

?????? C-510/08

Vera Mattner

????

Finanzamt Velbert

(?????? ??? Finanzgericht Düsseldorf ??? ??? ?????? ?????????????? ??????????)

«????????? ?????????? ??? ?????????? – ?????? 56 ?? ??? 58 ?? – ?????? ?????? – ?????????? ??
????? – ?????????? ?????????? ?????? ??? ?? ?????????????? ??? – ?????????????? ??????????????
????????? ?????????? ??? ?????????? ?????????»

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

????????? ?????????? ??? ?????????? – ?????????? – ?????? ??????

(????? 56 ?? ??? 58 ??)

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

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

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

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

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

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

(?. ??????? 28, 35, 38, 42, 44, 46, 48-51, 54-56 ??? ???????.)

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

??? 22?? ??????? 2010 (*)

«????????? ?????????? ??? ????????? – ????? 56 ?? ??? 58 ?? – ?????? ?????? – ?????????? ??
?????? – ???????? ?????????? ??? ?? ???? ?????????? ??? – ?????????? ?????? ??????????
????????? ???????? ??? ??????? ??????????»

???? ??????? C?510/08,

?? ??????????? ?????? ??????? ?????????????? ?????????? ?????? ??? ?????? 234 ??,
??? ??????? ?? Finanzgericht Düsseldorf (???????) ?? ?????? ??? 14?? ?????????? 2008, ?
????? ??????? ??? ?????????? ??? 24 ?????????? 2008, ??? ?????? ??? ????

Vera Mattner

????

Finanzamt Velbert,

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

?????????? ??? ??? J. N. Cunha Rodrigues, ??????? ????????, P. Lindh, A. Rosas, U.
Löhmus ??? A. Ó Caoimh (???????), ????????,

?????? ??????????: P. Mengozzi

?????????: B. Fülöp, ????????, ????????????,

?????? ??? ?? ??????? ??????????? ??? ??????? ??? ??' ??????????? ??????????? ??
11?? ??????????? 2010,

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

- ? Finanzamt Velbert, ??????????? ??? ??? F.?D. Rilinger ??? ??? G. Köhler,
- ? ?????????? ????????, ??????????? ??? ??? M. Lumma ??? C. Blaschke,
- ? ?????????? ??? ????????, ??????????? ??? ??? R. Lyal ??? W.
Mölls,

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

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

???????

1 ? ?????? ??????? ?????????????? ?????????? ?????? ??? ??????? ??? ?????? 39 ??,
43 ??, 56 ?? ??? 58 ??, ??????? ?? ??? ??????? ?????????? ??? ???????????, ???
????????? ?????????????? ??? ??? ??????? ?????????? ??? ???????????.

2 ? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ??? V. Mattner ??? ???
Finanzamt Velbert (??? ????: Finanzamt) ?????? ?? ??? ?????????? ??? ?????? ??? ???
?????? ?????????? ??????? ??? ???????.

? ????????

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

3 ??? ?? ?????? 1 ??? ?????? 88/361/??? ??? ??????????, ??? 24?? ??????? 1988, ???
?? ??? ?? ??????? ??? ?????? 67 ??? ?????? [????? ?????????? ?? ?? ??????? ???

?????????] (?? L 178, ?. 5):

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

2. ?? ?????????? ??? ?????? ??? ?????? ?? ?????????? ?????????? ?????????????? ??? ??? ??? ???
????? ?????????????? ??? ?????????? ?? ?????? ??? ?????? ??? ??? ?????? ??? ??? ?????? ???
????? ??? ?????? ?????? ???.

4 ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ? ??? ?????? 88/361
??????????, ??? ??????? ??, ?? ?????? ?????????? ?????????? ?????????? ??????????, ???
????? ?????????????? ?? ?????? ??? ?? ??????????.

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

5 ? ?????? ??? ?????????? ?????????? ??? ?????? [Erbschaftsteuer- und
Schenkungsteuergesetz, ??? ?????????? ??? 27 ?????????? 1997 (BGBI. 1997 I, ?. 378)
??? ?????????? ??? ?????? ?? ??? ??? 10?? ?????????? 2007 (BGBI. 2007 I, ?. 2332)], ? ?????? ??? ?????????? ??? ??? ?????? ??? ?????????? ?????????? ???
????????? ??? ?????? ??? (??? ????: ErbStG), ?????????? ?? ???:

????? 1: ?????????? ??????

1) ?? ??? ?????????? (???) ??????????

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

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

3. [...]

2) ??? ?? ?????????? ?????????? ??????????, ?? ?????????? ??? ?????????? ?????? ??????
?? ??? ?????? ?????? ?????? ?????? ?????? ??? ??? ?????? [...]

????? 2: ?????????? ?????????? ??????????

1) ?????????? ?????????? ??????????:

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

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

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

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

[...]

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

?????? ?????????? ??? ?????? ??? ?????? ??? ?????? 121 ??? [????? ??? ??? ?????????????? (Bewertungsgesetz), ??? ????: BewG].

[...]

????? 14: ?????????????? ?????????????? ??????????????

?? ?????????? ??? ?? ??? ?????? ??? ?????????????? ??? ?????????????? ??? ??
????????????? ?????????????? ?????????? ?? ?????????? ??? ???, ? ??? ??? ??????????????
????????????? ?????????????? ?????????? ?????????????? ??? ??? ??? ??? ??????????
?????????????. ??? ??? ??? ??? ??? ?????????? ??? ????? ?????????? ?? ????? ??? ??
?????????, ?? ??? ??? ??? ?????????? ?????????? ??? ?????????? ??? ?? ??? ??? ??
????????????? ??? ??? ??? ?????? ?????????? ?????????????? ??????????, ??? ???
????????????? ??????????????. ??????????, ??? ??? ??? ??? ??? ?????????? ??????
????????????? ??? ??? ??? ?????????? ?????????? ??? ??? ??? ?????????????? ??????????????,
????? ? ??? ??? ??? ?????? ?????? ?????????? ??? ?????????????? ??? ?????? ??????. [...]

????? 15: ?????????? ??????????

1) ??? ?????? ?? ??? ?????????? ??? ?????? ?? ?????????? ??? ??? ?????????????? ? ???
?????, ?????????????? ?? ?????????? ??? ?????????? ?????????????? ??????????:

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

1. [...]

2. ?? ??? ?????? ?? ?????????? ??? [...]

[...]

????? 16: ?????????? ????

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

1. [...]

2. ??? ?? ????, ??? ?? ?????? ??? ?????? ??? ?????????? ?, ??????, ?????? ?????? ??? 205 000
????.

2) ??? ??? ?????????????? ??? ?????? ??? ?????????? 1, ??? ?????????????? ??? ??? ???? 2,
????????? 1, ?????? 3, ?????????? ?????????? ??? 1 100 ???.

[...]

????? 19: ?????????? ??????????

1. ? ?????? ?????????? ?? ??? ??? ?????? ??????????:

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

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

?

[...]

[...]

??? 52 000 ????

7

[...]

[...]

??? 256 000 ????

11

[...]

[...]

[...]».

6 ?? ?????? 121 ??? BewG, ????, ?????????????? ??? 1? ?????????? 1991 (BGBI. 1991 I, ?, 230) ??? ????, ????, ?????????????? ??? ?????????? ??? ?? ??? ??? 13?? ?????????? 2006 (BGBI. 2006 I, ?, 2378), ?? ????? «?????? ???????», ??????:

«????? ??????? ?????????? ??????????????:

[...]

2. ? ??????? ??????? ??????????.

[...]».

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

7 ?? ?????????????? ??? 23?? ??? 2007, ? ?????? ?????? V. Mattner, ? ?????? ?????? ?????? ??? 35 ???, ??????? ?? ?????? ??? ?? ?????? ???, ?????? ?????? ?????? ???, ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? 50 ???, ?????????????? ?????? ??? ?????????? (?????????), ??? 255 000 ????.

8 ?? ?????? ??????? ??? 24?? ?????????? 2008, ? Finanzamt ??????? ??? V. Mattner ??? ?????? 27 929 ????. ?? ??? ?????? ?????? ??? ??? ?????? ?????????? ??? 11 % ??? ??? ?????? ??? ??????????, ?????????? ??? ?? ?????????? ??? ??? 1 100 ????.

9 ?? ??????? ??? 23?? ??? 2008, ? Finanzamt ??????? ??? ?????? ??? V. Mattner ??? ??? ?? ??? ?????? ?????? ????.

10 ? V. Mattner ?????? ?????? ??? Finanzgericht Düsseldorf ??????? ?? ?????? ??

?????? ? ? ????? ???? ?? ?????????????? ????, ??? 205 000 ????, ??? ?????? ??? ???? ??????
????? ??? ????? ??, ??? ????? ?????? ?????????? ??? ??????, ? ?????? ? ? ??????????
????? ??? ??????? ??? ????? ??????.

11 ?? ?????? ?????????? ?????? ??? ?? ?????? 16, ?????????? 2, ??? ErbStG ??????
????????? ??? ??????? ?????????? ??? ?????????? ??? ??????????, ??? ???? ?????? ??? ?????? 56,
????????? 1, ??, ??? ?????? ??? ? ?????????? ??? ?????????? ?????????????? ?????? ??????????
??? ??? ??? ?????????? ??? ?????? ? ??? ??????????. ????????, ??? ?????? ???
????????? ??? ?????? ?????????? ?? ?????? ??????????, ?? ? V. Mattner ? ? ?????? ???
????? ??? ??????? ??? ?????? ??????????, ?? ?????? ?? ?????????? ?????????? ??? 205 000
????, ??????? ?? ??? ?????????? 1, ?????? 2, ??? ?? ??? ?????? 16, ?????? ? ??? ??????
??? ?????? ?? ??? ?????? 50 000 ??? ?????? ??? ?????? ?? ??????????, ?????? ??? ??????????????
??? ?????? 19, ?????????? 1, ??? ErbStG ?????????? 7 %, ?? 3 500 ??? ?????? ?? 27 929 ???.

13 ???????, ?? ?????? ?????????? ?????????? ???, ?? ?????? ??? 21?? ??????????
2005, ?? Bundesfinanzhof ????? ?????????? ???, ??? ?????? ?????????? ?????????????? ???
????????? ??? ??????????????, ???????? ??? ? ?????????? ?????????? ??? ???? ???
????????? ??? ?????? ?????????? ??? ?????????? ??? ? ?????????? ???, ? ?????????? ???
????????? ???, ???, ?? ??? ?????????? ??? ?????????? ??? ?????????? ??? ???? ???
????????? ????. ?????????? ???, ??? ? ?????????? ??? ?????????? ??? ???? ??? ??????????
????????? ??? ???? ?? ?????? ??? ?????????? ???, ? ?????????? ??? ?????????? ???
????????? ??? ?????????? ??? ???? ??? ?????? ?????????? ??? «?????? ??????»,
???? ??? ?????? ??? ???? 121 ??? BewG. ???????, ? ??? ?????? ??? ???? ???, ???
?? ??? ?????? ?????????? ?? ?????????? ???, ?????????? ?????? ?????????? ??? ???? ?? ??
? ?????????? ?????????? ??? ???? ?????????? ? ?????????? ???.

14 ????????? ???????????, ????, ??????????? ?? ?? ??????????????? ??????? ?? ?? ????
 ???????, ????, ????, ??????????? ?? ?? ???????, ?? ?? ??????????? ??????? ?? ?? ???? ??
 ??????????????? ?? ??????????????? ??, ???????, ? ??? ??????????? ?? ?? ??????? ?? ?? ????
 ??????? ?? ?? ?? ? ??????????? ?? ??????? ??????????? ?? ?? ??????????? ?? ?? ????
 ??????????. ?? ??????? ??????????? ??????? ?? ?? ??????????? ??????????? ?? ?? ????
 ??????????????? ??????? ?? ?? ??????? ?? ??????????? ??????? ?? ?? ???? ???????????.

15 ???????, ?? ?????? ?????????? ????, ?? ?????????????? ?? ?? ?????? 16, ??????????
2, ??? ErbStG ????? ?????? ???, ?? ????? 39 ?? ?? 43 ??, ?????????? ?? ?? ??????????
??? ?????????? ?????????? ???, ?? ?????? ??? ?????? ?????????? ???, ?? ?????????? ???,
????? ?????? ???, ?? ?????? ?????? ???, ?? ?????? ???, ?? ?????? ???, ?? ?????? ???,
????? ?????? ???, ?? ?????? ???, ?? ?????? ???, ?? ?????? ???, ?? ?????? ???, ??.

«????? ??? ?????? ?? ???? 39 ?? ??? 43 ??, ?????? ??? ?? ?????? 56 ?? ?? ?????????? ?? ??
????? 58 ??, ??? ?????????????? ?????????????? ?????????? ?????????? ?????????? ??? ?????? ??????,
????? ??? ?????? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??????????
????????? ??????? ??? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ??? 1 100 ???,

???, ?? ? ??????? ? ? ??????? ????, ???? ??? ???? ???? ??????????? ??? ???? ?????? ??? ????
???????, ??????? ?????, ?? ??????????? ??? ???? ?? ??????? ?? 205 000 ???;»

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

17 ???' ??????, ?? ?????? ??? ???? ?? ?????? ?????????? ?????? ?? ???? 39 ??, 43
??, 56 ?? ??? 58 ?? ?????? ?? ?????????? ??? ???? ?????? ??? ?????????? ?????? ??????????
?????? ?????? ???????, ??? ? ?????? ??? ???? ???, ? ????, ??? ??? ?????????? ???
????? ??????, ???????, ?? ?????????? ??? ? ?????? ?? ???? ?????? ??????, ??? ??
????? ?????????????? ??? ??????, ?????????? ?????? ?????? ??????, ??? ??????, ??? ??
????????? ??? ?????? ?????? ?????? ??? ???? ?? ???? ??????, ??? ?????? ??????
??? ?? ??? ??? ?????????? ?? ?????? ??? ???? ?? ???? ?????? ?????? ?????? ?????? ??? ????
?????? ??????.

18 ??? ?????? ????????, ?? ?????? 56, ?????????? 1, ?? ?????????? ??????? ???
????????? ??? ??????? ?????????? ??? ?????? (????????? ??? 11??
????????? 2008, C?11/07, Eckelkamp ??., ?????? 2008, ?. I-6845, ??? 37, ??? ??
C?43/07, Arens-Sikken, ?????? 2008, ?. I?6887, ????? 28, ??? ?? 12?? ?????????? 2009, C-
67/08, Block, ?????? 2009, ?. I-883, ????? 18).

19 ? ??????? ??? ?????? ??? ???? ?? ?????? 56, ?????????? 1, ?? ?????? ??? «??????»
????????», ?? ?? ?????????? ??? ???? ?? ?????????? ??? ?????? 88/361 ???
????????? 1, ?? ?????? (?? ?????? ?????????????? ??? ?? 69 ?? 70,
????????? 1, ?? ?????? ??? ?? ?????????? ??? ?? ?????? ??? ??????????),
????????? ???, ?? ?????? ?? ?? ?????????? ?????? ??? ?????????? ??? ?????????? ?,
????????? ??? ?????? ?????????? (??., ?????? ???, ?????? ??? 23?? ??????????
2006, C?513/03, van Hiltén?van der Heijden, ?????? 2006, ?. I?1957, ??? 39, ??? ??
????????? ?????? Eckelkamp ??., ????? 38, Arens-Sikken, ??? 29, ??? Block,
????? 19). ??????, ?? ?????? ??? ?? ?????????? ?????????? ??? ?????? XI ???
????????? ? ??? ?????? 88/361 ??? ?????? «?????? ?????????? ?????????? ??????????
?????????» (?????? ??? 27?? ?????????? 2009, C?318/07, Persche, ?????? 2009, ?. I-359,
????? 24).

20 ??? ???????, ??? ???? ???????????, ? ??? ???? ??????????? ???? ?????????? ???
????????? ??? ??????? ???? ???? ?? ?????????? ?????? ??? ??????????????
????? ??? ???? ?????? ??? ?????? ???? (??., ?????? ???, ?????? ??? 17??
????????? 2008, C?256/06, Jäger, ?????? 2008, ?. I?123, ??? 25, ??? ??????????????
????????? Eckelkamp ??., ????? 39, Arens-Sikken, ??? 30, Block, ??? 20, ??? ??
????? ??? 15?? ?????? 2009, C-35/08, Busley ??? Cibrian Fernandez, ?????? 2009, ?.
??9807, ??? 18), ?????? ? ?????????? ?????????? ??? ??????, ?????????? ??? ??
????? ??????? ??????, ?????? ?????, ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
?? ??? ??????? ??????, ?????????? ??? ?????? ??? ?????????? ??? ?? ?????????? ???
??? ?????? ?????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? (??., ??
????? ??????, ?????????? Persche, ??? 27).

21 ? ??????? ??? ??????? ??? ???? ???? ???? ?????????? ??? ?????? ??? ??
??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??
????????? ??? ?? ?????? ?????? ??????.

22 ???????, ? ??????? ??? ???? ?????? ?????? ?????? ?????????? ??? ?????? ?????? ??????
????? ??? ?????? ??? ?????? 56, ?????????? 1, ??.

23 ??? ??? ??????? ???, ??????? ??? ? ??????? ??? ?????????? ??? ??? ???????
?????? ??????? ??? ? ?????????? ?? ??????? ??? ?????? ??? ?????? ?? ??? ???????
????????? ??? ?????????? ?? ?????? ?????????? ???????????????, ??? ?????? ?????????? ??
????????? ?? ?????? ?????? ?? ?????? 39 ?? ??? 43 ?? (??., ???????, ???????????????
?????? Busley ??? Cibrian Fernandez, ??? 19).

24 ??????, ??????, ?? ??????? ??, ??? ?????????? ? V. Mattner ?????? ???
????????? ?????????? ??? ? ??????? ??? ?????????? ?????????? ?? ??? ???????
????????? ??? ?????? ??? ?????????? ?????? ?????????? ?????? ?????? ??? ??????
???? ?????? ??? ?????? ?????????? ??? ?????????? ?????????? ??? ??????????.

25 ???????????, ???????, ???, ??? ?? ?????????? ??? ?????????? ??? ?????????? ?? ???
??????????, ?? ??????? ??????? ??? ?????????? ??? ?????????? ??? ???????, ??? ???????
??? ??????? ??? ???????, ??????? ??? ??????? ?? ?????????? ??? ??????? ??? ???????
????? ??? ??????? ???????, ??? ??? ?? ?????? ?? ?????????? ?? ??????? ??? ??????
??? ?????? ??????? ??????? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ?? ??
???? ?????? (??., ???????, ??????????????? ??????? Jäger, ??? 30, Eckelkamp ??.,
???? 43, ??? Arens-Sikken, ??? 36).

26 ??? ??? ?? ???????, ??? ??? ?????????????? ??? ?????????? ??? ?????????? ?? ??
56, ??????? 1, ?? ???????, ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??
?????????, ?? ?? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
?? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
?????????, ?????????? van Hilten-van der Heijden, ??? 44, Jäger, ??? 31,
Eckelkamp ??., ??? 44, Arens-Sikken, ??? 37, ??? Block, ??? 24).

27 ?? ???????, ?? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????? ??????? ??? ??????? ??? ?????? ?????????? ??? ???????, ???, ?????? ?
?????? ??? ? ??????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?? ?????? ??? ?????? ??? ??????
?????????, ??? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
????? ?? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? (??., ??'
????????, ?????????????? Eckelkamp ??., ??? 45).

28 ???????????, ??????, ??? ??? ?????????? ???, ?? ??? ??? ?????? ??? ??????????
?? ?? ?????????? ??? ??? ?????? ?????????? ??? ??? ?????? ?????????? ??? ?????? ??
?? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ???
????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???
????????? (??., ??' ???????, ?????????????? Eckelkamp ??., ??? 46).

29 ?? ???????, ?????? ?? ?????????? ?? ? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
?????????.

30 ? Finanzamt ??? ? ??????? ?????????? ?????????? ??? ???????, ??' ??????, ??? ? ?????? ????
????????? ??????? ?????????? ?????????? ?????????? ??? ?? ?????? ?????? ?????????? ??? ??
????? ? ??? ?????? ?????? ??????. ??? ?????? ?????? ???????, ? ?????????? ?????? ???
????????? ?????????? ?????? ?????????? ?????????? ??? ?????? ??? ?? ?????????? ??? ??????
????? ??? ?????????? ???????, ??? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???
????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ???

?????????? ?? ??????????? ????????. ??????? ?? ??? ??????? ??? 14?? ??????????? 1995, C?279/93, Schumacker (?????? 1995, ?. I?225), ? ??????????? ??? ??????????? ??? ?????? ?????? ??????? ???????, ??? ?????? ??????? ??? ??????? 56 ?? ??? 58 ??, ????? ??????? ??? ??????????? ?? ?????? ??????? ??? ???????, ??? ???????, ?? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???????, ???????.

31 ????????????????, ????????, ???, ??? ?? ??? 58, ??????????? 1, ????????? ??, ??, ??
????? 56 ?? ??? ???? «?? ??????? ?? ?????? ?????? ?????? ?? ??????????? ?? ??????
????????? ?? ?????????????? ?? ????? ?????????? ?? ?????? ?????????? ?? ??????
????????????? ?? ??? ??? ?????????? ?? ?????? ?????????? ?? ?????? ?????? ?? ?????? ?? ?????? ?? ???? ?
?? ??? ??? ??? ????? ?????????? ?? ?????? ???».

32 ? ??????? ???. ???. ?????? 58 ?? ??????? ??????????? ???. ???. ?????????? ???. ???.
????????? ?????????? ???. ???. ???????, ???. ???. ??????, ???. ?????????? ???. ???.
?????????, ???. ???. ???. ???. ??????????? ???. ???. ???. ?????? ???. ???. ?????????? ???.
????????? ???. ???. ???. ?????????? ???. ???. ?????? ???. ???. ?????? ???. ???.
?????. ???. ???. ???. ???. ?????? ???. ???. ?????? ???. ???. ???. ?????? ???. ???.
?????. ???. ???. ???. ?????? ???. ???. ?????? Jäger, ???. 40, Eckelkamp ??., ???. 57,
???. ???. Arens-Sikken, ???. 51).

33 ??????????, ? ??????????? ?? ?????????? ?? ?????? 58, ??????????? 1, ????????? ??, ??
?????????? ?? ?? ??? 58, ?????????? 3, ??, ?? ????? ?????? ?? ?? ?????? ???????????
???? ?????? ?????????? ? ?????????? 1 ??? ?????? ?????? «??? ?????? ?? ?????????? ?? ?????????? ??
???? ?????????? ?????????? ??? ?????????????? ????? ?????????? ??? ?????????? ??? ?????????? ??
????????? ??? ??? ?????????? ??? ?????????? ??? ?????? 56».

34 ????????, ? ??????????? ?? ???? ?? ?????? 58, ?????????? 1, ????????? ??, ??
????????? ?????? ?????????? ?? ???? ?????? ?? ???? ?????????? ??????????, ?? ????
????????? ? ?????????? 3 ??? ?????? ??????. ??? ?? ??????????, ??????, ??????
????????? ?????? ??? ? ??????? ?????? ??? ?????? ???, ?????? ??? ?????? ?? ???? ??? ??????
?? ??????? ??? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???
?? ?????????? ??? ?????? ?????? ?????? ?????????????? ??????? ?? ?? ?? ? ??????? ?? ?
????????? ???, ??? ?? ?????? ??? ??????, ?????????? ??? ?? ??? ?????? ?????? ?????? ?? ??
????????? ??? ?????? ?????? ?????? ?????? ??????, ?????? ?? ?????????? ?????? ?? ??
????????? ??? ?????? ?????? ?????? ?????? ?????????? ?????? ??? ?????????? ?????? ?? ?
????????? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ?? ?????????? ?????? ?? ?
? ?????????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????????? ?????????????? ??????????????
? ?????????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????????? ??????????, ?
????????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ?????????????? ??????
?? ??? ?????????? ?? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ?? ?
????? ?????? (??, ?????????? ??? 7?? ?????????? 2004, C-319/02, Manninen, ??????)
2004, ?. !?7477, ??? 29, ??? ?????????? ?????? Eckelkamp ?.., ?????? 58 ???
59, ??? ??? Arens-Sikken, ?????? 52 ??? 53).

35 ????????????????, ???????, ???, ???????? ????? ???? ?,?? ?????????????? ? Finanzamt ??? ?
????????? ????????, ? ?? ??? ?????????????? ?????????????? ??? ?????? ?? ??????????????
?? ?? ??????????? ??? ????? ?????????????????? ?????????????? ??????????????.

36 ??????????????, ??? ?? ?????????? ?? ?????? ?????? ??? ?????????? ?????? ?????? ??? ?????????? ?????? ???
?? ???? ??? ?????? ??? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???, ???
????????? ??? ErbStG, ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? . ??????, ? ?????? ??? ?????? ??? ??????
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

????? ?? ??? ?????? ??? ?????? ??? ?????? ??????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????? ?????????????? ??? ?????? ??? ?????? ??? ? ?????? ?????? ??? ? ?????????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ?? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ?????? ??? ? ?????? ?????? ??????. ???????, ? V. Mattner ?????????? ???
????? ?????? ??? ? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????? ?????? ??? ??????, ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???
????? ?????? ??? ??????, ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???
????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????? (??., ??????, ?????????????? ?????? Jäger, ??? 44, Eckelkamp ?.,
????? 61, ??? Arens-Sikken, ??? 55).

37 ??? ???? ?? ?????????? ?????????? ????, ? ?????????? ??? ?????? ?????? ??? ?????? ???
??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ??????. ? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?? ?????? ?? ?????? ?????? ???
??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?? ?????? ?? ?????? ?????? ???
????? ??? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? . ?????? ???, ???
?? ?????? 15 ?? 19 ?? ErbStG, ?? ?????? ??? ? ?????? ?????? ?????? ?????? ??? ?????? ???
????? ?????? ?? ?????? ??? ?????? ?????? (??., ???' ??????, ?????? Eckelkamp
?., ??? 62, ??? Arens-Sikken, ??? 56).

38 ?? ?????? ?????????? ????, ??? ?????? ?? ?????????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????? ?????? ??? ?????? ??? ?????? ???, ? ?????? ??? ?????? ??? ?????? ???, ???
????? ?????? ??? ?????? ???, ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????. ? ?????? ??? ??????, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ???, ???
????? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ???, ???
????? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ???, ???
????? ?????? ??? (??., ???' ??????, ?????? Eckelkamp ?., ???
63, ??? Arens-Sikken, ??? 57).

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

40 ? Finanzamt ???????, ??????, ???, ??? ?????? ??? ?????? ??? ?????? ???
?? ? ErbStG ??????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????? ?, ? V. Mattner ?? ??????, ?????? ??? ?????? ??? ?????? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???, ??
????? ??? ?????? ??? ?????? ??? ?????? ???.

41 ??????, ???????????, ??????, ??? ? ?????????? ?? ? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???, ??? ?????? ???
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

????????????? ??? ???? ??? ?????????? ?????????????? ?????????????????? ?????????
????????????? ??? ???? ?????? ??? ?????? ?? ?????? ?????????????? ??? ???? ????
????????? ??? (????????? ??? 11?? ?????????? 2003, C?364/01, Barbier, ?????? 2003, ?.
I?15013, ??? 71, ??? ?????????????? ?????? Eckelkamp ?.., ??? 66).

42 ?? ??? ??????????, ?? ?????? ??? ?????? ??? ?????? ?????????? ?? ??????? ?????????? ???
??????, ?????????? ?? ?????????????? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ???
????????? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????? ?? ?????? ???
????? ?????????? ?? ?????????? ?? ?????????? ?? ?????? ?? ?????? ?????, ??? ???? ???? ?????? ???
??? ?????? ?????????? ?? ?????? ??? ?????????? ?? ?????? ?? ?????? ?????, ????? ???? ?????? ???
????????? ?? ?????? ?? ?????????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??
????????? ?? ?????? (??., ??' ??????, ?????????????? ?????? Eckelkamp ?..,
????? 68, ??? Arens-Sikken, ??? 65).

43 ????????????, ?????? ??? ?????? ?? ?????? ?? ?????????? ?? ?????????? ?????????? ???
????????? ??? ???? ?????? ???, ?? ?????????? ?? ?????? ?????? ??? ?????? ??? ?????? ?????????? ?
????????? ??? ???? ??????????, ?????????? ?? ??? ?????????? ?? ?????? ?????????? ??? ?????? ???
??? ???? ?????? ???, ??????????, ??? ???? ?????? ??? ?????? ?????? ?????? ?????????? ???
????????? (?? . ?????????????? ?????? Eckelkamp ?.., ??? 69, ??? Arens-Sikken,
????? 66).

44 ?????? ??????, ??? ?????? ???, ??, ??? ?????? ?????? ? ?????????? ?????????? ???
??' ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????????
?? ?????????? ??? ?????? ?????????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ???
????????? ?? ?????? ?????? ?? ???? ??? ?????? ?????? ?????????? ?? ?????? ??? ?????? ???
????????? ?? ?????? ??? ?????? ?????? ???.

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

46 ???????, ? Finanzamt ??? ? ?????????? ?????????? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????????????? ??????????, ? ?????? ?????????? ??? ??????????
????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?? ??? ?????? ??
????????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ???
????????? , ?????????????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ???
?? ?????????? ??? ???? ?????? . ??????????, ??? ?????? ??? ???? ???? ???? 14
??? ErbStG, ?? ?????? ?????????, ??' ??????, ???, ??? ???? ?????????? ?????????? ???
?????, ?????????????? ?? ?????? ??? ?????? ?????????? ?????? ??? ?????? ???
????????? ?? ?????? ???.

47 ? Finanzamt ??? ? ?????????? ?????????? ?????????? ???, ??????, ???????, ??
?????????, ? ?????? ??? ?????? ??? ?????? ??????, ?????? ?????? ?? ??? ?????? ??????????
????????? ?? ?????????? ?? ?????????, ??? ?????? ??? ?????????? ??? ?????????? ???, ???
? ?????????? ??????, ??? ?????? ??? ?????? ??? ?????? ??? ???? ?????? ?????? ???, ???
????? ?????????? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????????? ??? V. Mattner ? ??
????? ?? ?????????? ?? ??? ?????????? ??????, ?????? ??' ??? ???? ???? ?????????? ???

? ????????. ?????, ??? ?????????????? ?????? ?????? ?? ?????, ??? ? ??????????????
?????????? ?? ??????????, ?????????? ?? ?????????? ?????????? ?????? ??????????????
??????????, ?? ?????????? ?????????? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ??
??????????. ????????, ? ?????????? ?????????? ??? V. Mattner ??? ? ?????? ?????? ??
????? ?????? ???, ??? ???? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??
??????????, ??? ???? ?????? ?????????? ?????????? ??????????.

48 ???????, ??? ?? ?????????? ??? ?????? ?????? ??? ?????????? ??? ??????????, ??
??????????, ???, ??? ???? ?? ??? ??? ?????? ?????? ?????? ?????? ?????, ??????????
??? V. Mattner, ??? ?????? ??????, ??? ??? ?????????? ?????? ?????? ??? ?? ?????? ???,
????? ? ?????????? ?????????????? ?????? ?????????? ?????? ?????????? ??? ??????????
????? ?????? ??? ?????? ??????????????, ??? ???? ?????? ?????????? ???, ???????, ???
??????????, ??? ??????? ??? ?????????? ??? ?????? ???, ?????????? ??? ?????????? ??? ??????????
?????.

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

50 ??????, ???????????, ???????, ???, ??? ?? ?????? 14 ??? ErbStG, ?? ???
????????? ??? ?????? ?????? ??? ?????????????? ??? ??????, ?????????????? ???
????????????? ??? ?????? ??? ?????? ?????????????? ?? ?????????? ??? ??????, ??? ???
????? ??? ???? ???? ?? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??
?????????, ??? ?? ?????????? ?????????? ???, ?? ?????, ??????, ??????, ?????? ?????? ???
?? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ???.

51 ???????, ? ???????? ??? ?????? ?????????? ??????, ?? ?????? ?????????? ?
?????? ??? ?????? ??? ?????? ?????????? ?????? ??? ??? ?????? ?????? ?????? ???????
?? ??? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???
????????? ?? ?????????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

52 ??????, ??? ?? ??' ?????????? ??? ???????, ? ?????????? ?????????? ??????????????
?? ?????? ?????????? ??? ??????? ??? ?????????? ?????????? ?????????? ??? ??????,
??????????, ???????, ??? ?????? ?????? ?? ?????????? ?????????? ??? ?????????? ???
?? ?????????? ?????????? ?????????? ??? ?????? ?? ?????????? ?????? ?????? ?????? ??????????
?????????? ?????????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????????? ???
????????? ??? ?? ?????? ??? ?????, ??? ?????? ?? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????????? ?????? ?? ?????? ?? ?? ?????? ??? ?????? ??? ?????? ??? ???
????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

53 ???????????, ???????, ???, ??? ?? ?????????? ??? ?????????? ?, ?????
?????????? ??? ??????? ??? ?????????? ?????????? ??????????, ???????, ??????????
?? ?????????? ?????? ?????????? ??? ?????????? ? ??????. ?????????, ??? ?? ??????? ?
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????????? ?????????? (??.. ?????????????? ?????? Manninen, ??? 42, ??? ?????? ???
17?? ?????????? 2009, C182/08, Glaxo Wellcome, ?????? 2009, ?. ?-8591, ?????? 77 ???
78).

54 ?? ??????????, ????, ??? ? ?????????? ??? ???? ?????????? ?????????????? ???
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55 ??? ????????, ? ??????? ?????? ??? ?????? ??? ?????????????? ??????? ??? ??????????????
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56 ????????, ??? ?????????? ??????? ?? ?????? ? ?????????? ??? ?? ?????????? ???
?????? 56 ??, ?? ?????????? ?? ??? ?????????? ?? ?????? 58 ??, ?????? ?? ??????????
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???? ?????? ???, ? ????? ???????, ??? ?????? ??? ?????????? ??? ?????? ???????,
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57 ????????, ??? ? ??????? ?????????? ??? ???? ?? ??? ?????? ?????????? ??? ?????? ???
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? ? ?????????? ??? ?????? 56 ??, ?? ?????????? ?? ??? ?????????? ??? ?????? 58 ??,
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?????? ??????, ??? ? ?????? ??? ?????? ??? ?????? ???, ? ????? ???????, ??? ??????
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?????? ?????????? ??????? ??? ?? ?????? ?????? ?????? ???, ??? ?????? ????
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(?????????)

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