

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

??? 19?? ?????? 2012 (\*)

«?????? 2006/112/?? — ??? — ????? 136 — ?????????? — ????? 313 ??? 315 — ??????  
????????? ?????????????? ??? ?????????? ?????? — ?????????? ??????????????????  
????????????? ??? ?????????? ??? ?????? ?????? — ?????????? ??????????????  
????????????? ??? ?????????? ??? ?????? ?????? ??????????, ?????????????? ??? ??? ???, ?? ??????  
???? ??? ????? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ??? ???  
?????»

???? ?????? C-160/11,

? ? ?????????? ??? ????? ?????????????? ?????????? ??? ?????? 267 ???, ???  
?????? ?? Naczelnego S?d Administracyjny (???????) ?? ?????? ??? 25?? ?????????? 2011,  
? ????? ?????? ??? ?????????? ??? 1? ?????? 2011, ??? ?????? ??? ??????

**Bawaria Motors sp. z o.o.**

????

**Minister Finansów,**

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

????????? ??? ??? K. Lenaerts (???????), ?????? ????????, R. Silva de Lapuerta, ?.  
??????, T. Von Danwitz ??? D. Šváby, ????????,

????????? ??????????: J. Mazák

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

?????? ????? ??? ?????? ?????????? ??? ?????? ??? ??' ?????????? ??? ?????????? ???  
16?? ?????????? 2012,

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

- ? Bawaria Motors sp. z o.o., ?????????????? ??? ??? D. Baczewska-Goli?ska, adwokat,  
??? ??? M. Zaj?c, ?????????? ????????,
  - ? Minister Finansów, ?????????????? ??? ??? T. Tratkiewicz ??? J. Kaute,
  - ? ??????? ??????????, ?????????????? ??? ??? M. Szpunar ??? ??? ??? A. Gawlowska  
??? A. Krai?ska,
  - ? ?????????? ????????, ?????????????? ??? ??? L. Lozano Palacios ??? K. Herrmann,  
???? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??? ?????? ???  
??? 24?? ????? 2012,
- ????????? ??? ????????

???????

1 ? ?????? ?????????????? ?????????? ?????? ??? ???????? ??? ?????? 313, ??????????  
1, ??? 314 ??? ?????? 2006/112/?? ??? ??????????, ??? 28? ?????? 2006, ?????? ??  
?? ????? ?????? ????? ?????????????? ????? (?? L 347, ?. 1), ?? ?????? ?? ?? ??????  
136 ??? 315 ??? ????? ????? ??????.

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ??? Bawaria Motors  
sp. z o.o. (??? ????: Bawaria Motors) ??? ??? Minister Finansów (????????? ??????????) ?  
????? ?????? ?? ?????????? ?????????? ??? ?????????? ?????????????? ??? ?????????? ??  
????????? ??? ?????????? ?????????????? ??? ?????????? ?????, ?????????????? ??  
????????? ?????????????? ??????????.

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

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

3 ???? ?? ????? 1, ?????????? 2, ??? ?????? 2006/112:

«? ?????? ??? ?????? ?????? ?????????? ??? [????? ?????????????? ?????? (?? ????: ???)]  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????  
?????????, ?????? ?????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?  
????? ? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ??????  
????? ??? ? ?????? ??? ?????? ?????? ??? ??????.

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

[...]»

4 ? ?????? IX ??? ?????? 2006/112, «?????????», ?????????? ??? ?????? 3, ?? ???  
????? «????????? ??? ?????? ??????????????». ?? ?????? 136 ??? ?????? ????, ?? ???  
????????? ??? ???? ?????? ????, ?????? ?? ???:

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

?) ??? ?????????? ??? ?????? ?? ?????? ?????????????? ?????????????? ?? ??????????????  
????????????? ??? ??? ???, ?????? ?? ?? ??? 132, 135, 371, 375, 376 ??? 377, ?? ???  
378, ?????????? 2, ?? ?????? 379, ?????????? 2, ??? ?? ?????? 380 ??? 390, ?? ???  
????????? ??? ???? ?????? ??? ?????? ?????? ?????????? ????????,

?) ??? ?????????? ????, ??? ?????? ? ?????? ??? ?????? ??? ?????? ?????????? ???  
????????? ??? ?????? ??? ?? ??? 176.»

5 ? ?????? X ??? ?????? 2006/112, «?????????», ?????????? ??? ?????? 3, ?? ???  
????? «????????? ??? ?????? ?????? ????. ?? ?????? 176 ??? ?????? ????, ?? ???  
????????? ??? ???? ?????? ????, ?????? ?? ???:

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

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

????? ?? ?????? ?? ??? ?????????? ?? ????????, ?? ?????? ??? ?????? ??  
?????????? ??? ?????? ??? ???????????, ??? ?????????? ? ?????? ??? ??????????? ??? ?????? ??  
1? ??????????? 1979 ?, ??? ?? ?????? ??? ??????????? ??? ??????????? ??? ?????? ??  
????? ???????????, ??? ??????????? ??????????? ????.»

6 ?? ?????? XII ??? ?????? 2006/112, «????? ???????», ??????????? ??????? 4, ??  
?? ?????? «????? ??????? ??? ??????????? ??? ??????????? ?????? ??? ??  
?????????? ???????????, ??????????? ? ??????????? ?????? ???», ?? ?????? ???????????  
?? ?? ??? 311 ?? 343.

7 ?? ?????? 311, ?????????? 1, ?????? 1 ??? 5, ??? ?????? 2006/112 ?????????? ??  
?????????:

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

1) “????????????? ???”, ?? ?????? ??????? ??? ?? ?????? ??? ?????? ?????? ???  
??????????????, ?? ?????? ? ??? ?????? ??? ???????, ?????? ??? ???????????  
??????????????, ??????????? ? ??????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ???, ??? ?????????? ??? ?? ?????? ???,

[...]

5) “????????????? ??? ?????? ??? ???????”, ??? ??????????? ??? ?? ?????? ???  
????????? ??? ??????????? ??? ???????????, ?????? ??? ?????????? ??? ?? ?????? ???  
????????????? ??? ? ??????? ?? ?????? ??? ??????????? ???, ??????????????? ??? ?????? ???  
??????????????, ??????????? ? ??????????? ???, ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ??????????? ??? ?????? ??? ?? ?????? ?????????? ?????????? ??? ?????? ???

8 ?? ?????? 313, ?????????? 1, ??? ?????? 2006/112 ?????? ?? ????:

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

9 ?? ?????? 314 ??? ?????? 2006/112 ???? ?? ????:

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

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

?) ??? ?????? ??? ?????????? ???, ?????? ? ?????????? ??? ??? ?????? ?????????? ???  
?? ??? ??? ?? ??? ??? 136?

?) ????? ?????????? ????, ????? ? ?????? ?????? ??? ?????? ?????? ?????? ???  
????????? ??? ???? ?????? ?????????? ??? ?????????? ??? 282 ??? 292 ??? ???  
????? ??????????

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

10 ?? ????? 315 ??? ?????? 2006/112 ?????????? ?? ????:

«? ????? ?????????? ??? ???? ??? ???? ?????????? ?????? ??? ?????? 314 ?????????? ???  
????????? ??? ?????? ??? ?????????????? ? ?????????????? ??? ?????? ??? ?????????? ???,  
????? ?? ??? ??? ??? ??? ?????? ?? ?????? ??? ?????????? ???.

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

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

11 ? ?????? ??? ???? ??? ?????? ??? ?????? ??? ?????? (Ustawa o podatku od towarów i  
us?ug), ??? 11?? ?????? 2004 (Dz. U. ????. 54, ??????? 535), ??? ?????? ??? ????  
??? ?????????? ??? ?????????? ??? ?????? ??? ?????? (??? ????: ??? ???? ???),  
??????, ??? ?????? ??? 15, ?????????? 1, ?? ????:

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

12 ?????? ??? ?????? 43, ?????????? 1, ?????? 2, ??? ?????? ???, ? ??????????  
????????????? ??? ?????? ?????????? ??? ???, ??? ??? ?????????? ??? ?? ???  
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??  
????? ???.

13 ?? ?????????????? ????, ??? ??? ?????? ??? ?????????? ????, ??????????, ??? ????  
????????? 2 ??? ???? ?????? 43, ?? «? ?????? ?????? ?????? ?????????? ?? ????  
????????????? ??? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ???  
??? ?????? ?????? ? ?????????????? ??? ?????? ?????? ?? ?????? ??? ?????? ??  
?????».

14 ??? ???? 86, ?????????? 3, ??? ?????? ????:

«? ?????????? ??? ?????? ?????????? ?????????? ? ?????? ?????????????? ?????? ??  
????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? 3,5 ??????, ? ?????? ??? ???  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ? ??? ???  
??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ???  
????? ?????? ??? —????? ?????? ?? ?????? ??? ?????? ??? 6 000 ?????????? ???  
(PLN).»

15 ?? ????? 113, ?????????? 1, ??? ?????? ??? ?????? ?? ????:

«?? ???????????? ??? ???? ??? ?????? ?? ?????????? ???????????? ??? ???? ???  
??????????? ?? ???? ??? 50 000 PLN ??? ?? ?????????? ??? ???????????? ??? ?????.»

16 ?? ??? 120 ??? ??? ??? ??, ?? ??? ??? ?? ??? ??? ??? ??? ??? ??? ??? ??  
????????? ?????? ??? ?? ??? ??? ??? ??? ??? ??:

«1. [...]

4) ??? ??? ?????? ??? ?????????? ????????, ??? "????????????????? ????",  
????? ??? ?????? ??? ?????????????? ??? ?????????? 1 ??? 3 [?? ?????????? ????  
????????? ?????????? ?????????????? ??? ?????????? ??? ?????????? ??? ??? ??  
????? ??????? ?? ?? ??? ??? ??????], ?? ???????? ??? ?????? ?????? ?? ???, ???  
????????? ??? ??? ?????? ?????????? ?? ??? ??? ?????????, ??????? ?? ?????????? ???  
??? ??? ?????? ?????? ?????????? ??? [...]

[...]

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

[...]

10. ?? ?????????? 4 ??? 5 ?????? ??? ?????????? ?????????????? ????,  
????????? ?????? ?????????? ?, ?????????? ???, ?? ?????? ?, ?? ???? ?  
????????? ??? ?????? ?????? ???:

- 1) ?????? ??????, ?????? ?????? ? ?????????? ?????? ?????? ??????
- 2) ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ??? 15, ??? ? ?????? ???  
????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? 43, ?????????? 1, ?????? 2, ? ???  
????? 113?
- 3) ?????????? ???, ??? ? ??????? ??? ?????? ?????? ?????? ??????????? ???  
??? ?????????? 4 ??? 5?
- 4) ?????????? ???, ??? ? ??????? ??? ?????? ??? ?????? ?????????? ??? ???  
????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? 43, ?????????? 1, ?????? 2, ?  
??? ?????? 113?
- 5) ?????????? ???, ??? ? ??????? ??? ?????? ?????? ?????? ?????????? ??? ???  
????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????? 4 ??? 5 ??? ???? ?  
????? ?????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
??? ?????? ?????? ???.

17 ??? ?????? 13 ??? ??????????? ?????????? ??? ?????? ?????????? ?????????? ??? ????  
????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ????  
????????? (rozporz?dzenie Ministra Finansów r.w sprawie wykonania niektórych przepisów  
ustawy o podatku od towarów i usług, *Dz. U.* ????. 212, ??????? 1336), ??? 28?? ??????????  
2008 (??? ????: ??????????? ??????? ????), ??????, ??? ?????????? 1, ?????? 5, ??  
????: «

«????????????? ??? ?????? ? ??????? ?????????? ?????????? ??? ?????? ??????????????  
????????? ??? ?????????? ??? ?????? ??? ??????, ??? ?????? ?????????? ???, ??????????  
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? 86, ?????????? 3, ??? ?????,  
????? ??? ?????? ?? ?????????? ?????????? ??? ?? ?????????? ?????? ??????????  
????????????? ???, ??? ??? ?????? ??? ?????? 43, ?????????? 2, ??? ?????? ??? ???..»

**?? ?????????? ??? ??????? ??? ?????? ??? ?????? ??? ???? ?????????? ????**

18 ? Bawaria Motors ?????????? ????, ??? ??? ?????? ??? ?????? 15 ??? ?????? ???  
???. ??? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ???  
????????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ?????????? ?????????? ???, ??????????  
? ?????????? ????. ??? ?????? ??? ?????????? ?????? ???, ?????????? ?????????? ??????????  
????????? ??? ?????????? ??? ??????, ?????? ??? ?????? ?? ?????????? ?? ??????????  
??? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ?????????? ??? ?????? ??? Bawaria  
Motors, ??? ??? ??????, ?????????? ??? ??????, ??? ?????? ??? ?????????? ??????????  
???, ?? ????? «????????? ??? ?????» ??? ?????????? ??? ?????? 43, ?????????? 1,  
????? 2, ??? ?????? ????. ??? ?? ?????????? ??? ?? ?????? ??? ?????? ??????????  
????????? ???, ?????????? ?? ?????????? ?????????? ??? ?????????? ?????? ?? ??????  
????????? ??? ?????? 120 ??? ?????? ???.

19 ?????? ?????? ? Bawaria Motors ?????????? ?????????????? ?????????? ???  
????????????? ?? ??????, ??? ??? ?????? ??? ?????????? ???, ?????? ?????? ??? ??? ???  
????? ?? ?????? ??? ?????? ??? ?????????? ?? ?????? 86, ?????????? 3, ??? ?????? ??? ????. ??  
??? ?????? ??????????, ? ?????????????? ??? ?????? ?????????? ?? ?????? ???, ???  
????? ??? ??? ??? ?????????? ??? ??? ?????? ???, ?? ????? «????????? ??? ?????» ???  
????????? ??? ?????? 13, ?????????? 1, ?????? 5, ??? ?????????? ??? ?????????? ??? ??? ???.

20 ?????????? ??? ?????????? ?? ??????????, ??? ?????????? ??? ?????????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????????? ??? ??????, ?? ?????? ?????????? ??? ??????????  
????? ?? ?????? ?????????? ??? ?????? 120 ??? ?????? ??? ???, ? Bawaria Motors  
???????, ??? 9 ?????????? 2009, ??? ??? Minister Finansów ?????? ?????????? ??????????  
????????? ??? ??????.

21 ??? 20 ?????????? 2009, ? Minister Finansów ?????????? ??? ?????? ????.  
????????? ???, ???, ?????? ?? ?? ?????? ??? ?????? 120, ?????????? 10, ??? ??? ???  
???? ???, ? ?????? ??? Bawaria Motors ??? ????. ?????????? ??? ?? ?????? 13 ???  
????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ??????  
????????? ?? ?????? 43 ??? ?????? ???, ??? ?????? ?????????? ??? ?? ?????? ??? 120,  
????????? 10. ??????, ??? ??? ??????, ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 312  
??? 325 ??? ?????? 2006/112, ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????  
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

22 ? Bawaria Motors ?????? ??????? ??? ?????? ??? ?????????????? ??? ?????? ?????????? ??? ?????? ???  
??? Wojewódzki S?d Administracyjny w Warszawie, ?????????????? ??? ? ?????? ??? Minister  
Finansów ?????? ??? ??? ?????? ?????????? ??? ?????? 120 ??? ?????? ??? ??? ?????? ???  
????? ??? ?????????? ??? ??? ??, ?? ?????? ??? ?????? ?????????? ?????????? ???, ??  
????????? ??? ?????????? ?? ??? ??? ?????? ?????? ??????, ?????? ??? ? ?????????? ???  
?????????.

23 ?? ?????? ??? 10?? ??????? 2009, ?? Wojewódzki S?d Administracyjny w Warszawie  
?????? ??? ?????????? ?????? ?????? . ?????? ??? ???? 13, ?????????? 1,  
????? 5, ??? ?????????? ?????? ??? ???, ?? ?????? ?????? ?????? ?????? ???  
????? ??? ??? ??????, ??? ?????????? ??? ?????????? ?????? ??? ?????????? ??????????????  
????????? ?? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????????? ??????????????  
??? ?? ??? ?????????? ??? ?????? ?????? ??? ?????? ???, ??? ?? ?????? ?????? ???  
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?? ?????? ?????? ??? ??? ??? ???  
??????. ??? ?? ??? ??? ??????????, ? ?????????? ??? ?????? ??? ?????? ??? ???  
????????? ??? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ?????????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 86, ?????????? 3,  
??? ??? ??? ???, ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ???, ??? 60 %  
??? ??? ??? ?????????? ??? ?????? ??? ?????? ??? 6 000 PLN, ??? ?????? ? ??????????????  
????? ??? ??? ?????? ??? ?????????? ??????, ?????? ??? ??? ??? ?????? ???, ? Bawaria  
Motors ?????????? ?? ?????????? ?? ?????????? ?????? ?????????? ??? ?????????? ???, ???  
????? ??? ?? ??? ??? ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???  
?????????, ??? 40 % ??? ?????????? ??? ?????? ??? ?????? ??? ??? ?????? ??? ??????  
????? ??? ?????????? ?? ??? ??? 6 000 PLN.

24 ? Bawaria Motors ?????? ??????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? Naczelnny  
S?d Administracyjny, ?????????? , ???' ????, ??? ?? ?????? ??? ? ??????  
????????? ?? ?????????? ?????? ?? ?????? ?????? ?????????? ??? ?????????? ???  
????? ?? ?????????? ?????????? ?????? ??? ?????? ?????? ??? ?????????? ???  
????? ?????????? ??? ?????? 13, ?????????? 1, ?????? 5, ??? ??????????  
????????? ??? ??? ??????????, ?????, ??? ?????? 120, ?????????? 4 ??? 10, ??? ???  
???? ???, ????? ??? ????? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ???.

25 ? Minister Finansów ?????? ?????? ???????, ?????????? ??? ?????? ??? ?????? ???  
??? ?????, ??? ??? ?????? ??? ??? ?????? ?????? , ? ?????????? ??? ?????? ???  
????????, ??? ??? ?? ???, ??? ?????? ?????????? ??? ?????? ?????? ???.

26 ??? ??? ??????? ???, ?? Naczelnny S?d Administracyjny ?????????? ?? ?????????? ??  
????????? ?? ?? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? :

«????? ?? ?????????? ?? ?????? ??? ?????? 313, ?????????? 1, ??? ??? ?????? 314, ??  
????????? ?? ?? ??? 136 ??? ?? ??? 31 ??? ?????? 2006/112[...] ??? ??? ?????? ???,  
????? ???, ?? ?????? ?????? ??? “????????? ??????” ??? ?????????? ???  
????????? ?? ??? ?????? ?? ?????????? ?????????? ??????, ?????? ?? ??????????  
??? ??? ?????? ??? ?????? ?? ?????????? ?????????? ?????? ??? ?????? ???  
????????? ?? ??? ?????? ??? ?????? ?????????? ?????? ?????????? ??? ?????? ???  
????????? ??? ?????? 13, ?????????? 1, ?????? 5, ??? ?????? ?????? [????? ???],  
??? ??? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ???  
????????? ??? ?????? ??? ?????? , ??? ?????? ???, ?????? ?????? ?????? ???  
????????? ??? ?????? , ?????? 86, ?????????? 3, ??? ?????? [????? ???], ???  
????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???

?????????, ??? ??????????????? ?????? ??? ?????? ??? ?????? 43, ?????????? 2, ???  
????? [???? ??] ??? ??? ?????? 311, ?????????? 1, ?????? 1, ??? ?????? 2006/112;»

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

27    ?? ?? ??????? ??, ?? ?????? ?????????? ?????? ???' ?????? ?? ?????????????? ?? ??  
????? 313, ?????????? 1, ??? 314 ??? ?????? 2006/112, ?? ?????????? ?? ?? 136 ???  
315 ?? ?????? ????, ????? ?? ?????? ??? ????? ?????????????? ??? ?????? ??????????????  
????????? ??? ?????? ?????????? ?????????????? ??? ?????????? ?????? ??????????  
????????? ?????????? ?? ?????????????? ??????, ??? ??? ?????? ?????? ??? ?????? 311,  
????????? 1, ?????? 1, ??? ?? ??? ?????? ????, ?? ?????? ?????????? ??????????????  
????????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ? ?????? ??? ??????  
????????? ?????? ?????????? ??? ?? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????  
????????? ??? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
????????? ??? ??? ?????? ?????? ??? ?????? ?????? ?????? ??????.

28    ???????, ?????????????? ??? ?? ?????????? ?????????????? ??? ?????????? ????????  
????? ?????????????? ? ?????????????? ??? ?????? ?????? ?????????????? ??? ?????? ??? ??????  
????????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???  
?? ?????? ?????? ?????????? ??? ?? ?????? ?????????? ??? ?????? 2006/112 (??.  
????????? ??? 8?? ?????????? 2005, C-280/04, Jyske Finans, ?????? 2005, ?. I-10683, ????  
35, ??? ??? 3?? ?????? 2011, C-203/10, Auto Nikolovi, ?????? 2011, ?. I-1083, ??? 46).

29    ?? ?? ??????, ?? ?????? 314 ??? ?????? 2006/112, ?? ?????? ?????????? ???  
????????? ?????? ??? ?? ?????? ?????? ??????????, ?????? ?? ?????????? ????.  
??????, ? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ??????????, ??? ??????????????  
????????? ?????????? ??? ?????? 29 ??? ?????? ???.

30    ??? ?? ?????????? ??? ?????? ??? ?????????? ?????? ?????????? ?????????? ??? ??  
????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????????? ?? ?????? ??? ??  
????????? ??? ?????? ?????????? ?? ?? ?????? ??? ?????? 314, ?????????? ??, ?? ??? ??.  
????????? ??? ?????? ?? ?? ?????? ??? ?????? ?????????? ?????, ?? ?????????? ??? ??????  
???? ?????????? ?????????????? ?????????? ?????? Bawaria Motors ??????????????????  
??? ?????? ?????????? ??? ??? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ??? ??????  
????????????? ??? ?????????? ??? ?????? 282 ??? 292 ??? ?????? 2006/112 ????  
????????? ??? ?????????? ??? ?????????? ??? ??????.

31    ?????????? ??? ?? ?? ?????? ?????????? ?????????????? ??? ?? ??? ?? ?????? ??? ??  
13, ?????????? 1, ?????? 5, ??? ?????????? ?????? ??? ?????? ???, ??????, ??? ??  
????????? ???, ?? ?????????? ?? ?????? ?????? ?? ?????? ?????? ?????? ?????????? ???  
????????? ?????? ??? ?????? 314, ?????????? ??, ??? ?????? 2006/112, ?????? ???  
????????? ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????????  
??? ??? ??? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? 136  
??? ?????? ???.

32    ??? ?????, ??????, ??? ?????? ??? ?????? 136, ??????? ??, ??? ?? ??? ??????????,  
???? ?? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????????, ??? ??????????????  
????????? ?????????? ??? ?????? 37 ??? ?????? ???, ??? ?? ?????????? ?????? ????  
?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ???  
????? ??? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????? ???.

33    ??? ?????, ???????, ??? ?????? ??? ?????? 136, ??????? ??, ??? ??????  
2006/112 ??? ??? ?????? ??????, ?????????????? ??? ? ?????? ??? ?????? ???

????????? ??? ?????????? ?????? ??? ?????? ? ???????? ? ? ?????? ?????????????? ???  
????????? ?????? ?????????? ??? ?? ?????? ?? ???? 176 ??? ? ? ?????? ??????. ?? ??????  
????? 176 ??????? ??? ?????? ?????? ??? ??? ????? «standstill» ? ?????? ?????????? ???  
????? ??? ?? ????????, ??? ????? ?? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???  
????? ??? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ??????????  
??? ??? ??????? ?????? ?????????? ??? ???, ??? ??? ?????????? ??? ??? ?????????? ??? ??????????  
????? ??? ?????? ?????? 1? ?????????? 1979 ???, ??? ?? ?????? ??? ?????? ???  
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???, ??? ? ?????????? ??? ??????????,  
????? ??? ?????? ?????? ???.

34 ?? ? ? ??? ?????? 136, ????????, ??, ?????? ?? ?????????? ????. ??????????????, ?  
????????? ??? ?????? ??????? ??????? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ???  
??? ?????????? ?? ??? ?????? ??????? ?????? ??? ?????? ?????????? ??? ?????????????? ???  
????????? ?????? ??? ?????????? ??? (??., ??? ??? ?????? ???, ??????????????)  
???????? Jyske Finans, ????? 21). ???????, ? ??????? ??? ?????? ???????????, ??? ???  
????????? ??? ?? ??? ?????? 136 ??? ?? ?????? 314, ????????, ??, ??? ?? ??? ?????? ???, ???  
????????? ??? ?? ??? ?????? ?????? ?????????? ?????????? ??? ?????????? ??? ?????????? ???.

35 ? ??????? ??? ?????? ?????????? ?? ?????? 136, ????????, ??, ??? ?????? 2006/112  
??????, ???????, ?? ?????? ??????? ?????? ??? ?????????? ?????? ??? ?????? ??? ??????  
??????????, ??????? ?????????? ??? ?????????? ???????????, ??? ?? ?????? ?????????? (??.,  
??? ??? ?????? ???, ?????????????? ?????? Jyske Finans, ????? 24).

36 ? ??????? ??? ?????? ?????? 176 ??? ?????? 2006/112, ???  
????? ?????????? ?? ??? 136, ????????, ??, ??? ?????? ??? ?????? ??? ?????? ??? ??????  
?????, ??? ?????? ??????, ??? ??? ?????? ??? «??? ?????? ?????? ?????????? ?????????? ??? ??»,  
??? ?? ?????? ??????, ??? ??? «?????????» ??? ?????????? ? ?????????????? ??????  
?????????.

37 ??????, ? ??????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? 314 ???  
?????? 2006/112. ???????????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????,  
????? ??? ? ?????? ?????????? ??? ?????? 30 ??? ?????? ???, ?? ?????????? ???, ?? ??????????  
????????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ???, ?????? ??? ??????  
????????? ??? ?????????? ??? ?????? 136, ????????, ??, ??? ?? ??? ?????? ???, ?????? ???  
????? ?????????????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?? ??? ?????? ?????? ??? ?????? ???, ??????, ??? ?????????? ??? ?????????? ???  
????? ???.

38 ??? ?????? ??? ?????? ??? ??????, ?? ?????? 86, ?????????? 3, ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?? ?????? ?????? ??? ?????? ???, ??? ??? ?????? ??? ?????? 136,  
????????? ??, ??? ?????? 2006/112, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? . ?  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
??? ??? ??? ??????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?? ??? ?????? ??????, ???, ??? ?????? 60 % ??? ?????? ??? ???  
????? ? 6 000 PLN.

39 ?????? ??? ?????? ?? ?????? ?????? ?? ?????????? ?? ? ?????? ??? ?????? 86,  
????????? 3, ??? ?????? ??? ?????? ?????? «standstill» ??? ?????????? ???  
????? 176, ???????, ??? ?????? 2006/112, ? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ?? ??? 13, ?????????? 1, ?????? 5, ??? ?????????? ?????????? ??? ?????? ???  
??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

????????????????? ??? ?????????? ????? ???? ?????? ?? ?????? ?????? ?????? ?????? ?????? ??????  
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? 86, ?????????? 3, ???  
????? ???, ?????? ??????????, ??? ?????????? ?????? ?????? ?????? ?????? ?????????? ?????  
????????? ??? ?????? 136, ?????????? ?, ??? ???? ?????? ??????. ???????, ? ???????, ???  
????????, ??? ?????????? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????

40 ? Bawaria Motors ?????????? ??? ? ?????? ???, ??? ?????? ?????? ? Minister  
Finansów, ??? ???? ?????? ??? ?????? ??? ???? ?????? ?????? ?????? ?????? ???,  
????????? ?? ??? ?????? ???, ??????????, ?????? ??? ?????? ?????? ?????? ??? ???, ??  
????????? ??? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??????  
????????? ???, ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???  
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ???, ?????? ??? ?????? ?????? ??? ??? ???,  
????????? ??? ?????? 13, ?????????? 1, ?????? 5, ??? ?????? ?????? ?????? ?????? ???, ???  
????????? ?? ?????? ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??? ??? ??  
????, ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??? ??? ??  
????? ?? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????? ?????? ?????? ???.

41 ????????, ?????????? ?????? ??? ?????? ?????? ?????? 34 ??? 35 ???  
????????? ????????, ?? ??? 136, ????????, ??? ?????? 2006/112 ??? ?????? ?????? ??  
????? ??? ?????? ?????? ??? ?????? ?????? ?????? 39 ??? ?? ?????? ????????,  
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ? Bawaria Motors, ??? ??? ?? ?????? ???  
?? ?????????? ???, ?????? ? ?????? ?????? ??? ?????? ?????? ?????? ???, ?????  
?? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
????????? ??? ??? ?????? ??? ???, ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ?  
????????? ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? (??., ??? ??? ??? ??  
????, ?????????????? ?????? Jyske Finans, ??? 24). ????????????, ? ?????????? ???  
?? ?????? ?????? ??? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ??????  
????????? ??? ?????? ?????? ??? ?????? ?????? ?? ?????? ?????? ?????? ??? 314 ??? ?? ???  
?????.

42 ??? ?????? ?????? ???, ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ???? ??'  
????????? ???, ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???  
????????? ????. ? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????????? ??? ?????? ??? ?????? ?????? 2006/112 ??? ?????? ?????? ?????? ???  
?? ?????? ??? ??? ?????? ??? ?????? ???.

43 ?????????? ???, ??? ?????? ?????? ???, ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ? Bawaria  
Motors, ? ?????? ?????? ???, ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???  
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???, ?????? ???  
?? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? 136,  
????????? ??, ??? 314, ?????? ???, ??? ?????? 2006/112, ??? ?????? ??? ?  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?  
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?  
????????? ??? ?????? ???.

44 ???????????, ??? ?????? ? Minister Finansów ??? ??' ???????????  
????????? ??? ?????? ??? ?????? ?????? ???, ? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ??? ??? ?????? ?????? ???, ? ??? ?????? ?????? ??? ??? ???

? ?????????? ?? ??? ???????, ???? ??? ?? ????, ???? ??? ?????????? ??? ?? ???? ?????? ??????.  
?????????, ???? ?????? ???? ?????? ???? ?????? ???? ??????, ? ???? ???? ?????????????? ????  
????? ???? ???? ???? ??????, ?????? ?? ???? ?????? ?? ????, ?????????????? ????  
????????? ???? ???? ?????? ?????????? ?? ???? 86, ?????????? 3, ???? ???? ???? ???, ???? ????  
?? ???? ?? ??????, ???? ???? ?????? ???? ?????? ????, ? ?????????? ????  
????????? ???? ?????? ?????? ?? ????

45 ??? ?????????? ? ?????? ?????????? ??????????, ?? ?????? ??? ?????????? ? ?????????? ???  
????????? ?????????? ???? ?????????? ?????? ?? ?????????? ???? ? ?????????? ????  
????? ???? ???? ?? ?????? ???? ???? ???? ?????? ?????? ???? ???? ????  
????????????? ???? ???? ???? ?????? ?????? ?????? ???? ???? ?????????? ???? ???? ????  
????? ?? ???? ???? ?????? ?????? ?????? ???? ???? ?????? ?? ?????????? ????  
????? ???? ?????? ?????? ???? ???? ???? ?????? . ???? ?????? ???? ???? ????  
????? ???? ?????? ?????? ???? ????, ? ?????? ?????????? ???? ???? 1, ?????????? 2,  
??? ?????? 2006/112.

46 ??? ?????? ??? ?????? ??????, ??? ?????? ?????? ?????? ?? ???? ? ?????? ? ??????  
?? ? ???? 313, ?????????? 1, ??? 314 ??? ?????? 2006/112, ?? ?????????? ?? ? ????  
136 ??? 315 ??? ?????? ????, ???? ???? ?????? ???? ???? ?????????? ????  
????????? ???? ?????? ???? ?????? ?????? ?????????? ???? ?????????? ????  
????????? ?????? ?????? ???? ?????? ???? ?????? ?????? ????, ???? ???? ?????? ????  
311, ?????????? 1, ?????? 1, ???? ?? ???? ??????, ?? ?????? ?????? ??????????  
????????????? ???? ???? ???? ???? ?????? ?????? ?????? ???? ?????? ????  
????? ?????? ???? ?????? ???? ???? ?????? ???? ?????????? ???? ?????????? ????  
????? ?????? ???? ?????? ????

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

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

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

? ???? 313, ?????????? 1, ??? 314 ??? ?????? 2006/112/?? ??? ?????????? , ???  
28? ?????????? 2006, ?????? ?? ? ???? ?????? ?????? ?????? ?????????? ?????? , ??  
????????? ?? ? ???? 136 ??? 315 ??? ?????? ????, ?????? ???? ?????? ????  
????????? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ????  
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ????  
????? , ???? ???? ?????? ???? ?????? 311, ?????????? 1, ?????? 1, ???? ???? ?????? ,  
?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???? ???? ???? ????  
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???? ????  
????? ??? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ???? ???? ?????? ????  
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(?????????)

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