

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

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

??? 23?? ?????????? 2023 (*)

«????????????? ?????????? – ????? ?????? ?????? ?????????????????? ?????? (???) – ??????
2006/112/?? – ????? 53 – ?????????? ??? ?????? ??? ?????????? ?? ?????????????? ??????????????
– ?????? ?????????? ?????????? – ?????????? ?????????????? ?????????? ?????? ?????????? ??? –
????????? ?????? ??? ??? ?????????? ?????????? ??? ? ?????????????? ?????????? ?????????? ???
????????? ??? ??? ?????? ?????????? ??????????»

???? ??????? C?532/22,

? ? ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ???
?????? ?? Curtea de Apel Cluj (?????? Cluj, ???????) ?? ??????? ??? 3?? ??????? 2022, ?
????? ??????? ??? ?????????? ??? 9 ??????? 2022, ??? ??????? ??? ??????

Direc?ia General? Regional? a Finan?elor Publice Cluj-Napoca,

Administra?ia Jude?ean? a Finan?elor Publice Cluj

????

SC Westside Unicat SRL,

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

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

?????? ??????????: L. Medina

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

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

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

– ? SC Westside Unicat SRL, ?????????????? ??? ??? L. M. Roman, avocat?,

– ? ?????????? ???????, ?????????????? ??? ??? E. Gane ??? O.?C. Ichim,

– ? ?????????? ???????, ?????????????? ??? ??? A. Armenia ??? T. Isacu de Groot,

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

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

??????

1 ? ?????? ?????????????? ?????????? ?????? ??? ?????? ??? ?????? 53 ??? ??????
2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006, ?????? ?? ???? ?????? ?????? ???
????????????? ??? (?? 2006, L 347, ?. 1), ??? ?????????????? ?? ??? ?????? 2008/8/E?
??? ??????????, ??? 12?? ?????????? 2008 (?? 2008, L 44, ?. 11) (??? ????: ??????
2006/112).

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ??????, ??????, ??? SC
Westside Unicat SRL (??? ????: Westside Unicat) ???, ???????, ??? Direc?ia General?
Regional? a Finan?elor Publice Cluj?Napoca (????????????? ??????? ?????????? ??????????
????????? ??? Cluj-Napoca, ???????) ??? ??? Administra?ia Jude?ean? a Finan?elor
Publice Cluj (????????? ?????????? ??????? ?????????? ??? Cluj, ???????) (??? ??? ???
?????: ?????????? ???) ?? ?????????? ??? ?????? ?? ??? ?????? ???? ?????? ??? ??????
??? ?? ?????????? ??? ?????? ? ?? ??? ?????? ?????????? ??? ?????? ??? ??????????????
????? (???) ??? ???????.

? ? ? ? ? ?

? ? ? ? ? ?

? ? ? ? ? ? 2006/112

3 ? ?????? 2006/112 ??????????, ??? ????? V, ??? ?????? «????? ???
????????? », ??????? 3, ??? ?????? «????? ?????? ??????». ??
?????? 3 ?????????? ??? 2, ??? ?????? «????? ??????» ??? ??????????
??? ?? ??? 44 ??? 45.

4 ?? ????? 44 ??? ?????? ?????? ??? ?????? ?? ???:

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

5 ??? ? ? ? ? 45 ??? ? ? ? ? ? ? ? ? :

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

6 ?? ??????? 3 ??? ????? V ??? ????? ?????? ?????????? ?????? 3, ?? ???
????????? «?????? ??????» ??? ?????????? ?? ???? 46 ?? 59? ?? ??????
2006/112.

7 ?? ??? 53 ??? ?????? ????:

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

8 ?? ??? 54 ??? ?? ??? ?????? ?????????? ?? ?:

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

2. ??? ?????? ??? ?????? ?????????? ??? ?????? ?? ?????????????? ??? ??? ?????? ???
????? ??? ?????? ?????? ?????????? ?? ?????????? ????:

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

?) ??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ????.»

? ?????? 2008/8

9 ? ?????????? ??? 6 ??? ?????? 2008/8 ????:

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

10 ?? ?? ??? 3 ??? ?? ??? ?????? ??????????????, ?? ??? ??? 1?? ??????????
2011, ?? ?????? ??? 53 ??? 54 ??? ?????? 2006/112 ?? ?? ?????? ???
????????? ??? ?????? 7 ??? 8 ??? ?????? ??????.

? ?????????? ?????? (??) 282/2011

11 ?? ??? 32, ?????????? 1 ??? 2, ?? ?????????? ?????????? (??) 282/2011 ??
?????????, ?? 15?? ?????? 2011, ?? ?? ?????? ?????? ?????????? ??? ??????
2006/112/?? ?????? ?? ?? ?????? ?????? ?????? ?????????????? ?????? (?? 2011, L 77, ?. 1),
?????? ?? ????:

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

? ??????????? ?? 53 ?? 2006/[1]12/??:
? ??????? ?? ???? ?? ???? ?????????????? ?????????????? ?? ???? ??????????????
? ??? ?? ??????? ?? ?????? ?????????? ? ???????, ?????????????????? ?? ???? ????????
? ?? ?????? ???????, ?????????? ?????? ? ??????? ???????.

2. ? ?????????? 1 ?????????? ??????:

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

[...]».

12 ?? 33 ?? ?????? ?????????????? ??????????:

«?? ?????????? ?????????? ?? ?????????? ?? 53 ?? 20[0]6/112/??:
????????????? ?????????? ?? ?????????? ?? ???? ?? ???? ?????????? ?? ???? ??????????,
?????????????, ?????????, ??????????????, ??????????????, ?????????????? ? ??????????????
???????????? ?? ?????????????? ??????? ?? ?????? ?????????? ?? ?????? ??????????,
?????? ?????????????? ??????????.

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

13 ?? 33? ?? ?? ?????? ?????????????? ??????????, ?? ?????? ?????????? ?? ??
????????? ?????????? (??) 1042/2013 ?? ??????????, ?? 7?? ?????????? 2013 (?? 2013, L
284, ?. 1), ?????????? ?? ????:

«? ?????? ?????????? ?? ??????? ?????????? ?? ?????????? ??????????????, ??????????????,
?????????, ??????????????, ??????????????, ?????????????? ? ?????????? ?????????????? ??
????????? ?? ?????? ?????? ?????????, ??? ??? ?????????? ?? ?????????? ?? ?????????? ?, ??
????????? ?? ??? ?????, ?????? ??? ??? ??????????, ??? ?????? ??? ??? ??????????,
????????? ?? ?? ??? 53 ?? ?? 54 ?????????? 1 ?? ?????? 2006/112/??.»

? ?????????? 1042/2013

14 ? ?????????? 15 ?? ?????????? 1042/2013 ??? ?? ????:

«?????? ?? ?? ?? 2006/112/??, ? ??????? ?? ???????????, ??????????????,
?????????, ??????????????, ??????????????, ?????????????? ? ?????????? ?????????????? ???????,
?? ??? ??????????, ?? ?????????? ?? ?????? ??? ?????? ?????? ?????????? ?????????? ??? ??
?? ??????????. ?? ?????? ?? ?????????? ?????? ??? ?????? ?????? ?????? ?????????? ?????? ??? ??
?? ?????????? ?? ?????????? ?????????? ??? ?????????? ?????????? ??? ?? ?????????? ??? ??
????????? ??? ?????? ??????????.

? ?????? (??) 2022/542

15 ?? 18 ?? ?????? (??) 2022/542 ??? ??????????, ?? 5??
????????? 2022, ?? ?? ?????????? ??? ?????? 2006/112/?? ?? (??) 2020/285 ??? ??
???? ?????????? ??? ?????? ?????????? ??? (?? 2022, L 107, ?. 1):

«?? ?? ?????????????? ?? ?????????? ?? ?????? ?????? ?????? ??????????????, ?????? ?????????????? ???
?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ??? ?????????? ??? ??

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

16 ?? ?? ????? 1 ??? ??????? 2022/542 ??????????? ?? ????? 53 ??? ??????
2006/112, ??????????? ?? ??????? ?? ??? ?????: ?

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

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

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

17 ?? ??? 278 ??? Legea nr. 227/2015 privind Codul fiscal (????? 227/2015 ????
?????????? ??????), ??? 8?? ?????????? 2015 (*Monitorul Oficial al României*, ??? I,
????. 688, ??? 10?? ?????????? 2015) (??? ????: ?????????? ??????), ?????? ??? ???
«????? ?????? ??????» ??? ??????, ?????? ???, ?? ???:

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

[...]

6. ???' ???????? ??? ??? ???????? ??? ?????????? 2, ??? ??? ???????? ???????? ??
????? ??????? ??????:

[...]

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

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

18 ?? ?????? 22, ?????????? 4, 5, 7 ?? 8, ??? Hot?rârea Guvernului nr. 1 din 6 ianuarie
2016 pentru aprobarea Normelor metodologice de aplicare a Legii nr. 227/2015 privind Codul
fiscal (?????????? ??????? ??' ??. 1 ??? 6?? ?????????? 2016 ??? ??????? ??????? ??
?????????? ??????? ??????? ??? ?????? 227/2015 ??? ?????????? ??????) (/
Monitorul Oficial al României, ??? I, ????. 22 ?? 13?? ???????? 2016) ?????????? ?? ???:

«(4) ?? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?? ?????????? ??
??????????, ???????, ?????????, ?????????? ?????, ?????????? ?????, ?????????? ? ?????????? ??
????????? ??? ?? ?????? 278, ?????????? 6, ?????? b, ??? ?????????? ?????? ??
????????? ??? ?????? ??????? ?? ?????? ?? ?????? ?????????? ?????? ?????? ??
????? ?????? ?????????? ?????? ?? ?????? ?? ?????? ?????????? ?????? ? ???????,
????????????? ??? ?????? ?????? ?????? ?? ?????? ?????? ?????????? ??
????????? ?????? ?????????? ?? ?????? ?? ?????? ?????? ?????? ?????????? ? ???????,
????????? ?????? ?????????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????????? ??
????????? ?????? ??????????.

(5) ?? ?????????? 4 ?????? ??? ??????:

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

[...]

(7) ?? ?????????? ?????????? ??? ?????????? ??? ??????? 278, ?????????? 6, ???????
b, ??? ?????????? ??? ?????? ?????????? ?????????? ??? ?????????? ?????? ?? ???
????????? ?? ?????????? ?????, ?????????? ?????, ?????????? ?????, ?????????? ?????,
????????? ?????? ?? ?????????? ?????? ?????????? ??? ?????????? ?????? ?? ??????
????????? ?????? ???????, ?????? ?????? ?????? ?????????? ?????? ?? ?????????? ?????
????????? ?????????? ?????? ?? ?????? ?????????? ?????????? ?????? ?? ?????????? ?????
????????? ?????????? ?????? ?? ?????? ?????????? ?????????? ?????? ?? ?????????? ?????
?????????.

(8) ? ??????? ?????????? ??? ??????? ??????? ?? ??????????, ??????????????,
?????????, ??????????????, ??????????????, ?????????????? ? ?????????? ?????????? ???
????????? ??? ?????? ?????, ??? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????
????????? ??? ???, ??? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??????????,
????????? ??? ?? ?????? 278, ?????????? 5, ?????????? f, ??? ?????????? 6, ?????????? b, ???
????????? ??????.»

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

19 ? Westside Unicat ?????? ?????????? ??????? ? ?????? ?????????????? ???????
????????? ????. ? ?????? ?????????????? ??? ?????? ?????? ??? StreamRay USA Inc.
(???: StreamRay) ??????? ?????????? ?????? ?????? ?????? ??? ?????? ??? ?????
????? ?? ?????? ???' ?????? ?????????? ?????????? ?????? ?????????? (???:
????????? ??? ??????) ?? ?????? ?????????????? ?? ??????.

20 ? StreamRay ?????? ?????? ??????? ?? ??? ?????? ?????? ?????????? ??????????, ?? ???
????????? ????. ?? ?????? ??? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ??????
??, ??? ?????? ?????? ??????, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

21 ?? ??????? ??? ?????? ?????? ??? ?????? ?????????? ??? Westside Unicat ?????????? ?? ???
????????? ????. ?????????? ??? ?????? ?????? ?????? ?????? ?????????? «??????
????????? ????. ?????????? ??? ?????? ?????? ?????? ?????????? ??? StreamRay ?? ???? ???
????? ?????????? ?? ??????, ??? ?? Westside Unicat, «?? ?????????? ??? ??
????????? ??? ?? ???» ??? ??? ?????????? ??? ?? ?????? ??? ?????????? ??? ?????? ??? ??
????????? ??? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?? ?????? ??? ??
????????? ??? ?? ?????????? ???.

22 ? StreamRay, ? ?????? ??????? ?????????? ?????????? ??? ???????, ???????????
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ??
????????????? ?? ?????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????????? ?? ?????????? ??
????, ?????? ????, ?????????? ??? ?????????? ??? ?????? ??? ?????????? ?? ?????????? ?? ??????????
??? ??? ??? ?????? ????. ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??
Westside Unicat ? ?????? ?? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

23 ?????? ?????????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ??
????? ?????? 1?? ?????????? 2019 ??? 30?? ?????? 2020, ? ?????????? ???
????? ??? 13 ?????? 2020 ??? ?????????? ??? ?????? ??? ?????? ??? ??????.

Westside Unicat ??????? ?? ?????????? ???????? ??? ????? 640 433 ?????????? ???.

24 ? ??????? ??? ?????????? ??? ??????? ???, ?????????? ??? ????? ??? ????? ??? ???
????????? ? Westside Unicat ??? ??? ?????? ??? ?????????? ??? ?????????? ???
StreamRay, ?? ??? ?????? ?????? ??? ?????????? ??? ????? ?????????? ??? ?????????? ???
?? ?????? ??? ?????? ??? ?????? 278, ?????????? 6, ?????? b, ???
????????? ????. ??????????, ??? ? ?????????? ???, ? Westside Unicat ??? ?
????????? ??? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??????????
??? ??? ?????????? ?? StreamRay. ?? ?????? ??? ?????????? ?????????? ???
????????? ??? ?????? ??? ?????? 53 ??? ?????? 2006/112 ???, ???????, ?????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 8?? ????? 2019, Geelen (C?568/17,
EU:C:2019:388), ??? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ?????????? ??
????????? ?????? ?????? ?????? ?????????? ??? ?????? ?? ?????????? ??? ?????? web ???
????????? ?????? ?????? ?????? ?????? ?????? ?? ?????????? ??? ?????? ?????? ?????? ??
????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ???.

25 ?????? ??? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????
????????? ???, ? Westside Unicat ?????????? ??? ?????? ??? Tribunalul Maramure?
(????????? Maramure?, ???????) ?? ?????? ?? ?????? ??? 19?? ?????????? 2021
????? ?? ?????? ??? ?????? ????. ?? ?? ????? ?????????? ?????? ?????????? ??? ?
StreamRay ??? ? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ?? ?????? ???
????? ??? ?????? ??? ?? ?????????? ?????? ?????????? ??? ?????? ?????????? ??? ??????????
????? ?????? ???.

26 ? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? Curtea de
Apel Cluj (?????? Cluj, ???????), ?? ?????? ?????? ?? ?????? ??????????. ??? ??????
??? ?????? ???????, ???????, ?? ??????, ??? ???????, ?? ?????? ?? ?????????? ??? ??????????
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?? ?????????????? ???
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ???, ?????????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????? ??? 8?? ????? 2019, Geelen (C?568/17, EU:C:2019:388), ?????? ?? ?????????? ???
Westside Unicat, ?? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ??????????
??????????, ?????? ?????? ?? ???.

27 ??? ?? ??? ??????, ?? ?????? ?????????? ?????? ??? ?????????? ?? ??? ?? ??
????????? ??? ?????? ? Westside Unicat ?????????? ??? ?????? ??? ?????? ??? ??????????
??? ?????????? ??? ?????? ?????? ?????????? ?? ?????????? ???????????, ??? ??? ?????? ???
????? 53 ??? ?????? 2006/112, ??? ???, ?? ?????????? ?????????? ??? ??????????, ??
????? ??? ?????? ?????????? ??? ?????? ???.

28 ??? ??? ??????? ????, ?? Curtea de Apel Cluj (?????? Cluj) ?????????? ??
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?? ??????????
????????? ???:

«1) ??? ?? ??? 53 ??? [????? 2006/112] ??? ?????? ??? ?????????? ??? ??
????????? ??? ?? ??????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ??
????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ??
????????? ??? ?????? web ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ??????????
(????? ?????? ?????? ?????? ??????????);

2) ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????

?????????? ??? ??????????????? ??? ??? 53 ??? [??????? 2006/112] ?????? ??? “?????
???? ??? ???? ?????? ??????? ??? ??? ??? ?? ?????????”, ???????? ????? ???? ???? ???
??? ??? ???? ?? ?????? ?????????????? ?????? ????? web, ? ????? ??? ??? ???
????????????? ??? ?????????? ??? ??????????, ? ????? ??? ??? ??? ?????? ?? ?????? ?????
??? ??????, ? ?????? ?? ?????? ????? ??? ?????????????? ??? ??? ??????????????;»

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

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29 ??? ??? ??? ?????? ?????????? ??? ??? ?????? ?????????????? ??????????, ?? ??????
??????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????????????? ??? ?????????? ??????????
????????????? ?? ?? ?????? ?????????????? ?????????? ?????? ?????????? ?????????? ???
????????????????? ??? ?????? ?????? ?????????? ?????? ?? ?????? ?? ?????????? ??? ?????????? ???
????????????? ?????????? ?????????????? ?????????? ??????????, ?????????? ?? ??? ?????????? ???
??? ?????????? ???.

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

31 ??????, ??????????????, ???' ????, ???, ??????, ?? ????? 44 ??? 45 ??? ??????
2006/112 ?????????? ?????? ??? ?????? ??? ??? ?????????? ??? ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ?????????? ??? ?????? 46 ??? 59? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? (??????? ??? 13? ?????? 2019, Srf
konsulterna, C?647/17, EU:C:2019:195, ????? 20).

32 ??? ?????????? ??? ?????? ?????????? ??? ?????????????? ?? ?????? 44 ??? 45 ???
??????? 2006/112 ??? ?????? ?????????????? ??? ?????? ?? ?????? 46 ??? 59? ??? ?????? ???
?????. ?? ??? ?????? ?????????????? ?????????? ??? ?????? ?? ?????? ?? ?????? ?? ???
????????? ?? ?????? ??? ?????? ?????????? ??? ?????? 46 ??? 59?. ?? ?????? ???
?????????, ?? ??? ?????? ?????????? ?????????? ??? ?????? 44 ??? 45 (??????? ??? 13? ?????? 2019,
Srf konsulterna, C?647/17, EU:C:2019:195, ????? 21).

33 ??????, ?? ??? 53 ??? ?????? 2006/112 ??? ?????? ?? ?????????? ?????????? ???
?????? ??????, ?? ?????? ?????? ?????? ?????????? (??????? ??? 13? ?????? 2019, Srf
konsulterna, C?647/17, EU:C:2019:195, ????? 22).

34 ??????, ?? ?????????? ??????, ??????, ?? ??? ?????? ??? 8?? ????? 2019,
Geelen (C?568/17, EU:C:2019:388, ?????? 36 ??? 42), ??? ?????????????? ??????????
????????? ?????????? ??? ?????????????? ?? ?????? web ??? ?????????????? ?????????? ???
????????? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ??? ? ?????? ??? ?????? ???
????????? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ??? ? ?????? ??? ?????? ???
????????? ?????? ??? ?????????? ?????? ?? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???.

35 ??????, ?????? ?? ?????????? ?????????? ?? ?????? ??? ?????? ??? ?????? ???
?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???.

? ?????????? ??? ???? ???? ?????? ??? ???? ???? ?????????? ??? ???? ?? ???? 9, ?????????? 2,
?????? ??, ??? ???? ????????, ??? ???? ?????? 77/388/???, ??? ???? ??????????, ??? 17??
????? 1977, ??? ???? ?????????? ??? ???? ?????? ??? ???? ?????, ??? ???? ????? ?? ???
????? ?????? ?????? - ??? ???? ?????? ??? ???? ?????????? ????: ??????????
????????? ??? (?? ????. ??? 09/001, ?. 49), ??? ???? ?????????? ?? ??? ???? 2002/38/??
??? ????????, ??? 7?? ???? 2002 (?? 2002, L 128, ?. 41), ??? ???? ?? ???? 52,
?????? ??, ??? ???? 2006/112, ??? ???? ??? ???? ??? ???? ??? ???? ??????????
????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ?????? ??? ???? ?????? ??????
??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ?????? ?????? ?????? ?????? ??? ???? ??????
????????? ???? ???? ?????? ??? ???? ?????? ?????? ?????? ?????? ?????? 2008/8, ??? ???? ?????? ???
???? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??????
????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ?????? ??? ???? ??????.

36 ??? ???? ?, ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??? ????
????????? ?? 9, ?????????? 2, ?????????? ?, ??? ???? ????????, ??? ???? ?????? ??????
77/388 ??? ?? 52, ?????????? ?, ??? ???? 2006/112, ??? ???? ?? ?????????? ???
????? ??? ???? ??? ???? ?????? ?????? ?????????? ??? ???? ?????? ??? ???? ???? ??????
????????? ???? 8?? ???? 2019, Geelen (C?568/17, EU:C:2019:388), ??????????
????? ?? ????????????, ????????????, ????????, ????????????, ????????????,
????????? ???? ???? ?????? ????????????, ?????? ??? ???? ????????????, ??? ???? ????????,
???? ???? ????????????, ?????? ?????? ????????????, ???? ?????? ????????????, ??? ???? ????????,
????? 2006/112 ??? ???? ????????????, ??? ???? ?????? ?????? ??? ???? ?????? ??? ???? ????????
???????????, ????????????, ????????????, ????????????, ????????????, ????????????,
????????? ????????, ??? ???? ?? ?????????? ??? ???? ?????? ?????? ????????, ??? ???? ???
????????? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ?????? ?????? ??? ???? ???
????.

37 ??? ????????, ?? ?????????? ??? ???? ?????? ?? ?????????? ?? ??? ???? ?????? ???
8?? ???? 2019, Geelen (C?568/17, EU:C:2019:388), ??????? ?? ?? ???? ?????????? ??? ???? ??????
????? ?????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? 9, ?????????? 2,
????????? ?, ??? ???? ????????, ??? ???? ?????? 77/388 ??? ?? 52, ?????????? ?,
??? ???? 2006/112 ??? ???? ?? ?????? ??? ???? ?????? ??? ???? ?????? ?????????? ??? ????
????????? ??? ???? ?????? ??? ???? 53 ??? ???? 2006/112, ??? ???? ?????? ??? ????
??? ???? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ???.

38 ????????, ??? ???? ?? ?????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??????
??? ???? «??????», ??? ???? ?????? ???, ????? ???? ?????? ?????? ??? ???? ?????? ??? ???? . ?? ??
??????, ?????? ?? ??????? ?? ?????????? ??? ???? ?????? ???, ?????? ?????? ?????? ??? ???? ??????
2006/112, ? ??? ???? ?? «?????? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ?????? », ???
????????????? ??? ???? 53 ??? ???? ???, ????? ???? ?????? ???, ?????????? ??? ???? ???
????????? ?????? ?? ?????? ?????????????? ??? ???? ?? ?????? ??? ???? ?????? ??? ???? ?????? ???
????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ???? ?????? ??? ???? ?????? ??? ???? ???.

39 ?? ?????????? ??? ???? ????????????, ???' ???? , ??? ???? 33 ??? ???? ??????????
????????? 282/2011 ?? ??? ???? ?????????? ??? ???? ?? ???? ?????? ??? ???? ???
????? ??? ???? ????????, ??? ???? 53 ??? ???? 2006/112 ??? ???? ?????? ??? ???? ??????
??? ?????????? ??? ???? ???? ?????? ?? ???? ?????? ??? ???? ?????? ??? ???? ?????? ??? ???? ??????
????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ???? ?????? ??? ???? ?????? ??? ???? ??????
????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ???? ?????? ??? ???? ?????? ??? ???? ??????
????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ???? ?????? ??? ???? ?????? ??? ???? ??????

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

40 ?? ????????, ?? ????? 32 ??? ?? ??? ?????????????? ??? ?????????? ?????????? ?? ?????? ?? ?? ??
????????? ?? ?????????? ??? ?????????? ?? ?????????? ?? ?????????? ?????????? ?? ?????????? ??
??? ?????? 53 ??? ?????? 2006/112 ?????????? ??? ?????? ?????????? ??? ?????? ?? ?????? ??
?????? ?????????? ?????? ??? ?????? ?????? ?????? ?????????? ?????? ?? ?????? ??
?????? ?????????? ? ???????, ??? ?????? ??? ?? ?????????? ?????? ?????? ?????? ?????? ??
????????? ?????? ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?? ?????????? ?????? ?????? ??
??? ?????????? ??????.

41 ?????, ??? ?? ????? 33? ??? ?? ??? ?????????????? ???????????, ?? ?????????? ?? ?? ??
????????? ??? 15 ??? ?????????? ?????? 1042/2013, ?????????? ??? ?? ?? ?? 53
??? ?????? 2006/112 ?????????? ??? ?? ?????????? ?? ?????? ?????????? ??? ??
????????? ?????? ??? ?? ??????????, ??? ?????????? ??? ?????? ?????? ?????????? ??
????????? ??? ??????, ??? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????????? ??? ??
??? ?????? 2006/112 ?????????? ?? ?? ?????? ?????? ?????? ?????? ??? ?????????? ??
????????? ??? ??????????.

42 ??? ?? ??????? ?????????? ??? ? ?????? ?????? ?????????? ?????????? ?? ?????? ??????????
??? ?????? ?????????? ?? ?????? 53 ??? ?????? 2006/112 ?????? ?? ?????????? ?? ?????? ??
?????? ??? ?? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????????? ?? ??? ??
????????????? ??? ?? ?????????? ?? ?????????? ?????? ?????? ?????????? ??? ??
????????? ??? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ?????? ??? ??
????????? ??? ??.

43 ?? ?? ??????, ?????????? ? ?????????? ??? ?? ?????????? ??? ?? ?????? ?????? ?? ?????? 53 ??
?????? 2006/112 ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????????????? ??
????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ?????????? ?????????? ??? ??
????????? ??? ?????????? ??? ?????????? ?????????? ?????????? ?? ?? ?????? ?????????? ??? ??
????????? ??? ?????????? ??? ?????????? ?????????? ?????????? ?? ?? ?????? ?????????? ?? ??
??? ?????? ??? ?????????? ??? ?????????? ?????????? ?????????? ?????????? ?? ?? ?????? ?????????? ??
??? ?????? ??? ?????? ?????? ?????? ?? ?????????? ?????? ??? ?????????? ?????? ?????????? ??
?? ?????? ??? ?????? ?????? ?????? ??? ?????????? ?????????? ?????????? ?? ?? ?????? ??????????
????????? ??? ?????????? ??? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ??
??? ?? ?????????? ??? ?? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??
????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ??

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

45 ? ??????? ?????? ??? ?????????? ?????? ?????? ??? ?????????? ??? ?????? ?????????? ?? ?????? ??
??, ? ?????? ??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ?? ?? ?????? 398 ??? ??????
2006/112. ???????, ??? ?????????? ??? ??? ?????? ?????????? ?????? ?????? ??? ?????? ??? ??
????? ?? ?????????? ??? 19?? ?????? 2021 [Document B – taxud.c.1(2021)6378389 – 1016],
? ??????? ??? ?????????? ?????? ?????? ???, ??? ?????? ?????? ??? ?????? ?????????? ??
????????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????????? (??? ??????????, ?????????? ??? ??????) ?????????? ??? ?????? ?????? ??? ??
????? ??? ?????? ?????? ?? ?????? ?????????? ??? ?????? ?????? ???, ??? ?? ??????, ??? ??

? ? ?????????????? ?? ??????????? ?????? ?????????????? ????, ? ?????? ??? ??????????
????????????? ??? ???? ?????? ?????????????? ??? ???? ??? ?????? ?????? ?????????? ??
????????? ???????, ??? ???? ?????? ??? ?????? 53 ??? ?????? 2006/112.

46 ??????? ??? ??????? ???????, ??? ?????? ?????????????? ??????? ?????? ?? ?????? ?
????????? ??? ???? 53 ??? ?????? 2006/112 ??? ???? ??? ?????? ??? ???? ?????????????? ??
????????? ??? ?????????? ??? ?????????? ?????????????? ?????????? ??? ?????????? ??? ???? ??????
??? ?????????? ?????????? ?????????? ?????????? ?????????? ??? ?????????? ??? ???? ??????
????????? ?????????? ??? ???? ?????????? ?????????? ?????????? ?????? ?????????? ??????????
??? ?????????? ??? ???? ?????? ?????????? ??? ???? ?????? ??? ?????? ??? ?????? ??? ???? ???
????????? ??? ???? ?????????? ?????????? ?????????? ?????????? ?????????? ?? ??? ??????????
???? ????.

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47 ?????????????? ??? ?????? ??????? ??? ???? ?????? ?????????????? ??????? ??????????
???? ??? ??? ?????????? ??? ??? ?????? ?????? ?????? ?????????????? ??????? ?????????? ??
??? ?? ?????? 53 ??? ?????? 2006/112 ??? ?????? ?????? ?? ?????????? ??? ???? ?? ?????????? ???
????? ???.

48 ??? ?? ?????? ??? ?????????? ??? ??????? ??? ?????? ?????????????? ???????, ????????
? ??????? ??? ?????? ?????????? ??????????.

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

49 ?????????? ??? ? ?????????? ???, ?? ??? ?????? ?????????? ??? ?????? ?????, ???
????????? ?????????????? ??? ?????? ?????? ?????? ??? ?????????? ?????????????? ?, ?' ????
????????? ?? ?????????? ??? ??? ?????????? ??????. ?? ?????? ??? ?????? ??????????
???? ?????? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??????????.

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

**? ? ?????? 53 ??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006,
????????? ?? ?? ?????? ?????? ?????? ?????? ?????????????? ??????, ??? ?????????????? ??
??? ?????? 2008/8/E? ??? ??????????, ??? 12?? ?????????? 2008,**

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

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