

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

??? 25?? ?????????? 2012 (*)

«????? ?????? ?????? ?????????????? ????? – ?????? 2006/112/?? – ?????? 170 ??? 171 –
????? ?????? ??? – ?????? 1 – ?????? 2008/9/?? – ?????? 3, ?????????? ?? – ?????? ??????????
??? ?????? ?????????????? ????? ?????? ?????????????? ??? ?????? ?? ?????? ??? ??????
????????????? ??? ?????????? ??? ?????? – ?????????????? ??? ?????? ?????? ?????????????? ???
????????? ?????? ??? ?????, ????? ?????? ?????? ??????, ??? ?????????????? ?????? ??????????
?????? ? ?????»

???? ?????????????? ?????? C-318/11 ??? C-319/11,

? ?????????? ??? ?????? ?????????????? ?????????? ??? ?????? 267 ???, ???
?????? ?? Förvaltningsrätten i Falun (??????) ?? ?????????? ??? 21?? ??????? 2011, ??
?????? ?????????? ??? ?????????? ??? 27 ??????? 2011, ??? ?????? ??? ??????

Daimler AG (C-318/11),

Widex A/S (C-319/11)

????

Skatteverket,

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

????????? ??? ??? L. Bay Larsen (??????), ?????????? ??? ?????? ???????, A.
Prechal ??? E. Jaraši?nas, ????????,

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

?????????: C. Strömholm, ?????????? ??????????,

?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ??' ?????????? ??? ?????????? ???
3?? ??? 2012,

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

- ? Daimler AG, ?????????? ??? M. Punkki, advokat,
- ? Widex A/S, ?????????? ??? M. Selin, jur. kand.,
- ?? Skatteverket, ?????????? ??? K. Alvesson,
- ? ?????? ??? ??????, ?????????? ??? C. Meyer-Seitz,
- ? ?????? ??? ??????, ?????????? ??? L. Lozano Palacios ??? J. Enegren,
?????? ??? ?????? ??? ??????, ??? ?????? ?? ?????? ??????????, ?? ?????? ???
?????? ??? ?????? ????????,

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

????????

1 ?? ?????????? ?????????????? ?????????? ?????????? ??? ?????????? ??? ?????????? 1 ???
?????? ?????????? 79/1072/??? ??? ??????????, ??? 6?? ?????????? 1979, ??? ??????????????
??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? - ??????
????????? ??? ?????? ?????????????? ?????? ?????? ?????? ?????????? ??? ?????? ?? ?????? ???
????? ?????????????? ??? ?????? ?????? (?? ????. ???.. 09/001, ?. 111), ???
????????????? ?? ??? ?????? 2006/98/?? ??? ??????????, ??? 20?? ?????????? 2006 (?? L
363, ?. 129, ??? ?: ????? ?????), ?????? ??? ??? ?????? 3, ?????????? ?, ??? ??????
2008/9/?? ??? ??????????, ??? 12?? ?????????? 2008, ??? ??? ?????????? ??????????
?????? ??????? ?? ??? ?????????? ??? ?????? ?????????????? ?????, ??? ?????????????? ???
????? 2006/112/??, ?? ?????????????? ??? ?????? ?? ?????????????? ??? ?????? ?????
????????? ??? ?????????????? ?? ??? ?????? ?????? (?? L 44, ?. 23).

2 ?? ?????????? ?????? ?????????? ??? ?????? ??? ?????????? ?????????? ???????,
???????????, ??? Daimler AG (???: Daimler), ?????????????? ??? ???????, ??? ???
Widex A/S (???: Widex), ?????????????? ??? ?????, ??????, ??? ??? Skatteverket,
????????? ?????????? ???, ?????????, ??? ?????? ?? ?????????? ?????????? ??? ?????
????? ?? ??? ?????? ?????????? ?? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ???
????? ?????????? ?????? (?? ?: ???) ??? ?????? ?? ?????????? ?????? ?????????? ???
????? ??? ??? ?????? ?????? ? ??????.

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

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

3 ?? ????? 170 ??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006,
?????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? (?? L 347, ?. 1), ???
????????????? ?? ??? ?????? 2007/75/?? ??? ??????????, ??? 20?? ?????????? 2007 (?? L
346, ?. 13, ??? ?: ?????? ???), ?????? ?? ???:

«???? ?????????? ???, ? ?????, ??? ?????? ??? ?????? ??? ?????? 1 ??? [?????? ???????]
?? ?? ?????? 171 ??? ?????? ??????, ??? ?????? ?????????????? ??? ?????? ??????
?? ?????? ?????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?? ???, ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ?? ?????? ?????? ?????????????? ??? [????????? ?????????????? ??????].»

4 ?? ????? 171, ?????????? 1, ??? ?????? ??? ?????? ?? ???:

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

[...]»

5 ?? ????? 1 ??? ?????? ?????? ??? ???:

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

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

6 ?? ?????? 1 ??? ??????? 2008/9 ?????? ?? ????:

«? ??????? ?????? ?????????? ??? ?????????????? ??? ?????????? ??? ?????? ?? ??? ?????????? ???
[??] ??? ?????????? ??? ?????? 170 ??? ?????? [???? ???] ?? ?????????? ??? ?????? ??
????????????? ??? ?????? ?????? ?????? ?????????, ?? ?????? ?????? ??? ?????????? ?? ?????????????? ???
????? 3.»

7 ?? ?????? 3 ??? ??????? ?????? ??? ?? ????:

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

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

?) [...] ??? ?????????????? ??? ?????? ?????? ?????? ? ?????? ?????????? ??? ?? ?????????? ???
????????????? ??? ?????? ?????? ?????? ?????????, ?? ?????? [????????? ??????] ???
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????].».

8 ?? ?????? 28 ??? ?? ??? ?????? ?????????? ?? ????:

«1. ? ??????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ?????????? ???
????????? ??? 31? ??????? 2009.

2. ? [????? ??????] ?????????? ??? 1? ?????????? 2010. ??????, ?? ?????????? ???
????????? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????????? ???
??? 1? ??????? 2010.

?? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ???
????? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 1?
????????? 2010.»

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

9 ??? ?? ?????? 1, ????, ??? ??????, ??? ?????? 10 ??? ?????? (1994:200), ??? ??
????? ?????????? ??? [mervärdesskattelagen (1994:200)], ??? 30?? ?????? 1994 (SFS
1994, ????. 200), ??? ?????? ?????????? ?????????, ??? ?????? ???????, ?? ???
????????? ??? ?????? ???????, ?? ?????????? ?? ?????? ?????? ????????????:

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

2) ? ?????? ??????, ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
??????, ?????????? ?? ??? ? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????????? ??? ?????? 11 ? ??? ?????? 12, ??? ?????? ?????? ?? ?????? ????????????????

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

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

10 ?? ????? 15 ??? ??????? 1 ??? ????? ?????? ?????? ?? ??????? ?????????? ??????
??? ?????? ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ???
????? ?????? ?????? ??? ??????.

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

?????? C-318/11

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

12 ? Daimler ??? ?????? ??? ??????? ?? ?????????? ? ?????? ??? ?????? ??? 100 % ??? ?
????? ??? ??????? ????, ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?? ?????????? ??? ?????????? ?????????? ?????????? ??? ?????????? ???
????????? ??? ??? ??????????.

13 ? Daimler ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????????? ??? ?????????????? ???
??? ???????. ?? ?????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

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

15 ?????? ??? ?????? ??? ?????? ??? ?????????? ?o? ?????? ??? ?????? ??? ?????? ???
???????????, ?????? ??? ?? Skatteverket ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????????? ???.

16 ?? ?????? ??? ?????? ??? ?????????? ??? 1? ?????????? ??? ??? 31
????????? 2008, ??? ??? 1? ?????????? ??? 31 ?????????? 2009. ?? ??? ???? ?? ???
????????? ????, ????, ?? 73 597 119 ?????? ??? (SEK). ?? ??????
????????? ??? ?????? ??? ?????? ??? 1? ?????????? ??? 31 ?????????? 2008
????????? ??? Skatteverket ??? 1? ?????????? 2010, ??? ?????? ??? ?????? ???
????????? ??? 1? ?????????? ??? 31 ?????????? 2009 ?????????? ??? 31
????????? 2009.

17 ?? Skatteverket ?????? ?? ?? ?????? ?? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ? Daimler ?????? ?????? ?????????? ??? ???????. ??? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ??????.

18 ? Daimler ?????? ?????? ??? ??? ?????????? ??? Skatteverket ?????? ???
Förvaltningsrätten i Falun. ?????? ??? ??? ?????? ??? ?????? ??? ??????.

19 ?? Skatteverket ????? ??? ??????? ??? ???????.

20 ??? ??????? ????, ?? Förvaltningsrätten i Falun ?????????? ?? ?????????? ??
????????? ??? ?? ??????? ??? ?????????? ?? ??????? ?????????? ??????????:

«1) ??? ?????? ?? ?????????? ? ?????? “?????? ?????????? ??? ?? ??? ??????
????????????? ?????? ?????????? ??????”, ?? ?????? ??????????
????????????? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????;»

2) ?????? ? ?????????? ??? ? ?????? ??? ? ?????? ??? ? ?????? ??? ? ?????????? ???
????????? ??? ???? ?????? ???, ??? ?????? ?? ? ?????????? ?????? ?????????? ???
???? ?????? ??? ???? ?????? ??? ?????? ?????? ??? ? ?????? ??? ?????? ?????? ???, ??
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???, ??
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???, ??? ???? ??
???? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ? ?????????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???;

3) ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? 100 % ??? ? ?????? ??? ???? ??
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????;»

?????? C-319/11

21 ? Widex, ? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??????,
????????? ??? ?????? ?????? ??? ??????.

22 ?????? ??? ?????? ??? ?????????? ??? ??? ?????? ??? ?????? ?????? ?????????? ???
????????? ??? ?????? ???.

23 ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?o? ?????? ??? ???? ??
????????? ??? ?????? ??? ?? Skatteverket ??? ?????? ??? ???? ?? ???? ??
????????? ??? ?????? ??? ?????? ?????? ??? . ? ?????? ???, ? ?????? ?????? ??? ???? ??
??? 1? ?????? ??? 31 ?????? 2008, ?????? ??? Skatteverket ??? 9
????? 2009. ?? ?????? ??? ?????? ??? 109 023 SEK. ?????? ??? ???? ??
????????? ??? ?????? ???, ??? ??? ?????? ??? ?????? ??? ?????? ??? ???? ??
?????????.

24 ?? Skatteverket ?????? ?? ?? ?????? ?? ?????? ?????? ?????? ???, ?? ??
????????? ??? ? Widex ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?

25 ? Widex ?????? ?????? ??? ?????? ??? ?????? ??? Skatteverket ?????? ???
Förvaltningsrätten i Falun.

26 ??? ?????? ??? ?????? ???, ? Widex ?????? ???' ?????? ??? ?????????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
???? ?????? ??? ?????? ??? . ?? ?????? ??? ?????? ??? ?????? ??? Widex. ?????? ?????? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

????????? ??????????? ??? ?????????? ?????????? ??? ?????????? ??? ???? ?????????? ?????????? ???
Widex ??? ?????. ? Widex ??????? ?? ??????? ??? ????? ?????? ??? ?????????? ??? ?????????? ??????????
??? ??????? ??????? ??? ?? ??????? ?????????? ?????????? ?????????????? ?????????????? ??????????
??? ?? ??????? ??????? ??? ??????. ???????, ? Widex ?????????? ??? ?????? ?????? ??????????
??? ?????? ??? ?????????? ??? ??, ???????, ???? ??? ?????? ?????????? ?????????? ??? Malmö ?
????? ?????? ??? ?????????? ?? ?????????? ??? ??? ??????. ??????????, ?? ?????? ?????? ???
????????? ??? ?? ?????????? ???.

27 ?? Skatteverket ?????? ??? ?????????? ??? ??????????.

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

29 ?? Skatteverket ?????????? ??? ? Widex ?????? ?????? ??? ?? ?????????? ???
????????? ??? ?? ?????????? ??? 2006, ??? ? ?????????? ?????? ?????? ?????? ???
????????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????????? ??? ?????? ???
????????????? ?????? ?????????? ?????????????? ??? ??????, ?????????? ??? ?????? ???
????????? ?????? ?? ?????????? ??? ?????? ??? ??????????. ?????????? ?????? ??? ? Widex
???? ?????? ?????????? ???, ?????????? ??? ? ?????????? ?????? ?????????? ??? ?????? ???
??? ?? ??? ?????? ??? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ?????????? ???
????????? ???????.

30 ??? ??????? ???, ?? Förvaltningsrätten i Falun ?????????? ?? ?????????? ??
????????? ??? ?? ??????? ??? ?????????? ?? ?????????? ?????????? ??????????:

«1) ??? ?????? ?? ?????????? ? ?????? “?????? ?????????? ??? ?? ??? ????
????????????? ??? ?????????? ??????”, ??? ?????? ??????????
????????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????;»

2) ??? ?????? ? ?????????? ??? ?????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ???
????? ??? ?????????? ??? ?????? ?????? ?????????? ?????????? ?? ??????????, ??? ??? ???
????????? ?????? ??? ?????? ?????? ?????????? ??? ??????????, ??? ?????? ??? ?????? ???
????????? ???, ??? ??? ?????? ?????????????? ?????????? ?????????, ??? ??? ? ??????????
???? ??? ?????? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??
???? ??? ?????? ?????? ??? ??????;»

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

??? ??? ?????? ??? ??? ?????? ?????????? ??? ?????? ?????????? C-318/11 ??? C-319/11

31 ?? ?? ??? ?????? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ?????? C-318/11 ??? C-
319/11, ?? ?????? ?????????? ?????? ???' ?????? ?? ?????????? ??? ?????? ?????? ??????????
????? ??? ?????????????? ?????? ?????? ?????? ?????? ? ??????, ?????? ?????? ?????? ??????,
????????????? ?????? ?????? ?????? ? ?????? ?????? ?????????? ??????????????, ???
?? ?????????? ?????????? ??????, ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????? ?????? ??????, «?????? ?????????? ??? ??? ?????? ?????????? ?????????????? ???
????????????? ??????», ??? ??? ?????? ??? ?????? 1 ??? ?????? ?????? ??? ???
????? 3, ??????? ??, ??? ?????? 2008/9.

32 ?? ?????????? ??? ??????? ?? ?????????? ?????????????? ??? ?????????????? ?? ???????
?????????????, ??????, ??? ????? «?????? ??????????????» ???, ???????, ???
????????? «??????», ??? ??? ?????????? ???.

33 ?? Skatteverket ?????? ??? ?? ?????????? ?????????????? ??? ?? ?????????????? ?????? ?
????? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ?????? ?????????????? ? ?????? ???
????? ??????. ??????????, ???' ?????, ??? ?? ????? 1 ??? ?????? ?????? ??? ?? ???
3, ????????, ??? ?????? 2008/9 ??? ??????, ????????, ?? ?????????? ??? ??
????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??????????
??? ?? ?????????? ?? ?????? ?????? ?????? ??? ?? ??? ?? ??????, ?????? ??? ?? ???
???????, ??? ??? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ???
????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????????????? ???
????? ??? ?????? ?????? ???.

34 ??? ?? Skatteverket, ??? ?? ?????????? ??? ?????????? (????????? ??? 4?? ??????
1985, 168/84, Berkholz, ?????? 1985, ?. 2251, ??? 2?? ??? 1996, C-231/94, Faaborg-Gelting
Linien, ?????? 1996, ?. I-2395, ??? 17?? ?????? 1997, C-190/95, ARO Lease, ?????? 1997,
. I-4383, ??? 20?? ?????????? 1997, C-260/95, DFDS, ?????? 1997, ?. I-1005, ??? 7??
????? 1998, C-390/96, Lease Plan, ?????? 1998, ?. I-2553, ??? ??? 28?? ?????? 2007, C-
73/06, Planzer Luxembourg, ?????? 2007, ?. I-5655) ?????????? ??? ?????? ??????????
????? ??? ?????????? ??? ?????? ?????? ??? ?? ?????? ?????? ?? ?????????? ??? ??????
????? ? ?????????? ??? ?????? ??????. ??????????, ??? ?????????? ?? ?????????? ?????????? ??????
????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ???.

35 ??????, ?????????? ???, ?? ??? ?????? ??? ?????????? ??? ?????? ?????????????? ??
Skatteverket ??? ?? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??????????,
?? ?????????? ?????????? ??? ?????? ??? ????? «????? ??????????» ? «????? ???
????????? ??????????» ?? ?????? ?? ?????? ?????????? ?????? ?????????? ?????????? ???,
????????? ?? ?????????? ??? ?????? ?????????? ????. ?? ??? ?? ??? ??????, ??
????????? ?????? ?????????? ??? ?? ??? ?????? ?????? ?????? ???, ?????????? ??
????????? ?? ?????????? ?????? ??? ?? ???, ?????? ?? ??? ?????? ?????? ?????????? ??????????
????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?? ??? ?????? ?? ??? ??????
????????? ?????? ??????.

36 ??? ?????? ?? ?????????? ??? ??????, ?????????????? ?????????? ??? ?? ??????????,
?? ??? ?????? ??? 16?? ?????? 2009, C-244/08, ?????? ??? ?????? (????? 2009, ?.
I-130, ?????? 31 ??? 32), ?????? ??? ?????? «????? ?????????? ??? ?????? ??? ?? ???
????????????? ?????????? ??????», ??? ?????? 1 ??? ?????? ?????? [?? ??
????? 3, ?????? ?, ??? ?????? 2008/9], ?????? ?? ?????????? ?????? ??
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????
??????. ??????, ? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?
????????? ?????? ?????? ?????? ??? ?????? ?????? «?????» ??? ?????????????? ??? ?????? «?? ??
????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? «?? ??
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

37 ??????, ?????????? ?? ?????????? ?? ?????? ??????, ?????????????? ??? ?????? ??
????????? ? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ??? ?? ???
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ??? ?? ???.

38 ??? ?????? ??? ?????? ??????, ??? ?????????? ??? ?? ?????? ?????? ??????????

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

39 ??? ??? ?????? ??????, ?????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ??? ??? ???
??? ??????, ??? ?? ??? ?????? ?????? ?? ?????? ??????, ??????, ?? ?????? ??? ??? ?? ???
????????? ?????? ?????? «????? ?????? ??????» ??? ??? ?????? ??? ??? ??? ??????
?????????, ?????? ??? ?? ??? ?????? ?????? ??? ?????? ??? «????? ?????? ??????» ??? ??????.

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

41 ??????????, ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ?? ??? ?????? ??? ?????? ?????? ??? ??? ?????? ?????? ??? ?????? ?????? ??????, ???
????????? ??? ??? ?????? ??????, ?????? ?? ?????? ?????? ??? ?????? ?????? ??? ???? ????
????? ?????? ? ??? ?????? ??? ?????? ?? ?????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ???
(????? Planzer Luxembourg, ???????????, ??? 35).

42 ?????? ?????? ?????? ??? ?? ?????? 1 ??? ?????? ?????? ??? ?? ?????? 3, ??????
??, ??? ?????? 2008/9 ?????? ??? ?????? ?? ?????? ?????? ?????? ??? ?? ?????? ??? ???? ????
????????? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ?????? ??? ?????? ?????? ??????
????? ??? ?????? ?????? ?????? ?????? ??????, ?????? ? ?????? ?????? ??? ?????? ??? ??????
??? ?????? ??? ??? ??? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ???
??? ?????? ?????? ?????? ?????? ?????? ?????? ???, ?? ?????? ?????? ??? ?????? ??? ??????
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

44 ??? ??????, ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??? ??????
????? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????? ?????? ? ?????? ?????? ?????? ?????? ?????? ??????, ?????? ? ?????? ?????? ??????
????? ?????? ? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
«????? ?????? ?????? ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????», ??? ???
????? ??? ?????? 1 ??? ?????? ?????? ??? ??? ?????? 3, ?????? ???, ??? ??????
2008/9.

??? ??? ?????? ?????? C-318/11

45 ?? ?? ?????? ?????? ??? ?????? C-318/11, ?? ?????? ?????? ?????? ???' ??????
?? ?????? ?????? ?? ? ?????? ??? ?????? ??? ?????? ??? ?????? «????? ?????? ?????? ??? ???? ????
????? ?????? ?????? ?????? ?????? ?????? ??????» ?????? ?? ?????? ?????? ?? ???? ???? ????
????? ??? ?????? ??? ?????? ??????, ?????? ? ?????? ?????? ??? ?????? ???, ?????? ???
????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????? 100 % ??? ? ?????? ??? ?? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???
????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ??? ??????.

46 ?? Skatteverket ??????????? ???, ??? ??????? ??? ?????? ?????, ? ??????????? ???
???? ???????, ??? ?? ?????????? ??? ??? ?????? ??? 100 %, ??????? ??????????
????? ?? ?????? ?????? ?????? ??? ??????? ??? ?????????.

47 ?????????? ??? ?? ?????????? ??????, ??? ?????? 26 ??? 29 ???
????????????????? ?????????? ??? DFDS, ??? ??? ?????????? ?????????? ?????? ???
????????? ???????, ? ??? ?? ?????? ?? ?????? ?????????? ??? ?????? ???????, ??????
????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??????????
????????? ???.

48 ??????, ??? ? ?????????? ??? ?? ?????????? ??? 100 %, ??? ??? ??? ??? ???
????????? ?? ?????? ?????????, ?????? ?????? ?????? ?????????? ?????????? ???
????? ??? ??? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???

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

50 ??? ?????? C-318/11 ???, ??? ?????????? ??? ?????? ?????? ? ?????????? ???
????????? ?????????? ?????????? ?????????? ??? ?????? ??? ?? ??? ?????? ?????????? ? ??????????
????????? ???????, ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? «??????
?????????» ??? ?????? ???', ??? ?????, ?????? ??? ?? ?????????? ???
????????? ?????? ???.

51 ??? ??????, ??? ??? ?????? ??? ?????? ??? ?????? C-318/11 ?????? ?? ??? ?
????????? ??? ? ?????????? ??? ?????? ??? «????? ?????????? ??? ??? ??? ????
????????????? ?????????? ??????» ??? ?????? ?? ???????????, ?? ??????????
????? ??? ??? ?????? ??? ?????? ???, ?????? ? ?????????? ??? ??? ??? ???, ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ???? ???
????? ??? 100 % ??? ? ??? ?????? ??? ?????? ?????????? ??? ??? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ?????????? ???
??????.

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

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

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

1) ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ???
????????? ????, ??? ?????? ??? ?????? ?????? ???, ?????????? ??? ??????
????????? ????, ??? ?????? ?????? ?????????? ??? ?????????? ???, ?????? ?? ??????????
????????? ????, ??? ?????? ??? ?????? ??? ?????? ???, ?????? ?????? ????
????????? ????, «????? ?????? ???, ??? ?????? ??? ?????? 1 ??? ?????? ????
????????? ????, ??? ?????? ???, ??? ?????? ??? ?????? 1979, ??? ?????? ????
79/1072/??? ??? ??????????, ??? 6?? ?????????? 1979, ??? ?????? ????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? -
????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???

? ? ?????? ?? ???? ?????????????? ??? ?????????? ??? ???? , ???
????????????? ?? ?? ???? 2006/98/?? ?? ???? ?????????? , ?? 20?? ?????????? 2006,
?? ???? ???? 3, ??????? ??, ?? ???? 2008/9/?? ?? ???? ?????????? , ?? 12??
????????? 2008, ?? ???? ?????????? ?????? ?????? ?????? ?? ?? ??
????????? ?? ???? ?????????????? ???, ?? ?????????? ??? ???? ????
2006/112/??, ?? ?????????????? ??? ???? ?? ?????????????? ??? ???? ????
????????? ??? ?????????????? ?? ??? ???? ???? .

2) ? ?????????? ??? ???? ?????? ?? ?????????????? , ?? ?????????? ??? ???? ???? ??
????????? ?? ???? ?????? , ?????? ???? ?????? ?????? ??? ???? ?????? , ?????? ??
????????? ?????? ?? ???? ?????? ?????? ??? ?????? ?????????? , ?????????? ???? ???? ??
????? ??? 100 % ?? ???? ?????? ?? ?????? ?????? ?????????? ?????? ??? ???? ???? ????
????????? ?????????? ?? ?????? ?????? ?????? ??? ???? ???? ???? ???? ???? ???? ?? ??
????????? ?????? ?????? .

(?????????)

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