

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

??? 8?? ??????? 2016 (\*)

«????????????? ?????????? — ?????????? ?????????? ??? ?????????? — ??? 63 ??? 65 ???  
— ??? ?????? — ??? ?????? ?????????? ?????????? ??? ?????? — ??? ?????? ??????  
????????????? ?????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ???  
????????? ?????????? — ??? ?????? ?????????? ?????? ??? ?????? ?????? ??? ?????? ???  
????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????????? ???»

????? ??????? C479/14,

? ? ?????????? ??? ?????? ?????????? ?????? ??? ?????? 267 ????, ???  
?????? ?? Finanzgericht Düsseldorf (?????????? ?????????? ??? ???????????, ?????????)  
?? ??????? ??? 22?? ??????? 2014, ? ?????? ??????? ??? ?????????? ??? 28 ???????  
2014, ??? ??????? ??? ????

**Sabine Hünnebeck**

????

**Finanzamt Krefeld,**

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

????????? ??? ??? R. Silva de Lapuerta, ??????? ????????, A. Arabadjiev, J.?C. Bonichot, S.  
Rodin ??? E. Regan (?????????), ????????,

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

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

?????? ??? ??? ?????? ?????????? ??? ?????? ??? ??' ?????????? ??? ?????????? ???  
16?? ?????????? 2015,

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

- ? S. Hünnebeck, ?????????? ??? M. Sarburg, Rechtsanwalt,
- ? ?????? ??? ???????, ?????????? ??? T. Henze ??? K. Petersen,
- ? ?????? ???, ?????????? ??? M. Wasmeier, W. Roels ??? B.?R.  
Killmann,

????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
??? 18?? ?????????? 2016,

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

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1 ? ??????? ?????????????? ?????????? ?????? ??? ??????? ??? ?????? 63, ?????????? 1,  
??? 65 ???.

2 ? ??????? ??? ?????????? ??? ??????? ??????? ??? Sabine Hünnebeck ???  
??? Finanzamt Krefeld (????????????? ??? Krefeld), ??????? ?? ??? ?????????? ???  
????? ?????????????? ??? ?????? ?????????? ?????????????? ??? ???????, ??? ?????? ? S.  
Hünnebeck ??? ??????????????.

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

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

3 ??? ?? ??? 1 ??? ?????? 88/361/??? ??? ??????????, ??? 24?? ??????? 1988, ???  
?? ??? ?? ??????? ??? ?????? 67 ??? ?????? (????? ??? ??????????? ?? ?? ???????  
??? ??????????) (?? 1988, L 178, ?. 5):

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

2. ?? ?????????? ??? ?????? ??? ?????? ?? ?????????? ?????????? ?????????????????? ???  
?? ??? ?????? ?????????????? ??? ?????????? ?? ?????? ??? ?????? ??? ?? ?????????? ???  
????????? ??? ?????????? ??????????».

4 ??? ?? ?????? ??? ?????????? ?????????? ??? ?????????????? ??? ?????????? | ??? ?? ???  
?????? ?????????????? ???, ??? ?? ??????? XI ??? ?? ??? ??????????, ?? ???  
«?????? ?????????? ?????????? ?????????», ?? ?????? ??? ?? ??????????.

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

5 ? Erbschaftsteuer- und Schenkungsteuergesetz (????? ??? ?????????? ??????????????  
??? ??????), ??? ?????????? ??? 27 ?????????? 1997 (BGBI. 1997 I, ?. 378) ??? ???  
????????????? ??? ?????? ?????????? ?? ?? ??? 11 ??? ?????? ??? 7?? ?????????? 2011 (BGBI.  
2011 I, ?. 2592) (?? ????: ErbStG), ???????, ??? ??? 1, ?? ??? «?????????????  
?????», ?? ???????:

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

1) ?? ?????????? ??? ?????? ??????????

2) ?? ?????? ?? ???

3) ?? ?????? ?? ???

[...]

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

6      ?? ?????? 2 ??? ErbStG, ?? ?????? «?????????? ??????????? ??????????», ?????? ??  
?????????:

«1. ?????????????? ?????????????? ??????????????

1) ????? ?????????????? ??? ??????? 1, ??????????? 1, ??????? 1 ??? 3, ?? ? ??????????????????  
 ????? ??? ????? ??? ??????? ???, ? ??????? ??? ????? ??? ????? ??? ?????????? ??? ??????? ? ?  
 ??????? ??? ??? ????? ??? ?????????????? ??? ?????????????? ?????????????? ??????????????  
 (????? 9) ????? ??????? ???????, ??? ?? ?????? ??? ?????????????????? ??????????????  
 (?????????? ?????????? ??????????). ?? ??????? ??????? ??????????:

a)    ?? ??????? ??????? ?? ?????? ?? ?????????? ?? ? ?? ??????? ??????? ?? ????  
???????,

[...]

3) ?? ??? ???? ????? ???????????, ?? ??? ?????????? ??? ??????????? 3, ??? ?? ?????????? ?????????????? ?????????? ?????????????? ?????????????? ????? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? 121 ??? Bewertungsgesetz [(????? ??? ??? ???????????, ??? ???: BewG)] (?????????? ?????????? ??????????).

[...]

3. ??????? ?????????? ??? ??????????, ?? ?????? ?????????????? ?????????????? ???  
????????????? ?????????????? ?????????? ?????????????? ?????? ?????? ?????????? ???  
????? ??? ?????? 121 ??? [BewG] (????????? 1, ?????? 3) ?????????? ??? ?????????? ??  
????????????? ?????????? ?????????? ?? ? ?????????????? ???, ???? ??? ?????? ??? ??????, ?  
??????, ???? ??? ?????? ?????????? ??? ?????? ? ? ???????, ???? ??? ?????? ???  
????????????? ??? ?????????? ?????????? ?????????? (????? 9) ?????? ?????????? ???????  
????? ??? ?????????? ?????? ? ?????? ??? ?????? ?????????? ? ?????????? ???  
????????? ?????????? ??? [?? 2?? ????? 1992 (?? 1994, L 1, ?. 3, ??? ????: ???????  
???)]. ?? ?????????? ?????????? ?????????? ??? ?? ?????? ?????? ?????? ?????? ???  
????? ??? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????, ?? ?? ???  
????????????? ?????? ?????????? ?? ?????????? ?????????? ?????????? ??? ??????????  
????????? ?? ?? ?????? 14. [...]»

7      ?? ?????? 14 ??? ErbStG, ?? ?????? «????????????????? ?????????????? ??????????????»,  
??????????, ??? ?????????? 1, ?? ????:

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

8      ?? ?????? 15 ??? ErbStG, ?? ????? «????????????? ??????????», ??????, ??? ??????????  
1, ?? ???????:

«????????? ?? ??? ?????????? ?????? ??? ??????????? ?????? ??? ?????????????? ? ??? ????,  
????????????? ?? ?????????? ?????? ??????????? ?????? ????????????

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

- 1) ? ??????? ??? ? ????????,
  - 2) ?? ????, ????, ???, ???, ???, ???, ???, ???, ???,
- [...]».

9 ?? ????, 16, ?? ??? «?????????? ???», ???, ?? ??????:

«1. ??? ?????????? ??? ?????????? ?????????? ?????????? (????? 2, ?????????? 1,  
????? 1, ??? ?????? 3) ?????????? ??? ??? ??? ? ?????????? ??????????  
?????????

- 1) ??? ?????? ??? ?????? ?????? 500 000 ????
- 2) ??? ????, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, 400  
000 ????

[...]

2. ?? ?????????? ?????????? ?????? (????? 2, ?????????? 1,  
????? 3), ?? ?????????? ??? 1 ?????? ?? 2 000 ????.»

10 ??? ??? «?????? ??????», ?? ??? 121 ??? BewG, ??? ?????????? ???  
1? ?????????? 1991 (*BGBI.* 1991 I, ?, 230) ??? ??? ?????????? ?????? ?????? ???  
????? 10 ??? ??? 7?? ?????? 2011 (*BGBI.* 2011 I, ?, 2592), ??? ?????:

«???? ?????? ?????? ??????????????:

- 1) ? ??????? ??? ?????? ??? ?????? ???????????
- 2) ? ??????? ??? ?????? ???????????

[...]».

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

11 ? S. Hünnebeck ??? ?? ??? ?????????? ??? ?????? ?????????? ???????, ??? ??????????  
??? Gloucestershire, ??? ?????? ???????. ? S. Hünnebeck ??? ??????? ?????? ???  
????????? ??? ?? ??? 1996. ?? ??????? ??? ?????? ??????? ??????? ????????

12 ? S. Hünnebeck ?????? ?????????? ??? ?????? 50 % ?????????? ?????????? ???  
????????? ??? ??????. ?? ?????????? ??? 20?? ?????????? 2011  
????????? ?? ?? ?????? ??? ?????? ??? ?????? ?????????? ??? ???' ??????????. ? ??? ???? ??????  
????????? ??? ?????? ??? ?????? ?????????? ?? ?????????? ??? ??? ?????? ??? 12  
????????? 2012 ??? ???????, ?????? ?? ?????????? ??? ??? ?????? ?????? ??? 20??  
S. Hünnebeck, ??????? ??? ?????? ??? ?????????? ??? ?????????? ??? 20??  
????????? 2011.

13 ?? ??? ?????????? ?? 31?? ????? 2012 ? ?????????? ??? ?? Krefeld ??????? ??  
????? ??? ????? ?????????????? ??? ?????? ? S. Hünnebeck ??? ??? ?????????? ?????????? ??  
146 509 ????. ????. ??? ?????????? ??? ?????? ????, ? ?????????? ??? Krefeld  
????????? ??? ?????? ??? ?????? ??? ?????????????? ?????? ?? ?????????? ??? ?????? ??  
????????? ??? ?????????????? ?? ?????????????? ?????? ?????????? ?????????? ?, ??? 2 000  
????.

14 ? S. Hünnebeck ?????? ?????????? ?????? ?????? ?? ?????? ???, ??? ??????  
??? ? ?????????? ??? ?????? ??? ?????? ?????, ?????????? ?????? ??? 400 000  
????, ??? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ?????????? ??????????  
?????????, ?????? ?? ?? ????? 16, ?????????? 1, ?????? 2, ??? ErbStG. ? ?????? ???  
?????????. ?????? ??? ?? ??? ??????????, ? S. Hünnebeck ?????? ?????? ???  
Finanzgericht Düsseldorf (????????? ?????????? ??? ??????????, ??????), ??????  
?? ?????? ??? ?????? ??? ?????????? ????. ?????? ??? ?????????? ????, ? S.  
Hünnebeck ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??????????  
????????? ??? ?????? ??? ?????? 2, ?????????? 3, ??? ErbStG, ????? ? ??????  
????, ??? ?????? ?? ?????? ??? ?????????? ????, ??? ??? ?????? ?????? ????  
????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ????  
??? ??? ?????? ??? ?????? ????

15 ? ?????????? ??? Krefeld ??????????, ?????? ??? ?? ??? ??????????, ??? ??  
????? 2, ?????????? 3, ??? ErbStG ?????????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ???.

16 ?? ?????? ?????????? ?????? ?????? ?? ?????? ?? ??? ?????? ?????? ??? ??  
????? 63, ?????????? 1, ??? 65 ??? ?? ????? 16, ?????????? 2, ??? ErbStG,  
????????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ??  
????? 2, ?????????? 3, ??? ?? ??? ?????.

17 ?? ?????????? ??? ?????? ???, ?? ??? ?????? ??? 22?? ?????? 2010, Mattner  
(C?510/08, EU:C:2010:216), ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? 16, ?????????? 2, ??? ErbStG, ?? ?????? ??? ??????  
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??????. ?????? ???, ?????? ??? ?????? ??? ?????????? ??? ?????, ?????? ?? ?????? ???  
????????? ??? ?????? ??? ??????????, ?????? ?? ?????? ??? ?????? ?????????? ??  
????????? ??? ?????? 2, ?????????? 1, ?????? 3, ??? 16, ?????????? 2, ??? ErbStG ? ????  
????? ??? ?????? ?????????? ??? S. Hünnebeck ??? ??? ?????????? ??? ??????????  
????? 2 000 ??? ?????? ??? ?????? ??????????, ??? ??? ?????????? ??? ?????? ???  
????? ??? ??????, ??? ?????? ??? ??????, ??? ?? ?????????? ??? ?????? ?? ?????? ???  
400 000 ????, ?????? ??? ?????????? ??? ?????????? ??? ?????? 2, ?????????? 1, ????  
1, ?????? a, ??? ?????? 15, ?????????? 1, ??? ??? ?????? 16, ?????????? 1, ??? 2, ???  
ErbStG, ??? ? ?????? ?? ? ?????????? ??? ??????????, ??? ??? ??????????, ??? ??????.

18 ????????, ?? ?????? ?????????? ?????????? ?? ? ?????????? ??? ?????? ??????????  
????? ??? ?????????? ??? ?????? 2, ?????????? 3, ??? ErbStG, ??? ??? ?????? ????,  
?? ?????? ??? ?????? ??? ?????????? ??? ?????? 22?? ?????? 2010, Mattner (C?510/08,  
EU:C:2010:216).

19 ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? 12?? ??????????  
2006, Test Claimants in the FII Group Litigation (C?446/04, EU:C:2006:774, ??? 162), ??? 18??  
????? 2010, Gielen (C?440/08, EU:C:2010:148, ??? 53), ??? ??? 28?? ?????????? 2013,

Beker (C?168/11, EU:C:2013:117, ????? 62), ?? ??????????? ????? ?????????????? ???, ?????? ??  
?????????? ??? ??? ????? ????? ?????????? ??? ??? ?????????? ??????, ??? ?????? ?????? ???  
????? ?????? ?????? ?????????????? ?????????? ?????? ?? ?????? ?????????? ??? ?? ?????? ???  
?????. ??? ???????, ?? ?? ??? ????? ?????????? ?????? ?????? ??? ? ?????? ??? ?????? 2,  
????????? 3, ??? ErbStG ??? ????? ??? ?????????????? ??? ?????? 16, ?????????? 2, ???  
ErbStG ??? ?? ?????? ??? ?????? ??????, ?????, ? ?????????? ??? ?????? ?????? ??????????  
????????? ??? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????????????.

20      ??? ?????? ??????????? ??????????? ?????? ??? ???? ?????????? ???? ?? ?????? ???  
?????? ??? ?????? ??? ??????? ??? ?????? 2, ?????????? 3, ??? ErbStG.

21 ???????, ???????, ??? ?????????? ?????, ? ?????????? ?????, ?? ???????, ?? ???????, ?? ???????, ??  
?????? ?????? ?? ???????, ???????????, ?????? ?????? ???????????, ?????? ?????? ?? ? ???????????????, ? ???????,  
? ? ???????????, ???????????, ?????? ?????? ???????????, ???????????????, ???????????????, ??? ???????????,  
??????????, ?? ?????? ?????? ??? ???????????, ?????? ?????? ???????????, ?????? ? ?? ???????, ??? ?????? ??? ?????? ???  
??????????, ???, ??? ?? ???????????, ?? ??? ???????, ??? ??? 17?? ?????????? 2013, Welte  
(C?181/12, EU:C:2013:662), ?????? ??? ?? ???????????, ??? ???????, ??? ???????, ??? ???????, ???????????????  
???? ???????, ???????????, ???????????, ?????? ???????, ?????? ???????, ?????? ???????, ??? ?? ???????,  
????? ???????????, ??? ???????????, ?? ???????????, ???????, ??? ???????????????, ???????,  
?????? ???????????, ??? ???????????, ??? ???????????, ??? ???????, ??? ?? ???????????, ???, ??? ?  
??????????????, ??? ? ???????????, ??? ???????????, ?????? ???????, ?????? ??? ?? ???????, ??? ?? ???????,  
??????, ?????? ???????????, ??? ?? ???????????, ?????? ??? ???????, ??? ?? ???????, ??? ?? ???????????, ???  
?? ?? ??? ?????? ???, ??? ?? ??? ?????? ???, ?????? ??? ???????, ??? ?? ??? ???????, ??? ?? ???????????, ???.

«????? ?? ?????? 63, ??????????? 1, ????, ?? ?????????? ?? ???? ?????? 65 ????, ??? ?????? ??  
?????????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ??? ?????, ??? ???? ??????????  
??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ???? ??????, ?? ?????? ?????? ??? ?  
????? ??? ? ?????????? ?????? ??? ?????? ??? ?????? ?????????????? ??? ?????? ?????? ??????  
????? ?????? ??????, ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????  
????????????? ?????? ?????? ?????? ?????? ??? ???? ?????? ?? ?????????? ??? ?????? ???  
????????? ??? ???? ?????? ??? ?????? ??? ?????? ?????????? ?????? ?????? ?????? ??????  
?????, ??? ???? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
????????? ?????? ?? ?????? ?? ?????? ?? ?????????? ?????????????? ?????? ?????? ??????  
????????????? ??? ???? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ???  
????? ??? ???? ?????? ??? ???? ?????? ??? ?????? ??? ?????????????? ??? ?????? ??????;»

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

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

24 ????????, ?????? ?? ?????????? ??? ? ?????????? ??? ?????????? ? ??????? ?  
?????????, ??? ?? ???, ??? ?? ?????????? ??? ?????? ??????, ?? ?????????? ??? ??  
????????? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ?????? ??????  
????? ? ?????? ??? ? ?????????? ?????????, ??? ?????????? ?????????????????? ???  
??????, ?? ??? ?????? ?????, ??? ?? ?????????? ??? ?? ??? ???? ?? ?????????? ???  
?? ?????? ??????????, ??? ??? ?????????? ??? ?????? ?????? ?????, ??? ??????????????  
??? ?? ?????????? ?? ?????????? ?????????? ??? ?????????? ??? ?????????? ??????  
????????? ?? ??? ?????? ?? 22?? ??????? 2010, Mattner (C?510/08, EU:C:2010:216), ???  
?????? ?????????? ??? ?????? ??? ??? ?????? ??? ?????????????? ?????????? ??????? ???  
????????? ??? 4?? ?????????? 2014, ??????? ??? ?????? (C?211/13,  
EU:C:2014:2148).

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

26 ??????, ??? ?????????? ?? ??? ??? ?????????? ???, ? ??????? ??????????  
????????? ?? ??? 2 ??? ErbStG ?? ??????? ??? ?????????? 3, ??????? ??? ?????,  
?? ?????????? ?????? ?????? ?????????? ??????????, ? ?????????? ?????? ?? ??????? ??  
????????? ?? ?????????? ?????????? ??? ??? ?????????? ?? ?????????? ?????? ??? ??????  
????????? ??? ?????????? ?????????? ??????.

27 ??? ????????, ?????? ?? ?????????????? ?? ?????????? ??? ?????????? ??????????  
????????????? ??????.

28 ??????, ?????? ?? ?????????? ??? ? ?????????? ?????????????? ??? ? ?????????? ???  
????????? ? ErbStG, ??? ?? ?????? ??? ?????????? ?????????? ?????????? ??? ?????????? ??  
????????? ?? ?????????? ?? ?????????? ?????? ??? ?????? ?? ?????? ??? ? ?????????? ??  
????????? ?????? ?? ?????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????????? ??  
????????? ???, ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??  
????????? ??? 17?? ??????? 2013, Welte (C?181/12, EU:C:2013:662), ?????? ??? ??????  
????????????? ??? ??? ?????? ?????????? ??? ?????????????? ??? ?????? ??? ?????????? ???  
????????? ??? ??????.

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

30 ????????, ?????? ?? ?????????? ???, ?????? ??? ?? ?????????? ?? ??? ?????????? ???  
????????? ??? ?????? ?????????? ??? ?????? ?????????? ?? ?????? ?????????? ??? ?????? ??  
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ?? ?????? ??? ?????? ??  
????????? ??? ?? ?????????? ??? ?????? ?????????? ?? ?????? ?????????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ???  
??? ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

????????? ????? ??????????? ?????? ? ?????? ??? ??????????? ?? ?????????? ??  
????????? ??? ?????? ??????? ?? ?????? ?????? ?????????? ?? ?????? ??????  
????????? ??? ?????????? ?? ?????? ?????? ?????????? (??., ??' ?????, ??????? ?? 28??  
????????? 2013, Beker, C?168/11, EU:C:2013:117, ????? 19 ?? ?????? ??????????????  
?????????).

31 ?? ??????????, ??? ?????????? ??? ? S. Hünnebeck ??? ?? ??? ?????????? ??,  
????????? ??? ??????? ?????, ?????????? ?? ?????? ??? ?????? ??? ?????? ?????????? ??  
????????? ??? ??? ????? ?????????? ?? ?????? ??? ?????? ?????????? ???????.

32 ??? ??? ?????? ?????, ??????? ??? ??? ?????? ?? ?????? ?? ??? ?????????????? ??????????????  
??? ?????????? ??? ?????? ?????, ?? ??????? ??? ?????????? ?????????????? ?????????????? ???  
????? ?????? ??? ?????? 28 ??? ?????? ?????????? ?????? ?????? ?????????? ???,  
???????, ??? ?????? ?????????? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????????  
?????????.

33 ??????, ?????? ?????? ?????? ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????  
?? ??? ?? ?????? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ??? ?????????? ???  
????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? 2, ?????? 3, ???  
ErbStG.

34 ??????????, ?? ?????? ?????????? ?????? ???, ??? ?? ??? ?????? ??????????, ? ???  
????????? ??? ?????? ??? ??? ?????? ?????????? ?? ?????????? ?????????????? ???  
????? ??? ?????? ??? ?????? ??? ?????????? ?????????????? ??? ?? ?????????? ??????????  
????????? 20 ???, ???, ?? ?????? ??? ?????? ??? ? ?????? ?? ?????????? ?????????? ???  
???????, ?? ??? ??? ?????? ?????????? ??? ?????? ?????? ?????? ?? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? 20 ???.

35 ??????, ? ?????? ?????? ?????????? ?????????? ??? ?? ??? ?????? ??? ?????? 2,  
????????? 3, ??? 14 ??? ErbStG. ??? ?? ?????? ???, ?? ?????? ??? ??????????  
????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??????????  
????????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???  
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? . ? ?????? ??? ?????? ???  
????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?????? ??? ?????? ?????? 20 ???.

36 ??????, ?????????? ? ?????? ??? ?? ?????? ?????????? ?????? ?? ??? ?????? ??????  
?? ?????????? ??? ?? ?????? ??? ?????????? ?? ?????????? ?????? ?? ?????? ??? ??????  
?????????????, ??? ?? ?????? ??? ?????? ??? ?? ?????? ??? ?????? (??, ??????)  
?? 11?? ?????? 2008, Eckelkamp ?., C?11/07, EU:C:2008:489, ??? 32 ??? ??  
????????? ??????). ?????? ?? ?????? ?????? ??? ?? ?????????? ??? ?????? ??  
????????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??  
????????? ?? ?????? ?????? . ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??  
????????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??  
????????? ??? ?????? ?????? ??? ?????? ??? ?????? (?????? ?? 6?? ?????? 2003, Kaba,  
C?466/00, EU:C:2003:127, ??? 41). ??????, ?????????? ??? ?????? ??? ?????? ???  
?? ?????? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ?????? ???, ?????? ??? ?????? ??? ?????? ???, ???  
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???  
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????, ?????? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ???.

37    ??? ??? ??????? ??????, ??? ??? ?? ?????? ???, ?? ?? ??????? ???, ?? ???????  
?????????? ?????? ?? ???????????????, ???' ??????, ?? ?? ????? 63 ??? 65 ??? ????? ???  
?????? ?? ??????????? ?? ?????? ??????? ??? ?????????? ??? ?? ??????? ??????  
????????? ???????????, ??????, ??????? ?????? ?????????? ?????????? ??? ?? ?????????? ??????  
??? ?????? ?? ?????? ??? ?????????? ?????????? ??? ???, ???????, ??????? ?? ???????????,  
????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?? ?????????? ??????  
????????? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ??????  
????????? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ??????  
????????? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ??????  
????????? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ???.  
???? ??? ??????? ?????????? ??? ?????? ??? ?????????? ?????? ??? ??????????

38    ??? ??? ??????? ???????????, ?? ??? 63, ?????????? 1, ??? ?????????? ??????? ????  
?????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? (?. ??????? ??? 17??  
?????????? 2015, F. E. Familienprivatstiftung Eisenstadt, C?589/13, EU:C:2015:612, ??? 35  
??? ??? ?????????? ??????).

39    ?? ???????????, ??? ?????????????? ??? ? ??????? ??? ?????? ??? ?????? ??? ?????  
????? ?????????? ??? ??? 63, ?????????? 1, ???.

40    ??? ??? ?????? ?? ?????? ?? ? ?? ??? ?????? ??????? ?????????? ?????????? ??? ??  
????????? ???, ?????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ?? ?????????? ??? ?????? ??  
????? ??????? ??? ?????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???  
??????, ??? ??? ?? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?? ??? ?????? ??? ?????? ??? (?. ??????? ???  
22?? ??????? 2010, Mattner, C?510/08, EU:C:2010:216, ??? 25).

41    ??? ??? ?????? ??????, ??? ??? ?????? ?????????? ?????????? ?????????? ??? ???????,  
??????, ??? ? ?????????? ?????????? ? ?????? ?????????? ?? ??? ?????? ?????????? 2, ?????????? 3,  
??? ErbStG, ??? ?????? ?? ?????????? ??? ?????? ?????????? ?????? ?????? ?????? ??????????  
????????? ?? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ??  
????????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ??????  
????????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????????? ??? ?? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????? ???, ???, ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????????? ??? ?????????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???  
????????? ??? ?????? ???.

42    ??? ??? ??? ?????? ?????????? ?????????? ??? ?? ??? ?????? ?????????? ?????????? ????  
?? ?????????? ???, ??? ??? ?? ??? ?????? ?????? ??? ? ?????????? ?????? ?????? ??????????  
????? ?? ?????? ??? ?????, ??? ?????? ?????? ??????, ?????? ?????? ?????? ??? ?????? ?????????? ???  
????????? ?????????? ??? ?????? ?? ?????? ?????????? ?? ?? ?????? ??? ?????? ??? ?????? ??? ??  
? ?????? ??? ?????? ?????? ??? ?????? ? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ?????? ?????? ?????? ??? ?????? ?????? ?? ?? ?????? ??? ?????? ??? ?????? ??? ??  
?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??

?????? ???? ?????? ??????????? ?????? ?????? ??? ??????????? ?????????? ?????? ?  
?????????? ?????? ??? ?????? ??? ?????? ??? ??????????? ?????? (??., ??' ?????, ???????  
??? 28?? ??????????? 2013, Beker, C?168/11, EU:C:2013:117, ????? 62 ??? ???  
?????????? ???????)).

43      ??? ?? ?????? ??????? ???? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?? ?????  
????????? ??? ?? ???? ?????? ?? ?????? ??? ?????? ?????? ?????????? ?????????? ???, ???  
??? ?????????? ??? ?? ??? 2, ?????????? 3, ??? ErbStG, ??? ?? ?????? ???  
????????? ??? ?? ??? ?????? ??? ?????? ?????????? ??? ?????? ???.

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

45      ?? ??? ??????? ??????????, ??? ?????? ??? ?????? ?????????????? ??? ??????  
?????????? ?? ???????????, ??? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ??? ??  
?????????? ?? ?????????? ??? ?????? ??? ?????? ?????????? ?? ?????? 2, ?????????? 3, ???  
ErbStG, ??? ?????? ?? ?????? ??? ?????????????? ?? ?????????? ??? ?????????? ?????????? ???  
??????? ??? ???????????, ???????????, ???????????, ?????????? ? ?????????? ??? ??  
??????? ??? ??????????? ?? ??? ??????????? ?????????? ?????????? ?????????? ?????????? ??? ??  
??????? ??? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???  
????????? ?????????? ?????????? ?????????? ?? ??? ?????? ?? ??????????, ??? ??????????, ??? ??  
????????? ??? ?? ?????, ??? ??? ?????? ?????????? ??????, ?????????? ??? ?????? ??????????  
????? ?? ?????? ?? ?? ?????? ???, ???????, ??? ? ?????? ??? ?????????? ?????? ??  
????????????? ?? ??? ?????? ?????????? ??? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ??  
????????? ????. ??? ?????? ?????? ?????????? ??? ?? ?????????? ??? ?????????? ??? ??  
????????? ???????, ??? ?????? ?????? ?????? ?? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????? ?????????? ?????? (??., ???' ???????, ??????? ??? 22? ??????? 2010,  
Mattner, C?510/08, EU:C:2010:216, ??? 27).

46 ??????? ??????? ?? ?????????? ??? ? ?????????? ??? ?????????????? ????? ?????  
????????? ??????? ??, ??? ????? ?????? ????? ?????? ?????? ?????? ?????? ?????  
????????? ??????? ??, ??? ?????????? ????? ?????? ?????? ?????? ?? ?????????????? ????? ??  
????????? ??????? ??, ?????????? ?? ?? ?????? ?????? ?????? ??? ?????????? ?????? ?????  
????? ??? ?? ??????? ?? ?? ?????? ?????? ??????, ???????, ??? ?????? ??? ?? ?????  
????? ??????? ??, ?????????? ???????, ? ?????????????? ??? ?????????? ?????? ?????? ?????  
??? ?? ?????????? ??????? ??, ??? ?????? ??? ?????? ??? ?????? ?????, ?? ?????????? ??  
????????? ?? ?? ?????? ?? ?????? ?????? ??? ?????????? ?????? ?????????? ???  
????????? . ???????, ? S. Hünnebeck ?????? ?? ?? ?????? ?? ?????? ?? ?????? ?? ?? ?????? ??  
????? ??????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????? 2, ?????? 3, ???  
ErbStG, ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???.

47 ?????????????? ??? ??? ?????? ?????????? ?????????? ??? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?  
?????? ?? ???? ?? ?????? ?? ?????????? ?? ?????????? ??? ?????????? ?????????? ?????????? ?????????? ?? ?????????? ? ??  
????????? ??? ?????????? ????? ?????????? ????? ?????????? ?????????? ?????????? ?????????? ??? ??????????,  
????????? ? ?????????????? ?????????? ??? ?????????? ?????? ?? ?????????? ?????????? ?????????? ??????????  
????????? ?? ???? ??? ?????????? ??? ?????????? ??? ?????????? ?????? ?? ?????????? ??????????  
????????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?? ?????????? ?????????? ??

?????????? ??? ?????? ?????? ??? (??., ???' ????????, ??????? ?? 15?? ????????????,  
2011, Halley, C?132/10, EU:C:2011:586, ??????? 22 ??? 25).

48     ????? ??? ??????????? ??????, ?? ??? ??????????? ????? ?????????????? ????? ?????? ?????? ?????? ??  
?????? ?? ?????? ??????????? ??????? ?? ??? ?????? ??? ?????????? ?????? ?????? ??? ???? ??  
???????, ??????? ?? ???? ?????????? ??????? ?????????? ???????????, ??? ?????????? ??????????????  
?????, ?? ?????? ??????? ?? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ???????,  
?????????? ? ?????????? ???, ??? ?????? ??? ?????????? ?????????????? ??? ?????? ??? ??????? ??  
????????? ?????? ?????????????? ?? ?????? ?????????? ?? ?????? ?????????? ?????????????? ??? ???? , ?  
????????? ?????? ?????????? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ??????????  
????? ?????? ??? ?????????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???  
?????????? ?????? ?????? ?????????? ?????????? ?????????? ?????????? ??? ?????????? ??????????????  
????????? ?????????? ?????????? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???  
????????? ?????????? ?????????? ?????????? ?????????? ?????????? ??? ?????????? ??????????????  
????????? ?????????? ?????????? ?????????? ?????? ??? ?????? 63, ?????????? 1, ???.

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

50 ????????????????, ????????, ???, ??? ???? ?? ?????? 65, ??????????? 1, ?????????? ??, ???, ??  
????? 63 ??? «??? ???[?] ?? ?????????? ??? ?????? ?????? [...] ?? ?????????? ??? ??????  
????????? ??? ?????????? ??? ?????? ?????????? ?? ?????? ?????????? ??????  
????????????? ??? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?  
??? ??? ?????? ?????? ?????????? ?? ?????? ???».

51 ? ??????? ???. 65 ????, ??????? ??????? ?????????? ??? ?? ???????  
????? ??? ?????????? ??????????? ??? ???????, ?????? ?? ?????????? ??????. ???????,  
??? ?????? ?? ?????????? ??? ??? ?????? ??? ??? ?????????? ??????? ??? ???????  
?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ??? ?????? ??????  
????? ??? ?????? ?????? ?????? ??????? ?? ?????? ?????? ??? ?????? ?????? ?????? ??  
?????? (??. ??????? ???. 17?? ??????? 2013, Welte, C?181/12, EU:C:2013:662, ??? 42  
??? ??? ?????????? ???????).

52 ??????????, ? ??????????? ??? ?????? 65, ?????????? 1, ????????? ??, ??? ?????? ???  
??? ?????????? ??? ?????????? 3 ??? ????? ??????, ??? ?????????? ??? ?? ??????  
????????? ??? ????? ?????? ?????????? ? ?????????? 1 ??? ?????? ????? «??? ?????? ??  
????????? ??? ????? ?????????? ?????????? ??? ?????????? ?????????? ?????????? ???  
????????? ?????????? ??? ?????????? ??? ??? ?????? ??? ?????????? ??? ?????? 63  
[????]» (?. ??????? ?? 17?? ?????????? 2013, Welte, C?181/12, EU:C:2013:662, ??? 43  
??? ??? ?????????? ??????).

53 ????????, ?????? ?? ??????? ?????????? ???????, ??????, ??? ?????????????? ???????  
??? ?????? 65, ?????????? 1, ??????? ??, ??? ?????????????? ?????????????? ???,  
?????????, ??? ?????????? ?????????? ??? ?????? ?????????? ? ?????????? 3 ??? ???  
?????. ??? ?????????? ??? ??? ??????????, ??? ?? ?????? ?? ?????????? ??? ?????????? ?? ???  
????????? ??? ?????? ??? ?????????? ????? ?????????? ?????????? ??? ?????????? ?????? ??????????  
????????? ??? ?????? ??? ?????? ??? ? ?????, ?????????? ??? ?????? ??? ?????????? ???  
????? ??????, ?????????? ?? ?????? ?????????? ??? ?????? ??? ?????????? ?????? ??? ??? ??????  
????????????? ??? ?????? ?? ?????? ?? ?????????? ?????? ??? ?????????? ?????? ??? ??????

?? ? ??????? ? ? ?????????? ?????? ??????? ??????? ?? ???? ????? ??????? ?????? ? ??? ??  
????????? ?????? ?????? ??????? ?????? ??????? ??????, ?????????? ? ?????????? ????  
?????????? ?????? ??? ?? ?????? ?????????? ?????? ?? ?????? ?????????? ??? ??  
????? ?????????? ?????? ?????????? ?? ?? ?????????? ?????? ??? ?????????? ??? ??  
?????? ??????????. ???????, ??? ?? ?????? ?? ???????????????, ? ??????????  
????????? ??? ?????? ?? ?????????? ?? ?????????? ?????? ??? ?? ?????? ??? ??  
?? ??????? ? ?????? ?????? ?????? ?????? (??., ??' ?????, ??????? ?? 17?? ??????? 2013,  
Welte, C?181/12, EU:C:2013:662, ??? 44 ??? ??? ?????????? ??????????).

54 ????? ?????? ??? ??????? ?????? ?????? ?????? ?????? ??????????, ??? ??? ?????? ?????????? ??? ??????????????  
????????? ?????????? ??? ?? ??? ?????? ??? ?????? ?????? ?????? ??? ?????????? ?????????????? ???  
????????? ?????? ??? ?? ??? ?? ??? ?????????? ?????? ?????? ?????? ?????? ??? ?? ???  
?????????. ??????????, ?????? ??? ?? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?? ???  
????????? ??? ?????? ??? ?? ??? ?????????? . ????????, ??? ?????? ? ?????? ?????? ??????????????  
??? ?????? 62 ??? ?????????? ???, ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ???  
????????? ?????????? ??? ?????????? ??? ?????????????? ?? ?????????????? ??????, ??? ??????  
????? ?????????? ??? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ?????????? ??????, ??? ??????  
?????????, ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????????? ?????? ??? ?????? ???  
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????????????? ??? ?? ???  
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ?? ???  
S. Hünnebeck ?????? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?? ?????? ??????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ??  
????? ?????? ?? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ??  
?? ??? ?????? ?????????? ? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
(??., ???' ??????, ??? 22?? ?????? 2010, Mattner, C?510/08, EU:C:2010:216,  
????? 36).

55      ? ?????????? ???????, ???????, ????? ?? ?????????? ?? ?????? ?????  
???????, ?????????? ??? ?? ??????? ?? ?????? ??? ????? ?????? ??? ??????????  
???????, ??????? ?? ?????????? ??? ?? ?????? ??? ????? ?????? ??? ?????????? ???  
????????? ??? ?? ?????? ?????? ????????. ?????? ?? ????? ?? ?????? ??????  
??? ?????????? ??? ?? ?????? ?????? ?????? ?????? ??? ?????? ?? ?? ?????? ??????  
?????????, ??? ?? ?????????? ??? ?? ?????, ?????????? ?????????? ?????????? ?????? ???  
??? ?????????????? ??? ?? ?????? ?????? ?????????? ?????????? ??? ?????? ?????? ??????  
???? ?????????? ??? ?? ?????? ??????. ??????????, ??? ?????????? ??? ?????? ??? ? ??????????????  
??? ?????????? ??? ?? ?????? ?????? ?????? ?????????? ?????????? ?????????? ?????? ???  
????? ??????? ??? ?? ??? ?????? ?????????? ?????? (??., ???' ???????, ??????? ??? 22??  
???????, 2010, Mattner, C?510/08, EU:C:2010:216, ??? 37).

56      ????? ??????? ??????? ?????????????? ?? ??? ????? ??????, ????? ?????? ?? ???????????  
???? ?????????????? ?????????? ?????????????? ?????? ??? ?????? ?????? ???????, ??????,  
????? ?????????????? ?????????? ?????????????? ??? ?????????? ?? ?????? ?????? ??? ??????  
?????????? ???, ???????, ??? ?????????????? ?????????? ?????????? ? ?????????? ??? ?????? ???  
????????? ??? ?????? ?????????? ??? ?????? ?????????? ?????????? ??????????, ?????? ??? ?????? ??????????????  
????????? ?????????? ??? ?????????? ?? ?????? ?????????? ??? ?????? ?????????? ?????????? ??????????, ?  
????????? ??? ??????, ?????? ?? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ??????, ??  
????????????? ?????????????? ?????????????? ??? ?????? ?? ??? ?????? ??????, ??? ?????????? ??? ?????  
?????????????, ??? ?????? ??? ?????? ??? ?????????? ?????????????? ?????? ??? ??? ?????????? ???  
????? ?????????? ??? ?????? ??? ??? ?????? ??????. ??????????, ? ?????????? ??????????,  
????????????? ??? ?????? ???????????, ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ???  
??? ?????????? ??? ?????? ?????????????? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ???

??? ?????? ??? ?????????????????? ??? ?????? ??? ?????? ?????????????? ????, ??????? ???  
??? ?????? ????, ?? ?????? ?? ??? ?????????????? ?????????? ??? ?????? ???  
????????? ????, ?????? ?????????????? ?????????? ??? ?????? ???  
????????????? ?????? ?????????? (??., ???' ??????, ?????? ??? 22?? ??????)  
2010, Mattner, C?510/08, EU:C:2010:216, ????? 38).

57    ???????, ?????? ?? ?????? ?????? ???, ??? ?????????????? ???' ?????? ? ???????  
?????????, ? ??? ?????????? ??? ?????? ?????? ?????????? ?????????? ???????????, ???  
????? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ???????,  
?????, ???????, ?????????? ??? ?????? ?????????? ?????????? ?????????? ??????????  
?????????, ??? ?????? ?????????? ?????????? ?????????? ?????? ??? ?????? ???  
????? ??? ?????? ?????? ?????? (??., ???' ??????, ?????? ??? 17?? ??????) 2013,  
Welte, C?181/12, EU:C:2013:662, ????? 52).

58    ??????????, ? ?????????? ??? ?????? ?? ?????? ?? ?????????? ??? ??????? ??????????????,  
???? ?????????? ??? ?? ?????????? ??? ?????????? (??., ?????, ?????? ??? 3??  
????????? 2014, ??????? ??? ??????????, C?127/12, ?? ??????????????, EU:C:2014:2130,  
?????? 77 ??? 78), ????? ?? ?????? ?????? ? ?????? ??? ?????????? ?????? ??? ?????? ???  
????????? ??? ?????????? ?????? ?? ?????? ?????????? ? ?????? ??? ?????? ??? ?????? ???  
????????? ?????? ?? ?????????? ?? ?????? ??? ?????? ?????????? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? (??., ???' ??????, ???????

59    ?? ??? ?????? ???, ?????? ? ?????? ?????? ???, ?????? ? ?????? ?????? ??? ?????????? ???  
??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
????????? ???, ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
?? ?????????? ???, ?? ?????????? ?????????? ??? ?????? ??? ?????? ???  
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
??? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?? ??? ?????????? ?? ?????? ??? ?????? ??? ?????????? ?????????? ???  
??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ?????? ?????? (??., ???' ??????, ???????  
??? 17?? ??????) 2013, Welte, C?181/12, EU:C:2013:662, ????? 55).

60    ???????, ?????? ?? ?????????? ?? ?????????? ??? ?????????? ?????????????? ???  
????????? ??? ?????? ??? ?????????????? ??? ?????? 48 ??? ?????? ?????????? ?????????? ???  
????????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????????.

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61    ??? ?????? ??? ?????? ?????????? ?????????????? ?????????????? ??? ?????????? ??  
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?????, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

62    ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ???  
??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ??????  
????????? ??? ?? ?????????? ??? ?????? ???, ? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 22??

????????? 2010, Mattner, C?510/08, EU:C:2010:216, ????? 53 ??? ??? ????? ?????????????  
?????????).

63 ??????, ?? ???????????, ????? ? ??????????? ???, ??? ? ??????????? ???????????  
?????????? ??? ???? ???????????, ??? ?????, ??? ?? ????? 2, ??????????? 3, ??? ErbStG  
?????? «????? ??????????» ??? ?????????? ?????? ?????????? ??? ??????????  
?????????? ??? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ???? ??  
?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???? ??  
????????? ?????? ?????????? ?????????? ?? ?????? ? ?????????? ?????????? ?????????? ??????  
?? ?????? «?????????????», ??? ?????????? ??? ? ?????????? ?????? ?????????? ?????????? ???  
????? ??? ?????? 20 ????, ??? ? ?????????? ?????? ??? ?????? ??? ?????????? ??? ??????????  
?????????? ???, ?????? ?? ?????????? ?? ?????????? ?????? ??? ?????? ?????????? ??? ??????  
??? ?????????? ?????????? ??????????. ???????, ?????? ?? ?????????? ??? ??  
????????? ?????????? ??? ?????????? ??? ?????????? ?????? ?????, ?????????? ?? ?????????? ?? ??????  
?? ??????? ?????????? ???, ??????? ??? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??????  
???? ?????????? ?????????? ??? ?????????? ??? ?????????? (??., ??' ??????, ?????????, ?????????? ??  
22? ??????? 2010, Mattner, C?510/08, EU:C:2010:216, ????? 54, ??? ??? 17? ???????  
2013, Welte, C?181/12, EU:C:2013:662, ????? 60).

64 ??????, ?????????? ??? ?????? ??? ?????????????? ??? ?????? 48 ??? ??????  
????????? ??? ?????? ?? ?????????????? ?? ??? ?????? ?????????? ??? ?????????? ???  
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65 ??? ?????, ???????, ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????????  
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????? ?????? ??? ?????? ???, ?????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???  
????????????? ??? ?? ?????????? (????????? ??? 7?? ?????????? 2013, K, C?322/11,  
EU:C:2013:716, ????? 50 ??? ??? ?????????? ??????????).

66 ?????, ?????? ?? ?????????? ???, ?? ??????????, ? ?????????? ??????????????  
????????? ?? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????  
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????  
????????? (??., ??' ?????, ?????? ??? 11?? ?????????? 2008, Arens-Sikken, C?43/07,  
EU:C:2008:490, ????? 41). ???????, ? ?????????? ?????????? ??? ?????????? ??? ???? ???? ???? ?  
????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ???? ???? ?  
????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????. ?????, ???????, ?  
????????? ?????????? ??? ?????????? ??? ?????? ??????????.

67 ?? ?? ?????, ?????????? ? ?????????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????????? ??? ?????? 48 ??? ?????? ?????????? ??? ??????????  
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68 ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????, ??? ?????????? ???  
????? ?? ??? ? ?????? ??? ?????? ??? ?? ??? 63 ??? 65 ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ?????????, ??? ??? ?????? ?????? ?????? ??????  
????????? ??? ?????? ??? ?????? ?????????? ?????? ?????? ??? ?????? ?????? ??????, ???  
????????? ??? ?????? ?????? ?????????? ?????? ?????? ?????? ??? ?????? ?????? ???  
????????? ??? ?????? ??? ?????? ?????????, ?? ?????? ?????? ?????? ??? ?????? ?????? ??????  
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? ?????????? ?????????? ??? ??????????????, ??? ?????? ??? ?????????????? ???  
????????? ??? ?????? ??? ?????? ?????, ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?  
????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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69    ?????????? ??? ? ??????? ?????????? ???? ?? ??? ?????? ?????? ?????????? ??? ?????? ???  
??? ?????????? ?????????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ???, ?' ???  
????????? ?? ?????????? ??? ??? ?????????? ??????. ?? ?????? ??? ?????? ??????????  
????? ?????????? ?????????????? ??? ??????????, ??? ?????? ?? ??? ?????? ??????, ??? ??????????.

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

?? ??? 63 ??? 65 ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???  
????? ??????????, ??? ??? ?????? ?????? ?????? ?????????? ??????????, ??? ??? ??? ???  
????????? ?????? ?????? ?????? ??? ??? ?????????? ?????? ??? ?????????? ???  
????? ?????????? ?????? ?????????? ?????? ??? ?????? ?????? ??? ?????? ?????????? ???  
?????, ??? ?? ??? ?????? ??????????, ?? ?????? ?????? ?????? ? ?????? ??????????, ??????  
????? ?????? ??????????, ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ??????????  
????????? ?????? ??????????, ??? ? ?????? ??? ?????????? ?????????? ??? ?????? ???  
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????????? ?????? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
??? ?????????? ??? ?? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???  
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(?????????)

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