

@import url(../../../../css/generic.css); EUR-Lex - 61996C0060 - EL

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

/

61996C0060

????????? ??? ?????? ?????????? Cosmas ??? 20?? ?????? 1997. - ???????? ???
????????? ?????????? ??? ?????????? ?????? - ???????? ?????? ?????? - ??? -
???? ?????? - ?????????? - ?????? ??????, ?????????? ??? ?????????? - ?????? C-
60/96.

??????? ??? ?????????? ??? ?????????? 1997 ?????? I-03827

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

1 ? ?????? ?????? ?????? ?????? ?????????? ?????????????? ??? ?????? ? ?????????? ???
????????? ????????????, ?????? ??? ?????? 169 ??? ???????, ??? ??? ?????????? ???
????????? ??? ??? ?????????? ??? ?? ?????? 2 ??? ?????? ?????? ??? ??? ???
????????? ??? (1) (??? ????: ??? ?????? ???), ??? ?????? ?? ?????????? ???
????????? ??????, ?????????? ??? ??????????.

I - ? ??? ?????? ???

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

3 ??? ?????? ?, ?????????? ?? ?????????? ?????????? ?????????????? ??? ??? ????. ?? ???
13, ??? ?????????? «????????? ??? ?????? ??? ?????» ????, ??? ?, ?? ????:

«?. ?????? ????????

? ? ?????? ?????????? ??? ?????? ?????????? ??????????, ?? ?????? ??? ??????????????, ??? ???
????????????? ??? ???????, ??? ?? ?????????????? ? ??? ??? ??? ?????????? ???
????????????? ?????? ?????????? ??? ?? ?????????? ?????????? ?????????????? ??????????????,
????????????? ??? ??????????:

?) (...)

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

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

2. (...)

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

(...)» (2).

??. - ? ??????? ??????? ??????????

4 ??? ??????? ??????????? ? ?????? ?????????? ??? ?????????????????? ?? ?????????? ???????
??? ??????????? ??? ???, ??? ??????? ??? ??? ?????????? ??? ???, ?????????? ?? ???,
?????? ??? ?????? 256 ??? Code g?n?ral des imp?ts (?????? ?????????? ???????, ???
????: CGI).

5 ?? ????? 261-D ??? CGI, ??????, ??? ?????? ??? ??? ?????????? ??? ?? ?????? ??????? ???
?????? ???????, ?? ???????:

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

(...)

4) ?? ????????????, ??????? ? ??????? ?????????? ?????????? ?????????? ??? ?????? ??????? ???
????????????? ??? ??????.

??????, ? ??????? ??? ????? ????:

(...)

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

(...)»

6 ?????????? ?????????? ??? ??????? ??? ?? ?????????? ?????????? ??????????, ??
????????? 11 ??????? 1991 (3), ??? ?? - ??? ??????????, ???????, ??????
????????? ??? ????? ?????????????? ??? ?????? - ?????????? ???:

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

7 ? ??????? ??????? ??? ? ??????? ??????????, ?????????????? ??? ?? ??????
????????? ?????? (?????, ???????????, ?????????? ??? ?????? ?????????? ?????????? ???
?????), ????? ?????? ??? ?? ????? 2, ??? ????? ?????? ???, ????? ?????????? ???
????? ??? ?????????? ??? ?????????? ??? ?????? 13, ??? ?, ?????????? ?), ?? ????

? ?????????? ?????????? ??? ?????? ?????? ??????. ??? ??? ??? ??? ???, ?????????? ??????
???????, ?? ?????????? 23 ??????? 1993, ??? ?????? ???????, ?????????? ??????
????????? ??? ?? ?????????? ??? ?????? ???.

8 ? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? (4). ???????????,
????????? ??? ? ??? ?????????? ?????? ?????????? ?????? ?????????? ??? ??????????
??? ?????? ?? ?????????? ?? ?????? ??????, ????? ?????? ?????? ??? ?????????? ??????
????????? ?? ?? ??????, ??? ??? ?????? ?? ?????????? ?????????? ???????, ?????? ?? ??
????????? ??? ?????? ??? (???????) Conseil d'tat. ???????, ?????????? ??? ?? ?? ??????
????????? ?????????? ?????????? ?? ?????? ??? ?????????? ??? ?? ?????????? ??? ??
????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ?????????? ??????????
??? ?????????? ?? ?????? ?? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?? ??.

9 ? ?????? ?????? ?? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ?????????? ??? ??
????????? ?????????? ???, ?? ?????????? 8 ??????? 1994, ??? ??????????
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ? ?????? ?????? ??? ?????? ??? ??????
??? ?? ?????? 2 ??? ?????? ?????? ??? ??? ??? ?????? ?? ?????????? ??? ?????????? ???
??? ?????????? ???.

10 ? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? (5) ?????? ???
????? ??? ???????, ??? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ?? ?? ??????
????????? ??? ???????, ?????????? ??? ?????? ?????? ?????????? ??????
????????? ??? ?????? ??????. ???????, ???????, ??? ?? ?????????? ??? ??????
????????? ??? 11?? ??????? 1991 ?? ?????????? ??? ?? ?????????? ??? ?? ??????
????????? ??? ??? ??? ??? ?????????? ??? ?????? ?????????? ??????, ?????? ??? ?? ?? ???
??? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ?????????? ??? ?? ??
????????? ??? ?????? ???.

11 ?? ??? ?????????? ??? ?????? ??? ?????????????? ??? 1995, 95-1347, ??? 30??
????????? 1995 (6) (????? 39), ?????? ??? ?????? ?????? ??? ?????? 279, ??? a), ??? CGI,
?? ?? ??? ?????? ?????????? ??? ?? ?????? ?????? ?????????? 5,5 %, ??? ?????? ??? ??????
????????? ?? «??? ?????? ??????? ?? ?????????? ?????? ?????? ?????????? ??????, ?????? ?
????????? ??? ?????? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? (...),
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? 1,5 % ??? ?????? ?????? ??????
????????? ??? ?????? ??? ?? ?????? ??? ?????? ?, ?? ??? ?????? ??????
????????? ??? ?????? ??? ?????? ?????? ?? 1,5 % ??? ?????? ?????? ?????? ???????,
??? ?????????? ??? ??????, ??? ?????? ?????? ?????? ?? 1,5 % ??? ?????? ?????? ?????? ???????,
????????? ??? ?????? ??? ?????? ». ??????? ?? ??? ? ?????? ???
????????? ??? ?????? ??? ?????? ?? ?????????? ?????? ?????? ?????? ?????? ??? ?? 1?
????????? 1996 (7).

12 ? ?????? ?????? ?????????? ??? ??? ?????? ??? ?????? ?????? ?????????? ??? ?? ?? ??????????
?? ?????? ?????? ?????????? ?????????? ?????????? ?????? ?????? ?????????? ??? ?? ?? ?????????? ????
????????? ?? ?????????? ??? ?????? ??? 11?? ??????? 1991, ??? ??? ?? ?? ?? ??
????? ??? ?????? ?????? ?? ?????????? ??? ??? ??? ?????? ?????????? ?? ?????????? ??? ?? ??
??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????,
????????? ??? ?????????? ?????? ???, ? ?????? ?????? ?????? ??? ??, ? ?????? ?????? ??????, ??? 5?
?????? 1996, ?????? ?????? ?????????? ??? ??? ?????? ?????? ??????????.

13 ? ??????? ?????????? ?????????? ??? ?????????? ??? ?????? ?????????????? ???
????????? ?????????? ??? ?????????? ?????? ??????, ?? ?????????? 10 ??????? 1996,
??? ?????????? ??? ?????????? ?????? ?????????? ?????????? ??? ?????? ?????????? ???
????????? ?????? ??? 1?? ?????????? 1996 ??? ??? ??? ??? ?????? ??? ?????????? ??
????????? ??? ?????????? ?????? ?????????.

14 ??????, ??????, ?? ?????? ??? 18?? ?????? 1996, ?? ??? «?????????
????????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??????????», ???
????? ? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ???
?????????, ?????? ??? ? ?????? ?????, ??????????, ?????????? ??? ??????
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ??? ??? ? ??? ?????? ?????? ?????? ??? ??? ?????? ??? ??????
????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? (8).

??? - ?? ?????? ??? ??????

15 ? ??????? ?? ??? ?????? ??? ??????:

) ?? ?????????? ??? ? ?????? ??????????, ?????????? ?? ??? ?????? ?????????? ???
????? ?????????? ??? ?????????? ?????? ?????? ??? ?????? ??? ??? ??? ??? ???
????????? ?????? ?????? ?????????? ?????? ?????? ??????, ?????? ???
????????? ??? ??? ?????? ?????? ??? ?????? 2 ??? ?????? 77/388/??? ??? ??????????
??? 17?? ??? 1977 (????? ?????? ???), ???

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

?V - ? ?????? ??? ??? ??????

16 ??? ?? ?????????? ??? ?????? ??? ???? 95-1347, ??? 30?? ?????????? 1995, ???
??? ? ?? ?????? ??? 18?? ?????? 1996 ?????????? ??? ??? ?????? ??? ?????????? ???
????? ?????? ??? (9).

17 ??? ?????? ??????, «? ?????? ?????????? ?????? ?? ?????????? ?? ??? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?? ??? ??? ??? ?????????? ???
????? ? ?????????? ?????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ??????
?? ?????? ??? ?????? ??? ?? ?????????» (10).

18 ?? ??? ?????? ?????? ??? ?????? ??????????, ?????? ??? ? ?????????? ?????????? ???
????????????? ??? ?????? ??? ?????? ??? ??????????, ??? ??? ?????? ??? ?????? ??? ???
????????? ??? ?, ??? ?????? ?? ?????? ??? ?????? ??? ?? ??????????. ??????, ?
????? ??? ?????? ?? ?????? ??? ?????????? ?????? ??? ?????? ?????? ??? ??????
????? ??? ?????? 2 ??? ?????? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?? ??????
????????? ??? ?????? ?????????? ??? ?? ?????? ?????? ??? ?????? ??? ?????????? ?? ???
????????? ??? ?????? ??????.

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

?? ??????? ?????? ??? ?????????? ????????????, ??? ?? ?????? ??? ?????????? ??? ?????????????? ???
?? ?????????? ?? ?? ????? 2 ?? ?????? ?????? ??? (11).

20 ????????, ??????? ? ??????? ??? ?????????? ??? ??????? ?? ?? ?????? ??? ?????? ??? ?????
95-1347 ?? ?? ??? ??? ?????????? ??? 18?? ??????? 1996, ?? ?????? ??????????????????
?? ?????????? ???????????, ? ??????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ??
?????? ?? ?? ????? 2 ?? ?????? ?????? ??????? ?? ?? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ???????????, ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? 11?? ??????? 1991 ??????????? ??? ??? ??? ??? ?????? ??? ?????? ??? ?????? 95-
1347, ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
?????? ???.

V - ??????

21 ?????? ??? ?????????? ??? ?????????? ?????? ??? ??????????:

« 1) ?? ?????????? ??? ? ??????? ??????????, ?????????? ?? ?? ?????? ?????????? ??????? ?
????? ?????????? ??? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?? ?
????????? ?????????? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? 2 ?? ??????
77/388/???, ??? ?????? ??? ???????, ??? 17?? ??? 1977, ??? ?????????? ???
????????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ?????? ?????? - ???
????? ??? ?????? ?????????? ????: ?????????? ?????????? ???.

2) ?? ?????????? ?? ?????? ?????????? ??? ?????????? ???.

(1) - ??? 77/388/???, ??? ?????? ??? ??????????, ??? 17?? ??? 1977 ???
????????? ??? ?????????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ???
????? - ??? ?????? ??? ?????? ??? ?????? ?????????? ????: ?????????? ?????????? ???.
???. ??? 09/001, ?. 49.

(2) - ??? ??? 4, ?????????? 3, ??????? ?, ?????????? ???, ??? ?????? ??? ?????? ???
????????? ???, ??? ??? ?????? ??? ??????, ?? «?????» ?????? «????? ?????? ???
????? ??? ?????? ?? ?? ???».

(3) - ???????? ??? 11?? ??????? 1991 (BOI 3 A-9-91 ??? DB 3 ? 317, ?? ???????? ?? ??
1? ??? 1992).

(4) - ?????? ?????? ?? ?????? ?????????? ???, ?? ?????? ?????????? ??? ?????? ??????
?? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??????
22? ??? 1993.

(5) - ?????? ?????? ?? ?????? ?????????? ???, ?? ?????? ?????????? ??? ?????? ??????
?? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??? 9?
????????? 1995.

(6) - *Loi de finances rectificative pour 1995 ??? ?????????? ??? Journal officiel de la
R?publique fran?aise ??? 31?? ??????? 1995, ?. 19 078.*

(7) - ? ?????? ?????????? ?????? ??? ?? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????? ?? ?????? 12, ?????????? 3, ??????? ?) ??? ?????? ?????? ????. ?????? ?? ???,
????? ??? ?????? ?? ?????? ???, ??? ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (5 %) ???
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???

? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? [?? ???? 12, ?????????? 3, ?????????? ?? ??? ??? ??? ?????????? ??? ?????????? ??? ?????????? ?????? 92/77/???, ??? ??????????, ??? 19?? ?????????? 1992 ??? ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ?????? ?????? ?????????? ??? ?????? ?????????? ??? (?? 1992, L 316, ?. 1) ???, ??? ???????, ? o????? 92/111/???, ??? ?????????, ??? 14?? ?????????? 1992, ??? ??? ?????????? ??? ?????? 77/388/???, ??? ?? ?? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? (?? 1992, L 348, ?. 47). ???????, ? ?????? 92/111 ??? ????? 4, ?????????? 1, ??????? ???????, ?????? ??? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? «????????? ?????????? ?????? ??? ?????? ?????? ?????? 1? ?????????? 1993, ??? ?????????? ?????? ??? ?????? ?????? ?????? ?????? 11, ?????????? ??? ?????? ?? ?????? ?? ?????? ?????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? 1995. ?? ?????? ??????/????????? ??? ?????? ?????? 1, ?????? 5)].

(8) - ? ?????????? ??? ?????????????? ??? *Bulletin Officiel des Impôts (E?????? ??????????)* ??? ?????????? ??? ?????????? ??? ?????????? 3 C-4-96, ????. 142, ??? 26?? ?????? 1996, 3 C.A./22-C 223.

(9) - ?????????? ??? ? ?????????? ??? ?????? ??? ?????????? ??? ?????? 8 ?????????? 1994 ??? ? ??????? ??? ?????? ??????? ??? ?????? ???????????, ?? ??? ?????? ?????????? ? ?????? ?????????? ?????? ??? ?????? ?????? ??? ??????, ??? ?????? 9 ?????????? 1995. ?? ?????? ??????/????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??????.

(10) - ??., ??????????, ??? ?????????? ??? 12?? ?????????? 1996, ?????? C-302/95, ?????? ??? ?????? (????? 13) ??? ??? 17?? ?????????? 1996, ?????? C-289/94, ?????? ??? ?????? (????? 20). ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ??????.

(11) - ??., ??????????, ??? ??? ??? ?????????? ??? ?????? ?????????? 10 ?????????? ??? 12?? ?????????? 1996, ?????? ??? ?????? (????? 13) ??? ??? 17?? ?????????? 1996, ?????? ??? ?????? (????? 20).