Downloaded via the EU tax law app / web

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

??? 16?? ???????? 2015 (*)

«???????? ??????? ?????? — ?????????? ????????? — ???????? ??? ??????????? ??? ????????? ?? ?????? ?????????? ??? ??? ???????? ????????? ??????????? ?????? — ???????? ??? ????? — ????????? ????????????? — ????? 49 ???? — ????? 31 ??? ????????? ??? — ??????? ????????????? ?????? ??????? ????????????? ??????????? ???? ?????????? ??????? ?????? ??? ??????? ????????????? ??????????? ???? ?????????? ????? ??????? ?????? ??? ?????????? ?????? ? ??? ?????????? ??????????? ????? — ?????????????»

???? ??????? C?591/13,

?? ??????????? ???????? ???? ?????????? ??????? ??? ?????? 258 ????, ? ????? ???????? ???? 20 ????????? 2013,

????????? ????????, ?????????????? ??? ???? W. Mölls ??? W. Roels, ?? ???? ????????? ??? ???????????,

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????????????? ??????????? ??? ?????????, ??????????????? ??? ??? T. Henze ??? ??? K. Petersen,

?????,

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

?????????? ??? ???? M. Ileši?, ??????? ????????, A. Ó Caoimh, C. Toader, E. Jaraši?nas ??? C. G. Fernlund (????????), ????????,

??????? ???????????: Y. Bot

??????????: K. Malacek, ????????? ??????????,

??????? ????? ??? ??????? ?????????? ??? ??????? ??? ??’ ??????????? ?????????? ??? 26?? ????????? 2014,

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

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1 ?? ??? ???????? ???, ? ????????? ???????? ????? ??? ?? ?????????? ?? ??????????? ??? ? ??????????? ?????????? ??? ????????? ?????? ??? ??????????? ??? ?????? ??????? ??? ?????? 49 ???? ??? 31 ??? ????????? ??? ??? ????????? ?????????? ????, ??? 2?? ????? 1992 (?? 1994, L 1, ?. 3, ??? ????: ???????? ???), ??????????? ??? ???????????

?? ???? ????????? ?? ??? ?????? ??????????? ??? ? ?????????? ??? ????????? ?? ?????? ????????? ??? ??? ???????? ????????? ??????????? ?????? (??? ????: ??????????????? ?????) ??????????? ????????, ???? ??? «?????????» ????? ??? ????????? ?? ?????????? ????? ??? ??????????? ? ?????????? ???????????? (??? ????: ????? ??????????????), ??? ??? ???????? ??? ?????? ???????????????, ??? ??? ?????????? ????????? ??? ???? ????????? ???????? ??? ??????????? ??????? ???????????? ??? ??????????? ???? ???? ??????????? ???? ???????, ??? ????????? ?????? ???????? ????? ??????? ???? ?? ????? ???? ????????? ???????? ??? ??????????? ??????? ???????????? ??? ??????????? ???? ???? ??????????? ?? ???? ?????? ????? ??? ?????????? ?????? ? ?? ???? ?????? ??????????? ??? ???????? ???.

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

2 ?? ????? 6b, ?????????? 1 ??? 4, ??? ????? ???? ????? ??????????? (Einkommensteuergesetz, ??? ????: EStG) ?????? ?? ????:

«(1) ?? ??????????? ???? ???? ?? ?????? ????????

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

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

???????, ???? ?? ???????? ??? ??????????? ????? ???? ?? ????? ??????????????? ? ????????, ?? ???????? ????? ???, ???’ ??????? ????, ?? ??? ???????? ??? ???????? ??? ??? ????????, ??? ??? ??????? ?????????? ? ????????? ??? ??????????? ?????? ??? ??????????? ??? ??????? ??????, ?? ????? ??????????? ? ?????????? ???? ?? ???????? ??? ??????????? ????? ??? ??????????? ???? ???????? ???? ?? ???????? ??? ??????????? ??????????? ?????. ? ??????? ??????????? ??? ?? ?????? ?????????? ? ?????????

1. ???????,

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

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

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

3. ???????,

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

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

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

?? ??? ??? “???????? ? ????????? ???????” ??????? ?????? ? ???????? ????, ? ???????? ? ? ?????????? ????. ???? ????????? ????, ? ???????? ?????? ?? ??????? ????? ??? ???

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

(2) ??????? ?? ????????, ???? ??? ?????? ??? ?????????? 1, ????? ??????, ? ???????, ??????? ?????????? ??? ??????? ??????????, ?????? ??? ????? ?????????? ??? ??? ?????????? ????? ??? ?????????? ??? ????????? ?????????? ????? ???? ??? ????? ??? ??????????. ? ????????? ???? ????? ? ???? ??? ???????? ?? ?????????? ?? ?????????? ????? ??????? ??? ?????? 6.

(3) ??? ? ??????????? ???? ???? ??? ?????? ???? ??????????? ???? ????????? 1 ???????, ??????, ???? ?? ?????????? ???? ????? ??? ?????? ????? ???? ? ????????, ?? ??????????? ??????????? ?? ????? ??????? ?? ?????????? ??? ??????. ? ??????????? ???? ???? ??????, ??????????? ????? ???? ??????????? ??? ???????? ?? ??? ????????? 1, ??????? ??? ??????? ??????, ?? ????????? ??? ?? ??????????? ???? ????? ???, ???' ??????? ????, ?? ??? ??????? ?????????? ? ????????? ??? ??????????? ?????? ??? ??????????? ???? ????????? 1, ??????? ??????, ?? ????? ??????????? ? ?????????? ???? ?? ???????? ??? ???????? ???????? ??????????? ????, ????? ??? ??????????? ????? ??? ??????????? ???? ???????? ? ???? ???????? ????. ? ????????? ???????? ???? ??????????? ??? ??? ??? ?? ???????? ??????, ???? ? ????????? ???? ???????? ???? ?? ????? ??? ???????? ??????????? ????? ??? ?? ?????????? ??? ???????????. ?? ??????????? ?????? ?? ?????????? ??? ??? ????? ??? ????? ??? ???????. ??? ????????? ????? ??????????? ???? ?? ????? ??? ???????? ??????????? ????? ??? ?? ?????????? ???, ?????? ?? ?????????? ???? ??? ????? ?????, ????? ??? ????????? ?? ????? ???????? ??? ??????? ?????????? ??????? ??? ?????? ? ????????? ???????? ???? ??? ????? ??????? ??? ?? ??????????? ????????? ????? ???? ?? ????? ??? ????? ??????????? ????? ??? ?? ?????????? ???, ?????? ?? ?????????? ???? ??? ????? ?????.

(4) ? ???????? ??? ?????????? 1 ??? 3 ????????? ???? ????????? ???????????:

1. ? ??????????? ???? ???? ??????? ?? ??????????? ?? ?????? ??????? ?? ?? ????? 4, ?????????? 1, ? ?? ????? 5,

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

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

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

5. ??? ??? ??????? ??????? ??? ?????????? 1, ????? ??? ?? ?????????? ??? ??????????? ??? ?? ??????? ??? ??????? ??? ?????????? 3, ?????? ?? ???????? ?? ???????? ?????????? ????????.

? ??????? ??????? ??? ?????????? 1 ??? 3 ??? ??????????? ??? ?? ?????????? ????? ?? ????? ????????? ???????? ????????? ? ??????? ????????????? ? ???????????????? ??? ??????? ??????????? ????????????? ???? ? ???????? ????????? ??? ??? ???????? ??? ??????????? ?????? ??????????? ? ????????? ????????????.»

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

3 ???? 15 ????? 2009, ? ???????? ???????? ??????? ???????? ???? ??? ???????????

????????? ??? ?????????. ?? ?? ??????? ????, ????????? ??? ?? ???? ?????? ????? ?? ????????? ????????????? ??? ?????? 6b ??? EStG ???? ??? ???????? ????????? ??? ?????????.

4 ?? ??????? ??? 13?? ??????? 2009, ? ??????????? ????????? ??? ????????? ???????? ?? ???????? ??? ?? ???? ?? ???? ??? ?????????, ????????????? ??? ? ??????? ????????? ??? ????? ??? ???????? ????????? ??? ?????????, ???? ???????????? ??? ????????? ????????????, ???? ??? ????? ????? ???????.

5 ???? 7 ????? 2000, ? ???????? ???????? ???? ??????????? ????????? ??? ????????? ????????????? ??????? ????????, ?? ?? ????? ?????????? ??? ? ??????? ????????? ???????? ??? ????????? ????????????, ???? ???????? ??? ???????? ???, ??????? ????????? ??? ???????????? ??? ?? ???? ??????? ??????, ? ?? ??? ????????? ????????? ??? ????? 49 ???? ??? 31 ??? ????????? ???.

6 ?? ??????? ??? 7?? ??????? 2010, ? ??????????? ????????? ??? ????????? ?????????? ?? ???? ??? ?????????, ????????? ???? ????? ??? ??? ? ??????? ????????? ????? ??????? ???? ??? ????????? ????????????.

7 ???? 30 ?????????? 2011, ? ???????? ???????? ???? ??????????? ????????? ??? ????????? ???????????? _____, ?? ??? ????? ?????????? ??? ????? ??? ????? ???? ??????? ??? ????????????? ??????? ????????, ??? ?????? ??? ??????????? ????????? ??? ????????? ?? ?????????? ???? ??? ?? ???? ???????????? ????? ????? ????????? ??? ????? ??? ??? ???????????? ???.

8 ????????? ??? ? ??????????? ????????? ??? ????????, ?? ??? ??? 28 ????????? 2011 ???????? ???, ????????? ??? ? ???? ??? ????????? ???? ????????, ? ????????? ????????? ?? ??????? ??? ??? ????? ????????.

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

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

9 ? ??????????? ????????? ??? ????????? ????????? ?? ????????? ??? ??? ????? ????????? ??? ??? ??????, ?? ?????? ??????? ???’ ??????, ??????, ??? ???????????? ?????? ??? ????????? ???, ????????, ?? ???????? ??? ?????? ???.

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

– ??????????? ??? ????????

10 ? ??????????? ????????? ??? ????????? ?????????? ??? ? ???????? ??? ???? ????? ???????? ?? ??????? ???????? ??? ??? ???? ???, ??????? ??? ????????? ??? ???????? ??????????, ?? ?? ???? ??????? ?????? ?????????? ????????? ?? ??????? ??? ???????? ???. ????????, ????????? ????????? ??????????, ??????? ?????? ????????????? ????? ???????????? ?? ???????????? ??????????. ???? ?? ???????? ????? ??? ???????? ????????, ? ???????? ??? ???????? ????? ????????? ?? ????????? ??????? ???????????? ??? ???????? ??? ?? ?? ?? ??? ?????? _____.

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

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

12 ? ???????? ??????????? ??? ?? ??????? ??? ?????? 258 ???? ??????????? ????? ?? ?????????? ?????? ????????? ??????????. ???????????, ???? ?? ?? ???? ??????? ??????, ?? ????? ??? ???????????? ??? ??????? ??? ???????? ??????? ???????? ??? ????????? ???? ?????????? ??? ??????? ?? ?????????? ?? ????????? ???.

13 ????? ?? ???????? ?? ?????????? ???? ???? ????????? ??? ?? ?????? ?????? ????? ?? ??????????? ?? ??????????? ?? ??????????? ??? ????????? ???? ??? ?????????? ??????? ????????? ??? ??? ??? ???????? ??? ????????? ??????????, ?? ?????????? ?? ???????? ?? ?????????? ??????. ?????????, ? ??????????? ?????????? ??? ????????? ???????? ??????????? ??? ?????? ??????? ??????????? ??? ??? ????????? ?????? ???????? ??? ?? ????????? ???? ?????.

– ???????? ??? ??????????

14 ???? ????? ?????????, ???? ???????? ????????? ?? ???????? ?? ??????? ?????? ???? ?? ????? ?? ??????? ??? ???????? ???? ??????????. ?? ????? ??? ??????????? ??? ??????? ???? ??? ?????? ??????? ??? ??? ?????????? ??? ????????. ?? ??????? ??? ????????? ?? ????? 258 ???? ?????? ?? ??????????? ????? ? ???????? ?? ????? ??????????? ?? ????? ???????? ????????, ??? ??? ????????? ??????????? ???? ?????? ? ?????????? ???????? ??? ??? ??? ???????? ??? ????????? ??????????? ????? ??????? ?? ?????????? ??????????? ??? ?? ????? ?????? ????? ??? ?????????? ??? ??????????? ??? ????????? ??? ?? ????????, ????????, ?? ?????????? ?????? ??? ??????? ?????. ??? ???????????, ??????, ?????? ????? ????????? ?? ????????? ??? ?? ???? ?????????? ??? ??????????? ????????? ??? ??? ??? ???????? ??? ????????? ??????????? (??., ??? ??? ?????? ????, ??????? ???????? ???? ??????????, C?350/08, EU:C:2010:642, ??????? 33 ??? 34 ????? ??? ???? ??????????? ?????????).

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

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

– ??????????? ??? ????????

16 ? ??????????? ?????????? ??? ????????? ??????????? ??? ?? ?????????? ???? ??????????? ??? ????????? ??????? ?? ?? ????????????? ?????, ???? ?? ????? ?????????????? ????? ??????????, ?? ????? ???????? ? ???????? ??? ???????? ??? ??????????, ??? ???? ????????? ???? ???? ?? ???????? ??? ??? ??? ???????? ??? ????????? ??????????? ???? ??? ????????? ??? ????????. ???? ?? ?? ??? ?????? ?????, ????? ?????? ?? ???????? ?? ???????? ??? ??????????? ??? ????????, ???????? ??? ??????? ?????????? ??? ???????? ??? ?????? ???.

17 ? ???????? ????????, ???? ??? ??’ ??????????? ????????, ??? ? ???????? ???????? ??????????. ???? ??? ????????, ????????? ????? ??? ?? ????????? ??? ????????? ??? ?? ????? 6b ??? EStG ????? ?????????? ??? ?? ???????????? ??????????. ???????, ?? ????????? ???? ??? ??????? ????????? ?? ?? ?????????? ????? ??????????????, ???? ????????? ??????????? ?????? ??????????????? ? ?????????? ??? ????????? ??? ?????????? ??? ??? ???????? ??? ????????????????? ?????? ??????????? ?????? ?????

??? ???????? ??? ?????? ??????????????? ????? ??????? ?????????? ???? ????????? ???? ????????? ????? ??????? ?? ?? ????????? ???? ?????. ??????? ???? ????????? ??? ? ????????? ??? ????????? ??? ????????? ??? ??? ???????? ??? ??????????????????? ?????? ?????????? ???????? ??? ???? ??? ????? ??????????. ????? ??????????????????? ?????? ???? ????? ?? ???? ??? ?????? ??? ???????? ?????????. ???? ????? ?? ?? ????????? ????? ??????????????????, ???? ? ???????? ??????????? ????? ??? ???????? ??????? ?????? ??????, ???, ???? ????? ?? ????????? ????? ??????????????????, ? ???????? ??? ?????? ?? ????? ????????. ???? ????? ?? ????????? ????? ??????, ? ??????????? ????????? ??? ????????? ??????, ???’ ????????? ??? ??????? ????????? ??? ?????? ??? ????? ??? ?????????, ?? ????????? ????????? ???????? ??? ?????.

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

18 ????????????? ???, ???? ????????? ????????, ??? ????????????? ? ????????? ???? ??? ????????????????? ?????? ???? ??? ?????????????? ??? ????????? ??? ????????????? ???.

19 ???? ????? ????????, ?? ?????????????? ????????? ???? ?????????, ??? ???????? ???’ ????????? ??? ?????? 258 ????, ??????????????? ??? ??? ???????????????? ????? ??? ????????, ????? ? ???????? ?????? ?? ????????? ???? ????? ?? ??? ???????????????? ???? ????? ????????? ??? ????? ?????? ??????. ??????, ? ????????? ???? ??? ?????? ?? ????????? ??? ??? ??????? ?? ????????? ?? ???? ????????? ??????? ???????? ?????? ??? ?????????????? ??? ????????? ??? ????????? ??? ????????????????? ?????? ??? ??? ????????? ??? ????????, ?????? ?? ?????????????? ??? ????????, ???? ????????????????? ?? ??? ???????????????? ?????, ??? ???? ????????? ? ?????????. ? ???????? ??????, ?????? ?????, ?? ?????????????? ??? ??????? ????????? ??? ????????? ??? ????????? ???, ??? ??? ????????, ????????, ??? ??? ????????? ?? ?????????????? ??? ???????? (??. ??????? ???????? ???? ????????, C?281/11, EU:C:2013:855, ??????? 87 ??? 88 ????? ??? ???? ??????????????? ????????).

20 ???? ????????? ????????, ???? ??? ??????? ??? ??? ??? ???????? ??? ????????? ?????????????? ??? ??? ??????? ??? ??????????????, ? ???????? ????????? ????? ??? ????????? ???? ??????????????? ????????? ??? ????????? ???, ?????????????? ??? ?????????????? ?? ???? ?? ??????????????? ??? ????? 6b ??? EStG ????????, ?????? ??? ?????????????? ??? ?????? ??????? ??? ?????? 49 ???? ??? 31 ??? ????????? ???.

21 ? ???????? ??? ????????? ????? ????, ???’ ??????, ?? ???????? ?? ???????? ??? ????????? ??? ?????????????? ????? ??? ??? ????????? ??? ????????? ??? ??? ???????? ?????????????????? ?????? ?? ????? ????????? ???????? ??? ?????????????? ??????? ???????????????? ??? ?????????????? ???? ???? ??????????????? ????? ??? ????????? ?????????????, ??? ??? ????????? ?? ?? ???? ????????? ?? ?????????????????? ???? ???????? ? ???? ???????? ?????? ??????????????????. ?????????, ?????????????? ? ?????????????? ???? ???? ?? ????? ????? ??? ?????????????? ??????????????????, ?? ????? ??????????????????? ?????? ?? ????????? ???????? ??? ?????????????? ??????? ???????????????? ??????????????? ?????? ????? ??? ????????? ??????????????, ???, ?????????, ?? ?? ??? ?????????????? ??? ????????? ???? ?? ?? ???? ????? ????????? ???????? ??? ?????????????? ??????? ???????????????? ??????????????? ?? ???? ?????? ????? ??? ?????? ? ?? ???? ?????? ????? ??? ????????? ?????????????? ?????. ?? ???? ?? ??????? ???????????????? ????????, ???? ??? ????????, ? ??????????????? ????????? ??? ????????? ????????????????.

22 ????????????????, ??? ???????? ??? ????????, ?? ?????? ??? ????????? ??? ??????????????? ??? ????????? ??? ????????? ???’ ????????? ??? ???????? ???? ????? ??? ????????? ????????? ????????, ???? ????? ?? ????? ??????????????????, ? ????????

?????????? ????? —?????????? ??? ????? ??? ???????????? ?????????? ??? ?????????, ???? ??? ????? ?? ?? ???? ??????? ?????? ???? ???????? ?? ????? ??????? ????????? ??? ? ?????????? ??? ????????? ??? ?????????? ??? ??? ???????? ??? ??????????????????? ?????? ??????????, ?? ???? ??????????, ??? ??? ???????? ??? ?????? ??????????????????— ?? ??????????? ??? ???????? ???? ??????? ??? ???????? ?? ??? ??????????? ???????? ????????? ???, ?? ????? ????? ??? ????????? ?????????? ??? ??????? ??? ??? ??? ???????? ??? ????????? ??????????, ????? ??? ??? ????????? ??? ????????? ???.

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

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

25 ???? ????????, ???????????????? ??? ? ??????? ??? ????????? ????????? ?????????? ???’ ??? ?? ???????? ??? ??? ??? ???????? ??? ????????? ?????????? ??? ??? ?????????? ??????? ??? ??????????????.

26 ?? ??? ??????? ??? ???????????????? ????????? ??? ? ???????? ??? ????????? ????? ?????????.

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

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

27 ? ???????? ?????????? ??? ?? ????? 6b ??? EStG ????? ???????? ???? ??? ????????? ??? ???????? ??? ??? ??? ????????? ??? ??????? ?? ??? ????????? ????????????????.

28 ???? ?? ??????? ????, ? ?????????? ???? ???? ???? ?? ????????, ???? ??? ????????, ?? ????????? ?? ???????? ????? ??????????????????, ????? ????? ?? ????????????????, ????????? ??? ????????? ??? ??? ???????? ????????? ?????????? ?????? ?? ????? ????????? ???????? ??? ?????????? ??????? ???????????????? ??? ????????????????? ??? ?????????? ??????????????, ??? ??? ?????????? ?? ????????? ?????

??????????????? ???? ???????? ? ???? ???????? ??? ?? ??? ?????? ??????????????? ??????? ?????? ???????? ??? ??????????? ??? ?? ???? ????????? ????? ????????? ??????, ???? ?? ????? 6b, ?????????? 4, ?????? 3, ??? EStG, ????? ??? ?? ?????? ????? ??????????????? ????????? ???????? ??? ?????????? ??????? ???????????? ??? ?????????? ???? ???? ??????????? ????? ??? ?????????? ??????????. ??? ?? ???? ????? ??????????????? ????????? ???????? ??? ?????????? ??????? ???????????? ??????????? ????? ??? ?? ???? ??????????, ?? ????????? ??? ?????????? ??? ??? ???????? ??? ????????????????? ?????? ????????????, ???? ??? ????????, ??????.

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

30 ? ?????????? ???? ?????????? ??? ????????????? ???? ????????????? ??????????? ??????????. ? ???????? ?????????? ???, ??? ? ?????? ?????????? ???? ????? ??????????????? ? ??????????? ????????? ?? ?????? ????? ??? ?????? ? ??? ??? ???? ??? ??? ??????????? ?????????? ??? ?????????, ?? ???? ??? ?????? ?? ???????? ?? ????? ??? ????????? ????? ??? ? ??????? ????????????? ?????? ??? ????????? ??? ????????????.

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

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

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

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

35 ?? ?????? ?????? ???????? ??? ?????? ??????, ????????, ?? ?????????? ??????????. ?? ???? ?????? ??? ???? ??????? ??????? ?????????? ??????????. ?? ??????? ??? ????? ??? ??? ?????? ?? ????????? ?????????? ?????????? ?? ??? ???? ??? ???????? ??????? ?????, ??? ???????????? ?????????? ??? ??? ?????? ???????? ??????????, ??????? ????????? ?????? ?? ?????????? ?????????? ??? ?????????? _____.

36 ???? ????? ?? ?????? ??? ?????????????? ??? ???????? ??????, ? ???????? ?????? ???, ???????? ???? ???????? ?????????????, ?????? ?????? ??? ???????.

37 ?? ???? ??????????, ???? ????? ??? ?????????? ????? ?? ??? ????? ?? ????????? ? ?????????? ???? ????, ?? ?????????? ???? ??????, ???? ??????? ??? National Grid Indus (C?371/10, EU:C:2011:785), ??? ?????? ???? ???????? ?? ???????? ?????? ???? ?????? ??????????? ???? ???????????????? ???????????. ????????, ? ????? ?????????? ??? ???????? ????????? ?? ????????? ???? ???? ??? ?????????????.

38 ? ??????????? ?????????? ??? ????????? ??????, ??????, ??? ? ???????? ????? ???????. ???’ _____, ? ????????? ??????? ???????????? ??????????? ?? ???? ?????? _____ ??? _____ ????????????? ?????????? ???? ?????? ?????????? ???????????? _____ ??? ?????????? ??????????. ??????????, ?? ?? ??? ?????? _____ ?????????? ???, ??? _____ ???????????? ? ?????? ??????????, _____ ?? ???? ?? ???? ?????????? ????????????? ??? ??????????? ?????? ??????? ??????????, ??????????? ??? ??? ???? ??? ??????????? ??? _____ ??? ??? ??? ?????? ?????????? ??? ??????? ??? ??????? ?????????? ??????????.

39 ? ??????????? ?????????? ??? ????????? ?????????? ??? ?? ??????????? ??? ??? ??????? ????????? ?????????? ???????? ??? ???? ?????????? ?????????? _____ ?? ????????? ??? ?????????? ???? ???? ?? ??????????? ??????? ???????????? ?? ???? _____ ???? ??? ?? ??????? ??? ????????????? ??? ???? ??????? ????????????. ?? ??????? ??? ?????? ?????????? ?????????? ?? ???? ?????? _____ ??? ?????? ?? ????????? ?????????? _____ ?? _____ ??? ?????????? ??????? ???????????? ??????????? _____ ??? ?????????? ?????????? _____ ?? ?? _____ ???

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

40 ? ???????????? ?? ?? ????? 6b ??? EStG ?????? ?????????? ??? ???????? ??? ????????? ?????????? ??? ???????? ??? ??? ?????????? ??? ?????????????, ???? ??? ?????????? ??? ?????????????? ???? ???? ??? ???????. ????????? ?????????? ????? ????????? ?????????? ?? ???????? ??????? ? ???????? ?? ????????? ??? ??????????? ??????? ???, ?? ?????????????? ? ????? ??? ?????????? ????????? ??? ?? ?????? ????? ? ?????????? ???????. ? ?? ????? ?????????? ??? ????????? ??? ?????????? ??? ??? ???????? ??? ??????????????????? ?????? ??????? ??????? ??? ??? ?????? ??????? ?? ???????????, ??? ?????????? ???????, ???? ??????? ??????? ??? ?????????? ???? ??? ???????? ????????? ??? ???? ?? ???????, ? ???? ??????? ??????? ??????????. ? ??????????? ????? ??? ????????? ?????????? ??? ????????????? ??????? ???????? ???, ??????, ????????? ???? ??????? ??? ??????????? ??? ????????? ??? ?????????? ??? ??? ???????? ??? ??????? ??????, ?? ?????? ?????, ???? ??? ?????, ?????????? ??????.

41 ?? ???????????? ??? ????? 6b ??? EStG ?????????? ???????? ?????????? ??? ?? ????????????? ????? ??? ?? ????? ?????????????? ???????????? ?? ??? ??? ???? ?????, ???????, ??? ?????????? ???????, ???? ?? ??? ?????????? ???????? ?? ????????? ????? ????? ??? ?????????? ??????????. ????? ?? ?????????? ???????????? ???? ??? ??????? ???, ??? ???????????? ???????, ?? ????????????? ????? ?????????? ???? ?? ????? ??????????????. ?? ????????? ??? ?????????? ??? ??? ???????? ??? ???????????????? ?????? ???????????, ???? ?????????? ??? ??????? ????????, ??? ????? ??????????????. ?? ????????????? ????? ???????????, ??? ??????? ??? ?? ??? ??????????, ?? ???????? ?????????? ??? ?? ???????? ???????? ??? ???????????. ???? ? ????????? ????????? ???? ??? ????? ?? ????????????? ????? ????????? ??? ???????? ???? ????? ?????????? ??????, ??? ???????? ???????, ?? ?????? ???? ???? ????????? ??? ?? ????? ?????????????? ???????? ????? ??? ?????????? ??? ????? ?????????? ???? ???? ??? ????????, ??? ????, ???? ?????????? ??????? ??? ?????????? ?????.

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

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

44 ???? ??? ??????????? ?????????? ??? ?????????, ? ???????? ????????? ?? ?????????? ?????? ???????? ??????? ???????? ??? ?????????? ??? ????????????? ?? ????? ?? ??????????? ??? ???? ???????????? ??????????, ???? ??? ??? ???? ?????? ???????? ????????. ????????? ??? ?????? ???????? ??? ??????????? ??????? ??? ?? ????????? ?????? ???? ??? ??? ?????? ???????? ??????????, ?? ?????? ??? ??????, ??? ????? ?????? ??? ????????? ???, ??? ?????? ?? ????????? ??? ????????? ??????? ?????? ?????????? ??? ??????????? ??? ?????????. ??? ????? ?????? ??????????? ??? ??????????? ??????? ??? ??????, ?? ????? ???? ????????? ???????? ????????? ???? ?????? ?????. ?? ????? ????????? ??? ???????? ?? ??????????? ?? ?????????? ???? ??????? ??? ??????? ????????? ??????????? ??? ????????? ?????? ?????, ???? ?????? ???? ?? ???????????? ??? ??????? ? ????? ??????? ?? ??????????? ?? ???????? ?????? ????? ??????????? ????? ??? ??????? ??????? ?????? ???? ??? ???? ????? ?? ??????? ? ????? ??????? ?? ??????????? ?? ???? ?????? ?????. ???? ? ?????????? ????????? ??????????? ?????? ??? ?? ????? ???? ????? ???????? ?? ?????????? ??? ??????????? ??? ??? ??????? ?????????? ??? ???????? ?????? ???????????? ??? ??????????????????? ???? ???????? ??????? ????????, ??? ??? ???? ??? ? ??????????? ??? ????? ??????????? ?? ????? ??? ????? ???????? ?? ????? ?? ?? ??????????? ??? ??????????? ???????????? ????? ??? ??????????? ????.

45 ?? ??????????? ??? ????? 6b ??? EStG ???????? ??????????????, ?? ???? ??????????, ??? ??? ?????????? ???? ??????? ??????????? ??? ????????? ??? ??? ?????? ??????????? ??? ????????? ????????? ??? ??????????? ???????? ?????? ??? ?????? ?????. ???’ ????????? ??? ????????? ????????? ??? ?????? ??????????, ? ??????????? ?????????? ??? ????????? ??? ????????, ???? ????? ??? ??????????, ????? ??????? ?????? ??? ?????? ??????????????? ??? ??? ??????, ?? ?? ??????, ???? ?? ????????? ?? ???? ??? ?????????? ???? ????? ?? ????? ???? ???? ?? ????????? ??? ???? ??? ??????? ??? ???????? ???. ???????, ??? ?? ???? ???????, ??? ???????? ???????, ?? ????????? ?? ??????????? ??? ????? 6b ??? EStG ???????? ??? ????? ??????????????? ?? ????? ????????? ???????? ??? ??????????? ??????? ???????????? ??????????? ????? ??? ?????????? ??????????. ??????, ??? ??????? ???? ??????? ? ????? ?? ??????? ?????? ??? ??????, ??????? ? ?????????, ????? ??? ??????? ????? ??????????? ????????????? ?? ??????????? ?????????.

46 ?? ?? ???? ?????????? ???????? ????????????? ?????? ??? ??? ?????????? ???? ??????? ??????????? ??? ????????? ??? ??? ?????? ??????????? ??? ??????? ??? ??????? ??????????? ??????????. ????????? ?????? ????????? ?????? ??? ???????? ??????????? ????????????? ??? ??? ????????????? ??? ????????????? ????? ??? ??????????? ?????????? ??????????. ? ???????? ??? ????????? ??? ?????????? ??? ??? ???????? ??? ???????????????? ?????? ??? ????? ?????????????? ??????? ??? ????????? ????????, ???? ??? ????? ?? ????????????? ????? ???????? ????? ?? ???????? ????? ??? ????????? ???????? ??? ??????? ???????????. ??? ??????????? ???????, ?? ????????? ??? ?????????? ??? ??? ???????? ??? ???????????????? ?????? ??? ??????? ??? ?????????? ??? ??? ???????? ??? ?????? ?????????????? ?????????????? ?? ???? ??????, ?? ?????????? ? ?????????? ??? ????????? ??? ??????????? ???? ?? ????????? ?? ????? ??????????? ??? ?? ?????????? ??????? ??? ??????????? ???? ?? ????????????? _____. ? ?????? ??????????? ??? ?????? ?????????????? ????????, ???????, ??????????? ???????? ??? ???????? ??????????? ?????????????. ? ??????? ????????? ??????????? ??? ????????? ??? ?????????? ??? ??? ???????? ??? ???????????????? ?????? ????????? ?????? ?????? ???? ?? ?????????? ??? ?????? ??? ?????????? ??? ?? _____ ?????????????? _____ ??? ?????????? ??????????.

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

48 ???? ????? ??? ???????????? ??? ???????? ??????, ? ??????????? ?????????? ??? ????????? ??????????? ?????? ???, ?????? ??? ????????? ????? ???????? ??? ?? ?????? ??? ??????? ??? ?????? ? ??? ?????? ???????? ?????????????? ??? ??????????? ?????? ??????? ??????????, ???????? ? ??????? ??????????? ???????? ?????????????? ??????.

49 ??????????, ? ??????????? ?????????? ??? ????????? ?????? ??? ?? ??????????? ??? ????? 6b ??? EStG ?????, ??? ?????? ? ???????? ??????????? ??? ????? ?????????????? ?? ????? ????????? ???????? ??? ??????????? ??????? ???????????? ??????????? ????? ??? ?????????? ??????????, ????? ??????? ???? ??? ???? ??? ??????????????.

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

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

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

52 ? ???????? ????????, ???’ ??????, ???? ??????????? ?????????? ??? ????????? ??? ???????????? ??? ????????? ??? ?????????? ??? ??? ???????? ????????? ??????????? ?????? ??? ????????? ???????? ??? ??????????? ??????? ???????????? ??? ??????????? ???? ???? ??????????? ????? ??? ?????????? ??????????, ?? ????????? ????????????? ????? ??? ????????? ?? ???????? ????? ?????????????? ??? ??????????? ? ?????????? ????????????, ?? ????? ????????? ???????? ??? ??????????? ??????? ???????????? ??????????? ???? ?????????? ????? ??????? ?????? ??? ?????? ? ??? ???, ??????????? ?? ????? ?? ?????????? ??????????? ?????????????????? ????? ??? ?????????? ??????????.

53 ? ???????? ??????????? ??? ???? ? ??????? ???????????? ????? ????? ?? ??????????? ??????????? ???? ????????? ???????????? ??? ??? ?????????? ??? ????? 49 ???? ??? 31 ??? ????????? ???.

– ??? ??? ??????????? ??? ???????????? ??? ????? 49 ???? ??????????

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

54 ?? ????? 49 ???? ????????? ??? ???? ??? ?????????? ???? ????????? ?????????????. ? ?? ???? ????????? ???????????, ???? ????? ??? ???????? ??? ????? ???????? ??????? ?? ?? ????????? ??????? ?????? ??? ????? ??? ?????????? ???? ????, ??? ???????? ???????? ???? ? ??? ????? ?????????? ???? ????? ??? ??????, ?? ???????? ?? ?????? ?? ????????????? ???? ????? ????? ?????? ????? ???? ??????????, ??????????????? ? ?????????? (??????? ???????? ???? ??????, C?261/11, EU:C:2013:480, ????? 25 ??? ???? ??????????? ?????????).

55 ??? ????? ????????? ??? ?? ??? ?????????? ?????????????? ?????? ? ???????? ????????????? ??? ?????????? ?? ???? ????? ??????? ?????? ?? ???? ?????? ????? (??., ??? ??? ?????? ????, ??????? ???????? ???? ??????, C?261/11, EU:C:2013:480, ????? 28).

56 ??????, ???? ?? ?????? ????, ?? ????????? ??? ???? ???? ?????????? ???????????? ??????? ?? ??????????? ??? ?????? ????? ???????? ??? ??? ?????????? ???????? ??? ????????? ???????????, ??????????? ?????? ??? ?? ??????????? ?? ?????? ????? ????????? ??? ?????????? ?? ???? ?????? ????? ???? ?? ??? ??????? ??? ? ???????? ?????????? ??????? ?? ?? ????????? ???. ?????????? ?? ?? ????????? ?? ?????????? ???? ????????? ???????????? ??? ?? ????? ?? ????? ??????????, ???????????? ? ????????? ???????? ????????? ??? ?????? ??? ?????????? ????? (??????? ???????? ???? ??????, C?261/11, EU:C:2013:480, ??????? 26 ??? 27 ??? ???? ??????????? ?????????).

57 ???? ?????????? ?????????, ?? ??????????? ??? ????? 6b ??? EStG ?????????? ???????? ???? ?? ???????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ??????????? ??? ????????? ??? ?????????? ??? ??? ???????? ?????????? ?????? ?? ????? ???????? ???????? ??? ?????????? ??????? ???????????? ??? ?????????? ???? ???? ??????????? ????? ??? ?????????? ??????????, ???? ??? ?????????? ?? ?? ???? ????????? ?? ??????????????? ???? ???????? ?????? ??????????????? ?? ????? ????????? ???????? ??? ?????????? ??????? ???????????? ??? ?????????? ????? ??? ????? ??????????. ?????????, ???????? ??????????? ????????????????? ??? ??? ???????? ?????? ??????????????? ?? ????? ????????? ???????? ??? ?????????? ??????? ???????????? ??? ?????????? ???? ???? ??????????? ???? ?????????? ????? ??????? ?????? ?????????? ??? ????? ?????????? ??? ????????? _____.

58 ???????????? ??? ???? ? ??????? ???????????? ???? ????? ?? ???????? ??????????? ??? ???????? ????????? ????? ????? ?? ???? ?? ?????????? ???????? ?????????? ??? ??? ?????????? ???? ???? ? ?????? ???????? ?? ???????????? ????? ??? ?????????, ?????????? ?? ????????? ????? ??????????????? ??? ?????? ?????????? ?????????? ???? ?????????? ??????? ?????? ????? ??? ??? ??????????? ?????????? ??? ?????????, ?? ????? ?? ??? ?????????? ???? ???? ? ?????? ???????????? ???????? ??????????? ?? ?????? ?????????? ?????????? ????? ??? ?????????? ??????????.

59 ???? ? ??????? ???????????? _____, ?? ?? ?? ????, _____ ?? ?????????? ???????? ????????? ??????????? ???????????????? _____ ??? ?????????? ?????????? ?? _____ ?? ??????????? ???????????????? _____ _____. _____, _____ _____, ???? ?????????? ? ????????, ?? ????????? ??????? ?????????? _____ ??? ?????????? ?????????? ?? ??????? ??? ?????????????? ??? ???? ??????? ???????????? ??????????? ?? ?????? _____ ??? ?????? ???? ??? ??? ??????????? ?????????? ??? ?????????.

60 ? ??????????? ???? ??????????? ??? ?????????????? ???? ?????????????? ??????????? ???????????. ????????, ??? ?? ?????? ????????? ??????? ?????? ??? ????????? ?? ?????????? ??? ????????? ??? ????????? ????? ??? ??????????? ???, ? ????????? ??????????? ???? ???? ? ?????? ??????????? ??? ????????? ????? ??? ??? ???????? ?????? ?????????????? ???? ??????? ???????????? ??????????? ???? ?????????? ????? ??????? ??????, _____, ???? _____ ?? ?????????? ??? ????????? ??? ????????? ??? _____ ?? _____ ??? ?????? _____ ??? ??? ??????????????, ?????????? ???? ?????? ??????????? ???? ???? ? ?????? ??????????? ??? ????????? ????? ??????????? ?? ????????? ????? ?????????????? ???? ??????? ???????????? ??????????? ????? ??? ??????????? ??? ??????? ??????? ??????.

61 ?? ?? ??????, ??????????? ?? ??????????? ??? ?????????? ??? ??????????? ??? ????????? ??? ?????????? ??? ??? ???????? ??????????? ?????? ?? _____ ???????? ???????? ??? ??????????? ??????? ???????????? ??? ??????????? ???? ???? ??????????? _____ ??? ?????????? ??????????, ???? ??? ?????????? ?? ?? ???? ????????? ?? ?????????????? ???? ???????? ?????? ?????????????? ?? _____ ????????? ???????? ??? ??????????? ??????? ???????????? ??????????? _____ ??? _____ ???????????, ?? ??????????? ??? _____ 6b ??? EStG ?????????? ???????? ??????? ?????????? ???? ????????? ?????????????.

62 ?????? ?????? ?? ?????? ??? ? ??????????? _____ ?????? ?? ???????????? ?????????????? ??? ??????????? ?????? ??????? ??????????? ?????????????????? ??? ?? ?????? ??? ??????.

63 ???? _____ ?????????, ??????????? ??? ?????????? ???????????? ??? ?????? ????????? ??????????? _____ ?????? ?????????????? ??? ??????????? ?????? ??????? ???????????. ????????, ?? ?????? ?????????, ?? ?????? ? ??????????? ?? _____ ????????? ??? ??? ???????? ??? ???????????? ?????? ??? ?? ??? ?????????? ?? ???????? ???? ???????? ??? ???????????? ?????? _____ (??. ??????? DI. VI. Finanziaria di Diego della Valle & C., C?380/11, EU:C:2012:552, _____ 41 ??? ???? ??????????? ?????????).

64 ????????, ???? _____ ?? ??????????? ??? ???????? ???? ?????? ??????????? ??? ????????? ????????? ??? ??????????? ???????? ?????? ??? ?????? _____, ?????? ?? ??????????, ??????, ??? ???? ???????? ?????? _____ ???????????? ??? ?? ?????????? ??? ???, ????????, ???? _____ ?????????, ???????? ?????? ??????????? ? ??????????? ?? ?????? ??? ?????????? ??????, ?? _____ ???? ??????????? ?? _____ ??????? ?? ??????????, ?????????? ? ?????????, ?? ???????? ????????? ??? ??????????? ???? ????????, ??????????, ?????? _____, ?? ?????????? ?? _____ ????????? (??????? DMC, C?164/12, EU:C:2014:20, ??????? 46 ??? 47 _____ ??? ???? ??????????? ?????????).

65 ???? _____ ?????? ??????? _____ ??? ?????? ? ???????? ?? ???? ?????? _____ ??? _____ ??? ??????????? ??????????? ???????? ???????? ??????????? _____ ?????????? ??? ?????? ????????? ??? ?????????? ???? ?? ??????????? ??????????? ????????, ??? ??????? ????????? ???????????? ???? ??????? _____ ???? _____ ???????? ????????????, ?? ?????????? ?????? ?? ??? ??????? National Grid Indus (C?371/10, EU:C:2011:785) ??? ?????? ???????? ??? ?????? ?? ???????? ??? ?? ?????? _____ ????????? ?????? ?? ?????????? ??? ??????????? ??? ?? ??????????? ????????? ??? ????????? ??? ??????? ??? ??????????? ???????? ??? ??? ??? ?? ???? ?????????. ????, ?? ?????????? ?????? ??? ?????? _____ ????, ??????? ?? ??? ???? ??? ??????????? ??? _____, ???????? ?? ??????????? ??? ??????? ????????? ??? ????????? _____ ??? ??????????? ??? ???? ??? _____ ??? ????????? ???? _____ _____. ?????? _____ ???? ??

????? ?? ????????? ?????????? ?????? ?? ?????? ?? ??????? ?? ???????? ??? ??????? ?????? ????????? ?? ??????? ?? ?????????? ??????? ??? ?? ????? ?? ??? ?????????????? ??? ??????????????????? ????? ??? ?????????? ??? ??? ???????? ??????? ?? ???????????? ??? ?????? ?????????? ??? ????????? ????????? ??? ?????????? ???????? ?????? ??? ?????? ????? (??., ??? ??? ?????? ????, ??????? National Grid Indus, C?371/10, EU:C:2011:785, ????? 46 ??? ???? ??????????? ?????????).

66 To ?????????? ?????? ?????? ??? ????? ??????? ???? ??? ???? ??? ??????????????, ?????????? ?????? ????? ?? ?????????? ??? ?????? ??? ?????????? ???????? ???, ?? ??????????? ??? ???? ??? ????????? ??? ??? ????????? ??? ????? ???????? ????? ??? ?????????? ??? ???? ??? ????? ???? ??? ????? ?????? ?? ????????? ? ?????????? ??? ??????? ?????? ??? ??????? ????????, ???, ???? ???????? ?????????, ???? ??? ????? ??? ????????? ?? ???? ?????? ????? ??? ????? ??? ?????????? ?????????? ??? (??., ??? ??? ?????? ????, ??????? National Grid Indus, C?371/10, EU:C:2011:785, ????? 52).

67 ?????????, ??????? ??????? ?????? ? ????? ????????? ??? ????? ???????? ??? ????? ??? ??? ?????? ????????? ??? ?????????? ??? ??????? ??? ?????????? ??? ????????, ??’ ???????? ??? ????????? ??? ????? ??? ?????????? ?????????? ???????? ????? ??? ?????????? ???, ??????? ??????????, ???? ??? ???????? ?????? ??? ?? ?????? ???????? ??? ????????? ???????????? ??’ ?,?? ? ????? ???????? ??? ????? ?????. ???????, ?? ?????????? ?????? ??? ?????? ?? ????????? ???? ???????????? ?????????? ???????? ??????, ??????, ??? ?????? ???????? ??? ????? ??? ????? ???, ????????, ??? ???????????????? ???????? ??? ????? ??? ?? ???? ?????, ?????????? ????? ????? ??????? ?? ??? ?????????? ?????? ??????? (??., ??? ??? ?????? ????, ??????? National Grid Indus, C?371/10, EU:C:2011:785, ??????? 73 ??? 85, ????? ??? ??????? DMC, C?164/12, EU:C:2014:20, ????? 61 ??? ???? ??????????? ?????????).

68 ???? ?????????? ?????????, ?????? ?? ???????????? ??? ????????? ??? ?????????? ????????? ??? ??? ???????? ??? ?????????????????? ??????, ?? ?????? ????????? ????? ??? ???????? ??? ?????????? ???????? ??? ???????????? ?????????? ??? ?????????. ???????, ???????????? ??? ? ???????? ??? ?????????? ??? ??????? ??? ?? ???? ??????? ?????? ?? ?????????? ??? ?? ??? ?????????.

69 ????????, ??????? ?? ?? ????????? ??? ?????????? ??? ????? 65 ??? ???????? ?????????, ? ??????????? ????????, ?? ?????? ????????? ??? ?????????? ??????? ??? ???????????? ?????????? ??? ????????, ?? ????? ??? ???????? ?????? ?????????????? ???????????? ??? ?????? ?????????? ??? ?????????? ???? ???? ?????????? ???? ?????????? ????? ??????? ??????, ??? ?????? ?? ?????????? ??? ? ??????????? ?????????? ??? ????????? ??????? ?? ?????????? ??? ?????????? ??? ?? ?????????? ??? ????????? ??? ????????? ??? ??????? ??? ?????????? ??? ???????? ??? ??? ????????? ????? ????? ??? ?????????? ???, ??? ??? ??? ???? ??? ????? ?????????????? ?? ????? ??? ???????? ??????? ?????? ??????????????.

70 ????? ??? ?? ???????? ??? ? ??????????? ?????????? ??? ????????, ???? ??? ????????????? ??? ????????? ??? ?????????? ??? ??? ???????? ??????????????????? ?????? ?? ????? ??? ???????? ?????? ?????????????? ??? ????????? ???????? ??? ?????????? ??????? ???????????? ??? ?????????? ???? ???? ??????????? ????? ??? ?????????? ??????????, ??? ???? ?? ???????? ?? ?????????? ?? ?????????? ??? ????????? ??? ?? ?? ???? ????? ??????????????, ?? ?? ??? ?????? ????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?? ?????????? ??? ????????? ??? ??? ???????? ??? ????????????????? ?????? ?? ?????? ?????????? ??? ??????? ??? ?????????? ??? ???????? ????? ??? ?????????? ??? ??? ??? ?? ???? ?????????????. ???????, ?? ?? ????

???????? ???????? ???? ??? ?????? ??????????? ??? ?? ??? ?????????, ??’ ???????? ??????? ??????????????.

71 ???? ?????????? ?????????, ????? ???? ???????? ?? ?? ? ??????? ???????????? ???????? ????? ?????? ? ??????????. ????????, ????? ??????? ???, ???? ????? ????????? ????? ??? ?????????, ??????? ???????, ?????????????????? ?????? ??? ????????? ??????? ??????, ?? ????????? ???? ??????????? ?????, ??? ??????????? ??? ????? ?????????? ??? ????????? ?????.

72 ?????? ? ?????????? ??? ???????? ????????? ??’ ???????? ??? ????????????? ???? ?? ????? ??? ???????? ?????? ??????????????? ????? ??? ??????? ?????????? ?????? ?? ????????????? ??? ?????? ??????????? ???? ??? ?????? ?????????? ??? ????????? ????????? ??? ?????????? ???????? ?????? ??? ?????? ?????, ?????? ??????? ???? ? ???????, ? ????? ???? ?? ?????????? ?? ??????????, ?? ???? ??? ??????????, ? ????? ???????? ??? ????? ??? ??? ????????? ????? ??’ ???????? ??? ????????????? ???? ???? ????????, ?????? ??????, ???? ????????? ??? ?? ????? 67 ??? ???????? ????????, ???? ??? ???????? ?????? ??? ?????? ???????? ??? ????????? ???????????? ??’ ?,?? ? ????? ??????????, ????? ??? ????????? ??? ????? ???????? ??? ?? ????????? ??? ????????? ????????? ??? ?????????? ???????? ?????? ??? ?????? ?????.

73 ????? ?? ?????????? ???, ???? ?? ????????? ??? ??????????, ?????? ?? ????????? ???? ?????????? ???? ???? ? ?????????? ???????? ??????, ??????, ??? ??????????? ??? ?? ??? ?????????? ????? ??? ?????????? ? ??????? ???????? ??? ??????????? ???, ????????, ??? ?????? ???????? ???. ?????? ? ?????????? ???? ???? ?????? ??? ? ?????????? ?????? ??? ????? ?????????? ??? ???????? ?? ?????????? ?? ?????, ???? ? ?????? ??? ?? ?????????? ??? ?????????? ????? ?????? ?? ???????????? ?????????? (??., ??? ??? ?????? ????, ??????? National Grid Indus, C?371/10, EU:C:2011:785, ????? 77).

74 ?????????, ? ???????? ?????????? ??? ?????? ?? ???????????? ??? ??? ?????? ??????????? ??? ??????? ??? ??????? ?????????? ?????????, ??? ????? ?? ?????????? ???? ?????????? ?? ?????????? ???? ??????? ??????????. ?????????? ?? ?????? ?? ?????????? ?????????? ?????????? ??? ???????? ??????????, ?????? ?? ???????????? ? ?????? ?????? ????????? ?????? ??? ??????? ?????????? ????????????? ??? ??? ????????????? ????? ??? ?????????? ?????????? ?????????? (????????? ???????? ???? ??????????, C?345/05, EU:C:2006:685, ????? 29, ??? ???????? ???? ????????, C?104/06, EU:C:2007:40, ????? 26).

75 ?????????, ???? ?????????? ????????? ??????? ?????? ????????? ??? ?????????. ???? ????????? ??? ? ????????, ?? ??????? ?????????? ??????????, ???? ? ???????? ??? ??????????? ??? ????????? ??? ?????????? ??? ??? ???????? ??? ???????????????? ??????, ???? ?? ????????????, ???? ??? ??????? ??? ?????????????? ??? ??? ?????? ??? ?? ???? ?????????? ?????????????, ?? ???????????? ?????????? ??? ????????? ??? ?????????? ??? ??? ???????? ??? ????? ?????? ??? ??? ?? ???????????? ?????????? ??? ????????? ????????? ??? ?????????? ??? ??? ???????? ??? ?????? ??????????????.

76 _____, ???? _____ ??? ??????????? ?? ??? ??????? ?????? ????????? _____ ??? ????????? ??????????? ??? ?????????? ???? ???? ??? ?????????? ??? ??? ????????????? _____, ?????????? ?? ??????????? ? ???????? ??? ??? ? ????????? ??? ?????? ???????? _____ ??? ?????????? ??????????, ??? ?? _____ ???????? ??? ??????? _____ _____ ??????? ?? ??????????? ??? ????????? ???????? ??? ??? ????????? ??????????? ?????? ??????? ????????? ?????????? ??????????? ?? ?????? ? ?????? ??????? (??., ??? ??? ?????? ????, ??????? Geurts ??? Vogten, C?464/05, EU:C:2007:631, ????? 26), ??? _____ ???????? ??? ? ?????? _____ ?????? ?? ?????????? _____ ??? ??

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

77 ? ?????? ????? ????? ??????? ?? ?????????? ????? ?? ????? ???????? ?? ????????? ????????? ????????????? ????? ??? ?????????? ??? ??????? ??????? ??????. ????????, ? ?? ???? ?????? ?? ???????? ?? ?????????? ?????? ???? ????????? ??? ? ?????????? ???? ???? ??????? ?? ???????????? ??? ????????? ??? ?????????? ??? ??? ???????? ??? ??????????????????? ?????? ??? ??? ???????? ?????? ??????????????? ?? ????? ???????? ???????? ??? ?????????? ??????? ???????????? ??? ?????????? ???? ????????? ????? ??????? ?????? ??? ??? ????? ??? ?????????? ??????????. ???? ??? ???????????, ??? ?????????? ???????, ??? ??????? ???????????? ? ????? ????????? ???? ????????, ??????? ??? ?????????? ?????????? ???????, ??? ??? ?????????? ???? ??? ???????????? ??? ????? ??????????????? ??????? ??? ??????? ?????, ?? ????? ??????????????? ?????, ?? ???? ?????????, ?????????? ???? ??? ?????????? ???????????? ??? ?????????? ???? ???? ???, ???? ????????, ????????? ???? ???????? ??? ?????????? ???? ?????????, ????? ??? ???? ??????????? ???, ??? ???? ?? ???????? ?? ?????????? ?? ???????? ????? ??? ?????????? ????????????? (??., ??? ??? ?????? ????, ??????? ???????? ???? ??????????, C?345/05, EU:C:2006:685, ??????? 31 ??? 33 ??? 35).

78 ?? ???? ?? ???????, ????? ???? ???????? ?? ??????? ???, ?? ????????? ????????????? ????? ??? ??????? ??????????, ? ??????? ??????????? ??? ?????????? ??? ????????? ??? ?? ????? ??????????????? ????????? ?? ?????? ?? ???? ?????? ?????. ???????, ????? ? ?????????? ???, ???? ????? ????????, ?????? ?????? ??????????, ???? ? ?????? ? ?????? ??? ?????????? ?????? ?? ?????? ???????, ??? ?????? ?? ???????? ?????????? ????? ??????? ?????????? ??? ?????? ????? ???????? ???? ??????????? ?????? ???????? ????????? ???? ????????? ????????? ??????????? ??? ???? (??. ????????? Verkooijen, C?35/98, EU:C:2000:294, ??????? 48 ??? 59, ??? DI. VI. Finanziaria di Diego della Valle & C., C?380/11, EU:C:2012:552, ????? 50).

79 ?? ?? ??????, ???????? ??? ? ??????? ??? ????????? ???? ?????????? ??? ?????? 49 ???? ????? ??????.

– ??? ??? ?????????? ??? ?????? 31 ??? ????????? ???

80 ?? ??????????????? ??? ????? 31 ??? ????????? ??? ??????? ???? ??????????? ?????????? ???? ????????? ???????????? ?????????? ?? ???????? ??? ?????? 49 ????. ????, ?? ?????????? ???? ?????? ???, ???? ?????? ?????, ?? ??????? ??? ????????? ??? ??? ??????? ??? ???????? ??? ?????? ?? ??????????? ?????????? (??????? ???????? ???? ??????, C?261/11, EU:C:2013:480, ????? 42 ??? ???? ??????????? ?????????).

81 ?????????, ? ????????? ????, ? ????? ????? ??????????? ???? ?????? ??? ?????????? ????????? ?????????? ????? ??? ??????, ??? ?????? ?? ?????????? ???????? ???? ?????????? ?? ?????? ????????????? ??? ???????? ???, ??????? ? ?????? ??? ?????????? ????? ?????????? ?????????? ?? ?????????? ?????? ??????? (??????? ???????? ???? ??????, C?261/11, EU:C:2013:480, ????? 44 ??? ???? ??????????? ?????????).

82 ???? ?????????? ?????????, ? ??????????? ?????????? ??? ????????? ??? ????????? ????? ?? ????? ??????? ?? ??? ???????????? ??? ?? ????? 49 ???? ?????????? ??? ?????????? ???????????? ??? ??? ??????? ????????????? ??? ????? ??????? ?? ????????, mutatis mutandis, ??? ?? ????? 31 ??? ????????? ???. ??? ??? ???????? ?????, ???????? ??? ? ?????????? ??? ?? ????? 31 ??? ????????? ??? ??????? ??? ????????? ????? ?????? ??????.

83 ??? ?? ?????? ??? ??????????? ???????, ???????????? ??? ? ??????????? ?????????? ??? ????????? ?????? ??? ?????????? ??? ?????? ??????? ??? ?????? 49 ???? ??? 31 ??? ????????? ???, ?????????? ??? ?????????? ?? ???? ?? ?????????? ???????? ??? ?????????? ?? ?? ????? 6b ??? EStG, ?? ????? ??????? ?? ?????????? ??? ?????????? ??? ??????????? ??? ????????? ??? ?????????? ??? ??? ???????? ?????????? ?????? ??? ???????? ???????? ??? ?????????? ??????? ???????????? ??? ?????????? ???? ???? ??????????? ????? ??? ?????????? ??????????, ???? ??? ?????????? ?? ?? ??? ????????? ?? ?????????????? ???? ???????? ?????? ?????????????? ?? ????? ????????? ???????? ??? ?????????? ??????? ???????????? ??? ?????????? ???? ???? ??????????? ????? ??? ?? ???? ??????????.

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

84 ???? ?? ????? 138, ?????????? 1, ??? ?????????? ??????????, ? ???????? ???????? ???????????? ??? ????????? ?????, ?????? ?????? ??????? ?????? ??? ?????????? ????????. ????????? ??? ? ???????? ??????? ??????? ?????? ??? ? ??????????? ?????????? ??? ????????? ????????, ?????? ?? ??????????? ??? ????????? ?????.

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

1) **? ??????????? ?????????? ??? ????????? ?????? ??? ?????????? ??? ?????? ??????? ??? ?????? 49 ???? ??? 31 ??? ????????? ??? ??? ????????? ?????????? ????, ??? 2?? ????? 1992, ?????????? ??? ?????????? ?? ???? ?? ?????????? ???????? ??? ?????? 6b ??? ????? ???? ????? ?????????? (Einkommensteuergesetz), ?? ????? ??????? ?? ?????????? ??? ?????????? ??? ??????????? ??? ????????? ??? ?????????? ??? ??? ???????? ?????????? ?????? ??? ???????? ???????? ??? ?????????? ??????? ???????????? ??? ?????????? ???? ???? ??????????? ????? ??? ?????????? ??????????, ???? ??? ?????????? ?? ?? ??? ????????? ?? ?????????????? ???? ???????? ?????????? ?????? ?????????????? ?? ????? ????????? ???????? ??? ?????????? ??????? ???????????? ??? ?????????? ???? ???? ??????????? ????? ??? ?? ???? ??????????.**

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

(?????????)

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