

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

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

??? 5?? ??????? 2020 (\*)

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

???? ??????? C-48/19,

?? ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ???  
?????? ?? Bundesfinanzhof (????????????? ?????????? ??????????, ???????) ?? ??????  
?? 18?? ?????????? 2018, ? ????? ?????? ??? ?????????? ??? 25 ?????????? 2019,  
??? ??????? ??? ?????

### X-GmbH

????

### Finanzamt Z,

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

????????? ??? ??? M. Safjan, ?????? ??????, L. Bay Larsen (????????) ??? N.  
Jääskinen, ???????,

????????? ??????????: E. Tanchev

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

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

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

- ? X-GmbH, ?????????????? ??? ?? G. Burwitz, Rechtsanwalt,
- ? ?????????? ????????, ?????????????? ??? ?? S. Eisenberg,
- ? ?????????? ????????, ?????????????? ??? ?? L. Lozano Palacios ??? ?? L. Mantl,

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

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

??????

1 ? ?????? ?????????????? ?????????? ??? ?????? ??? ??????? ??? ?????? 132, ????????????

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

2 ? ??????? ??? ??????????? ??? ??????? ?????????? ??????? ??????? ??? X-GmbH ???  
??? Finanzamt Z (?????????? ?? Z, ???????) ??????? ?? ?? ?????? ??? ?????? ??? ?????  
?? ??????? ?? ?? ??? ????? ?????????????? ?????? (???) ??? ??????????? ??????????????  
????????? ??? ??????? ??????? ?? ?? ?????? ??????? ??? ?? ??????????? ??????????  
????????? ??? ??????? ??? ??????? ??? ?????? ? ??????????? ??????????, ?????????? ???  
????? ??????? ? ? ??? ??????? ??? ??????? ?????????? ?????????? ??????????.

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

? ?????? 2006/112

3 ?? ???? 132, ?????????? 1, ??? ?????? 2006/112 ??? ?? ????:

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

[...]

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

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

[...]».

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

4 ?? ???? 4 ??? Umsatzsteuergesetz (????? ??? ?????? ?????? ?????? ??????), ??? 21??  
?????????? 2005 (BGBl. 2005 I, ?. 386), ??? ?????????????? ?? ??? ??? 19??  
?????????? 2008 (BGBl. 2008 I, ?. 2794), ?????? ?? ????:

«?????? ??? ??????? ??? ??????? ??? ??????? 1, ?????????? 1, ?????? 1, ??????????????  
??? ????:

[...]

14. a) ?? ??????? ??????? ?????????? ?? ?????? ?????????????? ??? ??????? ???  
?????? ??? ?????????? ??? ??????, ??? ?????????? ??? ??????????, ??? ??????????, ???  
?????????????, ??? ?????? ??? ?????? ?????????? ?????????? ???????????. [...]»

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

5 ?? ?????? ?????????? ??????? ?????????????? ????????. ?? ?????????? ??? 2014,  
???????, ??? ?????????? ??? ??????? ?????? ??????? ?????????? ??????????, ??????????  
????????????? ?????? ?????????? ??? ??????? ?????? ??????? ?? ??? ?????? ??? ??????????  
????????????? ?????????? ?????????? ?????????? ??? ??????? ?? ??? ?????? ??? ??????????  
?????????.

6 ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???  
??????, ?? ??? ???? ??????, ????? ?????????? ?? «????????? ??????». ??? ??? ?????? ???  
????? ??? ??????????, ?????????? ? ?????????? ??????, ? ?????? ?????????? ??? ??????  
????????? ?, ?????? ?????????? ?????? ??????????????, ?????? ?????? ??? ?????? ?????? ????.

7 ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????????? ??  
????????? ?? ?????? ??? ?????????? ??? ?, ??? ??? ?????, ??? ?? ??? ?????? ??????????  
??????????. ??? ?????????? ??? ?????????? ????????, ?? ?? ??? ?????? ??????????  
????????? ?? ?????????? ?? ?? ?????? ?????????? ?????????? ??? ?????????? ??? ??????????  
????????? ?? ?????? ?? ?????????? ?? ?????????? ? ?????????? ??? ?????????? ??? ??????????  
?? ??? ?????????? ?? ?? ?????????? ?????? ???, ?????????? ??? ?????????? ??? ??????????  
????????? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????  
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????  
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????, ?????????? ??? ?????????? ????  
????????? ??? ?????????? ??? ?????????? ??? ??????????.

8 ?? ?????????? ?????? ??????? ?????????? ?????????? ?????????????? ??? ?????? ????  
???????, ? ?????? ??????, ?????? ???, ?? ??????, ??? ?????? ??? ??????, ???  
????????? ??????.

9 ?? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??  
????? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???  
????????????? ??? ?????? ???, ??????????, ?? ?????? ??? ?????????? ??? ?????????? ??? ??????  
?? ??????, ?????? ?? ??????????, ?????????? ?? ?????????? ?? ?????????? ??? ?????????? ???  
????????? ?????? ?????????????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ???  
????????? ?????? ??? ?????????? ??? ??????, ?? ?????? ?????????? ??? X ??? ?? ??? ?????? ???,  
?? ??? ?????? ???, ?????????? ?? ?????? ?????????? ??? ?????????? ??? ??? ?????? ???.

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

11 ??? ?????? ??? ?????????? ?????? ???, ? X ?????? ?????? ??? ?? ??? ?????? ???  
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ????. ? ??????????  
???? Z ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

12 ? X, ??? ?????? ? ?????? ?????????? ??? ?????? ??? ?? ?????? ?????????? ?????????? ???,  
????? ?????? (Revision) ??? ??? Bundesfinanzhof (????????????? ??? ??????????).

13      ????? ???????, ?? ?????? ??????????? ??????????? ?? ?????? ?? ?????? ?? ?????? ??  
????????????? ?????????? ?????????? ??????? ?? ?????? ?????????? ?????? ?? ?????? ?????????? ?? ????  
????????? ?? ?????????????? ??????? ?????????? ? ?????????? ?????????? ?????? ?? ?????? ?? ??????????  
????????? ?????????? ??????? ?? ?????????? ?????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????????? ??  
????????? ??? ?????????? ? ?????? ??????? ??? ?? ?????? ?????? ??? ?????? ?????????? ??? ?????????? ?? ????  
132, ?????????? 1, ??????? ??, ??? ?????? 2006/112 ??? ?????????? ?? ?????? ??????????  
????? ??? ?????? ?????? ???????, ??? ???????, ?????? ???????, ?????? ??????????.

14      ??????????????, ?? ?????? ?????????????? ?????? ?? ?????????????????? ?? ? ? ??????????????????  
???. ?????????? ???. ?????????? ???. ?????????????? ?????? ??????????????, ???. ???. ?????? ???. ??????  
132, ?????????? 1, ??????? ??, ???. ?????? ??????, ???. ?????????????? ???. ???. ???.  
????? ?????? ???. ???. «?????????» ?????? ?????????? ?????? ???. ???. ???. ???.  
????????? ???. ?????????????????? ?????? ?????? ?????? ???. ???. ???. ?????????????? ??????????  
????? ?????????? ?????????? ??????????.

15      ??? ???. ????????, ?? Bundesfinanzhof (????????????? ??????????? ??????????)  
????????? ?? ?????????? ?? ??????? ?? ?????????? ?? ?????????? ?? ?????????? ??  
???? ?????????? ?? ??????????:

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

2) «????? ????? ???? ?????????? ??? ?????????????? ?????? ?????????????????? ??????????????, ???  
????????????? ??? ?????? ?????? ??? ?????? ?????, ??? ??? ?????????? ??? ?????????????? ??? ??????  
????????? ??? ?????? ??? ??? ?????? ??? ?????????????? ??? ?????? “?????????????  
????????????? ??? ??????”, ?? ?????????? ?????????????? ?????????????? ?????????? ?? ?????????? ???  
“????????? ??? ??????” (????????? ??????, ??????????) ??? ??? ??? ?????, ???????,  
??? ?????????? ?? ?????? ? ?????? ?????? ??????;»

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

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

17      ??? ?? ??????????? ???????? ?? ?? ?????? 132, ??????????? 1, ????????? ??, ??? ??????  
????? ?????????? ?? ?? ?????? ?????? ?? ?????? ?? ?????????????? ?????? ?????? ???  
?????????????, ????, ??????, ?? ?????? ?????? ?????? ??????????? ???, ????????, ??  
????????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????????????? ??????????????,  
???? ?????????? ??? ?? ?????????????? ?????? ?????? (?????? ?? 27?? ?????? 2019,  
Belgisch Syndicaat van Chiropraxie ??., C?597/17, EU:C:2019:544, ??? 19 ??? ???  
????????????? ??????????).

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

19 ???????, ??????????? ?? ???? 132, ??????? 1, ??????? ?, ??? ??????,  
2006/112 ??????? ???????????, ?? ???? ??????? ??? ?????? ??????????? ??? ??????,  
???? ?????? ??? «?????? ??????? ???????», ?????? ?? ??????????? ?? ??????? ???  
?????? ??? ??? ??????? ??? ???????.

20 ??? ?? ??????? ?? ??????????? ??????? ??????? ???, ??? ?? ?????? 132, ??????????? 1,  
?????? ??, ??? ?????? ??? ?????? ?????? ??????? ??? ?????? ???????????, ??  
????? 132, ?????????? 1, ??????? ??, ??? ?? ??? ?????? ?????? ??? ?????? ??????????? ???  
?????????? ?????? ???????????, ??? ?????? ?????? ??? ??????????? ??? ?????? ?????????? ???  
????? ??? ??????? ??? (????. ??????? ??? 18?? ??????????? 2019, Peters, C-  
700/17, EU:C:2019:753, ??? 21 ??? ??? ??????????? ??????????).

21 ???????, ??? ?? ??????? ??????? ???, ??? ?? ??????? ??? ?????? 132,  
?????????? 1, ??????? ??, ??? ?????? ???????, ??? ?????? ? ?????? ??????? ???  
?????????? ??? ?????? ?????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???????????  
??? ?? ??? ?????? ???????, ??????????? ??? ?????? ??? ?????? ??????????? ???.

22 ???????, ?? ??????? ?? ???????, ??? ?????? ??????? ??????? ???  
?????????? ?? ??????? ???, ??? ?? ??? ??????? ?? ??????? ? ??? ?? ??????? ???  
?????????? ?? ??????? ??? ??????? ??????? ?? ??????? ??? ???????????, ??????? ???  
????? ??????? ???, ?????? ?????? ??? ?????? ??? ?????? ??????? ??????????? ??? ???????????  
??? ??????? ??? ??? ??????? (?????? ??? 18?? ??????????? 2019, Peters, C-700/17,  
EU:C:2019:753, ??? 29 ??? ??? ??????????? ??????????).

23 ??????????? ??? ?????? ??? ??????? ??? ??????? ???, ??????????? ??? ?????? ???  
?????????? ??? ??????? ??? ??????????????? ??? ??????? ??? ??????? ??? ??????????? ???  
?????????? ??? ??? ??? ??? ?????? ??????? ??? ?????? 132, ?????????? 1, ??????? ??, ???  
?????? 2006/112, ?????? ??????? ?? ?????? ??? ??????????? ??? ??????????? ??? ???????????  
?????.

24 ? ??????????? ??? ???????, ???????, ?? ??? ?????? ??? ??????????? ??? ?????? ???  
?????? ??? ??????????? ??? ??????????? ??? ?? ??????? ??????????? ??? ?????? ???  
??????, ?????? ??? ?????? ??????? ?? ?????? 132, ?????????? 1, ??????? ??, ??? ???????  
????? (????. ??????? ??? 13?? ??????? 2014, Klinikum Dortmund, C?366/12, EU:C:2014:143,  
????? 28 ??? ??? ??????????? ??????????).

25 ??????, ??? ?????? ??? ? ??? ?????? ??????????? ??? ?????? ??? ?? ???????????  
?????????? ??? ?????? ??????????? ??? ?? ???, ?? ?????? ??????? ??? ?????? ???  
«?????? ??????? ???», ??? ?????? ???????, ??????????? ??? ?????? ??? (????.  
?????????? ??? 20?? ??????? 2003, Unterptinger, C?212/01, EU:C:2003:625, ??? 38, ???  
20?? ??????? 2003, D'Ambrumenil ??? Dispute Resolution Services, C-307/01,  
EU:C:2003:627, ??? 56, ??? ??? 21?? ??????? 2013, PFC Clinic, C-91/12, EU:C:2013:198,  
?????? 31 ??? 32).

26 ???????, ??? ?????? ??????????? ??????????? ?? ??????????? ??? ?????? ???  
???? ?????? ??? ?????? ?????? ?????? ??????????? ??????????? ??? ??????????? ???  
????? ??? «?????? ??????? ???» ??? ?????? 132, ?????????? 1, ??????? ??, ???, ???  
?????? 2006/112.

27 ??? ??????, ??? ?????? ??????????? ??????????? ?? ??????????? ??? ?? ???????  
?????????????? ??? ??????????? ??????????? ??????????? ??????, ??????????? ??? ???????  
?????????? ??? ?? ??????????? ?? ?????? ??????????? ??? ?????? ??? ??????? ???

???? ???? ?????? ? ??????? ?????? (????. ??????????? ??? 20?? ??????????? 2003, Unterperfinger, C?212/01, EU:C:2003:625, ??????? 40 ??? 42, ??? ??? 27?? ??????? 2006, Solleveld ??? van den Hout-van Eijnsbergen, C?443/04 ??? C?444/04, EU:C:2006:257, ????? 24 ??? ??? ?????????????? ??????????).

28 ???????, ??? ??????????????, ? ?????? ??? «?????? ?????????? ??????????» ???  
?????? ?????????? ?? ?????? ?? ???????, ??? ?????????? ???, ??? ?????? ?? ???????, ??  
????????? ?????????? ?? ?????????? ??? ?????? (????????? ??? 14?? ?????????? 2000, D.,  
C?384/98, EU:C:2000:444, ??? 18, ??? ??? 18?? ?????????? 2019, Peters, C-700/17,  
EU:C:2019:753, ??? 20 ??? ??? ?????????????? ??????????).

29 ??????????, ??? ???? ???? ?????????? ???' ??????? ??? ? ?????????????? ?????? ???  
?????? ?????? ?????? ?????????? ?????? ?????? (????????? ?? 10?? ??????  
2010, Future Health Technologies, C?86/09, EU:C:2010:334, ????? 40 ??? ??? ??????????????  
?????????, ??? ??? 21?? ?????? 2013, PFC Clinic, C?91/12, EU:C:2013:198, ????? 26).  
????????, ?? ??????? ?????????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????, ?????????????????? ??? ?????????? ? ??? ?????????? ???, ?????????? ???, ?????????? ???  
????????? ??? ?????? 132, ?????????? 1, ??????? ??, ??? ?????? 2006/112 (?????????  
?? 10?? ?????? 2010, Future Health Technologies, C-86/09, EU:C:2010:334, ?????? 41 ??  
42 ??? ??? ?????????????? ???????, ??? ??? 21?? ?????? 2013, PFC Clinic, C?91/12,  
EU:C:2013:198, ????? 27).

30     ?????????? ???? ?????????? ??????, ? ?????????? ?????????? ?????? ?????? ??? ?????? ??????  
????????????? ?????????????????? ?????????? ? ? ?????? ?????????????? ?????????? ?????????? ??????????  
????? ??? ?????? ??? ?????, ?????????????? ?????? ??? ?????????? ??? ?????????? ??????????  
????? ?????????????? ??????, ??? ?? ?????????????? ?? ?????? ?????????????? ??????????  
????????? ??? ?????? ??? «????????? ?????????? ??????????», ??? ?? ????? 132, ??????????  
1, ??????? ??, ??? ?????? ?????.

31    ?? ??????????, ?????????????? ?????????? ?? ?????? ?????????? ??? ?????? ?????????? ?? ?????? ??????????  
?? ?????? ?????????? ?????? ?? ?????????? ?????? ?? ?????????? ?????? ?????? ?? ?????? ?????? ??????  
????????????? ?? ?? ?????????? ?? ?????? ?????? ?? ?????? ?????? ?? ?????? ??, ?????????? ?? ?????? ?????? ?????? ??????????  
?? ?????????? ?? ?? ?????????? ?? ?????? ?????? ?? ?????? ?????? ?? ?????? ??, ?????????? ??, ??  
????????? ?? ?????? ??, ?????? ?????????? ?? ?? ?????????? ?? ?????? ??, ?????? ?????? ??  
????????? ?? ?????????? ?? ?????? ?? ?? ?????????? ??, ?? ?? ?????? ??, ?????? ?????? ?? «?????????  
?????????», ?? ?? ?????? 132, ?????????? 1, ?????????? ??, ?? ?? ?????? ??????.

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

33      ???????, ???????, ?????????? ?? ???????, ???????????, ????, ???????, ???????, ??  
????????? ???????????, ????, ????, ??, ???????, ????, ???????, ???? ???? ???????, ???????, ???????, ???????, ??,  
??, ???????, ??, ???????, ??, ???????, ??, ???????, ??, ???????, ??, ???????, ??, ???????, ??, ???????, ??,  
????????? ??, ????, 132, ???????, 1, ???????, ??, ???, ???????, ???????.

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

??????????.

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

35    ?????? ?? ?????????? ????????????, ??? ?????? ?????? ?????????? ?? ???? ???????????, ??  
???? ????????????, ??? ?????? ??? ?????????? ?????????? ?? ???? ?????? ???????????  
??? ?????? ?????????? ?? ?????? 267 ????, ?? ?????? ??? ?????? ?????????? ??????????  
????????? ??? ?? ??? ?????? ?? ?????????? ?????????? ??? ?????????? ??? ?????? ???  
????????? ??? ??, ??? ?? ?????? ???, ?? ?????????? ?????? ?? ?????????? ?? ????????????, ??????  
?? ?????? ????????, ?? ?????? ??? ?????????? (??????? ??? 25?? ??????? 2018,  
Dyson, C-632/16, EU:C:2018:599, ??? 47 ??? ??? ?????????? ??????????).

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

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

38    ?????????? ??? ?? ?????? ?????? ?? ?????? ?????? ?? ?????????? ?? ?????????? ?? ??????????  
?? ?????? ??? ?? ?????? ?????? ?? ?????? 132, ?????????? 1, ??????????  
??, ??? ?????? ???, ??? ?????? ?????????? ?? ?????? 17 ??? ?????????? ??????????,  
????????? ?? ??? ?????? ?? ?????? ?????? ?????????? ?????????? ?????????? «??? ??????  
??? ?????? ?????? ??? ?????????? ?????????????? ??????????????, ??? ?????????????? ?? ?? ??  
????????? ?????? ??????».

39    ?????? ?????????? ??? ?? ?????? ?? ?????? ?????? ?? ?????? 132, ?????????? 1,  
????????? ??, ??? ?? ?????? ?????? ?????????? ?? ?????? ?? ?????? ?????? ?????? ??? ??????  
?? «????????? ?? ?????? ?????? ?????? ??????», ??? ??????????, ?? ??? ?? ?????? ???, ???  
???? ?????? ??? ?????????? ?? ?????? ?????? ?????? ?????? (????????? ??? 27??  
????????? 2006, Solleveld ??? van den Hout-van Eijnsbergen, C-443/04 ??? C-444/04,  
EU:C:2006:257, ??? 28, ??? ??? 27?? ?????? 2019, Belgisch Syndicaat van Chiropraxie  
??., C?597/17, EU:C:2019:544, ??? 23).

40      ??? ??? ?????????? ??????, ?? ?????? ??? ???????????, ?????? ?????????????? ??  
????????????? ??? ??? ??? ??? ?????? ?????? ??? ?????????? ??? ?????????????? ??? ?? ????  
132, ?????????? 1, ??????? ??, ??? ?????? ??????, ??????? ?????????? ??? ?? ???? ??  
????????????? ??? ?????????????? ??? ?????? ?????? ??? ?????? ?? ?????????? ??  
????????? ?????????????? ??? ??? ??? ???, ??????????, ??? ??? ?????????? ??? ??  
????????? ??? ?????????? ??? ??? ??? ?????? ?????? (????. ??????? ???  
27?? ??????? 2006, Solleveld ??? van den Hout?van Eijnsbergen, C-443/04 ??? C-444/04,  
EU:C:2006:257, ??????? 29, 30 ??? 32, ??? ??????? ??? 27?? ??????? 2019, Belgisch  
Syndicaat van Chiropraxie ?.??., C?597/17, EU:C:2019:544, ????? 24).

41 ???????, ? ?? ??? ?????????? ?????????? ??? ????? ??????????????, ??????? ?? ?????? ???  
?????? ?? ?????????? ???, ??????, ??? ????? ?? ?????????? ?? ?? ??????? ???, ?  
?????? ??????? ?? ?????????? ??? ? ?????????? ??? ? ??????? ?????????? ?????????? ???  
????????? ?????????? ?? ??????? ?????????? ??? ??????? ??? ?????????? ?? ?????????? ???  
????????? ?????????? ???, ???, ???????, ??? ??? ??? ?????????? ?????????? (????.  
?????? ?? 27?? ??????? 2006, Solleveld ??? van den Hout-van Eijnsbergen, C-443/04 ?? C-  
444/04, EU:C:2006:257, ??????? 31, 36 ?? 37, ??? ??????? ??? 27?? ??????? 2019, Belgisch  
Syndicaat van Chiropraxie ???., C-597/17, EU:C:2019:544, ????? 25).

42 ?? ?????? ???. ??????? ?? ??????????????, ??????, ??? ? ?????????? ??? ???????????  
????? ?? ????. ??????? ?????????? ????. ?? ??????? ?????????? ?????????? ??????????  
????????? ??????? (?????. ??????? ?? 27?? ??????? 2006, Solleveld ??? van den Hout-van  
Eijnsbergen, C-443/04 ??? C-444/04, EU:C:2006:257, ??? 37, ??? ??????? ??? 27?? ???????  
2019, Belgisch Syndicaat van Chiropraxie ?.., C?597/17, EU:C:2019:544, ??? 26).

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

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

45 ????????, ?? ?????? ??? ?????????? ?? ?????? ??? ?????? ??? ??????????????  
??????????????, ? ?????? ??? ?????????? ?? ?????????????? ?????????????? ?????????????? ???  
????????? ??? ?? ?????????? ????????, ?? ?????? ??? ?????????? ?????????????? ?????????????? ???  
?? ??? ??? ?? (????????? ?? 27?? ??????? 2006, Solleveld ??? van den Hout-van  
Eijnsbergen, C-443/04 ??? C-444/04, EU:C:2006:257, ????? 39 ??? ????? ??????????????  
?????????, ??? ?? 27?? ??????? 2019, Belgisch Syndicaat van Chiropraxie ?.??., C-597/17,  
EU:C:2019:544, ????? 28).

46 ????????, ????????, ?????????????? ??? ?????? ?????????????? ?? ?????????????? ?? ? ??  
????????? ??? ?????????????? ??? ?????? 132, ?????????? 1, ?????????? ?, ??? ??????  
2006/112 ?????????? ??? ?????????????? ?????????? ??? ?????? ?????????????? ??????????????  
????????? ??? ?????????? ?????????? ??? ?????????? ?????????? ?????????? ?????????? ??? ??? ???  
????????????? ??????????????, ??? ?????? ??? ?? ?????????????? ???, ??? ????  
????????????? ???, ??? ?????? ?? ?????????????? ??? ?????? ?????? ?????? ?????? ??????????,  
????????????? ??? ??????????, ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????????  
??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ?? ?????? ?????????? ?? ??? ??? ???  
?????????????.

47 ?????????????? ?????? ??? ??????? ??? ??????? ???????, ??? ??????? ??????????????  
?????? ?????? ?? ?????? ? ??????? ??? ?? ?????? 132, ?????????? 1, ?????????? ?, ???  
?????? 2006/112 ???? ??? ?????? ??? ?? ?????? ?????????? ?????? ?????????? ??? ??  
????????? ?????? ?????????? ??? ??????? ?????? ?????????? ?????? ?????????? ??? ??  
????????? ?????? ?????????? ?????????? ?????? ???????, ??? ?? ??? ?????? ?????? ??? ??  
????????? ?????? ??????, ?????????? ? ??????? ??? ??????? ?????? ?????? ?????? ??? ??  
????????? ??? ?? ??? ?????? ?, ??? ?? ?????????? ??? ?????? ?? ?????? ?? ?????? ??? ??  
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ??? ?????? ??? ??  
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?????????? ?? ???  
????? ?????????? ?, ?????? ??? ??????? ??? ?????? ?????????? ?? ??????????.

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

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

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

1) ?? ?????? 132, ?????????? 1, ????????, ??? ?????? 2006/112/?? ???  
?????????, ??? 28? ?????? 2006, ??????? ?? ?? ?????? ??????? ???  
????????????? ????, ??? ?? ?????? ??? ?? ?????????? ??? ?? ?????????? ??? ??  
????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?? ?????????? ??? ??  
????????? ??? ?????? ?????? ?? ?????????? ??? ?????? ?????? ??? ?? ?????????? ? ??????  
?????, ??? ?? ??? ?????????? ??? ?????????? ?????? ?????????? ???, ?????? ?? ???  
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2) ?? ?????? 132, ?????????? 1, ????????, ??? ?????? 2006/112 ???? ???  
????? ??? ?? ?????? ?????? ??? ?????? ?????????? ??? ?? ?????????? ?????????? ???  
????????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????????? ???,  
????????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ?? ?????????? ???,  
???? ?? ??? ?????? ???, ??? ?? ?????????? ??? ?????? ??? ?????? ?? ?????? ?? ??? ??  
????????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?? ?????? ??? ??????  
?? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?? ?????? ??? ??????  
????????? ?? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ?? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????.

(?????????)

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