

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

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

??? 19?? ??????? 2018 (*)

«????????????? ?????????? – ?????????? – ????? ?????????????? ????? (???) – ??????
2006/112/?? – ????? ??? ?????????????? ?????????? – ????? 42 – ?????????????? ??????????
?????? ??? ?????????? ?? ?????????? ?????????? ?????????? – ????? 141 – ?????????? –
????????? ?????????? – ????? ?????????? – ????? 265 – ?????????? ???
????????????? ?????»

???? ?????? C?580/16,

? ? ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ???
?????? ?? Verwaltungsgerichtshof (?????? ?????????? ??????????, ???????) ?? ???????
??? 19?? ??????? 2016, ? ?????? ??????? ??? ?????????? ??? 17 ??????? 2016, ???
?????? ??? ???

Firma Hans Bühler KG

????

Finanzamt de Graz-Stadt,

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

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

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

?????????: R. Schiano, ?????????? ????????,

?????? ??? ?????? ?????????? ?????????? ??? ??????? ??? ??' ?????????? ?????????? ???
11?? ??????? 2017,

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

- ? Firma Hans Bühler KG, ?????????? ??? P. Schulte, Rechtsanwalt,
- ? ?????????? ???????, ?????????? ??? G. Eberhard, F. Koppensteiner ???
S. Pfeiffer,
- ? ?????????? ???????, ?????????? ??? L. Lozano Palacios ??? ??? B.-R.
Killmann,

???? ?????? ??? ?????? ?????????? ??? ??????? ??? ?????????? ??? ?????? ?? ??????????
??? 30?? ??????? 2017,

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

????????

1 ? ?????? ?????????????? ?????????? ?????? ??? ?????????? ??? ?????? 141, ?????????? ?,
??? ??? ?????? 42 ??? 265 ??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ??????????
2006, ??????? ?? ?? ?????? ??????? ?????? ?????????????? ?????? (?? 2006, L 347, ?. 1), ???
????????????? ??? ??? ?????? 2010/45/?? ??? ??????????, ??? 13?? ?????? 2010 (??
2010, L 189, ?. 1) (?? ?????: ?????? ???), ?? ?????????? ?? ?? ?????? 41, ????? ??????,
??? ?? ?? ?????? 197 ??? 263 ??? ?????? ????.

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

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

3 ?? ??????????????? ??????? 10 ?? 38 ?? ?????? ?? ????? ?? ??????????? ?? ????.

«(10) ????? ?? ?????????? [??] ?????????????? ??????????, ?? ?????????????? ?????????? ??
 ?????????????????? ?? ?????????????? ??, ?? ?????????? ?? ?????????? ??, ?? ?????????? ??
 ??, ?? ?????? ?? ?????????? ??, ?? ?????? ?? ?????? ??, ?? ?????? ?? ?????????? ??, ??
 ?? ?????? ?? ?????? ??, ?? ?????? ?? ?????? ??, ?? ?????? ??.

[...]

(38) ??? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?? ????
?????????? ?? ?????????????? ??? ?????? ??? ?????????????? ??? ?????? ?? ????
????????? ?? ?????????????? ??? ?????? ?? ?????????????? ??? ?????? ?? ????
??? ?????? ?????????? ? ?????? ?????????????? ??? ?????? ??? ??????, ??????????????
??? ?????????? ??????????, ??? ?????? ?????????? ?? ?????????? ??? ?????? ?????????? ??? ??
????????? ?????????? ?????????? ?? ??? ?? ?????? ???.. ??? ?? ?????? ??? ?? ?????? ??
????????????? ?? ?????????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ??
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???., ??????, ??????, ??
????????? ???' ???[?] ??? ?? ?????????? ??? ?? ?????? ??? ?????????? ??
????????? ??? ?????? ????.»

4 ?? ?????? 2, ??????????? 1, ???????? ??, ?????? i, ??? ??????? ??? ???? ?? ?????????? ??
????:

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

[...]

?) [?] ?? ??????? ?? ?????? ?? ??????????????? ?? ??????????? ?? ??????, ???. ?? ???????????????????
???. ?? ?????? ???. ?? ?????? ???. ???:

i) ??? ?????????? ??? ???? ??? ?????? ?? ??? ?????? ??? ???? ? ???? ?? ???????????
????? ??? ???? ??????, ??? ? ?????? ?????? ?????? ?????????????? ??? ???? ???? ???? ?????? ??
??? ?????????? ??? ???? ??? ?????? ?????? ??? ?????????? ??? ???? ???? ?????? ??????????????
??? ?????????? ??? ???? 282 ??? 292 ??? ?????? ??? ?????? ??? ?????? 33 ? ???
????? 36».

5 ?? ????? 20, ?????? ??????, ??? ?????? ??? ?????? ?? ??? ??????:

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

6 ?? ????? 40 ??? ?????? ??? ?????? ?? ??? ??????:

«?? ????? ?????????????? ?????? ?????? ?????????? ? ??? ?????? ??? ?????????????? ?? ??????
????? ??? ?????? ?????? ??? ?????????? ? ??? ?????????? ??? ?????? ??? ??????????»

7 ?? ????? 41 ??? ?????? ??? ?????? ?? ??? ??????:

«?? ??? ?????????? ??? ?????????? ??? ?????? 40, ? ?????? ?????????????? ?????????? ???
??? ?????????? ??? ?????? 2, ?????????? 1, ?????? ?, ?????? i), ?????????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????????? ??????
??? ? ???? ?????? ?????? ?????????????? ??? ?????? ???, ?????? ?? ???? ?????? ??????????
??? ?????????? ??? ? ?????? ?????? ?????????? ??? ?????? ??? ?????? 40.

?? ? ?????? ??? ?????? ???, ???' ?????? ??? ?????? 40, ??? ?????? ??? ??????
??? ?????? ??? ???? ?????? ??? ??????, ??? ?????????????? ??? ?????? ?????????? ???'
????????? ??? ?????? ??????, ? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ???
????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ? ??????
????????????? ??? ?????? ???.

8 ?? ????? 42 ??? ?????? ??? ?????? ?? ??? ??????:

«?? ????? 41 ?????? ?????? ??? ?????????? ??? ? ?????????????? ?????????? ??????
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?? ???? 40, ??? ?????????? ??
????????? ??????????:

?) ? ?????? ?????????? ??? ?????????????? ??? ?????????????? ??? ?????????? ??? ?????? ??
????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????? ??? ? ???? 40, ??? ??? ?????? ?????? ? ??? ?????? ??? ?????? ??? ?????????? ?? ????
??? ?????? ?????? ?? ? ???? 197?

?) ? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? 265
????? ??? ? ???? ?????? ??? ?????????? ??? ?????????????? ???.

9 ?? ????? 141 ??? ?????? ??? ?????? ?? ??? ??????:

«????? ?????? ??? ?????? ?????? ??? ?????? ??? ? ???? ?????? ??? ?????? ??? ??
????????????? ??? ?????? ??? ?????? ??? ?????????????? ??? ?????? ???, ?????? ?? ??
????? 40, ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ???.

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

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

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

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

?) ? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? 197, ?? ? ??????????
??? ?????? ??? ?????????? ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ?? ?????????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???.

10 ?? ?????? 197 ??? ?????? ??? ?????? ??? ?????????? ?? ????:

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

?) ? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????????????? ?????? ?? ???
????? ??? ?????????? ??? ?????? 141,

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

?) ?? ?????????? ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????????
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? 3 ??? 5 ??? ?????? 3.

2. ?? ?????? ??? ?????? ?????? ?? ?????????? ??? ?????? ?????? 1 ??? ?????? ?????? ??
????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? 204.»

11 ?? ?????? 262 ??? ?????? ??? ?????? ??? ?????? ?? ????:

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

?) ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???, ??? ?????? ??????
????????? ??? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? 138 ?????????? 1 ???
????????? 2 ?????? ?)?

?) ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???, ??? ?????? ??????
????? ??? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??
????? 42?

12 ?? ?????? 263 ??? ??????? ?????? ??? ?????? ?? ?????:

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

[...]»

13 ?? ?????? 265 ??? ?? ??? ??????? ?????????? ?? ????:

«1. ?????????????????? ?????????????????? ?????????????? ??????? ??? ?????? 42, ? ??????????????
????? ??? ?????? ?????? ?????? ?????? ?????????????? ?????? ??? ?????? ?????? ?? ?????? ???
????????? ??? ?????? ??? ?? ??? ????? ?????????????? ??? ?????????????? ?????? ?????????? ??
????????? ?? ??? ????? ?????? ??? ?????????????? ??? ?????? ??? ?????????? ??????????????:

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

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

2. ?? ???? ??? ?????????? 1 ??????? ?) ?????????? ??? ??? ?????? ?????????? ???
????????????????? ??? ?????? ??????? ? ? ??? ????? 263 ?????????? 1 ??? 1?, ??? ??
????????? ??? ?????? ? ?????? ?????? ?????? ?????? »

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

14 ?? ???? 3, ??????? 8, ??? Anhang (Binnenmarkt) [????????????? (????????????????)] ??? Umsatzsteuergesetz (????? ??? ?????? ?????? ??????), ??? 23?? ?????????? 1994 (BGBl. 663/1994, ??? ????: UStG 1994), ?????? ?? ????:

«? ?????????????? ??????? ?????????????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???
????????? ? [...] ??? ?????????? ??? ??????. ??? ? ?????? ??????????????, ??? ?????? ???
?? ??? ??????????, ??? ????? ?????????? ?????? ??? ??? ?????? ??? ?????? ??? ??????
?????, ? ?????? ?????? ?????? ??? ?????? ?????????????? ??? ?????? ??? ?????? ??? ??????
????? ??? ??? ? ?????? ?????? ?????? ??? ? ?????? ?????? ??? ?????? ??? ??? ???
????????????? ??? ?????? ?????? ?????? ??????. ??? ?????? ?????? ??????????, ??????????
????????? ?? ????? 16. »

15 ?? ???? 25 ??? UStG 1994, ??? ???? ?? 2012 (BGBI. I, 34/2010), ??????????? «????????? ??????????». ??? ? ? ???:

«???????

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

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

(2) ? ?????????????? ?????? ??? ?????? ??? ?????? ??? ?????? 3, ?????????? 8, ??????
?????????, ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????????? (????????)
????????? ??? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? 6 ?????????? ??? ?????? ?????? ??????????. ??? ?????????????????? ???
????????? ??? ?? ??? ?????? ??????????, ?????? ?????????? ?? ?????????? ??? ??????????.

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

(3) ? ?????????????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????????
?????????????:

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

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

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

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

?) ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? 5.

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

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

- ??? ?????? ?????? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??????
?? ?????? ?????? ?????? ??????????,

- ??? ?????? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (?????)
????????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???

- ??? ?????? ?????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??????.

????? ??? ???

(5) ?? ?????????? ?????????? ??????????, ?????? ??? ?????? ?????? ? ?????? ???
????????? ?????? ?????? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???

????????????? ??? ?????????? 4.

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

(6) ??? ?? ?????????? ??? ??? ??? ?????????? 2 ?????????? ??? ??? ????? ??????????
?????????, ? ?????????????? ??? ??? ?????????? ??? ?????????????? ??? ?????? ??
????????? ????????:

– ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????????? ???
????????????? ?????? ??? ?? ?????????? ?????????? ??? ??????

– ??? ?????? ?????????? ??? ?????? ??? ??????????, ??? ?????? ?????? ?????? ??????????
??? ?????????????? ??? ?????????????? ??? ??????, ?? ?????? ??? ?????? ?????????? ??????????
?? ?????? ??????????????

– ??? ?????? ??? ?????? ?????????? ??? ??????, ?? ?????????? ??? ?????? ??? ?????????? ???
????????? ?? ??? ?????? ??? ?????????????? ??? ?????? ?????? ?????? ?????????? ???
????????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????? ???
????????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????????? ???.

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

(7) ??? ??? ?????????? ??? ??? ?????? ?????????? ?? ?? ??? 20, ??? ??? ??? ??????????
?????? ?? ?????????????? ??? ?? ??? ??? ?????? 5 ?????????? ???..»

16 ??? ?????????? 4 ??? ?? ??? ?????? ??????????????, ?? ??? ??? 1?? ?????????? 2013,
??? ??? ??? (??? ?? ?????????????? ?? BGBI. I, 112/2012 ????) ?? ????:

«????? ?????????? ??? ??? ??????????

(4) ? ?????? ?????????? ?????????? ??? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?
????????? ?????????? ??? ?????????? ????. ??? ? ?????? ?????????????????? ??? ?? ??? ??????
????????? ??? ?????????? ???, ?????????? ?? ?????? ??? ?????? ?????? ?????? ??? ?? ???
????????? ?????????? ????. ?? ? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ???
??? ?????? ?????? ?? ?????????? ???????, ? ?????? ??? ?????????? ?????????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???.

???? ??? ??? ?????? ?????????? ?????????????? ?? ?????????? ??? ?????????? ??????????????
?????, ?? ?????????? ?????? ?? ?????? ?????? ??? ?????? ??? ?????????? ??? ??????????:

– ??? ?????????? ??? ?????? ?????????????? ?????????? ??? ?????????? ??? ??? ??????????
??? ??? ??? ? ?????? ??? ???????,

– ??? ?????? ?????????? ??? ?????? ??? ?? ??? ?????? ? ?????????????? (???????)
????????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???

– ??? ?????? ?????????? ??? ?????? ??? ?? ??? ?????? ??? ??????????..»

17 ??? ?? ??? 21, ?????????? 3, ??? UStG 1994, ?? ?????????????? ??? ??????
?????? ?? ?????????? ??? ?? ??? ??? ?????? ?????????? ??? ??? ?????? ??? ??????
?????????.

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

18 H Firma Hans Bühler, ?????????? ??? ?????? ? ?????? ?????? ??? ?????????? ???

????????????? ??????? ??? ????????, ??????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? 2012 ??? ?????? ?????? 2013
????????? ?????? ?????????????? ??????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?
????????? ?????? ?????? ??????.

19 ??? ?? ??????? ??? ??????? ???, ? Firma Hans Bühler ?????????????? ???
????????? ?????? ?????? ?????????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ???
????????? ?? ????: ? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??????
????????? ?? ??? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???
????????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??????.

20 ??? ??????? ??? ??????? ??? Firma Hans Bühler, ?? ??????? ?????????? ???
????????? ??? ??????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ???? ???
??? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? . ? ? Firma Hans Bühler ??????
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?? ???
????? ????. ??? ?????? ?????? ?????????? ??? ?????? ??? ?? ?????? ?????? ?????? ?????? ???
«????????????? ??????» ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????? ??????.

21 ??? 8 ?????????? 2013 ? Firma Hans Bühler ?????? ??? ?????????? ?????????? ???
???? ?????????????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? 2012 ??? ???
????????? ??? 2013 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?? ?????? ???
?????????. ??? ??? «????????? ??????» ??? ??? ?????? ??? ??????. ? Firma Hans
Bühler ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ???
10? ?????? 2013, ??? ??? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 2013.

22 ? ?????????? ??? Graz ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
Firma Hans Bühler ?????? «????????? ?????? ??????» ??? ????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? Graz ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ? Firma Hans Bühler
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? . ? ?????? ??? ?????? ??? Graz
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ? Firma Hans Bühler.

23 ? Firma Hans Bühler ?????? ??? ?????? ??? ?????? ??? Bundesfinanzgericht
(????????? ?????? ?????? ?????? ?????? ??????), ?? ?????? ?????? ??? ?????? ???
????? ?? ?? ??? ?????? ?????? ??????, ?????? ?? ? ? Firma Hans Bühler
????????? ?? ??? ?? ?????? ??? ?????? ??? ?? ??? ?? ??? ?????? ??? ?????? ???
??, ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? 2012 ??? ???
????????? ??? 2013 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??????, ??? ?????? ??? ?????? ??? ?????? ???, ???' ?????? ??? ?????? 25, ?????? 2,
??? UStG 1994. ?? Bundesfinanzgericht (????????? ?????? ?????? ??????) ??????

?????? ???, ??? 10 ?????????? 2013, ? ?????????? ?????? ?????????????? ?????????? ??? ???

Firma Hans Bühler ??? ????? ?????? ??? ???, ??? ??? ????? ????, ? ?? ??? ?????? ??? ???

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

????????? ??? ?? ???? ?????? ??? 2013.

24 ? Firma Hans Bühler ?????????????? ??? ??????? ??? Bundesfinanzgericht
(????????????? ??????????? ??????????) ?????? ??? Verwaltungsgerichtshof (?????????
????????????? ????????????, ??????). ?? ?????? ?????????? ???????? ?????????? ?? ???
?? ?????? ?????? ????? ?????? ?????? ? ?????????? ??? Graz ??? ?? Bundesfinanzgericht
(????????????? ??????????? ??????????) ?????? ?? ?? ?????????? ??? ?????????? ??????.

«1) ??????? ?? ?????? 141, ?????????? ??, ??? ??????? [????? ???], ??? ?? ?????? ??????????,
????? ??? ?????? 42 (?? ?????????? ?? ?? ?????? 197) ??? ??????? [????? ???], ? ?? ??????
??? ?????? 41, [????? ??????], ??? ??????? [????? ???], ?? ?????????? ??? ??? ?????? ??? ?
?????????? ??? ????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??
????? ?????????????? ? ?????????????? ?? ??????, ?????? ??? ??? ? ?? ?????? ?????????? ???
????? ?????????????? ??? ?? ?????????????? ?????????????? ?????? ??? ?????? ?????????? ???
????? ??? ?????? ??????;»

2) ?????? ?? ?????? 42 ??? 265 [???? ??????? ????? ??], ?? ?????????? ?? ?? ?????? 263 ???
 ?????? ??, ?? ?????????? ?? ?????? ?? ?????? ?? ?????? ? ?????? ? ?????????? ??????
 ?????????????????? ?????? ?? ?????? ?? ?????????? ?? ?? ?????????? ?? ?????? 41, [?????
 ??????]? ?? ?????? [???? ??];».

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

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

26 ?? ?? ?????? ????????, ?? ?????? ??????????? ??????, ???' ??????, ?? ??????????????? ??
?? ?????? 141, ????????, ??, ??? ?????? ?????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????? ??
? ?????????? ?? ?????? ?????????? ?? ?????? ?????? ?? ?????????? ?? ?????? ?? ?????? ??
????????????? ?? ?????? ?????? ?????? ?????????? ?????? ?? ?????? ?? ?????? ??
????? ?? ?????? ?????????????? ?? ?????????????, ?????? ??? ?? ? ?? ???? ?????????? ??
????? ?????????? ?? ??? ?? ?????? ?????????? ?????? ?????? ?????? ?????????? ??????
?? ?????? ?????? ??????.

29 ?????? ?? ?????????????? ?????, ?? ????? 141, ??????? ??, ??? ?????? ????? ??

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

30 ?? ????? 141, ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
?????? ?????????????? ?? ?????? ?? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
?????? ?????? ??, ??? ?????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???.

31 ?? ????? 141, ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
????? ?? ?????? ?????????? ?????????????? ?? ?????? ??, ??? ??????? ??, ??? ??????? ??, ???
?? ?????? ?????? ?? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
????????? ?? ?????? ?????? ?????????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
????????? ?????? ?????????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
??? ?????? ?????????????? ??, ??? ??????? ??, ??? ??????? ??.

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

33 ??? ?????? ???????, ??? ?????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??,
?????? ?? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??,
????????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
(??., ??' ?????? ??, ???, ??????? ??, ??? 19?? ?????????? 2000, ??????? ??, ???
?????????, C?156/98, EU:C:2000:467, ??? 50, ??? 26?? ??????? 2017, Jafari, C?646/16,
EU:C:2017:586, ??? 73).

34 ???????, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
??? ?? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??,
????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
????? ??, ??? Firma Hans Bühler ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???,
?????? ??, ??? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??.

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

36 ???????, ?? 141, ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??,
????????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
?? «????????????? ??», ??? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??,
??, ??? ??????? ??, ???, ?? 141 ??? ??????? ??, ???, ??? ??????? ??????????? ??, ???
??????????, ??? ??, ??? ??????? ??.

37 ???????, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???
?? 141, ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??, ???
?????? 42 ??, ??? 265 ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ??? ??????? ??, ???

????????????? ?????????? ??? ?????????????? ??? ?????? 141 ??? ?????? ?????? ??? ?????? ????
?????????????. ???????, ?????????? ??? ?? ?????? 265 ??? ?????? ??? ?????? ??? ?????? ??
????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ?????????? ??? ?? ???
????? ?????????????? ??? ?????????? ?????.

38 ?? ?????? ?????????? ???, ??? ?????????? ??? ? ?????? ?????? ?????????? ??????
????????????? ?????????? ??? ?? ?????? ?????? ???, ??? ?????? ?????? ?????????? ?????????? ??????
??? ?? ??? ?????? ?????? ?????????????? ??? ?????????? ?????? ?????????? ?????? ??
????????? ?????? ?????? ?????????? ?? ?????????? ?? ?????????? ? ?????????? ?????? ??? ?????? 141,
????????? ??, ??? ?????? ??? ?????? ?????? ??????).

39 ? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ???, ????????????,
??? ?????????? ??? ?????? 42, 141, 197 ??? 265 ??? ?????? ??? ??? ?????? ??
?????????????. ??????, ?? ?????????? ?????? ??? ??? ??? ?????????? ???
????????????? ??????, ?? ?????? ?????? ?? ??? ?????? 91/680/??? ??? ?????????? ???
16?? ?????????? 1991, ??? ?? ?????????? ??? ?????? ?????????? ?????? ?????? ??????????????
????? ??? ?? ??????????, ?????? ??? ?????????? ??? ?????????? ?????? ?????? ?????????? ???
77/388/??? (?? 1991, L 376, ?. 1), ?????? ??? ?? ?????????? ?? ?????????? ?????? ???
????? ?????? ??? ?????? ?????????????? ? ?????? ?????????? ??? ?????????? ?????? ?????????? ???
(??., ??' ?????? ??? ??????, ?????? ??? 14?? ?????? 2017, Santogal M-Comércio e
Reparação de Automóveis, C?26/16, EU:C:2017:453, ??? 37 ??? ??? ?????????? ???
?????????).

40 ????????, ??? ?? ?????????? ??? 38 ??? ?????? ??? ??? ?????????? ???, ???
??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??????????
?? ?????????? ??? ?????? ??? ?????????????? ??? ?? ?????? ??? ?????????? ?????? ???
????????? ??? ?????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ? ?????? ?????????????? ??? ?????? ???, ?????????????????? ???
????????? ??????????, ??? ?????? ?????? ?? ?????????? ??? ?????? ?????????????? ??? ??
????????? ?????????? ??? ?????? ??? ?????? ???.

41 ??????, ??? ?????????? ? ?????? ?????????? ??? ?????? ?????? 57 ??? ?????? ???,
????? ??? 141 ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ?? ?????????? ?
????????? ?????????????? ??? ?????? ?????? ??????????, ??? ?????? ?????? ??? ?? ???
????? 141, ?? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ??? ?? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ?????????? ??? ??????.

42 ??' ??? ?? ??????, ?? ??? ?? ?????? 42, 141, 197 ??? 265 ??? ?????? ??? ??
????????? ?????????? ??? ?????? ?? ??? ?????? ??? ?????????? ?? ?????????? ??? ?? ??? ??
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ?? ?????? 141 ???
????? ??? ??, ??? ??? ??? ??? ?????? ??? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ?????????? ?
????????? ??? ?????? ??? ???????. ??? ?????? ?????? ?? ?????? ?????????? ??? ?????? ??? ??
72 ??? ?????? ???, ??? ?????? ?????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

43 ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????, ??? ?????? ?????? ??? ??
????? ? ?????? ??? ?? ?????? 141, ?????? ??, ??? ?????? ??? ?????? ??? ?????? ??
????????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???
????????? ??? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???
??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???, ???

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

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

44 ?? ?? ??????? ???????, ?? ?????? ?????????? ??????, ???' ??????, ?? ??????????????
?? ?? ????? 42 ??? 265 ??? ??????? ????? ??, ?? ?????????? ?? ?? ?????? 263 ??? ??????
???? ??, ?????? ?? ?????????? ??? ?? ?????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?????? ?? ?????????? ?? ?????? 41, ????? ??????, ??? ?????? ?????? ??? ?????? ???
????? ??????, ??? ?????? ?????? ?????????????? ?????????? ?????? ?????? ?????????????? ???
????? ?? ?????????? ?????????? ??? ?????? ?????? ??????, ? ???? ?? ?????? 265 ??? ??????
????? ?? ?????????? ??? ?????????????? ?????? ??? ?????? ?????????????? ?????????????? ???
????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????????? ?????????? ???
????? ??????.

45 ?????????????? ???, ??? ?????????? ??? ?? ?????? 41, ?????? ??????, ??? ??????
???? ??, ??? ?????????? ??? ?????? ?????? ?? ?????? ?????? ?????? ?????? ??????????????
????????? ??? ?? ??? ?????? ?????? ?????????????? ??? ?????? ?????? ??????????????
?????????, ?? ?????? 42 ??? ?????? ??? ?????? ??? ?????? ??? ? ?????????????? ??????????
????????? ??? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????????????? ??? ??????????????
????????? ??? ?????? ?????????? ?? ??? ?????? ?????? ?????????? ??? ??????????????
????????? ??? ?????? ?????????? ?? ??? ?????? ??? ?????? ?????? 42.

46 ??? ?? ?????? 42, ????????, ??, ??? ?????? ???, ? ?????????? ?????? ?????? ???
?? ?????????? ??? ?????????????? ??? ?????????? ??? ?? ?????? ?? ?????? ?? ?????? ??? ??????????
????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ?????? ??? ?? ?????? 40
??? ?????? ???, ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ??? ?????? ??? ?? ?????? 197 ??? ?????? ??? ???.

47 ?? ?????? 42, ????????, ??, ??? ?????? ??? ?? ?????? ?????? ?????? ?????????? ???
??? ?????? ? ?????? ?????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ??? ??????
265 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????????? ?????? .?
????????? ??? ?????? ?????? ?????????? ?? ?????????? ?????? ?????? ?? ??? ??????
????????, ??? ?????? ?????? ??? ?????? 141 ??? ?????? ???, ?? ?????? ? ??????????
????????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??????.

48 ?? ?????? 263 ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?? ???
????????? ??? ??? ?????? ??? ?????? ?????? ?????? ??????.

49 ?? ?????? ?? ?? ?????????? ? ?????? ?????????? ? ?????????? ?????????? ???
??????????, ?????????????? ???, ??? ?? ?????? 42, ?????????? ??, ??? ?????? ??? ??
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? 40
??? ?? ??? ??????, ?? ?????? 42, ????????, ??, ??? ?????? ??? ?????? ??? ?????? ?????? ???
????? ?? ??? ?????? ?????? ?? ?????????? ? ?????????? ??? ?????? ??? ?????? ?????? ???
????????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????? ??????.

50 ??????, ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???, ? ?????? ???

? ?????????? ??? ???? ?? ?????????? ??? ???? ?????? ?????????? ??? ???? 42,
?????? ??, ??? ?????? ??? ???? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ???
????????? ? ?????? ??? ???? 42 ??? ?? ??? ?????? ?????? ?? ?????? ?? ??? ?? ???
????? 42, ?????? ??, ?????????? ?????? ?????? ?????? ?????? ?? ?????? (??., ??' ????????,
????????? ??? 27?? ?????????? 2012, VSTR, C?587/10, EU:C:2012:592, ??? 46, ??? ??
9?? ?????????? 2017, Euro Tyre, C?21/16, EU:C:2017:106, ??? 36). ??????????, ? ??????
????????? ??? ?????? 42 ??? ?????? ??? ???? ?? ?????? ??? ?? ?????? ?? ?????? ??
????????? ?? ?????? ??????????, ??? ?? ?????? ??? ???? ?????????? ?????? ?? ??????????????
??????, ??' ??????? ?? ?????? 41, ??????? 1, ??? ?????? ??? ??, ??? ??????
????? ??? ?? ?????? ??? ?????? ?????? ?????????? ?????? ??? ?? ?????? ??????????????
?? ?? ?????? ???, ??? ? ?????? ?????????? ?? ?????????? ?????? ??' ?????????? ???
?????? 141, ??????? ??, ??? ??? ?????? 197 ??? ?????? ??? ???. ???????, ?????? ??
????????? ???, ??? ?? ?????????? ??? ?????????? ??, ?? ?????? 41 ??? 42 ??? ?????? ???
?? ??????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ???
????????? ??? ?? ?????? ??? ?????? ??????, ?????????? ?? ?????? ?????????? ???
????????? ??? (??., ??' ?????? ??? ??????, ?????? ??? 22?? ?????? 2010, X ??? fiscale
eenheid Facet-Facet Trading, C?536/08 ??? C?539/08, EU:C:2010:217, ??? 35).

51 ?? ?????? ?????????? ??? ?? ?????? 42 ??? ?????? ??? ?? ?????? ?????????? ??' ??
?????? ?????????? ?? ?????????? ?????? ??????, ?????? ?????????? ?????? ??
?????? ?? ? ?????? ?????????? ?????? ?? ?????? ?????????? ?????? ?? ?????? ??
?????? ?????????????? ?? ?????????? ?????? ?????? ?????? ?????? ?? ?????? ??
?????? ?????? ??? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????????? ??
????????????? ?????? ?? ??????.

52 ?? ?????? ??????????, ?? ?????? ?????? ??? ?????? ?? ??????????, ?????? ?? ??????????
?? ??????? ?????? ??? ?? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ??? ??
????????? ?????????? ?? ?????????? ?????? ?????? ?? ?????? ?????????? ??????????
?? ?????? ??? ?????????? ?? ?????? ?????? ??? ?? ?????? ?????? ?????? ??????????
????????????? ?? ?????????? ?????????? ?????? ??? ?????? 42 ??? ?????? ??? ??
?? ?????????? ?? ? ?????????? ?????? ?????? ?????? ?????? ??? ?? ?????????? ??????
?????????. ??????, ?? ?????? ??? ?? ?????? ?????? ?????? ?????????? ?? ?????? ???
?????? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??????
42 ??? ?????? ???, ??? ? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ??
????????? ??? ?????????? (??., ??' ?????? ???, ?????? ??? 15?? ?????????? 2016,
Senatex, C?518/14, EU:C:2016:691, ??? 42).

53 ??? ?? ?????? ?????? ??? ?????????? ?????? ??? ?? ?????? ??????????????
?????? ?? ? ?????? ??? ?????? ??? 2012 ??? ?? ?????? ??? 2012 ???
??????, ??? ?????????? ?????? ?????? ??? 8 ?????? 2013. ? ?????????? ???
??? Graz ?????? ??? ? Firma Hans Bühler ??? ??? ?????????? ??? ?????????? ???
??? ?????? ??? ?????? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??? 2013, ??????
??? ? ?????? ?????? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?? ?????? ??? ??????.

54 ?????? ?? ?? ?????????? ??? ?????? ?????? ?????????, ?????????????? ??? ?????? ???
????? ?? ?????? ??? ? ?????? ?????? ?????? ??? ??? ??? Firma Hans Bühler ???
????? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? 265 ??? ??????
??? ??? . ???????, ? ?????? ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ??
????????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

55 ??? ?????? ??? ?????? ?????? ?????????????????? ?????? ??? ?????????????? ??????????????????, ?
????? ??? ?????????? ?????? ?????????????? ?????? ??? ?????? ?????? ?????? ?????????? ??? ??????
42 ??? ?????? ??? ?????? ?????????? ?? ??? ?? 42, ?????????? ?, ??? ??????
????? ??? ?????????? ??????, ???? ??? ?? ? ?????? ?????????? ??? ?????? 42, ??????????
??, ??? ?????? ??? ??? ?????? ?????????? ?????????? . ???????, ? ?????????? ????
????????? ?????? ??? ?????? ?????????? ?? ?????????? ??? ?????????? ?????? ?????????? ??????
??? ??? ?????? ??? ?????? ?????????? ?????????? ?????????? ?????????? ??????, ??????????
?????????????, ??? ?? ?????????? ???.

56 ?????? ?????? ?? ??????????, ??? ?????????? ? ?????? ?????????? ?????????????? ??? ?????? 91
??? ?????????? ?, ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?? ?????? ??????
????????? ??? ?? ?????????? ??? ?????? ?????????? ??? ?????? 42 ??? ??????
????? ??? (??., ???' ????????, ?????? ??? 20?? ?????????? 2016, Plöckl, C?24/15,
EU:C:2016:791, ?????? 43, 44 ??? 46).

57 ??????, ? ?????? ?????? ?????? ?????????? ?????? ?? ?????? ?? ? ?????????? ?? ? ?????????? ???
????? 42 ??? ?????? ??? ?? ? ?????????? ??? ?????? ?????????? ?????? ??? ?????? ??
????????? ??? ?????????? ?? ?????????? ??? ?????? ?????????? ??? ?????? (??., ???'
?????????, ?????? ??? 9?? ?????????? 2017, Euro Tyre, C?21/16, EU:C:2017:106, ?????? 39
??? ??? ?????????? ??????).

58 ??? ?????? ??? ?????? ??????, ??? ?????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?????? ??? Firma Hans Bühler ?? ??????????.

59 ????????, ? ?????? ?????? ?????? ?????????? ?????? ?? ?????????????? ??????
????????? ??? ?????? 42 ??? ?????? ??? ?? ? ?????????? ??? ?????? ?? ?????????? ??
????????? ? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??????
(??., ???' ????????, ?????? ??? 9?? ?????????? 2017, Euro Tyre, C?21/16, EU:C:2017:106,
????? 42 ??? ?????? ?????????? ??????).

60 ?????????? ??? ?????? ?????????? ?? ?????? ?? ? ?????????????? ?????? ???
????????? ?????????????? ??? ?????? ?? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? 2012 ??? ? ?????????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ??? ??????
??? ?????????? ??? ??????????.

61 ??? ?? ?????? ??? ?????? ??????, ??? ?????? ?????? ?????? ?? ?????? ?
????????? ??? ?? ?????? 42 ??? 265 ??? ?????? ??? ??, ?? ?????????? ?? ?? ?????? 263 ???
????????? ??? ??, ?????? ?? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?? ?????? ?? ?????? 41, ?????? ??????, ??? ??????
????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????????? ??? ?????????? ?????? ??? ??????
????????????? ??? ?????? ?? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??????, ? ??? ??
????? 265 ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? ?????? ??? ??????
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ???.

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

62 ?????????? ??? ? ??????? ?????????? ??? ?? ??? ????? ????? ?????????? ??? ?????? ?????
??? ?????????? ?????????????? ??? ?? ?????? ??????? ??? ?????? ?????????? ??????????, ?' ????
????????????? ?? ?????????? ??? ?? ?????????? ??????. ?? ?????? ??? ????? ??????????????
???? ?????????? ?????????????? ??? ??????????, ??? ?? ??? ????? ??????????, ??? ??????????.

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

1) ?? ?????? 141, ??????? ??, ??? ?????? 2006/112/?? ??? ???????????, ??? 28??
????????? 2006, ??????? ?? ?? ????? ?????? ?????? ?????? ?????????????? ????, ???
???? ?????????????? ??, ??? ?????? 2010/45/?? ??? ???????????, ??? 13?? ??????
2010, ?????? ?? ?????????? ??, ??? ?????? ?????? ?????? ?????? ?????????? ???, ??? ?????? ??????????
????????? ???, ??? ?????????? ???, ??? ?????? ?????? ?????????????? ???, ??? ??????????
????? ?????????? ???, ??? ?????? ?????? ?????? ?????????????? ???, ??? (???) ??? ?????? ???,
??? ?? ?????? ??, ??? ?????? ?????????????? ??, ??? ???????????, ??? ?????????????? ???, ???
?????? ?????????????? ???, ??? ?????? ?????? ?????? ?????????? ???, ??? ?????? ??????????
??????.

2) ?? ?????? 42 ??? 265 ??? ??????? 2006/112, ??? ?????????????????? ??? ??
?????? 2010/45, ?? ?????????? ?? ?? ??? ?????? 263 ??? ??????? 2006/112, ??? ??
????????????? ??? ?? ??? ?????? 2010/45, ?????? ?? ?????????????? ??? ?? ??? ?????? ??
??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?? ?????????? ?? ?????? 41,
????? ??????, ??? ?????? 2006/112, ??? ?????? ?????????????? ??? ?? ??? ??????
2010/45, ?????? ??? ?????? ??????, ??? ?????? ??? ?????????????? ?????????? ?
????? ?????????????? ?? ?????? ?? ?????? ?????????? ?????? ??? ?????? ??????
??????, ? ???? ?? ?????? 265 ??? ??????? 2006/112, ??? ?????? ?????????????? ??? ??
?????? 2010/45, ?????? ??? ?????????????? ?????? ??? ?????????????? ??????
????????? ??? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????????? ??????
????????? ?????? (???) ??? ?????? ?????? ???.

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

* ??????? ?????????????; ? ?????????.