

62010CC0500

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

ELEANOR SHARPSTON

??? 17?? ?????????? 2011 ( 1 )

?????? C-500/10

Ufficio IVA di Piacenza

????

Belvedere Costruzioni Srl

[?????? ??? Commissione Tributaria Centrale, Sezione di Bologna (???????)

??? ??? ?????? ?????????????? ??????????]

«?????????? ??? ?????? ?????? ?? ?????????????? ??? ?????????????? ?????????????? ?????????? ??? ??? —  
????? 2 ??? 22 ??? ????? ?????? — ???????? ??? ?????? ?????????????? ?????? ??? ?????? ??? ?????? ???  
????????????? ??????????»

1.

?????????? ?? ??????? ? ?????????? ?????? ?????? ?????????? ??? ?????????????? ??????????????, ?  
?????? ?????????? ?????? ?????????? ?????????? ???????, ????? ??? ??????, ?? ?????????? ?????? ??? ?????  
?? ?????????? ?????? ?????????? ?????? ?????????? ??? ?????' ???, ??? ?????? ?  
?????? ?????????? ?????????? ??? ?????????? ??? 10 ??????? ???, ? ??? ??? ??????????  
?? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ?????? ?? ?????????? ??? ?????????? ???  
????? ?????? ??? ??????????.

2.

?? Commissione Tributaria Centrale, Sezione di Bologna (????????? ?????????????? ???????????,  
????? ??????????), ??????? ??? ?????? ?????????? ??????? ???, ????? ??, ??? ? ??????  
???? ?? ?????????? ??? ??, ??????? ?????? ?????? ?????? ??? ?? ?????? ??????? ???  
????? ?????? ?? ?????????????? ??? ?????????????? ?????? ?????? ??? ??????.

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

3.

???? ?? ????? 4, ?????????? 3, ??? (????? ??? 10 ??), ?? ?????? ??? ?????????? ??  
????????????? ??? ?????????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?? ?????? ?????????? ?  
????????? ??? ?????? ??? ?????????? ??? ??????? ??? ???????, ?? ?????????????? ???  
????????? ??? ?????????? ??? ??????? ??? ?? ?????? ??? ?? ?????? ?????????????? ???  
?????? ?? ?????? ?? ??????? ??? ?????????? ??? ?????????????? ??? ?????? ??? ?????? ??? ??????.  
????????? ?????????? ??? ?????????? ???.

4.

?? ?????? ?????????? ??? ???????????? ??? 1?? ?????????? 2007 ??? ?????? 2006/112  
( 2 ). ??? ???? ?????? ?????? ??? ?????? ??????, ?? ???? ????? ?????????? ??????????????  
????? ??? ???? ( 3 ). ? ?????????? ?????? ??? ?????? ??? ?????? ?????? ??????????  
????? ?????????? ?? ????? 2 ??? 22 ??? ?????? ??????.

5.

?? ????? 2 ?????:

«????? ??? ?????????????? ??? ????? ??????????»:

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

2. ?? ?????????? ??????» ( 4 ).

6.

?? ????? 22 ??? ????? ?????? ?????? ??? ????? «????????????? ??? ?????????? ??????». ??  
????? ?????????? ?????? ??? ?????? ??? ??? ?????????? ???:

«4. ??? ?????????? ??? ?????? ??? ?????? ?? ?????????? ?????? ?????? ?????? ??????????  
????????????? ??? ?? ?????? ??? [...].

5. ??? ?????????? ??? ?????? ?????? ?????????? ?? ?????????? ?? ?????? ?????? ??? ??????  
????????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? [...] .

[...]

8. [...] ?? ?????? ??? ?????? ??? ?????? ?? ?????? ?? ?????? ?????????? , ??? ??????  
????????? ??? ?? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?? ??????  
?????????????» ( 5 ).

7.

?? ?????? ?????????? ?????? ??? ?????? 37 ??? 39 ??? ?????? ???  
????????? ??? 17?? 2008 ??? ?????? C-132/06, ?????? ??? ( 6 ):

«37

?? ???? 2 ??? 22 ??? ?????? ??????, ?????? ??? ??? ?? ?????? 10 ??, ?????????? ???  
????? ?????? ?????? ??? ?????? ?????? ?? ?????? ??? ?? ?????????? ??? ??????????  
????? ??? ?????? ?????? ?? ?????? ??? ?????? ?????? ?????????? ??? ??? ??? ???  
????????? ??? ?????? ??? . ??? ?????? ?? ?????? ??? ?????? ?????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? , ??? ?????? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?? ?????????? ??? ?????? ???.

38

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

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

39

? ? ?????????? ??? ?????????????? ??? ? ?? ? ?????????? ?????????????? ???  
????????????????? ??? ?????????? ??? ???? ?????? ??? ?????????????? ??? ? ?? ? ?????????? ??? ??  
????????????? ??? ?????????? ??? ???? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ????  
????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? . ?? ??????????  
????? ?????? ??? ???? ?????? ?????? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ???? ??? ???  
????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? , ??? ???? ?? ???? ??  
????????????? ??? ?????????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????????? ???  
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (????? ??? 16?? ??????????)  
2004, C-382/02, Cimber Air, ?????? 2004, ?. I-8379, ?????? 24). ??? ?????????? ??? ??????  
????? ?????? ?? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? .»

8.

? ? ??? ?????? ?????? ???, ?? ?????????? ?????? ??? ? ?????? ?????? ?????????? ??????????  
(????? 8 ??? 9 ??? ?????? 289/2002), ? ?????? ??????????????, ??? ???? ??? ?????? ???  
????????? ??? ?????? ?????????????? ??? ?????? ?????????? ?????????????? ?? ?????????? ??  
????????? ??? ?????? ??? ???, ??? ?????????? ??? ???? 2 ??? 22 ??? ???  
????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ?? ?????? ?????????? , ?? ?????? ??? ??????  
??? ?????? ??? ?? ??? ?????, ?????????? ??? ?????? ?????????? ?? ?????? ?????? ??? ?????? ??? . ?  
????? ?????? ?????? ?????????? ?? ?????? ?????? ?????????? , ?????????????? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ?????????? ???, ?????????????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? (7 ).

9.

? ?????? ????, ?? ?????????? ?????? ???, ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????????? ??? ?????? ???  
????????? ??? ?????? ?????????? ??? ?????? , ? ?????? ?????? ??? ?????? ?????????? ??? ??? ??? ??  
????? 2 ??? 22 ??? ?????? ?????? , ?????? ??? ??? ?????? 10 ??.

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

10.

????? ??? 1? ?????? 1996 ?? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ??????????  
?? ? ? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????? ,  
????? ?? ???' ?????? ?????? ??? Commissione Tributaria Centrale ?? ??? ? ? ????. ???  
1? ?????? 1996 ( 8 ), ?? ?????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ?????????? ???  
????????? ?????? ?????? , ?? ?????? ?????? ??? ?????? ??? Corte di Cassazione  
(????? ?????? ?????? ??????). ???' ?????, ?????????? ?? Commissione Tributaria  
Centrale. ? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? , ??? ? ? ???  
????????? ?? ?????? ??? ?????? , ?? ?????? ?????? ??? ?????? ?????? ?????? , ??? ? ? ???  
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? . ? ?????? ???  
????????? ?????? ( 9 ).

11.

? ???????, ??? ???? ?? ?????? ?? ?????????? ??????? ?????????????? ??????? ( 10 ),  
?????? ?? ?????? ??? 26 ????? 2010. ? ??????? ??? ?? ???:

«?????????? ? ??????? ??? ?????????? ????? ?? ?????????????? ????? ?? ?? ???  
?????? ??????? ??? ?????, ??? ?????? [????????? ?????? ?? ?? ??????? ???  
????????? ??? ?????? ??? ?????? ?????? ?????? ???????, ??? ????: ???],  
????????????? ??? ?? ?????? ??? “?????? ??????????” ??? ?? ?????? ??????  
????? ??? ??? 6, ?????????? 1, ??? ?? ??? ??????, ?? ?????????? ??????????  
????????? ?????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ??  
????? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??????????  
????????? ??? 10 ???, ??? ?????? ??? ?????? ? ?????? ?????????? ??? ??  
(amministrazione finanziaria dello Stato) ??????? ??? ?????????? ??? ?? ???' ???,  
????????? ??? ???:

a)

? ? ??????? ???? Commissione tributaria centrale ?????????? ???????,  
????????????? ??????? ?? ?????? ??? ?????? ?? ?????????? ?????????? ??????????  
????????????? ??????? ?? ?????? ??? ?????? ??? ?????????? ?????????? ?????? ??  
????????? ?????????? [...]?

b)

? ? ??????? ???? Corte di Cassazione ?????????? ??????? ??  
?????????? ?? ??? ??????? ?????? ??? ?? 5 % ??? ?????? ??? ?????????? [...] ??  
????????? ??????? ?? ?????????? ?????? ??? ?????? ?????? ?????????????? ??? ??  
????? ??? ??? 89 ??? 24?? ?????? 2001 [( 11 )]. ? ?????????????? ?????? ?? ???????  
????? ??? ?????? ?????? ?????? ?????????? ?????? 90 ?????? ??? ??? ?????? ?????? ???  
????? ??? ?????????? ??? ?????? ?????????? ?????????? ?????????? ?? ???, ??????????????  
????????? ??? ?????? ??????. ? ??? ?????? ??? ?????? ?????????? ?????? ??????  
????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ?? ??? ??' ???  
????????? ?????? ??? ?????????? ?? ??? ?????????? ?? ??? ?????? ??? ?????? ??? ?????.  
????????? ??? ??? ?????????? ?????? [...]».

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

12.

? ? ?????? ??? ??? ?? ??? 1980, ? Belvedere costruzioni s.r.l. (???: Belvedere)  
?????? ??????? ?? 24288000 ??????? ?????? (ITL). ??? 8 ?????? 1982 ??????  
????????? ??? ?????? ?? ??? 1981 ?????? ???. ?? ??? ?????? ?? 1982 ?????? ??,  
????? ?? ?????? ?????? ??? ?????? 22264000 ITL ( 12 ), ?????????????? ??? ?? ???  
???? ?????? ??? ?????? ??? ?????????? ??? ??? ?????? ?? ??? 1981 ?????.

13.

? ? ?????? 1985 ? ?????????? ??? ?????????? ?? ??? Belvedere ??? ?? ??? 1982  
?? ??? ?? ??? ?? ??? ?????????? ??? ? ?????? ??? ?????? ?????????? ?? ??? ?? ???  
?? ??? 1981 ??? ?? ??? ?????? ?????? ?????? ??? ?????? ??? 22264000 ITL.

14.

?????? ??? ?????????????? ?????????????? ??????????????, ? Belvedere ????????????? ??? ?  
????? ??? ??? ?????????? ?? ?????????? ??? 1981 ??? ??? ?????????? ??? ?????? ???  
????? 1980 ??????. ?????????????? ??? ? ??? ??? ?????????? ?? ?????? ???  
????????????? ???, ?? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ??? ?????????? ?????? ?????? ?????????? ?? ?????? ??? ?????????? ???  
????? ??? ??? ?????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???  
????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???  
????? ??? ??? ?????? ??? ?????? ??? . ?????????? ??? ??? ?????? ?????? ?????????? ??????????  
?? ?????? ??? Belvedere, ? ?????????? ??? ??? ?????????? ?? ?????? ??? ?????? ???  
????????? ??? ??? ?????? ??? ?????? 1982 ?????? ??? ??? ?????????? ??? ??? ?????? ???  
????? 1980 ?????? ?????????? ???.

15.

? ?????????? ??? ?????????? ??? ? ?????? ??? 1981, ? ???? ??? ?????? ?????????? ??????????,  
????????? ??? ?????? ??? ?????? ?????????? . ?????? ??? ?????? ?? ?????????? ??? ?????? ??  
????? ??? ?????? ??? ?????? ?????????? ?????? ?????? ?????????? ?????????? ?????????? ???  
????? ?????????? ?????? ?????? ?????? ?????????? ?????? ?????? ?????????? ?????????? ???  
????? ?????????? ??? ??? ??? ?????????? ??? ?????? ??? ?????? 1982. ??? ??? ?????? ???,  
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ??? ?????? ???  
1982 ?????? ??? ?? ??? ??? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??? 1981.

16.

??? ?????? 1986, ?? ?? ??? ?????? ?????? ?????????? ?????????? ?????????? ?????? ???  
????? ??? Belvedere. ??? ??? 1990, ?? ?????????? ?????? ?????????? ?????????? ??? ?????? ??  
????????? ????. ??? ?????? 1990, ? ?????????? ??? ?????? ?????? ?????????? ?????? ???  
????????? ?????????? . ?? 2008 ? ???? ??? ?????????? ??? ?????????? ?????? ??????????  
????????? ??? ?????? ????. ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ???'  
????? ?? ??? ?? ??? ?????????? ??? ?????? ?????? ?????? ?????????? ?????? ??????????.

17.

??? ?????????? 2010, ?? Commissione Tributaria Centrale ?????? ?????? ??? ??????????  
????????? ????. ?????? ?? ??? ?????????? ?????? , ? ??? ?????? ??  
????????? ????. ??? ?????? ?????? ?????? , ? ??? ?????? ?????????? ??? ??????  
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????  
??? ??? ?????? ?????? ?????? . ??? ?? ??? ?????? ?????? ??? ?????? ?????? ?????? ???  
????? C-132/06, ?? ?????? ?????????? ?????????? ?? ?????? ??? ?????? ?????? ??? ??  
????? ?? ?. ?????? ???, ??? ?? ?????? ??? ?????? ??? ?? ?????? ?????? ?????? ??????:

«????? ?? ?????????? ??? ?????? 10 ??? ?????? ??, ??? ?????? 4 ???, ??? ??? ?????? 2  
?? 22 ??? ?????? ?????? [...] ?????????? ??? ?????? , ?????????????? ???  
????? 3, ?????????? 2 bis, ??? ?????????? ?????? 40, ??? 25? 2010, ??  
????? ?????????? ??? 73, ??? 22? 2010, ?? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? ??? ?????? ? Amministrazione, ??? ?????? ??? ??????  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ? Amministrazione ?????????? ?????? ??? ??? ?????????? ??? ??????  
??, ?? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????? ?????????? , ??? ?????? ?????????? ???, ??? ??? ?????? ???

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

18.

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

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

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

19.

? ?????? ??? ?????? ?????? ?????? ??? ??? ??? ??? 1980 ??? 1982. ?????? ??????  
????????? ?????? ?????? ??? Commissione Tributaria Centrale ??? ?? 1996, ??? ??  
????????? ??? ?????? ?????? ?????? ?????? ??? ??? ??? ?????????? ??? ??  
????? ??????, ?????? ?? ??? ?????? ??? ?????? ?????? ??? ??? ?? ?????????? ??? ??  
????? ??????????, ?????? ?? ??? ?????? ??? ?????? ?????? ??? ??, ?????????? ??? ??  
????? ??? ??? ??? ??? ?????? 2006/112, ? ?????? ?????? ?? ?????????? ??? ?? 1??  
????????? 2007.

20.

????? ?????? ?? ?????? ?????? ??? ?????? —????? 10 ?? ? ????? 4, ?????????? 3, ???—  
? ?????????? ?????? ?????????? ??????, ?????? ? ?????????????? ??????  
????? ?? ??? ??? ??? 2010, ??? ?? ?????? ?????? ??? ?????????? ??? ??????????  
?????????, ?????????? ??? ?? ??? ?????? ?????? ???' ?????? ??? ?????? ?????????? ???  
????????? ?????????? ?, ?????????? ?????? ?????? ?????? ??????.

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

21.

? ???? 3, ?????????? 2 bis, ??????? a ??? b, ??? ?????????? ?? ??? ?????? ??????????  
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????????  
??? ?????, ?????? ?? ?? ? ?????? ?????? ?????? ?????? ??? Commissione Tributaria  
Centrale ? ??? Corte di Cassazione. ?????? ?????, ?? ?????????? ?????? ??? ?????? ???  
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ?????? 90 ?????, ?????? ?????????? ?????? ?? ?????? ??? ?????? ?? 5 % ???  
????? ?? ??? ?????? ?????? ?????? ??? ?????? ( 13 ).

22.

? ??? ?????? ?????? ?????? ?????????? ?????????? ?????? ?????? ?? ?????? a. ???  
????????? ?????? ?????? ?????? ?????? ??? ?????????? ?? ?? ?????? b ??????. ? ?????? ???  
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????????? ?????? ??? ??????  
????? ?????? ??? ?????? ??? ?????? ( 14 ), ? ?????, ?????, ??? ?????? ?? ???, ???  
??? ??? ?????? ?????????? ? ?????? ??? ??, ??? ?? ?????????? ?????? ??? ??? ??  
??? ?????????? ? ?????? ?????? ?????? ?????? ?????? ?????????? ?????? ??? ??.

23.

????????? ?? ??????? b ?????????? ?????????? ?????????? ?????????? ?? ?? ??????? a,  
????? ?????????? ?? ?? ?????? ??? ?????? ??? ?????? ????. ??????????, ??? ?? ??????????, ???  
????? ? ??????, ??? ?????? ??? ?? ?????? ????, ??? ?????? ?? ?? ?????? ?? Corte di  
Cassazione ?????????? ? ?????????? ?? ?????? b ?? ?? ?????? ??? ?? ??? ??????????  
????????????? ?????????? ??? ?????????????? ?????.

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

24.

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

25.

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

26.

????? ??? ?????? ?????? ???? ?? ?????? ?????? ?????? ?????? ?????????? ??  
????? ??? ?????? ?????? ??? ?????? ?????? (????????? ???? ?????? ?????? ?????? ????  
????????? ??? ?????????? ?????? ?????? ???? ??? ?????? ?????? ????  
Commissione Tributaria Centrale, ?????? ??? ?????? ?????? ??? ?? 1996 ? ??????  
????????? ??? ?????????? ???? ?????? ?????? ??? ?????? ?????? ???? ?????? ?????????? ???  
?? ???' ????. ?? ?? ??????, ?????????? ?? ?????????? ???? ??? ?????? ??????  
????????? ?????????? ?? ?????? ?????? ?????? ??? ?????? ?? Commissione Tributaria  
Centrale. ?? ?????????? ?????? ?? ?????????? ???? ??? ?????? ??? ?? ? ?????? ??????  
?? ?????? ??? ?????? ???? ??? ?????? ??????.

27.

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

28.

????? ??? ?? ?????? ???? ??? ?????? ?????? ???? ?????? ?? ?????????? ?????? ??  
????????? ???? ?????? ?????? ???? Commissione Tributaria Centrale ???????.  
??????, ??? ??? ?????? ?????? ?????? ???? ??? ?????? ?????? ?????? ?????? ???  
????????? ??? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ??????  
????????? ?????????????? (? ???? ?????????? ???? ?????? ?????? ?????? ?????? ??  
?? ?????? ??? ??????).

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

29.

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

30.

??? ??? ?????? ????, ? ??????? ?????? ??? ? ??????? ?????? ?????? ?????? ??????  
????????? ??? ?????? ??????? ??? ?????? ??????? ?? ?????????? ??? ?????????? ???  
????????? C-132/06, ??????? ??? ???????, ??? ? ?????, ??? ??? ?????? ?????? ?????? ???  
????? ? ??????? ?? ?????? ?????????? ??? ?????? ??????? ???????, ?????????????? ??? ??  
????? ??? ?? . ? ??????? ?????????? ???, ??????? ?? ??? ?????? ??????? ???????,  
????????? ??? ?????????? ??? ??????? ?????? ??????? ??? ?????????? ??? ?????????? ???????,  
????? ?????????? ??? ?????' ??? ????? ???????????. ??????, ? ?????????? ??????????  
????? ??? ??' ?????????? ??????? ??? ?????? ?????? ?????????? ?????????? ??? ??? ??  
????? ??? ?? ?????? ??? ??? ?????? ??????.

31.

? ??????? ?????????? ?????????? ???, ?? ??????? ?? ??? ?????? ?????? ? ??? ?????? ??????????  
?? ??????? ?????????? ??? ?????????? C-132/06, ??????? ??? ??????, ? ???????  
?????? ?????? ?????? ?????? ?????????? ??? ?????? ??????? ??? ?????? ??? ??????????  
????????? ????, ?????? ? ?????? ??????? ?? ?????????? ??? ?????? ??? ?????? ??? ??????????  
????? ?????????? ?? ?????? ??? ?????? ??????? ??? ?????????? ??? ?????? ??? ??????????  
????? ?????????? ??? ?? ?????? ?????? ??? ?????????? ?????? ?????? ??? ?????????? ???  
????????? ??? ?????? ???' ??? ??? ?? ?????? ??? ?????????? ??? ?????? ??? ??????????  
????? ??? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ?????? ??? ?????? ??? ?????? ???????. ??????, ?? ?????????? ???  
????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??????????.

32.

??????????, ? ?????? ?????? ?????? ???, ?? ??????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? C-132/06, ??????? ??? ??????, ? ?????? ?????? ??? ??  
????????? ??? ?????? ?????????? ??? ?????? ?????????? ???, ??? ?????? ?????????? ??? ??  
??? ?????????? ?????????? ???, ?????? ?? ??? ?????? ??? ?????????? ??? ?????? ??? ??  
????? ?????????? ( 15 ). ???????, ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??  
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????????? ? ???, ??? ? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ???  
????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

???????

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

33.

???? ? ?????????? ??? ?????????? ?????????? ?????? ?????????????? ??? ??????  
???????????, ??? ??????? ?? ??? ?????? ??? ?? ?????????? ?????????? ??? ?????? ??? ??  
????????? ??? ?? ??? ?????? ?????????? ?? ?? ?????????????? ??????? ?? ??????? ??? ??????????  
??? ??? ?????????? ?? ?????????? ????. ?? ?????????? ?????? ?? ?????????? ??? ??  
????????? ???.. ?? ?????? ?????????? ?????? ?? ?? ??? ?????? ?????????? ?????? ?? ??????????  
?? «?????? ??? ?????? ?????????? ?????? ?????? ??? ?????? ?????????????? ??????», ???  
??? ?????? ??? ?????????? ??? ?????? C-132/06, ??????? ??? ??????????, ? ?? ??????  
????????? ?????????? ?? ??? ??????????, ??? ?? ?????????????? ?????? ??? ?? ?????? ???  
??.. ?? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?? ?????????? ?? ?????? ???.  
????????? ??????????, ?? ?????? ?????????? ?? ??? ?????? ??? ?????? ?? ?????? ??? ?????????.

34.

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

?????????? ?? ?? ???? ?????????????? ?????????????? ?? ???? ?????????? C-132/06 ??????????

35.

36.

????????????????? ( 16 ) ??????????? ???' ?????? ?????????????? ?????????????? ?????? ???  
????????? ?? ?????? ??? ?????????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
?????????????, ???? ?????????? ? ?????? ?????????????? ???? ?? ?????? ??? ?????? ?? ??????  
????????? ??? ?????????? ?? ?????????????? ?????? ??? ?????? ?????????????? ??????. ???? ??????  
?? ?????????? ( 17 ), ?????????? ??? ?????????? ?????? «?? [????????] ????  
????????????? ???? ???? ?? ?????? ?????????????? ». ?? ?????????? ?????? ?????? ?????????? ( 18 ) ???, «????????? ?????? ???? ???? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?????? ?? ?????????????? ???? ???? ?????? ?? ?????????? ???? ???? ??? ?????? ?????? ???  
????????? ???? ???? ?????? ?? ?????? ?? ??? ?????? ?????? ?????? ???, ???? ??  
????????? ???? ?????? ?????????????? ???? ???? ?? ?????????? ?????????? ??? ?????????????? ???  
????????? ?? ??? ???, ?? ?????? ?????????? ???? ?? ?????? ?????????????? ???? ?? ?????????? ???  
????????? ???? ???? ?????? ?????????????? ???? ???? ?? ?????????? ??? ?????????? ???? ???  
????????????? ???? ?????? ?????????????? ???? ???? ?? ?????????? ??? ?????????? ???? ???  
????????? ???, ? ??? 289/2002 ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ????

37.

???? ??????? ?? ??? ???? ?????? ?????????? ?? ?????????????? ?????????? . ? ?????????? ?????????????? ??? ?  
????????? ?????????? ??? ??? ? ?????? ?????????????? ?????? ??? ?????? ??? ?????? ??? ??? ??? ??? ?  
?????????? ??? ???? ? ?????? ?????????? ??? ?????? ?????????? ??? ?????????????? ??????. ?  
?????????? ?????????? ??? ?????????? ??? ?????????????? ?????????????? ??? ?? ?????????? ??? ?????? ???  
????? ??? ??? ???, ??? ?????????? ?? ??? ?????????????? ?????????????? ??? ?????????????? ??? ??????????????????  
????????? C-132/06 ??????????, ??? ??? ?? ?????????????? ?????????? ?? ??????????

????????????? ?????? ????? ??????? ??? Commissione Tributaria Centrale. ??? ??????????????  
????????? ?????? ??? ?????? ?? ?????? ??? ?????????????? ??????. ??? ?? ???? ?? ????  
????????? ?????? ?????? ?????????????? ??????????, ??? ?? ?????????????? ?? ?????????????? ???  
????? ?????????? ??? ?? ?????? ?????? ?????? ?????? ??? ?????????? ?????? ?????? ???  
????????? ??? ?????? ?????????? ?????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
??? ???' ?????? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???  
????????????? ??? ?? ??????. ??? ?????????????? ?????? ?????? ?????? ?????? (????? ????) ??  
????? ?? ?????????? ?????????? ??????) ?? ?????????? ?????? ?? ?????? ?????? ?????? ?????? ???  
????? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????? ??? ?? ?????????? ??? —???  
????? ?????????? ??? ?? ???' ?????. ??????, ? ?????? ?????? ?????? ?????? ?? ???  
????????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???  
????? ? ?????? ?????? ??? ?? «????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????? ?? ?????????? ??? ?? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? (19).

38.

? ? ??????, ??? ?????? ?? ?????????? ? ?????????? ??? ? ?????? ?????? «????????? ??  
????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?? ?????????? ??? ?????? ??????  
??? ???», ??? ?????????? ?? ??? ?????????? ?????? ?????????? ??? ?????? C-132/06  
?????????.

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

39.

? ?????? ?????? ?????????? ??? ?????????? ??? ?????? «?? ?????????? ??? ??  
????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ?? ?????????? ??? ?????? ??????  
????????? ??? ?? ??? ?????? ?????? ??? ?????? ???», «?? ?????????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ???», «?? ?????????? ???  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???» ??? «?? ?? ??????????  
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???» (20).

40.

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

41.

? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ?????????? ??? ???' ?????? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

42.

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

43.

44.

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

45.

????? ??? ? ?????????????? ?????? ??? ??????. ? ?????????? ??? ?????? ?????? Lucchini ???  
????? ?????????? ?? ?????????? ?????? ?????????? ?????? ??? ?????? ?????? ??? ?????????? ???  
????????????? ?????? ??? ?????? ?????? ??? ?????????? ?? ?????? ?????? ??????????  
?????????, ?? ??? ?????? ?? ?????????? ?????????????? ?????????????? ?????? ??? ?????? ???  
????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????. ??? ?????? ???  
???????? Fallimento Olimpiclub, ?? ??? ? ?????? ?????????? ?????????????? ?? ??? ??? ??? ???  
????? ?????? ?????? ??? ???, ?????? ??? ?????????? ?????? ??? ?????? ??? ???? ???  
????????????????? ?????????????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
????????????? ??? ??? ?????? ???, ??? ?????????? ?????????? ?? ??? ???, ?? ?????????????? ??  
????????????? ?????? ?????? ?????? ?????????? ?????? ?? ?????? ?????????? ?????? ???, ???  
????? ?? ?????? ???, ?????????? ?????????? , ??? ??? ?? ?? ?????????? ???' ????  
???????? ?????????? ?????????? ??????. ? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
?? ?? ??? ?????? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ??? ?? ?? ?? ??????  
?? ?????? ?? ?????? ??? ?? ??? ?????? ?????? ?????? ?????? ?????? ??? ?? ?? ?? ???.

46.

? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ??? ? ??? ?????? ?? ?? ?????? ??? ?????? ???  
«????? ?????» ??? ?, ??? ??? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ??? ??  
????? ??? ( 24 ).

47.

??????, ??? ???????. ?? ?? ??? ??? ?????? ?????? ?????? ?????????? ??? 0,3 % ???  
????????????? ?????? ??? ??? ?????? ?????? ?????? ( 25 ). ?????????? ??? ? ??????????  
????????????? ??? ?????????????? ??? ?????????????? ?? ??? ??? ?? ?????????? ??????????  
????????????? ??? ( 26 ), ? ?????????????? ?????? ?? ?????? ??? ?????? ??? ?????? ???  
????????? ?? ?? ??? ?????????????? ??? ?? ??.

48.

?????, ?? ?????????????? ??? ?????????????? ?????? ?????????? ?? ?? ?????? ?? ??  
?????. ?? ?????? ?? ?? ?????????? ??? ?????????? ?????? ?? ?????????????? ?? ??  
????? ?????? ???. ??? ?????? ?? ?????? ?????? ??????, ??? ?? ?????????? ??? ?????? ?? ??  
????????? ???, ??? ?????? ?? ?????? ?????? ??? ??????, ??? ?? ??? ?? ?? ??????, ?? ??  
????????? ?? ?????????? ??? Commissione Tributaria Centrale ??? ?????? ??? ??????????  
????? ?????? ?? ?????? ??? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?? ??  
????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????????? ??? ?? ??  
????? ??? ?????? ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????????? ??? ?? ??  
????????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????????? ?????? ?????? ??  
????????? ?? ?? ?????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??  
??? ?????????? ?? ?? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ??  
?? ??? ?????? ?????? ?????? . ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ??  
????????? , ? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??  
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ??  
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??

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

????????? ?? ?? ????? 16 ??? ????? 289/2002

49.

? ?????????? ?????????? ??? ???????? ??? Corte di Cassazione ??????? ?? ?? ?????? 16 ???  
????? 289/2002, ?? ????? 8 ??? 9 ??? ?????? ?????????? ?????????? ??? ?????????? ???  
??? ??? ?????????? ??? ?????? ??? ?????? C-132/06, ???????? ??? ??????????, ?? ???  
??? ?????????? ??? ?? ?????????? ?? ?????????? ??? ?????? ??? ?? . ?? ?????? 16  
????????? ??? ?????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ???  
????????? ?????? ?????????? ?????? ?????????? ?????????? ?????????? ?????????? ??????????  
????????? ??? ?????? 10 % ??? ???????? ?????? ?, ?? ?????????? ??? ??????  
????? ?? ?????? ?????? ?????? ??? 2000 ????, ??? ???????? ?????? ??? 150 ????. ??  
Corte di Cassazione ?????? ??? ? ?? ?????? ?????? ??? ?????????? ??? ?????? ?? ?????? ???  
????? ??? ?????? 8 ??? 9 ??? ????? 289/2002. ? ?????? ?????? ?????????? ??? ?  
????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??????????, ? ???,  
????? ??? ?????? ???, ????? «????? ?????? ??????».

50.

? ?????????? ??? ?????? 16 ??? ????? 289/2002 ???? ?? ?????? ??? ?????? ???  
????????? ?? ????????, ???? ??? ?????????? ??? ?????????? ?? ?????????? ?? ??????????  
????? ??? ?????? ????. ????????, ?????? ??? ? ?? ?????? ?????? ??????????  
????????? ?????? ??? ?????? ?? ?????? ?? ?????? ??? ?????????? ?? ?????????? ???  
????????? ??? ??? ?????? ?????? ?????? ??? ?????? ?????????? ?????????? ?????????? ???  
????????? ??? ?? ?????? ????. ????????, ?????? ??? ?????? ?????????? ??? ??? ?? «?????  
?????» ??' ?? ? ?????? ???????, ? ?????? ?????????? ??? ?????? ??? 10  
????? (????? ?????????? ?????? ??? 14 ???). ????????, ?????? ??? ??? ?????? ??  
????????? ?? ?????? ???????, ??? ?????? ?????? ??? ?????? ?????? ???????, ??????????  
????? ?????? ?????? ??? ?????? 16 ??? ????? 289/2002.

????????? ?? ??? ?????? ??? ?????' ?????? ????????

51.

? ?????? ?????? ?????????? ?? ?????? ??? ? ?????? ?????? ?????????? ??? ??????  
????? ??? ?????? ????????, ?????????? ??? ?????????? ?????? ?????????? ?????????? ???  
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??????????  
??? ?????? ?????? ?? ?????? ?????????? ?? ?????? ?????? ?????? ?????? ???  
????????? ?????? ??? ?????????? ?????? ??? ??? ?????????? ?????? ?????? ???' ????  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ???/? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? C-132/06, ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????? ?????? ??? ?????? ??? ?????? ???.

52.

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

53.

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

54.

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

55.

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

56.

????????? ?? ??????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????? ??? ?????? ???  
????????? ???, ??? ?????? ?????? ??? ?????? ?????? ?????????? ? ?????????????? ??  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? C-132/06, ?????????? ???  
??????.

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

57.

?????????, ? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? 6,  
????????? 1, ??? ??? ( 27 )«????? ??????» ( ??? ??? ?????? 47 ??? ?????? ???  
????????? ?????????? ??? ??, ?? ?????? ?????? ?? ?????? ??? ?????? ??? ?????? ???  
????? ??? ??) ?????????? ?? ?????? ??? ?????? ?????? ?????????? ?????????? ??? ??  
????????? ??? ?????? ??? ? ?????? ?????? ????. ??? ?????? ??? ?????? ??? ?????? ???  
???????, 10 ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ??????, ??? ?? ??? ?????? ?????????? ??? ??????  
????????? ?????????????? ??? ?????? ( 28 ). ??? ??????????????, ? ??????  
????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ?????????? ?? ?????? ????  
????????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ?????????? ?? ?????? ??? ?  
????????? ??? ?????? ??? 2010 ??? 10 ( ??? ?????? 14) ??? ? ?????? ?????? ??? ?  
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???????. ??? ?? ?????? ??? ??????  
????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ( 29 ), ?????? ??? ? ?????? ??? ?????????? ?? ??????????

????????????????? ?????????? ??? ???, ??? ?????????? ?? ?????? ??? ??, ??? ?????????????? ???  
????????? ?????????? ??? ??? ??? 10 ? 14 ??? ??? ?????????????? ?????????????? ??????????  
???? ??? ??? ?????????????? ??? ??? ??? ?? ?????? ? ?????????????? ??? ??? ??? ??  
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??? ?????? ???.

58.

? ???? ??? ?????? ????????????, ???????, ????? ??? ? ?????? ??? ?????? ???  
????????? ??? ??? ?????????? ??? ???????????? ?? ?????? ? ?????? ??? ?????????? ??????????  
??? ?????????? C-132/06, ?????????? ??? ???????, ??? ??? ?????? ?????? ?????????? ?????????? ??  
????? ??? ?????? ?????????? ???????????? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ??  
???.

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

59.

??????, ??? ??? ??? ?????? ??? ?????????? ?????????? ?????????? ??? ?? ???,  
?????? ????, ??? ?????????? ??? ?????????? ??? ?????? C-132/06, ?????????? ???  
??????, ??? ??? ??? ?????? «????????? ??????????», ??? ??? ?????? «??  
?? ?????????? ?????? ?????????? ?????????? ??? ?????? ?????????? ??? ?????????? ??  
???? ??? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? » (30).

60.

? ?????????? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ???, ?? ?????? ???  
?????? 3, ?????????? 2 bis, ??? ?????????? ?? ??? ?????? ?????????? ??? ??????????  
????????? ??? ??? ?????????? ??? ?????????? ?????????? ?????????? ?????????? ???  
Commissione Tributaria Centrale ??? Corte di Cassazione, ?????????? ??? ??? ???  
?? ?????? ?????????? ??? ?????? ?????????? ??? 10 ??? ??? ??? ?????????? ???  
???? ??? ??? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

61.

? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????????? ???, ?  
?????, ?????????? ??? ???, ?????? ??? ?????? ??? ?????? ??? Commissione Tributaria Centrale  
?????????. ??? ?????? ?? ??? ? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ??????  
????????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? 10 ???, ??? ???  
????????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

62.

?????????, ?? ??? 3, ?????????? 2 bis, ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????????? ?? ??? ?????? ??? ?? ?????? ??? ?????????? ??? ???  
????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? (31). ???, ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ???  
?? ?????? ?? ?????????? (?? ???, ??? ?????????? ???, ??? ??????) ??? ??  
??? ??? «????????? ??????????», ??? ?????? ?? ??? 6, ?????????? 1, ??? ??? ??? ??  
???? 47 ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??  
???? ?? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??  
????????? ??? ??? ?????? ?????????? ? ??????.

63.

???????, ?????? ??? ?????? ??? ?????????? ??? ?????? ????? ?????????????? ?? ?????? ??? ? ???????  
???????, ?????? ?????????? ?????????????? ?? ??? ????? ?????????? ??? ?????? ?? ?????????? ?? ??????????  
?????????? ?????? ??? ?????? ?????????? ?????? ?????? ?????????? ?? ?????? ?????????? ?????? ?? ???  
?????????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ?? . ?????? ?? ?????? ?? ?????????? ?? ??????????  
????? ? ?????? ?????????????? ??? ?????? ??? ?????????????? ??? ?????? 3, ?????????? 2 bis, ???  
????????????? ?? ??? ????? ?????????????? ?????? ?????????????? ??????????????, ?????????????? ??? ??????  
????????? ??? ?. ?? ?? ?????????? ?????? ??? Corte di Cassazione ?????????? ?????? ??  
????????????? ?? ??? ????? ?????? ??? ?? ?????????? ?????? ??? Commissione Tributaria  
Centrale, ?????????? ??? ?? ?? ?????????? ??? ?????? ?????? ?? ??? ?????? ??? ??????????, ?  
????????? ??? ?? ?????? ?? ??????. ?? ??? ?? ?????? ?? ?????? ??? ?????? ??? ?? ? ? ?  
????????????? ? ??? ????? ?????????????? ?????? ??? ?????? ?????? ??? Corte di Cassazione  
????????????? ?? ??? ?????? ?? ?????????? ??? ?????? ?????? ?????? ??? Commissione  
Tributaria Centrale ?????. ??????????, ??? ?? ??? ?????????? ??? ?????? ?????????? ??  
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??????, ??  
????????? ??? ?????????? ?????????? ??? ?? ??? ?????? ?????????????? ?????????? ??????????. ??????  
????????? ??? ?????? ?????????? ??? ?? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??????????, ??????????  
?????????????, ?????????????? ??? ?? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?? ??.

?????????

64.

????????? ??????, ?????????? ??? ??????????? ?? ?????????? ?? ??? ?????? ?? ?????????? ?? ?? ?  
Commissione Tributaria Centrale ??????:

«???????????? ???? ??? ?????? 4, ??????????? 3, ??? (????? ?????? 10 ??) ??? ??? ??? ??? ?????? 2  
??? 22 ??? ?????? ??????? 77/388/??? ??? ???????????, ??? 17?? ?????? 1977, ???  
????????????? ??? ??????????? ??? ??????? ??????, ??? ?????????? ?? ??? ????? ?????? ??????  
????????? — ?????? ??????? ?????? ?????????????????? ??????: ??????????? ?????????????? ???,  
?????? ???????, ??????? ?? ??? ?????, ??? ?????? ?????? ?? ?????????? ??? ?????????????? ??? ???  
????????????? ??? ?????? ?????? ?????? ?????????????????? ??? ??? ?????????????? ???, ??????  
????? ?????????? ??? ??? ??? ??? ?????? ??? ?????? ??? ?? ?????? ?????? ??? ??? ??? ???'  
?????, ? ??? ?????????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ??? ?????? ??? ??? ??  
????????????? ??? ?????????? ??????????..»

( 1 ) ??????? ??? ?????????????: ? ???????.

(2) ?????? 2006/112/?? ??? ???????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ?????  
?????? ????? ?????????????? ??? (?? L 347, ?. 1).

(3) ????? ?????? 77/388/??? ??? ???????????, ??? 17?? ??? 1977, ??? ?????????????? ??? ?????????? ??? ?????? ???, ??? ??????? ?? ??? ?????? ???, ??? ??????? ?? ??? ?????? ??? ?????? ??? ?????? — ????, ??? ?????? ??? ?????? ?????????????? ????: ?????????? ?????????? ??? (?? ????. ??? 09/001, ?. 49, ??? ?????? ?????????????? ??? ??????????????).

( 4 ) ???.???.????? 2, ??????????? 1, ?????????? ?? ??? ?, ??? ?????? 2006/112.

(5) ??? 1?? ?????????? 1993 ?? ????? 22 ?????????????????? ??? ?? ????? 28 ? (?????)  
91/681/??? ??? ??????????, ??? 16?? ?????????? 1991, ??? ?? ?????????? ??? ??????  
????????? ??? ????? ?????????????? ??? ????? ?? ??????????, ?????? ??? ?????????? ???  
????????? ??? ?????, ??? ?????? 77/388/???, ?? L 376, ?. 1), ????? ?????????? ???  
?? ?????????????? ??? ??????. ?? . ??? ????? 252, ?????????? 1, 206 ??? 273 ??? ??????

2006/112.

( 6 ) ??????? 2008, ?. I-5457.

( 7 ) ?????????????? ?????? C-132/06, ??????? ??? ?????? (?????? 43 ??? 44).

( 8 ) ?????????? ?????? 545/1992.

( 9 ) ????? ?? ?????? 2010 ?????????????? ?? ?????????? ?????? 211000 ??????????,  
?? ?????????? ?? ?????? ?????????? ??? 31 ?????????? 2012 ?? ??????????  
?????? ?? Commissione Tributaria Centrale ???????, ?????????? ?????? ??? ??????  
????????? ???.

( 10 ) ????? 3, ?????????? 2 bis, ??? ?????????? ?????????? 40/2010, ?? ????  
????????? ??? 23/2010, ? ?????? ?????????? ?? ?????? 3, ?????????? 2 bis. ??  
????? 3 ?????????? «????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????». ??  
????????? ?????????? ??? 3, ?????????? 2 bis, ????? ??????, ??? ?????????? a,  
?? «? ?????? ??????».

( 11 ) ? ?????????? «????? Pinto», ? ?????? ?????? ?????????? ??? ??????????  
????????? ??? ?????? ?????? ?????? ?????? ??? ?????, ??? ? ?????? ??????????  
????? ??? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ??????????  
????????? ??????????.

( 12 ) ????? ??? ?????? ?? 11500 ???.

( 13 ) ?. ?????? 11.

( 14 ) ?????? C-417/10, 3M Italia, ? ?????? ?????????? ??? ??? ?????? ?????????? ???  
????? ??? ??? ?????? ??????.

( 15 ) ?. ?????? 44, 45 ??? 47 ??? ?????? ??? 17?? ?????? 2008 ??? ?????? C-  
132/06.

( 16 ) ?. ??? ?????? ??? ?????? 8 ?. ??? ?????? ??? ??? ?????? 11 ?. ???  
????????? ??? ??? ?????? ??????.

( 17 ) ?????????? C-132/06, ??????? ??? ?????? (????? 47).

( 18 ) ?.?. (????? 52).

( 19 ) ????? ??????, ? ??? ?????? ?????? ??? ?????? ?????? ?????????? ?????????????? (?  
?? ??????????????) ??? ??? 30 ?????? ???.

( 20 ) ?. ?????? 37 ??? 39 ??? ?????????? ??? ??? ?????? 7 ?????? C-132/06,  
????????? ??? ??????.

( 21 ) ?. ?????? 22, ?????????? 4 ??? 5, ??? ?????? ?????? ?????? ?? ?????????? ???  
????? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ?????? ?????????? ??????,, ?  
????? ??? ?? ?????? ?? ?????????? ?? ??????, ??? ? ?????????? ?? ?????? ??? ??? ???  
????? ??? ?????? ??? ?????????? ?????? ???.

( 22 ) ?????? ??? 18?? ?????? 2007, C-119/05 (?????? 2007, ?. I-6199).

- ( 23 ) ??????? ??? 3?? ??????????? 2009, C-2/08 (?????? 2009, ?. I-7501).
- ( 24 ) ??. ??????? ??? ?????? ??????? ?????????????? ??????? ??? ??????? ??? ??????? ??????? ??? 39 ??? ??????? ??? ??????? C-132/06.
- ( 25 ) ??. ????? 2 ??? ??????? 2007/436/??, ??????? ??? ???????, ??? 7?? ??????? 2007, ??? ?? ?????? ??? ?????? ??? ?????? ??? ??????? (?? L 163, ?. 17).
- ( 26 ) ?? European Union public finance, ??????? ??????? ??????? ??? ???????, ??????, ??????? ???., 2008, ?. 239.
- ( 27 ) ?? ??????? ??????? ??????? ??????? ??????? ??????? ??????? ??????? ??????? ???????, ?????? ??? ??????? ??????? ??????? ??? ???????, ??????? ??????? ??????? ??? 10 ????, ??? ??????? ??? 6, ??????? 1, ??? ??? (??., ??? ???????, Sciortino ????, ???????, ???? 30127/96 (Sect. 2) (18.10.01), § 19 ??., ??? Scordino ????, ?????? (????. 1) [GC], ????. 36813/97, ??? 2006-V, § 175 ??.).
- ( 28 ) ??? ??????? ??? ??????? ??? ??????? ??? ?? ???????, ??., ??? ???????, ?????? ??? ??????? ??? 16?? ??????? 2009, C-385/07 P, Der Grüne Punkt (?????? 2009, ?. I-6155, ??????? 181 ??.).
- ( 29 ) ??. ??????? ??????????? 9.
- ( 30 ) ?????????????? ??????? C-132/06, ??????? ??? ??????? (????? 39).
- ( 31 ) ??? ??????????????, ?????????? ??? ?????? ??????: ?? ??????? ??? Commissione Tributaria Centrale ?????????? ?????????????? ?????????? ?? ?????? ?? ?????? ?????? ??? Corte di Cassazione, ??? ?? ?????????? ??????? ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? 26 ????? 2000.