

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

JAN MAZÁK

??? 24?? ???? 2012 (1)

?????? C-160/11

Bawaria Motors Sp. z o. o.

????

Minister Finansów

[?????? ??? Naczelnego S?d Administracyjny (???????)

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

«?????? 2006/112/?? — ??? — ?????? ?????????? ??? ?????????????? ??? ?????????????? —
?????? ?????????????? ?????? ?????? ?????? ?????????? — ?????????? ??? ??????????
??? ?????????? ??????, ??? ?????????????? ??? ?????????? ?? ?????????? ?????????????? ??? ???
???? ?????????? ??? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????????? ?????????? ?????????? ???
??? ?????? ??? ??? ??????»

1. ?? ??? ??? ????? ?????? ?????????? ?????????????? ???????????, ?????????? ??? ??
?????????? ?? ?????????????? ?? ?? ?????? «????????? ??? ??????????? ??????»
—????????????? ??? ?????? ??? ?????? ?????????? ?????? ?????? ?????? (?? ???: ??)
????? ??? ??? ?????????? ?????? ??? ?????????? ?????? ?????? ?????? ?????????? (2), ??????
???? ?????????? ??? ?????????????? ?????????????? ?????????? ??????????????, ??????????
??? ?? ??? 311 ?? . ??? ?????? 2006/112/?? (3)— ??? ?????? ?? ?????????? ??? ??????????
????????? ??? ?????? ?????????? ?????? ?????? ?? ?????????? ??? ?????? ??? ??????????
????? ??? ?? ??????, ??? ??? ?????? ??? ?????????? ??? ?????????? ?????? ?????? ??????????
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??????.

I – ?????? ???????

2. ?? ?????????? ??? ?????????? ?????????? ??? ?????????? ?????????? ??? ?????????? ??
????? ???????, ??? ?? ?????? ??????. ??? ?????? ?? ?????? ?????????? ???????, ??
????? 43, ?????????? 1, ?????? 2, ??? ?????? ?????? ??? (4), ??? ?????? ??? ??
????????? ??? ??? ?????? ??? ?????? ?????? ?????, ?????? ??? «? ?????????? ?????????????? ???
????? ?????????? ??? ??? ?????? ?????? ???, ?? ??? ?????????? ??? ?? ?????? ??? ?????????? ???
????? ?????????? ??? ?????? ?????? ???, ?? ??? ?????? ???, ?????????? ?????????? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????».

3. ??? ??? 31 ?????????? 2010, ?? ??? 86, ?????????? 3, ??? ?????? ??? ??? ??????

??. ??: «?? ?????????? ?????? ?????????? ?????????????? ? ?????? ?????????????? ?????? ??.
?? ?????????? ?????????? ?????? ??? ?? ?????????? ??? 3,5 ??????, ? ?????? ??? ??
????????? ?????????? ??? 60 % [????? ?? 22 ?????????? 2005: 50 %, ??? ?? ??]
????????????? ?????????? ??? ?????????? ?? ?????????? ?? ?????? ?????? ?????? ?????? ??
????? ??? ?????????? ??? ?? ?????????? ? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ??
????????????? ?????? ??? ?????? ?????????? ?????? ? ??? ?????? ??? ?????? ?????? ??? ??
????????? ??? ?????? ??? ?????? ?????????? ?????? ? ?????? ?????????? ?????? ??? —????? ??????
?? ?????????? ?? ??? ??? 6 000 [????????? ?????] PLN [????? ?? 22 ?????????? 2005: 5
000 PLN, ??? ??? ?? ?????????? ?????????? ??? ?????????? ?? ??? ?????? ?????? ??? ??
?????]».

4. ?? ??? 120 ??? ?????? ??? ?????? ?? ???:

«1. [...]

(4) ??? ??? ?????? ??? ?????? ??? ?????????? ??????????, ?????????? ?? “????????????? ??????”,
????? ??? ?????? ??? ?????????????? ??? ?????????????? 1 ??? 3 [?? ?????????? ????
????????? ?????????? ??? ?????????????? ??? ?????????? ??? ?????????????? ??? ??
????? ?????? ??? ?? ??? ?????? ??????], ?? ?????? ??? ?????? ?????? ?????? ??? ??
????????? ??? ?????? ?????????? ? ??? ??? ?????? ??????, ?????? ?? ?????????????? ??? ??
??? ??? ?????? ?????? ??? ?????? ?????? [...]

[...]

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

[...]

10. ?? ?????????? 4 ??? 5 ?????? ?? ?????????? ?????????????? ???????,
????????????? ?????????????? ????, ?????????????? ? ?????????????? ????, ?? ?????? ?
????????????? ??? ?????? ?????? ????:

(1) ?????? ???????, ?????? ?????? ? ?????? ?????? ?????? ?????? ?????? ??????
????????????? ??? ??? ?????? ?????????? ??? ?????? ??? ?????? ?? ?????? 15 ? ??? ??? ??????
????????????? ??? [??]??

(2) ?????????????? ??? ?????? ?????? ?????? ?????? ?? ?????? 15, ??? ? ?????????? ???
????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? 43, ?????????? 1, ?????? 2, ? ???
????? 113?

(3) ?????????????? ????, ??? ? ?????? ??? ?????? ?????? ?????? ?????????????? ??????
?? ?????????? 4 ??? 5?

(4) ?????????????? ??? [??], ??? ? ?????? ??? ?????? ?????? ?????? ?????????????? ??? ??
????? ?????? ??? ?????????????? ??? ?????? ?????? ??? ?????? 43, ?????????? 1, ?????? 2, ?
??? ?????? 113?

(5) ?????????????? ??? [??], ??? ? ?????? ??? ?????? ?????? ?????????? ?? [??]

????????? ????? ??????? ?????????? ??? ?????????????? ??? ????? ?????????? ??? ?????????????? 4 ??? 5 ???
???? ? ?????????? ?????? ?????? ?? ????? ?????????????? ?????????????? ??? ?????? ???
????? ?????? ?????? ??? ?????? ?????? ?????? ??????..»

5. ?? ????? 13, ?????????? 1, ?????? 5, ??? ?????????????? ?????????? ??? ?? ??????????
??? ?????? ??? (5) ?????? ?? ?: «[?]????????????? ??? ?????? ? ?????????? ?????????? ???
????????? ??? ?????? ?????????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????,
????? ??? ?????? ???, ?????????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? 86, ?????????? 3, ??? ?????, ?????? ??? ?? ?????????? ?????????? ??? ??
????????? ?????? ?????????? ?????????? ??????, ??? ?? ?????? ??? ?????? ??? ?????? 43,
????????? 2, ??? ?????? ????.».

II – ?????????? ?????????? ??? ?? ?????????? ??????

6. ? Bawaria Motors Spó?ka z o. o. (??? ?: Bawaria) ?????? ?????? ?????????? ???
????? ?????? ?????? ??? 15 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? «????????? ??? ??????», ?????????? ??? 43,
????????? 1, ?????? 2, ??? ?????? ??? (????? ?????????? ???). ? Bawaria
????????? ??? ?? ?????????? ?????? ?????? ???, ??? ?????? ???,
????????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? 120
??? ?????? ????.

7. ??? ?????? ??? ?????????? ??? Bawaria, ???????? ?????? ?????? ?????????? ???
????? ?????? ?????? ?????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
(6). ?? ??? ?????? ?????? ???, ?? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?? ?????? «????????? ??? ??????», ?????????? ??? 13,
????????? 1, ?????? 5, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?, Bawaria
????? ??? ?? ?????? ?????? ??? ?????? ???, ??? 9 ?????????? 2009, ??
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

8. ??? ?????? ?????????? ?????? ??? 20?? ?????????? 2009, ?
????????? ??? ?????????? ??? ?????? ??? ? ?????? ??? Bawaria ??? ?????? ????. ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

9. ? Bawaria ???????, ??? ???? ?????????? ??????, ?????????? ??????? ???? Wojewódzki S?d Administracyjny w Warszawie (????????????? ?????? ?????????? ??????????, ??????) ??? ?????????? ??? ? ??????? ??? ?????????? ??? ?????? 120, ?????????? 4 ??? 10, ??? ?????? ???, ?????? ?????? ??????????, ?????? ?? ?????? ??? ?????????? ?? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? 13, ?????????? 1, ?????? 5, ??? ?????????? ?????????? ??? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???.

10. ?? ??????? ?? 10?? ?????????? 2009, ?? Wojewódzki S?d Administracyjny w ?odzi
?????? ?? ??????????????? ????????. ?????? ?? ?????? ??????? ?????? ??? ?????? ?????? ??
????? ?? ?????? 13, ?????????? 1, ?????? 5, ?? ?????????????? ?????????? ?? ?? ???? ??????
?? ?????? ???, ?? ?????? ??????? ?? ?????? ?? ?????? ?????? ?????? ?? ?????? ?? ???? ??????
?????? ??????????? ?? ?????????? ?? ?????? ?? ?????? ?????? ?????? ?? ?????? ?? ???? ??????
?????? —?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ???? ??????
?????, ??? ?? ?????? ?? ?????? ?????? ?????? ?? ?????? ?? ?????? ?????? ?????? ?????? ??
????? ?? ?????????? ??????. ?????????? ?????? ?? ?????? ?? ?????? ?????? ?????? ?????? ??
?? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ???? ??????
?? ?????? ?? ?????????? ??????, ?? Wojewódzki S?d Administracyjny ?????? ?? ?? ??
????? 13, ?????????? 1, ?????? 5, ?? ?????????????? ?????????? ?? ?? ???? ?????? ??
????? ?? ?????? ?? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ???? ??????
????? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ???? ??????
????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ???? ??????
????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ???? ??????
? ?????? ?? ?????? de facto ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ???? ?????? ?? ??
????? ?? ?????? 86, ?????????? 3, ??? ?????? ????. ?? ?? ??????, ? ?????? ?? ???? ?????? ??
?????? ?? ??? ?? 6 000 PLN (? ?? 60 % ?? ?????????????? ?? ?????? ?? ?????? ?? ???? ??
?????), ?????????? ??? ? ?????????? ??? ?????? ?????? ?????? ?????? ?? ?????? ?? ???? ??????
????? ?? ?????? ?? ?????? ?? ?????? ?? ??????????????. ?? ?? ??????, ? Bawaria ?????? ?? ???? ??????
?? ?????????? ?? «?????????? ??????», ??? ?????? ?????? ?????????????? ?? ?????? ?? ???? ??????
?? ?????????? ?? ?????? ?????? ?????????????? ?? ?????? ?? ?????? ?????????????? ?? ?????? ?? ???? ??????.

11. ???????, ? Bawaria ??????? ?????????? ??? ?? ?????????? ?????? ?????? ??????? ???
????????? ?????????? —??? Naczelnny S?d Administracyjny (????????? ??????????)
????????? — ?????????? ?????? ?????????? ?????????? ??? ?????????? ??? ??????????
?????????, ??? ?????????? ?????????? ??? ?????????? ???, ??? ?????????? ??? ??????
120, ?????????? 4 ??? 10, ??? ?????? ??? ?? ?????????? ?? ?? ??? ?????? 13, ?????????? 1,
?????? 5, ??? ?????????? ??? ?????????? ??? ??? ?????????? ??? ?????? ??? ??? ?? ??
????? 91, ?????????? 4 ??? 6, ??? ?????? ??? ??, ??????? ? ?? ??? ?????? ?????????? ??
????????? ?????? ?????????????, ??? ?????? ??? ?????????? ??? ?????????? ??? ??????????
????????????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????
13, ?????????? 1, ?????? 5, ??? ?????????? ??? ?????????? ??? ??? ?????????? ??? ?????? ???
???.

12. ???????, ? ??????? ?????????????? ?????? ?????? ???????, ?????????????? ??? ?
????????????????? ?????? ?????? ?????? ??? ??????, ?????? ??? ?????? ???
????? 43, ?????????? 1, ?????? 2, ??? ?????? ??? ?? 13, ?????????? 1,
????? 5, ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ????. ??????????
??? ? ?????????????? ?????? ?????????? ??? ?????? ???, ??? ?????????? ???
????????? ?????????? ?? ?????? ? ?????? ?????????? ?????? ?????? ??? ?????? ?????????????? ?
??????, ??? ???? ??? ?????? ???, ?????? ??? ?????? ??? ??????, ??? ?????? ???
????? ??? ???? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?,

? ?????????? ??????????? ?????????? ?????? ?????? ??? ?????????????? ?????? ??????????
????????????? ?????????? ?????????? ??? 20?? ?????????????? 2009: ??? ???? ???? ??????????????
????????? ?????? ??? ?????????? ?????????????? ??? ?????? ?????????????? ? ?????? ?????? ???
????? ??? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????????? ?????? ???, ??? ???? ???? ??????
??? ?????????? ?????, ??? ???? ??? ?????? ??? ?????????? ??? ?????? 13, ?????????? 1, ?????? 5,
??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???, ? ????????, ??? ???? ???
????????? ??? ?????????? ?????, ??? ???? ??? ?????? ??? ?????????? ?? ?????????? ?? ?????? ??????????
??? ??????, ?????????????????? ?? ?????? ??? ?????????? ??????, ?????????? ??? ???? ???
????????? ?? ?????????? ??? ?????? 120, ?????????? 10, ??? ?????? ??? ???? ???, ???
????????? ???, ??? ???? ?????? ?? ?????????? ???? ???? ???? ???? ???? ???? ???? ????.

13. ??? ???? ???? ?????? ??? ?????????? ?????????????? ??? ?????????? ?????????? ???,
????????? ?? ??? 13, ?????????? 1, ?????? 5, ??? ?????????? ?????????? ?????????? ??? ???? ???
????????? ??? ?????? ??? ???, ? ??????? ?????????? ?????????? ??? ?????????? ?????????? ???
????????? ??? ?? ?????? ??? ?????????? ??? ??????. ?? ?????? ?????????? ?????? ??? ???? ??,
????????? ?????????? ?????????? ?????? ?????? ?????????? ??? ?????? ??, ??? ???? ???? ??????
???? ?????? ?? ?????? ??? ???, ? ?????????????? ?????? ??? —? ?????????? ?????? ???
?????????— ?????? ?? ?????? ??? ??? ?????? ?????? ?????????? ??? «????????? ??????»,
????????? ??? ??? ??? ??? ?????????? ??? ??? ??? ?????????? ??? ??? ?????????? ??? ?????
????????? ??? ??? ??? ?????, ?? ?????? ?? ?? ?????? ???, ? ?????? ??? ???? ???, ? ?????? ???
??? ?????? ??? ??? ?????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????.

14. ?????????? ??? ???? ?????? ??? ?????? ?????? ?????????? ??? ?? ?????????? ???
????????????? ??? ?????? ??? ???? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????????
??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ???,
??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ???,
?????, ??????, ??? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ??? ???? ??,
?? ?????????? ??? ??? ???, ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ??? ????
????? ??? ??? ??????, ??? ???????, ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ???
????????? ??? ??? ??? ??? ??? ?????? ??? ?????? ?????? ??? —????, ??? ??? ??? ??????????
??? ?????? ?????????? ??? ??????, ?????????????? ??? ?????? ??? ?????? ?????????? ??? ?????
????????? ??????.

15. ?? ?????? ?????????? ?????????? ???, ?? ???? ?????? ??? ?????? 13, ?????????? 1,
????? 5, ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ? ??????
????????? ???' ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???? ???
????????? ???, ? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ???
?? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ???? ??,
??????, ?????? ? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ???, ??? ??? ???? ???? ???
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ???? ??,
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ???? ??,
?? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ???? ??,
????? (??? ??? ?????? ??? 50 % ??? ??? 5 000 PLN ? ??? 60 % ??? ??? 6 000 PLN).

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

«????? ? ? ?????????? ?? ?????????? ??? ?????? 313, ?????????? 1, ??? ???? ?????? 314, ??
????????? ?? ???? 136 ??? ???? 31 ??? ?????? [????? ???], ??? ???? ?????? ???,
????? ???, ?? ?????? ?????? ??? “????????? ??????” ??? ?????????? ??? ?????? ??? ???? ??,
????????? ??? ?????? ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???

??? ??? ???? ?????????? ??? ?????????? ?????????? ?????????? ?????????? ??? ???
????????????? ???, ?? ??? ???? ?????? ??????????????, ??????? ??? ?????? ??????????
????????? ??? ?????? 13, ?????????? 1, ?????? 5, ??? ?????????? ?????? [??? ???
????????? ??? ?????? ???], ??? ??? ?????? ?????? ?????????? ?????????? ??? ??????
????????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ?? ??????, ??? ??? ?????? ???,
????? ?????????? ?????? ?????? ?????? ?????, ?????? ??? ?????? 86, ?????????? 3,
??? ?????? [????? ???], ?????? ??????????, ??? ?????????? ?????? ??? ??????????
????????????? ??? ?????????????? ?????????, ??? ?????????????? ?????? ??? ?????? ???
????? 43, ?????????? 2, ??? ?????? [????? ???] ??? ??? ?????? 311, ?????????? 1, ?????? 1,
??? ?????? [????? ???];»

III – ?????? ????????

17. ?????? ??? ?????????? ?????????? ?????? Bawaria, ? ?????? ?????? ??????????
?? ? ??????.

18. ? Bawaria ?????????? ??? ??? ?????????? ??? ?????? ?????????? ?????? ??
????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????????????
????????????? ??? ?????? ?? ?????, ??? ?????????? ??? ?????????? ??? ?????????????? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

19. ? Bawaria ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????? 314 ??? ??????
????? ??? ?????????? ??? ?????? ??? ?????? ??????: ?? ?????????? ??? ?????? ??????????????
?????, ? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????
????????????? ??? ??? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???, ??? ??
????? ??? ?????? 86, ?????????? 3, ??? ?????? ???, ?????? ?????? ?????? ??? ?????????? ???
????? ?????? ??? ??? ?????? ??? ?????? ???.

20. ??? ??? Bawaria, ? ?????? ??? ?????? 311 ??? 315 ??? ?????? ??? ??? ??????
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????, ?????? ??? ?????? ??? ??????
????????????? ??? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
?? ?????????? ??? ??????????.

21. ??????, ??????, ?? ?????????? ?? ??? ?????????? ?????????? ??? ?????? ?????? ??????????
??, ?? ?????? ??? ???? ?????? ??? ?????? 13, ?????????? 1, ?????? 5, ??? ??????????
????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? ??? Bawaria
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? —?? ???? ??????, ?????????, ? ?? ??? ?????? ?????????? ??? ??????????
????? ??? ?????? ??? — ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

22. ??????, ??? ??? Bawaria, ?? ?????? ??? ???? ?????? —? ??????????
????????????? ?????????????? ??????— ?????? ?? ?????????? ??????????????,
????????? ??? ???? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? Bawaria, ?? ??? ?????????? ??? ?????? ??? ?????? ???,
????????? ??? ?????? ???.

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

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

24. ? ?????????? ?????????? ???? ? ????????, ???? ???? ???? ??????, ?????? ???' ?????? ???
?? ?????? ???? ?????????? ???? ?????? ???? ?????? ?????? ???? ?????? ???? ??????
????? ???? ?????????? ????

????? ??????

25. ?? ?????? ?????????? ????, ???' ??????, ?? ? ?????????? ???? ?????? ?????? ??????????
(Bawaria) —? ?????? ?????? ?????????? ?????????? ?????????? ?????????? ???? ??????????
????? ???? ?? ??????, ???? ????, ?????? ?????? ?????????? ?????????? ?????????? ???
????? ??????— ?????????? ?? ?????????? ?? ?????? ?????????? ???? ?????????? ??????
????? ?? ?????????? ???? ?????????? ???? ?????? ?????? ?????? ?????????? ????

26. ?????? ?????? ?? ?????? ???' ?????? ???? ?????? ?????? ??????.

27. ?? ?????? ???? ?????????? ?????? ?????? ?????? ???? ???? XII («??????
?????????») ??? ?????? ???? ???, ??????, ???? ??? ?????? 1 («????????? ???
?????????») ??? ?????? 2 («????? ?????? ???? ?????????? ???? ?????????? ????
?????????») ??? ?????? 4 («????? ?????? ???? ?????????? ???? ?????????? ????
????? ???? ??? ?????????? ??????????, ?????????? ???? ?????????? ????) ???
????? ????, ?????? ???? 312 ??? 325 ??? ??????.

28. ??????????, ???? ?? ?????? 314 ??? ?????? ???? ???, ?? ?????? ???? ??????????
????? ???? ???? ?????? ?????? ?????????? ?????? ?? ?????? ?????????? ???
????? ?????????? (????? ? Bawaria) ?????? ???? ?????????? ???? ??? ?????? : ?)
????? ?? ?????????? ???? ???, ?) ??? ?????? ?????? ????, ?????? ? ?????? ????
??? ?????? ?????????? ???? ???? ???? ???? ???? 136, ?) ??? ?????? ?????????? ????
????, ?????? ? ?????? ???? ???? ???? ?????? ?????? ???? ?????????? ???? ????
????????? ???? ?????????? ???? ???? 282 ??? 292 ??? ?????? ???? ??????????, ??? ?)
????? ?????????? ???? ???? ??????????, ?????? ? ?????? ???? ?????? ???? ????
????? ?????????? ???? ???? ?????????? ???? ?????? ???? ?????? ???? ????
??? ?????????? ????

29. ?????????? ???? ?? ?????? 314 ??? ?????? ???? ???? ?????? —?????????,
??? ?? ?????? ???— ??? ?????????? ???? ???? ???? ?????? ???? ?????? ????
?? ???? ???? ?????? ? ?????????? ???? ???? ?????????? ???? ???? ????

30. ?????? ?????? ??? ????? ?????????????? ??? ?????????????? ??? ?????????????? ???
????? 314 ?????? ?? ??????? ??? ???? ?????? ??? ?????????? ?? ?????????????? ??????????
????? ?????????? ??? ?????? ????? ?????????? ??? ?????????????? ?? ?????????? ??? ????. ?? ???
?????, ?? ??????? ??? ??? ????? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ??? ?????
??? ??????????.

31. ?? ?? ??????, ???? ?? ?????? ?????????? ??? ?????????? ??? ?????? ?? ??????
????????? ? Bawaria, ?? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? 314 ???
?????? ???? ??? ?????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???.

32. ???????, ??????, ???? ?? ?????? ??? ?????????? ??? ?????????? ??? ? ?? ??????
?????? ??? ??????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?? ??? ?????? 314 ??? ??????
????? ???.. ?? ?????? ??? ?????????? ?? ?????????????? ??? ?????? ??? Bawaria ?????? ??????
????????? ????

33. ???????, ?????? ?????? ???? ?? ?????? ??? ?????????? ??? ?????????? ??? ? ?? ??????
?????? ??? ??????? ??? ?????????? ?? ??? ?????? 314, ?????? ? ?????????? ???
????????????? ??? Bawaria ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ?????????? ?? ?????? 282 ??? 292 ??? ? ?????? ??? ??????
?????????. ????????, ?????????? ??? ?????? ??? ?????????? ?????????? ??? ??????????
???????: ??? ?????? 13, ?????????? 1, ?????? 5, ??? ?????????? ?????????? ??? ??????
????????? ??? ?????? ???.

34. ??????, ? ?? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?? ??? ?????? 314
??? ?????? ????. ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????????? ????
???? Bawaria ?????????? ?????????? ??? ?? ??? ?????? «????????????? ??? ?????» ??? ???
????????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???.

35. ?????, ??????? ?????????? ??? ?? ??? ?????? ??? ?????? 314 ?? ?????? ????????
???? ?????? ??? ?????? ?? ?????? ?? . ??? ?????? ??? ?????????? ?????? ??? ??????????
????? ??? ?? ?????????? ??? ?????? 136 ??? ?????? ??? ???.

36. ??? ?? ?????? ??? ?????? 136 ?????????? ??? ? ?????? ??? ?????????? ???
????????? ??? ?????? ???.

37. ??? ????????, ?? ?????? 136 ?????? ??? ?? ?????? ??? ?????????? ?? ??????????????: ???
????????? ??? ?? ?????? ??? ?????????????? ??? ?????????? ?? ?????????????? ??
????????????? ??? ?? ?????? ??? ?????? ?? ?? ?????? 132 (????????? ?????? ??????????), 135
(????? ?????????????? ???, ??? ?? ?????????? ?????????? ?? ?????????? ??????????), 371 (???)
?????????????, ?? ?????? ?????? ?? ?????? ?? ?????????? ?????????? ?? ?????????? ?????????? ???
????? ??? ?????????????? ?? ?? ?????????? ?????? ??? ?????? ??? ?????????? ?????????? ???
?????????), 375 , 376 ?? 377, ?? ?????? 378, ?????????? 2, ?? ?????? 379, ?????????? 2, ??
?? ?????? 380 ?? 390 (????????? ??? ?????????? ?? ?????????? ?????? ???) ??? ???
????????? ??? ?? ?????? ??? ?????? ??? ?????????? ?????????? ?????????? ??? ?????? ???
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ???
????????? ???.

38. ??? ????????, ?? ?????? 136 ?????? ??? ?? ?????? ??? ?????? ??? ?????? ?? ?????????????? ???
????????? ??? ?? ?????? ??? ?????? ?? ?????????? ?? ?????? ?????????? ?? ?????????????? ??
?????????, ?????? ?? ?? ?????? 176. ?? ?????? 176 ??? ?????? ??? ?????? ??? ?????????? ??
????? «standstill». ??? ?? ?????? ???, ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ???, ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???

? ?????????? ??? ???????? ???? ?????? ?????? ?????? ?????? ?????? 1? ?????????? 1979
?, ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? ???????????,
??? ?????????? ?????????????? ????. ??? ?????????? ??? ?????? ??????, ? ??????????
????????????? ??? 1? ????? 2004. ?????? ?? ?????????? ?????? ??? ?? ?????????? ???
????????????? ??? ?????? ??? ?????? 176 ??? ?????? ??? (7).

39. ???? ?????? ??? ? ?? ??? ?????? ?????????? ??? ?????????? ?????? ??? ??
??? ?????? ?????? ? ?????? ?????? ??? ?????? 86, ?????????? 3, ??? ?????? ??? ??
???????, ????????, ?????? ?????????? ??? ?? ?????? ??????????: ?? ??????? ???
????????????? ??? 60 % ??? ?????? ??? ?????????? ??? ?????????? ??? ?? 6 000
PLN ???' ?????? ???.

40. ??????????, ??? 1? ????? 2004, ??? ? ?????? 25, ?????????? 1, ?????? 2,
??? ?????? ??? 1993 ??? ?? ??? ?? ?????? ?????????? (8), ? ?? ?????? ??????????
????? ??? ?????? ?????????? ?????? ?? ?????? ?????? 500 ??? ??
????????? ??? ?? ?????? ?????? ??? ??, ?????? ?????? ?????? ?????????? ??? ??
????????? ????. ??????, ??? 1? ????? 2004, ?? ?????? 86, ?????????? 3, ??? ?????? ??? 2004
????? ??? ?????? ?? ?????? ?????—?????, ?????? ?????? 50 % ??, ??????,
????????? 60 % ??? ? ?????? ?????? ??? 22 ?????????? 2005, ??? ?????? ?????? ??? ??
6 000 PLN. ?? ?????? ?? ?????????? ??? ?????, ?????????? ??? ??' ??????, ??? ?????? ???
????? ??? ?? ?? ?????? ?????? «????? ?????? ??????», ?????? ?????????? ??????
??? ??? ??????????????, ??? ?????? ?????????? ?????? (9).

41. ??? ?????? ?????????? ? ????????, ??? ? ?????? ??? ?????????? ??? ??????????
(10), ?? ?????? 86, ?????????? 3, ??? ?????? ??? ?? ??????????, ??? ?????????? ???
????? ?????????? ??????????, ??? ?????? ??? ?????? ??? ?????????? ?? ??????
?????????, ??? ?????????? ??? 1? ????? 2004 ?????????? ??????. ???
????????, ?? ?????????? ?????? ??? ?????? «standstill» ?????????? ??? ? ??????
????????? ?????? ?? ?????????? ??? ?????????? ??? 1? ????? 2004.

42. ?????????? ??? ???? 136 ??? ?????? ??? ?????? ??? ?????????? ?????????? ???
????? ??? ?????????? ??? ?????? ??? ?????? «?????» ?????????? ??? ?????? ???
??? ?????? (11). ??? ?????????? ??? ?????? 38, ?? ?????? 136 ??? ?????? ??? ??
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ? ??????
????????? ??? ?????????? ??? ??????, ??? ?????? ??? ?????? ??? (12) —

43. ?????? ?????? ?????? ??? ?????? ?????????? ?? ?????? ?????????? ??? ?? ?????? ??????
???, ??? ?? ?? ?????? ??? ?????? ??? ?? ?????? 136 — ??? ?????? ?? ?????? «???

????????? ????, ??? ?????? ? ?????? ??? ?????? [...] ?????????? ??? ?????????? ??????»

(12) — ??? ?? ?????????? ???.

44. ? ??? ?????? ??? ?????? ?????????? ??? ???? ??????. ? ?????????? ??? ??
????????? ?? ?????? ??? ?????? Jyske Finans (13) — ? ?????? ?????? ?? ?????? ???
????????? ??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? — ???
«?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 13 ??? ?????? ??? [(14)]
[????????? ?? ?????? 13, ?, ?????? ?? — ??? ?????? 136 ??? ?????? ???] ?????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????
??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? 2 ??? ?? ?????? ??? ?????? ??? ??
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??»
(15).

45. ??????, ??? ?????? Jyske Finans (16), ?? ?????????? ??? «????? ????

???? ???? ?????????? ?????????????? ??? ?????????? ?????????? ??? ?????????????????? ? ??????????????
????? ??? ?????????????? ??? ??? ?????????? ?????????????? ?????????????? [...] ?????????
?????? ?????????? ???, ?? ?????? ?????????? ?????????????? ??? ?? ?????? ?????????? ??? ??????
?????? ???, ??? ?? ?????? ?????? ?????????? ?????????? ??? ?????? 24, 25 ?? 26 ??? ?? ???
??????, ?????? ?? ?????????????? ??? ?????? ?? ?????????? ??? ?? ?????? ?????????? ??? ?????? ???
?????». ????????, ???, ?????? ?? ?????????? ?????????? ??? ?? ?????????? ??? ?????????? ???
????????? ?????? ?????????? ?????????? ?????????? ??? ?????? ?????????? ?????? ??? ?? ?????????? ?? ??????
????????? ??? ?????? ?????????????? ??? ?????? ?????????? ?????? ??? ?? ?????????? ??? ??? ???
????????? ? ?????? ??? (???. ?????? 131 ???. ??? ?????? ???).

46. ??? ????????, ??? ?????? ?????? (17), ?? ?????????? ?????? ??? «? ?????????? ???
????? 13, ??? B, ??????? ??, ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ?????????? ???, ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? (???. ?????? 131 ???. ??? ?????? ???).

47. ?? ????????, ??? ?????????????? ??? Bawaria ??? ?????? ??? ?????? ??????, ???
????????? ???, ??? ?????? ??? ?????? ??? ?????????? Jyske Finans (18), ?? ?????????? ???
??? «????? ??? ?????????? ??? ?????? [13, ??? B, ??????? ??, ??? ?????? ?????? ??? ??
????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ???».

48. ????????, ?? ?????? 136 ??? ?????? ???, ??? ?????? ?????????? ?? ?????? 314,
????????? ??, ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??????
?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????
????????? ???, ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? «?????» ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? —????? ?????? ???
?????????. ?? ?????? 136 ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ????????, ??? ?????? ??? ?????? ???, ?????????? ??? ?????? ??? ????????

49. ?? ?? ????????, ?????? ???, ??? ?????? ??? ?????? ????????, ? ?????????? ???
????????? ?? ?? ?????? 86, ?????????? 3, ??? ?????? ??? —????? ?????? ???
????????? ??? ?? ?????? «standstill» ??? ?????? 176 ??? ?????? ??? (19), ???
????? ?????????? ?? ?????? 136, ??????? ??, ??? ?????? ???—????? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

50. ?? ????????, ??? ?????????? ??? ????????, ?? ?????? ?????????? ??? ?????? ?????????? ???
????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ???, ???
????????? ??? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ??????
????????? ??? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? —?????,
????????? ??? ?????? ??? ?????? ??? ?????? ??? —????? ??? ?????? ??? ?????? ??? ??????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (20).

51. ??? ??? ?? ?????????????? ??? ?????? ?????????????? ??? ?????? ?????? ???
????????? ???, ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???, ???
????????? ??? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
(????? ??????????) ?, ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ???.

52. ????????, ?? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???

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

53. ???????, ?????????????? ???, ???????, ??????? ??? ?????????? ??? ?????????? ???
?????? ?????? ?? ?????? ?????????? ??? ?????? ?? ?????????? ??? ?????? ?? ?????????? ???
??? ?????????? ?? ?????? ?????????? ??? ?????? ?? ?????????? ??? ?????? ?? ?????????? ???, ???
??? ?????????? ?? ?????? ?????????? ??? ?????? ?? ?????? ?????????? ??? ?????? ?? ?????????? ???
????. ?????????, ?????? ?? ?????????? ???, ?????? ?? ?????? ??????, ??? ??????
????????? ?????????? ?? ?????? ?? ?????? ?? ?????? ?????? ??? ?????? ?? ?????? ??? ??????
????????? ?????????? ??? ?????? ?? ?????? ?????? ?????? ??? ?????? ?? ?????? ??? ??????
????????? ?????????? ??? ?????? ?? ?????? ?????? ?????? Bawaria, ?? ?????????? ? ???
????????? ??? ?? ?????????? i) ??? ?????????? ??? ?????????? ?????????? ??? ?? ii) ???
????????? ??? ?? ?????????? ??? Bawaria ?? ?????? ??? ?????? ?? ?????? ??? ??????
???? ?? ??? ?? ?????????? ??? ?????????? ??? ?????? ?? ?????? ??? ?????????? ??? ?????????? ?
????? ?? ??? ?? ?????????? ??? ?????? 13, ?????????? 1, ?????? 5, ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (21) ? ???,
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???.

54. ???????, ? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ?? ? ???, ??? ?????? 131 ??., ?????????? ?????????? ?????????? ??? ?????????? ???
??? ?? ??? ????????????

55. ?? ?????? ??????????, ?????? (????? ??? ? ??????) ??? ??? ?? ?????? ??? ??????
????? ? ?????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ??? ??
????????? ??? ?????????? ??? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???, ???
?????. ?????????, ??? ?? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ??????????
????? ?? ?????? ??? ?????????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ???.

56. ?????? ?????? ??? ? ??????? ??? ?????????? ??? ?????????? ??? ?????? ??? ???
????? ?????? ?? ???, ?? ??? ???????, ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ???, ?? ?? ??????, ????????????

57. ? ?????????? ??? ??????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ???
????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ? ??? ?????? —????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???
????????? ??? ???.

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

59. ? ??? ???? ?????????????? ??? ??? ?????????? ??? ?????? 1 ??? ?????? ??? ???
? ?????? ??? ??????, ?????? ???, ??? «[?] ? ??? ???? ???? , ? ??? ???? ?????????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ???, ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (?)».

????? ?????????????? ?????????????? ??? ?????????? ??? ?? ?????????? —????? ? ?????? ???
????????????? ??? ?????? ??? ?????????????? ?????????????? ??? ?? ?????? ??? ??????
????? ???) ??? ??? ?? ?????????? ?????? (????? ?????????? ??????, ???' ????,
?????????????).

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

61. ? Bawaria, ????, ??????? ?? ?????????? ?? ?????????? ??? «?????????????» ??
????? ?????????? ?? ??? 187 ??? 189 ??? ?????? ??? —?? ????, ???
?????????, ??? ?????? ?? ?????????? ??? ?????? ?????????? ? ??????, ??? ??? ?? ???
?? ?????? ??? ?????? ??? ?????? ?????? ??? ??? ??????, ?????? ?? ?????????? ??? ??
????????? ??? ?????? ??? ?????????? ?????? ???, ??? ?? ?????? ??? ?? ?????? ??
????????? ??? ?????? ??? ?????????? ?????? ??? ?? ?????? ??? ?? ?????? ??
????? ?????? ??? ?????????? ?????? ??? ?????????? ??? ?? ??? ?? ?????? ??? ??????????.

62. ?? ?????????? ??? ?????? ??? ?????? ?? ?????? ???.

63. ??? ?????????? ? ?????????? ???' ?????????? ???????, ? ?????????? ??? ??
????????? ??? ?????????????? ?????????? ??? ?????????? ?????????? ??? ?? ??? ??
????????? ??? —??? ?????? ??? ?????? ?? ?????????? ??????. ??? ?????? ?????????? ?
????????? ???????, ? ?????????? ??? ?????? ?????????? ? Bawaria ?? ?????????? ???
????? ??? ?????? ??? ?????? ??? —????— ?????? ?????????? ??? ?? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ??? ?????? ???, ?? ?????? ??? ?? ??????????
????????? ?????? ??? ?????? ?????? ??? ?????? ??? (??? ?????? 13, ?????????? 1, ?????? 5, ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???) ??? ?? ?????? ??? ??
(22). ???????, ??? ?? ?????? ???, ?????? ?????? ??? ?????? ?????????? ??? Bawaria, ??? ??
?? ??? ??????????, ?????? ??? ?????? ?????? ??? ?????????? ??? ??????????.

64. ??? ?????? ???, ?? ?????????? ? ???' ?????? 13, ?????????? 1, ?????? 5,
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??? ??
????????? ?? ?????????? ? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??? ??
????????? ??? ?????? ?????????? ??? ? Bawaria ?? ?????? ??? ???: ??? ?? ??? ??
????, ?? ?????? ??? ?????? ??? ?????? ?????? ??? ??????????.

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

66. ?????? ??? ?????? ??? ?????? ???, ?????? ???, ???' ??? ?????? ??? ?????? ???
??, ?????? ???, ???, ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ???
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ???, ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 86, ?????????? 3,
??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? 314, ?????????? ??, ??? ??????
??? ???, ??? ?????? ???, ? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??
????????? ?? ?????? ?????? ??? ?????? ??? ?????? ???.

IV - ???????

67. ??????? ??? ??????? ???????, ??????? ??? ??????????? ?? ?????? ??? ?????? ??? ??????? ???
?????? ?? Naczelnego S?d Administracyjny ??? ??????? ???????:

?? ?????? 313, ?????????? 1, ??? 314 ??? ?????? 2006/112/?? ??? ???????????, ??? 28??
????????? 2006, ??????? ?? ?? ????? ??????? ?????? ?????????????? ?????, ?? ??????????
?? ?? ?????? 136 ??? 315 ??? ??????? ??????, ????? ??? ?????? ??? ?????????? ???
????????? ??? ??????? ?????????? ??? ?????????? ????? ?????????? ??? ?????????????? ???
????????? ?? ?????? ?? ?? ?????????? ?????????????? ????? ?????????? ?????????????? ???
????? ?????????????? ???????? ?? ?????? ??????? ??? ?????????????? ??? ?????????? ???
????? ??? ???????? ??? ??????? ?????, ??????? ??????? ?????????? ?????? ??? ?????
????? ??? ??? ??????, ??????? ?? ?? ????? 86, ?????????? 3, ??? ?????????? ?????? ???
??.

1 = ??????? ??? ???????????: ? ???????.

2— ??????? ? ??????? ?????? ??? ?????? ?????????? ??? ?????? ?????? ??????.

3— ?????? ?? ???????????, ?? 28?? ?????????? 2006, ??????? ?? ?? ?????? ??????
????? ??????????????? ?? (?? L 347, ?, 1, ??; ?????? ???????)).

4 — Ustawa o podatku od towarów i usług (????? ????. ????. ?????? ????. ????. ?????? ????.
???????????) ????. 11?. ?????? 2004 (Dz. U.????.. 54, ?????? 535, ????. ????. ??????????????,
????. ????: ??????. ????. ????).

5— ??????????? ??????? ??? ??????? ?????????????? ??? 28?? ?????????? 2008, ???
??? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???
????????? (Dz.U ????, 212, ??????? 1336).

6— ??????????? ??? ???? 86, ?????????? 3, ??? ???? ????? ?? (50 % ? 60 %, ??? ???? ??? 5 000 ? 6 000 PLN).

7 — ??., ??? ????????????, ???????? ?? 8?? ?????????? 2005, C-280/04, Jyske Finans
(?????? 2005, ?. I-10683, ???? 23), ??? 11?? ?????????? 2008, C-371/07, Danfoss ???
AstraZeneca (?????? 2008, ?. I-9549, ??????? 28 ??? 29), ??? 15?? ??????? 2010, C-538/08
??? C-33/09, X Holding (?????? 2010, ?. I-3129, ????? 38), ??? ??? 30?? ?????????? 2010,
C-395/09, Oasis East (?????? 2010, ?. I-8811, ??????? 19 ??? 20). ??? ??????? ??? 22??
????????? 2008, C-414/07, Magoora (?????? 2008, ?. I-10921), ? ????? ?????? ??????
??? ???????, ?? ?????????? ?????? ???' ?????? ??? ? ??? «standstill» ??? ??? ?? ??????? ??
????????? ?? ??? ??? ?? ?????? ????? ?? ?????????????? ??? ?????????? ??? ?????????? ???
??? ?????????? ??? ??? ?????? ??????? ???, ????? ??? ?? ?????????? ??? ?? ??? ??????
???? ?? ?????? ??? ?????? ????. ? ?????? ??? ?? ???????????, ?? ??? ?? ???????????,
??? ?? ?????? ?????? ?????? ?????????????? ?????????????? ??? ?????????? ??? ?? ??? ??????
?? ?????? ??? ?? ??? ?????? ???????, ?????? ??? ?? ?????????? ?? ??? ?????? ??????? ???
????????? ??? ?? ?????? ??? ?? ??? ?????? ??? ?? ?????????? ??? ?? ?????? ??? ?? ?????????? ???.

8— ?????? ??? 8?? ??????????? 1993, ???? ??? ?????? ??? ?? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???
??? ?????? ?????????? (Dz. U ????. 11, ??????? 50).

9 — ????. ????. ??' ??????????? ????????, ? ??????? ??????? ??? ? ??????? ???
Bawaria ????. ????. ?????? ?????? «?????? ??????? ??????? ?????? ?????? ??????».?

10 — ??., ??? ???????????, ??????? Magoora, ??????????????? ????. ??????????? 7, ???
?????? ??? Naczelnny S?d Administracyjny ??? 9?? ??????? 2010, I FSK 960/09.

11 — ???????, ?? ?????? ??????????? ??????????? ????. ????. ??????? ????. ?????? ???????????,
????? ?????????? ????. ???'. ????. ?? ?????? ????. ??????? ?????? (????? ????
?????????? ????. ?? ??????? 187 ?? 189 ?? ??????? ????. ????. ??????? ?????? ????. ????. ????. ????
?????? ??????? ?? ??????????????? ?? ???????????, ??????????? ?? ??????????? ?? ??????????? ?? ???????
????? ?? ??????? ?? ??????????? ?????? ??????????? ????. ??????????? ??????????? ?? ??????????? ?? ???????
?????????????? ????. ??????????????? ????. ??????) ????. ??????????? ?? ???????????
?????? ??????????? ????. ????. ????. ????. ??????? ????. ?????? ????. ????. ????. ????. ????. ????. ????.
????? ?? ??????? ??????? ????. ??????????? (????? ???????????). ?????? ???????????
????? ?? ????. ????. ??????? ??????? ????. ??????????? ????. ?????? ????. ????. ????. ????. ????. ????.
????????? ??????????? ??????? ????. ??????????? ????. ????. ????. ????. ????. ????. ????. ????.
????????? ????. ??????? ??????? ????. ??????????? ????. ??????????? ????. ????. ????. ????. ????.
????????? ????. ??????? ??????? ????. ??????????? ????. ??????????? ????. ??????????? ????. ????.
????????? ????. ??????? ??????? ????. ??????????? ????. ??????????? ????. ??????????? ????.

12 — ? ??????????? ????. ???.

13 — ??????????????? ????. ??????????????? 7 (????? 21).

14 — ????. ?????? 77/388/??? ????. ???????????, ??? 17?? ?????? 1977, ????. ???????????????
????. ?????????? ????. ???????, ????. ?????????? ?? ????. ?????? ?????? ?????? — ????.
?????? ?????? ?????????????? ????: ?????????? ?????????? ????. (?? ????. ????. 09/001, ?. 49),
????? ?????????????? ?? ????. ?????? 94/5/?? ????. ???????????, ??? 14?? ???????????
1994 (?? L 60, ?. 16, ????. ????: ????. ??????).

15 — ??., ?????? ????, ??????? ??? 20?? ??????? 2003, C-8/01, Taksatorringen
(?????? 2003, ?. I-13711, ?????? 36), ??? 3?? ??????? 2005, C-428/02, Fonden Marselisborg
Lystbådehavn (?????? 2005, ?. I-1527, ?????? 29), ??? 16?? ??????? 2010, C-270/09,
Macdonald Resorts Limited (?????? 2010, ?. I-13179, ?????? 45 ????. ????. ???????????
?????????). ??., ??????, ??????? ??? 28?? ??????? 2010, C-175/09, Axa UK (??????
2010, ?. I-10701, ?????? 25 ????. ????. ??????????? ??????????).

16 — ?????????????? ????. ??????????? 7? ???. ?????? 35, ? ?????? ?????? ????. ??????????
????. ??????????? ????. ?????? 26 ????. 25 ????. ?????? ?????? ?????????? ???., ??????,
????????? ????. 22?? ?????? 1998, C-308/96 ????. C-94/97, Madgett ????. Baldwin (??????
1998, ?. I-6229, ?????? 34), ????. 15?? ??????? 2004, C-321/02, Harbs (?????? 2004, ?. I-
7101, ?????? 27).

17 — ?????? Jyske Finans, ?????????????? ????. ??????????? 7 (????? 24).

18 — ???.

19 — ??., ??????, ??????? Magoora (?????????????? ????. ??????????? 7), X Holding
(?????????????? ????. ??????????? 7, ?????? 59 ????. 61), ????. Oasis East (??????????????
?????. ??????????? 7, ?????? 19 ????. 20).

20 — ??????? ??????? ??? 9?? ??????? 1992, C-131/91, «K» Line Air Service Europe (?????? 1992, ?. I-4513, ???? 19).

21 — ????? ?? ?? ??????????????, ??? ?? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ??????????, ??????????? ??? «??? ??????? ?????????? ???, ?? ?? ?????? 13, ?????????? 1, ?????? 5, ??? ?????????????? ?????????? ??? ??? ?????????? ??? ?????????? ??? ?????? [...] ?????? [??? ?????????? ??????]».

22 — ?. ?????? ?????? 54 ??????.