

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

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

??? 21?? ?????????? 2017 (*)

«????????????? ?????????? – ?????????? – ????? ?????????????? ????? – ?????? 2006/112/?? –
????? 132, ?????????? 1, ?????????? ?? – ?????????? ?????????? ?????????????? ??????????
????????????? – ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??
????????? ?? ?????? – ?????????? ?? ?????? ?? ?????????? ?????????? ?? ??????????»

???? ?????? C?326/15,

? ? ?????????? ?????? ?????????????? ?????????? ?????? ?? ?????? 267 ????, ??
?????? ?? Administrat?v? apgabaltiesa (????????????? ?????????? ???????, ?????????) ??
?????? ?? 9?? ?????? 2015, ? ?????? ?????? ?? ?????????? ?? 1? ?????? 2015, ??
?????? ?? ???

«DNB Banka» AS

????

Valsts ie??mumu dienests,

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

????????? ??? ??? T. von Danwitz, ?????? ???????, E. Juhász, C. Vajda (?????????), K.
Jürimäe ??? ?. ???????, ???????,

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

?????????: M. Aleksejev, ?????????? ????????,

?????? ??? ??? ?????? ?????????? ??? ?????? ??? ??' ?????????? ??? ?????????? ???
30?? ?????? 2016,

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

- ? «DNB Banka» AS, ?????????? ??? M. Kairovs, J. Teteris ??? I. Sloka,
- ? ?????????? ????????, ?????????? ??? A. Bogdanova, I. Kucina ??? D. Pelše,
????? ??? ??? ??? I. Kalni?š,
- ? ?????????? ????????, ?????????? ??? T. Henze,
- ? ?????????? ????????, ?????????? ??? K. ?????????? ??? A.
???????????????,
- ? ?????????????? ????????, ?????????? ??? D. Holderer, ??????????????
??? ??? F. Kremer ??? P.-E. Partsch, avocats,

- ? ?????????? ??????????, ??????????????? ??? ??? M. Z. Fehér ??? G. Koós,
- ? ?????????? ??????????, ??????????????? ??? ??? B. Majczyna ????? ??? ??? ??? B. Majerczyk-Graczykowska ??? K. Ma?kowska,
- ? ??????????? ??????????, ??????????????? ??? ??? L. Inez Fernandes ??? R. Campos Laires,
- ? ?????????? ??? ??????? ??????????, ??????????????? ?????? ??? ??? S. Simmons, ??? ???????, ??? ??? C. R. Brodie ??? ??? D. Robertson, ??????????????? ??? ??? O. Thomas, QC,
- ? ?????????? ??????????, ??????????????? ??? ??? M. Owsiany-Hornung ??? ??? A. Sauka,

???? ??????? ?? ?????? ??????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?? ???????????
?? 1?? ?????? 2017,

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

?????????

1 ? ??????? ?????????????? ?????????? ?????? ??? ?????????? ??? ?????? 132, ??????????
1, ??????? ???, ??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006,
?????? ?? ?? ????? ?????? ?????? ?????? ?????????????? ?????? (?? 2006, L 347, ?, 1).

2 ? ?????? ??? ??????????? ??? ?????? ??????? ??????? ??? «DNB Banka» AS
??? ?? Valsts ie??mumu dienests (?????????? ????, ????????) (??? ????: VID) ??????? ??
??? ????????, ?? ?????? ??? ????????, ??? ??????? ??? ??????? DNB Banka ????
?????????? ??? ??????? ??? ????? ??????????? ??? (???) ??? ??? ??????????.

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

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

? ???? ??????

3 ? ???? ?????? 77/388/? ?? ???? ????????, ?? 17?? ???? 1977, ??? ??????????????
??? ?????????? ?? ???? ?????? ????, ?? ??????? ?? ??? ?????? ?????? ?????? – ????
?????? ?? ???? ?????????????? ???: ?????????? ?????????? ?? (?? ???. ???. 09/001, ?.
49, ???: ???: ???) ?????????? ?? ???? ??????????????, ?? 1?? ?????????? 2007,
?? ???? ?????? 2006/112. ?? ???? 13 ?? ???? ?????? ?????? ?? ????:

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

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

[...]

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

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

[...]»

? ?????? 2006/112

4 ?? ?????? 2006/112 ?????????????? ??? IX, ?????????? «?????????», ?? ?????????? 1
??? ?????? ?????????? «????????? ??????????».

5 ?? ?????? 132, ?????????? 1, ??? ?????? 2006/112, ??? ?????????????? ???
????????? «????????? ?????????? ?????????? ?????????? ?????? ??????????» ?????????? 2
??? ?????? IX ??? ???? ??????, ?????????? ?? ????:

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

[...]

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

[...]»

6 ?? ?????? 135, ?????????? 1, ??? ?????? 2006/112, ??? ?????????????? ???
????????? «????????? ?????? ??????????????» ?????????? 3 ??? ?????? IX ??? ???? ?? ???
????????, ?????????? ?? ????:

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

[...]

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

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

[...]»

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

7 ?? ?????? 6, ?????????? 1, ?????? 17, ??? likums par pievienot?s v?rt?bas nodokli (?????)

????? ?????? ??????????????? ????), ??? 9?? ?????? 1995 (*Latvijas Vēstnesis*, 1995, ????. 49),
????? ?????? ??? ?????? ??? ?????????????? ?????????????? ??? ?????????? ??? ?????? ????,
????????? ??? ?????????? ??? ?????????????? ??? ?????????????? ??? ?????? ??? ??????????.

8 ???? ??? ?????? ??? ?? ?????? ??? ?????? ?????? ?????? ???????, ?? ?????? 132,
????????? 1, ?????????? ???, ??? ?????? 2006/112 ??? ?????? ?????? ?????????????? ??? ??????
?????.. ??? 1? ?????????? 2013 ?????? ?? ?????? ?????? ?????? ?????? ?????? ??????????????
?????, ? Pievienot?s v?rt?bas nodok?a likums (????? ???? ?????? ?????????????? ???), ???
29?? ?????????? 2012. ?? ?????? 52 ??? ?????? ????, ??? ?????? ?? ?????? ??? 1? ??????????
2014, ?????????, ??? ?????????? 3.2, ??? ?? ?????????? ??? ?????????? ?????? ?????? ??????????????
????????? ?????? (??? ????: ???) ??? ?????? ??? ?????? ?????? ?????? ?????????????? ???
????????? ??????????.

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

9 ? DNB Banka ?????? ?????????? ?????? ?????? ??? ?????????????? ??? ??????????, ?? ?????????????????? ???
????? ?????????? ??? ?????? ?????????????????? ??????.

10 ? DNB Banka ?????? ?????????? ??? DNB NORD A/S (?? DNB INVEST DENMARK A/S),
????????? ?????????? ??? ???, ? ?????? ??? ?????? ??? ??????????, ??? AB DNB NORD
Bankas, ?????????? ??????, ??? ??? Bank DNB Polska SA, ?????????? ??????, ??? ???
??? ?????? ??????????, ??? DNB NORD Pank. ??? ?????? ?? ??????????, ???
????????????????? ??? ?????? ??? ?????? ?????????????????? ??????????, ?????????????? ???
????? DNB.

11 ??? DNB NORD ?????? ?????? ?? ?????????? ? DNB NORD IT A/S (???, ??? ??
????????????? ???, DNB INVEST DENMARK) (???: DNB IT), ??????? ?? ??? ??? ??
??? ?????????? ??? ?????? ??? ?????? ?????????? ?????????????? ??? ?????? ??? ??????????????.

12 ? DNB NORD ?????? ?????????? ??? DNB Bank ASA, ??? ?????? ??? ??????????, ???
??? NORD/LB Norddeutsche Landesbank, ??? ?????? ??? ??????????. ?? ??? ??? ?????? ??????????
????????? ??? ?????? ??? ??????????, ??? ??? ?????? ? DNB Bank ?????? ?? 51 % ???
????????? ??? ?????? DNB.

13 ??? 31 ?????? 2006, ? DNB Banka ?????? ?? ??? DNB NORD ?????? ??????
????????????? ??? ?????? ??? ?????? ??? ?????????? ???, ? DNB NORD ??????, ??
????? ??? ?????? ??? ?????? ?? ??? ??????, ?????????? ??? DNB Banka, ??????????????
??? ?????? ?????????? ??? ?????? ??? ?????????? ?????????????? ?????????? ??? DNB
Banka ?? ?????????? ???????. ?????? ??? ?? ?????? ??????????, ? DNB Banka ??????, ??? ??
?? 2009 ?? 2010, ?????????? ?????? ?????????? ?????????? ?? ??? ??????????
????????????? ??? ?????? ? DNB NORD. ?????? ?? ?? ?????? ??? ?????? ??? ?????? ???
?????????????, ?? ??? ?????? ?????????? ??? ?? ?????? ??? ?????? 2011, ? DNB NORD
????????, ??? ?? ??? 2009 ?? 2010, ??? ?????? ??? ?????? ?????????? ?????????? ??????????????
????????? ??? 5 %.

14 ??? 30 ?????? 2009 ? DNB Bank, ?? ?????? ?? ??? DNB Banka, ?????? ??????
?? ?? Microsoft Ireland Operations Ltd, ?????? ?? ??? ?????? ?????????? ??? ?????? ??????
??? ?????????? ? Microsoft ??? ?? ?????? ??? DNB Bank ??? ?? ?????????? ?? ???
??????????. ?????? ??? ?????????? ???, ? Microsoft Ireland Operations ??????
????????? ?? ??? DNB Bank ??? ?? ?????????? ?????????, ?? ??? ?????? ??????????????
??? ?? ?????? ??? ?????? DNB. ??? ??????, ? DNB Bank ?????????? ?? ??? ??????????
????? ?? ??? ?????? ?????????? ??? ?????? DNB, ?????? ??? ?????? ?????????? ???
????? ?? ??? ?????? ?????????? ??? ??????. ?????????? ??? ?????? ??? 2009 ?? 2010,

? ?????????? ??? ???? ???? DNB Banka ?????????? ??????? ?? ??? ?????? ?????? ?????? ???
????????????? ? Microsoft.

15 ??? 20 ?????????? 2010 ? DNB IT ?????? ?????? ??? ?? ?????????? ??? ?????? ???
????????????? ?? ??? DNB NORD ?????? ??? ?? ?????????? ?????, ?????? ??? ??????
? DNB IT ?????? ?? ?????? ?????? ??? ?????? DNB ??? ?????? ?????????? ?????? ??? ??
????????? ??? ?????? ?????? ??? ?????????? . ??? ?? ?????? ?????? ??? 2010 ???
2011, ? DNB IT ??????, ??? ?? ?????? ?????????? ?????, ??? ?????? ?????? ??? ?? DNB
Banka ??? ?? ?? ??? ?????????? ?????? ?????????? . ??? ?? ?????? ?????????? ?????
?? ?????????? ??? ?????? , ??? ?????? ??? ?? ?????? ?????? ?????? ?????????? ?????
????? 5 %.

16 ? DNB Banka ?????? ?????????? ?????????? ?????????? ??????, ?? ?????? ???
????????? ?? ?? ?????? ?????? ?????????? ?????????? ?? ??? . ? ?????? ??????????
????????? ?????????? ?? ??? ?? 9 ?????? 2012 ?????? ??? ?????? ?????????? ???
VID, ?? ?? ?? ??? ?????? ?????? ?? ?????? ??? DNB Banka ??? ?????? ??? ??
??? ?????? ??? ?????? ?????? ?????? ?? ??? ?????????? ??? ?? ??? DNB NORD, DNB IT ???
DNB Bank.

17 ?? ?? ??? ?????? ?????????? ??? ?????? ?????????? ?????????? . ????, ?? ?? ???
????????? ?????? DNB Banka ??? DNB NORD, ? VID ?????? ??? ?? ?????? ??????????
?? ?? ?????? ?? ?????????? ??? ?? ??? ?? ?????? ??? ?????? ??? ?????????? ???, ??? ??
????? ?? ?????? 132, ?????????? 1, ?????? ???, ??? ?????? 2006/112. ? VID ??????
?? ?? ?????? ?? ?????? ?????? ?????? ?????????? ?????????? , ?? ??? ?? ???
????????? ?????????? ?? ??? ?? ???, ??? ?????????? ??? ?????? ??? ?? ??? ?? ???
????????? ?????? ???.

18 ??????, ? VID ?????, ?????????? ??? ?????? ?????????? ?????? 7 ??? ??????
2006/112, ??? ?? ?????????? ??? DNB Banka ??? ??? DNB IT ?????????? ??????
?????????. ? ?????? ??? ?????? ?????? ??? ?????? ??? ? DNB IT, ?? ?????? ???
?????????, ???????????, ??? ?? ?????? ?????? ?????????? ?????????? , ??? ?? ?????? ???
?? ?? ???, ?????? ?? ?? ??? ?????? ?????????? ?????? , ??? ?? ?????? ???
????????? ??? ?? ??? ?????? , ??? ? DNB Banka, ?? ?????? ??? ?? ?? ???
????????, ??? ?????????? ??? ?? ??? ?????? ?????? ?????? ?????? , ?? ?????? ?????????? ???
????????? ??? ?? ??? ???.

19 ?????, ??? ?????? ??? ?????????? ??? DNB Banka ??? ??? DNB Bank, ? VID
??? ?????? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? , ??? ??
DNB Banka, ??? ?? ??, ??? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
?????, ??? ?? VID, ??? ?????? ?????????? ?? ?????? ??? ? DNB Bank ?? ??????
?? ?????????? ?? ??? ?????? ?????? ??? ?? ?????? ?????? ?????? ?????????? ??????????
??? ??.

20 ? DNB Banka ?????, ?????? ??? administrat?v? rajona tiesa (?????????????)
????????? ?????????? , ??????), ?????? ?? ?????? ?? ?????????? ? VID ?? ??????
?? ?????? ?? ?????? ?? ??? ?????? ?????? ?????? ?????? ?? ??? ?????????? ???
????????? ?? ??? DNB NORD, DNB IT ??? DNB Bank. ?? ?????????? ??? ?? ??????
?? ?? ??? ?????? ?? ?????? ??? 1?? ?????? 2013.

21 ? DNB Banka ?????? ?????? ??? ?????????? ?????? ?????? ??? Administrat?v?
apgabaltiesa (????????????? ?????????? ?????? , ??????), ?????????????? ???
????????? ??? ?? ?????????? ??? ?????? 132, ?????????? 1, ?????? ???, ??? ??
2006/112 ??????. ??? ?? DNB Banka, ?? administrat?v? rajona tiesa (?????????????)

???????????? ?????????????), ?????????????? ??? ?????????? ??? ?? ???? ?????????? ??? ??
????????? ??? ?????????????? ?????????????? ??? ?????????? ??? ?????? ?? ?????????? ???
????? ??? ?????????????? ??? ?????? ??? ?????????? ?????, ??? ?????????? ??? ?????? ??
????? 132, ?????????? 1, ?????????? ???, ??? ?????? 2006/112. ? DNB Banka ??????????
??? ? ?? ??? ?????????? ?????????? ??? ?????????? ?????? ?????????? ?????? ??? ??
????????????? ?????? ??? ?????????? ?????????? ?????????? ?????? ?????????? (????)
??? ??? ?????????? ??? ?????????? ?????? ?????????? ?????, ?? ?????????? ??? ??????????
??? ?? ??? ?????? ?? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?? ??? ??.

22 ??? ??? ?????????? ??????, ?? Administrat?v? apgabaltiesa (????????????? ??????????)
????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?? ?????????? ?? ?????????? ??
????????? ?????????? ??????:

«1) ????????? [??] ??? ?????? ??? ?????? ??? ?????? 132, ?????????? 1, ?????????? ???, ??
???????? [2006/112] ?? ?????????? ??? ?? ??? [??] ????? ?????????????? ??
????????????? ??? ?????? ??? ?????????? ?????? ??? ?????????? ?????? ??? ?????? ??
????????????? ??? ?????? ??? ?? ??? ?????? ?????? ??? ?????????? ??? ?????????????? ???,
????? ?????? ?????? ?????? ???;

2) ?????? ?????? ??? ?????? ?? ?????????? ?? ?????????? ??? ?????? 132, ?????????? 1,
????????? ???, ?? ?????? [2006/112] ?????? ?? ?????????? ??? ?????????? ??? ?????? ???,
????????? ???, ?? ?????? ? ?? ??? ?????? ?????????? ??? ?????? ??? ?????? ?? ?????? ???
????????????? ??? ??? ?????? ?????? ??? ?????????? ??? ?????? ???, ?????????, ? ??????????????
????????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????????? ?? ??? ?????? ??? [??] ?? ?????????? ??? ?????????? ?? ?????????? ???
????????????? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? [??] ???
????? ??? ?????? ???;

3) ?????????? ? ?????????? ??? ?????????? ??? ?????? 132, ?????????? 1, ?????????? ???,
??? ?????? [2006/112] ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???
[??], ?? ?????????? ??? ? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? [??] ???
????????? ??? ?????? ?????? [??] ?? ??? ?????? ?????? ?????? ?????? ??? ?? ???
????????? ??????, ??? ?????? ??? ?????? ? [??] ??? ??? ?????????????? ?????????? ???
?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????? 196 ??? ?????? [2006/112];

4) ?????? ? [??], ??? ??? ?????? ??? ?????? 132, ?????????? 1, ?????????? ???, ??
????????? [2006/112], ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ?????? ??? ?????? [??];

? ?????????? ??? ? ?????????? ??? ?????? ??? ? [??] ??? ?????? ???' ?????? ?? ??????
????????? ????, ??? ?????? ??? ?????? ?? ?????????? ??? ?????????? [??] ? ?????? ??????????
?????????????, ?? ??????, ??? ?????? ??? ?????? ??? ?????????? ?????????? ?????????? ???,
????????? ?????? ??? ?????? ?????? ?????? ?????????? ?????????? ?????????? ??? ?? ??? ?????? ???
????????? ?????????????? ???, ??? ? ?????? ??? [??] ?????? ?? ?????????????? ???
????????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????????? ???
??? ??? ?????? ???;

5) ?????? ?????? ?????? ?? ??????????? ?? ?????????? ??????????? ??? ?????????? ??? ?????????? ???
?????? 132, ?????????? 1, ??????? ???, ??? ?????? [2006/112] ?? ?????????? ??? ??????,
????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????
????? ??????????????;

6) ?????? ?????? ?????? ?? ?????? 132, ?????????? 1, ??????? ???, ???
????? [2006/112] ??? ?????? ??? ?????????? ??? ?????? ?????; ??? ??????????????,
????? ??? [??], ??? ?? ?????? ??? ?????????????? ?????????? ??? ?????? ??? ??????
[2006/112], ??? ?????? ???????, ??? ?????? ??? [??], ?? ??? ?????? ??? ???? [??],
?? ?????????? ??? ??? ??? ?? ?????? ???;»

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

23 ?????????????? ?????? ?? ?????????? ??? ? DNB Banka ????? ?????????? ?????? ??
????????????? ??? ?????? ?????????? ??? ?????? ?????? ?????????????? ??????????. ???
??? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ???
????? ?????? ???, ??? ? DNB NORD, DNB IT ??? DNB Bank, ?????????? ??? ?????????? ???
????? 132, ?????????? 1, ??????? ???, ??? ?????? 2006/112. ?????????? ??? ? ??????
????? ??? ??? ?????????? ??? ?????? ?????? ??? ?? ?????? ??? ?????????? ??? ?????????? ???
??? ?????? ??? ?????????? ? DNB Banka ?????? ??? ?????? ?????????? ??? ?????????? ???
??? ?????? ??? ?????????? ??? ?????? ???.

24 ??? ?????? ???, ?? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ?????????? ???
????? 132, ?????????? 1, ??????? ???, ??? ?????? 2006/112, ??? ?????? ??? ??????????
??? ?????????? ?? ?????? ?????????? ??? ?????????? ?????????? ??? ??????, ??? ??????
????????????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

26 ??? ?????? ?????????, ??? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ???
????????? ?????????? ??? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? 267 ???, ???
????????? ?????????? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??????????
??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????????, ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ???
????? ?? ?????????? ??? ?????????? ??? (?????? ??? 20?? ?????????? 2016, Danqua,
C?429/15, EU:C:2016:789, ??? 37 ??? ?????? ?????????? ???).

27 ??? ??? ?????? ???, ?????? ?? ?????????? ??? ?????? ??? ?????? ?????????? ???
????????? ??? ?????? ?? ?? ??? ?????? ??? ?????? 132, ?????????? 1, ??????? ???, ???
????? 2006/112 ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????.

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

?? ??????????? ?? ?????????? ?? ?????? ?????????? ? ?????????? ?????? ??? ??????????? ??
??? ?????? ?? ??? ????? ?????????? ?????????? ?????? ??? ?????? ??? ??????????????????
??????????, ??? ?????? ?? ??? ????? 135, ?????????? 1, ?????????? ???, ??? ??????
????? ?????????? ?? ?????????????? ?????.

29 ??????, ??? ????? ??????????, ??? ??? ?????????? ?????????? ??? ?????? ??? ??????
?????? ?? ?????????? ??? ?????? ?? ?????? ???, ??? ??? ?? ?????? ??? ?????? ???
??????????, ??? ??? ?? ?????? ??? ?????????? ?? ??? ?????? ?????? (????????? ???
26?? ??????? 2012, Able UK, C?225/11, EU:C:2012:252, ????? 22, ??? ??? 4?? ???????
2017, Fahimian, C?544/15, EU:C:2017:255, ????? 30 ??? ??? ?????????????? ??????????).

30 ??? ?????? ?? ??????? ??? ?????? ?????????? ?? ?????? 132, ?????????? 1, ??????????
???, ??? ?????? 2006/112, ?????? ?? ?????????? ??? ? ?????? ??? ??????????????
??? ??????? 2, ?? ????? ?????????? «????????? ?????????? ?????????????? ??????
?????????», ??? ????? IX ??? ?? ????? ??????. ? ?????? ??? ?????????? ??????
????????? ??? ? ?????????? ??? ?? ????? ?????? ?????? ?????? ?????? ??? ?? ???
????? ?? ??? ????? ?????? ?????????????? ?????? ?????? ?????????? ?????? ??? ?? ???
????? ?? ??? ????? ?????? ?????????????? ?????? ?????? ??????????.

31 ? ?????????? ??? ?????????????? ??? ??? ?? ??? ?????? ??? ?????? ?? ??? ?? ??? ??????
??? ?????? ?? «?????????». ???????????, ??? ?????? ??? ?????? 2006/112, ?? ??? 132,
????????? 1, ?????? ???, ??? ?????????? ??? ? ?????? «????? ??????»
????????? 1, ??? ??? ?????? 2 ??? ?????? ????. ?????? ???, ??? ?????? ??? ?? ???
?????, ?????? ?????? ??? 2, ??? ?????? «????????? ??????»
????????????? ?????? ?????? ?????? », ??? ??? ?????? 3, ??? ?????? «?????????
????? ??????», ?????? ??? ?????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ???
????? 2 ?????? ??? ?????? ?????????? ?????? ?????? ?????????? ???
????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?? ??? ?????? 3.

32 ?? ??????????, ??? ?? ??? ?????? 3 ??????????, ??? ?????? 135, ?????????? 1,
????????? ?????? ??? ?????? ??? ?????? ???, «?) [?] ??????, ?????????????? ???
?????????????, ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???,
????????? ?????? ?????? ?????? ?????? ??? ?????? ?????? «?) [?] ??????,
????????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???,
??? ?????? ??? ?????? ?????? ». ??? ??????, ??? ?? ???
????????? ??? ?????? 2006/112 ?????? ??? ? ?????????? ??? ?????? 132, ??????????
1, ?????? ???, ??? ?????? 2006/112 ?????? ??? ?????????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???, ?????? ???, ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ???.

33 ??? ?????? ??? ?????? 132, ?????????? 1, ?????????? ???, ??? ?????? ???
?????? 2006/112, ?????? ?? ?????????? ? ?????? ??? ?????? ??? ?????????? ???
132 ??? ?????? ???, ? ?????? ?????? ??? ?????? ??? ?????? ??? ?? ??? ??????
????????????? ?????? ?????? ?????? ?????? ??? ? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? (????????? ??? 5?? ?????????? 2016,
TMD, C?412/15, EU:C:2016:738, ????? 30 ??? ??? ?????????? ??????????).

34 ??????, ?? ?????????? ??? ??? ?????????? ?????? ?????? ??? ?????????????? ??? ??
????? 132, ?????????? 1, ?????? ???, ??? ?????? 2006/112 ?????? ??? ?? ??? ??
????? ?? ?????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????????? ???
????????? ??? ?????? ??? ?????? 132 ??? ?????? ??? (??., ???' ??????,,

?????? ?? 5?? ?????????? 2016, TMD, C?412/15, EU:C:2016:738, ??????? 31 ??? 33).

35 ???? ????, ?????? ?? ?????????? ??? ?? ?????? ?????????? ??? ?????????? ??? ?????????? ???
?????? 132 ??? ??????? 2006/112 ?????? ?? ?????????? ?????, ?????????? ??? ??
????????? ????, ?????? ?????????? ?????????? ??? ?? ?????? ??? ? ?? ?????????? ??? ??
???? ?????? ?????????? ??? ?????????? ?????? ?? ?????? ??? ? ?? ?????????? ??? ??
???? (??., ??????, ?????? ??? 5?? ??????? 2016, TMD, C?412/15, EU:C:2016:738, ???
34 ??? ??? ?????????? ???????).

36 ??? ?? ??????? ??????? ??? ?? ?????? ?? ?????????? ??? ?????????? ??? ??
132, ??????? 1, ??????? ???, ??? ??????? 2006/112 ?????????? ?????????? ??? ??
????????? ????, ?????? ?????? ?????????? ?????? ?????????? ?????????? ??? ??
?? ??? ?????? 132, ??? ?? ?????? ?????? ?????? ?????????? ?????????? ???????,
????????? ???, ?????????? ?????? ??? ?????? ?? ?????? 135 ??? ?????? ????.

37 ??? ??????, ?? 132, ??????? 1, ??????? ???, ??? ??????? 2006/112
?????? ?? ?????????? ??? ?? ?????? ??? ? ?????????? ??? ?? ??????? ??? ??????????
????? ??? ?? ??? ?? ?????? ?? ?????? ?????? ?????????? ?????? ?????????? ??? ??
????????? ??? ?? ?????? ?????? ?????????? ?????????? ?????? ?????? ??? ?????????? ??? ??
??? ?????? ?????? ?????????? ?????????? ?????? ?????? ??? ?????????? ?????????? ??? ??
?????????, ? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ??
????????? ??? ?????????? ????.

38 ??????, ?????? ?? ?????????? ???, ?? ??????? ?? ?, ?? ??????? ?? ?? ?? ??????? ??? ??????? ???
?? ?????? ???????, ?? ???????, ?? ??? ??????? ?? 20?? ??????? 2003,
Taksatorringen (C?8/01, EU:C:2003:621), ??? ??????? ??? ?? ?????????? ??? ??
????????? ??? ?? 13, A, ??????? 1, ??????? ???, ??? ?????? ?????? [???
????????? ??? ?? 132, ??????? 1, ??????? ???, ?? ??????? 2006/112] ???????
????????? ??? ?? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ?????? ???????
????????? ?????? ?????? ???????.

39 ??????, ??? ?? ??????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ??????? ???
????????? ??? ??????? ??? ?? ?????? ??? ?????????? ??? ?? ?????? 13, ?, ?????????? 1,
????????? ???, ??? ?? ?????? ?????? ???????, ??? ?????? ?????? ?? ?????????? ?? ???
????? ?? 20?? ??????? 2003, Taksatorringen (C?8/01, EU:C:2003:621), ??????
????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?????????? ???
????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?????????? ???
????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ???.

40 ?? ??? ?? ?????? ??? ??????, ??????, ?? ?????????? ??? ?? ??????? ??? ?? ??????? ???
?????? ?? ???????????, ????? ?? ?????? 132, ??????? 1, ??????? ???, ??
?????? 2006/112, ??? ?? ?????? ??? ?? ?? 37 ?? ?????? ????,
????????? ??? ?? ?????? ??? ?? ?????? ?????? (??., ???' ???????, ?????????? ??? 6??
????????? 2009, Asturcom Telecomunicaciones, C?40/08, EU:C:2009:615, ??? 37, ??? ??
?? 21?? ??????? 2016, Gutiérrez Naranjo ??., C?154/15, C?307/15 ?? C?308/15,
EU:C:2016:980, ??? 68).

41 ??? ?????? ??? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ?????? ??? ???????, ???
?? ?????????? ???, ??? ?? ?????? ???????, ?? ?????? ?????? ??? ?? ?????? ??? ???????
??? ?? ??? ?? ?????? ???, ???????, ??? ?? ?????? ?????? ? ?????? ??? ??????? ??? ??????
????? ??? (??., ?????? ???, ?????? ??? 19?? ??????? 2016, DI, C?441/14,
EU:C:2016:278, ??? 30 ?? ??? ?????????? ???). ???????, ?? ??????? ???
??? ?? ?????? ?? ?????????? ?? ?????? 132, ??????? 1, ??????? ???, ?? ???????

2006/112, ????? ????? ?????????????? ?? ?? ?????? 37 ??? ??????? ??????????, ?????????????? ??
????????? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ?????????? ??? ??
????????? ?????????? ???, ??? ???????????, ?????????????? ?? ?????????? ?? ?????????? ??? ??
??? ?? ??????????? ??? ?????? ??? ?????? ??????.

42 ?????? ??????, ? ?????????? ?? ?????????? ?????????????? ?? ?????????? ?? ??????????????
????? ??????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????? ??
????????? ?? ?????? ?? ?????? ?????? ?????? ??? ??????, ?????? ??? ?????? ?? ??????????
????????? ?? ??? ?? ???????????????, ??? ??? ?????? ?? ?????????? ?????? ??? ??
contra legem ??????? ?? ?????? ?????? (????????? ?? 15?? ??????? 2008, Impact,
C?268/06, EU:C:2008:223, ??? 100).

43 ????? ????????, ? ?????????? ?? ?????????? ?????? ?????? ?? ?????????? ?????????? ??
????????? ?? ??? 132, ?????????? 1, ?????????? ???, ??? ??????? 2006/112, ??? ??
?????? ?? ?????? ?? ?????? ???????????, ?????? ?? ??????? ?? ?????? ??
????????? ?? ??????, ?????? ?????? ??? ?????? ??? ?????????? ??????.

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

45 ?????????????? ?? ?????? ?? ??????????????, ??? ?????? ?????????????? ??
?????? ?? ?????? ?? ?????????? ?? 132, ?????????? 1, ?????????? ???, ??? ???????
2006/112 ?? ?? ?????? ?? ?????? ?? ?????????????? ?? ?????? ?????????? ??
?? ?? ??? ?? ?????? ?? ?????? ?????????????? ?? ?????? ?????????????? ??
????? 132 ?? ??????? ?? ?????? ??, ???????, ?? ?????????? ?? ?? ?????????????? ??
????? ?? ?????? ?????? ?????????? ?????????? ?? ?????? ?? ?? ?????????????? ??
??????????, ? ?????? ?? ?????? ?????? ?????? ?????????????? ?????? ???????????, ???
????????? ?? ?????????? ???.

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

46 ?????????? ?? ?????? ?????????? ?????? ?? ?????? ?????? ?????????? ?? ?????? ???????
?? ?????????? ?????????????? ?? ?????? ?????? ?????????? ?? ?????? ??????????????, ?' ??
?????????? ?? ?????????? ?? ?????? ?????????? ??????. ?? ?????? ?? ?????? ??????????????
????? ?????????? ?????????????? ?? ?????? ?????????? ?? ?????? ?? ?? ?????? ?????????? ??
????? ?????????? ?????????????? ?? ?????? ?????????? ?? ?????? ?? ?????? ?????????? ??

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

? ? ?????? 132, ?????????? 1, ?????????? ??, ??? ?????? 2006/112/?? ?? ?? ??????????,
?? 28?? ?????????? 2006, ??????? ?? ?? ?????? ?????? ?????? ?????? ?????????????? ??,
????? ?? ?????? ?? ? ?????????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??
????????????? ?? ?????????? ?? ?????? ?? ?????? ?????? ?????? ?????????????? ???????
????????????? ?? ?????????????? ?? ?????? 132 ?? ?????? ?????? ?? ??, ??????,
? ? ?????????? ?? ?????????????? ?? ?????? ?? ?????? ?? ?????? ?????? ?????? ??????????
????????????? ?? ?????? ?? ?????? ?????????????????? ??????????, ? ?????? ??
????? ?????? ?????? ?????????????? ?????? ?????????? ?? ?????? ?? ?????? ??? ??
????????? ?????? ??????.

(?????????)

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