

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

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

??? 21?? ?????????? 2021 (*)

«????????????? ?????????? – ????? ?????? ?????? ?????????????????? ?????? (???) – ??????
2006/112/?? – ????? 167 ??? 171 ??? ????? 178, ?????????? ?? – ?????????? ?????????? ??? ?? –
????????? ??? ?? ????? ?????????????? ??? ?????? ??? ?????? ?????????????? ?? ??????
????? ?????????? ??? ?? ?????? ?????? ?????????? – ?????? ?????????? – ??????
2008/9/?? – ?????????? ??? ?????? ?????????? – “?????????” ??? ?????????? ??? ??
????????? – ?????? ??? ?????????? – ??? ?????? ?????????? – ???????»

???? ??????? C?80/20,

??. ?????????? ?????? ?????????????? ?????????? ??????? 267 ????, ???
?????? ?? Tribunalul Bucure?ti (?????????? ???????????, ???????) ?? ??????? ??
19?? ?????????? 2019, ? ?????? ??????? ??? ?????????? ??? 12 ?????????? 2020, ???
?????? ?? ????

Wilo Salmson France SAS

????

**Agen?ia Na?ional? de Administrare Fiscal? – Direc?ia General? Regional? a Finan?elor
Publice Bucure?ti,**

**Agen?ia Na?ional? de Administrare Fiscal? – Direc?ia General? Regional? a Finan?elor
Publice Bucure?ti – Administra?ia Fiscal? pentru Contribuabili Nereziden?i,**

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

????????? ??? ??? E. Regan, ??????? ???????, ?. ??????? ??? I. Jarukaitis (?????????),
???????,

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

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

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

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

- ? Wilo Salmson France SAS, ?????????????? ??? ??? C. Apostu, avocat?,
- ? ?????????? ???????, ?????????????? ??? ??? E. Gane ??? R. I. Ha?ieganu,
- ? ?????????? ???????, ?????????????? ??? ??? A. Armenia ??? ??? R. Lyal,

???? ?????? ?? ?????? ?????????? ??? ??????? ??? ?????????? ??? ?????? ?? ??????????
?? 22?? ??????? 2021,

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

?????????

1 ? ??????? ?????????????? ?????????? ?????? ??? ?????????? ??? ?????? 167 ??? 178 ???
????????? 2006/112/?? ??? ????????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ??????
????????? ?????? ?????????????? ?????? (?? 2006, L 347, ?. 1), ??? ?????????????? ??? ??
????????? 2010/45/?? ??? ?????????? ?, ?? 13?? ?????? 2010 (?? 2010, L 189, ?. 1) (???)
????????? ????, ??? ?? ?????? 14, ?????????? 1, ?????????? ??, ??? ?????? 2008/9/?? ??
???????????, ??? 12?? ?????????? 2008, ??? ?? ?????????? ?????????? ??????? ???????
?? ?? ?????????? ??? ?????? ?????????????? ?????, ??? ?????????? ??? ?????? 2006/112,
?? ?????????? ??? ?????? ?? ?????????????? ??? ?????? ?????? ?????? ?????????? ???
????????????? ?? ??? ?????? ?????? (?? 2008, L 44, ?. 23).

2 ? ??????? ??? ?????????? ??? ??????? ?????????? ??????? ??? Wilo Salmson
France SAS (???) ??? Wilo Salmson) ??? ?? Agen?ia Na?ional? de Administrare Fiscal? –
Direc?ia General? Regional? a Finan?elor Publice Bucure?ti (??????? ????????????)
– ?????????? ?????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????? ???
Agen?ia Na?ional? de Administrare Fiscal? – Direc?ia General? Regional? a Finan?elor Publice
Bucure?ti – Administra?ia Fiscal? pentru Contribuabili Nereziden?i (??????? ?????????? ???
– ?????????? ?????? ?????????? ?????????? ?????????? ?????????? ?????????? –
????????? ?????? ??? ?????????? ?????????? ?????????? ?????????? ?????????? (???)
????, ??? ??????: ?????????? ????, ??????? ?? ??????? ?? ??? ?????? ??????????
?????? ?????????? ??? ?????? ?????????? ?????? (???) ??? ?????? ??? ?????? ??????
?????? ?????? ??? ?????? 2015 ?? ?????? ?? ?????????? ?????? ??? ?????? ?????? ???
2012.

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

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

? ? ?????? ???

3 ?? ?????? 62 ??? ?????? ??? ??????, ??? ??? ?????? ??? ?????? ??? ?????? ???, ??
«????????? ??? ?????? ??? ?????» ?? «?? ?????? ?? ???? ?????? ?????????????? ?? ???????
????????? ??? ?????? ??? ?????? ?????? ??? ?? ?????? ?????????? ?????? ??? ??????» ??? ??
«????????? ??? ?????» ?? «?? ?????????? ??? ?? ??? ?????? ?????? ??? [?]??????, ??? ??
????????? ?????? ????, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ???, ??? ??
?? ? ?????? ??? ?????? ??? ?????? ??? ??????».

4 ?? ?????? 63 ??? ?? ??? ?????? ?????????????? ??? «[?] ?????????????? ??? ?????? ??????????
?? ? ?????? ?????????? ?????????? ??? ?? ?????? ?????????????? ??? ?????? ?????????? ???
? ??? ?????? ??????».

5 ?? ?????? 167 ??? ?? ??? ?????? ?????? ?????? ??? «[?] ?????????? ?????????? ??????????
?? ? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????».

6 ?? ?????? 168 ??? ?????? ?????? ?????? ????:

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

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

[...]]».

7 ?? ?????? 169 ??? ??????? ??? ??? ?? ????:

«?????? ??? ?? ??????? ?? ???? ?????????? ?? ???? ?????? 168, ? ?????????????? ?? ???? ??? ????
????????? ?? ??????? ?? ???? ??? ?? ?????????? ?? ???? ?????? ???, ??????? ?? ?????? ??? ???? ??
????????? ?? ?????????????? ?? ???? ??? ?? ?????????? ?? ??????:

[...]».

8 ?? ?????? 170 ??? ?? ??? ??????? ??????? ?? ????:

«???? ??????????? ??? ??? ? ?????? [...] ??? ????? ?????????????? ??? ?????? ??? ?????? ???
????? ?????????????? ??? ?????? ?????? ??? ?????????? ? ?????????? ?????? ??? ?????? ???
????????????? ?? ???, ?????????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ???
?? ?????????? ?????????????????? ??? ??? ????? ??????:

?) ??????? ??? ?????? 169,

[...]]».

9 ?? ?????? 171 ??? ?? ??? ?????? ?????????? ???????????, ???? ?????????? 1, ??? «[?] ??????????
??? ??? ?????? ?????????????? ??? ????, ??? ??? ?????? ?????????????????? ??? ?????? ??? ??????
????? ?????????????? ??? ?????? ?????? ??? ?????????? ? ?????????? ?????? ????
????????????? ?? ????, ???? ??? ?????? ?????????????? ?? ??? ?????? ?????? ????,
????????????? ??? ?????? ?? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ??
????? [2008/9]».

10 ?? ?????? 178, ?????????? ?, ??? ?????? ??????? ?????????? ?????????????????? ?? ?????;

?) ??? ??? ?????????????? ??? ??? 168 ??????????) ????????, ??? ?????? ???
????????? ??? ?????? ??? ??? ?????? ?????????, ?? ?????? ?????????, ?? ??? ???? ???
????????? ??? ?????? ?? ?? ?????? 3 ??? 6 ??? ?????????? 3 ??? ?????? XI [...].».

11 ????? ???. ???. ????????????. ???. ???. ???. ???. ???. 2010/45, ???. ???. 178, ????????. ???. ???.
???????. 2006/112 ????????. ???. ???:

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

) ??? ??? ?????????????? ??? ??? 168, ????????? ?), ????????, ??? ?????? ???
????????? ?????? ??? ??? ?????? ?????????, ?? ?????? ?????????, ?? ?????? ???
????? ?????? ?? ?? ??? 220 ??? 236 ??? ?? ??? 238, 239 ??? 240 [...].».

12 ?? ?????? 179 ?? ??????? ?? ??????????? ?? ??????? ?? ??????? ?? ??????? ?? ??????:

13 ? ?????? X ??? ?? ??? ????????, ??? ??????????? «?????????», ??????????? ??
????????? 5, ??? ????? ?? ?????????????? ??? ??????????. ?? ?????????????? ?? ?? ???
????????? ??? 185 ??? ?? ??? ????? ?????????? ?????????? ??? ?????????? 1 ?? ???:

14 ???? ?? ????? ????????, ?? ?????? 186 ??? ????? ??????? ?????? ??? «[?] ?????? ???
?????????? ???. ?????? ?????????? ??? ?????? 184 ??? 185».

15 ?? ?????? 218 ??? ??????? ???, ??? ?????????????? ??? ?????????????? «?????????»
????????? 3 ??? ????? XI ??? ??????? ???, ? ?????? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ???, ?????????? ???
?????:

16 ?? ?????? 219 ??? ?? ??? ??????? ????? ?? ???;

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

? ?????? 2008/9

17 ?? ?????? 1 ??? ??????? 2008/9 ?????? ??? ? ?? ??? ?????? «????????? ???
????????????? ??????? ??????? ?? ??? ?????????? ??? [??], ??? ???????????? ?? ?????? 170
??? [?????? ??] ?? ??????????? ??? ??? ?? ?????????????? ??? ?????? ??? ??????
??????????, ?? ?????? ??????? ??? ??????????? ??? ?????? 3» ??? ?????? ???.

18 ?? ?????? 2 ??? ?? ?? ??????? ?????? ?? ???:

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

[...]

3) ?? “????????? ??????????” ??????? ? ?????????????? ??? ?????? 16 ??????? ??
????????????? ??? ??? ?????? ??????????????

[...]

5) ?? “?????” ??????? ? ?? ?????????????? ??? ?????? ?????? ?????????????? ??????????????
??? ????, ? ?????? ?????????? ??? ?????? ??????????..»

19 ?? ??? 3 ??? ?? ??? ?????? ?????????????? ??? ?????? ?????????????? ???
????????????? ?????????????? ??? ?????? ?? ?????????????? ??? ?????? ?????? ?????? ??????????????, ?
????? ?????? ??? ?????????????? ??? ?????????? ?? ?? ??? ?????? ???.

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

«????? ?????? ?????? ?????????? ?? ??? ?????? ?????????? ??? ?????? ?? ?????????????? ??? ??????
????? ?????????? ??? ?????? ?????? ?????????????? ??? ?????? ?????????? ?????????? ??? ??????
????? ?????????? ??? ?????????? ??? ?????????????? ?? ??? ?????? ??? ?????? ?????????? ????
????? ??? ?? ??? ?????? ??????, [...] ?????? ?? ?? ??? ?????? ??? ?????????? ??? ??????????
????????????? ??? ?????? ??? ?????????? ??? ??????????:

?) ?? ?????? ??? ?????????? ??? ?????? 169 ??????? ?) ??? ?) ??? [??????? ???]?

[...]

?? ??? ?????????? ??? ?????? 6, ??? ?? ??? ?????? ??? ?????????? ???????, ? ?????? ??????? ???
????????? ??? ?????? ??? ?????? ?????????????? ??????? ?? ??? [??????? ???], ???
????????????? ??? ?????? ??? ?????? ??????????..»

21 ?? ??? 8 ??? ?????? 2008/9 ?????????????? ??? ?????? ?????????? 2 ?? ???:

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

[...]

?) ??? ?????????? ??? ??? ?????? ??? ?????????? ? ??? ?????????? ?????? ??????????

[...]».

22 ?? ??? 10 ??? ?? ??? ??????? ??????? ?? ???:

«?? ?????? ?????? ?????????? ???????, ?? ?????????? ??? ?????? ?? ?????? 20 ?????????? ???????
?????????, ?? ??????? ??? ??? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ???, ??? ?? ???
????? ???, ?????????? ??? ?????????? ?? ?????????? ?? ?????????? ?????????? ??? ?????? ? ???
????????? ??? ?????? ?? ??? ?????????? ? ?????????? ?????????? ?????????? ??? ?????? ???
????????? 1 000 [????] ? ?? ?????? ??? ?????? ??????. ?????? ?? ?????? ??? ?????????? ???
??????, ??? ?? ??????? ??? ?????? 250 [????] ? ?? ?????? ??? ?????? ??????..»

23 ?? ?????? 13, ?????? ???????, ??? ?? ??? ?????????? ???? ?? ????:

«???? ?????? ??? ??????? ??? ??????? ??????????? ? ?????????? ? ?????????? ?????????? ??????????????????
????????? ?? ?? ?????? 175 ??? [????????? ???], ? ?????? ?????????? ??? ?????????? ??? ?????? ???
?????? ? ??? ????? ??? ????????????.»

24 ?? ?????? 14 ??? ?????? ?????????? ?????????? ?????????? 1, ?????????? ?, ?, ????:

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

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

25 ?? ?????? 15, ??????????? 1, ??? ??????? 2008/9 ??????? ?? ????:

«? ?????? ?????????? ?????????? ??? ?????? ?????? ??? ?????????????? ??? ?? 30
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??????????. ? ??????
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? 8, 9 ??? 11.»

26 ?? ????? 20 ??? ?? ??? ??????? 2008/9 ?????????? ?? ????:

«1. ?????????????? ??? ?? ?????? ?????? ?????? ?????????? ?????? ??? ?? ?????????? ?? ??????
??? ??????? ?????????????? ??? ?? ?????? ?? ?????? ?????? ? ?????? ??? ?? ??????? ?? ??? ?? ??????
?????????? ??? ?? ?????????? ??? ?? ? ?????? ??????, ?????? ?? ?????? [...] ??????????
??????????, ?????? ?? ?? ?????????? ?? ??? ?? ?????? ?????? ??? ?? ?????? ?????? ??????
?????????? [...].

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

[...]

27 T? ????? 23 ??? ?? ??? ??????? ??? ?? ???;

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

[...] »

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

28 ? Legea nr. 571/2003 privind Codul fiscal (????? 571/2003 ??? ??????????? ??????) (Monitorul Oficial al României, ???? I, ?????. 927 ??? 23?? ?????????? 2003), ??? ????? ???. ??? ?????? ??? ?????????? ?????????? ?????? ??? ?????? ??? ?????????? ?????? (?? ?????: ?????????? ??????), ????? ??? ????? 145, ?????????? 2, ?? ????:

«(2) ?????????????????? ????? ????? ????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??????,
?????? ?????? ?????? ?????????????????? ??? ?????? ??????;

a) ?????????????? ??????????

[...]]».

29 ?? ?????? 146 ???. ????????????. ?????? ?????????? ???. ?????? 1, ??????? a, ??
?????:

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

a) ??? ??? ?????????? ? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????? ??? ?? ???
????????? ? ?????? ?? ??? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????????? ?
????? ?? ??? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ??, ?? ??? ?????? ??? ?????? ???
????????? ?? ??? ?????? ?? ??? ?????? ??? ?? ?????? ??? ?? ??? ?????????? ??? ?? ?????? 155 [...].».

30 ?? ???? 147 ter, ?????????? 1, ??????? a, ??? ?????? ?????? ?????????? ??? «o
????????? ??? ?????? ? ?????? ??? ?????? ?????? ?????????????? ??? ??????????, ??? ??????
????????????? ?? ??? ?????? ?????? ?????? ??? ? ?????? ??? ?????????? ??? ??? ?????????? ??
????????? ?????? ?????????? ?????? ??? ??? ?????????, ?????????? ?????????? ??? [??]
?? ?????? ??? ?????????? ??? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??
????????????? ??? ??????????».

«????? ??? ?????? 147 ter, ?????????? 1, ??????? a, ??? ?????????? ??????,
????????? ?????? ?????????? ??? ???? ? ?????? ??? ????? ?????????????? ??? ??????,
???? ????? ?????????????? ?? ??? ????? ?????? ?????, ?????????? ?????????? ??? [??] ???
????????? ??? ?????????? ??? ??? ?????????? ?????? ??? ?????? ?????????? ???
????????????????? ??? ??????..»

????????? ??? ???????? ?????????? ?????????????????? ??? ?????????? ?????????? ???
?????? ??? ?????????? ??? ?????? ?????? ??????????».

33 ?? ?????? 49, ?????????? 16, ??? ?????? ?????? ?????????? ?????? ???, «[?]????????? ???
??? ?????? ??? ?????? ? ?????????? 15, ? ?????? ?????? ?????? ??? ?????? ?? ?????, ??????,
????????? ? ?????????? ?????? ??? ?????? ?????????? ?? ?????? ?????????? ?????? ??????
????????? ??? ?????? ?????? ?????? ?????????????? ?????? ?? ?????? ?????????? ??????
?????».

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

34 ?? 2012 ? Pompes Salmson SAS, ? ??? ???? ?????????? ?????????????? ??? ??????
????????? ??? ?????, ?????? ?????????? ?????? ??? ZES Zollner Electronic SRL
(??? ????: Zollner), ? ?????? ?????? ??? ?????? ?????????? ?????? ??? ???
?????????. ?????????? ??? ? Pompes Salmson ?????? ??? ?????????? ?????? ???
????????? ?? ??? ?????????????? ??? ?????? ?????????? ??? ?????? ??? ?? ???
????????? ???, ? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???.

35 ??? ?? ??? ?, ? Zollner ?????? ?????????? ??? ??? ?????? ???,
????????????? ??? ?. ?????? ??? ??????????, ? Pompes Salmson ?????? ???
????????? ??? ??? ??? ??? ?????????? ??? ?????????? ??? ??? ?????? ??? 1?? ??????????
?? 31 ?????????? 2012, ?????? ?? ??? ?????? 2008/9 ??? ?? ?? ?? 147 ter,
????????? 1, ??????? a, ??? ?????????? ??????, ?? ?????????? ?? ?? ?????? 49 ??
????????? ??????. ? ?????? ??? ?????????? ?? ?????? ??? 14?? ?????????? 2014,
«??? ?????? ?????????? ??? ?????? ??? ?????????? ?? ?????? ??? 2014). ? Zollner ??????
???? ?????? ?? ?????? ??? ?????? ??? ?????? ??? 2012. ?? 2015 ?????? ???
????????? ??? ??? ?????? ???.

36 ?? 2014 ? Pompes Salmson ?????????? ?? ?? Wilo France SAS. ? ??? ?????? ???
????????? ??? ?? ?????????? ???, ?? ??? ?????? Wilo Salmson France, ?????? ??
????? ??? ?????????? ??? ?????????? ??? Pompes Salmson ??? ?? ?? ?????? ??????
?? 2015, ??? ?? ??? ?????? ??? ?????? ??? ?????? ? Zollner, ??? ?????? ?????????? ???
?? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??
????????? ??? 1?? ?????????? ?? 31?? ?????? 2015. ? ?????? ??? ?????????? ???
?? ?????????? ??? ?? ?????? ??? 12?? ?????? 2016, ?? ??? ?????????? ??? ? Wilo
Salmson ??? ??? ?????? ?? ?????? 49, ?????????? 16, ??? ?????? ?????? ??? ??? ??
??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?? ???.

37 ? Wilo Salmson ?????? ?????????? ?????? ??? ?????????? ?????? ?????? ?????? ???
Direc?ia General? Regional? a Finan?elor Publice Bucure?ti – Administra?ia Fiscal? pentru
Contribuabili Nereziden?i (????????????? ?????? ?????????? ?????? ??????????)
????????? – ?????????? ?????? ??? ?????? ?????????? ?????? ?????????? ??????????
?????????, ??????). ?? ?????? ??? 2?? ?????????? 2016, ? ?????????? ??????
????????? ?? ??? ?????????? ??? ? ??? ??? ?????? ?????? ?????? ??? ?? ??? ??
????????? ?????????? ?????????? ?????? ?????? ?????? ??? ?? ??? ?? ??? ??
?? ??? ?????? ?????? ? ?????? ??? ?????????? ??? ?????????? ??? ?? 2015, ??? ?? 2012.

38 ?????? ???, ? ?? ??? ?????? ?????? ?????????? ??? ?????? ??? Tribunalul Bucure?ti
(????????????? ??????????????, ??????), ?????????? ??????????, ?????? ??? ??????
?? ?????????? ??? 2?? ?????????? 2016 ?????? ??? ?????? ?????? ??? 12?? ?????? 2016
?? ??? ?????? ??? ?????? ?????? ?????? ?????? 449 538,38 ?????????? ??? (RON)
(?????? 91 310 ???), ??? ?????????? ??? ??? ?????? ?????? ?????? ??? ?????? ???

?? ??????? ?? 1?? ??????? 2015 ?? 31?? ??????? 2015.

39 ?? ??????? ?????????? ?????????? ??? ?????? ?? ?????? ??????? ?? ?????????? ??
????????? ?? 2015 ? ?? ??? ?? ?????? ?????????? ??? ?????? ?????????? ?????????? ?? 2012,
??? ?? ?????? ?????? ?????? ?????????? ??? ?????? ?????? ?? 2015. ?????? ?? ? ??????
??? Wilo Salmsen ??????? ?? ??? ?? ?????????? ??? ?????? ?????????? ? ?????? 2008/9 ?
??? ?????? ??? ?? ?????? ?? ?????????? ?? ??????????, ?????????? ??? ?? ??? ?????????? ??? ??
????? ? Zollner ?? 2012 ?????????? ?? ?? ?????????? ???, ??? ?? ?????????? ?????????? ??
????? ?? ?????????? ??? ?? ?????????? ?????????? ??????, ??? ?????? ?????????? ??? ??
??? ?????? ?????? ?????????? ?? 2015, ?? Wilo Salmsen ?????? ?? ?????????? ???
????????? ?? ?? ?????? ?????????? ?????? ?? 2015 ?? ?????? ?? 2015 ??? ? ???
????????? ?? 2015 ???????, ?????? ?? ?????? ?????? ??? ?? ??? ?????? ??? ??
????? ?? ?????????? ??????.

40 ?? ??????? ?????????? ?????????? ??? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ??
????????? ?? ?????????? ??? ?? ?????????? ??? ?? ?????? ?? ?????? ?? ?????????? ??
?? ?????????? ?????????? ?? ?? ??? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????? ??
????? ?? ?????????? ?????? ?????????? ??? ?????? ?????? ??????????. ?? ?? ??? ?? ?????? ??
167 ?? 178 ?? ?? ??? ?????? ??? ?????????? ??? ?? ?????? ?? ?????????? ?? ?? ?????????? ??
????? ?????? ?? ?? ?????? ??? ?????? 14, ?????????? 1, ?????????? ??, ????? ??????????, ??
????? 2008/9, ?? ?????? ?????????? ?? ?? ?????? ?? ?????? ?????? ?????? ?? ?????????? ??
??? ?????? ?????????? ?? ?? ?????? ?????????? ??????????, ?????????? ?? ?? ? ?????????? ??
????? ?????? ?????????? ?? ?? ?????? ??????????.

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

42 ??? ?????? ?? ?? ?????? ?? ?????? ?? ?????????? ??, ?? ?????? ?????????? ?????????? ?? ?? ??
????????? ?? ?????????? ?? ?????? ?? ?????? ??, ?? ?? ?????????? ?? ?????? ?? ?????????? ?? 2015 ?? ??
????? ?? ?????? ?? ?????? ?? ?????????????? ?? 2012, ?? ?????? ?? ?????? ?? ?????????? ?? ??????
????????? ?? ?????? ?? ?? 2015 ??? ?? ?????? ?????????? ?????????? ?? ?????????? ?? ??
????? ? Zollner ??? ?????? ?????????? ?? ?????? ?? ?????????? ?????????? ?????????? ?? ?? ??
????????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?? ??
????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?? ??.

43 ???, ?????????? ?? ?? ?????? ?? 169 ?? 178 ?? ?????? ??, ?? ?? ??
14, ?????????? 1, ?????? ??, ?????? ?????????, ??? ?????? 2008/9 ?????? ?? ?? ??
????? ?? ?????? ?? ?????????? ?????? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?? ??
????????? ?? ?????????, ?? ?????? ?????????? ?? ?? ?????? ?? ?????? ?? ?????????? ?? ?????????? ??
?? ?????????? ?? ?????? ?????? ?? «?????? ??????????», ?? ?? ?????? ?????????? ?? ??
????????? ?? ?????? ?? ?????? ?????????? ?? ?????? ?? ?????? ?? ?????????? ?? ?? ?? ??

44 ???, ?????????? ?? ?? Zollner ?????? ?? ?????????? ?? 2012 ??????????,

????? ?? ??? ??????????? ??? ?????????? ?? 2015 ?????????? ?? ?????????? ??? ?????? ??? ??
????????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ????. ????????,
????? ?? ?????? ???????????, ?????? ?? ?????? ?? ?????? ?? ?????? ?????? ?? «??????????????
??????» ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?? ??? ?????? 2008/9.

45 ??? ?? ?????? ???????, ?? Tribunalul Bucure?ti (????????????? ??????????????)
????????? ?? ?????????? ??? ?????? ??? ?????? ?????? ??? ?? ?????? ??? ?????? ??
????????? ?????????? ??????:

«1) ??? ?? ?????? ??? ??????? ?? 167, ?? ?????????? ?? ?? ?????? 178 ??? [??????
??], ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?? ?????? ???
??? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??????
??? ?????? ???;

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

2) ??? ?? ?????? ??? ??????? ?? ?????? ?????? ?? ?????? ?? ?????? ?? ?? ?????? ??
????? 14, ?????????? 1, ??????? ??, ????? ???????, ??? ?????? 2008/9/??, ???
????????? ?????? ?????? ?????? ?????? ??? ?? ?????? ??? ?????? ? ?????? ?????? ??????
??? ?????? ??? ?????? ?????? ?????? ??? ??;

??????, ?????????? ?? ?????????????? ?? ?????? ?????? ?? ?????? ?????? ?????? ??????
??? ?? ? ?????? ?????? ?????? ??? ?? “?????? ??????”, ??? ?? ??? ??
????? ?????? ?????? ??? ?? ?????? ??????.

3) ??? ?? ?????? ??? ??????? ?? ?????? ?????? ?? ?????? 14, ?????????? 1,
????????? ??, ????? ???????, ??? ?????? 2008/9, ?? ?????????? ?? ?? ?????? 167 ?? ?? ??
????? 178 ??? [?????? ??], ??? ?????? ?? ?????? ?????? ??? ?????? ??? ?? ??????
????? ?????????? ?? ??? ?? ?????? ?????? ??? ?????? ??? “?????? ?????? ??????” ???
??? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????? ?????? ??????;

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

4) ?????? ? ?????? ?????????? ?? ?????? ??? ?????? ?????? ??? ?? ?????? ?? ?? ??
[2008/9/??] ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ???
????? ??? ?????? ?????? ??? ??????;»

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

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

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

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

47 ???????????????, ??????, ??? ?? ?????? 267 ????? ?????????? ?????????????? ??????
????????????? ?????? ??? ?????????????? ??? ????? ?????????????? ??? ?????? ??????. ??? ??????
??? ??????????? ?????, ? ????? ??????????? ?? ????? ?????????? ??? ?????? ?????????? ??? ?????????? ???
????????? ??????????? ??? ??? ???????????, ????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??????????? ??? ?????????? ??? ?????????? ?????? ?????? ?????????? ??? ??????????
??????????, ??? ????? ??????????? ?? ??????????, ?????????? ?????? ??? ??????????
??? ??????????, ??? ??? ?????????????? ??? ????? ?????????? ?????? ?????????? ??? ??? ??????????
????? ??? ?????????? ??? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
??? ?? ?????????? ?????? ?????? ?????????????? ??? ?????????? ??? ?????????? ??? ??? ?????????? ? ???
????? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????? ?????? ?? ?????? ?????????? (????. ?????????? ??? 20?? ?????????? 2017,
Schweppes, C?291/16, EU:C:2017:990, ?????? 21 ??? ????? ?????????????? ?????????? , ??????
??? ?? 20?? ?????? 2021, Repubblica, C?896/19, EU:C:2021:311, ?????? 28 ??? ???
????????????? ??????????).

48 ???????, ?????? ?? ??????????? ?????????? ?????????? ??? ??????? ? ?? ?????? ??????
??? ??????? ??? ??????, ?? ?????????? ?????????? ?????????? ?? ??????? (????????)
??? 16?? ??????? 2015, Gauweiler ?.., C?62/14, EU:C:2015:400, ????? 24 ?????? ??? ???
????????????? ???????, ??? ??? 15?? ??????? 2021, The Department for Communities in
Northern Ireland, C?709/20, EU:C:2021:602, ????? 54 ?????? ??? ??? ??????????????
?????????).

49 ??????? ?????????? ?? ?????????? ??? ??????? ?? ??????? ??? ??????? ?????????? ?????????? ???
????????? ???????, ? ?????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ??????????
????????? ?????????? ??? ??????? ?????????? ??? ?????? ?????? ?????? ?? ??????????
????????? ??? ? ?????????? ??????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??? ??
?? ??????? ? ?? ?????????? ??? ?????? ??? ?????? ??????, ??? ?? ?????? ?????? ??? ?????? ???
????????? ??? ? ?????? ??? ?? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ???
????????? ?? ?????? ??? ?????? ?????????? ?????????? ?? ?????? ?????? ?????? ?????????? ???
????????? ?????????? (????. ?????????? ??? 16? ?????? 2015, Gauweiler ???., C?62/14,
EU:C:2015:400, ????? 25 ????? ??? ????? ?????????????? ?????????? , ??? ??? 15?? ??????
2021, The Department for Communities in Northern Ireland, C?709/20, EU:C:2021:602, ????? 55
????? ??? ??? ?????????????? ??????????).

????????????????? ??????????).

51 ????????, ??? ?????? ??? ? ?????????? ?????????? ?????????? ??? ?? ??????????
????????? ??? ?????? ?? ?????? ?????????? ?????????? ?? ?????????? ??? ?? ??????
????????? ? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????, ?????????????? ??? ?? ??????
???? ?? ?????, ?????? ??? ?? ?????? ??????????????, ??? ?????????? ??? ?? ??????
?????????, ?????????? ??? ?????? ??? ?????? ???, ?????? ??? ?????????? ??? ?? ?????? ???
????????? ??? ??????????, ???????? ?? ?? ??? ?????? 94 ??? ?????????? ?????????? ???
?????????, ?? ?????????? ?????? ??? ?????? ?????????? ?? ?????? ?????????? ??? ?? ??????
????? ?? ?? ?????? ?? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?? ??????
????? ?? ?????? ?? ?????? ?????????? ??? ?????? ?????????? ?????????? ??? ?? ??????
????? ?? ?????? ??? ? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?? ??????
????? ?? ?????? ??? ? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?? ??????

52 ??????????, ??? ?????????? ??? ??? ?????? 39 ??? 44 ??? ?????????? ??????????, ?
?????? ?????? ?????? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??
????? ?????????? ?????????? ?? ??? ?? ?????????? ?????????? ?????????? ?????????? ??? ??????
??? ??? ??? ?????? 2008/9 ??? ?????? ?????? ?????????? ?????????? ??? ?? ?????? ??
????????? ?? ?????? ??? ?????? ?????????? ?? ?????? ?????????? ?????????? ??? ?????? ??
????? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

53 ???????, ?????????????? ?????????? ??? ??? ?? ????? 267 ??? ????? ????? ????
?????? ??? ??????? ??? ?????? ?????????? ? ?????????? ??? ?? ?????? ??? ??????????
????????????? ????????????, ??? ?? ?????????????? ?????????? ????????, ??? ????????????
??? ??????? ????????????, ??? ??????? ?????? ?????? ??? ??????? ?????? ??????????????
???????????, ??? ?? ?????????? ??? ?? ?????????? ??? ?????????????? ??? ???????
????????????????? ??? ?? ?????????????? ??? ?? ?????????? ?????????? ??? ??????? ???
????? (????. ??????? ??? 5?? ?????? 2016, Ognyanov, C?614/14, EU:C:2016:514, ??????
28 ??? 30).

54 ?????? ??? ????????, ?????????????????? ??? ?? ?????????????? ?????????? ?????? ??????????.

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

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

55 ?????????? ??????????????? ??? ?? ?????? ???????????, ?? ?????? ??? ?????? ??? ???? ???
????????? ??? ?? ?????? ??? ?????? ?????????? ??????????? ?? ?????? ?????? ??????????, ?????? ??
?????????? ??????? ?? ??? ?????? ?????? ??? ?????? ??????? ?? ?????? 2006/112 ????
?????????????? ?? ??? ?????? 2010/45, ?? ??????, ??? ?? ????? 2, ??????????? 1, ???????
??????, ??? ?????? 2010/45, ?????? ??????? ?? 1?? ?????????? 2013.

56 ????? ???? ??? ?? ??????? ????? ?????????? ????? ?????????? ?? ?????????? ?? ???? ?????????? ??????
???? ?????? ????? ?? ???? ?????? ?? ?????? ?????? ?????? ?????? ?????????????????? ?? 2012, ??
????????? ?????????? ?? ???? ?????? ?????? ?? ??? ?????? ?????? ?????? ?????? ?????????? ??
2012, ?? ?????? ?????? ?????????????? «?? ??????» ?? ??? ?????? ?? 14?? ??????????
2014 ??? ?????? ?? 2014 ? ?? 2015 ??? ???, ?????, ??? ??????
????????? ?? ?????? ?????? ?? ??? ?????? ?????????? ?? 2015.

57 ???????, ??????, ??? ???? 63 ??? ?????? ???, ? ?????????????? ???? ??????????
??? ? ?????? ?????????? ?????????? ??? ???? ?????? ?????????????? ??? ?????????? ???
? ??? ?????? ??????????. ????????, ?? ?????? ?????? ??? ?????????? ??? ?????????? ???
?????? ???, ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? (???????) ???

21?? ??????? 2018, Volkswagen, C?533/16, EU:C:2018:204, ????? 36 ??? ???
???????????????? ??????????), ?????????? ????, ??? ???? ?????????? ??? ???? ??? ????
????, ?? ?? ??????? ??? ?????????? ? ?????????????? ??? ??????? ?? ?????? ?? ?? ???
??? ?? ?????????? (????. ??????? ??? 27?? ??????? 2018, Varna Holideis, C?364/17,
EU:C:2018:500, ????? 22), ?????????? ??? ???? 167 ??? ???? ?????? ?????????? ???
?? ??????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???? ?????? ?????? ???
?????? ??????.

58 ???????, ?? ????? 64 ??? 65 ??? ??????? ??? ?????????? ?????????????? ???????
???? ?? ???????, ?? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??
????? ???, ?? ?? ????? 66 ??? ?? ??? ?????? ?????????? ??? ?????? ???, ???
????????? ??? ?? ??? ????? 63 ??? 65, ?? ??????? ??? ?????? ?????????? ?????? ???
????????? ?????????? ?????????? ???, ? ????? ?????????? ?????????? ??? ??? ???
?? ?????????? ??? ?? ??? ????? 66 ?????? ??????.

59 ???????, ?? ?????? ?????????? ?? ??????, ??? ?? ??? ??? ??? ?????????? ??
????????? ??? ?????????? ??? ?????? ??????, ?? ?????????? ??
????????? ??? ?????? 2006/112, ??? ?? ????? ??? ????? ?????? ??? ?????????? ???
????? ?????? ? ?????? 2010/45, ????? ?????? ?????????? ??? ??? ?????? ?????? ???
?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??????.

60 ??????? ??? ?????????????? ??? ???? ?????????? ?????????? ??? ???????
2006/112 ??? ??? ?????? ?? ??? ?????? 2010/45 ??? ???? ?????? ??? ?????? ??? ???
?????? ??? ??? ?????? ?????????? ??? ?? ?????????? ??? ?? ?????? 178, ??????? ??, ???
?????? 2006/112, ??????? ? ????, ??? ?? ??? ?? ??? ???????????, ??? ?????????? ???
????? ?????????? «?? ?????? ??? ?????????? ?? ?? ?????? 3 ??? 6 ??? ?????? 3
?? ?????? XI» ??? ?????? ???, ??? ?????? ?????? ?????????? ?? ?????? ??? ??????
«?????? ?? ?? ????? 220 ??? 236 ??? ?? ????? 238, 239 ??? 240» ??? ?????? 2006/112.

61 ???????, ???????, ??? ??? ??? ?????? ?????????? ??????? ?????????? ???
????????? ??? ???????, ?? ?????? ?????????? ???' ??????, ???
????????? ??? ?????????? ??? ?????? ?????? ?? ?????????? ?????????? ??
????????? ??? ?????????? ???, ?? ?????????? ?????? ? ?????????? ?????????? ??
????????? ??? ?? ?????????? ??? ?????? ?????? ?? ?????????? ??? ??????????
????????? ???, ??? ?????????? ???, ?????? ?????? ?? ?????????? ??? ?????? ???
????????? ???, ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ???
????????? ???, ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ???
????????? ???, ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ???
????????? ???, ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ???
????????? ???, ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ???
????????? ???, ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ???
????????? ???, ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ???
2006/112 ??? ?????? ???, ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? 2010/45.

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

62 ?? ?????? ?? ?? ?????? ???????, ??????????? ?? ?????????? ? ??????????? ??? ?
?????? ?? ?????? ?????? ?????? ?? ?????????? ??????????? ?????? ??? ? ?????? ???
?????????????? ?? ?????? ?????? ??????????? ??? ?????? ?????? ??? ??????
?????????????? ?? ?????? ?????? ?????? ??????. ???????, ? ?????? ??? ?????? ?????? ???
????? ?? ?????? ?????? ??? ??, ?? ?????? ?????????? ??? ?????? 168 ???
?????? ???, ??? ?? ?????? ?????? ?????????? ??? ?????? ?????, ??? ?????????? ??? ???
170 ??? ?? ??? ??????, ?? ?????? ?? ?? ?????? ??? ?????????? ??? ?????? ?????? ???
????????? ??? 169 ??? ?????? ???.

63 ??????????? ?? ?? ?????? 171 ??? ?? ?????? ??????? ??????????, ???
????????? 1, ??? ? ??????? ?? ?? ?????? ??????????? ??? ???, ??? ??? ???
?????????? ?? ?????? ?????? ?????? ?????????????? ?????? ?????? ?????? ?????? ???
????????? ?? ??????????? ?? ???, ??? ?????? ?????????????? ?? ??? ?????? ?????? ???,
????????????? ?? ?????? ?? ??? ?????????? ?????????? ??? ?????????? ??? ??? ???
????? 2008/9. ???????, ?? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ???
????????? ?????? ??? ?????? ?????? ??? ?????????? ?????? ???????????. ??????????, ?? ???
5, ??????? ????, ??? ?? ?? ?????? ?????????? ???, ?? ??? ?????????? ??? ?????? ???
6 ??? ?? ?? ?? ?????? ??? ?????? ???, ? ?????? ?????? ??? ?????? ??? ?????? ??? ??? ??? ???
?????? ?????????????? ??? ?????? ?? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? (?????? ??? 21?? ?????? 2018, Volkswagen, C?533/16, EU:C:2018:204, ???
35).

64 ??? ?? ?????? ?? ??, ?????? ?? ?????? ?????? ???, ?? ?? ?????? ??????? ???, ??
?????? ?????????? ???, ???' ??????, ?? ??????????? ?? ?? ?????? 167 ??? 171 ??? 178
??? ?????? ??? ?????? ??? ? ?????? 2008/9 ?????? ?? ?????????? ??? ??? ?????? ??? ??
????????? ?????????? ??? ??? ?????? ?????????? ??? ??? ?????? ?????? ?????? ???
????????? ??? ?????????? ??? ??? ?????? ?????? ??? ?????? ?????????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ???, ?? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ???, ?? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ???, ?? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ???, ?? ??? ?????? ?????????? ??? ?????? ??? ?????? ???.

65 ??? ?? ?????? ?? 1, ? ?????? 2008/9 ??? ?? ?????????? ??? ?????????? ???
????????? ?????? ??? ?????? ?? ??? ?????????? ??? ???, ??? ?????????? ??? ?????? 170
??? ?????? ???, ?? ?????????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ???
????????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? 3 ??? ?????? 2008/9, ???
????? ?? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
??????????????, ?????? ?? ?????????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ???
????? 63 ??? ?????? ???????, ?????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ???????.

66 ???????, ?? ?????? ?? ?????????????? ?? ?????? ?????? ?????? ?????????? ???
?? ?????? ?????????? ?? ?? ?????? ?????? ?? ?????? ?????? ?????, ??? ?????????? ??? ???
????? 2008/9, ??? ?? ?????????? ?? ?????? ???????, ??? ?????????? ??? ?????? ???
??, ?? ?????? ??? ?? ?? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
(????????? ?? 21?? ?????? 2018, Volkswagen, C?533/16, EU:C:2018:204, ??? 36 ???
???? ?????????? ???, ?????? ??? ??? 17?? ?????????? 2020, Bundeszentralamt für
Steuern, C?346/19, EU:C:2020:1050, ??? 36 ??? ?????? ?????????? ??? ???????).

67 ??????, ?????? ??? ?? ?????? ?????? ??? ?????? ??????, ?? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
?? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? . ??? ?????? ???, ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???

????? ?? ??????????? ??????????? ??? ?????? ?????????????? ??????????????????, ?????????????? ??
?????? ? ?? ?????????????? ???, ??? ?? ?????????? ??? ?? ?? ?? ??? ??????????????
???????????, ????????, ?? ?????? ??? (????????? ??? 2?? ?????? 2019, Sea Chefs Cruise
Services, C?133/18, EU:C:2019:354, ??? 35 ??? ??? ?????????????? ??????????, ??? ??
??? 17?? ?????????? 2020, Bundeszentralamt für Steuern, C?346/19, EU:C:2020:1050, ???
45).

68 ?? ?????????? ??? ??????? ???, ?? ?? ??????, ??? ?????????? ?????????? ???????????
????? ??? ?????????? ??? ?? ??? ?? ??????, ????????, ?? ?????????????? ??????????, ??
????????? ??? ?????????? ??????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???
?????? ?????? (????????? ??? 2?? ?????? 2019, Sea Chefs Cruise Services, C?133/18,
EU:C:2019:354, ??? 36 ??? ??? ?????????????? ??????????, ??? ?? ??? 17??
????????? 2020, Bundeszentralamt für Steuern, C?346/19, EU:C:2020:1050, ??? 46).

69 ??????????, ?? ?????????? ?????????? ??? ??, ??? ?? ?? ?????????? ?????????? ??,
????????? ??? ?? ?????? ??? ?????????? ??? ?? ?????????? ??? ?? ?????????? ?????????? ? ??????????????
(????. ??????? ?? 21?? ?????? 2018, Volkswagen, C?533/16, EU:C:2018:204, ??? 40 ??
???? ?????????????? ??????????).

70 ??? ?????? ??? ??????????? ?????????? ? ?????????????? ??? ?????????? ??? ??????? ??
?? ??? ?????????? ??????????, ??? ?? ?????? 169, ?????????? ??, ??? ?? ?? ?????? 170 ??
?? ??? ?????? ?????????? ???, ??? ?? ?????? ??? ?????????? ??????????, ??????, ?
????????????? ??? ?????? «????????? ??? ?????» ??? ?? ?????? ??? ?? ???
???????, ??? ?? ?????? ?????? ?????????????? ??? ?????? ??? ?????? ?????? ?????????? ???
???????, ??? ?? ?????? ?????? ?????????????? ??? ?????? ??? ?????? ?????? ?????????? ???
???????, ??? ?? ?????? ?????? ?????????????? ??? ?????? ??? ?????? ?????? ?????????? ???
???????, ??? ?? ?????? ?????? ?????????????? ??? ?????? ??? ?????? ?????? ?????????? ???
???????, ??? ?? ?????? ?????? ?????????????? ??? ?????? ??? ?????? ?????? ?????????? ???
???????, ??? ?? ?????? ?????? ?????????????? ??? ?????? ??? ?????? ?????? ?????????? ???
???????, ??? ?? ?????? ?????? ?????????????? ??? ?????? ??? ?????? ?????? ?????????? ???
???????, ??? ?? ?????? ?????? ?????????????? ??? ?????? ??? ?????? ?????? ?????????? ???
???????, ??? ?? ?????? ?????? ?????????????? ??? ?????? ??? ?????? ?????? ?????????? ???
2019, Sea Chefs Cruise Services, C?133/18, EU:C:2019:354, ??? 33). ? ?? ???
????????? ??? ?? ?????? ?????? ??? ?? ?????? ??? ?????? ?????? ?????????? ??? ??
3 ??? ?????? 2008/9 (????. ??????? ?? 11?? ?????? 2020, CHEP Equipment Pooling,
C?242/19, EU:C:2020:466, ??? 55 ?? ??? ?????????????? ??????????).

71 ??? ?????? ??? ??????????? ??????? ??? ?????? ??? ?????????? ?????????? ??
?????? ?????????? ?? ??? ?????? ??????? ?????????? ? ????????????, ??????????????
??, ??? ?????? ?? ??????? ??????? ??? ??, ?? ?????? 178, ?????????? ??, ??? ??????? ??
????????? ??, ??? ?? ?????????? ??? ?????? ?????? ?? ?????? ?????????? ?? ?????? ???
???????, ? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ?? ?????? ???
???????, ?? ??? ?????? XI, ??????? 3, ??????? 3 ?? 6, ??? ?? ??? ?????? (??., ??'
?????????, ??????? ?? 21?? ?????? 2018, Volkswagen, C?533/16, EU:C:2018:204, ??? 42
?? ??? ?????????????? ??????????).

72 ??? ?? ??????? ?? ??????????? ??????? ??? ??, ??????? ?? ?? ?? ?????? 167 ??
?????? 2006/112, ?? ??????? ??????? ??? ?? ?????? ??????? ??? ?? ?????????? ??? ??
????? ? ??? ?????? ??????? ???????, ? ?????? ??? ?? ??? ?????????????? ??? ??
??????, ??????? ?? ?? ?????? 178 ?? ??????? ??????, ?????? ??' ?? ??????? ? ??????????
???? ?? ?? ??? ?????? ?????? ?????? (?????? ?? 21?? ?????? 2018, Volkswagen,
C?533/16, EU:C:2018:204, ??? 43 ?? ??? ?????????????? ??????????). ?? ??????????
?????? ?????? ??? ?? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ??????????
(????. ??????? ?? 21?? ?????? 2018, Volkswagen, C?533/16, EU:C:2018:204, ??? 49

???) 50).

73 ????? ?????? ??? ?????????????? ???????? ??????? ?? ??? ?????????? ??? ???,
????????????? ???????? ???, ??? ???? ???? 8, ?????????? 2, ???????? ??, ??? ??????
2008/9, ? ?????? ?????????? ?????? ?? ?????????????, ??? ??? ????? ?????? ?????? ??????????
??? ??? ??? ?????????? ? ?????????? ?????? «??? ?????????? ??? ??? ?????? ???
????????? ??? ?????????? ?????? ??????». ?? ????????, ??? ???? 15, ?????????? 1,
????????? ???????, ??? ???? ???????, ? ?????? ?????????? ?????????? ??? ???
????????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ???? ?????????? ??? ?????????? ??????
????? ??? ???? ???? 8. ?????, ????? ???? ?????? 10, ????? ???????, ??? ???? ???
??????, ?? ?????? ?????? ?????? ?????????? ?????? ?? ?????? ??? ???????, ??? ???? ???
????? ??? ?????? ???????, ?? ?????? ?????? ??? ?????????? ???, ??? ???? ??? ?????? ???,
????????? ??? ?????????? ? ?????????? ?????? ?????????? ??? ???? ???? ?????????? ???
????? ??? ??? ?????????? ? ?????????? ?????? ?????? ??? ?????? ?????????? 1 000 ??? ? ??
?????? ??? ?????? ???????.

74 ?? ??????? ??? ????? ?????????????? ?????? ???, ??? ???? ?????? ?? ??????? ?? ????????
????????? ??? ???, ??? ???? ?????????? ??? ???? 170 ??? 171 ??? ??????? ???, ???
????? ?? ?????????? ?????? ?????? ?????? ?????? ??? ???? 2008/9, ???
????????? ? ?????????? ??? ???? ???? ???? ?????? ??? ?????? ?????????????? ??? ??????
????? ??????????, ??? ???? ??? ?????? ???, ?? ?????? ?? ?????? ??? ?????????? ??? ?????? ???
????? ??? ?????? ?????? ??? ???????.

75 ???????, ??? ?????????? ???, ???' ??????, ??? ???? ?????? 71 ??? 72 ??? ???????
??????????, ?? ????? 178, ????????, ??? ?????? ??? ?????? ???, ??? ???? ?????? ???, ??? ???? ?????? ???
?????????? ??? ????? 168, ????????, ??? ?????? ??? ?????? ???, ??? ?????? ???, ? ??????????? ???
????? ???????, ??? ?????? ??? ?????????? ?????? ??? ???? ?????? ?????????? ??? ???????, ?? ???????
??????????, ?? ?????? ??? ?????? ?????? ??? ???? ?????? 3 ??? 6 ??? ?????? 3 ???
????? XI ??? ???? ??????, ?? ?????? ??? ?????? ??? ?????? ?????, ??? ???? ??? ?????? 5,
?????????? ??? ?????, ??? ?????? 2008/9, ??? ???? ???? ?????? ?????????? ??? ???????????
?? ?????? 170 ??? ?????? ???, ???????, ?? ?????? 218 ??? 219 ??? ?????? ???
??????????, ???????????, ??? ???? ?????? ??? ?????????? ?? ?????????? ??? ???? ?? ???????
? ??????? ?? ?????? ?? ?????????? ?????? ?? ?????? ?????? ??? ?????? ???
?????????? ??? ???? ???? ?????? 3 ??? ?????? XI ??? ???? ?????? ??? ???? ??? ?????? ???
? ?????? ??? ?????????? ?? ?????? ?????????? ??? ?????? ?????????? ??? ???? ???
?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ???.

76 ?????????????? ??? ???? ???? ?????????? ??? ???? ?????????????? ??? ???? ?????????? ??
????????? ?? ???? ?????????? ???? ???? ???? ?????? ?? ?????????? ?? ?????????? ??
????????? ??? ???? ???? ???? ?????????? ??? ???? ?????? ?? ?????????? ?? ?????????? ??
????? ?????????? [????????? ??? 18?? ?????????? 2020, ?????????? ??? ?????????? ??
(????????? ??? – ??????????), C?371/19, ?? ???????????, EU:C:2020:936, ??? 80 ???
???? ?????????? ???????, ????? ???? ???? 17?? ?????????? 2020, Bundeszentralamt für
Steuern, C?346/19, EU:C:2020:1050, ??? 47].

77 ????????, ??? ?????????? ?? ??? ??????, ?? ???? ?????? ??? ???? ?????? ??????
????????? ??? ???? ???? ?????????? ??? ?????????? ???? ???? ?????????? ?????????? ???
????? ?????????? ?????? [????????? ??? 18?? ?????????? 2020, ?????????? ??
????? ?????????? (????????? ??? – ??????????), C?371/19, ?? ???????????, EU:C:2020:936,
????? 81 ??? ????? ?????????? ???????, ????? ???? ???? 17?? ?????????? 2020,
Bundeszentralamt für Steuern, C?346/19, EU:C:2020:1050, ??? 48].

78 ?????? ? ?????????? ??? ?????? ?????? ?? ?????? ?????? ?????? ?? ?????????? ???

? ?????????????? ??? ???? ?????? ?????????? ??? ???? ?????????? ??? ???, ??? ?????????????? ??
????????? ??? ???? ?????? ??????????????, ??? ???? ?? ???? ?????????? ??? ??? ??????????
??? ?????????? ??? ?????????????? ??? ?????? ???? ?????????? ??? ??? [?????????? ???
18?? ?????????? 2020, ?????????? ??? ?????????? (????????? ??? – ??????????), C?371/19, ??
?????????????, EU:C:2020:936, ??? 82 ??? ??? ?????????????? ??????????, ??? ??? ??
??? 17?? ?????????? 2020, Bundeszentralamt für Steuern, C?346/19, EU:C:2020:1050, ???
53].

79 ???????, ?????????????? ???, ?? ?????????? ??? ???? ?????? ?????? ??????????
?????? ??? ??? ??????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
??? ??????? ?? ??? ?????? ?????????? ??? ?????????? ?????? ??? ?????? ?????, ?? ?????? 20
??? ??????? 2008/9 ??????? ??? ?????? ??? ?????????? ?? ?????? ??????, ??? ??? ??
????????? ??? ??? ??? ??? ?????????? ?????? ??? ?????? ?????? ?????? ??????????????,
????????? ??????????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ??? ???
??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???.

80 ?????????????? ??? ???? ???? ???? ?????????? ??? ??????????????, ??? ?????????????? ??
??? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ???.
????????? ??? ?????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ??????
????????? ??? ?????? ??? ?????????? ??????. ??? ??????????, ?? ?????? ??? ?????? ??? ?????? ??
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ?? ??????????
????????? ??? ??? ???, ?? ?? ??????, ??? ?????????? ??? ??? [??., ??' ??????,,
????? ??? 21?? ?????? 2018, Volkswagen, C?533/16, EU:C:2018:204, ??? 48 ??? ??
????????????? ??????????, ??? ??? ?????? ??? 18?? ?????????? 2020, ?????????? ???
????????? (????????? ??? – ??????????), C?371/19, ?? ??????????????, EU:C:2020:936,
????? 83].

81 ???????, ??? ???? ???? ?????? ?????? ?????? ?????????? ??? ???? ????
????????? ??? ?? ???? ?????? ?? ?????????? ??? ?????????? ??? ?? ?????????? ??? ???? ??????
????????? ??? ?????? ?????? ?????? ?? ?????????? ??? ?? ?????????? ??? ?? ??????????
«?????????», ??? ???? ?????? ??? ?????? ??? ??? ???? ?? ???? ?????? ?? ??????????
????????? ??? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ??????
??? ?????????? ???.

82 ??? ???? ???? ?????? ??? ?????? ??????, ??? ?????? ?????? ?????? ?? ???? ?
????????? ??? ?? ???? 167 ??? 171 ??? 178 ??? ?????? ??? ?????? ??? ???? ???? 2008/9
????? ?? ?????????? ??? ??? ?????? ??? ?? ?????????? ?????????? ??? ??? ???? ???? ?
????????? ??? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?
????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??????????, ??? ?? ??? ?????? ???
?????, ?? ? ?? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??????????, ??? ?? ??? ?????? ???
????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?
????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?
????? ?????? ??? ?????? ??? ?????? ?????? «?????????», ??? ???? ?????? ??? ?????? ??? ?
??? ?? ?????? ??? ?????? ??? ?????? ???.

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

83 ?? ?? ?????? ??? ?? ?????? ?????? ???, ?? ?????? ?????? ?? ??????????????, ??
????? ?????????? ???, ??' ??????, ?? ?????????? ?? ?? ?????? 167 ??? 171 ??? 178
??? ?????? ??? ?????? ??? ?? ?????? 14, ?????????? 1, ?????????? ??, ????? ??????????, ??
????? 2008/9 ?????? ?? ?????????? ??? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
????? ?????????? ??? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??? ?

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

84 ??? ?????????? ??? ?????? 57 ??? ?????? ?????????? ?????????? ??? ?? ?????? 63 ???
????????? ??? ?????????? ??? ? ?????????? ?????? ?????? ?????????? ??? ? ?????? ??????????
????????? ??? ?????? ??? ?????? ?????????? ?????? ??? ?????? ?????? ??? ?????? ???
?????????. ????????, ??? ?? ?????? 167 ??? ?? ?????? 179, ?????? ??????, ??? ?? ???
???????, ?? ?????? ?????? ??? ?? ?????? ?????? ?????? ??????, ?????? ?? ?????? ??? ?????? ???
????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
??? ?????? ? ?????? ?????????? ?????????? (????????? ??? 21?? ?????? 2018, Volkswagen,
C?533/16, EU:C:2018:204, ??? 44).

85 ??????????, ????, ??? ?????????? ??? ?? ?????? 82 ??? ?????? ?????????? ??? ??
?????? ? ?????????? ????, ? ?????? ??? ?????? ?????? ?????????? ?????? ?????? ???
??????????, ??? ?? ??? ?????? ?????? ???, ?? ?????? ?? ?????? ?????????? ?????? ??? ?? ?
?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ?????? ?? ?????? ???
????????? ??? ?? ?????? 170 ??? 171 ??? ?????? ??? ?????? ??? ?? ??? ?? ?????? 2008/9,
????????? ?? ?? ??? ?????????? ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? ???
?????? ???, ?????? ?? ??? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ??????.

86 ????????, ?? ??? 14 ??? ?????? 2008/9 ?????????? ??? ?????????? 1, ?????????? ?,
??? ? ?????? ?????????? ??? ?????? ??? ?????? ?????? ? ?????????? ??? ?????? ?????????? ???
??? ?????? ??????????, ?????? ? ?????? ??? ?????? ?????? ?????? ?????? ??? ? ??? ?? ??????
??? ??????????, ? ?????? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
?????????, ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
?????????.

87 ??? ?? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ?????? ?????????? ??? ??
?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ??? ?????? ???
????? ??? ?????? ? ?????? ??? ?????? ?????? ?????? ??? ? ?????? ?? ?????? ???
??????????, ?? ?????? ??? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?? ?????? ???
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ???
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? ???
????????? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? ???.

88 ??? ?? ?????? ??? ??????, ??? ?????? ??? ?????? ?????? ?????? ??? ??
????? ? ?????????? ??? ?? ?????? 167 ??? 171 ??? 178 ??? ?????? ??? ?????? ??? ?? ???? 14,
????????? 1, ????????, ??? ?????? ??????, ??? ?????? 2008/9 ?????? ?? ??????????
??? ?? ?????? ??? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?? ??? ?? ?
????????? ??? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ??
????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? ?????? ??? ??
????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? ?????? ??? ??
????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? ?????? ??? ??.

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

89 ??????????????, ?????????????? ?????? ??? ?? ?????? ?????? ?????????? ?????? ???
????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ? ?????????? ??? ?? ??? ?? ?
????? ??? ?????? ??? ?????? ??? ?? ?????? 2012 ??? ?????? ??? ?????? ?????????? ? ???

???????????? ???? ? ?????? ?????????????? ?? ??? ?????? ??? 14?? ?????????? 2014
????????????? ?????? ?????????? ??? ??? ?????? ??? ?????? ??? . ??????????, ?? ?????? ???
????, ??? ??? ?????????? ??? ???, ??? ?????? ??? ?? ?????? ??????, ???
????????? ??? ?????? 82 ??? 88 ??? ?????? ????????, ?? ??????? ??? ?? ??? ???
????????? ??? ?????? ??? ??????, ??? ??? ?? 2015, ?? ?????? ?? ?????? ???
?????????, ?????????? ??? ?????? ?????????? ?? ??? ?????? ?????????? ??? ?????? ???
?? 2015. ??? ??? ?????????? ??? ???, ?? ?????? ?????? ??? ?? ??? ???
????????? ??? ??? ?????? ??? ?????????? ??? ?????? ???.

90 ?? ???????, ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ? ??????? ???
????????? ??? ??? ?????????? ??? ??????, ??? ?? ?????? ??????, ?? ??? ?????? ?????????? ??
?? ?????? ??? ?? ?????? ???????. ??????????, ??? ??? ?????? ??? ?? ?????? ???
? ?? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?? ?????????? ??? ?? ??????
?????? ?? ?????????? ??? ?????????? ??? ?? 2015, ?? ?????? ?????????????? ??
???? 2012, ?????????? ??? ??? ??? ??? ??? ??? ??? ?????? ??? ?????????? ???
????????? ??? ??????.

91 ?????, ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ? ?????????? ???
????????? ??? ??? 14?? ?????????? 2014, ?????? ?? ?????? ?????? ? Wilo Salmson
?? ?????????? ??? ?? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????????
?????????, ??? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?? ??????
?????????, ?????? ?? ?????????? ????????, ??? ?? ?????? ??? ??? ??? ? Zollner
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????, ?
????? ??? ?????? ??? ?????? ??????????, ??? ?????? ?????? ?????????? ??? ??????????
????????? ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????.

92 ??? ??? ??????? ????, ?????? ?? ?????? ???, ?? ?? ?????? ???????, ?? ??????
????????? ????, ???' ??????, ?? ?????????????? ?? ?? ?????? 167 ??? 171 ??? 178 ???
?????? ?? ?????? ?? ? 2008/9 ?????? ?? ?????????? ??? ?? ?????? ??? ?? ??????
????????? ?????? ?????????? ??? ??????????, ??? ?? ?????? ??? ?? ?????? ??? ?? ??????
????????? ?????? ??? ?? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?? ??????
????? ?????????? ??? ?? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??
????????? ?????? ??? ?? ?????????? ???, ??? ?? ?????? ??? ?????????? ?????????????? ???
?????????, ??? ?????????? ??? ?????? ??? ?????? ??? ??????????, ??? ?? ?????? ??? ??????????
?? ?????????? ????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??????????
????????? ?????????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ?? ?????? ???.

93 ?????????????? ??? ?? ?????? 15, ?????????? 1, ??? ?????? 2008/9 ?????????? ??? ?
????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? «??? ?? 30
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???». ?
????????? ??? ?????? ?????????? ??????????, ??? ?????? ?? ?? ?????? ??????????
?? ?????? ??? ?? ?????? ?????????? ??? ??? (???. ?????? ??? ?? 21?? ?????? 2012,
Elsacom, C?294/11, EU:C:2012:382, ?????? 26 ??? 33, ?????? ??? ?? 2?? ?????? 2019, Sea
Chefs Cruise Services, C?133/18, EU:C:2019:354, ?????? 39). ??????????, ? ??????????
????????? ?????? ??? ?? ?????????? ??? ??? ?????? ?????????? ?????????? ?? ??????????
????? ??? ?? ?????????? ??????, ? ?????? ?????????? ?? ??? ?????? ???' ?????????? ??
????????? ?? ?????????? ? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ?? ?????? ??
????????? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? (??., ???' ??????????,
????? ??? 21?? ?????? 2012, Elsacom, C?294/11, EU:C:2012:382, ?????? 29 ??? ???
????????? ??? ??????).

94 ????????, ??? ?????????? 1 ??? ?????? 23 ??? ?????? 2008/9, ?? ?????????? ????
? ?????? ?????????? ?????????? ?? ??? ? ?? ???, ?? ?????? ?????? ?????? ??????????
????????? ??? ??????????, ??? ?????? ?????? ??? ?? ??? ??????, ??? ?????? ???
?????????, ??? ?? ??? ?????? ???, ??? ?????? ?????????? 2 ??? ?????? ???, ?? ???
????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ?????????? ?????? ?? ??????????
??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????????, ??? ?????? ??
??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????????????? ??? ?? ??? ?????? ?????? ???.

95 ???????, ?? ?????????? ?????????? ??? ????? ?????? ?? ?? ?????? ??? ?????? ?
????????? ?????? ?????????? ??? ?????? ?????? ??????????, ??? ?????? ?????????? ???
????????? ???????????, ?????? ??? ?????????? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????????? ????. ????????, ??????? ?????????? ???
????????? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ??? ?????????? ???
????????? ? ?????? ??? ?????? ?????? ???????, ?????? ??? ???, ?? ???????, ? ?????????? ???
????????? ??? ?????? ?????????? ??? ???????, ?? ??? ? ???? ?????, ??? ?????????? ???
????????? (????????? ??? 14?? ??????? 2017, Compass Contract Services, C?38/16,
EU:C:2017:454, ????? 42 ??? ??? ?????????????? ??????????, ?????? ??? ??? 2?? ??????
2020, Terracult, C?835/18, EU:C:2020:520, ????? 32 ??? ??? ?????????????? ??????????).

96 ????, ????, ??????????? ??? ? ??????? ??????????????, ???' ??????, ??? ?????? 100 ???
101 ??? ?????????? ???, ?? ??????? ?????? ???, ??? ?????????????? ???? ?????? ???
????????????? ??? ?????? 92 ??? ?????????? ??????????, ? ?????????? ?????? ?????????? ??????????
??? ??????????, ??? ?????? ?????? ?????????? ? ?????????? ??? ?????? ?????????? ??? ??????
????????? ?????????? ?????? ??? ?????????? ??? ?????????? ???, ??? ? ??????????????
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??????
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ??????
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??????
????????? ??? ?????? ??? ?????????? ???' ?????????? ??? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????? 15, ?????????? 1, ??? ?????? 2008/9 ??? ??? ?????? ??????
????????? ??? ??? ??? ?????? ?????????? ?????????? ?????????? ??? ??? ?? ????
????????? ??? ??????, ??? ??? ?????? ?????????? ?? ?????? ?????? ?????? ?????? ??? ??????
23, ?????????? 2, ??? ?????? 2008/9, ?????? ??? ?? ?????????? ??? ?????? ??????????
????????????????? ??? ?????????? ?????? ?? ?????? ??? ?????? ??? ?????????? ??????.

97 ???????, ????? ?????? ???, ??????, ? ?????? ??? ??????????? ?? ???????????
????????????? ??? ?????? ?????????????????? ?????? ?????? ?????? ??????????
? ??????????? ??? ??? ?????????? ??? ?????? ?????????? ? ?????????????? ??? ???,
?????? ?? ??? ?????????? ??? ?????? X, ??????? 5, ??? ?????? ??????. ??????????, ??
????? 185 ??? ?? ??? ?????? ??? ?????? ?????? ??? ?????????? ?????????? ??????????,
???, ??? ?? ??? 186 ??? ?? ??? ??????, ??? ?????? ??? ?????????? ?? ??????????
??? ?????? ??????? ??? ?????? 185. ??????, ??? ?????? ??? ?? ?????? ??? 219, ?
????? ??? ??????? ?? ?????????? ?????????? ??????????, ??? ?????? ??? ?????? ??????????
? ??? ?????????? ?????????? ?????????? ?????????? (????. ?????? ??? 15?
????????? 2016, Senatex, C?518/14, EU:C:2016:691, ?????? 32 ??? 34 ?????? ??? ???
????????? ??????). ???????, ?? ?????? 13 ??? ?????? 2008/9 ?????????? ??
?????? ??? ?????? ?????????? ???, ?????? ??? ?????? ???, ?
????????? ?????? ?????????????? ?????? ?? ??? ?????? 175 ??? ?????? ???.

98 ????? ???? ?????????????????? ??? ??? ?????????????? ??? ????? ?????? ??? ?????????????????? ???
????? 92 ??? ?????????? ?????????? ?????????? ?????????? ?????????? ??? ?????????? ?????????? ?????????? ??????????

???? ?????????????? ????????????, ?????????? ??? ?????? ?????????????? ??? ?????? ?????? ??????????????
??????, ? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??????????????
????????? ???????????, ?????????????? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ??????
?? ?????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????
????????? ?, ??? ?????????? ??? ?????? 89 ??? ?????? ?????????? ?????????? ?, ??? ?????? ???
?? ?????? ?????? ?????????? ??? ?????? ?? ?????? ?????????? ??? ?? ?????? ??? ?????? ??? ??????
?????????.

99 ??? ??? ?? ??? ????????, ? ?????????? ??? ?????????? ?????? ??? ?????? ?????????? ???
??? ?????????? ? ??? ?????????? ?????????? ??? ?????? ?????????? ?????? ?????????? ??? ?????? ???
????????? ?? ?????????? ??? ?????????????? ??? ?????? 96 ??? ?????? ?????? ??????????.

100 ??? ?????? ?, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? 167 ??? 171 ??? 178 ???
2008/9 ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ???
????????? ?, ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ?????????? ?? ??? ??????
????????? ? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??
??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??????
?????, ??? ?? ?????? ?????????? ?????????? ?????? ?????? ?????????? ?, ??? ?????? ?????? ???
????? ??? ?????? ?????????? ?, ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???, ???
????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
??? ??? ? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???.

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

101 ??? ?????? ??? ? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??????
??? ?????????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ???, ?' ???
????????? ?? ?????????? ??? ?????? ??? ?????? ?????? ??????. ?? ?????? ??? ?????? ?????? ??????????
????? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??????.

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

1) ?? ?????? 167 ??? 171 ??? 178 ??? ?????? 2006/112/?? ??? ?????????? ??? 28??
????????? 2006, ?????? ?? ? ?????? ?????? ?????? ?????? ?????????????? ????, ???
????????????? ??? ?????? ?????? 2010/45/?? ??? ?????????? ??? 13? ?????? 2010,
????? ??? ? ?????? 2008/9/?? ??? ?????????? ??? 12? ?????? 2008, ??? ??
????????? ?????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??????
????????? ???, ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ??????
????? ?????? ????, ??? ?????? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ?????? ?????? (???) ? ?????? ?????????? ??? ??????
????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???,
?? ? ? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? 2006/112, ??? ?????? ?????? ??? ?????? ??? ?????? 2010/45, ?????? ??? ??
????? ??? ?? ??? ?????? . ?????? ?? ??? ?????? ?????? ?????? ?????? ?????????? ???
? ?????? ?????? ??? ?????? ?? ??? ?????? ?? ?????? ?????? ?????? ??? ?? ?????? ???
????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? «?????», ??? ?????? ??? ?????? ??? ?????? 2006/112, ???
????????? ??? ??? ?????? 2010/45.

2) ?? ?????? 167 ??? 171 ??? 178 ??? ?????? 2006/112, ??? ?????????? ???
?? ?????? 2010/45, ?????? ?? ? ?????? 14, ?????????? 1, ?????????? ??, ???
????????? ??? ?????? 2008/9 ?????? ?? ?????????? ??? ?????? ?????? ??? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????????? ???

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

3) ?? ????? 167 ?? 171 ?? 178 ?? ??????? 2006/112, ??? ?????????????? ???
??? ?????? 2010/45, ??? ?? ???? 2008/9 ?????? ?? ?????????????? ??? ??
????? ??? ? ?????????? ??????? ?????????? ??? ??????????, ??? ?? ?????? ???
?? ?????? ?????? ?????????? ?????????? ?? ??? ????? ?????????? ? ??????????????
??? ?????????? ??? ?????? ?????? ?????????? ??? ????? ?????????? ?????? (???) ???
??? ? ?? ??? ?????? ??? ?????? ??????????, ??? ? ?????????? ?????? ??? ??
????????? ????, ??? ?? ?????? ?????????? ?????????? ?????? ?????? ?????????? ???, ???
????????? ??? ?????? ??? ?????? ??????????, ?????? ?? ?????????????? ??? ??
????????? ????, ??? ?? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??
????????? ?????? ?????????? ?????????? ??? ??? ????? ?????? ??? ?????? ??? ??
????? ?????? ?? ?????? ?? ?????? ??? ?????? ???.

(?????????)

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