

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

??? 9?? ??????? 2013 (*)

«????????? ??????? ????? – ?????????? – ?????? 2006/112/? – ????? 9 ??? 11 – ?????? ?????????? ? ????? ?????????? ?? ?????????????? ?? ?????????????? ????? ????? ?????? ?? ????? ?????????? ?? ?????? ?????? ?????? ?? ?????? ?????????? ?? ?????? ?????????? ?? ?????????? ?????????? ?????? ???»

???? ??????? C-85/11,

? ? ?????????? ??????? ??? ?????????? ?????? ?????????? ??? ?????? 258 ????, ?????????? ????
24 ?????????? 2011,

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

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?????????, ?????????????? ??? ??? D. O'Hagan, ?????????????? ??? ??? G. Clohessy, SC,
??? ??? N. Travers, BL, ?? ??? ?????????? ??? ????????????,

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

??? ??????? ????????, ?????????????? ??? ??? M. Smolek ??? T. Müller,

? ? ??????? ??? ??????, ?????????????? ?????? ??? ??? C. Vang, ??? ???????, ??? ??
V. Pasternak Jørgensen, ?? ??? ?????? ??? ????????????,

? ? ??????? ??? ????????, ?????????????? ??? ??? H. Leppo ??? ??? S. Hartikainen,

? ? ??????? ??? ??????? ??? ?????? ?????????? ??? ??? ?????? ?????????? ????????????,
????????????? ??? ??? H. Walker, ?????????????? ??? ??? M. Hall, barrister,

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

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

????????? ??? ??? ?. ??????, ??????, K. Lenaerts, ????????????, A. Tizzano, J.
Malenovský, M. Berger ??? E. Jaraši?nas (?????????), ?????????? ????????, E. Juhász, J.-C.
Bonichot, M. Safjan, D. Šváby ??? A. Prechal, ????????,

?????? ??????????: N. Jääskinen

?????????: L. Hewlett, ????? ??????? ????????????,

? ? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ??' ?????????? ?????????? ???
5?? ?????????? 2012,

???? ?????? ??? ?????? ??????????? ??? ??????? ??? ?????????? ??? ????? ?? ???????????
??? 27?? ?????????? 2012,

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

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1 ?? ??? ??????? ???, ? ?????????? ??????? ?????? ??? ?? ??????????? ?? ???????????
??? ? ????????, ??????????? ?? ?????????????? ?? ?????????????? ?? ??????????? ??? ????? ?? ??????
????????? ?? ?????? ?????????? ?? ?????? ?????????? ?????? ??? ????? ?????????? ??? ?????
(???, ???, ??????????, ?????? ??? ???), ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??
????? 9 ??? 11 ??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006, ???????
?? ???? ?????? ?????? ?????? ?????????????? ?????? (?? L 347, ?. 1, ??? ????: ?????? ???).

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

2 ??? ?????? ??? III ??? ?????? ???, ?????????????? «????????????? ??? ?????»,
????????????? ?? ????? 9 ??? 13 ??? ?????? ?????.

3 ??? ?? ????? 9 ??? ?? ????? ??????:

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

?? "????????? ???????????" ?????????? ??? ?????????????? ??? ??????????, ???
????????? ?? ?????????? ??????????, ?????????????? ??? ?????? ??? ??????????????
?????????, ??? ?????????? ?????????????? ??? ?????? ??? ?????????????? ??? ??????????
?????????????. ?? ?????????? ?????????????? ??? ??????, ??? ??????????
????????? ??? ?????? ???, ?? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ??????????.

2. ??? ?? ?????? ?? ?????? ??? ?????????? 1, ?????????? ??? ?????? ?? ?????????? ???
?? ?????????? ?? ?????? ?????????? ?????????? ?????????? ?????????? ?????????? ???
??? ?????????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????, ??? ?????????? ??
????????? ???, ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????????..»

4 ?? ????? 10 ??? ?????? ?????? ?????????? ??? ? ?????????? ??? ? ?????????? ??? ? ??????????
????????????? ??? ?????? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?
???? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?
????????? ? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???.

5 ?? ????? 11 ??? ?????? ??? ?????? ?? ???:

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

?? ?????? ?????? ?? ?????? ?? ??????????? ?????????? ?? ?????????????? ?? ?????? ?????? ??????
?????? ?? ?????????? ?? ?????? ?????? ?????????????? ?? ?????? ?????? ?????? ?????????????? ?? ???
????????????? ?? ?????? ?????? ?????? ?? ?????? ??????????»

6 ?? ????? 12 ?? ?????? ?????? ?????????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?? ?????? ??
????????????? ?? ?????? ?????? ?????????????? ?????????? ?????????????? ?????? ?? ?????? ?????? ??????
????????????? ?? ?????? ?????????? ?? ?????? 9, ?????????? 1, ?????? ??????, ??? ??????
??????, ??? ?????? ?????? ?????? ? ?????? ?????? ?????? ??????????????.

7 ??? ?? ????? 13 ?? ?????? ??, ?? ???????????, ?? ??????, ?? ?????? ??
????????? ?? ?? ?????? ?????????? ?????????? ?? ?????? ?? ?????????? ??' ?????? ??
????????? ?? ?????? ?? ?????? ?? ?????????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????? ??
?? ?????? ???.

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

8 ?? ???????? 15 ?? ?????????????? ?????? ?? ?????? ?????? ?????????????? ?????? ??
2010 (Value Added Tax Consolidation Act 2010) ?? ?????? ?????????????? ??' ?????? ??
????????? ?? ?????? 8, ?????????? 8, ?? ?????? ?? ?????? ?? ?????? ?????????????? ??????
??? 1972 (Value Added Tax Act 1972), ??? ?????? ??????????, ?????? ?? ???:

«(1) ??? ?? ?????? ?????????? ?? ?????????? 2, ?? ?? Revenue Commissioners (????????? ???)
????? ?????? ?? ? ?????????? ?????? ?????? ?????????? ?????????? ?????? ?? ?????, ?? ?? ??
????? ?????? ?????????? ?????? ?????, ?????? ?????? ?????????????? ?????? ??
????????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?? ?????? ?? ?????? ??
????????? ?????? ?????? (????????????? ?? ??????) ?? ?????, ?????? ??
????????? ??, ?? ?? ????? Commissioners ??????, ??? ?????? ?????? ?????? ?? ?????? ??
????????? ??, ???,

(a) ??? ?????? ?????? ?????????? [...] , ?? ?? ?????????? ?? ?????? ?????? ??????????
????? ??? [..] ??? ?? ?????? ??? ?? ?????? ?????????? ?? ?????????? ??? ??
????????? ??? ?? ?????? ?? ?????????????? ??? [????? ??] ??? ?? ?????? ?? ?????? ??
????????? ?? ??? ??, ??? ?? ?????? 65 ?? ?????? ?????? ?? ?????? ?? ?????? ??
????? [??], ???

(i) ??? ?? ?????? ?? ?????? ??, ?? ?????? ?? ?????? ?????? ?????????? ?? ?????? ??
Commissioners, ?? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ??????
????? ??? ?????? ?? ?????? [??] ???

(ii) ??? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??
????????? ?? ?????? [??] ?? ?????????? ??

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(b) ?? ?????????? ??? ??????????????? ??? ????? [??] ??????? ??? ?????? ??? ??
????????? ??????? ??? ?? ?????????? ?? ??? ?????? ?????? ??? ??? ??? ??????????
????????? (????????????????? ??? ?????????? ?? ??? ?????????? ??? ?????? ??? ??? ??????) ???
????? ??????? ?? ??? ?????? ??? ?? ?????? ??? ??? ?? ??? ?????????? ??? ?????? ??? ??????
??? ??????? ??? ?? ??? ?????? ?? ??? ?????? ??? ??? ?????????? ??? ?????? ??? ??????
????? ?? ?????????? ??? Commissioners ??????? ?? ??? ?????? ??? ?????? ??? ?????? ???
?????????, ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ??????
????? ??? ??????? ?? ?????? ??? ??????.»

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

9 ??? 23 ?????????? 2008, ? ??????? ?????????? ??????? ?????????? ??? ???????????,
?? ?? ?????? ??????? ??? ?????? ??? ?? ??? ?????? ?????? ??? ?????????? ?? ??
????????? ??? ?? ?????? 9 ??? 11 ??? ?????? ??? ?? ??? ?????? ?????? 8,
????????? 8, ??? ?????? ??? ?????? ?????? ?????????????? ??? 1972, ???
?????????????, ??? ?? ?????? ?? ?????????? ??? ?????? ?????? ??????????, ??? ?????????????? ???
?? ?????? 15 ??? ?????????????? ??? ?????? ??? ?????? ?????????????? ??? 2010, ??
????????????? ?? ?????? ??? ?????? ?? ??? ?????? 226 ??, ?????? ?? ?????? ??? ?????? ???
?? ?????? ??? ?????????? ???.

10 ?? ?????????? ??? ?????? ??????? ?? ?????? ??? 23? ?????????? 2009 ??
????????? ??? ?? ??????? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ???.

11 ?????? ??? ?????? ?????????????? ??? ?????????? ???, ? ??????? ???????, ??? 23
????????? 2009, ?????????????? ??? ?????? ??? ? ?????? ?????????? ??? 17
????????? 2010, ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ??? ??????????
?? ??? ?????? ??????.

12 ??? ??? ??????? ???, ? ??????? ?????????? ?? ?????? ??? ??? ?????? ???????.

13 ?? ?????????? ??? ??????? ??? ?????????? ??? 4?? ??????? ??? ?? 27??
????????? 2011, ??????? ??? ?????? ??????????, ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??????????, ???, ??? ??? ?????? ?????? ?????????? ??? ??????
????????? ??? ??? ?????? ??????????, ???, ??? ?????? ?????? ??? ?????? ???.

14 ?? ?????? ??? 27?? ?????????? 2012, ? ??????? ??????, ??? ?? ??? ?????? 16,
????????? 3, ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????, ?? ?????????? ?
????? ??? ?? ?????? ?????????? ??????.

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

15 ? ??????? ???, ???, ?? ?????????? ? ??????? ?? ?????????? . ???????,
????????? ??? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???, ???
????????? ??? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???

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

16 ? ??????????, ?? ?? ?????????? ????????????, ?????????? ??? ?????? ?????? ?????? ??????????????,
????????????? ??? ?????? ?????? ?????? ??? ?????? «?????» ??? ?????????? ???
????? 11 ??? ?????? ??? ?????? ?????? ?????? ?????? ?????????????? ??? ???, ??? ?? ??????
????????? ??? ?? ?? ?????????????? ??? ?????? ??? ?????? ?? ?????????????????? ?? ??????
???. ???????, ?? ?? ?????????????? ?????? ??? ???? ?????? ?????????? ?? ?????????????? ??
??????????, ?? ?????????????? ?? ?????????? ???' ???? ?? ?????? ???? ?????? ?????.

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

17 ??? ?????? ?????? ??????????, ?? ?????????????? ?????????? ?????????????? ???' ?????????? ???
?????? 258 ??? ?????????????? ??? ??? ??? ?????? ?????? ?????? ?????? ?????????????? ???
????????? ? ??????? ????. ???????, ? ??????? ?????? ?? ?????????? ?????? ?????? ??????
?????? ??? ?????????????? ?? ??? ?????????????? ??????. ???????, ? ?????????? ???? ???
?????? ?? ?????? ?????? ?? ?????? ?? ?????????? ?? ???????????, ?? ??? ?????????? ?????? ??????
?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????????????? ?????? ???
??? ?????????? ?? ???????????, ?????? ?? ?????????? ?? ???????????, ??? ???????????????
?? ??? ?????????????? ????, ??? ??? ?????????? ?? ?????????? (??., ??? ??? ??????
????????? ??? 11?? ?????? 2002, C-139/00, ?????????? ???? ??????????, ?????????? 2002, ?. I-
6407, ?????? 18 ??? 19, ?????? ??? ??? 18?? ?????????? 2010, C-458/08, ?????????? ???
??????????, ?????? 2010, ?. I-11599, ?????? 43 ??? 44).

18 ?? ??????????, ?????? ? ?????? ?????????????? ?????? ?????? «to be members of a
VAT group» (?? ?????????????? ?? ??? ???) ??? ?????? ??? ?????????? ???, ??? ????
????????????? ???? «to join a VAT group» (?? ?????????? ?? ??? ???) ???
????????? ??? ?????????? ??? ?????????????? ????, ????? ?????? ?????????????? ??
????????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ????. ???????, ? ??????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????????? ???
????????????? ?????????? ?? ????, ??? ?????????? ??? ?????? ??? ?????????? ???
??? ??? ??? ?????????????? ????, ?????????? ??? ??? ? ?????????? ?????????? ??? ??
????????? ??? ?????? ??? ??? ?????????? ??? ?????? ?????????? ?? ?????????????? ??
????????????? ??? ??? ??? ??? ??? ???, ??? ?????????? ??? ?????? ??? ?????????? ???, ???
????? 9 ??? 11 ??? ??? ?????? ??????.

19 ??? ??????, ? ?????? ?????????? ??? ?????? ?????????? ? ?????????? ?????? ??
?????????.

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

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

20 ??? ?????? ??? ?????????? ???, ? ?????? ?????????? ??? ?????? ??? ???? 11 ???
????????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ???? ?????? ??
????????????? ??? ?????? ???.

21 ????????????, ????????????, ??? ?? ?????? 11 ??? ?????? ??? ?????? ?? ??????????
?? ?????????? ???????, ??? ??????, ?? ?????? ?????????? ??? ?????, ??? ???
????????? ??? ?????? ??? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ????. ?? ?????? ???
????????? ??????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ???

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

22 ???????, ??? ???? ???????, ?? ? ??? «??????» ?????? ?? ?????????? ?? ?????? ???
?????? ?????? ???????????, ??? ?????? ??? ?? ?????? ?? ?????????? ?? ?????????????? ??????????????
??? ?????? ??? ?? ??????????? ??? ?????? ????, ?????? ?? ?????? ?????????? ??? ??????
?????? ??? ??.

23 ???????, ? ??????? ?? ?????? 11 ??? ?????? ??? ???? ?????????? ??? ?????? ?????????????? ????
?????? ??? ?????? ??? ?????? ??? ??????? ????, ? ?????? ???????????, ??? ?????????? ??? ??
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ?? ?????? ??? 77/388/???
??? ???????????, ??? 17?? ????? 1977, ??? ?????????????? ??? ?????????? ??? ??????? ??
?????, ??? ??????? ?? ??? ?????? ?????? ?????????? – ?????? ?????? ????
????????????? ????: ?????????? ?????????? ??? (?? ????. ??? 09/001, ?. 49, ??? ????:
???? ??????), ??????, ??? ?????????????? ??? ?????????????? ?????????????? ??? ???
????????????? ??? ?????? ??? ?? ?????????? ??? ????, ???????, ??? ?????? ????
??????????, ?????? ?????? ??? ??? ?????? ?????????? ?????????? ?????????? ??? ?????????? ??
?????????? ?? ?????????? ???????????????. ??????????????, ?? ?????????? ??
?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ?????? ? ???????????
??? ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ???????????.

24 ??? ???? ?? ?????? ??? ?????? 11 ??? ?????? ??? ???? ?????? ??? ?????? ??? ??????????????????
????????? ??? ?????? ??? ?????? ?????????? ??? ? ?????? ??? ?????? ??? ?????? ??? ??????????????
??? ??????????? ??? ?????? «????????? ??? ?????? ???» ??? ??? ?????? ????
?????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?? ??? ?????? ????.
??? ?? ??? ??? ?? ??????????, ??? ??? ?????? ???, ?? ??? ?????? ??? ?????? ?? ??????????????
?? ?????????? ??? ?????? ?????? ?? ??? ?????? ???, ???????, ??? ?????? ?? ??????????
??? ?????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?? ??????????
????? ???, ??? ?? ???????, ???, ??? ?????? ??? ?????? ?? ??? ?????? ??? ?????????? ??
?? ?????????? ??? ?????? ??? ?? ?????? ???, ??? ???????, ??? ??? ?????? ???, ??? ??? ?????? ???,
??? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,
????? ?? ??? ??? ?? ??????? ?? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ????
??.

25 ???????, ??? ???? ???????, ??? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ???
?????? 11 ??? ?????? ???, ??? ?????? ?? ?????????? ?? ?????? ???, ??????, ??? ??
????? ??? ?????? ?????? ??? ?????? ?????? ???????, ?????? ??? ?????? III ??? ?????? ??? ??
????? ??? ?????? 9 ??? ?????? ???, ?? ?????? ?????? ??? «????????? ??? ?????? ???» ??
????? ?????? ??? ?????? ?????????? ?????????? ???, ???????, ?????????, ??? ??
????? ??? ?????? ??? ?????? ??? ?? ??? ?????? ???.

26 ?????????? ?? ?????????? ??? ??? ?????? ??? ?????????? ?? ?????????? ??? ??
????????? ??? ??????? ?? ??????????, ? ??? ??? ?????????? ?????????? ??????? ??
????? 19 ??? ?????????? ??? 22?? ?????? 2008, C-162/07, Ampliscientifica ??? Amplifin
(??????? 2008, ?. I-4019), ????? ??? ??? ?????????? ??? ?????? ?????????? W. Van
Gerven ??? ?????? ??? ??? ?????? ?????????? ? ?????? ??? 20?? ?????? 1991, C-60/90,
Polysar Investments Netherlands (????? 1991, ?. I-3111).

27 ? ?????????? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
? ?????????? ?? ?????? 11 ??? ?????? ??? ?????? ??? ?????? ?????????? ? ?????????? ??
????????? ?? ??? ??? ?????? ?????? ??? ?????? ??????. ? ?????? ??? ??? «persons»
(«?????»), ??? ??? ??? «taxable persons» («????????? ??? ??? ???»), ??????????, ???
?????, ?? ?????????? ??????? ??? ??????? ??? ??????. ? ?????? ??? ?????????? ??
????????? ???, ??? ?????? ??? «taxable» ?????????? ??? ?????????? ??????????,
?? ?????? ???????, ?????????? ???, ??? ?? ?????? ??? ?? ??? ?????? ??? ?? ?????? ???????, ? ???
«any» ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
«single taxable person» ??? ??? ??? «persons».

28 ?????? ??? ?????? 11 ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ???
????????? ?? ??????? ?? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ???????, ??????
????????? ?????? ?????? ??? ?????? ?????????? ???, ?????? ?? ?????? ?????????? ?????????? ??
??? ?????? ????. ?????? ? ?????? ?????????? ??? ?????? ??? ?????? ??? ???????, ??? ?????? ???
????????? ??? ?????? ???, ??? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ??????????????,
????????? ?? ?? ?????? 9 ??? ?? ?????? ??????, ?? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ????. ?????????? ??? ?????? ??? ?????????? ??? ???????, ?? ?????? 11 ???
?????? ???, ??? ?????????? ??? ?????? III ??? ?????? ???, ?????? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??????. ???????, ? ?????? ??? «?????» ??? ?? ???????
?? ?????????? ?? ??? ??? ??? ?????? ??? ?? ??? ?????? ??? 11, ?????????? ??? ??
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????????? ???, ??? ?????? ??? ?????? ?????????? ???????, ??? ?????? ???
????????? ??? ???, ??? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ??? ???

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

30 ? ?????????? ?????????? ?? ?????????? ??? ?????????? ??? ? ?????????? ?? ?????? 11
??? ?????? ??? ?????? ?????? ?????????? ?? ?? ?????? ?????? ?????? ?????? ?????? ???
????? ?????? ??? ?????? ??????. ?????????? ???, ?????? ?????? ?????? ??? ?????? ???
????????????? ??? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ? ?????????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ???
??? ?? ?????? ??? ?????? ??? ?????? ??????. ?? ?????? ?????????? ??? ?????? ?????? ???
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? «?????». ?????????? ???
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ???, ??? ??? ?????? ??? ?????? ??? ?????? ???.

31 ??? ?????? ?? ?????????? ??? ?????????? ??? ? ?????? ?????? ?? ?????????? ??
????????? ??? ?????? ??? «????????? ??? ??? ???», ? ?????? ?????? ??? ??? ??
????????? ??? ??? ??? ?????? ??????, ??? ??? ?? ?????????? ?? ??? ?? ?????????? ??? ??? ??

????????? ?? ??????????? ?? ?????. ???, ???? ?? ??????????? ?? ??????????? ?? ??????????? ?? ?????? ?? ???? ?
?????? ?? ??????? ?? ??????????? ?? ??????????? ?? ??????????? ?? ??????????? ?? ??????????? ?? ?????? ??????? ?? ????,
????? ??????? ?? ??????????? ?? ??????????? ?? ??????????? ?? ??????. ?? ?? ?????? 11 ??? ??????
?? ??????, ?? ??????????? ?? ???????, ?? ????? ?? ??????????? ?? ??????????? ?? ??????????? ?? ????
?????????? ?? ??? ?? ??????????? ?? ??? ?????? ??????? ?? ???, ?????????? ?????? ?? ??? ??
????? ?? ??????? ?? ??????, ?? ?????? ??????????? ?? ??? ?????? ??????? ??????????? ?? ???????????
????? ?? ??????? ?? ??????????? ?? ??? ??????????? ?? ?? ??? ?????? ??????????? ?? ?????? ????. ???????,
?? ??????? ?? ?????? ?? ?????? 11 ??? ?????? ?? ??????????? ?? ??? ?????? ?????? ?? ?????? ?? ???????????
????? ?? ?????? ?? ??????????? ?? ??? ?? ??????????? ?? ??? ??????????? ?? ??? ?????? ?? ??????????? ??
????????? ?? ?????? ???.

32 ? ?????????? ?????????? ???, ????? ???????? ? ?????? ???, ? ?? ?????????? ???, ? ?? ?????????? ???
???????, ?????????????? ???, ???, ?????? ?????? ?????? ?????? ???, ?????????????? ???, ??????????
???????, ?????????? ???, ???, ?????? ?????? ??????. ?????????? ???, ????????, ???????, ?????? ???, ???, ???
??????????, ???, ???, ? ?????????? ???, ?????? ?????? ?????? ???, ?????? ?????????? ???, ???, ???, ???, ???
???????, ???, ???, ? ?????????? ???, ?????? ?????? ?????? ???, ???, ???, ????????, ??, ???, ? ?????????? ???, ???
??????????, ??, ???, ???, ????????. ??, ???, ?????????? ??, ???, ??, ?????????? ???, ???, ???, ???
???????, ???, ???, ? ?????????? ???, ??, ???, ????????, ????????????????, ??, ?????????? ??, ???, ???
???, ???, ???, ??????????, ???, ???, ???, ????????, ??, ???????, ???, ?????????? ???, ?????????? ???, ???, ???
???????, ???, ???, ???, ?????? ?????? ?????????? ? ?????????? ???, ?????????? ???, ?????????? ???, ??????????

33 ??????, ? ????????, ?????????? ?????? ? ?????????? ???? ?????????? ?????? ?????????? ??????????
???? ???????, ??? ?????? 11 ??? ?????? ??? ??? ?????? ?????? ?????? ?????? ??????, ??????????
???? ??? ?????????? ?? ?? ??? ?????? ?????? ??????.

34 ????? ???? ? ????????, ? ??????? ???????????, ?? ??????? ??? ??????, ? ??????????
??? ?????????? ??? ?? ??????? ??????? ?????????? ??? ?????? ?? ?????? ??? ? ?????? ???
?????? 11 ??? ??????? ??? ??? ?? ?????? ??????? ??? ??? ??? ??? ? ?????????? ???
?????????? ??????? ??? ?????? ??? ???????.

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

35 ?????????????? ???' ????? ???, ??? ??? ?????????????? ??? ?????????????? ???
????????? ??? ?????????? ???????, ?????? ?? ?????????????? ??????? ??? ?? ??????
??, ? ?????????? ??? ????? ?????????? ??? ?? ?????? ??? (??????? ??? 29?? ??????????
2009, C-174/08, NCC Construction Danmark, ?????? 2009, ?. I-10567, ??? 23 ??? ???
????????? ??? ??????????).

36 ?? ???????????, ?? ?? ?????? ?? ?????? 11, ?????? ??????, ?? ??????? ??
????????? ?? ?? ?????? ?? ?????? ?????? ?????? ?? ?? ?????? ?????? ?? ?????? ?????? ??????
????????? ?? ?????? ??????????? ?? ?? ?????? ?????? ?? ?? ?????? ?????? ?? ?????? ??????????????? ??
????? ?? ?????? ?????? ?????? ?????? ??, ?????????? ?????? ?????? ??????????? ?? ?????? ???
????????? ??????, ??????????? ?? ?? ?????? ?????? ???????????????, ?????????????? ?? ?? ???????????
????????? ?? ?????? ?????, ?????????? ?? ?? ?????? ???, ??? ?????? ?? ?? ?????? ?????? ??? ?? ?? ??????
?????????????? ??, ??????, ??? ?? ?? ??????????? ?? ?? ?????? ?? ?? ?????? ?????? ?? ?? ?????? ??
???, ?????????, ??? ?????????? ?? ?? ??????????? ??, ??? ??????, ??? ?? ?? ?????? ??? ?? ?????? 9
?????????? 1, ??? ??????? ???. ?????????????????? ?? ?? «??????» ??? ?? «??????????»
??? ?? ?????? ??????» ??? ?????????? ?? ?? ?????? ?????????? ?? ?? ?? ??????????? ?? ?? ???
?????????.

37 ?????????????? ??? ?? ????? 11 ??? ??????? ??? ??????? ??????? ??? ?????? 4,
????????? 4, ??????? ??????, ??? ????? ??????. ??? ??? ?? ?????? 2 ??? ??????????

A ??? ??????? ??????? 67/228/???, ??? ???????????, ??? 11?? ??????? 1967, ???
????????????? ??? ?????????? ??? ?????? ?????, ??? ?????????? ?? ??? ????? ?????? ??????
????????? – ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ?????? ?????
????????????? ????? (?? ??. ???. 09/001, ?. 5), ?? ????? ???????? ??? ?????? ??? ??????
??? ?????? ??? ?????? ???, ???????? ??? ?????? ??? «?? ? ????[??] ?? ??????????
????????????? ???, ??? ?? ??? ?????????? ??? ?????», ?? ???????? ??? ??????????
????????? ??? ?? ??????????, ?????????????? ??? ?????????? ?????, ?
????? «?? ?????????? ?????????? ??? ?????» ?????????????? ??? ?????????? ??? ??
????? ?????? 4, ?????????? 4, ??? ????? ??????.

38 ????, ??? ?????? ?????????? ??? ?????????? ?????????? ??? ?????? 11 ??? ??????
??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? 4, ?????????? 4, ??????
??????, ??? ?????? ???????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?
???? «any» (?????????????), ?????? ?? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????: «each
Member State may regard as a single taxable person any persons established in the territory of
that Member State» (????? ?????? ??? ?????? ?? ?????????? ?? ?????? ?????????? ???
????? ?????????? ?????????? ??? ?????? ??? ??????).

39 ??? ?????? ??? ?????????? ?????????????? ??? ?????????? ??? ?????????? ??? ?
????????? ??? ?????? ??? ?????? ??? ???????, ??? ?? ?????? ??? ?????? ??? ?????? ??? ???
????????? ??? ?????? ???, ?? ?????????? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ???
????????? ?? ?????????????? ?? ?????? ??? ?????? ??? ?????? ??? «????????» ??????????????
????? ??? ??? «????????? ??? ?????? ??? ??????» ??? ?????? ??? ?????????? ??? ?????? ??? ??
??? ?????? ?????????? ??? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? III ??? ??????
?????, ? ?????? ??? ?????? ??? ?????? ??? «????????? ??? ??????», ?????????????? ??? ???
«????????» ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
?????????, ?????????? ??? ?????? ??? ?????? ?????????????? ??? ?????????? ??? ?????????? ???
????? ??? ?????? 11 ??? ?????? ???.

40 ????, ?????????? ???, ??? ?????????? ???, ??? ?????????? ??? ?????? ??? ?????????? ? ??????????, ???
????? ?? ??????? ??? ?? ????? «?? ?????? ?????????? ??? ??????» ??? ?? ?????? 11 ???
????? ?? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?? ?????????? ?? ?????????? ??????????
????????? ??? ?????? ?? ??? ?????? ?????? ???????, ?????????? ??? ?? ?????? ??? ?????? ??? ??????
??? ?????????? ??? ?????? ??? ?????? ?????, ??? ?? ?????? ??? ?????????? ???, ?? ??????
????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???.
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????????????? ?? ?????????? ??? ?????????? ??? ?????? ??
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
?????????, ?????????? ??? ?????? «?????» ??? ?????????? ??? ?????? ??? ?????? ???.

41 ??? ???????, ??? ?? ?????? ??? ?????? 11 ??? ?????? ??? ?? ?????????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???.

42 ??????, ? ??????? ?????????? ???, ????? ?? ???????? ??? ?????? 11 ???
?????? ???, ? ??????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ???, ??? ?????? ???, ?????? ???
??? ?????????? ??? ?????????? ??? ??????, ?????? ?? ???????? ??? ?? ?????????? ???
????????? ? ??????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?? ??? ?????? ???
11 ??? ??? ?????? ??? ?? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??????
?? ?????? ???.

43 ?????, ?????????????? ???, ?? ??????????, ? ??????? ??? ?????? ?? ?????????? ???
????????? ?? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?? ??? ?? ?????? ???,
????????? ??? ?? ?? ??? ?????? ??? ?????????? ?? ?????????? ??? ??????????????
????????? Polysar Investments Netherlands, ????? ?? Ampliscientifica ??? Amplifin.

44 ??? ?????, ???????, ? ???????, ? ?????????? ?????? ??? ?????? ?? ?????????? ?? ?????? 11 ???
?????? ???, ?????????? ??? ?? ?????? 9, ?????????? 1, ??? ?????? ?? ?????? ?????? ???
????? ??? ?????? ?? ?????? ?? «????????? ??? ». ? ?????????? 2 ??? ?????? ???
??? ?? ?????? 10, 12 ??? 13 ??? ?? ?????? ?????? ?????????? ??? ?????? ???, ???
????????????? ??? ?????????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ??
????????????? ??? ?? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ???, ??? ?????????? ??? ?????? ???, ??? ?? ?????? ??? ?????? ??? ??
????????? ??????. ??????, ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? III ???
????? ??? ???, ???' ??????, ??? ?????? ?? ?????? ??? ?????????????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??
?? ?????? 11 ??? ?????? ???.

45 ??? ?????? ?? ????????, ??? ?????????? ??? ?????? ??? ?????? III ??? ?????? ???, ???
????? 9, ?????????? 1, ?? ?? ??? 11 ??? ?????? ???, ?????????? ? ?????????? ???
?? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ???
????????? ??? ??????, ??? ?? ?????? ?? ?????? ??? ?????? ??? ?????? ?? ?????? 11 ?????? ??
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? 9, ?????????? 1, ?? ?? ??? ??????. ??????, ? ?????????? ???
?? ?????? ?????????? ??? ??????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??
????????????? ???, ?????????? ??? ?????? ??? ?????? ???, ?????? ?? ?????????? ???
????????? ??? ?????? ???.

46 ??? ???????, ??? ?????? ?????? ?? ?????? ?????? ?? ?????? ?? ?????????? ??? ?????? ???
??, ?????????? ??? ?????? ?? ?????? ?????? ??? ?????? ?? ?????? ?????? ?????? ?? ?????? 11 ???
?????? ???, ?? ?????? ??? ?????? ??? ?????? ?? ?????? ?? ?????????? ??? ?????? ??? ?????? ??
????????? ??? ???.

47 ??? ?????, ??????, ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? 11 ??? ??????
??, ??? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ? ???
????? [COM(73) 950] ?????? ???, ?????????? ?? ?????? 4, ?????????? 4, ??????
?????, ??? ?????? ???, ?? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? 11, ? ??????
?? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ?????????????? ???, ??? ?. ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

48 ?????? ???, ? ?????????? ??? ?????? ??? ?????? ?? ?????? ?? ?????? ??? ?????? ???

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

49 ???????, ?????????????? ???, ?????? ??? ?? ?????????? ??? ???? ?????? ???????????
?????? ?? ?????????????? ???????????, ?? ?????? 11, ??????? ??????, ??? ?????? ???
?????? ??? ?????? ??? ?? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??
????????? ?? ?????????? ?? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ?????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

50 ??? ???????, ? ??????? ??? ?????????? ??? ?????? ??? ?? ?????? ??? ?????? 11 ??? ??????
?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ???
????? ?? ?????????????? ?? ?????? ???.

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

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

52 ??? ?? ??? 138, ?????????? 1, ??? ?????????? ?????????? ??? ???????????, ?
????????? ?????????? ?????????? ??? ?????, ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??????. ?????????? ??? ? ?????? ?????? ?? ?????????? ? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??????, ?????? ?? ?????????? ??? ?????? ??? ?????? ???
????????? ?? ?? ??? 140, ?????????? 1, ??? ?????? ??????????, ??? ???? ?? ?????? ??
????? ??? ?????????????? ??? ?????? ?????? ?? ?????????? ???, ?????? ?? ?????? ???
????????? ??????????, ?? ?????? ??? ??????, ? ?????????? ??? ?????? ??? ?????? ???
????????? ?????????? ?? ?????? ??? ?????? ???.

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

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

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

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

(?????????)

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