

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

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

??? 7?? ??????????? 2023 (*)

«????????????? ?????????? – ????? ?????? ?????? ?????????????????? ?????? (???) – ??????
2006/112/??– ??? ???? ?????????????? ??? ?? – ??? ???? ?????????????????? – ??????????
??? ?????????? ?????? ?????????? ??? ?????????? ??? ?????????? – ?????????? ???
????????? ?????????? ?????? – ?????? ?????? ??? ?????? ??? ?????????? ?????? –
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???? ?????? C453/22,

? ? ?????????? ?????? ?????????????? ?????????? ?????? 267 ????, ???
?????? ?? Finanzgericht Münster (?????????? ?????????? ?????????? ??? Münster,
????????) ?? ??????? ??? 27?? ?????? 2022, ? ?????? ??????? ??? ?????????? ??? 6
???????? 2022, ??? ?????? ??? ?????

Michael Schütte

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Finanzamt Brilon,

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

????????? ??? ??? M. Safjan, ?????? ???????, K. Jürimäe (??????????), ?????? ???
????? ???????, ??? N. Piçarra, ???????,

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

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

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

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

- ? Michael Schütte, ?????????????? ??? ?? H. Nieskens, Rechtsanwalt,
- ? ?????????? ????????, ?????????????? ??? ??? J. Möller ??? N. Scheffel,
- ? ??????? ????????, ?????????????? ??? ??? O. Serdula, M. Smolek ??? J. Vlá?il,
- ? ?????????? ????????, ?????????????? ??? ??? J. Jokubauskait? ??? ??? L. Mantl,

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

2 ? ??????? ??? ?????????? ??? ??????? ?????????? ??????? ?????? ??? ??????????????
??? ??????? ????, Michael Schütte, ??? ??? Finanzamt Brilon (????????????? ??? Brilon,
?????????) (?? ?????: ?????????? ???) ??????? ?? ???? ?????? ??????????, ??? ??????
??????????, ?????????? ??? ??? ??? ?????? ??? ?????? ?????? ??? ??? ?????? ???
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3 ?? ????? 168, ??????? ??, ??? ??????? ??? ?????? ?? ???:

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

4 ??? ?? ????? 178, ??????? ??, ??? ???????, ??? ?? ??? ?????? ?? ?????????? ??????????
??? ?????????? ?????? 168, ??????? ??, ??? ?? ??? ?????? ??, ??
????????? ??? ?????? ???, «???? ?????? ??? ?????????? ?????? ??? ??? ??????
?????????, ?? ?????? ?????????, ?? ?????? ??? ?????? ?????? ?? ?? ?????? 3 ?? 6
?? ?????? 3 ?? ????? XI».

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

5 ?? ????? 163 ??? Abgabenordnung (?????????? ??????, BGBl. 2002 I, ?. 3866) (??
????: AO) ?????????? ?? ???:

«(1) ? ?????? ?????? ?? ?????????? ?? ?????? ?????? ? ?????? ?????? ?? ?? ??????
????? ?????????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ???
????????? ?????????? ??? ? ?????? ??? ?????? ?? ??? ?????? ??? ?????? ???.

[...]»

6 ?? ????? 227 ??? AO ?????? ?? ???:

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

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

9 ?? Finanzgericht Münster (?????????? ?? ?????????? ?? ??????? ?? Münster, ???????),
?? ????? ?? ????? ?? ??????? ??????????, ??????????? ?? ??????? ??????? ??????? ??????????
?????????? ??????????????? ?? ??????????????? ?? ??????? ??????? ??????? ??????? ???????
?? ??????? ???. ??????????, ?? ??????? ??????????? ???????, ? ??????????? ?? ???????
?? ?? ??????? ?? ??????? ?? ??????????? ?? ??????? ??????? ?? ??????? ?? ??????? ???????
???? ???????, ??? ??????? ???????.

10 ??????? ??? ?????????? ?????? ???????, ??????? ?????? ?????? ?????????? ?????? ???
Finanzgericht Münster (????????? ?????? ?????????? ?????? ??? Münster). ??? ?? ???? ??
?????? ???????????, ?? ?????? ?????????? ??????, ?? ?????? ??? 2?? ??????? 2019, ?
????? ??? ?????? ??????? ???????, ??? ?? ?????? ?????? ???
?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ????.
?????????, ?? ?????? ?????????? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ? ??????????
?? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? 7 %. ??? ??????, ?
?????? ??? ??? ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??????.

11 ????? ?????????? ??? ?????????? ??? ?????????? ??????????????, ? ?????????????? ??? ??????????,
?? ?????????? ??? 30?? ?????????????? 2019, ?? ??? ?????? ??? ?????? ?????????????? ??? ?? 2011
??? 2013, ????? ????. ??????? ??????, ? ?????????????? ??? ?????? ?????? ?????????????? ????
????????????? ??? ?????????????? ?????? ?? ?????????????? ?? ?????????????? ??? ??? ?????????? ???
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12 ????? ?? ?????????????? ?????????? ?????? ??? ?????????????? ??? ?????? ?????? ?????? ???
?????? ?????? ?????? ??? ?????????? ?? ?????????? ?? ?????? ?????? ??????. ????????, ?? ??????
????????? ??? ?????????? ??? ? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????????? ??????????.

??? 227 ??? AO.

14 ? ??????????? ??? ?????????? ??? ?????? ??? ?????????? ??? 3?? ??? ??? 16??
?????????? 2019 ?? ??? ?????????? ??? ? ?????????? ??? ?????? ?????? ?????????? ? ???
??? ??? ??????????. ?? ?????????? ?????????? ??? ?????? ??? ?? ??? ?????? ??????????
????????? ?????? ?????? ??? ?????? ??? 24?? ?????? 2020.

15 ? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??????????
??? ?????? ??? ?????????? ??? ?????? ?????????? ?????????? ??? ??? ??? ??? ??? ??????
?? ?????????? ?? ??? ??????. ?? ?????? ?????????? ?????????? ?????????? ?? ??? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
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16 ?? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???
????????? ?? ??? ?????????? ?? ?????????? ??? ?????? ?????? ?????????? ???, ??? ??????,
?? ?????????? ??? ?????????? ?? ?????????? ??? ?????????? ?????????? ??? ?????????? ???
?? ?????????? ?????????? ??? ?????? ???????. ?? ?? ?????????? ?????????? ??? ??????????
??? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ?????????? ??? ??????, ?? ?? ???
???? ?? ?????????? ??? ?????? ?? ?????????? ?? ?????????? ??? ?????? ??? ??? ??? ??????, ???
???' ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??
????????? ??? ?? ??? ??????????.

17 ??' ?????? ??? ????????, ?? Finanzgericht Münster (????????? ?????????? ????)
??? Münster) ?????????? ?? ?????????? ?? ?????????? ??? ?? ?????????? ??? ?????????? ??
????????? ?????????????? ??????:

«????????? ?? ?????????? ??? ?????? [??], ?????? ? ???? ??? ?????????? ??????????????
??? ? ???? ??? ?????????????????, ??? ??? ?????????? ??? ?????????? ??? ?????????? ???
?????, ?? ?????????? ??? ?????????????, ?????? ?????? ??? ?????????? ??? ?????????? ???,
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ???,
????????????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???
????????? ?? ?????????? ??? ?? ?????????? ?? ?????? ??? ?????????? ???, ?????? ?????? ??????????
??? ??????????, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ???, ??? ?????? ??????
-?????????- ? ?????????? ??? ?? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????????? ???
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
??? ??????;»

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

19 ????????????????, ??????????????? ???? ?? ?????????? ?????????? ?????????? ?????????? ??????????
?????? ??? ?????????? ??? ??? ??? ??? ?????, ???' ?????, ?? ??????????????. ??????????????,
?????? ??? ?????????? ?????????? ?????? ? ?????? ?????????? ??? ?????????? ?????? ?????????? ???
??? ?? ?????? ??? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
??????????????. ?? ?????? ??????? ??? ?????????? ?????? ?????????????? ?????????? ?????????????? ?? ??? ??
????????? ?????????? ??? ?????? ?????? ?????????????? ?????????????? ?????????????? ?????????? ??
??? ?????????? ???, ??? ??? ?????????? ??? ?? ?? ??? ????? ?????????????? ??????????????
???' ?????? ??? (????????? ??? 6?? ?????????? 2014, Fatorie, C?424/12, EU:C:2014:50,
?????? 30 ??? 31 ??? ????? ?????????????? ??????????).

20 ? ????? ??? ?????????????? ??? ??? ??????????, ?? ?? ??????, ?????????? ??? ??
?????? ?????????? ????. ??? ??????? ????, ? ?????? ?????????? ??? ??????????
????????????? ??? ?????????? ??? ?? ??????? ?????????? ??? ??????????
?????????????, ?????? ??? ?????? ??????, ????? ?????? ??????????, ? ???????? ???
????????? ??? ?????????? ??? ?????? ??? ?? ?????? ??? ?????, ?? ?? ??????????
??? ?????????? ?????????? ??? ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???
?? ????? ?????????? ?? ??? ??? ?????? ?????? (????. ??????? ??? 2?? ?????? 2020,
Terracult, C?835/18, EU:C:2020:520, ??????? 24 ??? 25 ??? ????? ?????????? ??????????).

21 ??????, ????????, ?????????? ?????????? ??? ?????? ??? ??????? ?????????? ?????????? ??????,
????????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?? ?????????? ??? ?????? ???
??? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
?? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???,
??????, ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
??? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ? ?????? ??? ?????? (????????? ??? 15?? ?????? 2007,
Reemtsma Cigarettenfabriken, C?35/05, EU:C:2007:167, ??? 37, ??? ??? 26?? ??????
2017, Farkas, C?564/15, EU:C:2017:302, ??? 50).

22 ?????????? ??? ???? ????? ????? ?????????????? ???????, ???' ?????, ?? ?????????????? ???
????????????? ??? ???? ?????? ?????? ?????? ?????????? ? ?????????????? ??? ??????????
????????????? ?? ?????????? ???, ?? ?????????? ?????? ?????? ?????? ??? ?????????? ??? ?? ?????,
??????, ? ?????????? ??? ?????? ? ?????? ?????? ?????? ?????????? ?????? ?????????????? ???
??? ??? ?????? ?? ?????? ??? ?????????? ??? ?????????? ??? ???, ????????, ? ?????? ?? ?????? ???
?????? ?? ?????? ??? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????????? ??? ??? ??? ???
????????????????????? ???????, ?? ??????? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????? ?? ???

??????????, ?? ?????? ?????????????? ?? ??? ?????????? ?????????????? ?? ?????????? ???, ??
????????? ??? ?????????? ??? ?????????? ?????????????? ?????? (????. ?????????? ??? 15??
????????? 2007, Reemtsma Cigarettenfabriken, C?35/05, EU:C:2007:167, ??????? 38 ??? 39,
????? ??? ??? 26?? ???????? 2017, Farkas, C?564/15, EU:C:2017:302, ????? 51).

23 ???????, ?? ? ?????????? ?? ??? ??? ?????????? ??????? ? ?????????? ??????????, ????
?? ?????????? ?????????????? ??? ??????????, ? ????? ??? ?????????????? ?????? ?????? ??
????????? ??? ?????? ??? ?????????? ?? ??? ?????? ??? ?????????? ?? ?????? ??? ??????
??? ?????? ??? ?????? ?????????????? ??????. ???????, ?? ?????? ??? ?????? ?? ?????????? ??
????????? ??? ?????? ?????? ?????????? ?? ??? ?????????? ?????? ?????????? ?? ?????????? ??
????????? ??? ?????? ?????? ?????????? ?? ??? ?????? ?????? ?? ?????????? ?????????? ??
????????? ??? ?????? ?????????? ?? ??? ?????? ?????? ?? ?????? ??? ?????????????? (????.
????????? ??? 15?? ???????? 2007, Reemtsma Cigarettenfabriken, C?35/05, EU:C:2007:167,
????? 41, ??? ??? 26?? ???????? 2017, Farkas, C?564/15, EU:C:2017:302, ????? 53).

24 ???????, ? ?????? ??? ?????????? ?????????? ??? ?????????? ?????????? ???
????????????? ??? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??????????????, ????
????????????? ??? ???????, ??? ?? ?????? ??? ?????????? ?????? ?????? ? ??????????????
(????????? ??? 2?? ?????? 2020, Terracult, C?835/18, EU:C:2020:520, ??? 38, ??? ???
13?? ?????????? 2022, HUMDA, C?397/21, EU:C:2022:790, ??? 28 ??? ??? ??????????????
?????????). ???????, ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ???, ?????? ??? ?????????? ?? ?????? ?????????? ??? ??????????????
????????? ??? ?? ?????????? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ???
????????? ?????????? ?????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ???
????????? ??????????????, ????? ??? ?? ?????????? ?????????????? ?????????????? ?????????? ??
????????? ??? ?????????? ??? (????. ?????????? ??? 12?? ?????? 2012, EMS-Bulgaria
Transport, C?284/11, EU:C:2012:458, ??? 70, ??? ??? 2?? ?????? 2020, Terracult,
C?835/18, EU:C:2020:520, ??? 37).

25 ??? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????? 19 ??? 24 ??? ???????
?????????, ?????? ?????? ? ?????? ? ?????? ??? ?? ?????????? ?? ?????? ?????????? ?
????? ?? ?????? ??? ??? ?????????? ??? ??? ??? ??? ?????? ??? ?????? ?????? ??????????
??? ?????????? ?????? ?????? ?????????? ??? ??? ?????? ?????? ?????? ?????????? ??? ???
????? ??? ?????????? ??? ??? ??? ??? ?????? ??? ?????? ??? ?????????? ?????? ?????? ???
??? ?????????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
??? ??? ?????? ??? ??? ?????? ?????????? ??? ??? ?????????? ?????? ?????? ?????????? ???
????????? ??? ?????? ?????? ?????????? ???.

26 ??? ??? ?????????? ???, ?? ?????? ?????? ? ?????????? ?????????? ??? ??? ??? ??????????
?? ???????, ?? ?????? ??? ???????????, ??? ?????????? ??? ??? ??? ??? ??????????
????????? ??? ???????????, ? ???????, ?????? ??? ?????????? ??????, ?????????? ? ??????
?? ?????? ???, ?????????? ?? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ??? ??
????????? ???.

27 ??? ? ?????? ??? 13?? ?????????? 2022, Zipvit (C?156/20, EU:C:2022:2), ??? ? ??
????????????? ??? ???????????, ??? ?????? ? ?????? ?????? ?????? ???????????, ??? ???
????????? ??? ??? ?? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????????? ???
????????? ???.

28 ??????, ??? ?????? ??? ?????????????? ???????, ?????????????? ???, ??????????
????? ??? ?????? ??? ?????? ???????, ? ?????????? ?????? ??? ?????????? ?????? ?????????? ???
????????? ??? ??? ?????? ?????????? ? ?????????? ?????? ?????? ?????? ?????? ?????????? ??
????? ?????????? ?????????? ??? ??? ??? . ??? ?????? ?????? ?????? ??????, ??????, ?

????????????? ??? ????? ?????????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ????? ??????????? ???, ????????, ? ?????????? ??? ?????? ??? ?????? ??????
????????? ??? ????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??????
?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ????????, ??? ?????????? ??? ??????
????? ?????? (????? ??? 13?? ?????? 2022, Zipvit, C?156/20, EU:C:2022:2,
????? 31).

29 ????????, ??? ?????? ?? ?????? ?? ? ?????? ?????????????? ??? ??????????????
????? ?? ?????????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? 23 ??? ?????? ????????, ??? ?????????? ??? ?????? ???
????????? ??? ?????? «?????» ??? ?????????? ??? ?????????????? ??? ?
????????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??????????
????? ??? ?????? ?????? ?? ?????? ?????? ? ?????????? ?????? ??? ?????? ??? ??????
????????? ?????? ??? ?????? ??? (????? ??? 15?? ?????? 2007,
Reemtsma Cigarettenfabriken, C?35/05, EU:C:2007:167, ??? 41? ??? 26?? ?????? 2017,
Farkas, C?564/15, EU:C:2017:302, ??? 53? ??? 11?? ?????? 2019, PORR Építési Kft.,
C?691/17, EU:C:2019:327, ?????? 42 ??? 48, ??? ??? 13?? ?????? 2022, HUMDA,
C?397/21, EU:C:2022:790, ??? 22).

30 ??????, ??? ?????? ?? ?????? ?? ?????? ?????????? ??? ?????? ??? ?? ?????????? ??
????????? ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ?????????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????????? ???, ??? ????????, ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ???
????????? ??? ?????????? ?????????????? ???, ?????????????? ??? ?? ?????????? ??? ?? ?????????? ???
????????? ???, ???' ????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???.

31 ????????, ??? ?????????????? ??? ?????? 24 ??? ?????? ??????????, ? ?????? ???
????????? ??? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ???
????????? ??? ??? ?????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?? ?????????? ???
????????? ??? ?????? ?????? ???.

32 ???????, ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???.
??????, ?? ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???
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????????????? (????? ??? 21?? ?????? 2006, Halifax ?.??., C?255/02,
EU:C:2006:121, ?????? 74 ??? 75, ?????? ??? 15?? ?????? 2022, HA.EN.,
C?227/21, EU:C:2022:687, ??? 35).

33 ?? ?????????? ???, ??? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????? ?? ?????? ??????????, ?????? ???, ??????, ? ?????? ?????? ??? ?????? ???
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34 ??????, ??? ?????? ?????? ???????, ?? ?????????????? ??? ????? ?????????????? ?????????? ???,
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?? ?????????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? (????. ??????????
??? 12?? ?????????? 2006, Test Claimants in the FII Group Litigation, C?446/04,
EU:C:2006:774, ??? 205, ??? ?? 13?? ?????????? 2022, HUMDA, C?397/21, EU:C:2022:790,
????? 32).

35 ?? ???????????, ??? ? ??????? ?? ???? ?????????? ?? ???? ?????????? ?? ???? ?????????? ?? ???? ?????????? ?? ???? 2??
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36 ????????, ??? ?????????? ??? ? ?????????? ??? ?????? ??? ?????? ??? ??????????
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??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ??????, ??????? ?? ?? ?????? 25 ???
????????? ????????, ?????? ?? ?????????????? ?? ??? ?????? ?????? ??? ??????????.

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? ??????? 2006/112/?? ??? ????????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ???
?????? ????, ????????????????, ???, ??? ???????????????, ?? ?? ???? 2010/45/??
??? ????????????, ??? 13?? ??????? 2010, ????? ??? ???? ??? ???????????????, ???
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(???????????)

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