

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

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

??? 24?? ?????????? 2022 (*)

«????????????? ?????????? – ?????????? – ????? ?????????????? ????? (???) – ??????
2006/112/?? – ????? 167 ??? 168 – ?????????? ??? ?????????? ??? ?????????????? ??? ??????
– ??? ?? ?????????? ??? ?????? – ?????????? ?????????? – ?????? ??? ?????????? ???
?????? ??? ?????????? ?????? – ?????????? ??? – ?????????? ?????????? ???
?????? – ????? ?????? ?? ????? ??? ??? ?????????? ??? ??? ?????? ?????? – ??????
?? ?????? ??? ?????????? ??? ??????»

???? ?????? C?596/21,

??. ?????????? ?????? ?????????????? ?????????? ??? ?????? 267 ????, ???
?????? ?? Finanzgericht Nürnberg (?????????? ?????????? ???????????, ?????????) ??
?????? ??? 21?? ?????????? 2021, ? ?????? ??????? ??? ?????????? ??? 28
????????? 2021, ??? ?????? ??? ??????

A

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Finanzamt M,

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

????????? ??? ??? E. Regan, ??????? ???????, ?. ?????? (?????????), M. Illeši?, I.
Jarukaitis ?? Z. Csehi, ???????,

????????? ??????????: P. Pikamäe

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

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

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

– ? ?????????? ????????, ?????????????? ??? ??? J. Möller ??? R. Kanitz,

– ? ??????? ????????, ?????????????? ??? ??? O. Serdula, M. Smolek ??? J. Vlá?il,

– ? ?????????? ????????, ?????????????? ??? ??? R. Pethke ??? V. Uher,

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

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

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1 ? ?????? ?????????????? ?????????? ?????? ??? ?????? ??? ?????? 167, 168 ??? 178
??? ?????? 2006/112/?? ??? ???????????, ??? 28?? ?????????? 2006, ??????? ?? ????
?????? ?????? ?????????????? ?????? (?? 2006, L 347, ?. 1), ??? ?????????????? ?? ???
?????? 2010/45/?? ??? ??????????, ??? 13?? ?????? 2010 (?? 2010, L 189, ?. 1) (?? ????:
?????? 2006/112).

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ??? ???? ???
Finanzamt M (????????????? ?????????? M, ????????) (?? ????: ?????????? ??????????)
?????? ?? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ???
????????????? ??? (???) ?????? ??? ?????? ?????? ?????????? ?????????????? ??? ??
????????? ??? 2011.

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

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

3 ??? ??? ?????????? «????????????? ??????» ????? IV ??? ?????? 2006/112, ??
????????????? «????????????? ??????» ???????? 1 ?????????????? ?? ??? 14, ?????????? 2,
?????? ??, ?? ??? ?????? ??? ? ?????????? ?????? ??? ?????????? ?? ?????????????? ?? ???
?????? ?????? ??? ???? ?????? ?????? ?????? ?????? ?????? ??????.

4 ??? ??? ?????????? «?????????» ????? X ??? ?????? ?????, ?? ??????????????
«????? ??? ?????? ??? ?????????? ??????» ???????? 1 ?????????????? ?? ??? 167, ??
????? ?????????? ?? ??????:

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

5 ?? ??? 168 ??? ?? ??? ??????, ?? ??? ?????? ?????????????? ??? ??? ?????? ?????? 1,
???? ?? ???:

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

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

[...]».

6 ??? ??? ?? ??? ?????? ? ??? ??????, ?? ?????????? «????? ?????? ???
????????? ??? ??????» ???????? 4 ?????????? ?? ??? 178, ?? ??? ?????? ????:

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

?) ??? ??? ?????????? ??? ?????? 168, ?????? ?, ??????, ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????????, ?? ?????? ?????????, ?? ??? ?????? ???
????? ?????? ??? ?????? ?? ?? ?????? 3 ??? 6 ??? ?????????? 3 ??? ?????? XI?

[...]».

7 ??? ??? ?????????????? «????????????? ??? ?????????????? ??? ????? ??? ???? ??????????
????????? ?? ?????????????? ??? ?????» ?????? ?? ??? ??????, ?? ?????????????? «?????????
?????????» ??????? ?? ?????????????? ?? ?????? 203, ?? ?????? ??? ?? ????:

8 ??? ??? ?????? ?????? ?? ??? ??????????, ?? ?????????????? «????????? ??????????» ??????????
7 ?????????????? ?? ?????? 273, ?? ?????? ?????? ?? ??????????:

? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?? ?????????????????? ??? ???
?????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
?????? 3.»

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

9 ?? ?????? 3, ??????????? 3, ??? Umsatzsteuergesetz (????? ??? ???? ???? ???? ????
???????, ??? ????: UStG) ????. ?? ????:

«???? ?????????? ?????????? ??????? ?????????? ?????????? [????? 383 ???
Handelsgesetzbuch (????????? ?????)], ? ?????????? ?????????????? ?????? ???
????????? ??? ??? ??????????????. ??? ?????????? ?????????? ??????, ??????
????????? ? ??????????????, ??? ??? ?????????? ?????????? ??????, ?????? ??????
? ??????????»

10 ?? ?????? 15, ??????????? 1, ??? UStG, ????? ?????? ????? ??? ?????? ??? ???????????
????????????? ??? ?????? ??????, ?????????? ?? ???????:

«? ?????????????????? ??????? ???? ?????????? ???? ?????? ?????????? ???? ?????:»

1) ??? ??? ??? ??? ?????????? ??? ??? ??? ?????????? ??? ??? ??? ??? ??? ???
????????????? ??? ??? ??? ?????????? ??? ??? ?????????? ??? ??? ?????????? ???.
????? ??? ??? ??? ??? ??? ?????????? ??? ??? ?????? ?????? ? ?? ?????? ??? ??????????????
????? ??? ?????? ??? ?????? ??? ??? ??? 14 ??? 14a. [...]»

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

11 ?? 2011 o ??????? ?, ?????????? ??? ?????? ?????, ??????? ??? ?? C, ? ??????
?????????? ?? W, ??? ?????????????? ?????????? ??? ?? ??????? ??? ?????????? ???
(??? ????: ??????? ??????????). ? W ?????? ??? C ?????????? ??? ?? ???
????????? ?? ??. ??? ?? ?????? ??? ?????? ?????????? ??????????, ? C ?????? ??????
???? ?? W ??? ??? 52 100,84 ????, ????? ?? 9 899,16 ????, ? ?? W ?????? ??
????????? ??????? ??? ?? ?????????? ??? ?????? ????? ?? 64 705,88 ????,
???? ?? ??? 12 294,12 ??. ? W ?????? ?? ?????????? ??? ?????????? ??? C, ?
?????, ?? ?? ????, ?? ?????????? ???, ?? ?????????? ??? ?????????? ??? ?????? ???.

12 ? A ??????? ??? C ??????? ??? ????? 77 000 ???, ?? ??? ?????????????? ???
???? ?? 64 705,88 ??? ???? ??? ?????? ??? ?????? ??? 12 294,12 ??? ???? ???
????????? ????. ? C ??????? ??? ?????? ?????? ?? ??. ??? ?????????? ?????? ???
??? ??? ?????????? ???, ? C ??????? ?? ??? ?????? ?????? ?? ??? ??? 52 100,84
????, ????? ?? 9 899,16 ????, ??? ?? ?????????? ??? ?????????? ??? ??????
????????? ??? ?? W. ??? ??????, ?? ??? ?????? ??? ?????????? ??? ?????????? ???, ? C
????????? ??? ?? ??? ?????? ??? ?????? ??? ?????????? ??? ??? ?????????? ??? ??????
9 899,16 ??. ? ?? W ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??
????????? ??? ?? ?????????? ??? ?????? ???, ?? ?? ???, ?? ??????, ?? ?????? ???' ??
?????.

13 ? A ??????? ??? ?????? ??? ?????? ??? ?????? ??? 12 294,12 ??? ?? ???
????????? ??? ?? ??? ?????? ??? ?????????? ??????????. ??????????, ? ?????????? ???
????? ??? ? ? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?? ??? ??? ???,
????? ??? ? ? ?? ?????????? ??? ?????? ??? ?????????? ??? C.

14 ?? ?????? ?????????? ???, ?????? ?????? ??? ?????? ?????? ?????? ?????????? ??
???? ?????????? ?? «??????», ? ?????????? ??? ?????? ?? ?????????? ??? ?? ???
??? ?????????? ????. ?? ??? ?????? ??? ?????? ?? ?????? ?????????, ?? ??????????
?????, ??? ? C ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? – ??? ??
????????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? – ???, ??????, ??? ? W ??? ?????? ??? ?????????? ???
????????? ??? ?????????? ???.

15 ??? ?? ?????? ??????????, ?? ?????????? ??? ?????? 15, ?????????? 1, ??
????????, ?????? 1, ??? UStG, ?????? ?? ??? ?????? ??? ?????, ?????????? ???
????? ?? ??? ??? 12 294,12 ??? ???? ?????????? ?? ??? ??? ?????? ??? ??????
? W ??? ?? A. ??????? ??? ?????? ??? W ??? ??? ?????? ??? C, ?? ????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????? ??? ?????? ??? ??
????????? ??? ?? ??? ?????? ??? ??????????, ??? ? C, ?????? ?????? ?????????? ???
W, ?????? ??? ??????????. ??????, ?????? ?? ?????? ???, ??????, o C
????????? ?? ?????? ??? W ??? ??, ??? ??????, ? W ?? ?????? ??? A.

16 ?? ?????? ?????????? ?????????? ???, ??? ?? ?????????? ??? Bundesfinanzhof
(????????? ?????? ?????????? ?????????? ?????????? ???), ?????? ?????? ?? ???
????????? ??? A ?? ?????? ?? ??? 12 294,12 ???, ??????, ??????, ?? ??? ??
????? ??? ?? ??? ?????? ?????? ? C ??? ?????? 2 394,96 ??? ???, ??????, ?
????? ??? ?????? ??? ?????? ?????????? ?????? ??? ??? ?????? ??? ?? ?????????? ??
????????? ??? ?? ?????????? ?????? ?????? ?????????? ?????? ??? ?????? ??? ??
?????.

17 ?? ?????? ?????????? ???, ??????, ??? ?????? ?????? ??? ?? ???
????? ??? ?? ?????? ??? ?????????? ??? ?????? ??? ?? ?????????? ???

????????????? ?????? ??? ?????????? ??? ?????? ?????????????? . ??????, ?? ??????
????????????? ?????????? ???, ??? ???? ???? ?????? ??? 14? ?????????? 2021, Finanzamt
Wilmersdorf (C?108/20, EU:C:2021:266, ??? 35), ? ?????? ??? ?????????????? ??? ?????
????? ??? ?????? ??? ?????????? ??? ???? ?????? ??? ?????? ?????????? ?? ??????????
????????? ?????????? ? ?????????? ?????????? ?????????? , ??? ?????????? ??? ?????
????????, ??? ???? ???? ?????????? ? ?????????? ?????? ?????? ?????? ??? ?????????? ???
????????? ?????????? ?????? ?????????? ?????? ?????? ?????? ??? ?????????? ???.
????????? ?????????? ?????? ?????????? ?????? ?????????? ?????? ?????? ?????? ???.

18 ??? ??? ?????????? ????, ?? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????
??? ?????????? ???? ?????? ??? ?????? ?????? ??? ?????? ?????? ?? ?????????? ???? ???
????????? ???? ??? ?????? ?????? ?? ??????. ???? ?? ?????????? ???, ? ?? ???
????? ???? ??? ?????? ??? ?????????? ??? ???? ?????? ??? ?????? ??? ?????? ?????
????? ??? ?????? ??? ?????? ??? ?????? ??? ???? ?????? ?? ???? ?????? ?????????? ???
?????. ???? ??? ?????????? ????, ? A ?????????? ?????? ?????????? ?????????? ????
????????? ???? 9 899,16 ????. ?????????? ???? ?????? ??? ?????? ?? ??? ?????? ??????????
????? ??? ???? ?????????? ????, ???? ??? ???? ??? 2 394,96 ????, ?? ?????? ??????????
??? ?????????? ???? ??? ?????? ?? ??????.

19 ??? ??? ?????????? ????, ?? Finanzgericht Nürnberg (????????? ??????????
???????????, ????????) ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ??
????????? ??? ?????????? ?? ?????????? ?????????? ??? ??????????:

«1) ??? ?????? ? ?????????? ???? ?? ?????? ??? ?????? ?????? ?????? ?????? ???
????????? ???? ??? ?????? ???, ???? ??? ?????? ??? ?????? ?????? ?? ?????????? ??? ????
????????, ???? ??? ?????? ?????????? , ?????????? ?????????? ?? ???? ??? ?????????? ??? ??,
????????? ???? ??? ?????? ?????????? ?????? ?????? ??? ???? ?????? ?????? ??????????
????????? ???? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??????????;»

2) ?? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ??????:
????????????? ? ?????? ?????????? ?????? ??? ?????? ?????????? , ??? ?????????? ???,
????? ?????? ?????????? ??? ?????? ??? ?????????? ??? ???? ??????????;

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

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

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

?) ?? ?????? ??? ??????;»

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

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

20 ????????, ??? ?????? ??? ?????????? ??? ?????? ?????????????? ?????????? ???, ??
????? ?????????? ??? ?????? ??? ?????? , ?????????? ??? ???? ?????????? ??? ??????
????????????? ?????????? ?????????? ??? ???? ?????????? ?????? ?????? ????
????????? ??? ?????? 167 ??? 168 ??? ?????? ???, ???? ??? ?????? ??? ?????? ???
????????? ??? ?????? , ??? ?????? ?????? ?????? ??? ?????? ??? ?????? (????).

21 ???????, ?????????????? ???' ????? ??? ???? ?????? ??? ?????????????? ??? ????? ??
?????????? ??? ?? ?????????? ??? ??? ?????? ??? ?????????? ??? ?????????????? ? ?????????????? ??? ??
????? ??? ?????????? ??? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??????
??? ?????? ?????????? ????. ?? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ??
167 ??.. ??? ?????? 2006/112 ??????? ?????????? ?????? ??? ?????????? ??? ?????? ??? ??
??????, ???' ????, ?? ?????????? ?????? ??? ?????? ?? ?????????? ??? ?????? ?? ??????
????????? ? ?????????? ??? ??? ?????? ?????????? ?? ?????????? ??? ?????? ?????????? ???
???? ?????????? ??? ??? ?????? ?????????? ?? ?????? (????. ?????? ??? 11??
????????? 2021, Ferimet, C?281/20, EU:C:2021:910, ??? 31).

22 ??? ???????????, ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
??? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ? ?????????? ???
?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ???????????. ?? ?????? ?????? ??? ??
????????? ?? ??? ?????? ??? ??? ?????????? ?? ?????? ?? ?????????? ?????????? ???
??? ?????????? ?????????????, ?????????? ??? ?????? ??? ?????? ??? ?????????????? ???, ???
??? ?????????? ??? ?? ?????????? ?????? ???' ?????? ??? (??????
??? 21?? ?????? 2012, Mahagében ??? Dávid, C?80/11 ??? C?142/11, EU:C:2012:373, ???
39).

23 ???????, ?? ?????? ??? ??? ?????? ? ?????????? ??? ?????? ??? ?????? ?????????? ? ???
????????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???
????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????????, ? ??? ?????????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ??? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? (?????? ??? 21?? ?????? 2012, Mahagében ??? Dávid, C?80/11
??? C?142/11, EU:C:2012:373, ??? 40).

24 ???????, ? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ???
????? ? ?????? 2006/112, ?????? ?? ?????? ??? ?????? ?? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?. ?????????? ???, ?????? ???
????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? (?????? ??? 14?? ?????? 2021,
Finanzamt Wilmersdorf, C?108/20, EU:C:2021:266, ??? 21, ??? ?????? ??? 11?? ??????
2021, Ferimet, C?281/20, EU:C:2021:910, ??? 45 ??? ??? ?????????? ??? ??????).

25 ??????? ??? ?????????? ??? ????? ?????? ?????? ?? ?????????? ??? ?????? ??? ?
????? ? ?????????? ??? ?????? ?????? ?????? ?????, ??? ?????? ??? ?????? ??????????
??? ? ?????????? ??? ?????, ??? ?????? ?????????? ?? ?????? ? ?????????? ??? ?????? ??
????? ?????? ??? ?????, ??? ?????? ?? ?????? ??? ?????????? ?? ?????? ??? ?????? ???,
????????? ???, ?? ?????????? . ??????????, ?? ?????? ?????????? ??? ?????? ??? ?????? ???,
????? ?????? ??? ?????? 2006/112, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ???, ?????????? ??? ?? ?????????? ??? ?????? ?????? ??? ?? ?????????? ???
????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???
????? ?????? ??? ?? ?????????? ?????? (????. ?????? ??? 14?? ?????? 2021,
Finanzamt Wilmersdorf, C?108/20, EU:C:2021:266, ?????? 22 ?? 23, ??? ?????? ??? 11??
????? 2021, Ferimet, C?281/20, EU:C:2021:910, ?????? 46 ?? 47 ??? 47 ???
????????? ??????).

26 ???????, ??? ?????? ??? ?????? ?? ?????? ??? ?????????? ??? ?????? ?????? ??
????????? ??? 2006/112 ? ?????? ??? ?????????? ??? ?? ?????????? ???
????? ? ?????? ??? ?????? ?? ?????? ?????? ?? ?????? ?????? ??? ? ?????? ?????? ???
????? ?????? ??? ?????? ?? ?????? ?????? ?? ?????? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ?????, ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????? . ? ?????? ?????? ?????? ?????? ??? ?????? ?? ?????? ?????? ??? ?????? ???
????? ?????? ?????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? (????? ??? 14??
????? 2021, Finanzamt Wilmersdorf, C?108/20, EU:C:2021:266, ?????? 25, ??? ?????? ???
11?? ?????? 2021, Ferimet, C?281/20, EU:C:2021:910, ?????? 49).

27 ?????? ??? ?????? 273 ??? ?????? 2006/112, ?? ?????? ??? ?????? ??? ?????? ??
????????? ??? ?????? ?????? ?????????? ??? ?????? ?????????? ??? ?? ?????? ???
?????. ??????????, ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????, ?? ?????? ???
????? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ?????? ???
????????? ??? ?????? ??? (????? ??? 15?? ?????? 2021, Grupa Warzynna,
C?935/19, EU:C:2021:287, ?????? 25).

28 ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

29 ?? ?? ?? ?????? ?????????? ???, ?? ?????? ?????????? ???, ???' ??????, ??
????????? ?? ?? ?? 167 ?? 168 ?? ?????? 2006/112, ?????????? ??? ?? ?? ??
??? ?????? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ???
????? ?????? ? ?????? ?? ?????? ??? ?????? ??? ?? ?? ?????? ?????? ??? ?????? ???
??? ?????? ?????? ? ?????? ?? ?????? ??? ?????? ??? ?? ?? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ??? ?????? ??? ?????? ???.

30 ??? ?????? ??? ?? ?????? 25 ?? ?????? ??? ?????? ?? ?????? ?? ?? ??
????????? ??? ?????? ?????? ?????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????? ???, ??? ??? ?? ??? ?????? ?????, ?????? ?? ?????? ??? ?????? ?????? ???
????? ??? ?? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
2006/112, ?????? ??? ?????? . ? ??? ?????? ?????? ??? ?????? ??? ?????? ???

????? ?????? ??? ??????????? ??? ?????? ?????? ?? ??? ?????? ?????????? ?????? ? ?????? ???
????? ?????? ? ?????? ? ??????????. ? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??????
?? ?????? ??? ??????????, ? ?????? ??? ?????????????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? (????. ?????? ??? 14?? ?????? 2021,
Finanzamt Wilmersdorf, C?108/20, EU:C:2021:266, ?????? 26 ??? 34).

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

32 ???????, ??? ????? ?????????????? ?????? ??? ?????? ? ?????????? ??? ?? ??????
167 ??? 168 ??? ?????? 2006/112, ?????????????? ??? ?? ?????? ??? ?????? ??? ??????????????
??? ??????, ??? ??? ?????? ??? ?????? ?????? ?? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
???? ?????? ?? ?????? ??? ?????????????? ??? ??????, ?????? ?????? ? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????? ??? ?????? ??????, ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

33 ?? ?? ?????? ?????????????? ???????, ?? ?????? ?????????? ?????, ???' ??????, ??
????????????? ?? ?? ?????? 167 ??? 168 ??? ?????? 2006/112, ?????????????? ??? ?? ??????
??? ?????? ?? ?????????? ??? ??????, ?????? ??? ?????? ???, ??? ?????? ?????? ???
????? ?? ?????, ?? ?????? ?????????? ??? ?????? ???, ?????? ?????? ?????? ??????????
????? ?? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?? ?????? ???
????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

34 ?????? ???????????, ??????, ??? ? ?????????? ??? ?????? ???????????, ???
????????? ??? ?? ?????? ?????? ?????????? ?????????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ? 2006/112, ?????? ?? ?????? ??? ?????? ??
????????? ??? ?????? ? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ??????.
?????????, ??????, ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??????
??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??????
?????????, ??? ? ?????? ??? ?????? ?????? ?????? ?????? ?????? ? ?????? ??????
(????? ?? 14?? ?????? 2021, Finanzamt Wilmersdorf, C?108/20, EU:C:2021:266, ???
21, ??? ?????? ??? 11?? ?????? 2021, Ferimet, C?281/20, EU:C:2021:910, ??? 45 ???
????? ?????????? ??????).

35 ??? ?????? ??? ?????, ??? ?????? ???????, ?????? ??? ?????????? ??? ?????? ???
????? ??? ?????? ??? ? ?????? ?????????? ??? ?????? ??? ?????? ?????? ???, ??? ?????? ???
????? ?????????? ??? ? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????? ?????? ???, ??? ??? ?????? ???, ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????? ?????? ???, ??? ?????? ?????? ???, ??? ?????? ?????? ??? ?????? ??? ?????? ???, ??? ??????
????? ?????? ??? ?????? 2006/112, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ??

???????????? ? ?????? ?????? ??? ?? ??????????? ??? ?????? ? ??? ?? ??????????????? ???
????????? ??? ?????? ?????????????? ?????? ??? ?????? ?????????? ?? ??????????????????
??????, ???????, ??? ?????????? ???, ? ?????????? ?????? ??? ?????? ?????????? ???
????????? ??? ?????? ??? ?????????? ?????? ?????? ??? (?????? ?? 14??
????????? 2021, Finanzamt Wilmersdorf, C?108/20, EU:C:2021:266, ?????? 22 ?? 23, ???
?????? ?? 11?? ?????????? 2021, Ferimet, C?281/20, EU:C:2021:910, ?????? 46 ?? 47 ???
???? ?????????????? ??????????).

36 ????????, ?????????? ??? ? ?????? ??? ?????????? ??? ?????? ?????? ??? ??????????????
??? ?????? ??? ?????? ??? ?????????????? ??? ?????? ?????? ?????? ?? ?????????????? ???
??? ??????? ??? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?? ?? ?????????? ???
????? 273 ??? ?????? 2006/112. ?????? ?????? ??? ? ?????? ?????? ??? ?????? ?????? ??
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????????????? ??? ?? ??? ??? ???
???? ?????????? ??? ?????????? ?????????????? ?????????????? (????. ?????? ??? 1?? ???
2021, Tribunal Económico Administrativo Regional de Galicia, C?521/19, EU:C:2021:527,
?????? 26 ?? 38).

37 ????????, ??? ?? ?????????????? ?????????? ??? ??, ?? ?????? ?????? ??? ??
?????? ?????????? ??? ?????? ?? ??? ?????????? ??? ?????? ??? ?????????? ??? ?? ??????
???? ??????????????, ????? ?????????????? ?????? ??? ?????? ??? ?????????? ??? ?? ??????????
????? ??????? ?????? ??? ???? ? ?????????? ??? ?????? ???, ??? ?????? ?????????? ??? ?? ?????? ?
????????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??????, ?????? ? ?????? ??
????????? –?? ??? ?????? ?? ?????? ??? ?????? ?? ?????? ?? ?????????? ?? ?????????? ??? ??
????????????? – ??? ? ??? ?????? ??? ?????? ?????????? ?????????? ?? ?????? (????., ??????
????, ?????? ??? 21?? ?????? 2012, Mahagében ??? Dávid, C?80/11 ??? C?142/11,
EU:C:2012:373, ?????? 53, 54 ??? 59).

38 ????????, ??? ? ???????, ??? ?? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??
????????? ??? ?? ??????????????, ??? ?????? ?????? ??? ?????? ?????? ?????? ?? ??????????????
????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????????? ??? ??? ?????? ??? ?????????? ??? ?????? ??????, ??????????, ?????????? ??? ??
??? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? (????. ?????? ???
14?? ?????? 2021, Finanzamt Wilmersdorf, C?108/20, EU:C:2021:266, ?????? 24, 31 ??
33).

39 ?? ?? ??? ?????????? ?????????????? ??? ?????? ?????? ??? ?????????? ??? ?? ???
????????? ??? ?????? ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????????? ?? ???
????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ??
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ??
????????? ??? ??????. ??????????, ??? ?????????? ??? ?????? ?????? ?????? ??? ?????????? ???, ?
????????? ??? ???, ?????? ???, ?? ?????? ?? ?????????? ??? ?????? ?????????? ??? ??
?? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ??
????????? ??? ?????? ??? ?????? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ?? ?????????? (????. ?????? ??? 14?? ?????? 2021, Finanzamt Wilmersdorf,
C?108/20, EU:C:2021:266, ?????? 28 ?? ??? ?????????????? ??????????).

40 ??? ???, ??? ?????? ??? ?? ?????? ??? ?? ?????????? ?? ?????????????? ?????????????? ??
????? ??? ?????????? ??? ?????? ?????? ?????????? ???, ??? ?? ?????? ???, ??? ?? ??? ??
????? ?????????? ??? ?????? ???, ??? ?????? ??? ?????? ?? ?????? ??? ?????? ?????????? ???
????? ??? ?????? ???, ?????? ???, ?? ??? ?????? ???, ?? ?????????? ??? ?????? ??? ??
????????? ??? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??

????????????? ??????, ??? ???? ???' ??????? ?????? ??? ?? ?????????????? ??? ?? ?????? ???
????? ?????????? ??? ?????????? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ???
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41 ?????? ?? ???????, ?? ??????????? ????? ?? ???? ?????? ?????? ?? ??????? ?? ???? ?????? ??
????????????? ?? ???? ?? ???? ?????? ?? ???? ? ?????????? ?? ???? ?????? ?? ???? ? ?????? ?? ???? ?????? ??,
?? ???? ?? ???? ??, ?? ?????????? ?? ???? ???? ?? ???? ?????? ?????????? ?? ???? ?????? ?? ???? ?????? ??
???? ???? ?????? ?? ???? ?????????? ?? ???? ???? ?? ???? ?????? ?? ???? ? ? ? ????
?????????? ?? ???? ?? ???? ?????? ?? ???? ???? ?? ???? ?????? ?? ???? ?????? ?? ???? ????
???????, ?? ???? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ??????
?????????? ?? ???? (?????? ?? 11?? ??????? 2021, Ferimet, C?281/20, EU:C:2021:910,
????? 56).

42 ????????, ??? ?????? ?????????????? ??????? ?????? ?? ?????? ? ?????????? ??? ??
????? 167 ??? 168 ??? ?????? 2006/112, ?????????? ??? ?? ?????? ??? ?????? ???
?????????? ??? ??????, ????? ??? ?????? ???, ??? ?????????? ?????? ??????? ?? ??????,
?? ?????? ?????????? ??? ?????? ??????, ?????????? ?????????? ?????? ??? ?????
????? ?????? ??? ??? ?????? ?????? ?????????? ?? ?????????? ?? ????????, ??? ?????? ??
????????? ??? ?????? ?????? ?????? ??? ?????? ?? ?????? ??? ?????????????? ??? ???????,
??? ?? ??? ?? ?????? ??? ??????, ?????? ?????? ? ?????? ?? ?????? ??? ?????????? ??? ? ?? ???
????????? ?? ??????.

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

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

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

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

1) ?? ????? 167 ?? 168 ?? ??????? 2006/112/?? ?? ???????????, ?? 28??
?????????? 2006, ??????? ?? ?? ????? ??????? ?????? ??????????????? ???, ???
?????????????? ?? ?? ????? 2010/45/?? ?? ???????????, ?? 13?? ??????? 2010,
?????????????? ?? ?? ??????? ?? ?????? ?? ?????? ?? ??????????? ?? ???????,

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

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

2) ?? ?????? 167 ?? 168 ?? ??????? 2006/112/??, ????, ?????????????????? ?? ??
?????? 2010/45/??, ?????????????? ?? ?? ??????? ?? ?? ??????? ?? ?? ?????????? ?? ??
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????? ?????????? ?????? ?? ??????, ?? ?????? ?????????????? ??? ??????
?????, ?????????? ?????????? ?????? ??? ?????? ?????? ?????? ??? ?????
????????????? ??? (???) ??? ?????? ?????????? ?? ?????????? ?? ????????, ??
????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ?? ????????, ??
????????? ??? ????????, ??? ?? ?? ???? ??? ??????, ?????? ?????? ?
????? ?? ????????, ??? ? ???? ?????? ?? ??????.

(?????????)

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