

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

ELEANOR SHARPSTON

??? 24?? ?????????? 2008 1(1)

?????? C?484/06

**Fiscale eenheid Koninklijke Ahold NV**

????

**Staatssecretaris van Financiën**

«????????????????? ???»

1. ?????????????? ??? ?????????? ??? ??? ?????????????? ??? ????? ????????????, ??????? -?????  
??? ?? ?????????? ?????????? ?? ??? ????? ??? ?????? ?????????????? ??? ?????- ?? ??????  
????????????? ??? ?? ?????????? ??? ?? ?????????????? ??? ?????? ??? ??????????  
????????????? ?????????????? ??? ?????????????? ?? ??? ????? ?????? (2). ???  
????????????? ????? ?????????????? ??????????????????. ?????????? ?????????? ?????????? ??????????  
?? ?? ?? ?? ??? ????? ?? ?????????????????? ??? ?? ??? ? ??? ?? ??? ?? ??? ?? ??? ?? ??? ??  
?? ?????? ??? ?? ????? ?????? ?? ?????????????? ?? ?????????????? - ??? ??? ???, ???  
???? ?????? ?????? ??? ????????, ??? ??? ????? ???, ?.?. ?? ??????? ?????? ??? ??  
???? ??? ?????? ?????? ?? ????????, ?????????? ?????????? ?????????? ??? ?????????? ??? ??  
????? ??? ?????? ?????? ??? ????????, ?????????? ?????????? ?????????? ??? ?????????? ??? ??

2. ?? ??? ??? ????? ?????? ?????? ?????????????? ????????????, ?? Hoge Raad der  
Nederlanden (????????? ?????????? ?? ??? ?????) ?????? ?) ?? ? ??????????????????  
????????? ??? ?? ?????? ?? ??? ?? ?????????? ?????? ???, ?) ?????? ?????? ?? ???????, ??  
?? ?????? ??? ?????????????? ?? ?????????? ?? ?????????????? ?????? ?? ??? ??? ?? ???,  
????? ??? ?? ?? ??? ????? ?????????? ?? ??? ?????? ?????? ?????? ?????????? ?????? (3).

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

3. ?? ?????? 2 ??? ?????? ??????? ??? (4), ??? ?????? ??? ?????? ??? ?????? ??? ???????????  
????????????? ??? ??? ?????? ?????????? (????????? 2003), ?????? ???:

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

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

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

?? ?????? ??????? ?? ?????? ?????????????????? ?? ?????? ?????????????? ?? ?????? ?? ???? ?? ?????? ??  
????????? ?? ???????.»

4. ?? (5). ??? ??? ??????????????  
?? ??????????????????, ??? ??? ???? ??? ?????, ??? ??? ???? ??????. ?? ??? ????? 19 (6) ??????????  
?? ?????? ??? ?????????????? ??? ?????????? ??? ?????????? ??? ?????????????? ??? ?????? ??? ??????  
?? ?????? ? ?? ?????????? ?????????????????? ?????????? ??? ?????? ??? ?????????? ??? ??????????????  
??? ??? ?????? ??? ?????????????? ??? ?????.. ??? ?? ??? 19, ?????????? 1, ?? ???  
????????? ?????? ??? ?????? ?????? ?? ?????????? ??? ?????? ?????? ??? ??  
????????????????? ?? ?????? ??? ??? ?????????? ??? ?????? ??????. ?? ?? ??? 25,  
????????? 3 (7), ??? ?????? ???' ?????? ?????????? ???????, ?????? ??? ?? ???'  
????????? ?????? ?????????? ?????? ?????? ?? ?????????????????? ??? ??? ?? ????  
????? ?? ?????? ??????.

5.     ???? ??? ??????? ?????? ???? ?????????? ???? ??????? ???? ?????? ???? ?????? ???????, ?????? ????????  
???? ??? ?????? ??????? ???? ?????? ???????.

6.      ?? ?????? 2, ??????????? 1 (8), ?????? ??? ?? ??????????? ?????? ???  
????????????????? ?? ??????? ?????? ??? ??????????? ??? ?????? ??? ?????? ?? ??  
????????? ??? ??????????? ????. ??? ?? ????? 5, ??????????? 1 (9), ?? ???????  
????? ??????? ? ?????????? ??? ??????????? ?? ?????????? ?? ???????, ?? ??????, ???????  
?????.

7. ????? ?? ?????? 10, ??????????? 1 ??? 2, ?? ?????????????? ?????? ??? ?????? ?????? ??  
 ??????? ?? ?? ?????? ??????????????? ?? ??????? ?????????????? ?? ?????? ?????? ?????? ??  
 ?? ??????? ?????????? ? ??????, ?????? ??? ?????????????? ?????? ?????? ?????????? ??  
 ?????????? ?? ??????? ?? ?????? ??? ?????? ??? ??????. ?????? ????????, ????????, ??? ??  
 ??? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ? ??? ?????? ??? ?????? (10).

8.     ?? ?????? 11, A (11), ?????? ??? ?????? ?????? ?????? ?????? ?? ???? ?????? ? ???? ?????? ? ?????? ??????????  
??? ?????? ??????????????, ???' ????, ?????????? ?????????? ??? ?????????????? ??? ?????? ?  
?????????????, ???? ??? ??? ?????????? ???? ??? ??? ??????.

9.     ????????? 12, ?????????? 3, ??????? ??, ?????????? ??? ?????? ??? ???? ?? ??????????  
 ????? ??????? ?????????? ???, ?????????? ?? ??? ?????????? ?????????? ?????????? ???  
 ?????????? ?????????? ?????????? (12).

10. ?? ?????? 17, ??????????? 1 ??? 2, (13) ??????? ??? ??????????????? ?? ?????????? ??  
?????????  
????? ??? ?????????????????? ??? ??? ??? ?????? ??? ?????????? ??? ?????????????? ??? ???.

11. ????? ?? ?????? 22, ??????????? 3, ?????????? ?? (14), ? ??????????? ????? ?? ??????  
?? ??????? ?????????? ?? ????? ?????????? ?????? ?????? ?????????????? ?? ?????? ??  
?????????? ?? ??? ?????? ?? ?????? ?? ??????????? ?????? ?????? ?????? ?????? (?? ?? ??????, ??  
????????? ?????? ?????????? ?? ?????? ?? ?????????? ?????? ??? ?????? ?????? ?????????? ?? ?????  
????? ??????) (15), ??? ??? ?? ?????? 22, ??????????? 3, ?????????? ??, ??? ??????????  
????? ?????? ?? ???????????, ?????? ?????? ??????????, ? ??? ?????? ?????? ?????? ?? ?  
?????????? ?? ??? ?????? ??????????, ?????? ??? ?? ??????????? ?????????? ?? ?????? ??  
????? (16). ?? ?????? 22, ??????????? 5 (17), ?????? ??? ?????? ??????????? ?? ?????  
?????????? ?? ??????????? ?? ?????? ??? ?????? ??? (?????? ?? ?????? ?? ?????? ?? ??????)

????????????? ??? ?????? ??? ??? ??????) ????. ??? ?????? ??? ?????????? ??? ?????????? ??? (18).

12. ? ?????????? ??????? ??????? ??? ?????????? ?? ?????????? ?????????? ??? ??????? 98/6/??  
(19). ??????????, ??? ?? ????? 2, ??????? ??, ??? ?????? ?????, ?? «???? ??????»,  
???? ?? ?????? ??????, ?????? ? ?????? ????? ? ?????? ?????? ?????? ??? ?? ?????? ?  
????????????? ?????? ?????? ?????????, ?????????????????? ??? ?? ??? ?? ??? ?? ??? ?? ??? ?? ??? ??,  
??? ?? ??? ?? ????? 3, ?????????? 1, ?????????? ?? ?????????? ? ??? ?????? ??? ?? ??? ??  
????? ??????.

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

13. Wet op de omzetbelasting (1968) ?  
Uitvoeringsbesluit omzetbelasting (1968). ?  
19 %, 6 %.

14. Uitvoeringsbesluit omzetbelasting ???.???.???? 5a, ???.???.?????? ???.???:

15. ??????? ?? ??? ?????????????? ?????? ??? ?????????????????? ??????, ?? ??????? ??  
????????????????? ?????????????? ??? ?? ?????????????? ?????? ??? (20), ?????? ?? ???  
????????? ???, ??????? ? ?????? ??? ?????????????? ?????? ?????? ??????? ???????, ?? ???  
???, ?????? ??? ?????? ??? ????????????????, ??????? ?? ?????????? ?? ??????? ?? ??????  
??????.

16. ?????????????????? ??????? ?????????????????? ??????? ???? ? ?????????????? ???????  
????????????? ??? ?????????????? ?????????????? ?????????????????? ?? ?????????? ?????? ???  
????, ??? ??? ??? ??? ?????? ?????? ??? ? ?????? ?? ?????????????? ??? ?? ??????????????????  
??? ?????????? ?????? ? ??? ?????????? ?????? ??? ? ?????????????? ??? ?? ?????? ??  
????????? ??? ??? ??? ?????????? ??? ?????? ??? ?????????? ??? ? ?????????? ??? ??  
??????.

17. ?????? ??? ?????? 38 ??? Wet op de omzetbelasting, ?? ?????????????? ??????????????  
?? ?????????? ?? ?????? ???? ?????????? ?? ?????? ?? ?????? ?????????? ?? ???, ???  
?? ? ?????? ?????? ?????? ?????? ?????????? ?????? ??? ? ?????? ?????? ??????????.

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

18. ? ??????? Koninklijke Ahold NV (??? ????: Ahold) ?????????????? ??????????  
(?????????????) ??? ??????. ?? ?????? ?????? ?????? ?????? ?????? ?????? ?? ??????  
?? ??? ?????? ??? ?? ?????? ??? ?????????????? ??? ???.

? ?????????? ?? ??? ???? ?????????? ???, ?????? ??? ?????????? ?????? ??? ?????????? ?????? ??? ?????????? ?????? ???  
? «?????? ??????». ?????????? ?? ?????????? ??? ?????????????????????? ??? ??? ??? ???  
????????????? ?? ??? ???? ?????????? ?????????? ?? ??? ??? ??? ?????????? ?????????? ???  
????????????? ?) ?? ??? ???? ?????????? ?????? ??? ??? ??? ?????????? ??????????, ?) ??  
???? ??? ??? ????? ?????????? ?????????? ?????????? ??? ??? ?) ?? ??? ??? ?? ??? ???  
????????? ???, ?????????? ??? ???? ?????? ????? ?????????????? ????? ?????? ?????????? ??????????. ?  
????????? ?????????? ??? ??? ?????? ??? ?????? ?????? ?????????? ?????? ??? 19/119 ??? 6/106,  
????????? ???, ?????????? ?? ?????????? ?? ??? ??? ?????? ?????? ?????????? ?????????? ???  
????? (21). ??? ???? ??? ???? ??? ?????? ?????????? ?????????? ??? ?????? ???  
????????? ??? ???? (??? ?????????? ? ??? ?????? ?????). ?? ?????????? ??? ??????????  
???' ?????? ??? ????? ?????????? ?????????? ?? ??? ??? ?????????? ?????????? ??? ??  
????????? ?? ?????????? ??? ??? (????????? ??? ?????? ?????????? ??? ?????????? ??? ??? ??? ???  
?????????).

20. ??? ??????, ??? ?????? ??? ?????????? ??? ?????????? ?, ???? ?????? ?????????? ?????????? ???,  
??? ??? ??? ?????? ??? ??????, ?????????? ??? ??????, ??? ??? ?????? ?) ?? ??? ??? ??  
????????? ??? ??? ?????? ??????, ??? ??? ?????? ??????, ??? ??? ?????? ?????, ??? ?) ??????  
????????? ?????????? ???, ?? ??? ?????????? ?????? ?????????? ??? ?????????? ??? ??????????  
???? ?? ?????? ??? ??? ?. Ahold ???????, ???????, ???, ??? ?????? ?? ???  
????????? ??? ??? ??? ?????? ??????, ?? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ???  
1 414 ??? ??? ??? ??? ?????? ??? ??????.

21. ? Ahold ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??? ?????????? ???  
?????? ?????? ??? ???? ?????? ?????????? ??? ??? ?????? ?????????? ??? Hoge Raad. ?  
????????? ??? ?????? ?????? ?????? ?????????? ??? ?????????? ?????????? ???  
????????? ?????? ??? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ???  
?????????, ??? ??? ???' ???????, ??? ?? ??? ??? ?????????? ?????? ?????? ??????????  
??? ?????????? ?????? ??? ??? ?????? ?????? ??? ?????? ??? ??????.

22. ?? Hoge Raad ?????? ??? ?? ?????????? ?? ?????????? ??? ??? ??? ??????????:

«1) ??? ?????? ? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ??  
????? ??? -????????? ??? ?????? ??? ?????? ?????? [??? ?????? 22, ?????????? 3,  
????? ??, ?????? ??????, ??? ?????????? 5, ?????? ??? ??? ?????? 11, ?, ??? ??????  
?????] - ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????;

2) ?? ?????? ?? ??????, ?????????? ??? ??? ?????????? ?????? ?????????? ??? ??? ??????  
??? ?? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
?????, ??? ??? ??? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? /?  
????????? ??? ??? ??????;»

23. ??? ?????? ?????????? ??? ?????? ? Ahold, ? ?????? ?????? ?????? ?, ? ?????? ???  
????? ???, ? ?????? ?????? ???, ? ?????? ??? ?????? ??? ?????? ?????? ??? ? ?????? ?,  
????? ?? ?????????? ??? ??? ??' ?????? ?????? ???, ??? ??? ??? ??? ??????  
?????????.

???????

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

24. ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??? ?????? ??? ??  
????? ??? ?????????? ??? ?????? ??? . ?????? ?? ??? ?????? 11, ?, ??? 22, ?????????? 3,  
????? ??, ??? ?????? ?????? ??? Hoge Raad, ??? ?????? ?????? ??? ?????? ???

25. ????? ?????????? ?????? ?????? ????, ???? ?? ?????????????? ?????? ?????? ?????????? ??  
????????? ??? ?????? ?????? ??? ?????????????? ??? ?????? ?????? ?????? ?????? (????? 93 ??) ???  
????? ?????? (????? 249 ??, ?????? ??????).

26. ??????, ??????, ?????? ?????? ???, ?? ?????? ??? ?????????? ??? ?????? ??????????  
?????? ??????????????, ?? ?????? ??? ?????? ??? ?????????? ?? ?????????? ??? ?????? ??? ??????????????  
????? ??????? ??? ??? ?????? ??? ?????????? ?????? ? ??? ?????? ?????? ?????? ?? ??? ??? ????  
????????? ??? ?????? ? ?? ?????????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????????  
?????? (23).

27. ??????, ? ?????????????????? ??? ?????????? ?????? ??? ?????????? ?????????????????? ???  
??? ?? ?????? ??? ?? ???? ?????? ?????- ?????????? ??? ?????? ??? ?????? ??  
????????? ?????????? ??? ?? ?????? ??????, ??? ?????? ?????? ??? ?????? ??? ?????? ??  
????????? ??????.

????????? ??????? – ? ?????????????????? ????

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

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

30. ??????? ?? ??????????? ?????????? ??? ?? ?????? ?????? ??????? ??? Hoge Raad ???  
?????? ?????????? ??? ????? ?????????? ??? ?????? ??? ?????? ?????????? ?? ??? ?????? ???????  
??? ?????????? ????. ????. ??? ?? ??????, ? ??????? ??? ?? ?????????? ??? ?????? ???, ??  
?????, ????. ????. ?? ???????????????, ??????? ??????? ??? ?? ?????? ?????????? ??? ??  
?????????? ????. ????. ??? ?? ??? ?????????? ?? ?????? ??? ?? ?????? ??? ?? ?????? ?????????? ?  
?? (24).

31. ?????? ??? ??????????? ???. ??????????? ?????????????? ??????????: ? ??? ?????? ???.  
????? ??????? ??????? ???. ??? ?????? ???. ?????? ???. ?????? ???. ?????????? ?????? ???.  
??????????????.

32. ?????? ??? ?????????????? ?????? ?????????????? ?????? ??? ?????? 2 ??? ?????  
???????. ?????????????? ??? ?? ??? ?????? ??? ?????? ?????????????? ??? ?????? ??? ?????? ??????  
?? ????????, ?????????????? ?????????? ???, ?? ?????? ?????? ??? ?????? ?? ?????  
????????? ??? ??? ?????????? ??? ??????????. ??? ? ?????????? ?????????? ??? 19 %, ??  
??????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? 19/119? ??? ?????? ??????.  
????? ?????? ? ?????? ????????, ??? ?????? ??? ?????????? ?? ?????? ?????? ??? ?????? ???.

? ??????????, ?? ?????? ?????????? ??? ?????? ?????? ???? ???? ?????? ?????????? ?????????????? ??  
?????? ??? (25). ????????????, ?? ?????????????? ?????? ??? ?????? ?????? ?????? ?????? ???  
????????????? ??? ??? ?? ??? ??? ??? ?????? ?????? ???? ?????? ????????????, ??? ???  
????????????? ?? ??? ?????????? ?? ??? ?????? ?????? ?????????????? ???' ?????? ??? ?????? ??????.

34. ??? ?????? ??? ?????? ????????????, ? ?????? ?????????? ?? ??? ???, ??? ??????  
?????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????????? ??????, ?? ???  
??? ?????? ??? ?????????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ??  
????????? ?? ?????? ??? ?????? ??? ??????. ?????? ?????? ???? ?????? ?????????? ?? ??????????  
?? ?????????? ?? ?????? ??? ?????? ??? ??????, ???, ??? ??? ?????? ???, ?????? ??? ???  
????????? ??? ?????? ??? ?????? ?????????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ???.  
??? ?????? ??? ??????, ? ?????? ?????????? ?? ?????? ?????? ?????? ??? ??? ?? ?????????? ???  
?? ?????? ?????????? ??? ??? ??? 22, ?????????? 3, ??? ?????? ??????, ??? ???  
????????? ?? ?????? ???' ?????????? ?????? ??? ?????? ?????????? ?????????? ??? ???  
????????? ???.

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

36. ??? ?? ??? 22, ?????????? 4 ??? 5, ??? ?????? ??????, ?? ??? ??? ??? ?????? ???  
?? ?????????? ??? ??? ?????????? ??? ?????? ??? ??? ?????? ?????? ???, ?????????? ???  
????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???? ?????????? ??? ??? ??  
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

37. ?????????? ??? ?????? ??? ?????? ??? ?????????? (????? ?????????? ???  
????????????? ??? ?? ???) ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????????? ???, ??? ?????????? ??? ?????? (?? ?????????? ???  
????????????? ??? ?? ???) ?????????? ??? ?????? ??? ?????? ??? ?????? ??? (26).

38. ??????, ?????? ??? ?????????? ???? ?????? ?????? ??? ?????? ??? ?????? ???  
????????????? ?? ??? ??? ?????? ?????? ??? ?????????? ??? ??? ?????? ?????? (??  
????????? ??? 19/119?), ? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ??  
????? ??? ???, ??? ??? ?????? ??? ??????, ?? ?????? ??? ?????? ??? ?????? ?????? ???  
?? ????????, ??? ?? ??? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
??????????, ? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
??? ????????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

39. ?? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????, ?? ?????? ??? ??????, ???????, ?? ?????? ?? ?????? ?????? ?? ?????? ??? ???.  
?????????, ?? ?? ?????? ??? ?????? ??? ?????? ?????????? ??? ??? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ???  
????? ?? ?????? ??? ??????.

40. ? ?????????? ??? Ahold ?????????? ???, ??? ??? ??? ?? ?????????? ??? ??? ???  
????? ?????? ???, ? ?????? ?? ??? ?????? 1 400 ????. ?????? ?? ???  
????????? ???, ? Ahold ?????????? ???, ??? ??? ??? ?????? ???, ?????????? ??? 2  
000 ?????????? ?????? ????. ??? ??? ?????? ???, ? ??? ?????? ???  
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

????? ??????????? ??? 70 ??????????? ?????? ???????? (GBP) ??????? (100 ???????????  
????? ??????)», ??????? ?????? (27).

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

42. ? ?????????? ?????????????????? ??? ?? ??? ? ???? ?? ??? ?? ??? ?????? ???  
????????? ??? ?? ?????? ?????? ?????? ?? ???????, ???????, ?? ?????????? ??????  
????????? ?? ?????? ?? ?????? ?????????? ??' ??? ?????? ?? ?????? ?? ??? ?????? ???  
????????? ?????????????? ??? ?? ?????????????? ??? ?? (28). ? ?????? ??? ?????? ???  
????????????? ??? ?? ?????? ???, ???????, ?? ?????????? ??? ?????????? ???  
?? ?? ?????????? ??? ?? ?????? ?????? ?? ??? ?? ?????????? ??? ?? ??? ??????  
????????? ?????? ??? ?????? ?????? ?????, ??? ?? ?????? - ?? ?????????? ?????? ???  
????????? ??? ?????????? ?????? ??? ?? ???, ?? ?????????? ??? ?????? ?? ??????????  
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ?? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??

43. ??????, ?? ?????????? ?????????? ??? ?? ?????? ??? ?????? ?? ?????????? - ???  
????? ??? ?? ??????- ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????????? ??? ?? ??? (???) ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
??? ??? ?????? ???.

44. ??? ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? Hoge Raad.

45. ?????, ?? ??? ?????? ?? ?????????? ?? ?????????? ?? ?????? ??? ?????? ??  
????????, ?????????? ??? ?? ?????? ?? ?????? ?? ?????? ??? ?????? ?? ?????? ???  
????? ??? ?????? ?????????? ?? ?????? ??? ?????? ?????????????? ???.

46. ???, ??????????, ?????? ?????? ?? ?????? ?? ?????????? ?????????? ?????????? ??  
????????? ?? ??????????????, ?????????? ?? ?????? ?? ?????????? ?? ?????????? ??  
????????? ??????. ?????? ?? ?????????? ?????????? ?? ?????? ?? ?????? ?? ???  
????????? ?????? ???.

47. ?????, ??? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??  
????????? ??, ?? ?????? ?????? ?????? ??? ?????? ?????????????? ???, ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? ??? ?????? ?????? ?? 0,5 ?????????????? ???, ??? ?? ???, ??  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? 0,5 ?????????????? ???  
????? ?? ???, ?????? ?? ?????? ?????? ?????? ???, ?????? ?? ?????? ?? ?????? ???  
????? ?????? ??????, ?????? ?? ?????? ??? ?????? ?????????????? ???, ??? ?? ??? ?????? ??  
????????? ?????? ?? ?????? ??? ?????? ?????????????? ??? (29).

48. ??? ?????? ?????????? ? ?????? ??? ?????? ??? ?????? ?? ?????????? ?? ??? ??  
????????????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?? ?????????? ???, ??? ??  
????, ?????? ? ?????????? ??? 19 %, ?????? ??? 19/119? ??? ?????? ??????????  
????????? (30). ???????, ??????, ??? ?? ?????? ?????? ??? ?????? ?????? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
????? ??????, ??? ?????????, ?? ?????? ?? ?????? ?????? ?????? ??? ?????? ???  
????????? ??? ?? ?????? ??? ?????? ?????? ???' ?????? ??? ?????? ??? ?????? ?????? ???  
??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???

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

49. ????????, ??? ???? ?????????????? ????????, ??? ?????????? ?????? ??????????????????  
????? ??? ?? ?????????? ??????? ??? ??, ?????????? ??? ?? ?????????? ?????? ?????? ?????  
?? ??? . ??? ?? ?????? ????? ?? ?????? ?? ?????????????? ?? ?????????? ?????? ??? ?????? ??  
????????? ?? ?? ?????????? ??????? ???, ??????? ?? ?? ?????? 22, ?????????? 5, ??? ???.  
???????. ??? ?? ?????? ?? ??????? ???????, ??? ?? ?????????????? ??????? ??? ??????  
????????? ??????? ?????? ?? ??????? ?????? ?? ?????????? ??????? ??? ???.  
????????? ?????????? ???- ?? ??? ???? ?????? ??? ?????????????? ?????? ?????? ??????  
?? ?????????????? ??? ?? ?? ?? 19/119? ?? 6/106? ??? ?????? ?? ?? ?????????????? ??? ???.  
????????? ??? ?????????? ?????????? (? «?????? ??????????» ??? ?????????? ??? ??  
????? 2 ??? ?????? ??????), ?????? ? ?????????????? ?????????? ??? ?????????? ??? ???.  
?? ?????????? ??? ?????? ??????????, ??????? ?? ?????????? ??? ?????????? ? ?????????? ??? ???.  
????????? ??? ??????????.

51. ????????, ?? ? ?????????????????? ?????????? ??? ?????? ?????? ??????, ?  
?????????? ?????????????????? ??? ?? ???? ??? ???? ?????? ?? ?????? ??? ??????????  
???? ?? ???? ?? ?????? ?????????? ??????. ?? ?????????? ?????? ?????????? ?? ??? ??????  
Elida Gibbs ???, ??????, ?? ???? ??? ?????????? ?? ?????????? ?????? ??? ?????? ??  
????????? ?? ???? ??? ?????? ??? ?????? ?????? ?????? ?????????? (31). ?? ? ???? ???  
????? ?? ?????? ????????????, ? ?????????? ?????????????? ?????? ?? ??? ?????? ??  
????? ?????? ?? ?????? ??? ?????? ?? ??? ?????? ?????? ?????????? ??? ?????????? ??????  
?? ????

52. ?????????? ????? ?? ?????????? ?? ?????????? ????? ?????? ?????????? ?????????? . ?????? ???  
?????? 98/6, ?? ?????? ?????????? ?????????? ?????????? ?????????? ?????? ?? ?????????? ?????? ??????  
??? ?????????????? ??? ???. ??? ?????? ?????????? ?????? ??? ??' ?????????? ?????? ???????, ??  
?????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????: ?????????? ???  
????????? ?????????? ???????, ??? ?????? ??? ?????? ?????? ?????? ?????????????? ?? ??????????  
? ?????? ??? ???. ?????? ?????? ???. ?????????? ?????? . ?????? ?????? ??? ?  
????????????? ??? ?????? ??? ???. ?????? ?????? ???. ?????? ?????? ?????? ??? ?????? ???, ???  
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?? ?????? ??? ???????????.  
??????, ? ??? ?????? ???. ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???, ?? ??  
????????? ??? ??? ???. ?????? ?????? ?????? ???. ?????? ?????? ?????? ?????? ?????? ?????? ???  
?????. ??????, ?????? ?????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????  
????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????  
????????? ??? ???. ??? ???. ?????? ?????? ?????????? , ?????? ???. ?????? ?????? ?????? ??????  
????????? ?????? ??? ???. ??? ???. ?????? ??? ?????? ???. ?????? ?????? ?????? ?????? ???  
????????? ?????? ??? ???. ??? ???. ?????? ??? ?????? ???. ?????? ?????? ?????? ?????? ???.

? ?????????? ??? ???? ?????????????? ??? ??? ???? ?????? ?????????????? - 3) ??? ??????  
????, ?????????? ?? ???? ?????? ???? ???? ?????? ?????? ?????????????? ??? ?????????????? ???,  
????? ?? ??????????, ?? ??? ???? ??? ??????????, ? ?????????????? ??? ?????????????? ???  
???? ???? ?????? ?????????? ?????? ?????????? ??????????.

54. ??? ?????????? ??? ???? ?????????? ??? ?????? ??? ?????? ???? ?????????? ???' ??????  
?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.  
????????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? -???, ?????, ??? ??????  
???? ?????? ?? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ???  
????? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ???  
????? ??? ?????? ?????? ?????? ?????? - ??? ??????.

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

55. ? ?????? ??? ?????? ??? ?????? ??? Hoge Raad ??? ?????? ?????? ?????????? ??  
????? ??? ?????????? ????. ?? ?????????? ?????? ?????? ??? ?????? ??? ?????? ??????????,  
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ?? ??????????  
????, ??? ?????????, ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????????  
????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? . ? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? , ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????  
????? ??? ?????? ??? ?????? ??? ??????.

56. ?????, ??? ?????????? ??? ?????? ?? ?????????? ??? ?????? ???, ?? ?????? ??  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?????????? ? ??????  
????????? ???, ?????? ?? ?? ?????? 22, ?????????? 3, ??? ?????? ?????? ??? ??????  
???? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??????  
?? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

57. ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???,  
????? ?????? ??? ?????? ???? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? -?? ?????? ??? ?????? ??? ?????? - ??? ?????? ???  
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ?????? . ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????, ???, ?????, ?????????????? ??? ?????? ??? ?????? ?????? ?????????? , ??? ?????? ??????  
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

58. ??? ?????? ???, ?????? , ??? ???? ?? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ???? ?????? ?????? ?????? ?????? ?????? ??????.

59. ??? ?????? ??? ?????????? ??? ?????? , ??? ?????? ???? ???? ?????? ?  
????????? ?????? ??? ?????? ??? ?????? ???? ?????? ???? ?????? , ?? ?????? ??? ?????? ??????????  
???? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? , ?????? ??? ?????? ?????? ???  
??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? , ??? ?????? ?????? ?????? ???  
??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???, ???  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

60. ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?  
????????? , ??? ?????? ?????? ??? ?????? ???? ?????? ?? ??? ?????? ??? ?????? ??? ?????? ???  
?? ?????? ??? ?????? ??? ?????? , ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
??? ?????? . ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ??? ?????? ??? ?????? , ??? ???? ?????? ??? ?????? ??? ?????? ??? ?????? ???

??? ?????????? ??????? ?? ?????????? ??? ?????????? (32).

61. ??????, ?? ?????????? ?????????? ??? ?????????????????? ??? ?????????? ?????  
?????? ?? ?????????? ?? ?????????? ?????? ??? ?????? ??? ?? ?????? ???, ??? ???? ??  
????????? ??? ?????????????? ?????? ??????????. ??? ?????? ?????????????? ???  
????????? ??? ?????? ?????????? ?????????????? ??? ?????? ?????????? ??????????  
????????? ??? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????????????? ???.  
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????????? ???.  
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???.  
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???.  
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???.  
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???.

62. ??? ?????? ?????????? ?????????? ???, ??? ?????? ??? ?????? ?????????? ???.  
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???.  
????????? ???, ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ???, ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ???, ??? ?????? ??? ?????? ??? ?????? ???, ? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ???.

???????

63. ?????? ??? ??????????????, ?????? ??? ?????????? ?? ?????????? ?? ?????? ???  
????????? ??? Hoge Raad:

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

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

1 – ?????? ??? ??????????: ? ??????.

2 – ??? ??? ?????? ??????, ? ?????? ?????? ??? ?? ???, ? ?????????? ??????????  
????????? ??? ?? ?????? ??? ?????, ??? ?????? ??? ?? ??????????, ?????? ? ??????  
??? ?????????? ??? ?????? ?????? ??? ?????? ???.

3 – ?????????? ?????????? ?????????? ??? ?????? ??? ?????????? C-302/07, Wetherspoon,  
? ?????? ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??????  
????? ?) ?? ? ?????? ?????????? ?????? ?????????? ?????????? ??? ?????? ?? ??? ???? ?  
????? ?? ?????? ?, ?) ?? ?????? ?????? ?????? ?? ?????????? ??? ?????? ?????????? ??? ?)  
????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
??? ??? ?????? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???,  
??? ?? ??????, ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

4 – ?????? ?????? 67/227/??? ??? ??????????, ??? 11?? ?????? 1967, ??? ??????????

??? ?????????? ??? ?????? ?????, ??? ??????? ?? ??? ????? ?????? ?????? ?????? (?? ????.  
???. 09/001, ?. 3). ??? 1? ?????????? 2007, ? ??? ?????? ?????? ?????????? ???  
????????????????? ??? ??? ?????? 2006/112/?? ??? ?????? ??????????, ??? 28?? ?????????? 2006,  
?????? ?? ?? ?????? ?????? ?????? ?????? ?????? (?? L 347, ?. 1), ??? ?????? ??  
????? 1, ?????????? 2, ?????????? ??? ?????? ?????? ?? ?????? ?????????? ?? ?????????? ??????  
????????? . ?????? ??? ?????? 2006/112 ?????? ?? ?????????? ??? ?????? ?? ??????????  
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??????  
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (???. ????. ?????? ?????? ??????  
??? ??????). ?? ?????? ?????? ?????? ?? ?????? ??? ?????? 2006/112 ???  
??????????, ???????, ??? ? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???  
????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????.

5 – ??? ?????? 77/388/???. ??? ??????????, ??? 17?? ????? 1977, ??? ?????????? ???  
????????? ??? ?????? ???, ??? ?????? ?? ??? ?????? ?????? ?????? – ???  
????? ?????? ?????? ?????? ?????: ?????? ?????? ?????? (?? ????. 09/001, ?. 49, ????.  
????? ?????? ?????? ?????? ?????? ?????? 2006/112, ????, ??? ?????? ?????? ???  
????????? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???  
????????? – ??? ?? ?????? ?????? ??? ?? ?????? – ??? ?????? ?????? ?????? ?????? ???  
????? ??? ?????? ?????? 2006/112.

6 – ??? 175 ??? ?????? 2006/112.

7 – ??? 295 ??? 305 ??? ?????? 2006/112, ????. ?? ??? 298.

8 – ????. 2, ??????? 1, ??????? ?, ??? ?????? 2006/112.

9 – ????. 14, ??????? 1, ??? ?????? 2006/112.

10 – ????. 62, 63 ??? 66 ??? ?????? 2006/112.

11 – ????. 73 ??? ?????? 2006/112.

12 – ????. 96 ??? 99 ??? ?????? 2006/112

13 – ????. 167 ??? 168 ??? ?????? 2006/112.

14 – ?? ?????? ?????? ??? ?????? 22 ??????????, ??? ?????? ?????? ??? ??????????  
??????????, ??? ?????? 28? ??? ?????? ??????, ?? ?????? ?????????? ?????? ???  
????????? ?????????? ?????? - ? ?????? ?????? ?????? ??? ?????? 22,  
????????? 3, ??????? ?, ?????? ?????? ??? ?????? 220 ??? ?????? 2006/112.

15 – ?????????? ??? ?????? ?? ?????? ?????? ?????? – ? ?????? ?????? ??? ?????? ???  
????????? ?? ?????????? ?? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ???  
??? ?????????? ?????? ?????? ??????, ?????????? ??? ?????? ??? ?????? ???.

16 – ????. ??? ?????? ??? ?????????? ??????????, ? ?????????????? ?????????? ???  
?????? 22, ?????????? 3, ??????? ?, ???, ??? ??????????????, ??? ?????????? ???  
????????????? ??? ??? ?????? 2001/115/?? ??? ?????? ??? ?????? ??? ??????????, ??? ?????????? ???  
??? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????  
????????? ?????? (?? 2002, L 15, ?. 24), ? ?????? ?????? ?????????? ?????? ???  
????????? ??? ?????????? ??? ?????? ????. ? ?????? 2001/115 ?????? ?? ??? 6

? ?????????? 2002, ??? ? ???????? ??? ?? ???????? ??? ?? ?????????? ??? ?? ?????????? ??? ??  
????? ??? ???? 1? ?????????? 2004. ??????? ??? ???? ??? ?? ?????????? ??? ??  
????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?? ??? ?????? ??? ??????????????  
????????? (????? ??? 18?? ?????????? 2003, *Staatsblad* ????. 530, ??? 29?? ??????????  
2003, ?. 1). ?? Hoge Raad ?????????? ?? «????? 22, ?????????? 3, ??????? ??, ??????  
?????????, ??? ?????? ?????? (????? ?????? ?????? 1? ?????????? 2004)», ????,  
???? ??????????????, ? ?????? ??? ?????????????? ?????? ?????? ??????????, ?? ??? ??????  
????????????? ?????????? ?? ?????????????? ??? ?????????? ?? ??? ?????? ??? ?????????? ???, ???  
???? ??? ?????????? ??? ?? ??? ?????? ??? ??? ??? ??? ??????, ? ?????????? ???  
?????????. ?? ?????????? ?????? ?????????? ?????? ??? ?????? 226 ??? ??????  
2006/112.

17 – ??? 206 ??? ?????? 2006/112.

18 – ??? ???? 22, ?????????? 4, ???????? ??, ? ???????? ?????????? ?????????? ???  
?? ?????? ??? ??????, ?????? ? ??????, ? ?? ?????????? ?????? ??? ??  
????????? ?? ???, ? ?? ?????????? ?????? ?? ?????????? ?????? ?????? ?????????? ?  
????? ??????????, ??????, ??? ?? ?????? ??? ???? ???? ???? ???? ???? ???? ???? ???? ???? ????  
?? ?????? ??? ?? ??? ?????? ?????? ?????? (?. ??? ?????? 252 ??? ?????? 2006/112).

19 – ?????? ??? ?????????? ?????????????? ??? ??? ??????????, ??? 16?? ??????????  
1998, ??? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ?????? (?? 1998, L 80, ?. 27).

20 – ? ???????? ???, ? ?????? ?????????? ??? ?????? ??? ?????? 29 ??? ?????? ??????  
(????? 398 ??? ?????? 2006/112) ??? ??? ?????? ?????????? ?????????? ??? ??????  
????? ??? ??? ??????????, ?????? ?????? ?????? ?? ??? ?????? ??? ?????????? ??? ?????????? ???  
??.

21 – ?????????? ? ???????? ???, ??? ?????? ??? ?????? ??? ?????? ?????????? ??????????, ? ??? ??????  
?? ?????????? ?????? ?????????? ?????? ?????????????? ?????? ??? ?????????? ??? ?? ??? ??  
??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????. ??? ??? ?????? ?????????? ?????? ???  
????????? ??? ?? ?????????? 19 % ?????? ?? ?? 119 % ??? ?????? ?????? ??? ??????.  
????????, ?? ??? ??? ??? ??? ?? ??? 19/100?, ??? 19/ 119? ??? ?????? ??????  
????????. ? ?????? ?????????? ??????, ?????????? ??? ?????????, ??? ??? ?????? ???  
????????? ???.

22 – ??? ??? ?????????? ????????, ?? . ?????? ??? 15?? ?????? 2007, C-35/05, Reemtsma  
(?????? 2007, ?. I-2425, ??? 38 ??? ?????????? ???????).

23 – ?? ?????????? ??? ?????????????? ?????? ???' ?????? ??? ?????? ??? ?????? ???  
?????????: ??., ??? ?????? ????????, ?????? ??? 11?? ?????????? 2007, C-443/06, Hollmann  
(?????? 2007, ?. I-8491, ??? 33 ??? ??? ?????????? ???????).

24 – ??? ??? ?????? ??? ?????? ??? ???????????, ?? . ?????? ??? ?????? 55 ??.

25 – ??., ??? ??????????, ?????? ??? 8?? ?????????? 2007, C-435/05, Investrand (??????  
2007, ?. I-1315, ??? 22 ??? ??? ?????????? ??????????).

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

27 – ??? ? ? ?' ??????????? ????????, ? ?????????? ??? ??????? ?????????? ???  
??? ?????? ??????????? ????, ?? ?????? ?????????? ?????? 200 ??? 800 ??????????? ???  
????????? (GBP).

28 – ? ?????????? ?????????????????? ??? ?????????? ?????????? ? ??? «?????? ?????» ???  
?? ??? ?????? ????????, ?? ??? ????????, ????????, ?????????? ??? ?? ??? ?????  
????? ????????, ?????????? ?????????? ????????, ?????????? ????????, ?????????? ???  
????? ????????, ?????????? ?????????? ????????, ?????????? ????????, ?????????? ???.

29 – ??? ? ? ?' ?????????? ????, ? ?????????? ??? ?????????? ??????????  
????????? ?????? ??? ?????? ? ?????? ?????????? ?????????????? ?? ??? ??  
????????? ?????????? ?????????? ??? ?? ?????????? ??? 17 000 ??? ????? ?????????? (GBP)  
?? ??????? ?? ?????? ??? ?? ??? ?????? ?????? ??????????. ?????? ?????? ?????? ??? ?  
????????? ?????? ?????????? ??? ??????, ??? ?????? ?????????? ?????????? ??? ??  
??, ?????????? ??? ?? ??? 0,5 ??? ?????? ??? ?????? ?????????????? ??? ??  
??, ?????????? ? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ???. ??? ?  
????????? ?????? ?? ?????????? ?? ?? ?????? ??? ?????? ??? «????????? ???  
?????????????» ? «????????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???, ??? ??  
?? ???, ??????????, ?? ??????????, ??? ??????????, ??? ??? ?????????????? ?? ??? ??????????  
????????, ??? ?????? ??? ?????????? ?????? ?? 0,5 ?????????????? ??? ?????? ??????????  
???? ??????. ???' ?????? ?? ??????, ? ?????? 3,5 ?????????????? ??? 4, ???  
???????????, ???, ????????, ? ?????? 2,5 ?????????????? ??? 2.

30 – ??? ? ? ?????????? ??? ?????? ?????? ?? ?????????? ?? ?????????????? ???,  
???? ?????? ??? ?????? 34 ??????. ????????, ?? ?????????? ?? ?????????? ??????????  
?? ?? ?????????? ??? ?????? ?????????? ?? ?? ?????????? ??? ?????????? ??? ??  
????????? ??? ?. ??? ??????????, ? ??? ?????? ??? ?????? 0,28 ??? ?? ??  
19 %, ?????????? 0,0447 ??? ?? (?? 19/119? ??? ?????? ?? 0,28 ???). ?? ?? ??? ??  
????????????? ??? 0,04 ???, ? ??? ?????? ??? ?????? 0,24 ????. ???, ?? 19 % ?? 0,24  
???? ?????? ?? 0,0456 ???, ?? ?????? ?????? ?? ?????????????? ??? 0,05 ???, ??? ??  
???? ?? ??? ?? ?????? ?? ??? 0,29 ???.

31 – ?????? ??? 24? ??????? 1996, C-317/94, Elida Gibbs (?????? 1996, ?. I-5339,  
?????? 18 ?? 24, ?????? 24). ??????? ?????? ?????????? ??? ? ???????, ???  
?? ?? ?????? ?????? –«the tax authorities may not in any circumstances charge an amount  
exceeding the tax paid by the final consumer [?? ?????????? ??? ?????? ?? ??????? ?? ??  
????????? ?? ?????????? ??? ?????? ?? ?????????? ??? ?????? ?? ??????? ?? ??????? ??  
?????????]» – ?? ??????? ?? ?????? ??? ?????? –«l’administration fiscale ne saurait en définitive  
percevoir un montant supérieur à celui payé par le consommateur final [?? ?????????? ??  
?? ??????? ?? ?????????? ?????? ??? ?????????? ??? ?? ??????? ?? ??????? ?? ??????? ??  
?????????]» (????????? ???).

32 – ?????????? ??? ?? ?????????? ??? ?? ?????????? ?? ?????????? ?? ??????????  
????????? ???????, ?? ?????? ?????????? ?? ?????????? ?? ?????? ?? ??????  
?????????? ??? (?. ?? ?????????? ??? ?? ?????? 12 ?????? 98/6).