

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

PAOLO MENGONZI

??? 13?? ???? 2009 (1)

?????? C?242/08

Swiss Re Germany Holding GmbH

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Finanzamt München für Körperschaften

[?????? ??? Bundesfinanzhof (???????) ??? ??? ?????? ?????????????? ??????????]

«???? – ????? ??????? ?????? ?????????????? ?????? – ?????????????? ??? ?????? ??? ?????? – ?????????? – ?????? ??? “????????????? ??? ?????????????? ?????? ??????” – ?????????? ?? ?????????? ??????, ?? ?????? ?????????????? ?? ?????? ??????, ??? ?????? ??????, ??? ?????? ?????????? ?????????»

1. ??? ?????? ???????, ? ?????? ??? ?? ?????????? ??? ?????????? ?? ?????? ?????????? ??? ?????? ?????????? ?????????? ??? ?????????? ?? Bundesfinanzhof, ?? ?????????? ?????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? «????????????? ??????» ??? ?????????? ?????? ??????.

I – ?????????? ???????

2. ? ??? ?????? ??? (2) ?????????? ??? ?????????? ??????, ??????, ?? ??? ?????? ??????: ??? ?????? ?????? ??? ??? ?????? ??????????. ??????????, ?? ?????? 5 ?????? ??? ?????? ?????? ?? ???:

«1. ?? “????????? ??????” ?????????? ? ?????????? ??? ?????????? ?? ?????????? ?????????? ??????.

2. ?????????? ?? “????????? ??????” ?? ?????????? ??????, ?? ??????????, ? ??????????, ?? ?????? ??? ?????? ??????.

[...]

3. ??????? ?? ?? ?????? 6, «[?] “?????? ??????????” ?????????? ??? ?????? ? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? 5» ??? ?????? ? «????????? ?????? ??????, ?? ?????? ?????????????? ?? ??? ??? ??????.

4. ??????? ??? ?? ?????? ??????? ?????? ??? ??????????? ?? ??? 9 ??? 13 ??? ??????
?????? ??? ?????? ?? ??? ??????????? ??? ?????????????? ??? ???????.

5. ?? ????? 9 ?????? ???, ??????, ??? ??? ?????? ??????? ??? ???, ?? ?????? ??????
????????? ?????????? ? ????? ?????????????? ??? ?????????? ??? ??????????. ??????????,
?? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ?? ?????? ??? ???.. ?????? ??????,
????????? 2, ??????? ??, ?????????? ?? ???:

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

[...]

– ??????????, ?????????????? ??? ?????????????? ??????????, ?????????????????? ???
????????? ??????????, ?????????? ??? ?????????? ?????????????? ???,

[...]».

6. ?? ??? 13 ??? ??? ?????? ??????? ??? ?????? ?????????? ??? ?? ?????????? ???.
?????????, ?? ?????? ? ??? ?? ?????? ?????? ?????????? ?? ???:

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

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

[...]

?) ??? ?????????? ???, ?? ?????? ?????????? ?????????????? ?? ??????????????
????????? ???, ??????, ?????? ??? ?????? ?????? ?????? ? ??? ?????? 28, ?????????? 3,
????????? ??, ??? ??? ?????????? ??? ?? ?????? ??? ??? ?????????????? ??????????
?????????, ??? ??? ??? ?????????? ??????, ??? ?????? ? ?????????? ? ? ???????,
????????? ??? ?????????? ??????, ?????? ??? ?????? 17 ?????????? 6-

?) ??? ?????????? ??????:

[...]

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

3. ??? ???????, ?????????????? ??? ?? ??????????????, ?? ?????? ??????
??????????, ?????????????? ?????????????, ???????, ?????????? ?? ?????????,
??????????, ??????? ?? ?????????? ?????, ?????????? ?? ?????????? ???????????

[...]».

II – ?????????? ?????????????, ?????????? ?????? ?? ?????? ?????????? ???
????????????? ??????????

7. ? ??????? Swiss Re Germany Holding GmbH (??? ????: Swiss Re) ?????
????????????? ??? ??????? ??? ?????????????? ??? ?????? ??? ??????????????. ??
2002 ??????? (3) ??? ????? S, ? ?????? ????? ?????????????? ??? ?????? ??? ??????
???? ??? ????? ?? ?? Swiss Re, 195 ?????????? ??????????????. ?? ?????????????????? ??
Swiss Re ??? ?????? ?????? ??? ?????? ?????????????? ?????????? ?????????????? ???
????? ?????? ??? ?????? ?????????????? ?????? ??? ?????????? ??? ?? ?????? ???.

8. ? ??????? S ??????? ?? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????? ???
?????????????, ?????? ?????, ?????????????? ?????????? ??? 18 ??? ?? 195 ??????????.
?????????????, ??????, ?? ?????????????? ?? ?????? ?????? ??? ?? ??????????, ? ??? ??
18 ????? ?????????? ?????????? ??? ?? ?????????? ??? ?? ?????????? 177.

9. ??????, ? ??????? ??? ?????????? ?????????????? ?????????????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ?? ?? Swiss Re (?????? ???
????????????? ??? «????? ??????»). ? ??????? S ?????????????? ?? Swiss Re ???
????????? ??? ??? ?????????? ??? ?????????? ?? ?????????????? ??????????.

10. ?? ?????????? ?????????? ???, ??? ?????????? ?? Finanzamt München für
Körperschaften (?????? ??? ?????? ??? ??????? ??? ??????, ??? ????: Finanzamt), ??????????????
?? ??????? ??? ?????????? ?? ?????????? ??? ?????? ??? ?????????????? ??? ??????? ???
???? ??????? ??? ?????????? ??? ??? ?????? ????. ? Swiss Re, ??? ??? ?????? ???, ??????????
??? ??????? ??? ?????? ??? ?????? ??? ?????????? ?????????????? ??? ??? ?????????? ???.

11. ?? ?????? ?????????? ???, ?????? ??? ?????????? ???, ? ??????? ???
????????? ??? ?????? ?????????? ??? ?????????????? ??? ?????? ??? ?????????? ??? ??.
?????????, ?? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?? ?????????? ??? ??
???? ?????? ?????????? ??? ?????? ??? ?????????? ???, ??? ??? ??? ??? ???, ??????
??? ?????????? ?? ?????? ??? ?????????? ??? ?????????? :

«1) ?? ??? 9, ?????????? 2, ??????? ??, ?????? ?????????, ??? 13, ?, ???????
?? ??? ?, ?????? 2 ??? 3, ??? ?????? ?????? [...] ??? ?????? ??? ? ??????????????????
?????? ?????? ?????? ??? ?????? ?? ?????????? ? ?????????? ?????????? ??????????
????????????? ???, ?????? ??? ?????? ?? ?????? ?? ?????????? ?????????? ??? ??????????
?? ??? ?????? ?????? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??????????
?? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??????????
????????????? ???, ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

?) ?? ?????????? ? ?????????? ??? ?????? ??? ?????? ??? ?????? 9, ?????????? 2,
????????? ?, ?????? ???????, ??? ?????? ?????? [...] ?

?) ?? ?????????? ??? ?????? ??? ?????? ??? ?????? 13, B, ?????????? ?, ??? ?????? ?????? [...] ?

?) ?? ???????, ? ???? ???' ?????? ?????????? ??? ?????????? ?????? ??????????
??????????, ??????, ??? ??? ?????????? ??? ?????? ?????? ??? ?????? ??????????,

?????????, ??? ? ? ????? 13, B, ????????? ??, ?????? 2 ??? 3, ??? ????? ?????? [...] ;

2) ?????????????? ? ?????????? ??? ??????? 1, ?? ?????????? ??? ?? ?????????????? ???????????
??? ? ??? ? ? ? ??????????? ??? ? ?????? ??? ? ?????? ?????? ?????;

3) ?? ?????? ?????????? ?????????? ??? ??????? 1, ?????????? ??, ?? ????: ???? ?? ????? 13,
B, ??????? ??, ??? ?????? ??????? [...] ??? ?????? ??

— ?????????? ?????????? ?????????????? ?????????????? ?????????????????? ?????????????????? ?????????????????? ?????????????? ?????????????? ?????????????? ?????

— ???? ?????????? ?????????? ??? ?????? 13, B, ?????????? ??, ??? ?????? ?????????? [...], ??? ?????? ?? ?????? ?????????? ?????????? ?? ?????? ?? ? ? ? ?????? ??? ?????????????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??????????;

III – ?????? ???????

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

12. ??????????? ?? ???? ??????? ?? ???? ???????????, ?? ???? ?????? ???
?????? ?? ?? ?????????????? ?? ???? ???? ? ???, ??????? ?? ??? ???? ??????, ??
?????? ?? ??????, ?? ??????????? ?? ???? ?????? ????? ??????? ?? ?????????????? ?? ????
?????? ?? ??? ?????? ???????.

13. ??????? ?? ?????? ?????????????? ???????, ?? ?????? ?????? ?? ?????????????? ??????????
??? ?????????? ?????? ?????? ??? ?????? 13, ?, ??????? ??, ??? ?????? ??????,
????????? ??? ? ??????? ?????? ?????? ?? ??????? ?????? ??????, ? ??????
????????? ??? ? ??????? ?????? ?? ?????? ??? ??????? ?????? ??? ?????? ??????
??? ??????? ???.

14. ??????????????, ?? ?????????? ?????????????? ?????? ?????? ?????????? ?? ?????????? ?
????????? ?? ?????????? ?????????? ?????????? ??????. ??????????, ?? ?????? ??????????
?????? ???, ??????? ?? ?? ?????? ??????, ?????????? ?? ?????? ?????????? ??????. ??? ??
????????? ?????????????? ?? ?????? ?????? ?????????? ??????, ?? ?????? ?????????? ?? Finanzamt,
????????? ?? ?????????? ?? ?????? ?????????? ?????? 5 ??? ?????? ?????? ?????? ??
????????? ?????? ?? ?????? ?????? ?????????? ?????? ??????, ??? ?? ?????? 6 ?????????????? ??
????? ?????????? ?? ?????? ?????? ?????? ??? ?? ?????????? ?????? ?????? ??????. ?????????? ?, ?
????????? ?????????? ?????????????? ?? ?????? ?????????? ?????? ?????????????? ??
?????????, ?? ?????? ?????????? ?? ?????? ??????????, ?????? ??? ?????? ?????? ??????
????????? ?????? ?????????? ?? ?????? ??????????, ?????? ?????? ?? ?????? ?????? ????. ?? ??
????????????? ? ?????? ?????? ?????????? ?? ?????? ?????????? ??? ?????????? ??????????, ?????? ??? ?
????????, ??? ?? ?????? ?????????? ?????????? ?? ?????? ?????????? ?????? ??? ?????? ??
????????, ??? ?? ?????? ?????? ??????????.

15. ???????, ?????????????? ?? ?????????? ??? ? Swiss Re ??????????, ?? ??
?????? ?????????? ???, ??? ?? ????? ?????? ?? ?????? ?? ?????????? ?? ?????????? ??
????????? ??? ?????????? ?? ?????? 13, ?, ??????? ??, ??? ??????, ?????????????? ??? ?
????????? ??? ?????? ?? ?????????? ??? ?? ?????????? ?????? ???????, ??? ??
????????? ?????? ??? ?????? ?? ?????????? ??? ??????. ???????, ? Swiss Re ?? ??????? ??
???, ??? ?? ????? ?????? ???????????, ??????? ?? ?????????????? ?? ?????????? ??
????????? ??????, ?????????? ?? ?????????? ??? ?????????? ?????? ?????? ?????????? ??
????? ?????????? ?????? ??? ?????????? ?????.

16. ?? ?????????? ?? ??????? ?? ?????????????? ?? Finanzamt ??? ?? ?????????? ?? ?? ??????

??? ? ?????????? ??? ??????? ?????????? ??????? ?????????? ??????? ?????????? ??? ?????
??? ?????????? ??? ??????? ?????? ??? ??????? ?????????? ??? ?????? ??? ?????? ??????????
?????? (4). ?? ????, ?? ?????????? ??? ? ??????? ?????????? ??? ? ??????? ??????????
?????? ?? ?????????? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? 13, ?,
?????? ??.

17. ????????, ??? ???? ???? ???? Finanzamt ??? ?????? ?? ?????? ?????? ??? ??? ?
?????? ??? ?????? ??? Swiss Re ??? S ?????? ?? ????????????, ??? ??????
??? ????, ?? ?????? ??????.

18. ????????, ????????, ??????, ???, ??? ?????? ?????????????? ??? ?? ??????????
???????, ??? ???? ?????? ?????? ?????????? ?????????? ??? ?? ??????????
????????? ?????? ?? ?????, ?? ?? ??? ?????? ???, ?????????? ??????
????????? ?????????? ?? ??? ??? ?????? ?????? (???????, ?????????? ???
??). ????????, ??? ?? ??? 6, ?????? ?????????? ?????? «???????, ????, ???,
????? ?????????? ??? ???? ??? ?????». ??? ????????, ? ?????????? ????????, ????
??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???, ??? ??
????? ?????? ??? ?????? ?? ?????? ??? ??????.

19. ??? ???? ??? ?????? ??? ?????? ??? ??????? ?? ?????????? ??? ? ??????? ?????? ??? ??
?????? ??? ?????? ???, ??????, ? ??????? ?????? ?? ?????? ??? ?? ?????? ??? ??????
????????? ??? ?????????? ??? ?? ??? ?????? ?? ?????? ??????????, ????,
?????, ???, ??? ?????? ????????, ?? ?????????? ??? ?????????????????? ??? ?????? ???
????? ?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ??????, ??? ?? ??????????
??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? (5).

20. ?????????? ??? ?????? ??? ? ??????? ??? ?????????? ??? ?????????? ??? ?? ?????? ??????????
????? ?? ??? ?????????? ??? ?????? ?????????? ? ?????? ??? ?????????? ??? ?? ??? ??????????:
???????, ? ?????? ?????? ?????? «?????» ??? ?? ?????????? ???
????????? ?? ??? ????????, ?????????? ??? ?????? ??? ?????????? ??? ?????????? ???.
????????? ???, ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?? «???????, ????, ???,
??? ?????? ???.

21. ????????, ???, ??? ???? ??? ??????, ? ??????? ??? ?????? ?????????? ??? ?????? ??
?????? ??? ?????? ????????, ??? ??? ?????? ??????, ? ??????? ??? ?? ?????? ?????????? ???
??????, ?? ??? ??? ?????? ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? 13, ?,
?????? ??, ?? ?????? ?? ??? ?????? ????????, ?????? ?? ?????? ?????????? ??? ?????? ??????
??? ? ?????? ??? ?????? ?????? ???.

22. ???????, ??? ???? ?????? ?????? in abstracto o ?????????????? ??? ??????? ??
????????? ????, ? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?? ??????????
????? ??? ?????? 13, ?, ????????, ??, ??? ?????? ?????? ?? ?????? ?? ??????????
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? (6)
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? Swiss Re.

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

?????? ?? ?????????? ??????? ??? ?????? 13, ?, ???????? ??, ??? ?? ??? ??????????

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

24. ? ??? ?????? ?????? ?????????? ??? ?????????????? ?????????? (?? ?????? ?????????????????? ?????????? ??? ?????? ?????????????? ??? ?????? ?????????? ??????????) ?????????? ?????????? ?????????? ?????????? ??????, ?? ?????? 9, ?????????? 2, ????????, ???, ??????, ????? ???????????????, ???, ??? ?????? ??????? ??? ???, ?????? ???, ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????.

25. ???????, ?? «????????????? ??? ?????????????? ??????????» ?????????????? ??? ??? ??? ??????? ??? ?????? 13. ??? ??? ??????? ???, ? ?????? ?????????? ??? ???, ??? ?????? 135 ??? ?????? 2006/112, ? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? (8). ??? ??????, ??????, ?? ?????????? ??? ?? ?????? 33 ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?? «????????? ??? ?????? ?????? ??? ??? ?????? ?????? ?????? ?????? ?????? ??????». ?? ??? ?????? ?????? ??? ?? ?????? 401 ??? ?????? 2006/112.

26. ??? ?????????? ???????, ??? ?????? ???????, ?? ? ?????????? ??? ?????????? ?????????? ?????? ?????? ?????? ?????? ?? ?????? ?? ?????????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?? ?????? ?? ?????? ?????? ?? ?????? ?????? ?? ?????? ?????? ?? ?????? ?????? ?? ?????? 9, ?????????? 2, ?????? ??, ?????? ?????? ?????? . ?????? ??, ?????? ?????? ?????? ?? ?????? ?????? ?? ?????? ?????? S, ? ?????? ?????? ??? ?????? ?????? : ?????? ??????, ? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? 13 (9).

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

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

28. ?? ?? ?????? ?????????????? ???????, ?? ?????? ?????????? ?????? ?? ?????????????? ?????? ?? ?????????????? ?????? ?? ?????????????? ?????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? 9 (????? ?????? ?? ?????? ?????? ?????? ?? /??/ ?? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? 13 (????? ?????? ?? ?????? ?????? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? 13, ?, ?????? ??, ?????? 2 ?? 3, ??? ?????? ??????.

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

1. ??? ??? ?????????? ?? ?????????? ? ?????? ?????? ??? ?????? ?????? ?????? ?????? «????????? ??????»

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

30. ?? ?????? ??? ??????? ??????? ?? ?? ??????? ??????? ??? ??????? ????,
?????? ?? ?????????? ?? ?????????????? ?? «????????????? ??????» ? ??????? ????,
????????? ?????????????? ????.

31. ??????, ? Swiss Re ??? ? ??????? ??????????? ?? ??? ????? ??????????? ????
???????. ????????????, ????, ??? ???? ?????? ??? ???? ?????????????? ???
?????????? ?????? -?????? ?? ?????????????? ?????????? ??? ?????? ??????? ???
????????? ?????????? ?? ?? Swiss Re- ?????????? ?? ?????????? ??? ????????, ?
????? ?????????? ??? ?????? ?????? ?????????????? (?? ? Swiss Re ??? ???????,
S), ?????????? ?? ?????????? ??? ?????????? ?????? ?????? ?????? (??)????????? ???
(??)?????????????, ?????????? ?????????? ?????? ?? ?? ?????????? ??? ?????????? ???
?? ?? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

32. ????????, ? ????????, ? ????????, ? ????????, ? ????????, ???? ??????? ??? ?
?????? ??????? ??????? ??????? ??? ???? ?????? ??? ??????? ??? ??????? ?? ???????,
?????????? ?????? ??? ?????? ??? ?????? ?? ??????? ??? ??????? ??? ???????, ???
????????? ?????? ???????????, ????, ???, ?????, ??? ?????????????? ??? ?? ?? ???????,
? ?????????? ?????????????? ?????????? ?????????? ?????????? ??? ??????? ?????????? ???
????????? ??? ?? ?????? ??? ?????? ??? ???????, ? ??????? ?????????? ?????????? ??? ??????? ??
????????? ?? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ?? ?? ????.
????????? ??? ?????????? ??? ?? Finanzamt.

33. ??? ?? ????????, ?????????? ??? ?????? ??? ?????? ??? ?????? ??????????, ??????????? ???
????? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ?????????? ??????????, ??
????? ??? ?????????? ??? ?????? ??? ?????? ?? ?? ?????? ??? ?????? ?? ?????????? ???
????????? ??? ?????????? ??? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ? ??????????
?? ??????????.

??????????

34. ? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????????? ????????. ??????????, ??
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??????????, ??
????? ??? ?????? ??? ?????????? ?? ?????? 13 ??? ?????? ??????.

35. ????????, ???? ????, ???, ??? ?????? ?????????? ?????????????? ??? ??
?????????, ? ?????? ??? «????????????? ??????» ?????? ?????? ??? ?????????? ??? ??????
(10). ? ?????? ???, ??? ?????? ??? ?????????? ?? ?????????? ??? ?????? ?? ?? ??? 13,
????? ????, ??? ?? ???, ?? ?????? ??? ?????? ???, ??? ?????????? ??? ??? ?????? ??? ??????????
?? ?????? ?????? ??? ?????? ?????????????? ? ?????? ???, ??? ?????? ??? ?????? ??
????? 9. ????????, ??? ?????????? (11), ??? ?????? ??? ?? ?????????? ?????????? ???
????? 9 ?????? ?????????? ??? ?? ?????????? ?????? ??? ?????? 13. ????????, ??
????????? ??? ??????, ??? ?? ??? ?? ??? ?????? ??? ?????? ?????????? ?????????? ???
????????? ??? ?????????? ??? ?????????? ?? ?????????? ?????? ??? ?????? ?????????? ???
????????? ??? ?????? 9, ?????????? 2, ?????? ?, ??? ?????? ?????? (12).

36. ?????? ?????? ?????? ? ?????? ??? ?????? ??? ? ?????? ??? ?????? 13 ?? ???
?????? ?????? ?? ?????? ??????????, ?????? ?? ?????? ??? ?????????? ?????? ??????????
?? ?? ?????? ?????? ??? ?????? ??? ?? ??? ?? ??? ?????? ??? ?????? ?????????? ??? ?? ??? ??????
????????? (13). ? ??? ?????, ?? ?? ??? ?????? ???, ?????, ???????, ?????????? ??? ??
????????? ?? ?????? ??? ?????? 9 ??? ?????, ?? ?????? ??? ?????????? ?????????? ???

?? ?????????? ???, ??? ???? ?????????????? ??? ???? ?????? ??? ?????????? ??? ?????????????? ???
????????????? ?????????? ??? ?????? ?????? (14). ????, ??????????, ??? ? ? ?????? ???
????????? ??? ?????????? ???, ??? ???? ?????? ?? ?????? ?????? ??? ?????????? ??? ?????????? ???
??? «????????????? ??????» ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
???? ????????, ??? ???? ?????? ?? ?????????? ?????????? ??? ?????? ???, ?? ?????? ???
??? ?????? 9 ??? ??? ??? ????? 13 ??? ??????.

37. ??? ???? ?????? ?? ??????????, «??? ?????????? ??? ?????????? ??? ?????????? [...] ???
?? ??? ? ?????????? ??????????, ??? ???? ?????? ??? ?????????? ??? ?????????? ???, ?? ??????, ??
????????? ?????????? ??? ?????????? ?????? ??????????, ??? ?????? ??? ?????? ??? ?????????? ???
????? ?????????? ??? ???? ???? ?????? ??? ??????» (15). ??????, ??? ???? ??????????
???? ?????????? ?????? ??? ???? ?????? ?????????? ??? ?????????? ??? ?????? ??? ??????????
??? ??? ??????.

38. ????????, ?? ?????? ?? ?????????? ???, ???, ?????? ??? ?????? ??? ?????? ???
????????????? ?????????? ?????? ??? ???? ???? ?????????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? (16), ?????? ?????? ??????????, ??? ????
????????? ??? ???? ?????? Skandia, ?? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? (17).

39. ??? ???? ???, ??? ???? ?????? ???, ??? ???? ?????? ??? ???? ?????? ???
????????? ??? ???? ?????? ??? ?????? ??? ???? . ? ??? ???? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ???? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? S, ??? ???? ??? ?????? ???
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? Swiss Re (?? ??????, ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ???). ??? ?
????? ???, ?????? ???, ???? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ???
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???: ? ?????? ??? ?????? ???
????? ??? ?????? ??? Swiss Re ??? ???? ?????? S, ??? ???? ?????? ???
????????? ??? ?????? ??? ?????? «????????? ??? ??????» ???
????? ??? ?????? ??? ??????.

40. ??????, ? ?????? ??? ?????? ??? ???? ?? Swiss Re ??? ?????? S ??? ??????,
????????? ??? ??????.

41. ??????, ? ?????????? ??? ?????? ?????????? ?? ?????? «?????????» ??????????
????????????? ?????????? ?????????? ?? ??????, ?? ?????? ?????? ??? ?????????? ???
Abbey National (18). ?? ??????, ?? ??? ?????? ???, ?? ?????? ?????? ???, ?? ?????? ???
«????????? ??????», ? ?????? ?????? ???, ?? ?????? ???, ?? ?????? ???, ?? ?????? ???
13, B, ?????? ?? ??? ?????? ???, ??? ?????? ???, ?? ?????? ???, ?? ?????? ???
??? ?????? ??? ?????? ???, ??? ?????? ???, ?? ?????? ???, ?? ?????? ???
«????????? ??????», ??? ?????? ???, ??? ?????? ???, ?? ?????? ???
????????? ??? ?? ?????? ??? ?????? ???, ??? ?????? ???, ?? ?????? ???
«????????? ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ?? ?????? ???, ??
????????? ??? ?? ?????? ??? ?????? ???, ??? ?????? ???, ?? ?????? ???, ??
????? ??? ?????? ??? ?????? ???, ??? ?????? ???, ?? ?????? ???, ?? ?????? ???.

42. ??????, ? ?????? Abbey National ?????????? ?????? ??? ?????????????????????
?????????, ? ?????????? ??? ?????? ?????? ?????? ?????????????? ??? ??? ?????????? ???
????????????? ??????????. ??????????, ?????????????? ? ?????? ??? ??????????
????????? ??? ?????? ?????? ?? ?????????? ?? ??? ?????? Skandia (20). ??????, ??? ???
????? ?????????? ??? ?????????? ??????, ? ?????????????? ?????????? ??????????
????????????? ?????????????? ??? ??????, ??????, ?? ?????????? ??? ??? ???.

43. ??????, ? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ??? ???
????????????? ??? ?????????? ?????? ??? ??? ?????? ??? ?????? ??? ??????????????
??? ?????????? ?????? (21) ??? ???? ??? ?????? ??? ?????? ??? ??????????
????????????? ??? ?????? ??? ?????? ?? ??? ?????? Abbey National (22). ????????, ???
?? ??? ?????? ??? in abstracto ? ?????????? ?????????? ??? ?????????? ??? ?????? ???
????????? Abbey National, ? ??????? ??? ?? ??????, ?? ??? ??????????, ?? ??????????
?????? ??? ?????????? ??? ?? ?????????? ??? ?????????????? ?????????? ??????? ???
????????????? ??????????????, ??? ?????????? ?? ?????? (??? ?? Swiss Re ???
????????? S) ??? ?????? ?????????? ??????. ?? ?????? ??? Swiss Re ??? ? ??????
S ?????? ??? ?????, ??? ?????? ?????? ?????? ??? ?????????? ?? ?????????? ??? ?????? ???
????????? ?? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? (23), ?????? ??????????
?? ??????????.

44. ? ?????? ??? ?????? ??? ?????? ?????????????? ??? ??? ?? ?????????? ??? ??????????
?????? ?? ??? ??? ??? ?????????? ??? ?????????? ?? ?????? 13, ?, ??? ?????? ??????:
????????? ??? ?????????? ??? ?????????? ??? ?? ?????? ?? ?????????? ??? ??????????
?????????, ?????????? ?????? ?????? ??? ?? ??? ?????? Lubbock Fine ?????????????? ???
????????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????????? (24), ??
?? ?????????? ?????? Cantor, ?? ?????????? ?????? ?? ?????????? ?????? ?????????? ???
????????? ?????????? ?????? ??? ??? ?????? ?? ??? ?????? (25).

45. ??????, ??? ?????, ??? ?? ?????????? ??? ?????????? ??? ??? ??????????
????????, ??? ??? ??? ??? ?????????? ???????, ?????????? ? ??? ??? ?? ?????????? ???
??? ??? ??? ?????????? ??? ?? ??? ?????? ?????? ?? ?????????? ??? ?????? ???
«?????» ?????? (????? ??? ?????? ?????? ??? ?????? ??? ?????????? ?????? ??? ??????)
??? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ??????), ?????? ??
«?????????» ?????? ??? ?????? «?????» ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?? ?????????? ??? ?????, ??? ?? ??????????, ? ?????? ??? ?????? ??????
????? ??? ?????? ?????????? ??????.

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

47. ??????????, ?? ?????? ?? ??????????, ??????, ??? ????? ??????? ?? ??????????
????????? ?????????? ?????? ?????????????? ??? (26). ????????, ?????? ??? ? ?????????? ??
????????? ?? Swiss Re ??? S ??? ?????? ?? ?????????? ?????????????? ?????? ?? ??????
?? ??? ?????????? ?????? ??? ?????? ? ?????? S ?????? ??????. ??? ??????, ??????,
?? ?????????? ??? ?? ??? ??? ?????????? ??? ??? ?????????? ??? ?????????? ??? ??????????
????? ??? ??? ??? ?????? ??? ?????? ??? ?????????? S ??? ??? ??????????????, ??
?????, ?????? ????, ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?? ??? ?????? ??? ?????? ?? ?????? ??? ?????? –??? ?????? ??? ? ??? ??
????????? ??? ?????? –, ??? ?????? ?????????? ???????????, ??? ??? ??? ?????? ?????????? ???
????????? ?? Swiss Re.

48. ??? ???????, ?????? ??? ? ?????????? ??? ??????? ?? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ?????????????? ?????????? ??? ? ?????????? ??????????
????????????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????? ??? ?????? ??? ??????
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 9 ??? ??? ?????? 13 ??? ??? ?????? ???????.

2. ??? ??? ?????? ?????? ??? ?????? ??????????

49. ?? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????????????? ???????????, ?? ??????
????????? ????, ???' ??????, ?? ? ?????? ??? ?????? ??? ?????? ?? ?????????? ????
????????????? ??? ?????? ??? ?????? 13, ?, ??????? ??, ?????? 2 ??? 3 ??? ?????? ????.
????? ?? ???????, ????, ??? ? ?????????? ??? ?????????? ??? ?? Swiss Re ??? ?????? S ???
? ???????? ??? ?????????? ?????????? ?????????? ??? ?????? ?????????????? ??? «??????»
?????????» (????? ??? ?????? ??? ?????? 2) ??? ?? «??????[?] [...] [?] ???[?] ??? [...] [...]
?????????» (????? ??? ?????? ??? ?????? 3). ??????????, «?????????» ?? ??????
??????? ??? ?????? ??? ?????? S ?????? ??? ???????????, ??? ?? «?????????» ??
????????? ??? ?????? ??? ?????? S ?? ?????? ??? ??????????? ??? ?????? ??????????? ??
?????????.

50. ??? ?????????? ??? ?? ?????? ??????????, ??? ?? ?????? ?? ?????????? ??? ?
????????? ??? ?????? ?????????????? ??? ?????? ??? ?????? 13, B, ?????????? ??, ?????? 2 ??? 3, ???
???????, ?? ?????? ?? ??? ?????? ?????????? ?? ?????? ?? ?????????? ?? ????????????:
?????????, ?? ?????????? ?????????? ???????????, ?? ??? ?????? ?????????? ??? ??????????? ??
??????.

51. ??? ?? ?????????? ??? ?????? ??? ??????, ?? ?????? ?????????? ?????????????? ??????????????
???????, ??? ?? ??? ?? ??? ?????? ??? ?????? ??? ??????????. ????????, ? Swiss Re ??? ?
???????, ????, ?????????????? ???, ?? ? ?????? ??? ?????? ??? ?????? ??? ?????????? ??????????
???????, ???? ?? ??????????, ???????????, ?? ?????? ??? ?????????? ??? ?????? ??? ??
????????????? ??? ??????????. ??????????, ??? ?? ?????????????? ???????????, ?????? ???
?? Finanzamt, ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ????????????
????????? ??? ?????????? ??? ?????????? ??? ??? ???, ?????????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
??????.

52. ?????? ??? ?? ??? ?????? ??? ?????, ?????? ??? ? ??? ?????? ??? ?????????? ??? ??? Finanzamt
????? ?????????? ??? ?????? ??? ??? ??? Swiss Re ??? ??? ??????????.

53. ??? ?? ?????? ???, ? ?????????? ?????????? ?????????? ??? ?????? ?????????? ??????????
?? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ?????????? ??? ?????????? ???
????????? ?????????? (27). ?? ?????? ??? ? ?????????? ?????? ?????????? ?????????? ??? ??????
????????? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ???

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

54. ?????? ??? ??? ?????? ??? ?????? ??????????, ??? ??? ?? ?????? ??? ??????????
????????? ??? ?????????? ??? ?????? ?????? ?????????, ?? ?????? ?????? ?????? ??? ??????
??? ?????? 13, B, ??????? ??, ?????? 2 ??? 3, ??? ?????? ??? ?????????? ?????? ??????. ???
?? ?????? ??? ?????? ?????????? ?? ?????? ??? ?????? ?????????? ?????????? ?????? ???
????????? ??????, ?????? ? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??????, ??? ??
????????? ??? ??? ??????, ?????? ?????????? ??????, ??? ?? ?????? ?? ?????? ??? ?????????? ??
????? ?????? ?????????? ??? ?? ?????????? ?????? ?????? (28). ??? ??? ??????
??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ?????? ?????? ?? ???
????????? ??????, ??? ?????? ?? ?????? ??? ?????? ?????? ?????????? (29), ??? ?????? ??
????????? ??? ?????????????? ??/?? ?????????? ??????, ??? ?????? ?????? ?????? ???
????? ?? ?????? ??? ?????? ?????????? ?????? (30).

55. ??? ??? ?????? ?????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ??????
????? ??? ?????? ?? ?????????? ??? ?? ??? ?????? ??? ?????? ??? ?????? 13, ?, ????????,
????? 2 ??? 3, ??? ??? ?????.

3. ?????? ??? ?????? ?? ?????? ?????? ?????????????? ??????

56. ?????????????? ??? ?????? ??? ?????? ??? ?????? ?????????????? ??????????,
????????? ??? ?????????? ?? ?????????? ??? ? ?????? ?????? ?????????? ?????????? ??????, ??? ??
????????? ??? ?????????? ?? ?????????? ??? ?????? ?????, ??? ?????? ?????????? ??????
????? ??? ?????? ??? ?????? ??? ?????? 9 ??? ?????? ??? ?????? ??? ?????? 13 ??? ???
????? ??? ??? ?????? ??? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? 13, ?, ????????,
????? 2 ??? 3, ??? ??? ?????.

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

57. ?? ?? ?????? ?????????? ?????????? ??? ?????? ?? ?????? ?????????? ??????, ???' ??????, ?? ?
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ??? ?????? ??? ?????????? ??? ??????????
??? ??? ?????? ??? ??????????, ??? ??? ??? ??? ?????? ?? ?????? ?????? ?????? ??? ?????? ??
?????????, ??? ??????????????, ?????????? ??? 18 ??? ??? 195 ?????????? ??????????
????? ?????? ???, ? ?????? ?????????? ??? ?? ?????? ?????? ??? ?????? ??? ?????? 177
????????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?? ?????? ?????? ?????????? ?,
????? ??? 18 ?????? ?????????? ??? ?????? ???, ??? ??? ?????? ??? ???,
????????? «?????????»: ? ?????? ??? ?????? ?????? ?????????????? ??? ?????? S, ?
????? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ?????? ?????????????? ??? ??????????
??? ?????? ??? ?????? ??? ?????? (?? Swiss Re).

58. ??? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??????????
??? ??? ?????? ??? ?????? ??? ?????? ?????????? ??????: ? ?????? ??? 18 ?????????? ??
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?? ?????? ??? ?????? ??? ?????? ??
?????????, ? Swiss Re, ? ?????? ??? ? Finanzamt ?????????? ??? ?????? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ??
????????? ??? ?????????? ?? ?????????? ?? ?????? ??? ?????? ??? ?????? ???, ? ?????? ??
????????? ??? ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? a priori ??
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ??

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

59. ???? ??? ???? ??? ?????????? ?????????? ??? ?? ?????????? ??? ???? ??????????
????????? ?????? ?????? ?????????? ???, ???? ??? ?????? ?????????? ???, ???????, ?????? ?
????????? ?????????? ??? ?????? ?????? ? ?????? S ?????????? ?????? ??? ??????????
Re ??? ?????? ?? ?????? ?????????? ?????????? ???, ???? ??? ?????? ?????? ??? ??????????
????? ?? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ??????????
????????? ??? ?????? S ? ????, ?????? ?????????? ?? ???, ?????? ?????? ?????? ??? ??????
?????????. ? ?????? ?????? ??????????, ???? ?????????? ??? ?????? ??? ?????? ??? ?????? ??
????????????? ?? ????, ???? ?????????? ?????, ?????????????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?????? ??? ?????????? ??????.

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

61. ???????, ?? ?????? ?? ?????????? ??, ?????????? ??? ?? ?????????? ??????????????
????????? ?????? ?? ?????????????? ?????????? ???, ??????? 195 ?????????? ??? ?
????????? ??????, ???? ?????? ??? ?????? ???, ?? ?????????? ?? ??? ??????????
????????? , ? ??? ???? ???? ?????? ?? ??? ?????? ?????????? ??? ?????????? ?? ??? ?????? ???
??? ? ??? ???? ?????????? ?? ?????????? ????. ???????????, ?? ??? ???? ?????? ???
????????? ??? ???? ?????? ?????????? ?????????? ?????????? ?????????? ??? ?????? ??
????????? 195 ?????????? ??????????.

62. ?? ?????? ?????? ?? ?????? ??? ?????????? ??? ?????????? - ???????, ?????? ?? ?????? ???????.
????????, ???? ?? ?????????? a priori ?? ?????????? ? ?????????? ??? ?????????? ??
????????? ?????????? ???, ? ?????????? ?? ?????????? ? ?????????? ??? ?????????? ?????????? ??
??? ? ?????????? ????. ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ??
??? (31).

63. ???????, ? ?????????? ??? ?????? ???, ???? ?? ?????? ???, ?? ???????????. ???? ??
????????????? ??? ?????????? ??? ?????????? ??? ?????? ??? Swiss Re ??? ?? ?????????? S,
?? 195 ?????????? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????? ???,
??? ???? ?????? ???, ? ?????? S ?????? ??? Swiss Re ??? ?????? ?????? -??? ????
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ??
????????? ??? - ?????? ??? ?????? ??? ?????? ??? Swiss Re ??? ?????? ??? ??????
????????? . ??????, ?? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ??
????????? ??? ?????? CPP, ?????? ?? ??? ????? «? ?????? ??? ?????????? ??? ?????? ??
????? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??
??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???» (32). ??? ??????,
??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ? ?????????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

64. ?????? ??? ?????? ?? ??? ?????? ??? ?????????? ?????????? ??? ?????? ? ?????????? ??? ??
????????? ??? ?????????? ??? ?????? ?????????? ?????? ?????? ?????? ??? ?????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

IV – ??????

65. ?????? ??? ?????????? ???, ?????? ??? ?????????? ?? ??? ?????? ??? ?????? ???

????????? ??? ?????????????? ?????????? ??? ??????? ?? Bundesfinanzhof:

«????????? ?????????? ??????????????, ??? ?????? ??? ?????????? ?? ?????????????? ??? ??????
?????, ??? ?????? ?????????????? ?????? ??? ?????? ??? ?????? ??? ?????? 9 ??? ?????? ???
????? ??? ?????? 13 ??? ?????? ?????? 77/388/??? ??? ?????????? ??? 17?? ?????? 1977
???? ?????????????? ??? ?????????? ??? ?????? ??? ?????, ??? ?????????? ?? ?????? ?????? ??????
????????? – ?????? ?????? ?????? ?????????????? ?????: ?????????? ?????????? ?????? ?????.
????????? ??? ?????? ?? ?????????? ??? ??? ?????? ??? ?????? 13, ?, ?????????? ?,
?????? 2 ??? 3, ??? ?? ?????? ??????.

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

????????? ?????????? ??????????????, ??? ?????? ??? ?????????? ?? ?????????????? ??? ??????
?????, ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????? ?? ?????????? ?????? ??? ?????? 13, ?, ?????? ???, ??? ?? ?????? ??????»

1 – ?????? ??? ??????????: ? ??????.

2 – ??? ?????? 77/388/??? ??? ??????????, ??? 17?? ?????? 1977, ??? ?????????????? ???
????????? ??? ?????? ?????, ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? – ??????
????????? ?????? ?????????????? ?????: ?????????? ?????????? ??? (?? ????. ????. 09/001, ?. 0049).

3 _ ??????????, ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ??
Swiss Re, ??? ??? ?????? ??? ?????????? ?????????????? ?????????????? ??? ? ?????? ??? ?????? ???
? ?????? ?????????? ??? ?????? ?????????? ?????????????? ??? ?????? ??? ?? ?????????? ???
????????? ? ?????? ??? ?? ?????? ?????????? ?????????? ???, ??? ?????????? ??? ??
????????? ??? Swiss Re –????????????? ??? ?????? ?????? – ?? ?????????? ??? ??????????
?????????.

4 – ?????? R/716/77 (FIN 151).

5 – ??., ??? ??????????, ??????? ??? 8?? ?????? 2000, C?375/98, Epson Europe (?????????
2000, ?. !?4243, ????? 26 ??? ??? ?????????????? ??????????).

6 – ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????????
????????? ??? ?????? ??? ?????? ??? ?????, ???, ?????????? ??? ?????? ??? ?????? ???,
????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? . ? ??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????? 2006,
?????? ?? ?? ?????? ?????? ?????? ?????? ?????????? ?????? (?? L 347, ?. 1) ?????????? ???
?? «????????? ?????? ?????? ?????? ?????????????? ?????????? ?? ?????????? ???
????????? ??? ??? ???» (? ?????????? ??? ???).

7 – ? ?????? ??? ?????????? ???, ???????, ?? ?????????? ? ?????? ??????????, ????
????? ??? ?????????? ?? ?????? ??? ?????????? ?????????????? ??? ?????? ???
????? ??? ?????? ??? ?????? ???' ???, ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ???, ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ???, ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? (?????? 1997, ?. !?3605), ??? ?????????? ??? 10?? ?????????? 1996

??? ??????? ?????????? Ruiz-Jarabo Colomer ??? ??? ??? ?????? (?????? 14 ??? 20). ?? .
?????? ??????? ??? 6?? ??????? 2006, C?18/05 ??? C?155/05, Salus ??? Villa Maria Beatrice
Hospital (?????? 2006, ?. I?6199, ??????? 29 ??? 30).

8 – ?. ??????? ?????????? ??? ??????? ?????????? Fennelly ??? 11?? ??????? 1998, ???
??? ??????? ??? ??? ?????? ??????? ? ??????? ??? 25?? ?????????? 1999, C?349/96,
CPP (?????? 1999, ?. I?973, ?????? 26 ??? ???????), ????? ??? ?????????? ??? ???????
????????? Poiares Maduro ??? 12?? ??????? 2005, ??? ??? ??????? ??? ??? ??????
????????? ??? ??????? ??? 3?? ??????? 2005, C?472/03, Arthur Andersen & Co. (?????? 2005,
. I?1719, ?????? 13 ??? ???????).

9 – ????????, ??? ????????, ????????, ???????, ??? ?? ?????????? ?????????????? ?? ??????? ???
????????????? ??? ?? ?????? ????????, ??????????, ?? «????????????? ???????,
????????????? ??? ??????? ??????????», ??? ????? 9 ??? ?? «????????????? ???
????????????? ??????», ??? ????? 13. ??? ??? ??? ????? ?????? ??? ?? ??? ??? ?????
????????????? ??? ????? ??????????????.

10 – ?. ??? ????????, ????????, ??? 5?? ??????? 1997, C?2/95, SDC (?????? 1997, ?. I?3017, ??? 21), ??? Arthur Andersen, ?????????????? ??? ?????????? 8 (????? 25).

11 – ?. , ???????, ?????????? 9.

12 – ??????? ??? 17?? ??????? 1993, C?68/92, ??????? ??? ?????? (?????? 1993, ?. I?5881, ??? 14).

13 – ?. ?????? Arthur Andersen, ?????????????? ??? ?????????? 8 (????? 24 ??? ???
????????? ??? ???????).

14 – ?. ??????? ??? 6?? ??????? 2007, C?401/06, ??????? ??? ?????? (?????? 2007, ?. I?10609, ??? 29).

15 – ?????? CPP, ?????????????? ??? ?????????? 8 (????? 17).

16 – ?????? CPP, ?????????????? ??? ?????????? 8 (????? 22). ?. ??????, ???'
???????, ?????? SDC, ?????????????? ??? ?????????? 10 (????? 32).

17 – ??????? ??? 8?? ??????? 2001, C?240/99, Skandia (?????? 2001, ?. I?1951, ??? 39
?? 40).

18 – ??????? ??? 4?? ??????? 2006, C?169/04, Abbey National (?????? 2006, ?. I?4027).

19 – ?????? Abbey National, ?????????????? ??? ?????????? 18 (????? 72).

20 – ?????????????? ??? ?????????? 17.

21 – ??????? ??????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????? 2006/112/E?
?????? ?? ?? ?????? ??????? ??? ?????????????? ?????, ??? ????? ?? ??????????
????????????? ??? ?????????????? ????? [COM(2007) 747 ???].

22 – ??????????, ?? ?? ?????? ?????? ?????????? ?????????? ?? ?????????? ??? ?????? 135 ??
?????? 2006/112/?? ??? ?????????? 1?, ? ?????? ?? ??? ?? ??????????: «? ?????????? ???
????????? ??? ?????????? ?? ??? ?? ??? ?????????? 1 ?????? ??? ?????? ??????????
?? ?? ?????????? ?????? ????? ?????????? ? ?????????????? ?????????? ?????????? ?? ???
????????? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ??????

????????????????? ?????.»

23 – ????, ??? ???????????, ?????????? ???????, ?????????? ??????????????? ???, ??????,
?????? ??????????? ??????.

24 - ??????? ?? 15?? ?????????? 1993, C-63/92, Lubbock Fine (?????? 1993, ?. I?6665, ??????? 9 ?? 10).

25 – ??????? ??? 9?? ?????????? 2001, C?108/99, Cantor Fitzgerald International (???????)
2001, ?. I?7257, ?????? 21 ??? 24).

26 – ????? ??????? ???. ?????????? ?????????????????????? ???. ??????????????, ?? ?????? ????.
????????? ?????????? ???. ??? ?????????????????? ???. ??? ?????????? ??????. ? ??????
????????? ???. ?????????????? ???. ??? ?????? ???. ??? ?????? ???. ??? ?????? ???.
????????? ???. ?????? ???. ?????? ???. ?????? ???. ?????? ???. ?????? ???. ?????? ???. 21. ?????. ???.
????????? ???. ?????????? ???. ?????????? ???. ?????? ???. ?????? ???. ?????? ???. (?) 2006, C
224, ?. 124), ???. ?????? ????????. 3.

27 - ???. ???????, ??????? 36.

28 – ?. ??????? ??????? ??? 19?? ??????? 2007, C?455/05, Velvet & Steel Immobilien
(?????? 2007, ?, I?3225, ??????? 21 ??? 22).

30 – ?????????????? ?????? ??? ?????????? ??? ??? ?????????? ??? ?????? ?????????? ?
???????, ?????????? ?? ??????, ??????? ?? ??? ?????????? ??? ??????????, ? «???????
?????????????», ??? ????????????, ??? ????????????, ??? ????????????, ??? ?????????? ?? ??????????? ???
???????, ??? ??????? ?? ??? ?????????? ??????, ??? ??? ??? ?????????? ??? ????????,
?????? ?? ?????? ?????? ?????? ?? «????????? ??????????? ??????????». ??? ?? ??????????????
??? ??????????? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ?????? ??? ?????????? ??? ??????
13 ??? ?????? ??????? ??? ?????????? ?????? ???. ?????????? ??? 13? ?????? 1989, 173/88,
Skatteministeriet ??? Henriksen (?????? 1989, ?. 2763, ??????? 10 ??? 11), ??? 26??
?????? 2003, C?305/01, MKG (?????? 2003, ?. I?6729, ??????? 69 ??? 70), ??? Velvet &
Steel, ?????????????? ??? ?????????????? 28 (????? 20 ??? ??? ?????????????? ??????????).

31 – ????????, ?? ?????????? ? ?????? ??? ? ?????? ?????? ?????? ?????? ? ?????
????????????? ?? ???? ?????? (??? ??? ? ?????? ??? ?????????????? ????????, ?? ??????
????????????????? ??? ?????????????? ??? ??????), ??????? ?? ?? ?????? 9 ??? ?????
??????, ? ??? ?????????? ??? 177 ?????????? ?? ?????? ??? ?????? ?? ?????? ? ?????????? ??? ?
????? ?????????? ??? 18 ?????????? ?? ?????? ??? ?????? ? ??????????.

32 – ??????? CPP ?????????????????? ??? ?????????????????? 8 (????? 29).