

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

??? 16?? ?????? 2016 (*)

«????????????? ?????????? — ?????????? — ????? ?????????????? ????? — ?????
2006/112/?? — ?????? 18, ??????? ??, 184 ??? 187 — ????????? ?????????????? ????? ???? —
????? ??? ?????????????? ?????????????? — ?????? ?????? ?? ??? ?? ??????
????????? ? ??? — ?????????????? ??? ?????????? — ????????? ?????????????? — ??????????
????? ??? ?????? 18, ??????? ??, ??? ?????? 2006/112, ??? ?? ??? ??? ??? ??????
?????????????»

???? ?????? C229/15,

? ? ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ???
?????? ?? Naczelnego S?d Administracyjnego (?????? ?????????? ??????????, ???????) ??
?????? ??? 5?? ?????????? 2015, ? ????? ?????? ??? ?????????? ??? 19 ?????? 2015,
??? ?????? ??? ???

Minister Finansów

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Jan Mateusiak,

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

????????? ??? ??? F. Biltgen, ??????? ????????, E. Levits (?????????) ??? M. Berger,
???????,

?????? ??????????: J. Kokott

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

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

- ? Jan Mateusiak, ????????????,
- ? ??????? ????????, ?????????????? ??? ??? B. Majczyna,
- ? ??????? ????????, ?????????????? ??? ??? ?. ?????????? ??? ??? ?. ????????????,
- ? ??????? ????????, ?????????????? ??? ??? R. Lyal ??? ??? M. Owsiany-Hornung,

???? ?????? ?? ?????? ?????????? ??? ??????? ??? ?????????? ??? ?????? ?? ??????????
?? 3?? ?????? 2016,

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

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1 ? ?????? ?????????????? ??????? ??? ?????????? ??? ?????? 18, ?????????? ?,
?? ???? ?????? 187 ??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006,

????????? ?? ?? ?????? ??????? ?????? ?????????????????? ??? (?? 2006, L 347, ?. 1), ???
?????????????? ?? ?? ?????? 2009/162/?? ?? ???????????, ??? 22?? ?????????? 2009 (??
2010, L 10, ?. 14, ??? ????: ?????? ???).

2 ?? ?????? ????? ?????????? ??? ?????? ?????????? ?????? ??? Minister
Finansów (????????? ??????????) ??? ?? Jan Mateusiak ??? ?????? ??? ?????? ???
????????????? ??? (??) ??? ?? ?????? ?? ?????? ?????? ??????, ?????? ???
????? ??? ?????????? ?????????? ???.

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

?? ?????? ???

3 ?? ????? 18 ??? ?????? ??? ?????? ?? ???:

«?? ?????? ??? ?????? ?? ?????????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????? ??
????????? ???:

?) ?? ?????? ??? ?????? ??? ?????????? ?? ?????????? ??? ?????? ???, ??? ??
????????? ??? ?????????? ???, ?????? ?????????? ???, ?????????????? ???, ??????????????
????????????? ???, ?????????? ??? ? ?????????? ??? ?????? ?????? ??? ?????????? ???, ???
????????? ??? ? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ??
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ??,

?) ?? ?????????????? ??? ?????? ??? ?????????? ??? ?????? ???, ?? ?? ?????????????? ???
????????????? ???, ??? ?? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??
????????? ??? ??? ?????? ??? ?????? ??? ? ?? ?????? ??? ?????? ??? ?????? ??? ???
????????? ?? ?? ?????? ???,

?) ?? ?????????? ??? ?????????? ??? ?????? 19, ??? ?????????? ??? ?????? ???
????????? ??? ? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ???, ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ?????? ?? ?? ?????? ???, ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ???.

4 ??? ?? ????? 19, ??? ?????? ???, ??? ?????? ?? ???:

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

5 ?? ????? 168 ??? ?????? ??? ?????? ?? ???:

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

?) ??? ?????????? ? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ? ?????????? ?? ??? ?????? ??? ?????? ??? ??? ?????? ??? ???
????????? ??? ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ???,

[...] »

6 ?? ?????? 168?, ??????????? 1, ??? ??????? ?? ??????? ?? ??????:

«???? ?????????? ???????? ??? ??????? ?????? ??? ?????????? ??? ??????????????
????????? ??? ?????? ??? ?? ????? ?????????????? ??? ?????? ?????????? ??? ??? ??? ????
????????? ??? ?????????????? ??? ?????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ????
????????? ???, ?, ??????????, ??? ?????? ?????? ??? ?????? ??? ?????????????, ? ??? ???
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ????
????????? ??? ??? ?????? ??? ?????????????? ??? ?????? 167, 168, 169 ??? 173 ??? ?????? ???'
????????? ??? ?????????? ??? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ???
????????????????? ??? ??????????????.

???? ?????????? ??? ?? ?????? 26, ?? ?????? ????? ?????????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ?????? ??? ?????????? ??? ????
????? 184 ??? 192 ??? ?????????? ??? ?????????? ?????? ?????? ???..»

7 ?? ?????? 184 ?? ??????? ?? ?? ?? ?????? ?? ???:

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

8 ?? ?????? 187 ??? ??????? ??? ?? ???? ?? ????;

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

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

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

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

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

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

9 ?? ???? 14, ??????? 1, ?????? 1 ??? 2, ????? ??? ?????????? 4 ??? 6 ??? 8, ???
ustawa o podatku od towarów i usług (????? ??? ???? ??? ?????? ??? ?????? ??? ??????????), ???
11? ?????? 2004 (????????????????? ?????? Dz. U ??? 2011, ????. 177, ??? 1054), ???
????? ?????? ??? ?????? ??? ?????? ????? (??? ????: ?????? ????) ?????? ?? ???:

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

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

[...]

3. ? ??? ???? ??? ?????????? 1 ??? 2 ?????????????? ??? ?????? ?? ?????????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???
????? ??? ?????? ?? ??? ?????? ?????????????? ? ?????????????? ??? ?????? ?????????? ???
????????? ?????? ?????????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
?????.

4. ??? ?? ?????? ? ?? ?????????? ??? ?????? ? ?????????? 2 ?????????? ??? ?? ??? ??????
????????????? ??? ?????????? ? ?????????? 2 ? ?????????? ?? ??? ?? ??? ?? ??? 14,
????????? ??? ?? ??? ?????? ?????????? ?????????????? ??? ?? ??? ?? ??? ?????? ??? ??
????????? ?????????????? ?? ?????????????? ??? ?????? ?????? ??? ?????? ?????? ??? ??
????????? ??? ?????????????? ??? ?????? ???.

12 ?? ????? 96, ?????????? 6, ??? ?????? ??? ?????? ??? ?????? ???: «[?]?? ?????????? ???
????? ? ?????? ??? ?????????????? ?? ?????????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ??????, ??????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????????? ???
????????????? ??? ?????????? ???- ?????? ??? ?????? ??? ??????, ? ?????????? ???
????????????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?? ?????? ??? ?????? ???
????? ???.

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

13 ??? ?? ??? 1997 ??? 1999, ? J. Mateusiak ?????????????? ?????????? ??????????????
????? ?????????? ??? ??????, ?? ??? ?????? ?????????? ?? ?????????????? ?? ?????????? ??? ?? ???
????? ??????????, ?? ?????? ?????????? 108,7 m² ??? ?????????? ?????????? 357,6 m² (??
??? ?????? 87,8 m² ??? ??? ?????? ?????????). ?????? ??? ?????? ?????????? ??? ??????
????? ??? 26 ?????? 1999.

14 ? J. Mateusiak ??????? ??? ?????? ?????????? ? ?????? ?????????? ??? ??????????
????????? ??? ?????????? ??? ?????? ?????? ?????????, ?????? ?????????? ??? ?????? ???
??????, ?? ?????? ??? ?????? ?????? ?????????????? ?? ??? ?????? ??? ?????? ??? ??????????
??? ??? ?????? ?????????????? ??? ?????????? ???, ?????? ??? ?????? ??? ??????????????
?????.

15 ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??????????????
????? 10 ?????????? 1999 ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ???
????? ?????????? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ???
????????????? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ???
????????????? . ? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????????????? ?? «????? ??????» ?????? ?? 101 525,70 PLN.

16 ??? 14 ?????????? 2013, J. Mateusiak ??????? ?????? ??? ??? ?????? ??????????
????????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ód? (Izba

Skarbową w ?odzi), ??????????? ??? ?? ??????? ??? ??????? ?????????? ?????????????? (??? ????:
?????????? ???), ??? ??????? ??? ??????? ?? ??????? ??? ??????? ?? ?????????? ??? ??????? ??
????????? ??? ?????????????? ?? ?????? ?????????? ??? ??????? ?? ?????????? ??? ??????? ??
????????????? ??? ??????? ??? ??????? ???????, ?? ?????? ?????? ??????? ??????? ???????
????????????? ??? ???, ? ??? ?????? ?????????? ?????? ?????????? ??? ??????? ??????? ??????? ???
????????? ???, ?? ?????? ?????????? ??? ?? ??????? ??? ??? ??????? ??????? ??? ??????? ???
????????? ??? ?????????? ?? ?????????? ?????? ?????????? ?????????? ??????????, ?????????? ??
????? ??? ??? ?????? ?????? ?? ?????? ?????? ?????? ?? ?????? ?????? ?????? ??? ??? ??? ??? ??????????
????? ??? ??? ??? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ??? ??? ??? ??? ??????????.

17 ??? ??? J. Mateusiak, ??? ??????? ??? ?????? ?? ?????? ?????? ??? ??? ?????? ??? ?????? ???
?????? ??????? ??? ?????????? ??? ???????, ?????? ? ?????????? ??? ?????? ??
????????? ??? ??????? ??? ?????? ??? ?????????? ??? ???, ??????? ? ?? ??? ?????? ???
????? ??? ??? ?????? ?????????? ???, ? ?????? ?????? ?????? ??? ?? ??????? ??? ?????? ??
????????? ??? ? ?????? ??? ??? ?????? ?????, ?????? ?? ?????? ?????? ???, ??? ??? ??????
???? ???, ??? ??? ?? ?????? ??? ?????? ??? ?????? ?????????? ??? ??? ?????? ??? ?????? ??
????????? ?????????? ???, ?????????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??
????? ??? ?????? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??

18 ? ?????????? ??? ?????? ??????, ??????????, ?????? ???, ??? ?????? 14, ?????????? 1,
????? 2, ??? ?????? 4 ??? 8, ?????? ??? ??? 29, ?????????? 10, ??? ?????? ???
??, ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????????? ??? ?? ?????????? ?????? ???, ? ?????? ?????? ??? ?????? ???
????????? ???, ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??? ??? ??
????? ?? ??? ?? ?????? ?????? ? ?????? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??
????????? ??? ???, ?????????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

19 ? ?????? ??? ??? ?????? ?????? ? J. Mateusiak ?????? ??? Wojewódzki S?d
Administracyjny w Lublinie (????????? ?????????? ??? ?????????? ??? Lublin, ??????)
????? ??? ?????? ?????????? ?????????? ?????? ??? ?????? ?? ?????? ??? 16? ??????????
2013. ?? ?????????? ??? ?????? ??? ?? ?????? 14 ?? 91 ??? ?????? ??? ??
????????? ?? ?????????? ?????? ???, ?????????? ??? ? ?????????? ??? ?????? ??
????????? ??? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??
????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??
????????? ??? ?????? ??? ?????? ?????????? ???, ??? ?????? ??? ?????? ???, ?? ??????
????? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? ?????? ??? ?????? ??? ?????? ??
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?????????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??
????? ?????? ??? ?????? ???, ??? ?????? ???.

20 ? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ??? Naczelný S?d Administracyjny
(????????? ?????????? ???, ??????). ?? ?? ??? ?????? ?????????? ??? ??????
????????? ?? ???, ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????????? ??? ??????
????????? ??? ?????? ?????????? ??? ?????? ???, ? ?????? ??? ?????? ?????? ??? ??????????
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????
?? ?????? ?????? ??? ?????? ???, ?????? ??? ?????? 18, ?????? ???, ??? ??????

21 ?? ?? ??? ?????? ?????????? ???, ?????????? ??? ? ?????? ?????????? ??? ??
?????????? ??? ?????? ??? ?????????????? ??? ??? ?????????? ?????????????? ???
????????? ??? ??????, ???? ?????? ?????????? ?? ?????? ?????? ?????????????? (????? 187 ???
???????), ????, ????, ????, ?? ?????? ??? ? ?????? ?????? ?????????? ???, ????, ????
????????? ??? ?????????? ??? ?????? ??? ?????? ?? ?????? ?????? ?????? ??? ??????????
????????????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???, «?????» ??? ?????? ???
????? ??? ?????? ??? ?????????? ???, ?????????? ??? ? ?????? ?????? ?????? ??????????, ????
????????? ??? ??? ?????????? ?????? ??? ?????? ?????? ?????? (?????????????), ????
????????? ??? ? ?????? ?????????? ??? ?? ?????? ?????? ???, ?????????????? ????
????????? ?????????????? ??? ?????????? ??? ???.

22 ??? ?? ?????? ???, ?? Naczelnny S?d Administracyjny ?????????? ?? ??????????
??? ?????? ??? ?????????? ??? ?? ?????? ??? ?????????? ?? ?????????? ?? ?????????? ??????????
?????:

«???? ?? ??? 18, ??????? ??, ??? [?????? ??] ??? ?????? ?? ??????? ??
????????? ??? ?????????? ??? ?????????? ??? —????? ? ?????????? ???
???? ?????? ??? ??? ??? ??? ?????? ???— ??? ?????????? ??? ?????????? ???
??? ?????????? ??? ??? ??? ??? ?????? ??? ?????? ?????????? ?????????? ???
187 ??? ?????? ??? ??? ?????? ?? ?????????? ??? ?????? ?????? ??? ?????????? ???,
??? ??? ?????? ??? ??? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??? ??? ??? ???
????????? ??? ??? ?????? ?????????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ???
???? ?????????? ??? ??? ?????? ???, ???, ??? ??? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ??????;»

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

23 ?? ?? ?????? ???, ?? ?????? ?????????? ???, ???' ??????, ?? ?????????? ?? ??
????? 18, ??????? ??, ??? ?????? ??? ??? ??? ??? ?????? ???, ?? ?????????? ???
??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???, ?? ?????????? ???
??? ?????? ???, ??? ?? ??? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ???
??? ?????? ???, ???, ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ???, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 187 ??
????????? ??? ??? ??? ???.

24 ???????????, ?????????? ?? ?????? ???, ??? ?? ?????? ??? ??????????
??? ?????????? ? ?????? 2006/112, ????? ?????? ? ?????? ??? ?????? ??? ??????
????????? ?? ?????? ? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ?? ?????? ??? ?????? ????. ??? ?? ?????? ??? ?????????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
30? ?????? 2006, Uudenkaupungin kaupunki, C-184/04, EU:C:2006:214, ??? 24, ??
????? ??? 5? ?????? 2014, Gmina Mi?dzyzdroje, C-500/13, EU:C:2014:1750, ??? 19).

25 ??? ?????? ???, ??? ?? ?????? 18, ?????? ??, ??? ?????? ???, ?? ??????

????? ?????????? ?? ??????????? ????? ?????????? ?????? ?? ?????????? ?????? ??? ??????
????? ??? ?????????? ??? ???? ? ?????? ??? ?? ?????????? ?????? ??? ?????????? ???
????? ??? ?????????? ???, ??????, ??? ???? ?????? ?????? ?????????? ??? ???? ???? ?
????????????? ??? ?????? ?????? ?????? ?????? ?? ?? ?????????? ?? ??? ?????? ?????? ???,
????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?? ?????? ?????? ?????? ?????? ???
????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ?????? ??? (??, ?????? ??? 17?? ?????? 2001, Fischer ??? Brandenstein, C?322/99
??? C?323/99, EU:C:2001:280, ????? 86).

26 ??? ?????? ?????? ?? ?????? ??????????, ? ?????????? ??? ?????????? ?????? ??
????????? ??? ?? ?????? ?? 18, ????????, ??, ??? ?????? ??? ?????? ?? ???? ???. ??
????????? ??? ??????????, ?????????, ?? ? ?????? ??? ?????? ?? ?????? ?? ?????????? ?? ???? 18,
????????? ??, ??? ?????? ??? ?????? ?? ?????? ?? ?????????? ?????? ?? ?????? ??? ??????????
????????????? ??? ?????, ??? ?? ?????? 187, ?????????? 1, ?????? ?????, ??? ?????? ???
???, ??? ?????? ?????? ?? ?????????? ??? ?????? ?? ?????? ?? ?????? ?????? ?????????? ???
??? ? ?????, ??? ?? ?????? ?????????, ?????? ?????? ??? ?????.

27 ???????, ?????????????? ??? ?????? ?????? ??? ?????? 18, ????????, ??, ??? ??????
????? ??? ?????? ?? ??? ?????????? ?? ?????? ??? ?????? ?????? ?????????? ??????????
????????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??????????
?????????????, ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? (???????
??? 8?? ?????? 2013, Marinov, C?142/12, EU:C:2013:292, ????? 27).

28 ? ?????????? ??? ?????????????? ??? ?????? ?????????? ? ?????? ??? ?????? ??
????? ?????????? ?????????? ??? ??????????, ??? ?? ?????????? ? ?????????? ??? ?????????? ???
???, ??? ?????? ??? ?????????? ??? ?? ?????? ?? ?????? ?????? ?????? ?????????? ??? ?????????? ???
????? ?????????????? ?? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ???
????? ??? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????????
????? ?????? ? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????????
??? ??? ??? ??? ?????? ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????
????? ?????? ?????????? ?????? ?????? (??????? ??? 18?? ?????????? 2012, TETS Haskovo,
C?234/11, EU:C:2012:644, ?????? 30 ??? 31).

29 ??? ?????? ?? ?????? ?????????? ?????????? ?????????????? ??? ?????????? ???
??? ??? ??? ??????, ?? ?????? 185, ?????????? 1, ??? ?????? ??? ?????? ??? ?????????? ???
????? ??? ?????? ?? ?????????? ?????? ?????????? ?????? ?????? ??? ?????? ??? ??????
??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ???
????????? ??? ?????? ??? ?? ?????? ?????? (????????? ??? 18?? ?????????? 2012, TETS
Haskovo, C?234/11, EU:C:2012:644, ????? 32, ??? ??? 13?? ?????? 2014, FIRIN, C?107/13,
EU:C:2014:151, ????? 51).

30 H ?????? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ?? ?????? 187 ???
?????? 2006/112 ?????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??? ??? ???
????????? ??? ?????????? ??? ?? ?????????? ?????? ?????????? ?????????? ?? ?????????? ??? ??? ???
????????? ??? ???, ??? ?????? ?????? ?????????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? . ? ?????????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????????? ?????? ?? ?????? ?????? ?????? ?????????? ?????? ?????? ??? ?????? ???
????, ??? ?? ?????? ??? ?????? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
(??., ??? ?? ?????? ???, ?????? ??? 30?? ?????? 2006, Uudenkaupungin kaupunki, C-
184/04, EU:C:2006:214, ????? 25, ??? ?????? ??? 5?? ?????? 2014, Gmina Mi?dzyzdroje,

C?500/13, EU:C:2014:1750, ???? 20).

31 ???????, ???????, ? ?????? ??? ??????????? ?????????????? ??? ??????? ???? ??????? ??????? ?
????? ?? ????? ??????? ?? ??????? ???????, ??????? ??? ?????? 18, ??????? ??, ???
?????? ?? ???, ????? ??????? ??? ????? ?? ????? ?????????? ??????????????,
?????? ???????, ??????, ??? ??? ?????????? ??? ??????? ??? ?????????? ??? ?????? ???
????????????? ?????????? ?????????? ??? ?????????? ?? ?????? ?? ??? ?????? ?????????? ??????????, ?
?????? ??????? ?? ??? ????? ?????????? ??? ???????, ???????, ??? ?? ??????????
????????? ??? ?????? ??? ?????????? ??? ?????? ??????? ??? ??? ?????????? ??? ??????
????? (??., ??? ??? ?????? ???, ???' ???????, ??????? ??? 14?? ?????????? 2006,
Wollny, C?72/05, EU:C:2006:573, ?????? 35 ??? 36, ????? ??? ????? ??????????).

32 ??????????, ??? ?????? ?????????? ?????? ??? ?????? ?? ?????????? ??? ? ?????????? ???
?????????? ??? ??? ?????????????? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ???
??????? ???, ??????? ??? ?????? 184 ??? 187 ??? ??????? ??? ???, ?????? ?? ?????? ??? ??
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ? ?????????? ???
????? 18, ??????? ??, ??? ?????? ?????.

33 ????' ?????, ??? ?? ?????? 18, ????????, ??, ??? ?????? ????? ?? ?????????? ??? ?
?????? ?????? ??? ?????????? ??? ?????? ?? ?????????? ??????? ??? ?????????? ??? ??????????
????????????? ?????????????? ?????? ?? ?????????? ?????? ?????????? ?????? ?????? ?? ??????
??????, ?? ?? ?????? ??? ?????? ?????? ?????? ?????? ?? ?????? ? ?????? ?????? ??? ??
????? ??? ??????? ????.

35 ??????????, ?? ????? ??????? ???????????, ??? ?????????? ?????, ??? ?????? ?????? ?????????? ???, ???
????????? ??? ?????????????? ??? ?????????? ?? ?????? ?????????? ??? ?????????? ??? ?????? 184 ???
192 ??? ??????? ????, ?????????? ??? ?? ?????? 168?, ?????????? 1, ???????? ??????,
??? ?? ??? ??????????, ?? ?????? ?????????? ??? ?????????? ?????? ?????? ??? ?????? ??
????????? ??? ?????????? ?????? ?????????? ??? ?????? ?????????? ??? ?????? 26 ??? ?? ???
???????.

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

37 ??????????, ? ?????????? ??? ?????????? ??? ?????? 18, ??????? ??, ?? ??????
????? ??? ???? ?????????? ??? ?????????? ??? ? ?????? ? ?????? ?????? ??? ??? ????
????????????? ??? ???? ??? ?????????? ?????? ?? ?????? ?????????? ??? ?????? ???
????????????? ??? ???? ?? ?????????? ?????? ??? ?????????? ?????? ??????????
????????????? ??? ???? ?????????? ? ?????????? ??? ??? ?????? ??? ?????? ??? ??????
?? ?????????? ? ?????????? ??? ???, ??? ?????????? ??? ?????????? ??? ?????? ???
????????????? ?????? ??? ??? ?????????? ?????? ??? ?????????? ?????? ??????????

38 ? ?????????? ?? ???? ?????????? ?? ???? ???? 18, ??????? ??, ??? ?????? ??? ???? ??

????????? ?????? ??? ??????????? ??? ?????? ??? ??????????? ??? ?????????????? ??? ?????????????? ???
????????????? ???' ??? ?? ??????? ??? ?????????????? ??? ?????????????? ??? ?????? ??? ?? ??????????????
??? ????????????, ?????????? ???, ??????? ?? ???? ?????? 74 ??? ?????? ???, ???, ???
????????? ???? ?????? ??? ?????? ?????? ?? ?????? 18, ?????????? ??, ??? ?????? ???, ? ???, ???
????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ?????? ?,
????????? ?????? ??????, ??? ??????, ?????????????? ??? ?????? ??? ?????????? ?????? ??????????
??? ?????? ??????. ???????, ?? ?????????? ?????? ??? ?????????????? ??????????????
???????????????, ? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ? ??????????????
????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????, ??? ?????? ?????????? ?????? ?
????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? (??., ?????? ????,
????? ??? 8?? ?????? 2013, Marinov, C?142/12, EU:C:2013:292, ?????? 33).

39 ????? ?????????? ??? ??????? ??? ?????? 18, ?????????? ??, ??? ?????????? ??? ???, ?
?????? ?????????? ??? ?????????? ??? ?????????? ?? ?????????? ?? ?????????? ?????????? ??
????????????? ??? ?????? ??????????????, ??????? ?? ?????? ??? ?????? ??? ??????????
????????? ??? ??????????????, ?????? ?? ?????? ?????????? ?????????? ??????????, ?????? ??
???? ?????????? ?????? ??? ?????? ?????? ??? ?????? ?????????? ?????? ??? ?????? ??? ??????????
??? ??????? ?? ?????? ??? ?????? ??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?? ??????????
??? ??????? ??? ?????????? ???, ? ?????? ? ?????? ?????????? ?????????? ??? ?????? ??? ?????? 18,
????????? ??, ??? ??????? ??? ?????? ??? ?????? ?? ??????????, ??? ?????????? ??? ??????
????????? ??? ?????? 34 ??? ?????????? ???, ?????? ??? ?????? ??? ?????? ?? ?????? ??? ??????????
????????? ??? ?????????? ??? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ??????
??? ?????????????? ?????????? ??????????????, ?????????? ??? ?????? ??? ?????????? ??? ??
????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ??????????
????????? ??? ?????????? ??????????.

40 ??????? ?? ??????? ????????, ??? ?????????? ??????? ??????? ?? ?????? ? ???????
??? ?? ?????? 18, ??????? ??, ??? ?????? ??? ?? ?????? ??? ?? ?????? ???, ?? ???????
?????? ?? ?? ?????????????? ?????????????? ?????????????? ????? ?????????????? ???, ?? ??
?????? ?? ?? ?????? ??????, ??? ?? ?????? ??? ?? ?????? ????? ?????? ?????? ?????? ???
??? ?? ?? ?????? ??????, ?????? ?? ?????????? ??? ?????????? ?????? ?????? ?? ???????
??????, ?????????? ??? ??, ?? ? ?????? ?????????????? ??? ?????? ?????????? ?? ??????
187 ??? ??????? ??? ?? ??????.

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

41 ?????????? ??? ? ??????? ?????????? ??? ?? ??? ????? ?????????? ??? ?????? ???
??? ?????????? ?????????????? ??? ?? ?????? ?????? ??? ?????? ??????????, ?' ????
????????? ?? ?????????? ??? ?? ?????????? ??????. ?? ?????? ??? ????? ??????????
???? ??????? ?????????? ??? ??????????, ??? ??? ?? ??? ??????, ??? ??????????.

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

?? ?????? 18, ??????? ??, ??? ?????? 2006/112/?? ??? ???????????, ??? 28??
????????? 2006, ??????? ?? ?? ????? ?????? ?????? ?????? ?????????????? ????, ???
????????????? ?? ??? ?????? 2009/162/?? ??? ???????????, ??? 22?? ??????????
2009, ??? ?? ?????? ??, ?? ?????????? ?????? ??? ?????????????? ??????????
????????????? ??? ?????????????? ??? ???????, ? ?? ?????? ??? ?????? ???????, ???
?? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ??????????????
????? ??? ?? ?????? ???, ?????? ?? ?????????? ??? ?????? ?????????? ?????? ??
????????? ??????, ?????????? ??? ?????? ?????????????? ????, ?? ? ??????
????????????? ??? ?????? ?????????? ?? ?????? 187 ??? ?????? 2006/112, ???
????????????? ?? ??? ?????? 2009/162, ??? ?????.

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

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