

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

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

??? 25?? ??????? 2021 (\*)

«????????????? ?????????? – ?????? 2006/112/?? – ?????? ?????????????? ?????? (???) –  
????????? – ?????? 135, ?????????? 1, ??????? ?? – ?????????????? ?????????? ??? ??????????  
?? ????? ?????? ?????? ?????????? ??? ?????????????????? ??? ?????? ?????? ?????????? ???  
???? ?????????????? ?????????? – ?????? ??? ?????????? ?????????????? ??? ??????????  
????????? – ?????????????? ??? ?? ?????? ?????? ?????»

???? ??????? C907/19,

?? ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ???  
?????? ?? Bundesfinanzhof (????????????? ?????????? ??????????, ?????????) ?? ??????  
?? 5?? ?????????? 2019, ? ????? ?????? ??? ?????????? ??? 11 ?????????? 2019, ???  
???????? ??? ???

### **Q-GmbH**

????

**Finanzamt Z,**

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

????????? ??? ??? J.-C. Bonichot (????????), ?????? ???????, L. Bay Larsen, C. Toader,  
M. Safjan ??? N. Jääskinen, ???????,

????????? ??????????: M. Szpunar

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

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

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

- ? Q-GmbH, ?????????????? ??? ??? T. Küffner ??? M. Rust, Rechtsanwälte,
- ? ?????????? ????????, ?????????????? ??? ??? J. Möller ??? S. Eisenberg,
- ? ?????????? ????????, ?????????????? ??? ??? A. Armenia ??? L. Mantl,

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

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

???????

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

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

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

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

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

3 ??? ?? ??? 1, ?????????? 2, ??????? ??????, ??? ?????? 2006/112:

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

4 ??? ??????? 3 ??? ????? IX ??? ?????? ???, ?? ?????? ?????????? «?????????  
????? ??????????», ?????????? ?? ?????? ?? 135, ?????????? 3, ??? ?????? ???  
????????? 1 ?? ???:

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

) ??? ?????????? ??? ?????????? ??? ?????????, ??? ?????? ?????????????? ??  
????????? ?? ??? ?????? ?????? ???, ??? ?????????????? ??? ?????? ??? ?????????? ???  
????????????? ???, [...].».

**To ??????? ??????**

5 ??? ?? ??? 4, ?????? 11, ??? Umsatzsteuergesetz (????? ??? ?????? ??? ??  
????? ???????, ??? ????: UStG), ??? 21?? ?????????? 2005 (BGBI. 2005 I, ?. 386), ??  
????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???  
????????? ?????????? ???, ?????????? ?????? ??? ?????? ??? ?????? ??? ??????.

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

6 ? Q ???????, ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ???  
????????? ???, ? ?????? ?????? ??? ?????? ?????? ?? ???????, ?????????? ?? ??  
??? F-Versicherungs-AG (??? ????: F).

7 ?????? ?? ?? ?????? ???, ? Q ?????? ?? ?????? ??? ?????? ??? ?????? ???????.  
????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
F, ??? ?????? ?? ?????????? ??? ?????? . ???????, ? Q ?????????? ??? ?????? ???  
?? ??? ?????? ??? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????????? ???, ?????????? ???  
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???, ?? ??????  
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ???  
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ???  
??????, ???, ? Q ???????, ?????? ???, ?? ?????? ??? ?????? ??? ?????? ???, ??? ???

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

8 ??? ??? ?????????? ??? ? F ?????????? ??? Q ??????, ??? ?? ????? ???????????  
?????????.

9 ??? 27 ?????????? 2012, ? Q ??????? ??? ?????????? ?????????????? ??? ?? ??????  
??? ??? ?????? ??? ??? ?????? ??? ?????? ?????????? ??? ?? ?????????? ??? 2011. ?? ??? ??  
??? ?????? ?????? ?? ?????? ??? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ???????,  
????????? ??? ?????? 4, ?????? 11, ??? UStG.

10 ?? ??? ?????? ??????? ??? 4?? ?????????? 2014, ? ??????? ??????????  
????????? Z ??????? ??? ?????? ??? Q. ?????????? ??? ?????? ?????????? ??????????  
??????, ?????? ??? ?????? ?????? ??? ?????????????? ?????????????? ??????????????  
????????????? ??? ??? ?????? ?????? ??? ?????? 4, ?????? 11, ??? UstG.

11 ? Q ?????? ??????? ??? ?? ??? ?????? ?????? ?????? ?????? ?????? ???  
????????? ??? ?????????? ?????????? ?????????? ???, ??? ???????, ?????????? ???  
?????? ??? ??????? ?? ?????????? ??? ?????? ??? Bundesfinanzhof (?????????????)  
????????? ??? ?????????, ???). ?? ??????? ?????????? ?????? ???, ???'  
????????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ??? ?????????????, ??? ?? ???  
??? ??????? ??? 18?? ?????????? 2018, Stadion Amsterdam (C-463/16, EU:C:2018:22), ??  
????????? ???????, ???????, ?? ?????????????? ??? ?????? ??????.

12 ?? ?????????? ??????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ??????????  
??, ???, ?? ??????????, ??? ???????, ??? ?? ?????? ?????????, ??? ?? ?????? ?????????? ???  
?? ?????? ?????????? ??????. ?? ?????? ???????, ?????????? ?? ? ??????????  
????????? ??? ?? ??? ?????? ??? ?? ?????? ??? ?????????? ??? ?????????? ???,  
????????????? ??? ?? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ??????????  
?????????????, ?? ?????????????? ?????????? ?????????????? ??? ?????? ??? ?????? ??? ? Q  
????????? ?? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????? . ? ??????  
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ???  
????????? ??? ?????????? ??? Q ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ??? ??  
????????? ??? ??????????.

13 ??????, ??? ?????????? ??? ?? ?????????? ??? ?????????? ??? ??????????, ? ??????? ???  
????????? ?? ??? 135, ?????????? 1, ??????? ?, ??? ?????? 2006/112 ??? ???  
????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?? ???  
????????? ??? ??????????.

14 ??????????, ??? ?????????? ??? ?? ??? ?????? ??? ?????????? ?????????? ?? ??????  
????????? ??? ?????????? ?????????? ??? ???????, ?? ?????????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????????? ??? ?????????? ??? ?? ??? ?????? ??? 3?? ?????? 2005, Arthur  
Andersen (C-472/03, EU:C:2005:135). ???????, ?????????? ??? ?????? ??? ?????????? ???  
17?? ?????? 2016, Aspiro (C-40/15, EU:C:2016:172), ? ?????????????? ??? ?????? ???  
????????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???  
?? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
?????????.

15 ??? ?? Bundesfinanzhof (????????????? ??? ?????????? ??? ??????????), ???, ???

????????????? ? ??????? ?? 17?? ??????? 2016, Aspiro (C-40/15, EU:C:2016:172), ??  
????????? ??????????? ????????, ????? ?? ?????? ?????? ?????? ?????? ?????? ??  
????????????? ??? ?????? ?????? ??? ?????????? ?????? ?????? ??? ?????????? ???  
????? 135, ?????????? 1, ??????? ??, ??? ?????? 2006/112. ??? ?????? ??? ?????????? ???  
?????, ??? ?????????? ??? Q ??????, ??????????, ??????????, ?????????????? ??????????????  
????????????? ???, ?? ??????, ?????? ?? ?????????? ?????? ?????? ??? ??????????  
?????.

16 ?? ?? ??????, ??????????? ?? ??????? ? ??????? ?? ?????? ??? ?????? ?????? ?????????? ??  
?????? ???????????, ?????? ?? ?????????????? ?? ?????? ?????????????? ??? ?????????? ??  
17?? ??????? 2016, Aspiro (C-40/15, EU:C:2016:172), ?????????? ?? ?????????? ??? ??  
????? ??? Q ?????? ?????? ?????? ?? ?????????? ??? ??? ???.

17 ??? ?? ??????? ??, ?? Bundesfinanzhof (????????????? ?????????? ??????????)  
????????? ?? ??????????? ??? ??????? ?? ?????????? ??? ?? ?????????? ??? ?????????? ??  
????????? ??????????? ??????:

«????????? ??????? ?????????? ?????????????? ??? ?????????????? ??? ?????????????? ??????????  
? ?????? ??????????, ?? ??????? ??, ??? ?????? ???, ??? ?????? ?????????? ??? ??????????????  
?????????, ??? ?? ?????? ??? ?????? 135, ?????????? 1, ??????? ??, ??? ??????  
[2006/112], ??? ?????????? ???, ??? ?????? ?????????? ?????? ?????????? ??? ??????????  
????????????? ??? ?? ?????????? ??????, ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??  
?? ?????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???;  
»

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

18 ?? ?? ??????? ??, ?? ?????? ?????????? ???, ???' ??????, ?? ?????????????? ?? ??  
????? 135, ?????????? 1, ??????? ??, ??? ?????? 2006/112 ??? ?? ?????? ??? ??  
????????? ?? ?????? ??? ?????? ??? ?? ?????? ?????????? ??? ?????????? ??? ??  
????????? ?????? ??? ?????????? ??? ?? ?????? ???, ?? ?????? ?????????? ??? ??  
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?? ?????????? ???  
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ??  
????????? ??? ?????????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ??.

19 ??? ?? ??????? ?? ?????????? ??? ?????????? ???, ??? ?? ?????? ?????????? ??  
?????? ?????????? ?? ??????????, ?????? ?? ?????????? ??? ?????? ??? ?? ?????????? ?? ??  
?????? ?????????? ?? ?????? ???, ?????????? ?? ?????????? ?? ?????? ??? ?? ?????????? ?? ??  
??? ?? ? ?????????? ??? ?????? ??? ?????? ??? (?????? ?? 18??  
????????? 2018, Stadion Amsterdam, C?463/16, EU:C:2018:22, ??? 21 ??? ??  
????????? ??????).

20 ??????? ??, ?? ?????? ?????? ??? ?????? ??? ?????? ?? ??????????, ??? ??????? ??, ?? ???????  
?? ???????, ???????, ??? ?????? ??? ?? ?????? 1, ?????????? 2, ??????? ??????,  
??? ?????? 2006/112, ??? ??, ??? ?????? ??? ?????????? ??? ??????, ?????????? ?? ?? ??????  
????? ??? ?????? ?? ?????????? ??? ??????, ??? ?????? ??? ?? ?????? ??? ?????????? ?? ??  
????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? [?????? ?? 2??  
?????? 2020, Blackrock Investment Management (UK), C?231/19, EU:C:2020:513, ??? 23  
?? ????? ?????????? ??????].

21 ?????? ??????????, ????, ?? ?????????? ???? ??? ?????? ??? ? ?????????????? ???????  
?????? ?? ?????????? ??? ?????????? ??? ???????, ???, ??????????, ??? ??????????  
?????? ?? ?????????? ??? ?????????? ??? ? ?????????? ?????????????? ??????????, ?? ??????,  
??? ?????? ??????????, ?????????? ??? ?????? ??? ?????? ??????. ??????????, ???  
????? ?????? ?? ?????????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ??? ??????  
????????? ??? ??? ??????, ??? ?? ??? ??? ??? ?? ?????????? ??? ??? ??? ?????????? ??????  
??? ?????? ?????????? ??? ?????? (??????? ??? 2?? ?????????? 2010, Everything  
Everywhere, C2276/09, EU:C:2010:730, ?????? 24 ??? 25 ??? ????? ??????????????  
?????????).

22    ?? ???????????, ??? ?? ?????? ?????? ??? ??????????? ?????????? ??? ? ?????? ?????? ???  
?????? ?????? ??????????? ?????????? ??????? ?? ?????????? ?? ?????????? ?? ?????????? ??  
????? ???. ?? ???????, ??????? ?? ?? ?????????? ??????????????? ?? ?????? ?? ?????? ??  
????? ?? ?? ?????? ??????????? ?? ?? ?? ??????? ?? ?? ?????? ??????????????? ?????????? ??  
?????????? ?? ???????????, ??? ?????????? ?????? ?????? ?????? ?????????? ?? ??????????  
??????????, ??????? ?? ?? ?????? ?????????? ?? ?? ?????? ?????????? ?? ???????????.

23      ????????, ??? ?? ????????, ??? ?????????????? ??? ?????????????????? ??? ????? ?????????? ??? ????? ?????????????? ???  
????? ????????, ?? ???????????, ?? ???? ?????????? ?? ???? ?????????? ?????????????????? ??? ????? ???????, Q  
??????????????, ??? ??? ???????, ??? ?????????????? ??? ????? ?????????? ?????? ?????????????????? .. ???????????,  
??? ??? ???????????, ??? ?????????????? ??? ????? ?????????? ?????? ?????? ??? ?????? ?? ???????, ?? ??????  
??????????, ??? ???????????, ??? ???? ?????????? ??? ????? ?????????? ?????? ?????????? ?????????????? Q ???????,  
?? ???????????, ?? ???????????, ?? ?????????????? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ??? ??????  
????? ?????? ? ??? ?????? ??? ????? ???????, ??? ??????????, ?????? ??? ?????????? ??????????????????  
??? ???????, ??? ???? ?????????????? ?????????? ?? ?????????? ??? ?????????? ??? ?????????????? ??? ??????  
??? ??? ???????, ???

26 ??????????, ??? ??????? ???. ?????????????, ?????? ?????????????? ?????????? ???  
?????? ??? ?????? 267 ???, ?? ?????? ??? ?????????????? ??? ??????????  
????????????? ??? ?????????? ??? ?????? ???, ?????????? ??? ?????????????? ??? ??????  
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??????????. ? ?????????? ??? ??????????  
????????? ??? ?? ??????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????  
????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ?? ?????? ??? ??? ?????? ??? ??????  
????? ?????? [?????? ??? 2?? ?????? 2020, Blackrock Investment Management (UK),  
C?231/19, EU:C:2020:513, ??? 25 ??? ??? ?????????????? ??????????].

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

28 ?????????????? ??????? ???, ??????? ?? ?????????????? ??????? ?????????? ??? ????  
??? ?????? ??????? ??? ??????? ???, ?? ?????????? ??? ?????? ??? ?????? ? ?????? ??? ??????  
????????? ??? ?????? ?????????? ??? ?????? 135, ?????????? 1, ??????? ??, ??? ??????  
2006/112, ? ?????? ?? ??????? ?? ?????????? ??? ??????? ??? ??? ???' ?????????? ???  
????????????? ?????????? (????. ??????? ??? 8?? ?????????? 2016, Stock '94, C?208/15,  
EU:C:2016:936, ??? 25).

29 ?? ???????????, ?? ?????? ??????????? ?????? ??? ? ??????? ?????? ??? ?? ?????  
????????????? ?????????? ??????? ??? ?????? ?????? ?? ?????? ??? Q. ?? ?? ??????, ??????  
?? ??????? ?? ? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? 135, ?????????? 1,  
????????? ?, ?? ??????? 2006/112 ??????????? ?? ?????????? ??? ???.

30 ??????? ?? ??????????? ??????? ??? ?? ????? ?? ?????????????????? ??? ?? ?????????  
??? ?????????? ??? ?????? 135, ?????????? 1, ??? ?? ??? ????? ?????? ?????? ?? ??????????????  
?????, ?????????? ??? ?? ?????????? ????? ?????????????? ?????????????? ??? ?? ?????? ???  
????? ??? ?????? ? ??? ?????????? ?? ??? ????? ?????? ?????? ?????????? ??? ?????????????? ??  
????????? ?????? ??? ?????????? ??? [????????? ??? 8?? ?????????? 2020, United  
Biscuits (Pensions Trustees) ??? United Biscuits Pension Investments, C?235/19, EU:C:2020:801,  
????? 29].

31      ????. ?? ?????? 135, ??????????? 1, ????????? ??, ??? ??????? 2006/112 ?? ?????? ????.  
?????????? ?? ???? «??? ??????????? ?? ?????????????????? ???????», ??????, ???  
??? «????????? ?? ?????? ??????? ?????????, ??? ?????????????????? ??? ??? ????? ??????????  
??? ?????????????? ???????», ???????.

32      ????? ??????, ??????, ??? ?????????????? ??????????, ? ?????? ????? ????????????????,  
????? ?????? ??????????, ??? ?? ??????? ??? ? ?????????? ?????? ??????????????, ?????? ???  
????????????? ?????????? ??????????????, ?? ?????????? ??? ??????????????, ?? ??????????  
????????? ??? ?????????????? ????????, ?? ?????????????????? ??? ?? ?????? ???  
????????? ??????. ?? ?? ??? ????? ?????????? ??????????????, ?? ?? ??? ?????? ???, ??? ??????  
????????? ?????? ??? ?????? ??? ?????????? ??? ?????????????? ??? ?????????? ??? ??? ?????  
??? ?????? ?? ?????? ?????????? ??? ??????????, ??? ?? ???????, ?????? ??? ??????????  
(??????? ??? 17?? ??????? 2016, Aspiro, C?40/15, EU:C:2016:172, ?????? 22 ??? 23).

34      ????? ??????, ????????, ??? «????????? ?? [????????????? ??????] ??????? ????????,  
??? ?????????????????? ??? ??? ?????????????? ??? ?????????????? ??? ?????????????? », ???  
????????? ??? ?? ??? ?? ?????? ??? ?????? 135, ?????????? 1, ?????????? ??, ??? ??????  
2006/112, ? ?????????? ??? ?????????? ??? ??? ?????????? ??? ?????????? ??????????????.  
????????, ?? ??????? ?????? ?????? ?????? ?? ?????? «?????????» ?? ?????????? ?????????? ??? ??  
«????????????????? ??? ??? ?????????? ??? ?????????? ?????????????? ??????????».

35      ????? ?????? ??? ?????? ??? ???? ?????????????? ??????, ?? ??????????? ????? ?????? ??? ???? «?????????» ?????? ?????????? ?????? ??? ???? ?????????????? ?????????? ?????????? ???

???????????? ????? ?????????????????? ?????????????? ???, ?????? ??????, ???  
????????????? ??????, ? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ?? ??? ??????  
(?????? ?? 17?? ??????? 2016, Aspiro, C-40/15, EU:C:2016:172, ??? 33). ????????, ???  
????????????? ?????? ?????????? ?????? ??? ?????? ?????????? ?? ?????????? ?? ?????????? ??  
????????????? ??? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?? ???????,  
????? ????, ?????????? ?????????? ?????? ?? ?????? ?????? ?????? ??? ?????? ?? ??????????  
??????.

36 ??? ?????? ?? ??????? ??? ?? ?????? ??? ?? ?????? ??????????????, ?????????????? ?? ?????????????? ??  
?? ?????????? ??? ?? ?????? ?????????? ?? ?????????? ?????????? ??? ?????? 135, ?????????? 1,  
????????? ?, ??? ??????? 2006/112 ?????????? ??? ?????? ?????????? ?? ?????????? ???  
?????????, ??? ?????? ?? ?????????? ?????? ? ?????? ?????????? ??? ?????? ??? ?????????? ???  
?????????, ??? ?? ??? ?? ?????????? ??? ?????? ?????? (????. ?????? ??? 17??  
?????? 2016, Aspiro, C-40/15, EU:C:2016:172, ?????? 35 ??? 36).

37 ??? ?????? ?? ?????????? ?????, ?????? ?? ?????????????? ?? ?????????? ???  
?????????. ??????, ?????? ?? ?????? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?? ???  
????????? ??? ?? ??? ??????????, ?????? ?? ?????? ?????? ?? ?????? ?????? ??? ?????? ?????? ???  
? ?????? ??? ?????????? ?????????? ??? ?????? ?????????? ?? ?????? ?????????? . ????????, ?  
????????????? ??? ?????? ?? ?????? ?????????? ?????????? ?????? ??? ?????????? ???  
????????????? ??????, ??? ?? ?? ?????? ?????????? ?????????? ?????? ??? ?? ?????? ?????? ??  
????? ?? ?? ??????????, ?? ?????? ?? ?????? ?????????? ?????????? ?????????? (????. ?????? ???  
17?? ??????? 2016, Aspiro, C-40/15, EU:C:2016:172, ?????? 37 ??? 39).

38 ??? ?????? ?? ?????? ??? Q ?????? ?????? ?????? ?????????? ?????????? ??????????,  
?????????????, ??? ?? ?????? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?? ?????? ??  
????? ??????????, ??? ?? ?????? ?????????? ??? ?? ??? ?????? ??? ?????? ??? ?? ?????? ???  
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39 ??????, ?????????? ?? ?????? ?? ?????????? ?? ?????????? ??? ?????????????? ???  
????? ?????? ?????????? ?? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ??? ??????  
135 ?????????? 1, ??????? ?, ??? ??????? 2006/112, ?? ?????? ??? Q ?????? ??????  
????????? ?????????? ??? ?????? ?? ?????????? ???.

40 ??? ?????????????? ?? ?????? 22 ??? ?????? ?????????? ??????????, ??? ?? ?????? ?????? ???  
????????? ?????????? ?? ?????? ?????? ?????? ?? ?????????? ?????????? ?????????? ??????????  
????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????? ??? ?????????? ??????????  
?? ?????? ?? ?????? ?????????? ?????? ?????? . ?????????, ??? ?????????? ???, ??? ??  
????? ?? ?????????? ?????? ??????, ?????????? ? ?????? ?????????? ?????????? ?????????? ???  
????? ?? ?????????? ?????? ?????? ?????? ?????? ?????????? ?????????? ?????????? ???  
????????, ??? ?????? ???, ??? ?????????? ??? ?????? Q, ?????? ?? ?????????? ??  
????? ?? ?????? ?? ?????? ?????????? ???.

41 ??? ?????? ??????, ? ?????????? ?????? ?????? ?????????? ?????????????? ?????????? ???  
????????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ???  
????????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????????  
????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ??????????  
?? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ?????????? ???  
????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ???

42 ??????, ? ?????????????? ??? Q, ? ?????? ?????????? ??? ?????? ?????? ?????????? ???  
????????????? ??????????, ??? ?????? ?? ?????????? ?? ?????????? ??? ?????? ??????????  
????????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ???, ??? ?? ???

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

43 ?? ?? ??????, ??? ?? ??????????? ?? ?? Q ?????????? ?????????????? ?????? ??????,  
????? ??? ?????? ?? ?????????? ?? ?? ??? ?? ????' ?????????? ?? ?? ??? ?? ??????????,  
????????? ??? ?? ?????? ?????? ?? ?????????? ?? ?? ?????? ?????????? ?? ?? ??????????.

44 ?????????????? ??? ?????? ?? ?????????? ?? ???????????????, ??? ?????????? ?????????? ??????  
?? ?????? ? ??????? ?? ?? 135, ?????????? 1, ?????????? ??, ?? ?????? 2006/112  
????? ??? ?????? ?? ? ??????????? ?? ?? ??? ?????? ?????? ?? ?? ??? ?? ??????????  
????????? ??? ?????????? ?? ?????????? ?????????? ?????? ?????????? ?????? ???, ?? ??????  
????????????? ??? ?????? ?????????? ?????????? ?????????? ?? ?????????? ?????? ?????? ???,  
?????????????, ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??????????,  
????? ??? ?? ?????????? ??? ?????????? ?????????? ?????????? ?????????? ?? ?? ?????????? ???  
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45 ?????????? ?? ? ?????? ?????????? ?? ?? ??? ?????? ?????????? ?? ?????? ??????, ?? ??????  
??? ?????????? ?????????????? ?? ?? ?????? ?????????? ?? ?????? ?????????? ??????????????, ?? ???  
????????????? ?? ?????????? ?? ?? ?????????? ?????? ??????. ?? ?????????? ?????? ??? ???  
????????? ?????????????? ?? ?? ??????????, ??? ?? ?????????? ?????? ??? ?? ??? ??????????,  
??? ??????????.

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

?? ??? 135, ?????????? 1, ?????????? ??, ??? ?????? 2006/112/?? ??? ??????????,  
?? 28?? ?????????? 2006, ??????? ?? ?? ?????? ?????? ?????? ?????? ?????????????? ??????,  
????? ??? ?????? ?? ? ?????????? ?? ?? ??? ?????? ?????? ?????? ??? ??? ???  
????????????? ?????? (???) ??? ?????? ?????????? ?????????? ??? ?????????? ??? ??????  
????????? ??? ?????????? ??? ???, ?? ?????? ?????????? ??? ??????  
????????????? ??? ?????????? ?? ?????????? ?????? ???, ?????????? ???, ???  
????????????? ??? ?????????? ?? ?? ?????????? ??? ?????????? ??? ?????????? ??????????, ???  
?? ?? ?????????? ??? ?????????? ?? ?? ?????????? ??? ?????????? ??? ?????????? ???, ???  
??? ?????? ?? ?????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??  
????? ?????? ??? ?????? ??? ???.

(?????????)

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