? ?? ??????????
????????? ??? ?????????? ?? ?? Leeds Development, ? County ??? ?????? ??
????????? ??? ?????????? ?? ?? ?????????? ?????????? (?? ????: ??????????)
????????? . ?? ?????? ?????????? ?????????? ??? ?? ?????????? ?????? ??????
????????? ??? ?????? ??? ?????????? ?????????? ??? ?? ?????? ??? ??????
????? ??? ?????????? ??? ?????????? ?????? ?????????? ??? ?????? ?????? ? Halifax. ???
?? ?????????? ?????????? ??? ?????????? ??? Halifax, ?????? ???, ??? ?????? ??? ???
??? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??????????.

30 ?? ??????? ??????????? ?????????????? ??? ?? ?????????????? ??????????? ?? ??????
????????????? ?? ?? ?????????????????? ?????????? ??? ?? ??????????:

31 ?????? ?? ??????? ??????????????, ?????????????? ?? ?????????????? ? ?????? ????, ??????:

- ??????? ?? ?? Halifax, Leeds Development ?? County ?? ????? ???????????????
?????????? ?? ?? ??????? ??,
 - ???' ?? ?? ?????????? ?? ?? ??????? ?????????? ?????????????? ??????????, ? ??????????????? ??
?? ?? ?????? ?????????? ?????????? ?? ?? Leeds Development ?? ?????????????? ?? ??
????????? ?????????? ?? ?? ?????????? ?????????? ???. ?? ?? ??????, ?? ???????????????
????????? ?? ?? Leeds Development, ?? ?????? ?????????? ?? ?? ?????????? ?? ?? ?????????? ?? ??
?? ?? ?????????? ?? ?? Property, ?????? ?? ?? ?????????? ?? ?? ?????? ?? ?? ??????????????
?????????? ?? ??
 - ?? ?????????? ?? ?? Leeds Development ??? ?? ?? ?????????? ?? ??
????????? ?? ?? ?????? ?? ?? ?????????? ?? ?? ?????????? ?? ???. ?? ?? ?????????? ?? ?? ??????, ?
????????? ?? ?? ?????????? ?? ?? ?????????? ?? ?? Property ?? ?????????? ?? ?? ?????????? ?? ??
?????????.

32 ?? ?????????? ?? 4?? ??? ?? 7?? ??????? 2000, ?? Commissioners ?????????? ??
????????? ?????????? ?? ???? ?????? ?????????? ? Leeds Development ??? ? County ??? ?? ??????
????????? ?? ??? ?? ??? ????? ?? ?????????? ?????????????? ??????? ??? ???????.

33 ????? ?? ?????? ???????????, ?? Commissioners ????????? ???:

- ?????????? ??? ? Leeds Development ??? ???????? ?????????? ??? ?????????? ???
Halifax ??? ??? ??? ???????????? ???????????? ?????????? ??? ?????????? ??? ?? ?????? ???
County, ?? ??????? ????? ??? ?????? ?? ??????? ?????? ??? ??????? ???.
 - ?? ??????????????, ???????????? ??? ?????????? ??? ?????????? ??? ?????????? ???

????????????? ??? ?????????? ??? Halifax ??????? ?? ?????? ??? ??????????????
????????????? ??? ?? ?????? ??? Leeds Development. ??????, ? Halifax ?????????? ??
????????? ??? ?? ??? ??? ?? ????? ?????????????? ?????????????? ??? ?????? ?????????????? ??? ??
??? ?????????? ??? ???.

34 ? Halifax, ? Leeds Development ??? ? County ?????????? ??? ?????????? ???
Commissioners ?????? ??? VAT and Duties Tribunal, London. ? Halifax ?????????? ??? ??
????????? ??? ?????? ?? ?????????? ?? ?????????????? ??? ?? ?????? ??????????
????????????? ??? ?????? ?????????? ??????????????, ?? ?????? ?????? ?? ?????????? ??
????????? ?????????? ??? County. ? Leeds Development ??? ? County ?????????? ???
?? ?????????? ??? ?????????????? ?? ?????????? ??? ?????????? ??? ?????????????? ??
????????? ??? ?????????????? ??? ??? ??? ??????.

35 ? Halifax, ? Leeds Development ??? ? County ?????????? ??? ?? ?????? ???
????????????? ??? ?????? ??? ?????????????? ??? ?????? ?????? ?????????? ?? ??????????
???? ??? ?????????? ??? ?????????? ??? ?????? ?? ?????????? ?????? ?????????? ?? ??????
??? ?????????? ??? ??????????????, ??? ??? ?? ?????? ?????????? ?????????? ??? ?????????? ??
????? ?????? ? County ??? ?? ?????? ?????????? ?????????? ??? ?? ??????????
????????? ??? ??? ?????? ?????? ? Leeds Development ?????????? ??? ??????????
?????. ?? ??? ??? ?????? ??????, ??? ??? ? Property, ?????? ?? ?????????? ??? ?????? ??
????????? ??? ??? ?????????????? ??????. ?????? ?? ?????????? ??? ?????????? ??? ??????????
???? ??? ?? ?????????????? ?????????? ??? ?????????? ??? ??????????, ?? ?????? ??? ??
????????? ?? ?????????? ??? ??????.

36 ?? Commissioners ??????????, ???' ????, ??? ?????? ?????????????????? ??
????????? ??? ?????? ??? ?????? ?????????? ??? ?? ?????? ?????????? ??' ?????? «????????? ???»
???? «????? ??????» ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??
«????????? ??????», ??? ??? ?????? ??? ?????? ?? ?????? ?????? ?????? ?????? ??????
???? ?????? ?????? ? ??? ?????? . ? ?????? ??? ?????? ?? ?????????? ?????? ?????? ??????
????????? ?????????? ?????? ??? ?? ?????????? ??? ?????? ?????? ? Leeds Development
????? ??? Halifax ??? ?????? ?? ?????????? ??? ?????? «????????? ???» ???
«????? ??????», ??? ?? ?????? ??? ??? ??? ?????????? ??? ?????? ??? ?????? ? County
????? ??? Leeds Development.

37 ??????, ?? Commissioners ?????????? ???, ?????? ?? ?? ?????? ??? ??
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??????????, ????
????? ?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ?? ?????? ??? ??????
????? ?? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?????????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
Halifax.

38 ?? ?????? ??? 5?? ?????? 2001, ?? VAT and Duties Tribunal ?????? ??? ??????.

39 ? Halifax, ? Leeds Development ??? ? County ?????? ?????? ??? High Court of
Justice (England & Wales), Chancery Division, ?? ?????? ?????????? ??? ?? ??? ?????? ???
????????? ??? ?????? ?????? ??? VAT and Duties Tribunal.

40 ?? ?????????? ?????????? ???, ?? ??? ?????? ??? ??????, ? ?????? ?????? ??? 5
????????? 2001, ?????????? ?? ?????????? ??? ?????? 4, ?????????? 2, ?? ?????? ??????, ???
?? ?????? ?????? ?? ?????? ??? ?????? ??? ?????????? ?????????? ??? ??????,
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????

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

41 ???????, ?? ?????? ??????????, ?? ??? ?????? ??? ???????, ??????? ?? ??????? ???
?????? ?????? ??? ?? ?????????? ?? ?????? ????? «????????? ??????????» ?? ??????
??? ?????????? ??? ?????? ?????? ??????. ?????????? ??? ? ?????? ??? ?????????????? ???'
????, ?????? ?????? ?? ?????? ?? ?????? ??? ?????? ??? ?????????? ??? ?? ??? ?????.

42 ??????, ?? ?????? ?????????? ?????????? ??? ?? ??? ?????????? ?????????? ???
????????? ?? Halifax, ?? Leeds Development ??? ?? County ?????????? ??? ? ??????????
????? ??? ?????? ?????????? ?? ??? ?????????? ?????? ?? ?? ?????????? ??? ???
????????? ?????? ??? ? ?????? ?????? ?????? ??? ??? . ?? ??? ?????? ???, ? Halifax, ? Leeds
Development ??? ? County ??? ?? ?????? ?? ?????????? ?????????? ?????????? ??? ???
????? ?? ?????? ?????? ?????? ?????? ?????????? ?????????? ??????, ?? ?????? ??????????
????????? ??? ?????? ??? 14?? ?????????? 2000, C-110/99, Emsland?Stärke (??????
2000, ?. I-11569, ????? 53).

43 ??? ??? ???????, ?? VAT and Duties Tribunal, London, ?????????? ?? ??????????
?? ?????????? ?? ??? ?? ?????????? ??? ?????????? ?? ?????????? ?????????? ??????????:

«1) ?) ??? ??? ??? ?????? ???????????, ??????? ?? ??????:
i) ??? ??? ?????? ?????????? ??? ?????? ??? ??? ?????????? ?? ?????????? ??????
?? ?????????? ?????????? ?????????? ???
ii) ?? ?????? ??? ??? ?????? ?????????? ?????????????? ???
?? ?????????????? ??? ?????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?? ???
???? ?????????? ??? ?????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ???;
?) ??? ??? ??? ?????? ???????????, ??? ?????? ?????????? ??? ?????? ?? ??????? ???
????????? ?? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???;
2) ??? ? ??? ??? ?????? ???????????, ??? ?????? ?????????? ??? ?????? ?? ?????????? ???
?? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ?????? ??????;»
?? ??? ?????? ???????, ??????? ??

44 ?? ?? ?????? ???????, ??????? ??, ?? ?????? ?????????? ???, ???' ??????, ??
?????? ?? ??????? ?? ??????? ?? ?????? ?????? ?????? ?????????? ?????? ?? ??????
????????? ?? ?????????? ?????????? ???????, ??? ??? ?????? ??? ?????? 2, ?????? 1, ??
????? 4, ?????????? 1 ?? 2, ??? ?????? 5, ?????????? 1, ??? ??? ?????? 6, ?????????? 1,
??? ?????? ??????, ?????? ?????????????? ?? ?????????? ?????? ??? ??????
????????? ?????????? ???????, ?????? ?????????? ??????.

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

45 ? Halifax, ? Leeds Development ??? ? County ?????????? ???, ??? ?????? ??? ???
??????, ??????? ?? ?????? ?????? ?????????????, ??? ?????????????? ?? ??????
?????? ?? ?????? ?????????? ?????????? ?????????? ??? ?? ?????? ?????????? ??????????
????????? ?????? ???????, ??? ?????? ???, ?????????? ?????? ??? ?????? ??????????

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

46 ? ?????????? ??? ???????? ?????????? ??? ? ???????? ?????????????? ??? ?????? ??? ?????????? ??
??????, ????, ?????????????? ??? ??? ?????? ?????????? ?? ?????? ?????? ?????? ??? ??????????
????????????? ?????????????? ???, ???????, ?????????? ?????????? ?????????? ?????????? ??????
??? ?????????? ?????????? ??? ?????? ?????? ?????? ?????????? ?????????? ?????????? ??? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ??????????????.

47 ? ?????????? ?????? ??? ? ?????? ??? ??? ?????? ?????????????????? ??? ??????
????????? ?????? ??? ?????? ??? ?????? 2 ??? ?????? ??????.

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

48 ?????????? ??? ?????? ?????? ?? ?????????? ??? ? ??? ?????? ?????? ?????????? ???
????????? ??? ?? ?????? ?????????? ?????, ?????? ???, ??? ?????? ?????? ??? ?????????? ???
????????? (??., ?????? ???, ?????? ??? 26?? ?????? 2003, C-305/01, MKG-Kraftfahrzeuge-
Fact?ring, ?????? 2003, ?. I-6729, ??? 38).

49 ??????, ? ??? ?????? ??????, ??? ?????? 2, ?????? ?? ??? ?????????????? ??????,
??? ??? ?????? ?????? ?????????? ??? ??? ?????????????? ?????, ?????? ??? ?? ??????????
??????, ??? ?????????? ??? ??? ?????? ?????? ?????????? ??? ?????????? ??? ?????????????????? ??
????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ???.

50 ??? ????, ????, ??? ?????? ??? «????????? ???», ?? ??? 5, ?????????? 1,
??? ??? ?????? ?????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ? ?????????? ???
????????? ?? ?????? ?????? ?????? ??? ???.

51 ??? ?????????? ??? ?? ?????????? ??? ?????????????? , ? ?????? ??? ?????????????? ???
????????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? (??., ??????
?????, ?????????? ??? 8?? ?????????? 1990, C-320/88, Shipping and F?rwarding Enterprise
Safe, ?????? 1990, ?. I-285, ??? 7, ??? ?? 21?? ?????? 2005, C-25/03, HE, ??????
2005, ?. ?-3123, ??? 64).

52 ??? ?????? ??? ?????? ??? «????????? ???», ??? ?? ??? 6, ?????????? 1, ???
??? ?????? ?????? ??? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ??? ?????? ??? ?????? 5 ??? ?????? ??? ??????.

53 ??? ??????, ????, ??? ?? ??? 4, ?????????? 1, ??? ?????? ????, ??
????????? ??? ?????? ?????? ?????????? ?????, ??? ?????? ?????????? ???
????????? ?????? ?????? ??? ??????.

54 ????, ? ?????? ??? «????????? ??? ??????????», ??? ?????????? ??? ??? 4,
????????? 2, ??? ?????? ??????, ?????????? «????» ??? ?????????? ??? ??????????
??? ?????? ??? ??? ?????? ?????? ???, ?????? ??? ?????? ??? ?????? ???, ??????????
??? ?? ?????? ??? ?????? ???, ??? ?????? ??? ??? ?????? ?????? (??., ?????? ???,
????????? ??? 4?? ?????????? 1990, C-186/89, Van Tiem, ?????? 1990, ?. I-4363, ??? 17,
??? MGK-Kraftfahrzeuge-Fact?ring, ?????????? ???, ??? 42).

55 ??? ?????? ?? ?????????? ?? ?? ?????? 26 ??? ?????? ??? 12?? ?????????? 2000,

C-260/98, ?????????? ????, ??????? (?????? 2000, ?. I-6537), ? ??????? ??? ??????? ???
?????????? ???, ??? ??, ??? ?????????? ?????????? ?????????? ?????? ?????? ??? ??????
??? ?????? ??????? ??? ??????? ? ?????? ??? ?????????? ?????? ?????????? ?????? ??? ??,
????????? ?????? ???, ?? ?? ??? ??? ? ?????????? ?????? ?????? ?????????? ?????? ??? ??,
????????? ??? ?????? ??? ?????? ?????? 1987, ?, 1471, ??? 8, ??? ???, ??? ??,
1987, 235/85, ??????? ???, ???, ?????? 1987, ?, 1471, ??? 8, ??? ???, ??? ??,
???? ??, ?????? ???, ?????, ?????? 14?? ?????????? 1985, 268/83, R?mpelman,
?????? 1985, ?, 655, ??? 19, ??? 27?? ?????? 2003, C?497/01, Zita M?des,
?????? 2003, ?, I-14393, ??? 38).

56 ???????, ? ?? ??? ?????? ??? ? ??????? ??? ? ??????? ??? ??????? ??? ??????? ???
?? ?? ?????? ?????? ?????? ?????? ??? ?? ?????? ???, ??? ??????? ??? ??
????????? ?????? ???, ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ??????? ??? ??
????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??
????? (??., ??? ??, ???, ???, ??? 12?? ?????? 2006, C-354/03, C-355/03
?? C-484/03, Optigen ??., ?? ?????????? ???, ??? ???????, ??? 44).

57 ??? ?????? ?? ?????????? ?? ?? ??? 24 ??? ??????? ??? ?? 6?? ?????? 1995,
C-4/94, BLP Gr?up (?????? 1995, ?, I-983), ? ??????? ??? ?????? ??? ??
????????? ?????? ?? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
???? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ???
????????? ?????? ??? ?? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??
?? ?? ?????????? ???, ??? ?????????? ???, ??? ?????????? ???, ??? ?????????? ??? ??
?????? ???????.

58 ??? ???????, ??????? ??? ?? ??????? ??? ?????? ??? ?????? ??? ??????? ???
?????? ? ??????? ??????? ??? ??????? ??? ???????, ??? ?? ?????? ??? ?????? 2,
?????? 1, ??? ?????? 4, ??????? 1 ??? 2, ??? ?????? 5, ??????? 1, ??? ?? 6,
?????? 1, ??? ?????, ??? ?????? ???, ??? ?????? ??? ?????? ??? ??????? ??? ?????? ???
????????? ?? ?? ??? ??????.

59 ???????, ?? ??????? ??? ?????? ??? ??????? ??? ?????? ??? ??????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????? ??? ????????.
?????? ??????? ??? ?? ?????? ?? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

60 ???????, ??? ??? ?????, ??????? ??, ?????? ?? ?????? ? ??????? ??? ??????
???? ?? ??????? ??? ?????? ??? ?????? ??? ??????? ??? ?????? ? ??????? ??? ??????? ???
????????? ???????????, ??? ?? ?????? ??? ?????? 2, ?????? 1, ??? ?????? 4,
????????? 1 ??? 2, ??? ?????? 5, ??????? 1, ??? ?? 6, ??????? 1, ??? ??,
??????, ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??
??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

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

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

62 ? Halifax, ? Leeds Development ??? ? County ??????? ???, ??? ??????? ??? ???????????
??? ??, ??? ???????, ??? ??????? ?????, ?????? ??? ?????????????? ?????????????? ???
????? ?? ??????????? ?????? ?? ??????? ?? ?????????????? ?????? ??? ??????? ???????????
?? ??????????? ??? ??????? ?????? ??? ?????????? ?????? ??? ?????????? ??? ??????????? ???
??? ?? ??????.

63 ? ?????????? ??? ??????? ?????????? ??????? ??? ? ??? ??? ???????????
?????????? ??????? ??????? ??? ?????? ??? ?????????? ??????? ??? ??????????? ???
????????? ??? ?? ??????? ??? ??, ??????? ?? ?? ?????? 17 ??? ????? ?????????? ???
?? ??? ?????????? ?????? ?????????? ??? ?? ?????????? ??? ??????? ?????? ??? ??????????
??????, ?????? ??? ?? ?????? ?????? ?????????? ??????? ??? ?? ??????? ??? ??, ???
?????? ?????? ??? ?? ?????? ??????, ??? ?????????????? ??? ?? ??? ?????????? ?????? ???
????????? ?????? ??? ?????? ???????.

64 ? ??????? ?????????? ??????????? ??? ?? ?????????? ???????, ??? ?? ??? ??? ???
????????? ?? ?? ?????? ?????? ?? ??????? ?????? ?????? ??????????? ?? ?????????? ???
????????? ?? ?? ???????????, ??? ?? ?????????????? ??? ??????? ? ??????? ??,
????????????? ??????? ?? ?????? ??? ?????????????? ? ?? ???????????, ??? ??????????? ???
????? ?????? ?? ?????? ?? ??????? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ???
????, ?? ?????? ?????????? ??????? ??? ?? ?????? ?????????? ?????? ?????? ??????????
??????, ?? ??????? ?????? ??? ?????????? ??? ?????????? ?????? ??? ???.

65 ? ??????? ?????????? ??? ? ??? ?????? ????? ?????????? ???????????, ??? ??
?????????? ??? ?? ???????????, ?????????? ??? ?????????????? ?????? ?? ??????????? ??? ??
????? ??? ?????????????? ?????????? ?????????? ? ?????????? ??? ?????????????? ??? ??
??? ??????? ? ?????? ?????????? ??? ?? ?????????? ?????? ??? ?? ?????????? ??? ??
????.

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

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

67 ???' ????, ?????????????? ???, ??? ???????????????, ?? ?????????? ??? ??????????? ??
?? ?????????? ?? ??? ?????? ?????? ?? VAT and Duties Tribunal ??????? ???????????,
?????????? ?? ????, ??? ?????? ?????????? ??????? ? ?????? ?????????? ???
?????????? ????, ? ?????? ?????????? ?????????? ?????????? ?????????? ??? ??
????????????? ?????? ? ?????????? ?????????? ?????????? ?????????? ??? ?? ??????? ??
????????? ??? ?? ??? ?????? ?????????? ?? ?????? ?????? ?????????? ??? ?? ??? ?????? ???, ??
????? ?????????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?? ??? ?????? ???, ??
??? ?????? ????, ?? ??????? ?? ?????? ??? ?? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ??
??? ?????? ?????? ??? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ??.

68 ??? ?? ?????????? ???, ?????????????? ???, ??? ?????? ?????????? ?? ???????????
?????? ??? ?????? ?? ?????????? ?????????? ?????????? ?? ?????? ?? ?????? ?? ??????????? ?
??? ?????????????? (??., ?????? ????, ??? ?????????? ??? 12?? ??? 1998, C-367/96,
?????? ?.., ?????? 1998, ?. I-2843, ??? 20, ??? 23?? ?????? 2000, C-373/97,

??????????, ??????? 2000, ?. I-1705, ??? 33, ??? ?? 3?? ??????? 2005, C-32/03, Fini H, ??????? 2005, ?. ?-1599, ??? 32).

69 ????????, ? ??????? ?? ?????????? ??? ?????????? ?????????????? ?????????? ??? ??????? ??
????????????? ??? ????? ?????? ??? ?? ?????????? ??? ?????????????? ?????????? ???
????????????? ??? ?????? ??? ?????? ??? ?? ?????????????? ?????? ??? ?????? ???
????????????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ?????? ??? ??????????
????????????? ??? ?????????????? ??? ?????????? ??? ?????????? ?????? (??., ??? ??
????? ???, ?????? ???, ?????????? ??? 11?? ?????????? 1977, 125/76, Cremer, ???????
????? 1977, ?. 479, ??? 21, ??? 3?? ?????? 1993, C-8/92, General Milk Products, ???????
1993, ?. ?-779, ??? 21, ??? Emsland-Stärke, ??????????????, ??? 51).

70 ? ??? ?????? ??? ?????? ??? ?????????????? ??? ?????????????? ?????????? ??? ?????? ???
????? ????.

71 ????????, ? ?????????????? ?????????????? ??????????????, ?????????????? ???
????????????? ??? ?????? ??? ?????? ?????????????? ??? ?????????? ??? ?????? ????.
(??.. ??? ?????? ??? 29?? ?????? 2004, C-487/01 ??? C-7/02, Gemeente Leusden ??? Holin
Groep, ?????? 2004, ?. ?-5337, ??? 76).

72 ????????, ??? ?????? ?????????????? ?????????????? ?? ?????????? ?, ? ??????????
????????? ??? ?? ?????? ??? ??????, ?? ?????????? ??? ?????????? ??? ?????????? ??? ??
????????? ?' ??? (??????? ??? 22?? ?????????? 2001, C-301/97, ??? ?????? ???
????????? ??? 2001, ?. ?-8853, ??? 43). ??? ? ?????? ??? ?????????? ??? ?????????? ???
????? ?? ?????? ?? ?????????? ???????????, ?????? ?????????? ??? ?????????? ???
????? ?? ?????? ?? ?????????? ???????????, ??? ?? ?????? ?? ?????????? ??? ?????????? ??
????? ?? ?????? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? (??., ??? ??
????, ?????????? ??? 15?? ?????????? 1987, 326/85, ??? ?????? ??? ??????????, ????.
1987, ?. 5091, ??? 24, ??? ?? 29?? ?????? 2004, C-17/01, Sudholz, ?????? 2004, ?. ?-
4243, ??? 34).

73 ????????, ??? ?? ?????????? ?????????? ??? ? ?????? ??? ?????? ?????? ?????????? ?
????????????? ??? ?????? ?????????????? ?????? ??? ?????????????? ?????? ?????? ??????????
?? ?????????? ?? ??? ?????? ??????????, ??? ?? ?? ?????????? ?????????? ?????????? ????
????????? ??? ?????????? ?????? ??? (??., ?????? ???, ?????????? BLP Group,
????????????, ??? 22, ??? ?? 9?? ?????? 2001, C-108/99, Cantor Fitzgerald
International, ??? 2001, ?. I-7257, ??? 33). ?????? ? ?????????? ??? ?????? ?????? ???
????????? ??? ??????, ? ??? ?????? ??? ?? ?????????? ?? ?????????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????????? ??? ?????? ???, ??????????, ??? ??????????
????????? ?????????? ??? ?????? 85 ??? ?????????? ???, ? ?????????? ??? ??????
????????? ?? ?????????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?? ??????
????????? ?????? ???.

74 ?????????? ??? ?????? ??? ?????? ???, ?????????? ???, ??? ?????? ??? ??, ?
????????? ??? ?????? ?????????? ?????? ?????????? ?????????? ???, ?????? ?? ??????????
??????, ??? ?? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?? ??????????
????????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ??? ?????????? ??? ?????? ???
??? ?????????? ???, ??? ?? ?????????? ??? ?????? ?????? ?????????? ??? ?????????? ???
??? ?????? ? ?????????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?? ?????? ???.

75 ????????, ?????? ?????? ?? ?????????? ??? ??? ?????? ?????????????? ??????????
?? ? ?????? ?????? ??? ?????? ?????? ??? ?????? ? ?????? ?????? ??????????
????????????? . ???????, ??? ?????????? ? ?????? ?????? ?????????? ??? ?????? 89 ???

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

76 ?????????? ?? ?????? ?????????? ?? ??????, ?????? ?? ??? ?????? ?????? ??????????
????????? ?? ?????? ?????? ?????? ?? ?????? ?????????? ? ?????????????????? ??
????????? ??????, ?? ??????????, ??? ?????????? ?? ?????? ?????? ?? ?????? ?? ?????? ??????, ??
????????? ?? ?????? ?????????? ?????????? ?????? (?. ?????? ?? 21??
????????? 2005, C-515/03, Eichsfelder Schlachtbetrieb, ?? ?????????? ?? ?????? ?? ??????,
????? 40).

77 ??????, ?? ??????????, ?????????????? ?? ?????????????? ??????????????, ??????,
?????????, ?? ?????????? ?????????????? ?????????????? ?? ?????????????? ?? ??????
????????? ?? (??., ?????? ??, ?????? ?? 17?? ?????? 2002, C-
79/01, Payroll ?.?, ?????? 2002, ?. I-8923, ????? 29).

78 ??????, ??? ?????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????? ??????,
????????????? ?? ?????? ?????? ?????? ?? ?????? ?????????? ?? ?????????????? ?? ?? ??????
?? ?????????? ?? ?????????????? ??, ?? ?????? ?????? ?? ?????????? ?? ?????? ?????????? ?? ??????
???. ??? ??????, ?? ?????? ?????? ?? ?????????? ?? ?????? ?????? ?????????? ?? ??????
????????? ?????????? ?? ?????? ?? ?????????? ?? ?????????????? ?? ?????? ?? ?????? ?? ??
????????? ?? ??????, ?? ?????? ?????? ?? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ?? ??
????????? ?? ??????, ?? ?????? ?????????? ?? ?????? ?? ?????? ?????????? ?? ?????? ?? ??
????????? ?? (??., ?????? ??, ?????? ?? 22?? ?????? 2001, C-
408/98, Abbey National, ?????? 2001, ?. ?-1361, ????? 24, ??? Zita Modes, ??????????????,
????? 38).

79 ??????????, ??? ?????? ??????????, ?? ?????? 2 ??? ?????? ?????? 67/227/?? ??
?????????, ?? 11?? ?????? 1967, ??? ?????? ?????????? ?? ?????????? ?? ?? ?????????? ?? ??
?????, ?? ?????? ?? ?????? ?????? ?????? ?????? (?? ???. ???. 09/001, ?. 3, ?? ???:
????? ??????), ?? 17, ?????? 2, 3 ?? 5, ?? ?????? ?????? ?? ?????? ?? ?????? ?? ??
?????, ? ?????? ?????? ?? ?????? ?????? ?????? ?? ?????? ?????????????? ?? ??????????????
????????? ?? ?????? ?? ?????????? ?????? ?????????? ?? ?????? ?? ?????????? ?? ??????
????????? ?? ?????? ?? ?????????? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ??????
????????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?? ?????? ?? ?????????? ?? ?????? ?? ??
????????? ?? (????????? ?? 8?? ?????? 2000, C-98/98, Midland Bank, ?????? 2000,
. ?-4177, ?????? 24, Abbey National, ??????????????, ?????? 26, ??? ?? 27?? ??????????
2001, C-16/00, Cibo Participations, ?????? 2001, ?. ?-6663, ????? 29).

80 ?? ?? ?????????? ?????? ?????????????? ?? ?????? ?? ?????????? ?? ?????? ??
????????????? ?? ?????? ?? ??????, ?? ?? ?????? ?? ?????? ?? ?????????? ?? ?????????? ??
????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ??
????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ??
?? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ??
????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ??
????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ??.

81 ??? ?????? ?? ?????? ??????, ??? ?? ?????? ?? ?????????? ?????? ?? ?????? ?? ??
?? ?????? ?????? ?? ?????? ?????? ?????????? ?????????????? ?? ?????????????? ?? ?? ??
????????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ??
??? ?????? ??????. ??? ?????? ??, ?????? ?? ?????? ?? ?????? ?? ?????? ?? ??
????????? ?? ?????? ?????? ?? ?????? ?? ?????? ?????? ?????? ?? ?????????? ?? ??/
????????? ?? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ??
????????? ?????? (??., ??? ?? ?????? ??, ?????? Emsland-Stärke,

?????????????????, ????? 58).

83 ??????, ??????????????? ?? ? ? ??????? ?????????? ??? ?????????????? ?? ? ? ?????????? 17
?? . ?? ? ???? ? ?????? ?? ?????? ?? ?????????? ?????????? ?? ? ? ?????????? ?? ? ? ? ? ? ?
??????, ???' ?????, ?? ????????????. ?? ?????????? ?? ? ?????????? ?????????? ?? ? ? ? ? ? ?
?? ? ???? ?? ? ?????????? ?? ? ???? ?? ? ? ?????????? ?? ? ???? (??., ?????? ?? ?,
????????? ?? ? 6?? ?????? 1995, C-62/93, BP ??????????, ?????? 1995, ?. I-1883, ???
18, ??? ??? 21?? ?????? 2000, C-110/98 ??? C-147/98, Gabalfrisa ??., ?????? 2000, ?. ?-
1577, ??? 43).

84 ???????, ??? ?? ?????????????? ?? ?????????????, ????? ?????????? ?????????? ??? ??????
????? ? ?????????? ??? ?? ?????????? ?????????? ?????????? ?????????? ?? ???
????????? ??? ?? ?????? 20 ??? ????? ??????, ?? ??????? ?????????, ??? ???????,
????????? ?? ?????????? (??., ?????? ????, ?????????? ?? 8?? ?????? 2000, C-400/98,
Breitsohl, ?????? 2000, ?. I-4321, ??? 41, ??? C-396/98, Schlossstraße, ?????? 2000, ?. I-
4279, ??? 42).

85 ????????, ??? ?????? ?????? ?????? ?? ?????? ? ?????????? ??? ? ??? ?????? ?????? ???
??? ?????? ??? ?????? ?? ?????????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ??? ??? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ?????????? ?? ??????
???? ?????????? ?????????????? ????????.

86 ? ??????????? ???. ?????????? ?????????????????? ??????????? ???????????, ??????, ????. ???.
????????? ????????, ????. ????. ?????? ?????? ?????????? ????. ?????????????? ????. ?????????? ???.
????????? ?????????? ????. ?????? ?????? ?????? ????. ????. ?????? ?????? ?????????? ????. ?????????? ???.
????? ????. ????. ?????????? ????. ???????, ????. ????. ?????? ?????? ????. ?????????? ????. ?????? ?????? ???.
????????? ????. ?????? ??????. ?????????, ??????, ?????? ?????? ???. ?????????? ????. ?????? ????. ??????
????????? ?????? ?????? ??????. ?????????? ????. ?????? ?????? ?????? ????. ?????????? ????. ?????? ????.
????????? ?????? ?????? ??????. ?????????? ????. ?????? ?????? ?????? ????. ?????????? ????. ?????? ????.
????????? ?????? ?????? ??????. ?????????? ????. ?????? ?????? ?????? ????. ?????????? ????. ?????? ????.

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

87 ??????? ?? ???? ?????????? ?? ???? ??????? ?? ???? ?????? ???????, ?????????? ??, ??? ??
?????? ?? ??????, ?? ?????? ???????, ??????? ??, ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?? ?? ??
????? ?????????? ??, ???' ??????, ??? ?????? ?????????????? ?????? ?? ?????????? ??
?? ?????? ?? ?????? ?????? ?????????? ?? ?????? ?????????????? ??????????.

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

88 ? ?????????? ??? ???????? ?????????? ?????? ??? ?????? ?? ?????????? ?? ???????
??? ?????????? ?? ??? ?????? ?????????? ?????? ??? ?????????? ?? ?????????? ?? ?????????? ??
????? ?? ??? ?????? ??????.

89 ????? ??????? ?? ?????? ?????, ?? ?????????? ????? ?????? ?? ?????????????????? ??? ??
VAT and Duties Tribunal ?? ??? ????? ?? ?????????? ?? ?????????????? ?? ????:

?) ? Halifax ?????? ? ??????? ???? ?????? ??? ?????????????? ?????????????? ??? ?????????? ????,

?) ? Halifax ??????? ?? ?????????????? ?????? ??? ?????? ??????,
?) ? Halifax ?????????? ?????? ??? ?????? ??? ??????????, ?????? ??? ?? ???
????????????? ??? ?? ?????????? ??? ?????????? ??? ?? ??? ?????????? ??? ??????,
?) ? Halifax ?????????? ??? ?????? ?????????? ?????? ?? ??? ??????????????
?????????????, ??? ?? ??? ?????? ??????????, ???
?) ??? ? County ??? ? Leeds Development ??? ?????????? ?????????? ??????????.
?? ??????? ??? ?????? ??? ?????????? ??? ? Halifax ?????? ? ?????????? ??? ??????????
??? ??????? ?? ?????????? ?????????? ???, ??? ?? ??? ?????? ???, ?? ??????????
????????? ??? ?? ??? ?????? ??? ?????? ??????.
????????? ??? ??????????
90 ???' ????, ?????????? ? ?????????? ??? ?????? ?????? ??? ?????? ?????? ???
????? ?? ?????? ??? ?????????? ??? ?? . ? ?????? ??? ?????????? ???, ??? ?????? 20,
??? ?????????? ??? ?? ?????? ??? ?????????? ??? ?? ??? ?????? ?????? ? ?????????? ???
????????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
??? ?????????? ?????? (?. ?????? ??? 3?? ?????? 200, C-395/02, Transport
Service, ?????? 2004, ?. ?-1991, ??? 27).
91 ???????, ??? ??? ?????? ??? ??????????, ???' ????, ?? ?????????? ??? ??????????
??? ??? ?????? ??? ?????? ?? ??? ??? ?????? ?????????? ??? ??? ?? ??? ?????? ??? ??????
????????? ???, ?????????? ??? ??? ?????? ??? ?????? ?? ??? ?????? ?????? (?.
???????? Transport Service, ??????????, ??? 28).
92 ??????, ?????????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????? ??? ?????? ???
????????, ?????? ??? ?????? 22, ?????????? 8, ??? ?????? ??????, ??? ?? ??????????
??? ?????? ?????? ??? ?? ??? ?????? ??? ?? ?????????? ? ??????????, ??? ?????? ??
????????? ?? ??? ?????? ??? ?????? ?????? ??? ?? ?????? ?????? ?????? (?. ??????
Gabalfrisa ??., ??????????, ??? 52, ??? ?????? Transport Service, ??????????,
????? 29). ??? ??????, ??? ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ??????
????? ?? ?????????? ? ?????????? ??? ?? , ??? ?????? ?????? ?????? ??? ??????
????????? ??? ?? ??? ?????? ?????? ?? ?? ?????? ?????? ?????? (?. ?????? ???
19?? ?????????? 2000, C-454/98, Schmeink & Cofreth ?? Strobel, ?????? 2000, ?. I-6973,
????? 59).
93 ???????, ?????? ?? ?????????? ??? ? ?????????? ??? ?????? ??????????
????????? ??? ?????? ?? ?????????? ??? ?????? ??????, ??? ?? ??? ?????? ?? ???
????????? ??? ?????? ?????? ?? ?? ?????????? ?????? ??????, ??? ?? ??????????, ?? ???
????????? ??? ?? ??? ?????????? ???, ??? ?????? ?????? ??????, ?? ??????????
?????????????, ??? ?????? ??? ?? ??? ?????? ?? ?????? ?????? (?., ??? ?? ??? ??????
????, ?????? Emsland Stärke, ??????????, ??? 56).
94 ??????? ?????????? ??? ?? ?????? ??? ?????????? ??? ?????? ?????????????? ??????????
?????? ?? ??????? ?? ??? ?????????? ?? ?????? ?????????? ?? ?????? ?????????? ??? ??????????
??? ?? ??????? ?? ??? ?????? ?????????? ?? ?????? ??? ?????? ?????? ??? ?? ??? ?? ???
????????????? ???????.
95 ??? ???, ? ?????????? ??? ??? ??? ?????? ?? ??????, ??????????, ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ?? ??? ?????? ?????? ?????????? ??? ??

????????? ?????????? ?????????? ?????????????? (?????? Fini H, ??????????????, ???? 33).

96 ??????, ? ?? ??? ???? ?????? ?????? ?? ?????????? ??? ?????? ??? ?????? ???
????????????? ?????? ???????, ?? ??? ?????? ? ?????? ?????????????? ??? ?????? ???
????????????? ???????, ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????????
?????????????, ???, ??????????, ?? ?????????? ??? ?????? ?????????? ???.

97 ?????? ? ??? ?????? ?? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??? ???? , ?? ???
????? ?????????? ?????? ?????? ?????????? ?????????? ?????????? , ?? ??? ?????? ???
????????? ??? ?????? ?????????? ???? ???? ?? ?????? ?????? ?????? ?????? ?????? ???, ??
??????, ??????? ?? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ???,
????????? ?' ??? ???? ??? ?????? ?????? ???.

98 ???????, ??? ??? ?????? ???????, ??????? ??, ?????? ?? ?????? ? ??????? ???, ??????
????? ?????????? ???? ?????? ?????????? ?????????? , ?? ?????? ??? ?????????? ???
????????? ?????? ?????????? ???? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?? ??? ?????? ?????????? ??????.

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

99 ?????????? ??? ? ?????? ?????????? ??? ?????? ?? ?????? ?????? ?????????? ??? ?????? ???
??? ?????????? ?????????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? , ?' ???
????????? ?? ?????????? ??? ??? ?????????? ??????. ?? ?????? ??? ?????? ??????????
????? ?????? ?????????? ??? ?????????? , ??? ??? ?? ??? ?????? , ??? ??????????.

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

1) ?????? ??? ?????? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ?????? ?
????????? ?????????? ??? ?????????? ?????? ?????????????? , ??? ??? ?????? ??? ?????? 2,
?????? 1, ??? ?????? 4, ?????????? 1 ??? 2, ??? ?????? 5, ?????????? 1, ??? ???
????? 6, ?????????? 1, ??? ?????? ?????? 77/388/??? ??? ?????????? , ??? 17??
????? 1977, ??? ?????????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??
????? ?????? ?????? - ?????? ?????? ?????? ?????? ?????????????? ?????:
????????? ?????????? ???, ??? ?????????????? ?? ??? ?????? 95/7/E? ???
????????? , ??? 10?? ?????? 1995, ?????? ?????? ?? ?????????????? ??????????
??? ??? ?????? ?????????? ?? ?? ??? ?????? , ??? ??? ?????? ?????????????? ??
????? ??? ?????? ??? ?????? ?????? ?????????? ?????????????? , ??? ??? ?????? ??????????
?????.

2) ? ??? ?????? ?????? ??? ?????? ?? ?????? ??? ?????? ?? ?????? ?????? ??? ?????????? ???
????? ?? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ?????? ??????.

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

3) ?????? ??? ??????????? ? ?????? ?????????????? ??????????, ?? ??????? ??
????????? ??? ?????????????? ?????? ?? ?????????? ?? ???
????????? ?? ?????????????? ?? ?????? ?????? ?????? ?????? ?? ?????? ??
?? ?????? ?????????? ?? ?????? ??? ?????? ??? ?? ?????? ?? ?????? ?????????? ??
????????.

(?????????)

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