

?????? C-106/10

Lidl & Companhia

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Fazenda Pública

(?????? ??? Supremo Tribunal Administrativo  
??? ??? ?????? ?????????????? ??????????)

«????????? – ?????? 2006/112/?? – ??? – ??? ?????????? ??? ?????? – ?????? ??? ??????????  
??? ??? ??????????, ?? ???????????????, ??? ?????????? ??? ?????? ?????????? ?????????????»

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

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

(?????? 2006/112 ??? ??????????, ??? 78, ??, 1, ??????? ??)

?????? ??? ??? ??? ?????????????? ???????, ??? ?????? ? ?????????????? ???  
????????? ??? ??? ?? ??? ?????????? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ??????  
????? ??? ?? ????? ?????????????? ??? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????  
????????????? ??? «???, ??????????, ?????????? ??? ???[??]» ??? ??? ?????? ??? ??????  
78, ????, ?????, ??????? ??, ??? ?????? 2006/112, ?????? ?? ?? ????? ?????? ????  
????????????? ???, ??? ?????, ???' ?????????? ??? ?? ??? ????? ??????????, ??  
????????????? ??? ??? ????? ?????????? ??? ????? ?????????????? ??? ??? ??? ?????????? ???  
????????? ???.

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

(??, ??????? 34, 37, 42 ??? ??????.)

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

?? 28?? ?????? 2011 (\*)

«????????? – ?????? 2006/112/?? – ??? – ??? ?????????? ??? ?????? – ?????? ??? ??????????  
??? ??? ??????????, ?? ??????????????, ??? ?????????? ? ??? ????????? ?????????????»

???? ?????? C?106/10,

?? ?????????? ?????? ??????? ?????????????? ?????????? ?????????? ??? ?????? 267 ???,  
?? ??????? ?? Supremo Tribunal Administrativo (??????????) ?? ??????? ??? 27??  
????????? 2010, ? ????? ??????? ??? ?????????? ??? 25 ?????????? 2010, ???  
?????? ??? ???

**Lidl & Companhia**

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**Fazenda Pública,**

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

**Ministério Público,**

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

????????? ??? ??? D. Šváby (????????), ?????? ???????, ?. ?????? ??? J. Malenovský,  
???????,

????? ??????????: V. Trstenjak

?????????: A. Impellizzeri, ??????? ??????????,

????? ??? ?????? ?????? ?????????? ??? ?????? ??? ??' ?????????? ?????????? ???  
5?? ??? 2011,

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

- ? Lidl & Companhia, ?????????????? ??? ??? M. Lourenço ??? I. Ramos, advogados,
- ?? Fazenda Pública, ?????????????? ??? ??? N. Severino, advogado,
- ? ?????????? ???????, ?????????????? ??? ??? L. Fernandes ??? R. Laires,
- ? ?????????? ???????, ?????????????? ??? ??? M. Afonso,

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

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

???????

1 ? ?? ?????? ?????? ?????? ?????????? ?????????????? ?????????? ??? ?????????? ???  
?????? 78, ?????? ??????, ??????? ??, ??? 79, ?????? ??????, ?????????? ??, ??? ???????

2006/112/?? ??? ???????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ????? ?????? ?????? ??????  
????????????? ??? (?? L 347, ?. 1, ??? ?????????? ?? 2007, L 335, ?. 60).

2 ? ??????? ??? ?????????? ??? ??????? ??????? ??? Lidl & Companhia ???  
??? Fazenda Pública (????????? ??????), ?? ?????????? ??? ?????????????? ??? ???  
????????? ??? ??? ????? ?????????? ??? (?? ????: ???) ??? ?????? ??? ???  
????????? ??? (imposto sobre veículos, ??? ????: ISV), ?? ?????? ?? ???  
????????? ??? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ??????????  
??????.

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

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

3 ?? ??? 73 ??? ?????? 2006/112 ????:

«??? ??? ?????????? ??? ?????? ??? ??? ?????? ??????????, ????? ?????? ??? ?????????? ???  
????? 74 ??? 77, ? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ???  
??????????, ??? ?????? ?????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ?????? ???  
? ?????? ??? ?????????? ??? ??? ??????????, ??? ?????? ??? ?????? ?????? ???  
????????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?????..»

4 ?? ??? 78, ????, ?????, ??????? ??, ??? ?????? ?????? ??? ?????? ????:

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

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

5 ?? ??? 79 ??? ?????? ?????? ??? ?????? ????:

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

[...]

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

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

6 ?? ??? 83 ??? ?????? 2006/112 ????:

«??? ??? ?????????????? ??? ?????? ???, ? ??? ?????? ??? ?????? ??? ?????? ?????????? ???  
?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????? 2. [...]»

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

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

7 ?? ??? 16 ??? ?????? ??? ?????? ?????????????? ??? (Código do Imposto sobre o

Valor Acrescentado, ??? ????: CIVA) ?????? ?? ????:

«1. ??? ??? ?????????? ??? ?????????? ??? ?????????? 2, ? ??? ?????????? ??? ??? ??? ??? ???  
????????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ??? ??? ???  
????????? ??? ?????? ??? ?????? ? ?????????? ?? ?????????? ? ?????????? , ? ?????????? ?  
????? ????.

[...]

5. ??? ??? ?????????? ??? ??? ????????????????, ??? ?????? ??? ??????????????  
????????? ??? ?????? ??? ?????? ??? ????????, ?? ?????? ??? ????????

a) ???, ??????????, ?????????? ??? ??????, ?? ?????????? ??? ??? ??? [???].

[...]

6. ??? ??? ?????????? ??? ???, ??? ??? ?????? ??? ?????????? ??? ?????????????? ???  
????????????? ??? ????????

[...]

c) ?? ??? ?? ??? ?????? ?????????????? ??? ?????? ??? ??? ?????????? ??? ??? ?????????? ???  
????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???  
????????????? ??? ?????? ??? ?????????? ??? ?????? ???.

[...]».

8 ?? ??? 17 ??? CIVA ???????? ?? ????:

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

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

a) ???, ????, ????, ??? ?????? ??? ?????? ??? ?????????? ??? ??? ??? ?????????? ? ???  
?????, ?? ?????????? ??? ?????????? [???].

[...]».

9 ?? ??? 17 ??? ?????????? ??? ??? ??? ?????????????? ?????????? (Regime do IVA  
nas Transacções Intracomunitárias) ??? ?? ????:

«1. ?? ?????????? ??? ?????? 16 ??? CIVA ?????? ?? ??? ?????????? ?????? ??? ??????  
?? ??? ?????? ?????? ????????????, ??? ??? ??? ?????????? ??? ?????? ?????? ??????  
????????? ?????????? ??????.

[...]

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

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

10      ? ??????? ???. ?????? ???. ??? ?????????????? ??????? (Código do imposto sobre veículos), ? ?????? ?????????? ???. ?????? 22-A/2007, ???. 29???. ?????? 2007 (*Diário da República I*, ???. 124, ???. ???: CISV), ?????? ???. ??? 1???. ?????? 2007.

11     ?? ?????? 3, ??????????? 1, ??? CISV ?????? ?? ????:

«????????? ??? ???? ??????? ??? [ISV] ????? ?? ?????????????? ??? ?? ??????????????  
???????????, ??? ?? ?? ???????, ??? ?????????? ??? ?????????? ???, ??? ??????  
???? ?????????? ?????????? ???????, ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?  
????????? ?????????? ? ? ?????????????? ??????? ??? ?? ?????? ??? ?????? ??????»

12      ?? ?????? 5 ??? CISV ????. ?? ????:

«1. ?????????????? ??? [ISV] ?????? ? ??????????, ??????????????, ?????????? ?  
????????? ??? ?????? ?????????? ???????????, ??? ?????? ? ?????????? ??? ??????????  
????? ??????????.

2. ?????????? ?????? ??? [ISV] ?????? ??????:

a) ? ?????????? ??? ???? ?????????? ??????? ?????????????? ??????? ?????? ?????????? ??????????  
???? ??????? ??????????????, ?????????????? ?? ?????????? ?? ?????? ? ?? ?????? ? ?? ??????????  
???? ?????????? ??????????-.

[...]

d) ? ??????? ?? ??????? ?? ?????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ??

3.      ????? ???? ??????? ??? ?????????? ????????. ?????????? ???:

a) “??????????”, ? ??????? ??? ?????? ??????????? ?????????? ??? ??????? ??? ?????????? ???  
?????? ??? ?? ??????????? ?????? ? ?????????? ?? ??????? ??? ??????? ??? ?????????? ?? ??? ??  
?????? ????.

b) “?????????”, ? ??????? ????. ?????? ?????????? ??????? ?????????? ?????????? ????

[...]

13      ????. ?? ?????? 6, ??????????? 1, ??? CISV, ?? ISV ?????????? ??????? ????.  
????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ????:

«a) ????? ??? ?????? ????????, ??? ????? ?????????????? ??? ??? ????? ??????????????????  
????????????????? ??? ?????????? ??? ?????????? ??? ????? ??????????????.

b)      ???? ??? ?????? ??? ?????????????? ??? ?????????????? ? ??? ?????????? ???  
????????????????? ?????? ?????? ??? ?????? »

15      ????? ?? ?????? 27, ??????????? 3, ??? CISV, ?? ???????? ?????? ??? ?????????? ???  
?????????? ??? ???????? ?? ??? ?????????????? ??? ??? ???????????, ?????? ????, ??  
ISV, ?????? ???????.

16 ?? ?????? 58, ??????????? 1, ??? CISV, ??? ??? ????? «????????? ??? ??????????»,  
????????? ???????? ??? ??? ?????????? ?????????? ??? ISV ??? ?? ?????? ??? ??????????  
???? ?????? ??????? ?? ????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ???  
???? ?????? ?????? ??? ?????? ?????? ??? ?????? ???.

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

17    ??? 28 ?????????? 2007, ? Lidl & Companhia ??????? ??? ?????????? ??????. ??  
????????? ?? ??? ?????? ?????? ? ???????????? ??? ?????????? ??? ?????? ?? ??? ?????? ??????????  
????????????? ??? ?????? ???, ??? ISV ??? ?????? ??? ??????. ??? ??? ?????? ??? ??????  
????????? ??? ?????? ??? 21 %.

18      ???? 25 ?????????? 2008, ? Lidl & Companhia ??????? ?????? ?????????? ??? ??  
?????? ?????????? ??? ?? ? ?????? ??????? ??? ?? ??? ?????????????? ??????????  
??? ?????????????? ?? ??? ????? ?????? 8 601,23 ??? ?? 4 554,33 ??? ??????????. ??? 7  
?????? 2008, ? ?????????? ??? ?????????? ?????????? ??? ?????????? Sintra 1  
?????? ??? ?? ??? ????? ???????, ?? ?????????? ??????? ??? ?????????? ??? ?????????? ???.  
?????????????.

20 ? ?????????????? (Ministério Público) ??? ?????????? ?????????????? ?????? ??? ?? ISV  
????? «??????????» ??? ???? ?????????????? ???, ??? ???? ?????? ?????? ??? ????  
????? ??? ?????????? ??? ???? ?????????? ??????, ??? ???? ?????? ??? ????  
????????????? ??? ???????????. ??????, ?????????? ??? ???? ??????, ??? ??????  
????????????? ??? ????? ???? ???? ?????? ??? ?????? ?????? ?????? ??? ????  
????? ??? ?????? ??? ?????????????? ??? ?????? ??????????, ??? ?????????????? ?????? ??? ????  
?? «????? ??????????», ?? ?????? ?????????? ?? ?????????? ??? ?????????? ??? 1??  
?????? 2006, C?98/05, De Danske Bilimportører (?????? 2006, ?. I?4945). ??? ???????,  
????? ?? ?????????? ??? ?????????? ?????? ?????????? ?????????????? ??????????.

21 ?????????????? ?? ????? ?? ?????????? ?? ????? ?? ?????????????????? ?? ????? ?? ?????? ?? ????? ?? ????  
???, Ministério Público, ???, ??????????, ???, ??? ? ?????????????? ?? ISV ???

????????? ??? ??? ??? ??????????? ?? ?????? ??? ??????, ?? Supremo Tribunal Administrativo  
????????? ?? ??????????? ?? ?????? ??? ??????????? ?? ?????? ??? ?? ?????????? ?? ?????????????? ??  
????????? ?????????????? ??????:

«???? ?? ????? 78, ?????????? 1, ??????? ??, ?? ?????????? ?? ?? ?????? 79, ?????????? 1,  
???????? ??, ??? ?????? 2006/112/?? [...] ??? ?????? ???, ??? ?????? ??????????????????  
????????? ??????, ??? ?????????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????????  
????????? ??? ?????????? ?? ??? ????? 22-/2007, ??? 29? ?????? 2007, ??? ???  
????????? ??? ???;»

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

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

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

23 ??????????, ?????????? ??? ? ?????? ?????????? ?????????????? ?????????? ???  
????????? ?????????? ?????????????? ???' ????, ?? ??? ?? ??? ?????? ??? ?????????? ??? ??????????  
??? ?????? ?????? ??????, ?????? ?? ?????????? ??? ?????????? ?????? ??? ??????????????  
?????????, ??? ???????, ?? ??? ??? ?????? ??? ?????? ? Lidl & Companhia ??????????????  
?? ?? ISV ??? ??? ??????? ??? ???, ?????, ?? ??? ?? ?????? ?????? ??? ?????? ??? ?????????? ???  
?????? ?????? ??? ??? ?????????? ??? ?????? ?????????? ??? ??????.

24 ??????, ?????? ?? ?????????? ???, ??? ?????? ?????????? ???, ??? ?????? ?????????? ???  
????????? ??? ?????? 267 ????, ? ?????? ?????????? ?? ??? ?????? ?????????? ??? ?????????? ???  
??? ?????? ?????????? ??? ??? ?????????? ???, ? ?????????? ??? ? ?????????? ???  
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????? ?????????? ??? ??????????????  
????????? ??? ?????? ??? ??????, ??? ??? ? ?????????? ??? ?????????? ??? ?????????? ???  
?????????. ??????, ?????????? ?????????????? ??? ?????? ?????????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????? ?????????? ??? ??????????  
?? ??????, ?? ????????, ?????????? ??? ?????? ??? ?????????? ?????? ?????????? ??? ??????????  
?????????, ?? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????  
?????????, ?? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??????????  
????????, ?? ?????????? ??? ?????????? ???' ????, ?? ?????????? (??.. ?????? ??? 26?? ????  
2011, C?165/09 ?? C?167/09, Stichting Natuur en Milieu ??., ??? ??? ??? ??????????).

25 ??????, ??? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??  
????? ?????????? ???????????. ? ?????? ?????? ?????? ?????? ?????????? ?????? ?????????? ???  
????? ??? ?????? ?????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,  
????? ??? ?????? ??? ? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???  
?? ?????? ?????? ?????? ?????? ???, ????, ??? ? ?????????? ??? ?????? ??? ??????????  
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? (??.. ?????? ??? 2?? ?????????? 2010, C?225/09, Jakubowska, ???  
?? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? 28 ??? ??? ?????????? ??? ??????????).

26 ?? ??????????, ?????????? ? ?????????? ??? ? ?????? ??? ?????? ??? ?????????? ??????????  
????????? ??? ?????? ?? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
?? ??? ? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

?????? ?????? ??????? ?? ??????????????? ??????????? ?????? ?? ?????? ?????? ?????? ?????? ISV ???  
????? ??? ?????????? ????. ?????????????? ?????? ?? ??? ?????? 83 ??? ?????? 2006/112  
????????? ??? ????? 73 ?. ??? ?? ????? ??????, ? ?????????? ??? ?????? 78 ??? 79 ???  
?????? ?????? ????, ?? ??? ???????????, ??????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
?????? ??????, ??????????? ?? ? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ???  
????????.

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

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

28 ?? ?? ??????? ??, ?? ?????? ??????????? ?????, ???' ?????, ?? ??????????????? ??  
????????? ??? ISV ?????? ?? ??????????? ??? ????? ?????????? ??? ??? ?? ?????,  
?????????, ??????? ? ?????? ??? ?????? ??? ?????? ??? ?????? 78, ?????? ??????, ?????????? ??, ???  
???????? 2006/112 ?, ????????, ?? ??????????? ??? ??? ?? ??? ?????? ?????? ?????? ??????  
?? ?????? 79, ?????? ??????, ?????????? ??, ??? ?????? ??????.

29 ????????????, ????????????, ???, ??? ?? ?????? 83 ??? ?????? 2006/112, ???  
????????? ??? ????????????, ????????????, ???, ???? ?????? ??? ?????? ???????????  
??? ?? ??? ?????? ??? ???????????, ??? ????????????, ???, ?????? ?? ??? ?????? 73 ??? 82 ??? ?????  
???????, ??? ?? ???????????, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
???????, ??? ?? ??????? ??? ?????? ?????? ??? ??????.

30 ?? ?????? 78, ?????? ??????, ?????????? ??, ??? ?????? 2006/112 ????????,  
??????????, ???, ??? ?? ???????????, ???, ?????? ?? ?????????????? ??? ???  
????????? ?? ???, ?? ??????????, ?? ?????? ??? ?? ???, ?? ?????? ??? ?????? ??? ??? ??? ???.

31 ?? ?????? 79, ?????? ??????, ?????????? ??, ??? ?? ?????? ??????? ?????? ???  
????????????? ??? ?? ??? ?????? ??? ?? ??? ?????? ?????? ??? ?????????? ??? ??? ???  
??? ?? ?????????? ??? ?????, ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??? ???  
?????????? ???, ??? ?? ?????? ?????? ??????????? ?? ?????????? ??? ?????????? ??? ??? ??? ???  
????????? ??? ??????.

32 ??????????? ?? ??????????? ?? ?????? ??? ISV ?????? ?? ??????????????? ??  
???? ??????? ??, ??????????, ?? ??????????? ?? ?????, ?????? ?? ??????????,  
??????, ?? ??????? ?? «????, ??????????, ?????????? ??? ?????» ??? ??? ?????? ???  
????? 78, ?????? ??????, ?????????? ??, ??? ?????? 2006/112 ???, ????????, ?? ??????????  
????????? ? ??????? ??? ?????? ?????? ??? ?????? 79, ?????? ??????, ?????????? ??, ??? ??  
????? ??????.

33 ??? ??????, ??????, ?? ?????? 78, ?????? ??????, ?????????? ??, ??? ?????? 2006/112,  
?? ?????????? ??? ?????? ??????????? ?? ?????? ?? ?????? ?? ?????, ?? ??????????, ?? ??????????  
??? ?? ?????? ?? ??????????? ?? ?????? ?????????? ?? ???, ?????? ?? ??? ??????????????  
????????????? ??? ?? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???  
??????, ?????? ?? ??????????? ?????? ?? ??? ?????? ?????? ??? (???. ??????? ?? 22??  
?????????? 2010, C?433/09, ?????????? ??? ??????????, ?????? 34 ??? ?????? ???????????  
?????????).

34 ??????, ??? ?? ?????????? ?????????? ?? ?? ?????? ?? ? ?????????????? ??? ??????????  
????????? ?? ?????? ??? ?????? ??? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????????? ???  
??, ?? ??? ?????? ???????, ? ?????????? ?? ?????? ?????????? ??? ?????? ??? ??? ???

?????????? ?? ????? ??????? ?? ?? ??????, ???' ????, ?? ?????????????? ?? ??? ?? ????  
????????? ?????? (??., ??' ???? ?? ??????, ??????? ?? 20?? ????? 2010, C?228/09,  
????????? ??? ????????, ?????? 40).

35 ?? ??????????, ???? ?? ?????? 3, ?????????? 1, ??? CISV, ?????????? ?? ?? ????????  
?? ISV ?????? ?? ?????????????? ?? ?? ?????????????? ??????????????, ?????? ?? ??  
???????, ??? ?????? ?? ?????????????? ?????????????? ????????, ???? ?? ???????? ?? ??  
???????, ??? ?????? ?? ?????????????? ?????????????? ?? ?? ?????????????? ????????, ?? ??  
???????. ??? ??????, ??????, ??? ?????? ????? ?????????? ??? ?????? 16 ?? CISV,  
?????????, ???? ?? ??????????, ??? ?????????? ????? ?????????? ?????? ?????? ???, ???  
????????? ??? ? ?????????? ?????? ??? ??' ?????????? ??????.

36 ??????, ?????????? ?? ?????????? ???, ???' ????, ?? ???? ??? ISV ??  
????????? ??? ?????? ?? ?????????? ?? ?? ??????, ???? ?? ?? ?????????? ?? ?? ??? ??  
????? ?? ?????? 73 ?? ?????? 2006/112, ?? ?????? ?? ?? ?????????? ?? ?????????? ??  
????????? ?????? ?? ?????????? ?? ?????? ?????????? ?????? ?????????? ?? ?????????? ??  
????????? ??????.

37 ??? ?? ?????? ??????, ?????????????? ???, ?????????? ?? ?????????? ??? ????????  
????????? ?? ?????????? ??? ISV, ?????????? ?? ?? ?????? 5, ?????????? 1, ???  
CISV ?????????? ?? ?????? ?? ?????? ?? ?????????? ??? ?????????? ?????? ?? ?????? ??  
???????, ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ?? ?????????? ??? ?????? ??  
?????????, ?? ISV ?? ?????? ?????????? ?? ???????????, ???? ?? ???????????, ??  
??????????????, ??? ?????????? ?? ?????? ?????????? ??? ?????????? ?????? ?????????? ??  
????? ? ?????????? ??? ?????????? ??? ?????????? ?????? ?????????? ?????? ??? ?????? ??  
????????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????? ? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?? ISV ?? ?????????? ??? ??  
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?? ?????????? ??? ?????? ??  
?? ?? ??? ?????? ?????? ???.

38 ??????, ??? ?????????? ?????? ?????? ?????? ?????????? ?????? ??? ISV ?? ??  
?????? ?? ??????????, ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?? ??  
?? ?????? ?????? ? ?????????? ?????? De Danske Bilimportører. ???????,  
????????? ??? CISV ?????????? ?????????? ?????????? ??? ?????? ??  
????????? ISV, ??? ?? ?? ?????????? ?????? ?????????? ?????? ?????????? ?????????? ??  
????? ?????????? ?? ?? ?? ?????? ??????. ??? ?????? ?????? ??? ?????? ??? ?????????? ??  
????????? ??? ?????? 58, ?????????? 1, ??? CISV, ??? ?????? ??? ?????????? ??  
????? ?????? ?? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???  
??????, ???????, ?? ?????? ??? ?????? ?????????? ?????? ??? ISV ??? ?? ? ?????? ???  
?? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????????? ??? ?? ?????? 27 ?? CISV, ??? ?????? ??? ?? ?????????? ?????? ??  
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ???.

39 ??????, ??? ?? ISV ?????? ?? ?????????? ??? ?????? ?????????? ?? ??  
????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ??, ?? ?? ??????, ??  
????????????? ??? ?????? ?????? ??? ?????? ??? ??' ?????????? ??? ?????? 78, ??? ?????? ???,  
????????? ??, ??? ?????? 2006/112.

40 ??? ?????, ???????, ?? ?????? 79, ?????? ??????, ??????? ??, ??? ?????? 2006/112,  
?? ?????? ?????? ?? ?????????? ?????? ??? ?? ?????? ??? ?????? ?????????? ??? ??  
ISV ? ?????????? ?????????? ?? ?????????? ?????? ?????? ?????? ?????? ?????????? ??? ??  
????? ??? ?? ?????????? ??? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??  
??, ??? ?????? ?????? ??? ?? ?????? 35 ??? ?????? ?????? ?????? ??? ?? ?????? ???

??? ISV ?????? ?? ??????????? ??? ?????????? ??? ??? ?? ?????????? ??? (??., ???' ????????, ??? ?????????? ??? ?????? ???????, ??? ????????, ??? 48).

41 ????????, ??? ?? ISV ??? ?????? ?? ?????????????? ??? ?? ??? ?????????? ???  
??? ??????? ?? ?????? 79, ??? ??????, ??? ?????? ??, ??? ?????? 2006/112.

42 ??????????? ?????? ??? ??????? ????????, ??? ?????????????? ????????, ?????? ?????? ?? ??????  
? ??????? ?????? ??? ?????? ?? ??????? ?????? ?????? ?????? ?????? ?????? ISV, ??? ?????? ?  
????????????? ?????? ??????????? ?????? ?? ??? ?????????? ?????????? ?????????? ?????????? ??? ??????  
????????? ??? ?????? ?????? ??? ?? ?????? ?????????????? ??? ??? ?????????? ??? ??????  
????????, ????????? «????, ??????????, ?????????? ??? ???[??]» ??? ??? ?????? ???  
?????? 78, ????? ??????, ???????? ??, ??? ?????? 2006/112 ??? ??????, ???' ??????????  
??? ?? ??? ??????????, ?? ?????????????????? ??? ??? ?????????? ??? ??? ??? ??????????  
??? ?? ??? ??????.

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43      ?????????? ?? ? ??????? ?????????? ?? ? ?? ???? ????? ?????????? ?? ???? ?????? ?? ???? ?????? ?? ????  
?? ???? ?????? ?? ?????????????? ?? ???? ?????? ?????? ?? ???? ?????? ??????????????, ?' ?? ????  
????????????? ?? ???? ?????? ?? ???? ?????????? ?? ???? . ?? ???? ?????? ?? ???? ?????? ??????????????  
????? ?????????? ?????????????? ?? ???? ?????????? ?, ???? ?? ???? ?? ???? ??????????, ???? ??????????????.

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

1) ?????? ?????? ????? ?? ??????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????????????? ?????? (imposto sobre veículos), ??? ?????? ? ?????????????? ???  
????????? ??? ?? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ?????? ???  
????? ??? ?? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??????  
???????, ?????????????? ??? «????, ??????????, ?????????? ??? ???[?]» ??? ??  
????? ??? ?????? 78, ??? ??????, ???????? ??, ??? ?????? 2006/112/?? ??  
?????????, ??? 28?? ??????? 2006, ??????? ?? ?? ?????? ?????? ???  
????????????? ????, ??? ??????, ???' ?????????? ??? ?? ??? ?????? ??????, ??  
????????????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ??  
????????? ??? ?????? ??????.

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

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