

?????? C-426/07

Dariusz Krawczy?ski

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Dyrektor Izby Celnej w Biadymstoku

(?????? ??? Wojewódzki S?d Administracyjny w Biadymstoku

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«????????? ????? – ????? ??? ??? ?????????? – ??????? ????? ?????????? –
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1. ?????????? ????? – ?????????? ??? ?????????? – ????? ?????? ?????? –
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(?????? 77/388 ??? ??????????, ??? 33 § 1)

2. ?????????? ????? – ?????????? ????? – ??????? ?????? ?????? ??????????????
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(????? 90, ?? 1, ??)

1. ?? ????? 33, ?????????? 1, ??? ????? ?????? 77/388, ??? ?????????????? ???
????????? ??? ?????? ???, ??? ?????? ?? ??? ?????? ?????? ?????? ??????, ???
????????????? ?? ??? ?????? 91/680, ??? ??? ?????? ??? ???? ?????????? ?????? ???
????????????? ? ?????? ?????? ?????? ??? ?????? ?????????? ?????? ??? ??? ?????? ?????? ??????
????? ??? ?????? ??? ?????????? ?????.

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

(?. ??????? 22-23, 25-26, ??????. 1)

2. ?? ????? 90, ????? ?????, ?? ??? ??? ?????? ??? ?????????? ?????? ???
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????? ??? ??? ?????? ??????????, ??? ?????? ??? ?? ??? ?????? ??? ?????? ?????? ??? ??????
??? ?????? ??? ?????????? ??? ??? ?????? ?????? ?????? ?????????????? ?????? ?????? ???
????????? ?? ?????????? ??? ??? ?????? ?????? ??? ?????? ?????? ?????????? ?????? ?????? ???
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(??, ????, 39, ????, 2)

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

?? 17?? ?????? 2008 (*)

«?????????? ??? – ??? ?? ?????????? – ??????? ??? ?????????????? – ?????????????? – ?????????????? – ??????????»

???? ?????? C-426/07,

?? ?????????? ?????? ?????? ?????????? ?????????? ?????? 234 ??, ?? ?????? ?? Wojewódzki S?d Administracyjny w Bia?ymstoku (???????) ?? ?????? ?? 27?? ?????? 2007, ? ?????? ?????? ?? ?????????? ??? 14 ?????????? 2007, ?? ?????? ?? ????

Dariusz Krawczy?ski

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Dyrektor Izby Celnej w Bia?ymstoku,

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

?????????? ??? ??? P. Jann, ??????? ????????, A. Tizzano, M. Illeši? (???????), E. Levits ??? J.-J. Kasel, ????????,

?????? ??????????: E. Sharpston

?????????: R. Grass

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

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

- ? D. Krawczy?ski, ?????????????? ??? ??? W. K?oskowski, radca prawny,
- ? Dyrektor Izby Celnej w Bia?ymstoku, ?????????????? ??? ??? W. Dziemiach, radca prawny,
- ? ??????? ????????, ?????????????? ??? ??? M. Dowgielewicz,
- ? ??????? ??? ????????, ?????????????? ??? ??? ?. ?????????????? ??? K. Herrmann,

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

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1 ? ?????? ?????????? ?????????????? ?????????? ?????? ??? ????????, ??????, ???
????? 33, ?????????? 1, ??? ?????? ?????? 77/388/??? ??? ??????????, ??? 17?? ???
1977, ??? ?????????? ??? ?????????? ??? ?????? ?????, ??? ??????? ?? ??? ????? ??????
????? ?????? – ??? ?????? ?????? ????? ?????????????? ?????: ?????????? ??????????
???? (?? ??. ?. 09/001, ?. 49), ??? ?????????? ?? ??? ?????? 91/680/??? ???
??????????, ??? 16?? ?????????? 1991 (?? L 376, ?. 1, ??? ????: ??? ?????), ???,
??????, ??? ?????? 90, ????? ??????, ??.

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ??? D. Krawczy?ski
??? ??? Dyrektor Izby Celnej w Bia?ymstoku (????????? ??? ?????????? ??? Bia?ystok) ???
????? ??? ?????? ?????? ?????? ?????????????? ??? ??? ?????????? ??? ??? ??? ??????
????????????? ?????? ??? ??? ?????? ?????????? ??? ??? ??? ?????? ?????????? ??? ??? ??????.

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3 ?? ????? 33, ?????????? 1, ??? ?????? ?????? ????:

«?? ??? ?????????? ??? ?????? ?????????? ??????, ?????? ?? ??? ????? ?????????????? ??? ???
????????? ?????????? ?????????? ??? ??? ?????? ?????????? ??????, ?????????????? ???
????? ??? ?????????? ?? ??? ?????? ?????? ?????????? ??????, ?? ?????????? ???
????????? ?????? ??? ?????????? ??? ??? ?????? ?????????? ?????? ?????????? ? ??????
????? ??? ??? ?????????? ?????????? ??? ??? ?????? ?????????? ??? ?????????? ??????
????? ?????????? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

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

4 ?? ????? 2 ??? ?????? ??? ?????? ?????? ?????? ?????????????? (ustawa o podatku
akcyzowym), ??? 23?? ?????????? 2004 (Dz. U ?????? 29, ?????? ????. 257), ?? ??? ???
??? ?????? ??? ?????????? ?????????????? ??? ?????????? ??? ?????? ?????? (??? ????:
????? ??? 2004), ?????? ?? ????:

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

[...]

11) “????????????? ???”: ? ?????? ?????? ?????????? ?? ?????? ??? ??????????????
????????? ??? ?? ?????? ?????? ?????? ??? ??? ??????.

[...]»

5 ?? ????? 10, ?????????? 1, ??? ?? ??? ?????? ???? ?? ????:

«?? ?????????? ??? ? ?????????? ??? ?????? ?????????? ?? ?????? ??? ??? ??????

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

1) ?? ?????? ??? ????????, ?? ????????, ??? ??????, ????? ??????, ?????????? ??? ???????????
?? ?????? ??? ??????????????, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??????????? ??? ?? ????? ??????????.

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

3) ?? ?????????? ?????????????????? ????, ?? ???? ??? ??????? ?? ?????????? ??? ???
????????? ?????????????? ??? ?????????? ??? ?????? ??? ?????????????? ??? ??????
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4) ?? ?????????? ????????, ? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???
??? ?????????? ????????, ?????????? ??? ?????? 6 ??? 9.»

6 ?? ??? 75, ?????????? 1 ??? 3, ??? ??? 2004 ?????????? ?? ???:

«1. ?? ?????????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????????? ??? 65 % ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????? 10, ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???.

[...]

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

7 ?? ??? 79 ??? ?????? ?????? ?? ???:

«? ?????????? ??? ?????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

8 ?????? ?? ?? ??? 80, ?????????? 1 ??? 4, ??? ??? 2004:

«1. ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

2. ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???:

1) ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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2) ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

3. ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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1) ?? ?????????? ???, ??? ??? ?????? ??? ?????? ??? ?????? ???, ?? ?????? ???, ???
????? ??? ??? ?????? ??? ?????? ???.

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

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

4. ? ?????????? ?????????? ??????, ?? ?????? ???, ?? ??????????, ??? ?? ?????? ?????? ???
????????? ??? ?? ?????? ?????? ??????????????, ?? ?????????? ??? ?????? ?? ??????????
????????? ???, ?????? ??? ?????? ?? ?????? ?????????? ??????, ?????????? ??? ??????
??? ?? ?????? ??? ?????????? ?? ??? ?????? ?????????? ?????????? ??? ?? ??????
????????? ??? ?????????? ?????????? ??? ?????? ?????? ??????????.

9 ?? ??? 81, ?????????? 1, ??? ??? 2004 ??? ?? ???:

«???? ?????????? ?? ?????????? ?????? ?????? ?????????? ?????? ?????? ?? ?????? ???
???? ?????????? ??? ?????? ?????? ?? ??? ?????? ?????? ?????? ?????????? ??????????.

1) ?? ??????????, ??? ?? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ??
?????, ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

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

10 ?? 82, ?????????? 3, ??? ??? 2004, ?? ??????????
????????? ??? ?????? ?????? ?????? ?????? ???, ?? ??? ?????? ??? ?? ???
????????? ?? ??? ?? ??? ? ?????? ?????? ?????? ??? ?????? ??? ?? ???.

11 ??? ?? ?????? 7 ??? ?????????? ??? ?????? ?????????? ?????? ?????????? ???
????????? ??? ?????? ?????? ?????? (ozporz?dzenie Ministra Finansów w sprawie
obni?enia stawek podatku akcyzowego), ??? 22? 2004 (Dz. U 2004 ?????? 87, ???
???. 825), ?? ??? ?? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ???
????? ?????? (??? ????: ?????? ??? 2004), ??? ??? ?? ?????????? ??? 1 ??? 2 ??????
??, ??? ?????????? ?????? ??? ?????????? ??? ?????? ???, ? ?????????? ??? ??????
????? ?????????? ??? 3,1 % ? ?? 13,6 %, ?????? ??? ??? ?????? ???, ??? ??,
?????????, ??? ?????????? ??? ?????? ?????????? ?????? ??? ??? ???, ? ??????????
????? ?????????? ?? ??? ??? ??? ?????? 7, ?????????? 2, ??? ?????? ???
2004 ??? ?????????? ?????? ?? ??? ?????????? ??? ?????? ???, ?????? ?? ??
????? ??? ?? 65 % ??? ?????????? ???.

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

12 ?? ?????? ??? 7? 2005, ? Naczelnik Urz?du Celnego w Bia?ymstoku
(????????? ??? ?????? ??? Bia?ystok) ??????? ?? 11 066 ?????? (PLN) ??
????? ??? ?????? ? D. Krawczy?ski ??? ?? ??? ?????? ??? ?????????? ?????? ???
????????? ???, ??? ?? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???, ??
????? ??? ?????????? ??? ?????? ? ?? ??? ?????? ?????????? ??? ?????? ??? ?????? ?? ??????
?? ?? ?????? ???, ?????? ?? ??? ?????? ?????? ?? ??????.

13 ? D. Krawczy?ski ?????? ?????????? ?????? ??? ?????? ?????? ??? ??????, ?? ??????
?? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? 4 599 PLN, ???
????????? ???' ?????? ??? ?????? ??????, ?????? ?? ?? ?????? 79 ??? ?????? ??? 2004, ??
????????? ??? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ???

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

14 ? Dyrektor Izby Celnej w Bi?ymstoku, ?? ?????? ?? 19?? ?????????? 2006, ???????
??? ?????? ????. ?? ??? ?? ????? ?????????? ?????????????? ???' ??????, ??????, ??? ???????
?? ?????????? ?????? ????? ?????????????? ??? ?????? ?????????? ?????? ??? ???????,
???? ?? ?? ?????? ?????? ????? ?????????? ??? ?????? ??? ?????????? ??????????????, ???, ????????, ???
? ?????????? ????, ?????????? ?? ??? ?? ??? ????? ?????????? ??????????, ????
????????? ?? ?????????? ??? ?????????? ?????????? ?????? ??? ?????? ??? ?????????? ??????????, ???
?????????????, ?? ?????????? ??? ?????????? ?????? ??? ?? ??? ?????????? ?????? ???
????????????? ??? ?? ?????????? ?????????????? ?????? ??? ?????? ??? ?????????? ?????? ???.

15 ? D. Krawczy?ski ?????? ??? ?????????? ?????? –????????????? ??? ??????????
??– ?????????? ?????????? ??? Wojewódzki S?d Administracyjny w Bi?ymstoku
(????????? ?????????? ??? ?????????? ??? Bi?ystok). ??????????, ?????? ???,
??? ?????????? ??? ?? ??? ?????? ??? ?????????????? ?? ?????????????? ?????????? ???
????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???, ??? ?
???? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????????? ?????????? ???
????????? ??? ?? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????? ?? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

16 ???????, ? Dyrektor Izby Celnej w Bi?ymstoku ?????? ?? ? ?????????? ??
????????? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???,
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?? ??? ??
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

17 ?? ?? ??????? ??????, ?? Wojewódzki S?d Administracyjny w Bi?ymstoku ???????
?? ?????????? ?? ?????????? ??? ?? ?????????? ??? ?????????? ?? ?????????? ??????????
?????????:

1) ?????? ?????????? ??? ?????? ?????? ?????? ?????? ??????????????, ??? ?
????????????? ?? ??? [???? ?? 2004], ? ?????? ?????? ??? ?????? ?????? ??????????????
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??????????????, ??
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????? 33, ?????????? 1, ??? ?????? ?????? [...];

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

2) ?????????? ? ?????? ?????????? ?????? ?????????? ??? ? ?????? ?????? ?????? ?????
????? ??? Wojewódzki S?d Administracyjny w Bi?ymstoku ???, ? ?????? ?????? ???
????? ?????????? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
????? ?????? ??? ?????? 90 ??, ?? ?????? ?????????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ???
????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??????;»

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

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18 ??????????????? ?? ???? ???, ??? ????? ??????????, ?????????????? ?? ?????? ?? ???
?????, ??? ??????? ? ??? ???? ??? ?????????? ?????? ?????? ???????, ??? ?? ??????
??? ?????? 33, ?????????? 1, ??? ????? ??????, ??????, ?????? ?????, ?? ?????????? ??
????? ?? ?????????? ?? ?????????? ?? ?????????? ??? ?????? ?????? ?????????? ??? ??????
????????????? ?????? (??? ????: ???), ?????????????? ??? ?????????? ??? ?????? ??? ??
????????? ??? ?????????? ??? ?????????? ?????? ?????? ?????? ?????????? ?? ?????????? ???
????????????? ??? ??? (????????? ??? 11? ?????????? 2007, C-283/06 ??? C-312/06, KÖGÁZ
??., ??????? 2007, ?. I-8463, ????? 34 ??? ?????????? ??????????).

19 ?? ?????????? ??? ?????????????? ??????? ???, ?? ??? ??????????????, ??????? ??
????????? ?? ?????????? ??? ?????????? ??? ??????? ??? ?????? ??? ?????????? ??? ??
????????? ?? ??? ??? ?? ?????, ?? ?????????? ??? ?? ??? ?????? ??? ?????????? ?? ??????
????????????? ??? ???, ??? ??? ?? ??? ?????? ???' ??? ?????????? ?? ??????
(????????????? ?????? KÖGÁZ ??., ????? 35 ??? ?????????? ??????????).

20 ??????????, ?? ??? 33, ?????????? 1, ??? ????? ?????? ??? ?????????? ??
????????? ?? ??? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?? ??????
????????????? ??? ??? (????????????? ?????? KÖGÁZ ??., ????? 36 ???
????????? ?????? ??????).

21 ?? ?????????? ??? ????? ?????????? ?? ?????? ?????????????? ??? ??? . ??? ??
????????? ??? ?????????? ??? ?? ?????????? ?????? ?????? ??????: ?? ?????? ??????????
?? ??? ??? ??? ?????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????????? ?????? ?????????? ?????? ?????? ??? ?? ?????? ???
????????? ??? ???????, ? ?????????? ??? ?????? ?????? ?? ?????? ?????? ??? ??????????
????????? ??? ???????, ?????????????? ??? ?????? ?????? ?????????? ?????????, ??????? ???
????????? ??? ??????? ??? ?????? ?????????, ??? ? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ???, ??? ?? ??? ?????????????? ?????? ??? ?????? ?? ?????????????? ??? ??? ??? ?????? ???
????????? ??? ?????? ???, ? ?? ?????? ?????????? ?? ?????????? ??? ?????????? ??? ??????????
(????????????? ?????? KÖGÁZ ??., ????? 37 ??? ?????????? ??????????).

22 ??? ??? ?? ??? ?????? ??? ?? ?????????????? ???, ?????? ?? ?????? ?????????? ???
?? ??? ??? ?????? ?? ?????????? ??? ?????? ? ??????????, ??????????????, ??? ??????????
????????? ? Dyrektor Izby Celnej w Bi?ymstoku, ? ?????? ?????? ??? ? ??????????
?? ?????????? ??????????, ??? ? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ???
????????, ??? ?? ??? 80, ?????????? 2, ?????? 1, ??? ?????? ??? 2004, ??? ?????? ???
????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ??????????
?????????.

23 ??????, ?????????? ??? ?????? ??? ?????????? ???, ? ?? ??? ?????? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ? ??????????.

24 ??? ??????, ?????????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ??? ??? ??? ? ?????????? ??? ?????? ?????? ??? ?????? 22 ???
????????? ??????????, ??? ?????? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ???.

25 ??????, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????????? ??? ?????? ???

????? ???? ?????? ?????? ?????????????? ?????????????? ??? ???? ??? ?????? ??? ?????? ??
????????????? ?? ?????? ??? ?????? ?? ?????? ?????? ?????? ??????, ??? ??? ?????? ???
????? 33, ?????????? 1, ??? ?????? ??????.

26 ?????? ??? ???????, ??? ?????? ??????? ?????? ?? ?????? ? ?????????? ??? ?? ??????
33, ?????????? 1, ??? ?????? ??????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????? ???
??????????, ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ? ?????? ??? 2004, ? ??????
????? ??? ?????? ?????? ?????????? ??? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
??????????.

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

27 ?? ?????? ?????????? ?????? ???' ?????? ?? ? ?????? ?????? ?????? ?????????????? ???
????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????
????????? ??? ?????????? ??? ?????? 90 ??, ??? ???? ???? ???? ? ?????? ??????????????
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????????? ?????? ??????
??? ??? ??? ???.

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

29 ???' ?????, ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ???? ?
????????? ?? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???, ?????? ???, ???????,
????? ?? ?????? ??? ?????? ?? ?????? 90 ?? (??., ??? ??? ?????? ???, ?????? ???
18?? ?????????? 2007, C-313/05, Brzezi?ski, ?????? 2007, ?. I-513, ?????? 24).

30 ?????????? ??? ?? ?????????? ??? ?????? ?????? ???, ??? ?????? ??? ?????????? ??, ??
????? 90 ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ???
??? ?????????? ??? ?????? ??? ?????? ?????? . ? ?????? ??? ?????? ??? ?????? ?? ??????????
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? (????????????? ??? ?????? Brzezi?ski,
????? 27 ??? ?????????? ??? ??????).

31 ??? ?????? ??? ?????????? ??? ?????? ?????? ?????????????? ?????????? ???, ??
????? 90 ?? ?????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ???
????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ??? ?????????? (????? ??? 20?? ?????????? 2007, C-74/06, ?????? ???
??????, ?????? 2007, ?. I-7585, ?????? 24 ??? ?????????? ??? ??????).

32 ??????, ??? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????????? ?? ??
????? 90 ?? ??? ?????? ?? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ??
????????? ?? ??? ?????? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?? ?? ?????? ??? ???, ???????, ?? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ?????? ??? (????????????? ??? ?????? Brzezi?ski, ?????? 40
??? ?????????? ??? ??????).

33 ??? ?????? ???, ?????? ?? ?????????? ??? ? ?????? ??? ?????? ??? ?????? ???

?????? ?????????????? ??????? ????? ?? ???? ????? ?????? ??? ?????? ?????? ?????? ?????? ??????????????
????????????????? ?????????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????????? ?????? ???
?????? ?????????????? ?????????? , ?????????? ??? ?? ??? ?????? ?????? ?????? ??????????
????????????? ?????????? ?????? ?????? , ??? ?? ?????? ??? ?????? 90, ??? ?????? ?,
??.

34 ?????????? ???? ?????????????? ??????, ??????? ?? ??????? ?????????? ??????? ???
?????????? ???????????, ??????, ??????, ????? ?? ?????????? ?? ?????????????? ??????
??? ?????????????? ??? ?? ?? ?????????? ???, ??? ????? ?????????? ?????? ?? ??
????? ?????????????? ???, ???, ???????, ????? ?? ?????????? ?? ?????????????? ???
?? ?????? ??? (????????????? ?????? Brzezi?ski, ??? 34).

35 ????? ?????? ?? ??????????? ?????????? ?????????? ??? ?????????? ?? ?????????? ?
 ?????????????? ??? ?? ?????????? ??? ?? ??? ?????, ??? ?? ?????? ??? 2004
 ?????????? ??? ??? ????? ?????????? ?? ?????? ??? ?????????????? ?????????????? ?? ??? ??? ???
 ?????????? (??., ??? ??? ?????? ???, ?????????????? ?????? Brzezi?ski, ??? 35).

36 ????? ?????? ?????????????????? ?????????????? ?? ?????????????? ?????????????? ??? ???? ???? , ???
????????? ?????????????? ?????????????? ?????????????? ?? ?????????????? , ??? ?? ?????? , ?????? , ???
?????????? ???? 2004, ??, ?? ?????? ?? ??? ?????? ?????? ?????? ?????????????????? , ??????????????????
????????? ?????????? ??? ???? ?? ?????????????? ?????? ??? ?????? ?????? ?????? , ??? ???? ??????????????
????? ?????????? ??? ???? ?????????????????? ?????? ?????? ?????????????????? ?????????????? ,
????????? ?? ?? ?????? ??? ?????? ?????? ??? ?????? ?? ?????????? ?????????????????? ??????????????
??? ?????????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? (????????????????? ??????)
Brzezi?ski, ????? 36).

37 ??????????, ??? ?????? ??? ?????? ??? ?????????????? ??? ?????? ??
????????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ???
????????? ??? ?????????? ???, ? ?????????? ??? ?????? ??? ?????? ??? ??????????????
????????????? ??? ?????? ??? ??? ?????? ??? ?????? 7 ??? ?????????? ??? 2004. ? ?????????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???
????????? (??., ??? ??? ?????? ???, ?????????????? ??? Brzezi?ski, ??? 37).

38 ????????? ??????????? ?????????????? ?????????????? ?? ?????????? ?? ? ??????? ????? ??? ??? ????
????????? ?????? ?????? ?? ?????????????? ?????????????? ?????????????? ??? ?????????????? ??? ???
????? ?????? ?????? ??? ?????????????? ??? ?????????? ??? ??, ??????????, ??? ??
????????????? ??????????, ?? ?????? ?????????????? ?? ?????????? ??? ??????????, ?
????????????? ??? ?????????????? ?????? ?????? ?????????????? ??? ??? ?????????????? ???
????? ??? ?????????????? ?????? ?????????? ?????? (????????????? ?????? Brzezi?ski,
????? 38).

40 ? ?????????? ??????????, ?? ??? ?????? ?????????????? ??? ?????????? ?????????? ???
???????????, ??????, ?? ?????????? ??? ?? ?????????? ?????? ?????????? ?????? ??? ??????
????????????? ?????? ??? ?? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?? ??????
90, ?????? ??????, ??, ?? ?????????? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ??
???????.

41 ??? ?????? ??? ?????????? ???, ? ?? ??? ?????? ?????????? ????????????, ??????, ??
???????, ???, ??? ?? ??????? ??? ?????????? ??? ?????? ?????? ?????????????? ???????????,
????? ?????? ??? ?????????? ??? ?????????? ??? ????????????, ?????? ??? ?? ?????? ??? ??????????
???????, ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????,
???, ????????, ??? ?? ??????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? 2004 ??
????? ????????, ??? ?? ??????? ??? ?????????? ??? ????????????, ?? ?? ??? 90, ?????? ??????, ??,
????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ?????????? ???
????????? ??? ?????????? ?, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ??????
????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??????
?????????.

42 ???????, ?????????????? ??? ?????? ???' ?????????? ??????? ?? ???????????, ???'
????????? ??? ?????????? ?? ??? ?????????? ?????? ?????? ?????? ?????? ??? ???????????
???????, ?? ?????????? ?? ?????????? ?????? ?????????????? ?? ?????????????? ??? ??????????? ???
????????????? ??? ?? ?????????? ?????? ??? ?? ?????? ??? ?????????? ?????????? ?????????? ??????
??? ?????????????? ?????????? (??????, ??? 6?? ?????? 2007, C-292/04, Meilicke ???.,
?????? 2007, I-1835, ????? 35 ??? ?????????? ??????????).

43 ??? ?????? ?????????? ??? ????????????, ? ?????????? ?????? ?????? ??? ??????????
????? ?? ??? ?????? ??? ?????? ?? ??? ?????? ?? ?????????? ?????????? ??? ?? ??? ??????????
????????? (????????????? ?????? Meilicke ???., ????? 36 ??? ?????????? ??????????).

44 ???????, ?????????? ?????????? ??? ?????????? ?????? ?????? ?????????? ?????????? ???
????????????? ?????????????? ??? ?????????? ?????? ?????????? ??? ?? ?????????? ?????? ?? ???
???????, ?? ?????????? ??????. ???????, ? ??? ?????? ?? ??? ?????? ?????? ?????? ??????????
??????, ?? ?????? ?????? ??? ?? ??? ?????? ??? ?????? ?????? ?? ??? ?????? ?? ??????????
????????????? ??? ?? ?????????? ?????? ?????????? ??? ?????? ??? ?????????? ??? ??????
????? ?? ??? ?????? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ???
????? ?? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ???
(????????????? ?????? Meilicke ???., ????? 37).

45 ? ??? ?????? ?????????????? ?????????? ???, ???' ??????, ?? ?????? ?? ??????????
?? ?? ??? 90, ?????? ??????, ?? ??? ?????? ?????? ?????? ?????????? ??? ?????? ??
?????? ?????????? ??? ?? ??? ?????? ?????? ?????? ?????????? ??? ?????? ?? ?????? ?????????? ???.
??????, ??? ?? ??? 41 ??? ?????????? ?????? Brzezi?ski ?????????? ??? ??
????? 90, ?????? ??????, ?? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????????? ???
??? ?????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ?????? ???
????????? ?????????? ??? ?? ??? ?????? ??? ?????? ?????????? ?? ?????? ?????? ?????? ???
??? ?????? ??? ?????? ??? ?? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????? ???
??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??, ???, ???, ? ?????? ??? ?????? 7 ??? ?????? ??? 2004 ??? ?????? ??? ??????.

46 ??? ?? ?????? 62 ??? ?????????????? ?????????? Brzezi?ski ?????????? ??? ??
?????????? ??? ?????????? ?? ?????????? ?????????????? ??? ?? ??? ??????????.

47 ??? ????????, ??? ???????? ?????? ?? ?????????? ?? ?????????? ??? ?????????? ??????????.

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

48 ??? ??????? ??? ? ??????? ?????????? ??? ?? ??? ????? ?????????? ??? ?????? ???
??? ?????????? ?????????????? ??? ?????? ?????????? ??? ?????? ?????????? ?????????? , ?' ???
????????? ?? ?????????? ??? ??? ?????????? ?????? . ?? ?????? ??? ?????? ??????????
????? ?????????? ?????????????? ??? ?????????? , ??? ??? ?? ??? ?????? , ??? ??????????.

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

1) ?? ?????? 33, ?????????? 1, ??? ?????? ?????? 77/388/??? ??? ?????????? , ???
17?? ??? 1977, ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? , ???
????????? ?? ??? ?????? ?????? ?????? – ??? ?????? ?????? ?????? ??????????????
?????: ?????????? ?????????? ???, ??? ?????????? ?? ??? ?????? 91/680/???
??? ?????????? , ??? 16?? ?????????? 1991, ??? ??? ?????? ??? ??? ??????????
????? ??? ?????? ?????????? , ??? ?????? ??? ?????? ?????????? ??? ?????? ????
????? ??? ?????? ?????? ?????????? (ustawa o podatku akcyzowym) , ??? 23??
????????? 2004, ? ?????? ?????? ??? ?????? ?????????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??????????.

2) ?? ?????? 90, ?????? ?????? , ?? ??? ?????? ??? ?????? ??? ?????????? ?????? ???
????????????? , ??? ? ?????? ??? ?????? ???, ??? ?????? ??? ?? ??? ??? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??????????
??? ??? ?????? ??? ?????? ?????????????? ?????????? ?????????? ?? ??????????
????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????????? ?? ?
????????? ??? ?????? ??? ?????? ?????????? ???, ???, ??? ?????? ??? ?????????? ???
????? ?????????? (ozporz?dzenie Ministra Finansów w sprawie obni?enia stawek
podatku akcyzowego) , ??? 22?? ?????? 2004, ??? ?????? ?????? ?????? ??????.

(?????????)

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