

??????? C-419/02

BUPA Hospitals Ltd

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Goldsborough Developments Ltd

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Commissioners of Customs & Excise

[?????? ??? High Court of Justice (England & Wales), Chancery Division,

??? ??? ?????? ?????????????? ??????????]

«???? ?????? ???? ??? — ????? 10, ?????????? 2 — ?????????? ??? ??? — ?????????????? —
????????????????? ?????????? ??? ?????????????? ?????????????? ?????????????? ???
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??????????? ??? ??????? ????????????? M. Poiares Maduro ??? 7?? ?????????? 2005

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

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(??????? 77/388, ?????? 10 § 2, ?? 2)

?? ?????? 10, ?????????????? 2, ?????????? ???????, ??? ?????? ?????????? 77/388, ?????? ??????????????????
??? ?????????????? ??? ??????? ??????, ??? ?????????? ?? ?????? ??????? ??????? ??????????, ????
????????????????????? ?? ??? ??????? 95/7, ?? ?????????????? ??? ??? ??????? ??? ??????? ?????????? ???
?? ?????? ??????????????, ?????????????? ??? ?? ?????????????? ?????????????? ?????????????? ???????
????????????????? ??? ??? ?????????????? ?????????? ? ??? ?????????? ?????????????, ? ?????? ??????????????
????????????? ?????? ??? ?????? ??? ??????????????, ?????? ??? ?????? ??? ?????????????????? ??????. ???
????????????? ??? ?????? ?????????????? ??? ?? ?????? ?????????????? ?????????????????? ?????? ???' ??????????
?????? ?????????????????????? ??? ?????????? ?????????????????????? ?????????? ?? ?????????? ?????????? ??
????????????????????? ??? ?????? ??????? ?? ?????? ?????????????? ?????????? ?????????? ??? ???????, ??? ???
?????? ? ?????????????? ?? ??????? ?????????????????? ?? ?????????? ?????????????????, ?????? ?????????????? ???
?????? ?????????? ??? ?????? ??????? ?? ?????????????????? ?????????????? ??? ?? ?????????????? ?? ??????? ???
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?????????, ?????????????? ? ?????? ?? ?????????? ?????????????? ?? ?????????????? ??????????????
????????????? ??????? ?????????????????, ?????? ?? ?????? ?????? ?????????????????????? ? ?????????? ???????
? ? ??????? ?????????????, ??????? ??? ?? ?????????? ?????????? ??? ?????????????????? ???????, ???????
??? ?????????????????? ?????????????? ??????? ? ??? ?????????????????? ?????????? ?????????????, ?? ?????? ???
????????? ??? ?????????, ??????????????, ??????? ?????? ??? ?????? ??? ?????????????? ?????????????? ??
?????? ?????????????? ?? ?????????? ?? ?????? ? ?? ?????????????.

(??, ???????? 45, 48, 51 ??? ????????)

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

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

«????? ??????? ????? ??? – ?????? 10, ????????????? 2 – ?????????? ??? ??? – ????????????????? –
???????????????????? ?????????? ??? ?????????????? ?????????????? ?????????????????? ?????????????? ???
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????? ????????? C-419/02,

?? ?????????????? ??????? ?????????? ?????????????????? ?????????? ?????????? ??? ?????? 234 ??,
??? ?????? ?????????? ?? High Court of Justice (England & Wales), Chancery Division (?????????
?????????), ?? ?????????? ??? 8?? ??????????? 2002, ??? ?????????? ??? ?????????????? ????? 20
????????????? 2002, ??? ?????????? ??? ??????

BUPA Hospitals Ltd,

Goldsborough Developments 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,

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

– ? BUPA Hospitals Ltd ??? ? Goldsborough Developments Ltd, ?????????????????? ??? ???
R. Venables, QC, ?????????????????? ??? ??? T. Lyons, barrister, ???' ?????????? ??? D. Garcia,
solicitor,

– ? ?????????????? ??? ?????????? ?????????????, ?????????????????????? ??? ??? R. Caudwell,
????????????????????? ??? ??? C. Vajda, QC,

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

- ? ????????? ???? ???? ?????, ????????????????? ???? ???? H. G. Sevenster,
- ? ????????? ???? ????????????? ?????????????, ????????????????? ???? ???? R. Lyal,

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

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1 ? ?????? ????????? ????????????????? ????????????? ?????? ???? ????????? ???? ?????? 2,
???????? 1, ??? ?????? 4, ????????????? 1 ??? 2, ??? ?????? 5, ????????????? 1, ??? ?????? 10,
???????????? 2, ??? ??? ?????? 17 ??? ?????? ????????? 77/388/??? ??? ?????????????, ??? 17??
????? 1977, ????? ????????????????? ??? ????????????? ??? ?????? ??????, ??? ????????? ?? ?????
???????? ?????? ????????? – ?????? ????????? ?????? ????????????????? ??????: ?????????????
???????????????? ???? (?? ????. ????. 09/001, ? 49), ????? ????????????????? ?? ??? ?????? 95/7/?? ???
????????????, ??? 10?? ????????? 1995 (?? L 102, ? 18, ??? ?????: ??? ????).

2 ? ?????? ???? ????????????? ???? ?????? ?????? ????????? ???? ???? BUPA Hospitals
Ltd (??? ?????: BUPA Hospitals) ??? ??? Goldsbrough Developments Ltd (??? ?????:
Goldsbrough Developments), ??? ????????? ???? ?????? BUPA, ??????, ??? ???
Commissioners of Customs & Excise (??? ?????: Commissioners), ?????????, ???? ????? ????
?????? ???? ????????????? ?? ????????????? ???? ?? ?????? ???? BUPA Hospitals ??? ???
Goldsbrough Developments ?????? ?????? 17,5 ????????????????? ?????? ????????????? (GBP)
(???????? 26,2 ????????????????? ????), ?? ????????????????? ?????? ????????????????? ?????? (???
?????: ???) ??? ??? ??????, ??????????????????? ?? ????????????????? ???? ?????????????
?????????????? ?? ?????? ??? ?????? ????????? ???? ?????? BUPA.

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

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

5 ?? ?????? 4, ????????????? 4, ????????? ??????, ??? ?????? ?????? ????????????????? ???? ????:

«?? ??? ????????????? ???? ????????????????? ???? ????????????????? ???? ?? ?????? 29, ???? ?????? ??????
????? ??? ????????? ???? ?????? ?? ???? ????????????????? ???? ???? ?? ????????????????? ????
???????????? ???? ?????? ??????, ?? ?????? ?????? ??? ????????????????? ?????? ???? ??? ??????
????????, ????????????????? ???? ?????? ??? ?????????????????????, ????????????????? ???? ?????????????
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6 ???? ?? ????? 5, ?????????? 1, ??? ????? ????? ??????, «[?]» “???????? ??????”
????????? ? ?????????? ?? ?????????? ?? ?????????? ?????????? ?????? ?? ??????».

7 ?? ????? 10, ?????????? 1 ??? 2, ??? ????? ????????? ?????? ?? ?????:

«1. ????????? ?? :

?) ????????????? ?????? ?? ?????: ?? ?????? ?? ?? ?????? ?????????????????? ?? ??????
????????????????? ?? ?????? ?????? ?????????? ?? ?? ?????????? ?????????? ? ?????».

?) ????????? ?? ?????: ?? ??? ?????? ?????????? ?? ?????????, ??? ?? ?????????
????????? ??????, ??? ?????????? ?? ?????? ?? ?????? ?? ?????????, ??? ?? ? ??????
???? ?????????? ?? ??????????».

2. ? ?????????????? ?????? ?????????? ?? ? ?????? ?????????????? ??????????, ??? ?? ??????
????????????????????? ?? ?????????? ?? ?????? ? ?? ?????? ?? ?????????? ??
????????????? ??????, ?????? ?? ?????????????? ?? ?????? 5, ?????????? 4, ?????????? ??,
????? ?? ?? ?????? ?????????, ?? ?????? ?????????????? ?????????? ?????????? ??????
????????????? ? ?????????? ?????????, ?????????? ?? ?????????????????????? ??? ?? ?????? ??
????????? ?????????, ??? ?????? ?????????????? ?? ?????????? ?????????? ??????
????????????? ? ?????????? ????????? .

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

???? ?????????????? ?? ?????? ?????????, ?? ?????? ?? ?????? ?? ?????????? ?? ??????????
??, ?? ?????????? ?????? ? ?????????? ?????????? ?????????? ?????? ??, ? ?????
????????????? ??????????».

– ????, ?? ?????????, ??? ?? ?????? ?????????? ?? ?????????? ? ?? ?????????? ?? ?????
?????? ?? ?? ??????????,

– ????, ?? ?????????, ??? ?? ?????? ?????????????? ?? ??????????,

– ????, ?? ?????????? ?? ?????????? ? ?????????????????? ?????????? ?? ?????????? ? ??
????????? ?? ?????? ?? ?? ??????????, ?????? ?????????? ?????????? ?? ?? ?????
????????? ?? ?????????????? ??????????????»

8 ?? ????? 13, A, ?????????? 1, ?????????? ?? ?? ??, ??? ?????? ?????????? ?????? ?? ??
????? ?? ?? ?????????????? ?????????? ?????????????????? ?? ?? ?? ?? ?????????? ??????????».

9 ?? ????? 17, ?????????? 1, ??? ?????? ?????? ?????????? ?????????????? ?? «[?]» ?????????
????? ?????? ? ?????????? ??? ?? ?????? ?? ?? ?????? ? ?????????? ?????? ??????
?????????».

10 ???? ?? ?????????? 2, ?????????? ??, ??? ?????? ??????:

«???? ?? ?????? ?? ?? ?????? ? ?? ?????????? ?????????????????? ?? ?? ?????????????????? ??
????????????????? ?????????? ??, ? ?????????????? ?????? ?? ?? ?????????? ?? ?????????? ?? ??
????, ?? ?? ?????? ?????? ??????»:

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

??? ????? ???? ???? ????????????? ? ?????????? ?? ???? ?????????????, ?????? ??? ???? ??????????
??? ??? ?????????????? ? ?????????? ?? ???? ?????????????? ??? ?????? ?????????????? ????? ?????».

11 ????? ?? ????? 28, ????????????? 2, ?????????? ??, ?????? ???????, ??? ?????? ?????????, ?????
?? ?????????????? ?????????? ??? ?????? 28????, «[?]????????? ?? ?????????????? ?? ?????????? ??
????????????? ??? ?????????????????? ??? ?????????????? ?????? [?????] ?????? ??? ?? ?????????????
????????????????? ??? ?????? ?????????????? ??? ?? ?????????? ?????? ?????????????? ?????????????? ???
????????????? ??? ?????? 12, ?????????????? 3, ??? ?????? ??? 1? ?????????????? 1991, ?????? ???
????????????????? ?????? ?????????????? ?????????????? ??? ?????????? ??? ?????????????????? ??? ??????[?????]
????? ?????????????? ?????????????? ??? ?????? 17 ??? ?????????????? ?????????? ??? 11?? ?????????? 1967».

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

12 ?? ????? 6, ?????????????? 4, ??? ?????? ?????? ??? ??? 1994 (Value Added Tax Act 1994)
????????? ?? ?????:

«??, ????? ??? ?? ?????????????? ?????? ??? ?????????????? 2 ? 3 ?????????? ?????????? ???????, ??
????????? ??? ?????????????? ?????? ?????????? ??????? ? ??? ???? ???? ?????????? ?????????? ?????????
????????????? ??? ? ??, ????? ??? ?? ?????????????? ?????? ??? ?????????????? 2, ?????????? ?? ? ??, ? 3
????????? ?????????? ???????, ?????????????? ??????? ??' ?????, ? ?????????? ??????? ? ? ??????
?????????????, ????? ?? ?????? ??? ?????????????? ??? ?? ?????????? ? ??? ??? ?????????, ??
????????????????????? ??? ?? ?????????????????????? ????? ??? ?????? ?????????? ??? ?????????????? ?
????????????? ??? ??????????????»

13 ????? ?? ????? 30, ?????????????? 1, ??? ?????? ?????? ??????, ?????? ?????? ?????? ??? ??? 1?
????????????????? 1998:

«????? ?????? ?????????????? ?????? ?????? ?????????????? ?????? ??? ?????????? ?????????????? ??? ?????? ?
????????????? ??????? ? ?????????? ?????????????? ?????? ?????????????????? ?? ?????????? ?????????????? ???,
????? ?????? ? ?????????? ?????????? ? ?????????? ?????????????? ?????????????? ?????? ??? ?????????? ??????
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????? ? ?????????? ?????????? ? ?????????? ?????????????? ??? ?????????? ?? ?????????????? ?????? ???, ?????
????????? ?? ?????????????? ?? ?????????????????? ?????????????? ?????????? ? ?????????? ?????????????? ??? ?????? ?????
??????,

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

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

14 ??? ??? ?????????? ?????? ?????????????? ?????????????? ??? ? BUPA Hospitals ??? ? BUPA
Gatwick Park Hospital Ltd (??? ?????: BUPA Gatwick Park) ?????????? ?????? ?????? BUPA, ??????
???, ?????? ?????? ?? ?????? 4, ?????????????? 4, ?????????? ???????, ??? ?????? ?????????, ?????? ??????
??? BUPA.

15 ??? ?????????? ??? ???, ??????????????, ?????? ?? ?????? ??? 1997, ? BUPA Hospitals
????????????????????, ?????????? ??????, ?????????? ?????????? ?????????????????? ?????????????????? ?????????? ?? ??????????
??? Court of Appeal, ??? ?????????? ?????????? ?????????????? ?????????? ??? BUPA Hospitals ??? ???
Commissioners ?????????????????????? ??? ?? 1993, ?? ??????????????, ?? ?????????? ??? BUPA
Hospitals, ?????????? ??? ?????????????? ?????????? ?????????????? ??? ?????????????????? ?????????? ?????????????? ??
??? ?????????????? ??????????????, ?????????? ?? ?????? ?????????? ?????? BUPA Hospitals ?? ??????????????
?? ?????????????? ??? ?????????????????????? ??? ??? ??? ?????????? ??? ?????????????? ??? ?? ?????????? ??? ??????

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

16 ??????? ??? ?? ?????? ??? House of Lords ???????????, ??? 24 ??????? 1997, ???
????????? ??????????? ??? Commissioners, ? ?????????? ??? ?????????? ??????????,
???? 13 ?????????? 1997, ??? ??????? ??? ?? ?????????? ?????? ??? ??????????? ??
????????????? ?? ?????????????? ??? ?????????? ??? Court of Appeal.

17 ?? ?????? ??????????? ?????????????? ???, ??????? ??? ?????????????? ??? ??? ????
?????????????? ??????????, ? ?????? BUPA ?????????? ?? ?????????? ??? ????
????????????????? ??????????????. ?????? ??? ?????????????????? ?????, ??? ?????????????????? ???
?????? ?? ??????????? ?????????????????? ?? ?????????? ?????????????? ???, ???????, ?????????? ??
????????????? ??? ??? ??? ??? ?????????? ??? ?????????? ??? ?????????????? ?????????? ???
????????????, ??? ?? ?????? ??? ??? ?????????????? ?????????????? ?????????????? ?????????????,
????????? ?????????? ??????? ??????? ??? ?????????? ??????? ??? ?????????????????? ???
?????????????. ??? ?????????, ? ?????????????????? ?????????? ??? ??????? ??? ?????????????????? ???
??? ??? ?????????? ??? ?????????????????? ??? ?????????? ??? ?? ?????? ?????????????????????? ?
????????? ? ?????????? ???????????, ?????? ??? ?? ? ?????????? ?????????? ?? ?????????? ??????????
??????.

18 ??? ??????? ??? ?????????????????? ?????, ?????????????????? ?? ?????????????????? ??? ???????
??? ?????? BUPA ??? ?? ?????? ??? ??? ??? ?????????????, ??? ? ?????????????????? ??
????????????? ??? ??????????? ??? ??????. ?????????? ??? ??? BUPA Medical Supplies Ltd (?
????? ??? ???? ???? ??? ?????????? Goldsborough Retirement Property Services Ltd, ???
????: BUPA Medical), ??????? ??? ?????? Goldsborough, ??? ?????? ?????????? ??? ??????
???????????? 1997 ? ?????? BUPA ??? ? ?????? ??? ?????????? ??????????? ?? ??????????. ?
????????? ???, ?????????? ?????? ??? ???? ???? BUPA, ??? ?????? ??? ???? ???? ???? ????
BUPA Hospitals.

19 ? ??????? ??? ?????????????? ?????????????????? ???, ??? ??????? ??? ?????????? ?? ??????
?? Commissioners ??? ???? ?????????????????? ??? ?????????? ??? ???, ?????????????????? ??? ???
???? ?????????? ??? ??????? Goldsborough, ? Goldsborough Developments, ? ??????
????????????????? ?????????? ?????????? ?????????????? ??? ?????? ?? ?????????????????? ?????? ??? ??? ???
BUPA Hospitals, ?? ?????????? ?????????? ?????????????????? ??? ?????? ?????? ??? ??? ??? ????
????????????? ?????? ?? ??? ??????????? ?? ?????????????? ??? ?????? ?????? ?????? ??? BUPA. ?
????????? BUPA Gatwick Park, ? ?????? ??? ???? ???? ???? ???? ???? ???? ???? ???? ????
????????????????? ??? ?????????? ??? ?????????????????? ??????????????????.

20 ??? 5 ????????????????? 1997, ?????????????????? ?????????????????? ??? ?????????????????? ?????????????
??? ?????????? ?? ??? ???? ???? ???? ???? ???? ???? ???? BUPA Hospitals ??? ???
BUPA Medical ?????????????? ?? ?????????? ??? ?????????? ?????????? ?????????????? ?????????? ???
????????????? ??????????????.

21 ??? ?? ?????????????? ??? ?????????????? ?????????????? ??? BUPA Hospitals ??????????????
?? ?????????????????? 60 ?????????????? GBP ?????? ??? ??? ???? ???? ???? ???? 40
????????????? GBP ?????? ??? ??? ???? ???? ???? ???? ???? ???? ???? BUPA Medical.

22 ??? ??? ?????????????, ??????? ??????? ?????????? ?????????? ??? ?????? ?????????????? ???
Goldsborough Retirement Property Services Ltd ?? BUPA Medical ??? ?????????????????? ???
????????? ?????? ??? ?????????????, ?????????????? ?? ?????????????? ?' ?????? ? ??????????????????
????????? ?????????????????? ?????????? ??? ??????????.

23 ??????, ??? 5 ????????????????? 1997, ? BUPA Medical ?????????????? ??? BUPA Hospitals
????????????? ?????????? ??? ?????????? ?????????? ??? ???? 60 ?????????????????? GBP ?????? ???

10,5 ???????????? GBP ??? ??? ????????? ?????????? ??? ????? 40 ????????????? GBP
????? ??? 7 ????????????? GBP.

24 ??? ??? ??? ??????????, ?? ?????????? ?????????? ??? Goldsborough
Developments ??? ??? BUPA Gatwick Park ?????????? ?? ?????????? ??? ?????????? ?????????
?????? ??? ?????????? ?????????? ??? ??????????, ???????????.

25 ?? ?????????? ?????????? ??? Goldsborough Developments ?????????? ?? ??????????
?????? ??? BUPA Gatwick Park 50 ????????????? GBP ?????? ??? ??? ??? ?????? ?????????
??? 50 ????????????? GBP ?????? ??? ??? ??? ?????? ??????????

26 ??? ??? ??????????, ? BUPA Gatwick Park ?????????? ??? ?????????? ???
Goldsborough Developments ?????????? ??? ?????????? ?????????? ??? ?????? 50 ?????????????
GBP, ?????? ??? 8,75 ????????????? GBP, ??? ?????????? ?????? ??? ?????? 50
???????????? GBP, ?????? ??? 8,75 ????????????? GBP.

27 ??? ??? ??????? ??? ?????????? ?????????? ??? ?? ?????????? ?????? ??? ??????
??????????????????? ? ?????????????? ??? ??????????????. ?? ?????????? ?????? ??????????????
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— ? ?????????? ?????? ?? ?????????? ?? ?????????? ??? ?????? ?????? ??? ???
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— ?? ?????????????? ?????????? ??? ?? ?????????????????? ??? ??????????, ?? ?????? ??????????
?? ?????????????????? ?? ?????? ?????????? ??? ?????????????????,

— ? ?????????? ?????????? ?? ?? ??? ?????????? ? ?????? ?????? ?????????? ?? ???
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????????? ?????? ?? ?????????? ????,

— ?????????? ?????????????????? ?????????? ?? ?????????????? ?? ?????????? ?????????? ??????????
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— ?????? ?????????????? ??? ? ?????????? ?????????????? ?? ?????????? ??? ?????????? ?????? ???
????? ??? ?????????????? ??? ?????? ??? ?????????????????????? ?????? ??? ?????????????? ???
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????? ?? ??????? ?????????????, ?? ?????????? ??? ?? ??? ??? ?????????? ?????????? ???
????????????????? ?????????????? ??????????????, ?????? ??? ?????? ?????? ?????????????? ???????,
????????????? ??? ??????? ??????????. ?? ?????? ?????????????? ?????????? ??? ?????? ?????????? ???
????????? ??? ?????? ?????????????????? ??? ?????????? ?????????? ??? ?????? ?????? ?????????? ???
????????????????? ??? ?????????? ??????

28 ?????????? ?? ??? ??? ??????????, ?? ?? ??? ??????????????????, ?? ?????????? ???
????????????? ??????????????, ?? ?????????? ??? ?????? BUPA ?? ?????????????? ?? ?????????? ??
????????? ?????????? ?????????? ??? ?? ?????????? ??? ?????????? ?????? Commissioners
????????????????? ?????? ??? ??? ?????????? ??????. ?????????????????, ? ?????? ??? BUPA ?????? ??
?????, ?? ?? ?????? ??? ??? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? 1997, ??
????????????? ??? ??? ??? ?????????? ?????? 17,5 ????????????????? GBP, ? ?????? ?????????? ???
????????? ??? BUPA Hospitals ??? ??? BUPA Medical, ?????????????????????? ??? ??? ??? ??? ???
????????? ?????? 17,5 ????????????????? GBP, ? ?????? ?????????? ??? ?????????? ??? BUPA Gatwick
Park ?????? ??? Goldsborough Developments. ? ?????? Goldsborough, ? ?????? ????
????????????????? ?????? ??? ?????? ??? BUPA, ?????????? ?????? ??? ?????? ??????: ? ?????? ??? ???

?????????????? ??? ??? ??? ??????? ????? 17,5 ?????????????? GBP, ? ?????? ?????????? ???
?????? ??? Goldsbrough Developments ??? ??? BUPA Gatwick Park, ??? ??? ??? ??? ??????
?????? 17,5 ?????????????? GBP, ? ?????? ?????????? ??? ?????????? ??? BUPA Medical ??? ???
BUPA Hospitals.

29 ??? 8 ?????????????? 1997, ?????????? ??? ?? Midland Bank ?? ?????????? ??? ???
????????????? ??? ???? ???? ?????????? ??? ?????? BUPA, ??? BUPA Investments Ltd (??? ????:
BIL), ?????????? ??? ???? 235,5 ?????????????? GBP ??? ?? ?????????? ??? ??????????????
????????????????? ??? BUPA Hospitals ??? ??? Goldsbrough Developments ?? 118 ??? 117,5
????????????????? GBP. ?????????? ?????????? ?????? ?? ?? ?????? ?????????? ?????????? ??? ???
?????.

30 ??? ??? ???? ??????????, ?????????? ??? ?? Midland Bank ?? ?????????? 117,5 ??????????????
GBP, ??????, ??? ??? BUPA Hospitals ??? BUPA Medical ???, ?????????, ??? ???
Goldsbrough Developments ??? BUPA Gatwick Park ??? ?????????? ?? ?????????? ?? ??? ?
??? ??? ???? ???? BIL. ?? ?????????????? ??? BUPA Medical ??? BUPA Gatwick Park
????????????? ?? ?????? ??? ??? ?????? ??? ?????? ?????????????????? ??? ?????????????? ??? BIL.

31 ??? 18 ?????????? 1997, ?????????????? ? ?????????????? ? ?????????????? ??????? ???
????????????? ??? ??? ??? ?????????, ??? ?????????????? ?????????? ??? ??? ?????????? ???
????????????? [VAT (Drugs, Medicines and Aids for the Handicapped) Order (SI 1997/2744)]. ??????
?? ?????? ??? 1? ?????????????? 1998. ?????????????? ?? ?????????? 8, ????? 12, ??? ?????? ???
1994 ??? ???, ?????????????????? ??? ??? ?????????? ??? ?????????????????? ?? ?????????? ??????????????
????????????? ??? ?????????????? ?????????? ?????????????? ??? ?????????????????????????? ?????? ???
????????????? ?????????????? ??? ?????????? ??????????????, ?? ?????????????? ?????? ??? ???
?????????????????. ?????????? ?????????????? ???, ???' ?????, ? ?????????????? ??? ??? ??? ?????????
?? ?????? ?? ?????????? ?????? ??? ?????? ?????? ?? ?????????.

32 ?? ?????????????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????????????????? ???
????????????? ??????? ??? BUPA Hospitals ??? ??? BUPA Medical ?????????????????? ???
????????????? ??? 1998. ? ?????????? ??? ???? ?????????????? ?????????????? ??? ? ?????? ??????????
????????????? ?????????? ?????????????? ?????????????? ??? BUPA Medical ??? 19 ?????????????? 1998 ???
??? ??? ?? ?????????????? ?? ?????? ?????????????????? ? BUPA Hospitals ?????????????? ?? ??????????
????? ??? BUPA Medical ?????????? ??? ??? ?????? ??? ?????????????? 1998. ?????????? ?? ??? ???
????? ?????????, ? BUPA Hospitals ?????????????????? ?????? ??? ?????????????????? ?? ?????? ? ??????
??? ?????????????? ?? ?????????????? ??? ?????????? ?????????????? ??? ??? ??? ?????? ??? ??? ???
????????????????? ??? 1998.

33 ??? ?????? ??? ?????????????? ?????????????????? ??? ?????????????? ??????? ??? Goldsbrough
Developments ??? ??? BUPA Gatwick Park, ?? ?????????????????? ??? ?????????????? ??? ??????????????
????????????? ?????????????????? ??? ?????? ??? 2001 ??? ?? ?????????????? ?? ?????????? ??? ?????????? ???
2001. ??? ??? ?????????? ??? ???? ?????????????? ?????????????? ??? ?????????? ??????? ?????????????? ???
??? ?????? ??? ??? ?????? Goldsbrough ??? ??? ?? ?????????????? ?????? ?????? ?? ?????????????
????? ??? ??? ?????????? ??? ?????????????? ?????????????????? ??? ??????????????????. ??? ??? ???
?????, ? BUPA Gatwick Park ?????? ?????? ?????????? ??? ?? ?????????? ?????? ????? 8 ?????????
2001.

34 ? ??????? ????? ????????????? ????????????????? ?????? ???, ??? ?? ?????????? ?????
????????????????? ????? ?????????????????????? ???????, ? Goldsbrough Developments ?????????????? ??
????????????? 117,5 ?????????????? GBP ??? ??? BIL, ????? ?? ?????????????? ??? ?????? ???
?????????? ??? ?? 1997, ??????? ?? ?????? ????? ?? ?????????????? ?? ?????????? ?? ?????? ??? ?????
270 % ??????????. ?? Commissioners ?????????? ??? ? Goldsbrough Developments ??
?????????????? 50 ??? 100 ??? ??? ?? ?????????????????????? ?? ?????? ??? ?????? ?????????????????.

35 ?? ?????????? ??? 14?? ??????????????? 2000, ?? Commissioners ?????????????? ?? ??????????????
??? ?? ??????? ??? BUPA Hospitals ??? ??? Goldsbrough Developments ?????????? ??? ??????
??? ??? ?????????? ??? ?????????? ??????? ?? ?????? ??? ?????????? ??? ?????????????????? ???
????????????????? ??? 1997 ??? ??? ?????????????? ?????? ?????????? ?????????????? ? BUPA Medical ??? ?
BUPA Gatwick Park.

36 ????? 25 ??????????????? 2002, ?? VAT and Duties Tribunal, ?????????, ?????????? ???
????????????? ??? ?????????? ?????? ??? ?????????????? ??? Commissioners, ?? ?? ?????????????? ? BUPA
Medical ??? ? BUPA Gatwick Park ??? ?????????? ?????????????? ?????????????????? ??? ???
????????????????????????? ?????????????? ??? ??? ??????? ??? ??????? ?????????????? ?????? ???, ??????????
??? ??? ?? ?????? ??? ?????????????? ??? ?????????? ??? ?????????????????????? ??? ??? ?????? ?????? ???
??? ?????????????? ??? 1997 ?????????????? ?????????????????? ?????? ?????????? ?????????????? ??? ???, ?
?????? ??? BUPA Medical ??? ??? BUPA Gatwick Park ?????? ?????????????????????? ?????????
?????????????? ?????????????????? ??? ?? ??????????????? ??????? ??? ?????????? ??? ??????? ???????.

37 ???????, ?? VAT and Duties Tribunal ?????????? ??? ?????? ??? Commissioners ?????? ???
?????? ? BUPA Hospitals ??? ? Goldsbrough Developments ?????? ??????????? ?? ??????????
????????????? ??? ??? ??? ??? ?????????? ??????? ?????? ?????????? ?????? ?????????????????? ?????????????????.

38 ? BUPA Hospitals ??? Goldsbrough Developments ?????????? ?????? ?????????? ??? High
Court of Justice, Chancery division, ??? ?? Commissioners ?????????? ???????????.

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

«1) ?? ?????? ??? ??? ?????? ?????????????????, ??? ??? ?????? ?????????? ??? ?? ?????? ???
?????????????? ???????????, ??? ??????? ?? ?????????????????? ? ?????????? “?????????????? ??????????????????”,
??? ??? ??????? ??? ??????? 4, ??????????????? 1 ??? 2, ??? [?????? ??????????];

2) ?? ?????? ??? ??? ?????? ?????????????????, ??? ??? ?????? ?????????? ??? ?? ?????? ???
?????????????? ???????????, ??? ??????? ?? ?????????????????? ? ?????????? “?????????? ?????????” ??? ???????
5, ??????????????? 1, ??? [??????] ?????????;

3) ?) ?????????? ?????? ?????? ??? ?????????????????? ??? ?????????????????? ?????????????????? ???/?
????????????????????????? ??????? ? ?????? (????????????????? ??? ??? ??????????? ??? [??????] ?????????) ??
????????? ?? ??????????????? ?? ??????????? ??????????????? ??? ?????????????????????? ??????? ??? ??? ??????????

?) ?? ?????? ??????????????, ??? ?????? ?????????????????? ?? ?????? ??????????? ? ?????? ??????

?) ?? ?????? ?????????????? ?? ?????????????????? ?????? ?????? ??? ?????????????????????? ??? ?? Tribunal;

4) ?????????? ?? ??????????????? ??? ?????????????? 1 ??? 3, ?????????, ?? ? ?????????? ??? ??? ???
?????? ?????????? ?????????? ?? ?????? ?????? ??? ?????? ?????????????????? ??????????? ??? ??????? ??
????????????????????? ??????? ?? ?????????????????????, ?? ?????????????? ??? ?????????????????????? ?????? ??

40 ?? ?? ?????????????? ??? ??????????, ?? ??????? ?????????????? ??????, ???' ???????, ???????,

?? ?????? ??? ?? ?????? ??? ?????? ??, ?? ?????? ?????? ??? ??????
????????????? ??????????????, ?????????? ?????????? ?????? ?? ??????????
????????????????? ?? ?? ?????? ?? ?????? 2, ?????? 1, ?? ?????? 4, ?????????? 1 ??? 2,
??? ??? ?????? 5, ?????????? 1, ?? ?????? ?????? ??, ?????????, ?? ? ?????? ??? ???
??? ?????? ?? ?????? ?? ?????????? ?? ?????????????? ??? ??? ?? ?????? ??
?????????????? ?? ?? ?? ?????????? ?????? ?? ?????????? ?? ?? ?????? ?????????? ??
????????? ??? ?????????? ?????????????? ?????????.

41 ??????, ?? ?? ?????? ??? ?????????? ?? ?? ?? ?????????????? ?? ?????? ??
??? ??? ?????? ?????????? ?????????? ?????????? ?? ? ?????????????? ?????? ??
????????????????? ?? ?? ?????? BUPA ?????????????? ?????????? ?? ?????? ?? ?? ?? ??
????????????????, ????????? ?? ?? ?????? 10, ?????????? 2, ????????? ??????, ?? ?????? ?????????.

42 ?????????????? ?? ?????? ?????? ?????????? ?? ?????????????? ?? ?????? ?? ??????
????????? ?????????????????? ??????????, ?? ?????????????? ?????? ?? ?????? ?????? ?????? ??
????????????? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????????????? ?????????????? ??
????????? ?????????????? (??., ?? ?? ?????? ??, ?????? ?????, ?? ?????????? ?? 12??
??????????? 2004, C-60/03, Wolff & Müller, ?????? 2004, I-9553, ?????? 24, ?? ?? 7?? ??????
2005, C-153/03, Weide, ?? ?????????????????? ?????? ?? ?????????, ?????? 25).

43 ?????????, ?? ?????? ?? ?????????? ?? ?? ?? ?????? ?????????????, ?? ?????? ?????? ??
????????????? ?? ?????? ?? ??' ?????, ?????? ?? ?????????? ?? ?????? ?? ??????????????
???? ?? ?????????? ????? ?????? ?????? ?????????? ?? ?????? ?????????? ?? ?????? 10,
????????????? 2, ????????? ??????, ?? ?????? ?????????.

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

44 ?????????????????? ??' ?????? ?? ?? ?????? 10, ?????????????? 2, ?????? ??????, ?? ??????
????????? ?????????? ?? ? ?????????????????? ?????? ?? ?????? ?????????? ?? ? ?? ??????????
????????????? ?????? ?? ?????? ?????????????????????? ?? ?????????????? ?? ?????? ? ?? ??????
??? ??????????.

45 ?? ?????? 10, ?????????????? 2, ?????????? ??????, ?? ?????? ?????????, ?????? ?? ??????, ??
????????????? ?????????????? ?????????? ?????? ?????????????? ?? ?? ?????????????? ?????? ? ??
????????? ??????????, ? ?????? ?????????????? ?????????? ?????? ?? ?????? ?? ?????????????, ??????
?? ?????? ?? ?????????????????? ??????, ?????????? ?????????????? ?? ?? ?????? ?? ??????
????????? ?? ?????? ?????? ?????????? ??, ?? ?? ?? ?? ?????, ?????? ?? ??????????????
??????.

46 ?? ?????????, ?????????????????? ?? ?? ?????? 10, ?????????????? 1, ?????????? ??, ?? ??????
????????? ?????? ?? «????????????????? ??????» ?? ?? ?? ?? ?????????? ?? ?? ?????? ??????????????????
?? ?????????? ?????????????????? ?? ?????? ?????? ?????????????? ?? ?? ?????????? ?????????? ? ??????
????????? ?????????? ?? ? ?????? ?????? ?? ?????????? ?????????? ?????????? ?? ? ?? ?????
?? ?????????? ?? ?????????????????? ??????, ???, ??? ?????????????? ??????????, ?? ?????? ??
??????.

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

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

??? ?????????? ??? ?????? ?????????? ??? ?????? 10, ??????????? 2, ???????? ??????,
??? ?????? ???????? 77/388/??? ??? ??????????, ??? 17?? ????? 1977, ???
????????????? ??? ?????????? ??? ?????? ??????, ??? ?????????? ?? ????? ??????
?????? ?????????? – ?????? ????????? ?????? ????????????????? ??????: ???????????
????????????? ?????, ???? ?????????????????? ?? ??? ??????? 95/7/?? ??? ???????????, ???
10?? ?????????? 1995, ???????????????, ???? ?? ?????????? ???? ?????? ????, ???? ???'
????????? ?????? ?????????????????? ??? ?????????? ?????????????????? ????????? ??
????????? ?????????? ?? ?????????????????? ??? ?????? ??????? ?? ?????? ?????????? ??????
????????? ??? ??????, ??? ??? ?????? ? ?????????? ?? ?????? ?????????????? ??
????????? ??????????????, ?????? ?????????????? ??? ?????? ??????? ??? ?????? ??????? ??
?????????????? ??????????? ??? ?? ?????????????? ?? ?????? ??? ?? ?????????????????????
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(??????????)

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