

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

??? 21?? ?????????? 2013 (*)

«????????? 2006/112/?? — ????? ?????????????? ????? — ?????????? ?????? — ?????? — ?????? ?????? ?????»

????? ?????????? C?494/12,

?? ?????????????? ?????? ?????????????? ?????????? ?????? ??? ?????? 267 ????, ??? ??????? ?? First-tier Tribunal (Tax Chamber) (????????? ??????????), ?? ?????????? ??? 26?? ?????????? 2012, ? ?????? ?????????? ??? ?????????? ?????? 5 ?????????? 2012, ??? ?????????? ??? ??????

Dixons Retail plc

?????

Commissioners for Her Majesty's Revenue and Customs,

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

????????????? ??? ??? R. Silva de Lapuerta (?????????????), ???????? ??????????, J. L. da Cruz Vilaça, ?. ??????, J.-C. Bonichot ??? A. Arabadjiev, ??????????,

????????? ??????????: M. Watheler

?????????: A. Calot Escobar

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

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

- ? Dixons Retail plc, ?????????????? ??? ??? A. Brown, advocate,
- ? ?????????? ??? ??????? ??????????, ?????????????? ??? ??? A. Robinson,
- ? ?????????? ????????, ?????????????? ??? ??? R. Lyal ??? A. Cordewener, ????
- ?? ??? ??? C. Soulay,

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

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

?????????

1 ? ?????? ?????????????? ?????????? ?????? ??? ?????????? ??? ?????? 14, ?????????? 1, ??? 73 ??? ?????? 2006/112/?? ??? ???????????, ??? 28?? ?????????? 2006, ???????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????????? (?? L 347, ?. 1).

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? Dixons Retail plc (?? ????: Dixons) ??? ??? Commissioners for Her Majesty's Revenue and Customs

(????????????? ??????????? ??????? ?? ??????????? ??????????????, ??? ????:
Commissioners), ??????? ?? ??? ?????? ??? ??????????? ?? ??????? ???????????
????? ??? ??????? ? Dixons, ??????? ?? ??? ?????????????? ?????? (??? ????: ???)
????? ??????? ??? ??????? ? ??????? ??? ?????????? ?????? ??? ?????????????? ???
????????? ??? 13 ??????? 2005 ??? 30 ??????? 2008.

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

? ?????? 77/388/???

3 ?? ?????? 2, ?????? 1, ??? ?????? ?????? 77/388/??? ??? ??????????, ??? 17?? ????
1977, ??? ?????????? ??? ?????????? ??? ??????? ???, ??? ?????????? ?? ??? ??? ??????
?????? ??????? - ????? ?????? ????? ?????????????? ?????: ?????????? ??????????
???? (?? ????. ????. 09/001, ?. 49, ??? ????: ??? ?????), ?????? ?? ????????:

«???? [??] ??????????:

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

4 ?? ?????? 5, ?????????? 1, ??? ??????? ?????? ?????? ?????????? ?? ????:

«?? “????????? ??????” ?????????? ? ?????????? ??? ?????????? ?? ?????????? ?????? ??????????
????? ?? ??????».

5 ?? ?????? 11, ?, ?????????? 1, ??? ?? ??? ?????? ?????? ?????? ?? ????:

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

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

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

[...]».

? ?????? 2006/112

6 ?? ?????? 2, ?????????? 1, ??????? ??, ??? ?????? 2006/112 ?????????? ??? ??
????????? ??? ?????? ??? ?????????????? ?? ?????????? ?????? ??? ?????? ??????
????? ??? ?????????? ??? ?????? ??? ?????? ?? ??? ?????? ??? ?????? ?????? ??? ???.

7 ?? ?????? 14, ?????????? 1, ??? ?????? ?????? ?????? ????:

«?? “????????? ??????” ?????????? ? ?????????? ??? ?????????? ?? ?????????? ??????, ??
?????, ??????? ????.»

8 ?? ?????? 73 ??? ?????? ?????? ?????? ?? ????:

«?? ??? ?????????? ??? ?????? ??? ??? ?????? ?????????, ?????? ?????? ??? ?????????? ???
????? 74 ??? 77, ? ??? ?????? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ???

???????????, ??? ?????? ?????? ? ?????????? ?? ?????? ??? ?????? ?????? ?????? ? ?????????????? ?
? ??????? ??? ?????????? ??? ??? ??????????, ??? ?????? ? ?????? ??????,
????????????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??? ??? ??? ??????
?????»

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

9 ? Dixons ?????? ?????? ??????? ?????????????? ?????????????? ?????? ??? ?? ???? ??????????????
?????????? ???????, ? ?????? ?????????? ??? ?????? ???.

10 ? Dixons ?????????? ?? ??? American Express Europe Ltd (??? ????: AmEx) ?? ???????
????????? ?? ??????, ?? ?????????? ???????????????, ??? ??????? ?? ?????????? ??,
?????? ?????????? ?? ??? ?? AmEx ?? ?????? ???????, ? Dixons ??? ??????????? ??
????????? ?? ?????? ?? ? AmEx ?????????? ?? ???????????, ?? ??? ?????????? ??
????????? ?? ??????????????? ???????????, ?? ?????????? ?? Dixons ??? ??? ?? ?????
?? ??????? ? ?? ??? ?????? ?? ???, ??? ??? ?????? ??, ??? ??? ?????? ??.

11 ????? ???? ???? ?????????? ?????????? ??? ??????? ??? ?????? ? ??????? ??????
?? ????? ???? ???? ?????? ??? ?????? ? AmEx, ??? ?????? ??????? ?????? ??
Dixons ??? ??? ?????? National Westminster Bank plc, ?????????? ??? ??? ??????? ??????
Streamline (??? ????: Streamline).

12 ????? ??????? ?? ?????????? ??? ?? ???? ?????????????????? ??? ?????????? ?????? ?? ??????
????????????????? ?????? 13 ?????????? 2005 ??? 30 ?????????? 2008, ? Dixons ?????? ???
????????? ??? ?????? ?????? ??? ?????? Commissioners, ?? ?????? ?????????? ??? ?????? ???.

13 ? Dixons ?????? ???????? ??????? ??? ??????? ?????????????? ?????????????? First-tier
Tribunal (Tax Chamber) ???? ??? ?????????? ??? Commissioners ?????????? ?? ???
????????? ?? ?????????? ???.

14 ? ?????????? ??????? ?? ?????????? ?????????????? ?????????? ?????? ??????????
????????? ?? ?? ??????? ?? ?????? ? ?????????? ??????? ?? ?????? ??? ?? ??? ?? ??????,
????????? ?????????????? ?? ?? ?????????? ?? ? ?????????? ?????????? ?????? ?????? ??? ?????? ??? ??????
????? ?????????????? ??????, ? Dixons ??? ?????????? ?? ??????? ?????? ??? ?? AmEx
??? ?? Streamline, ??????? ?? ??? ?????????? ?? ?????????? ?? ?????????? ?? ??????? ??? ??????
????? ??????? ?? ??? ?????????? ?? ?????? ???????.

15 ???????, ??? ?????????? ??? ?????????? ?????????????? ?????????????? ???, ??? ???? ????
????? ??? ??????, ??? ? AmEx ??? ? Streamline, ??????????, ??? ?????????? ??????????
????????? ?????? ??? Dixons ??? ????? ?????????? ?? ?????????? ?????????? ???????, ???
????? ?? ??????? ?????? ??? ?? ??? ????? ?????????? ?? ?????????? ?? ?????????? ???
????????????? ??????????. ??? ??????, ? Dixons ?????? ?? ??? ??? ?? ??? ??????????
???? ?????? ?????? ?????? ? AmEx ??? ? Streamline, ?? ????? ?????????? ??? ???
????? ??? ???.

16 ????? ??? ?????????? ??????, ?? First-tier Tribunal (Tax Chamber) ?????????? ?? ??????????
????? ?????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ?? ??????????
?????????:

«1) ????? ?? ?????? 14, ??????????? 1, ??? ??????? 2006/112, ??? ??????? ??? ???
????????????? ??? ? ?????? ?????????? ?????? ?????????????? ??' ??????????
????????????? ??? ??? ?? ?????? ??? ?????????? ?? ?????? ?????? ?????? ??????????????????
???? ?????????? ? ?????????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?????????????? ?? ??

?????????????????;

2) ???? ? ?????? ?????????? ?????? ?????????????? ??? ?????? ?????????? ????????,
????????????????? ? ?? ? ?????????????? ??? ?????????????? ?? ?????????? ????????, ?? ???????,
????????? ??????" ???? ??? ?????? ??? ?????? 14, ?????????? 1, ??? ?????? 2006/112;

3) ???? ? ? ?????? 73 ??? ??????? 2006/112 ??? ?????? ??? ?????????????? ??? ?
????????????? ??? ???? ?????????????? ??? ?????????? ??? ?????????? ?????? ?????????? ?? ?????? ?
????? ??????? ?? ?????? ??? ?????? ?? ?????????? ?? ?????????????? ?????????? ??????? ??? ??????,
???? ? ? ? ? ? ?????? ?? ?????? ?????????? ??? ?????? ?????????? ??? ?????????????? ?? ?????? ?????? ???
?????;

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

17 ??? ??????????? ???, ??? ?????? ?? ??????????? ??? ??????, ?? ?????? ??????????? ??? ??????, ?? ?????? ???????????
?????? ?? ??????????????, ??? ?????, ?? ? ????? ?????????? ?????? ?? ?????? ?? ?????????? ?? ??????? ?? ??????
????????????? ?????? ?????????? ?????? ?? ????? ?????????? ?????? «????????? ??????» ???
??? ?????? ??? ?????? 5, ?????????? 1, ??? ????? ?????? ??? 14, ?????????? 1, ???
????????? 2006/112 ??? ?, ??? ?????? ??? ?????? ?????? ??????????????, ?????? «?????????»,
??? ??? ?????? ??? ?????? 11, A, ?????????? 1, ?????? ??, ??? ?????? ?????? ??? 73 ???
????????? 2006/112, ? ?????????????????? ??? ?????? ??????, ???' ?????????? ??????????
????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ???, ?? ??? ?????? ???
?? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?
????????? ??? ?????? ?? ?????????? ?? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?
?????????.

18 ???????????, ?????? ?? ??????? ???, ?????? ? ?????? 2006/112 ?????? ?? ??????
??? 1? ?????????? 2007, ?? ??????? ?? ?????? ??? ?????? ??? ?????? ?? ?????? ?? ?????? ??
????????? ??? ?????? ?????????????? ??? ?????????????? ??????. ?? ?????????????? ??????
????????????? ??? ??? ?????????? ??? ?????? ??????. ?????????? ?? ?????? ?????????? ??
????????????? ??? ???????, ??? ?????? ??????? ?? ?????? ??????? ??????? ??? ?? ??? ??
??????, ?? ?????? ?????? ?? ?????????? ?? ???' ?????? ?????????????? ?? ??? ??
????????? ??? ??? ??? ?????? ??? ?????????? ??? ?????? ?? ?????? ?? ?????????? ??
?????? ??? ??????? ???????.

???? ??? ???????? «?????????????» ??? ??? ??????? ??? ?????? 5, ??????????? 1, ??? ???
?????? ??? 14, ?????????? 1, ??? ?????? 2006/12

19 ??????????? ?? ?????????? ? ?????????? ??? ? ??? ?????? ?????? ??? ? ?????? 2006/112
????????? ??? ????? ?????? ??????? ??? ?? ????? ??????????, ?????? ?????, ??? ?????? ?????? ???
??? ?????????? ??? (?. ?????????? ??? 12?? ?????????? 2006, C-354/03, C-355/03
??? C-484/03, Optigen ???., ??????? 2006, ?. I?483, ????? 36? ??? 21?? ?????????? 2006,
C-255/02, Halifax ???., ??????? 2006, ?. I?1609, ????? 48, ????? ??? ??? 20?? ?????? 2013,
C-653/11, Newey, ??? 39).

20 ???????, ??? ?????????????? ??? ?????????????? ?????????? ??? ? ?????????????????? ??? ?????? 5, ?????????? 1, ??? ?????? ?????? ??? 14, ?????????? 1, ??? ?????? 2006/12

???? «????????? ??????» ??? ??????????? ??? ??????????? ??? ??????????? ??? ??????????? ??? ?????? ?????
??? ??????????? ??? ??????????? ??????, ??? ??????????? ??? ????? ??????????? ?????????? ?????? ???????????
????????? ?????? ??? ????? ???????????, ??? ?????? ?? ??????????? ??? ?????????? ???
????????????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? (??.. ??????????)
??? 14?? ??????? 2005, C-435/03, British American Tobacco ??? Newman Shipping, ???????
2005, ?. I?7077, ????? 35? Optigen ?.., ???????????, ?????? 39? Halifax ?..,
??????????????, ????? 51? ??? 3?? ??????? 2010, C-237/09, De Fruytier, ??????? 2010, ?. I-
4985, ????? 24, ??? ??? 18?? ??????? 2013, C-78/12, Evita-K, ????? 33).

21 ???????, ?? ??????????? ????? ??? ?????? ??? ? ?? ??? ????? ?????? ??? ?????????????????
????????? ??? ??????????? ?????????????? ??? ?????? ??? ?????? ??? ?????????????? ??? ??????
????????, ? ?? ??????????? ??? ?????? ??? ?????? ?????????????? ?? ?????????? ?????????? ?? ?????? ??
????????? ??? ?????????? ??? ?????????????? ??? ?????? ??? ?????? ?? ?????????? ?????? ???
????????? ??? ?????? ?????????????????? ? ?????? ?????????????? ??? ?????? ??? ?????? ?????????? ??????????
(??., ??' ????, ???????? Optigen ??., ??????????????, ??????? 44 ??? 46, ?????? ??? 51
??? 55? Halifax ??., ??????????????, ??????? 56 ??? 57? ??? 6?? ?????? 2006, C-439/04
??? C?440/04, Kittel ??? Recolta Recycling, ??????? 2006, ?. I-6161, ??????? 41 ??? 44, ??????
??? Newey, ???????????????, ?????? 41).

22 ?? ?????? ?????????? ???. ??????? ???. ?? ??????? ???. ?????? ???. ?????? ???.
????????? ???. ?????? ???. ???. ?????? ???. ?????? ???. 5, ?????????? 1, ???. ?????? ???. 14,
????????? 1, ???. ?????? 2006/112, ?????? ?????????? ???. ?????????? ???. ?????? ???.
????? ?????????? ???. ?????? ???. ???. ???. ?????????? ???. ?????? ???. ?????? ???.
????????? ???. (??., ??' ???., ?????????????? ???. Optigen ???., ?????? 51 ???.
52, ???. ???. Halifax ???., ?????? 58 ???. 59).

23 ?? ??????????, ?? ?????????? ??? ? Dixons ??? ? ?????? ??? ?????? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ???,
???? ????????, ?? ?????? ??? ??? ?? ?????????? ?? ?????????? ??? ?????? ??? ??? ??
?? ?????? ??? ?????? ?? ?? ?????? ??? ??????.

24 ???????, ?????? ?? ???? ??????? ?? ?????????????? ?? ?????????????? ?? ?????????????? ?? ??????????????
?? ?????? ?? ???? ?????????? ?? ???? ?? ???? ? Dixons ?????????? ?????????? ?? ?? ??? ?????? ??
???? ?? ?? ?????????? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?? ?????????? ?????? ??
?????.

25 ???????, ??? ???????, ???????, ???????, ???????, ??? ???????, ??? ???????, ??? ???????, ???
????? ??? ???????, ????, ??? ???????, ??? ???? ???????, ??? ???????, ??? ???????, ??? ???????, ??? ???????, ???, ?
Dixons ?????? ??? ???????, ??? ???????, ??? ???????, ?? ??? ???????, ??? ???????, ??? ???????, ???.

26 ? ?????? ?????? ??????????? ??????? ?? ?????? ?????????? ??' ?????????? ??? ?? ???
????????? ??? ?????????? ?? ?????????? ?????????????? ?????? ?? ?????????? ?????? ??? ??
?????? ??? ?????? ??????? ??' ?? ?????? 2006/112. ???????, ? ?????? ??? ??
?????????? ?? ?? ?????????????? ??????? ?? ?????? ?????????? ??' ?????? ???, ??? ??
?? ?????? ??? ?????? ??' ???????, ?? ???????, ??? ?????? ??????, ?????? ??? ??
?? ?????? ?? ?? ?????? ?????????????????? ??' ??????? ???.

27 ????????, ?????? ?????? «??????????», ??? ??? ?????? ??? ?????? 5, ?????????? 1,
??? ????? ?????? ??? 14, ?????????? 1, ??? ?????? 2006/112, ?????? ??? Dixons ??? ??
????????? ???, ??? ??? ?? ?? ?????????? ?????????????? ??????, ??' ?????????? ???
????????? ??? ?????? ??? ??????, ?????????? ?????? ?? ??? ?????? ?????????? ?????????? ??
????????? ?? ?????????? ??? ?????? ??? ?????? ? Dixons.

28 ???????, ?????? ?? ?????????? ???, ?????????? ??? ?????? ??? ?????????? ? Dixons,
????????? ??? ?????? ??? ?????? ?????? ?????? ?? ?????????? ??? ?????? ??? ??????
???????????, ??? ??? ?????? ??? ?????? ??? «????????? ???», ??? ???
????????? ??? ??? ??? ?????? ??? ??? ?????? 2006/112 (??. ?????????????? ??? ??????
British American Tobacco ??? Newman Shipping, ??? 33).

29 ????????, ? ????? ?????????????? ??? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????????? ?? ???????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??? ?
?????. ????????, ??? ?????? ?? ?????????? ??? ?? ??? ?????? ??? ?????? ?????????? ??????????
????? ??? ?????? ??? ??? ??? ?????? ??? ?????????? ???, ??? ??? ?????? ??? ?????? 5,
????????? 1, ??? ?????? ?????? ??? 14, ?????????? 1, ??? ?????? 2006/112 (??.
????????? ?????? British American Tobacco ??? Newman Shipping, ??? 36).

30 ??????????????, ?? ???????, ? ????? ?????????????? ??? ?????????? ??? ?????? ???
????????? ?????? ?????????? ?????????? ??? ?????? ??? ??????. ??? ?????? ??????,
????????, ?? ??????, ?? ?????????? ?? ?????? ?????? ??? ?????? ??? ?????????????? «?? ??????
?????», ??? ?? ?????? ??? ?????? 2, ?????? 1, ??? ?????? ?????? ??? 2, ?????????? 1,
???????? ??, ??? ?????? 2006/112 (?. ?????????????? ?????? British American Tobacco
??? Newman Shipping, ????? 32).

???, ??? ?????? «?????????????» ??? ??? ?????? ??? ?????? 11, A, ?????????? 1, ??????????
??, ??? ?????? ??????? ??? 73 ??? ?????? 2006/112

31 ????? ???? ?? ??????? ??, ??? ??????? ??? ?????????? ??? ????? ?????? ??????????, ??
????????? ?? ??????? ??? AmEx ??? ??? Streamline ??? ??????? ??? ?????????? ??? ??????
????????? ?? ?????????? ?? ?? Dixons ?????????? «??????????», ??? ??? ?????? ??? ??????
11, A, ?????????? 1, ??????? ??, ??? ????? ??????? ?? 73 ??? ?????? 2006/112, ??????
?? ?????????? ???, ??? ?????? ??? ?????????? ???, ?? ?????????? ?????? ??????????
????????????? ??? ?????? ?????????? ?????? ??? ?????? ?????? ?????????????? ??????????
????? ? ???????????. ??? ???????, ??? ? ?????????? ??? ?????????? ??? ?????????? ??????????
????????????? ??? ?????? ?????? ?????????? ?????????? ???????, ??? ?????? ??? ?? ???
????????? ?????????? ???, ???????, ? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
(??., ????, ??? ?????? ??? ?????? ?????????? ???, ??? 3?? ?????? 1994, C-16/93,
Tolsma, ?????? 1994, ?. I?743, ??? 12, ??? ?? 27?? ?????? 2011, C-93/10, GFKL
Financial Services, ?????? 2011, ?. I-10791, ??? 17).

32 ???, ????????, ????, ??, ???????????, ?????? ???, ????????, ?????? ?????????????????? «???,
???????, ??????», ??? ??? ?????? ??? ?????? 2, ?????? 1, ??? ??? ?????? ?????? ??? 2,
?????????? 1, ????????, ??, ??? ?????? 2006/112, ???, ????????, ? ????????, ??? ?????? ???
????? ????????????, ?????? ?? ????????, ?????? ??? ????????????, ??? ??? ????????????, ??
????? ????????, ?????? ??? ????????, ??? ?????? ????????????????, ???????????, ????????, ?? ??
?????????? ??? ????????, ??? ????????????, ??? ????????, ??? ?????? ????????, ??? ???????????,
?????? ??? ????????, ??? ?????? ????????????, ??? ?????? ????????, (??., ????, ??? ???????,
?????? ????????????, ????????????????, ?????????? Tolsma, ??? 14, ??? GFKL Financial
Services, ??? 18).

33 ????????, ? ??? ?????????? ??? ?????? ??? ?? ?????????? ?????? ?????? ?,??
????????????? ?? ?????????? ?????? ??? ?????????????? ?????? (??., ??????, ????) ????
??? ?????? ??????????, ?????????? Tolsma, ??????????????, ????? 13, ??? ???? 29??
?????? 2010, C-40/09, Astra Zeneca UK, ??????? 2010, ?. I-7505, ????? 28), ?????? ???
????? ??????? ?????????????? «?? ??????? ??????», ??? ??? ?????? ??? ?????? 2,
????? 1, ??? ??? ?????? ??? 2, ?????????? 1, ?????????? ?, ??? ?????? 2006/112, ???

?????????? ?????? ?????? ?????? ?? ??????????????? ?????? ??? ???????????????
?????????? (?. ?????????? ?? 7?? ?????????? 2010, C-53/09 ?? C-55/09, Loyalty
Management UK ?? Baxi Group, ??????? 2010, ?. I-9187, ????? 51, ????? ?? ?? 8??
????????? 2012, C-165/11, Profitube, ????? 51).

34 ???? ? ?????????? ??????????? ?? ?????? ??? ?????????????? ??? ?????????????? ??????,
????????????? ??? ???????????: ??????, ? ?????? ??? ?????????????? ??? ??
????????? ?, ? ?????? ?????????? ??? ?????????? ?????? ?????????? ??? ?? ??? ?? ?? ??
????????? ??? ?? ?????? ?????? ?? ?????? ?????????? ??? ?? ?????????? ??? ??
????????? ??? ?????????? ??? ??????????, ???, ??????, ? ?????? ?????????? ???
????????? ?? ?????? ??? ?????? ??? ??????. ? ?????? ??? ?????? ??? ?? ?????????? ??
?? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ?????? ?????????? ??
?? ??????, ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ?? ?? ?????????? ??? ?????????? ??
?????????, ??? ?????????? ?????????????????? ??? ?? ?????????? ??? ?????????? ??
????????? ??? ?????? ?????? (?. ?????? ?? 25?? ????? 1993, C-18/92, Bally, ??????
1993, ?. I-2871, ????? 9).

35 ??????, ?? ?????? ?? ? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??????????
???? ?????????? ?? ?????? ?? ?????? ?? ??????, ?????? ?? ??????????????
????????? ??? ?????????? ?? ?????? ?????? ?? ?????? ?????? ?????? ??? ??????????,
??? ?????? ?? ?????????? ?? ?????? ?????? ?? ??????. ? ?????? ?????? ??? ? ??????
2006/112 ??? ??????, ?????????? ?? ?????? ?????? ?????? ?????? ?? ?????? ?????? «??
????????? ?????», ??? ?????? ?????? ?????? ??? ?? ?????? ??? ?????????? ??? ?????? ??
????????? ?????? ??? ?????? ???????. ??????, ??? ?? ?????? 11, A, ?????????? 1,
????????? ??, ??? ?????? ?????? ?? 73 ??? ?????? 2006/112, ? ?????? ??? ??????????
??? ?????? ?????? ??? ?????? ?? ?????????????? ??? ?????? ??? ?? ??????, ??? ??
??? ??????, ?? ?????????? ??? ?? ?????? ??? ?????? (?. ?????????????? ??????
Bally, ?????? 16 ?? 17, ?????? ?? Loyalty Management UK ?? Baxi Group, ????? 56).

36 ??? ??????, ?? ?????? ?? ? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??
Dixons ??? ?????? ?? ?????????? ?????? ??? ?????? ?????? ?????? ?????????????? ??
?? ?????????? ?? ?? AmEx ??? ?? Streamline, ??? ?????????? ?? ?????????? ?? ??
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37 ?????, ??????, ??? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ??
Dixons ?????? ?? ?????????? ?? ?????? ?? ?????? ?????????? ?? ?????? ?? ?????????? ??
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38 ??? ?? ?????? ??, ??? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????? ??
?? ?????? 2, ?????? 1, 5, ?????????? 1, ??? 11, A, ?????????? 1, ??????? ??, ??? ??????
??????, ?????? ?? 2, ?????????? 1, ??????? ??, 14, ?????????? 1, ??? 73 ?? ??????
2006/112 ??? ?? ?????? ??, ??? ?????????? ?? ?????? ?? ?????? ?? ?????? ??, ? ??????
????????? ?????? ?? ?????? ?? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ??
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????????? 1, 2, ?????????? 1, ??????? ??, ??? 14, ?????????? 1, ??? ??, ??? ??????

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??? ?????? ? ?? ??? ?????? ?????? ??? ?????????? ?? ?????????? ??? ?????? ?????? ?? ??????
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????????, ??????? «?????????», ??? ??? ?????? ??? ?? ??? ?????? ?????? 11, A, ?????????? 1,
???????? ??, ??? 73.

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39 ?????????? ??? ? ??????? ?????????? ??? ?? ??? ?????? ?????? ?????????? ??? ?????? ??????
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?? ??? 2, ?????? 1, 5, ?????????? 1, ??? 11, A, ?????????? 1, ??????? ??, ???
????? ??????? 77/388/??? ??? ??????????, ??? 17?? ??? 1977, ??? ??????????????
??? ?????????? ??? ?????? ?????, ??? ?????? ?? ??? ?????? ?????? ?????? ?????? -
????? ?????? ?????? ?????? ?????: ?????????? ?????? ?????? ???, ???
??? 2, ?????????? 1, ???????? ??, 14, ?????????? 1, ??? 73 ??? ?????? 2006/112/??
??? ??????????, ??? 28?? ?????????? 2006, ?????? ?? ?? ??? ?????? ?????? ???
????????????? ???, ?????? ??? ?????? ???, ??? ?????????? ??? ?????? ???
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????? ??? ?? ??? ?????? 2, ?????? 1, 5, ?????????? 1, 2, ?????????? 1, ???????
??, ??? 14, ?????????? 1, ??? ??, ??? ?????? ??? ?????? ?????? ??????????, ?
????? ??? ?????????????? ??? ??????, ???' ?????? ?????????? ?????????? ??????????????
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????????, ??????? «?????????», ??? ??? ?????? ??? ?? ??? ?????? 11, A,
????????? 1, ??????? ??, ??? 73.

(?????????)

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