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??? 3?? ??????? 2021 (*1)

«????????????? ?????????? – ????? ?????????????? ????? (???) – ?????? 2006/112/?? –
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?????? ?? Curtea de Apel Suceava (?????? Suceava, ???????) ?? ??????? ??? 30??
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BE,

DT

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Administra?ia Jude?ean? a Finan?elor Publice Suceava,

Direc?ia General? Regional? a Finan?elor Publice Ia?i,

Accer Ipurl Suceava, ??????? ??? ??? ??????? ??? ?????????? ?????????? ??? BE,

EP,

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????????? ??? ??? N. Wahl, ?????? ???????, A. Prechal (??????????), ?????? ???
????? ???????, ??? F. Biltgen, ???????,

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

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

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????? (?? 2006, L 347, ? 1, ??? ????: ?????? ????), ??? ?????????? ??? ?????? ??? 184
??? 186.

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? ?????? ??? ?????????? ??? ?????? ???????? ???????, ??????, ??? BE,
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Suceava (????????????? ?????????? Suceava, ???????), ??? Direc?ia
General? Regional? a Finan?elor Publice la?i (????????????? ??????? ?????????? ??????????
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Accer Ipurl Suceava, ? ??? ?????? ?? ?????????? ?????????? ??? BE, ??? ??? EP, ??
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?? ??? 2, ?????????? 1, ??????? ?, ??? ?????? ??? ?????? ??? ?????????????? ?????? ???
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????? ?? ?????? 9, ?????????? 1, ??? ?????? ??????:

«????????? ?? “????????????? ????” ?????????????? ????, ??? ?????? ?????????? ??? ??
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?? ?????? 167 ??? ?? ??? ?????? ?????????? ??? ?? ???????? ?????????? ?????????? ??? ??
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?? ?????? 168 ??? ?????? ??????? ?????? ?? ??????:

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?? ?????? 184 ??? ?????? ??? ?? ?????????? ?? ???:

«? ?????? ?????????????????? ?????? ?????????????? ?????? ?????? ?????? ?????? ? ?????????? ???
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???? ?? ?????? 185 ??? ?????? ????:

2. ????? ??????????? ??? ???. ??????????? 1, ??? ?????????????? ?????????????? ???
????????? ???????, ??? ???. ?????? ??? ?????? ??? ?????? ?????? ? ?????? ???????, ?? ??????????
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??????, ?? ?????????? ??????? ??? ???. ?????? ??? ?????? ??? ?????? ?????? ? ?????? ?????? ??? ??
????????? ???????, ?? ?????? ??? ?????? ?????? ?? ?????????? ??????????????..»

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?? ?????? 186 ??? ?? ??? ?????????? ??????? ?? ????:

«?? ?????? ??? ??????????? ?? ?????? ?????????? ?? ?????? 184 ??? 185.»

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?? ?? Legea nr. 571/2003 privind Codul fiscal (???) 571/2003 ?? ????????????)
?????) (?? ???: ????????????) ???????) ??????? ?? ???:

«1. ??? ??? ?????????? ??? ????? ?????? ? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????, ??
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?? ?????? 148 ?? ????????????, ?? ?????? «???????????????, ?? ?????? ????????????, ?? ?????? ??? ????????????, ?? ?????? ?? ?????:

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

2. ??? ???? ?????????????? ?? ?????? ??????? ?? ??? ?????????????? ? ??? ???????????, ?
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[...].

4. ? ?????????????? ??? ??? ?????? ?????? ? ?????? ?????????????? ??? ?????????? 1,
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?? ?????? 3 ??? Legea nr. 85/2006 privind procedura insolven?ei (????? 85/2006, ????)

«[...]

23. ?? ??????????? ??????????? ??????? ? ?????????? ?? ?????????? ?? ?????????? ?? ??????????
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[...] ».

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?? ?????? 47 ??? ?????? ????? ?????????????????? ??????? ?? ????:

«[...]

7. ????? ??? ??????? ???, ???????????, ? ?????????? ?????? ?? ??????? ?????? ???
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?? ?????? 116 ??? ?????? ??? ?????????????????? ??????? ?? ????:

«1. ?????????????? ??? ?????????????? ?????????? ??? ?????????? ?????? ??? ?????????? ???
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?? ?????? 123 ??? ?????? ??? ?????????????????? ??????? ?? ????:

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

1)

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? ?, ?? ?????? ??????? ?? ?????? ?? DT, ????? ?????? ??? ?? ???? ??????
????????? ?????????????? ??? ?? ?????? ??? ?????? ??? ???. ?? ?????? ??? 10??
????????? 2015, ?? Tribunalul Suceava (????????? Suceava, ??????) ?????? ??
????? ?? ?????????? ?????? ??? BE.

18

????? ??? ??????? ?? ????????, ? BE ??????????? ?? ??????????? ?????? ? ??????
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???? ??????????? ??? BE, ?????? ????, ? ?????????? ?????????? ??? ??? ??? 646259
????????? ??? (RON) (?????? 132000 ???) ??? ??? ?????????????? ?????????? ??? ??
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2014, ??? ?? ??????? ??? ?????? ?????? ?????????? ?????????????? ??? ??
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(?????? 109000 ???) ??? ?????????? ?????? ?? ?????????????? ??? ?????????? ???,
55134 RON (?????? 11400 ???) ??? ?????????? ?????? ?? ?????????????? ??? ??? ??
??? 55716 RON (?????? 11600 ???) ??? ?????????? ?????? ?? ?????????? ??????.
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?? ??????? ?? 22?? ??????????? 2018 ??????????? ? ?????????? ??????? ?? ?????????? ?
BE ??? ? DT ??? ?? ???? ????? ?????? ?????? ?????? ?? ?????????? ?? ?????????? ??
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?? Tribunalul Suceava (????????????? Suceava) ?????? ??? ?????????? ??? ?????????? ???
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?? ?????? ??? 18?? ?????? 2019, ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ???
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23

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26

?? ? ? ?????????? ???, ?? Curtea de Apel Suceava (????? Suceava, ??????)
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«????????? ??? ?????? [???? ???] ??? ??? ?????? ??? ?????????? ???????????, ???

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27

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????? 184 ?? 186 ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????????? ?? ??????
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?????????), C?895/19, EU:C:2021:216, ????? 32].

29

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????????? ??? ?????? ??? ?????????? ?????????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ???
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EU:C:2019:254, ????? 27).

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????????? ??? ?? 20 ?????? 2013 ??? ?? 13 ?????????? 2014 ?????????? ??? ?? ??????
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?????????? ?????????????? ??? . ??????????, ??????, ??? ?? ?????? ???
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??, ?? ?????????? ?? ??????? ??? ?? ?????? ??? ?? ?????? ?????????? ???.

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

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????????? 1, ??????? ??, ??? ?????? ???, ?? ?????? ?????? ??? ?????? ??? ??????????????

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Tevesstraße, C?449/19, EU:C:2020:1038, ??? 24 ??? 25 ??? ??? ??????????????

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

?????? ??????? ????? ?? ????? 31 ??? ??????? ????????, ???? ??? ????? ?? ??????? ??

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35

???????, ??? ?? ?????????? ?? ?????? ?? ??? ?????????? ?????????????? ?????? ??
????????? ??? ??? ?????? ??? ?????? ?? ?????? ?? ?????????? ??? ?????? ??????????, ???
????? ???, ???????? ?? ??? ?????? ?????????? ????????, ? ?????? ??? ??????????
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????? ?? ??? 9, ?????????? 1, ?????? ??????, ??? ?????? ???, ?????? ??, ??????? ??
????????????? ??? ?? ?????????????? ???, ??? ?????? ??????????, ??????????
?????????????, ?????????? ??? ?? ?????????????? ??? ?? ?????????????? ???
????????????? ????. ???????, ? ?????? ??? «????????????? ??????????????» ???????
??? ?????? 9, ?????????? 1, ?????? ??????, ??? ?????? ??? ?? ?????????? ???
????????????? ??? ??????????, ??? ?????? ??? ?????? ?????????? ?????????? ???, ??????
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????? ?????? ??????????, ? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????? ?????????? ??? ?????? ??? «????????????? ??????????????», ?????? ???
??? ?????????????? ??? ?????? ??? ?? ?????? ??????, ?????? ?????????? ? ??????????????
????? ????????, ?????????? ??? ?????? ??? ???? ?????????????? ????. ????????????,
????? ??????, ??? ?????????????? ?????????????? ?? ?????????? ?????? ?????????? ??????
????????? ??? ?????????????????? ?????? ?????? ??? ?????? ?????????? ?????? ???
????????? ??? ?????? (?????? ??? 5?? ?????? 2018, Marle Participations, C-320/17,
EU:C:2018:537, ??? 22 ??? ??? ?????????????? ??????????).

38

????? ????????, ?????????? ??? ? ?????????????? ?????? ?? ?????????? ??? ?????? ??????????,
?????????? ??? ?????? ??? ?????????????? ???, ?? ?????? ??? ?????? ???, ?????? ??
??? ??????? ?????????? ??? ?????????? ??? ??????, ? ?????? ??? ?????????? ??????????
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???????, ??? ?????????? ? ?????? ?????? ??????, ? ?????? ??? ?????????? ????
?? ?? ?????? ??? ?????? ??? ?????????? ??????????????, ? ?????? ??????????,
?????????, ?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?? ??? ??
?? ?????????? ??? ?????? ?????? ?????? ? ?????? ??? ?????????? ??? ?????? ???, ?? ??
????????? ??? ?????? (????. ?????? ??? 4?? ?????? 2021, Frenetikexit, C-581/19,
EU:C:2021:167, ??? 32).

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? ?????????? ??? ?????????? ??? ?????????????? ??? ?????? ?? ?????? ??? ?????????? ??? ??????????
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????????? ?? ??? ????? ???, ?????? ?? ?????? ?????? ??????, ???' ????, ?? ??????????
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41

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??????????, ? BE ??????? ?? ?????? ??????????? ?? ?????? ??????????? ??? ?????? ??? ?????????? ???
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????? ?? ?????????? ??? ? BE ??????? ?????? ??? ?????????? ??? ?????????? ?????????????? ???
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?? ???? ?????????? ????, ??? ?????? ?? ?????? ?????? ??? ? ?????? ??? ???????????
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????????? ?? ??? ??? ?????????? ??? (??., ???' ???????, ??????? ??? 9?? ??????????
2017, Wind Inovation 1, C-552/16, EU:C:2017:849, ????? 46).

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?????, ?????????? ??? ? ??' ?????? ?????????? ? ?????????? ???????????, ? ???????????
?? ?????????? ????, ?? ?????????? ??? ???????????, ??????, ?? ?????? ??
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??????, ??? ?????? ?????????? ? ???????, ?? ?????? ???, ?? ?????????? ???????
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??, ??? ??? ?????? ?????????? ??? ??? ?????? ?????? ??? ?????? ??? ?????????? ??????? ??
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????? ?????????????? ?? ??????? ?? ?????? ?????? (??., ???' ???????, ??????? ??? 9??
????????? 2017, Wind Inovation 1, C-552/16, EU:C:2017:849, ????? 44).

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?????? ??? ??????????????, ??? ?????????????? ?????? ?????? ?? ?????? ? ?????????? ??? ??
????? 184 ??? 186 ??? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??
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? ? ???? 184 ?? 186 ?? ???? 2006/112/? ? ? ???? ???? ???? ???? ???? ???? ???? ???? ?
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(?????????)

(*1) ???? ???? ???? ???? : ? ???? ???? .