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MACIEJ SZPUNAR

??? 13?? ??????????? 2018 (1)

?????? C-264/17

Harry Mensing

????

Finanzamt Hamm

[?????? ?? Finanzgericht Münster

(?????????? ??????????? ??????? Münster, ????????)

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

«?????????????? ?????????? – ?????????? – ????? ??????????????? ????? – ?????? 2006/112/?? –  
????? 314 ??? 316 – ?????? ?????????? – ?????????? ?????? ??? ?????????????? – ??????????  
?????????? ?????? – ?????? ?????????????? ?????????????? ?????? ??? ?????? ??????????????  
? ??? ?????????? ??? – ?????????????? ?????????? – ?????? ?????????? ??? ??????  
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1. ??? ?????????????? ?????????? ?????????????? ?? ??? ????? ?????????????? ?????? (?? ???:  
???) ?????????? ??? ?? ??? ?????? ?????? ??? ?????? ?????????????? ???, ??? ?????? ??????????  
??????????, ??? ? ?????? ?????????? ?? ?????????????? ???, ??? ?????? ?????? ??? ?????? ???  
?????????? ?????? ??? ?????????? ?? ??? ?????? ???, ??? ?????? ??? ?????????? ?? ???  
??????, ? ?????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????  
????? ??? ??? ??? ???, ??? ??? ??? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????????  
????? ????. ??? ??? ??? ???, ? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????  
????? ??????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???  
????, ?????? ??? ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????.

????????? ?? ?????????? ?????????? ??? ?????? ??? ??????, ?????????? ?????????? ???,  
????????? ??????? ???????, ??????????, ? ?????????? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ??????? ??? ?????????? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?? ??  
????????? ??? ?????????? ?????? ??? ?????????? ??????????; ??? ?????? ??? ?????? ??? ??????  
????????? ?? ?????????? ?? ??????????.

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

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

2. ??? ?? ??? 2, ?????????? 1, ??? ?????? 2006/112/?? ??? ??????????, ??? 28??  
????????? 2006, ??????? ?? ???? ?????? ?????? ?????? ?????????????? ??? (2):

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

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

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

i) ??? ?????????? ???? ??? ?????? ??? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ???  
????? ???? ?????? ??????, ???? ? ?????? ?????? ?????? ?????????????? ???? ???? ???  
??? ?????????? ???? ???? ???? ??? ?????????? ???? ?????????? ???? ???? ???? ???  
??? ?????????? ???? ??? 282 ??? 292 ??? ?????? ???? ?????? ???? 33 ? ???  
????? 36,

[...]

[...]

?) ?? ?????? ????.»

3. ?? ?????? 14, ?????????? 1, ??? ?????? ?????? ?? ?????? ?? ?????????? ?????? ??  
«????????? ??? ?????????? ?? ?????? ???, ?? ??????, ?????? ???».

4. ? ?????? ??? ?????????????? ?????????? ?????? ?????????????? ??? ?????? 20,  
????? ??????, ??? ???? ??????, ?? ?????? ????:

«????? ?? “????????????? ?????? ??????” ? ?????? ??? ?????????????? ?? ??????  
??????, ?? ??????, ?????? ?????? ?????? ??? ?????? ??? ?????????????? ? ?????????????? ???  
????????? ???? ??? ?????? ???? ??? ?????? ???? ??? ?????? ???? ?????? ???? ?????????? ???  
????, ?? ?????? ???? ???? ???? ??? ?????? ???? ??? ?????? ???? ?????? ???? ?????????? ???  
????????? ??? ??????.»

5. ??? ?? ?????? 138, ?????????? 1, ??? ?????? 2006/112:

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

6. ?? ?????? 168 ??? ?????? ?????? ????:

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

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

[...]

?) ??? ??? ??? ?????????? ??? ??? ?????????????? ?????????? ???, ??????? ?? ??  
????? 2, ?????????? 1, ?????????? ?), ?????? i),

[...]

?) ??? ??? ??? ?????????? ? ?????????????? ??? ?? ?????????? ??? ?? ??? ?????? ?????? ???  
?????.»

7. ??? ?? ????? 169, ??????? ??, ??? ?? ??? ??????:

«????? ??? ??? ??????? ??? ?????????? ??? ?????? 168, ? ?????????? ??? ?? ??? ?????? ??? ??  
????????? ??????? ??? ??? ??? ?????????? ??? ??? ?????? ???, ?????? ?? ??? ?????? ??? ??  
????????? ?????????????? ??? ??? ?????????? ??? ??????:

[...]

?) ??? ?????? ??? ??? ?????????????? ??? [?? ??????] 138 [...].».

8. ?? ???????? 4 ??? ?????? XII ??? ?????? 2006/112 ?????? ?????? ?????? ?????????? ???  
????????? ??? ?? ?????????????? ?????? ??? ?? ?????????? ?????????????? ??????????????, ?????????????? ?  
????????????? ??????. ??? ?? ????? 311, ?????????? 1, ?????? 2 ??? 5, ??? ?????? ??????:

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

[...]

2) “????????????? ?????????????? ?????”, ?? ?????? ??? ?????????????? ??? ??????????  
??, ????? ?,

[...]

5) “????????????? ??? ?????? ??????????”, ??? ?????????? ??? ?? ??? ??????, ???  
????????? ??? ?????????? ??? ?????????????? ?????, ?????? ? ?????????? ??? ?? ??? ?????? ???  
????????????? ??? ? ?????? ??? ?????????? ??? ?????, ?????????????? ?????, ?????????????? ??? ??  
????????????? ?????, ?????????? ? ?????????????? ?????, ??? ?????? ??? ?? ??? ??????????  
????? ??? ?????????? ?????? ?? ??? ????? ?????? ?????????????? ?????? ??? ?????? ??? ??

[...]».

9. ?? ??????? 1 ?? ???? 2 ?? ?? ???? ??????? ?? ???? 2006/112 ??????? ??  
?????? ??????? ??????? ?? ???? ??????????? ?? ???? ????????????. ??? ??  
????? 312 ??? 317 ??? ?? ?????? 319 ??? ??????? ????:

«????? 312

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

- 1) “???? ??????”, ?? ?????? ??? ??????? ?? ???? ??????? ? ?? ??????? ?  
?????????? ??? ???? ??????????? ?? ???? ??????? ? ?? ???? ???????,  
?????????????? ??? ??????????? ?? ???? ??????? ?? ???? ???????, ??? ???,  
??????????, ??????? ?? ???? ???????, ??? ??????????? ?? ???? ???????,  
??????????, ???????????, ??????????? ?? ???? ???????, ?? ?? ?????? ??????????? ?  
?????????? ??? ?????? ??????????? ?? ???? ???????, ?? ??????? ?? ???? ??????? 79,
- 2) “???? ??????”, ?? ?????? ??? ??????? ?? ???? ??????? ?? ???? 1), ?? ?????? ?????? ?  
?? ?????? ? ??????????? ?? ???? ??????????? ?? ???? ?????? ???????????.

????? 313

- 1) ?? ?????? ??? ??????? ?? ???? ??????? ?? ???? ??????? ??????? ??  
?????????? ??? ???????????, ??????????? ? ?? ???? ??????? ???????, ?? ????  
?????????????? ??? ??????????? ?? ???? ??????? ?? ???? ??????? ??????????? ??  
?????????? ??? ??????? ?? ???? ??????????? ?? ???? ??????? ??????? ?? ???? ??????? ??  
?? ??????????? ??? ??????? ?? ???? ??????? ?? ???? ???????.

[...]

????? 314

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

- ? ) ??????? ?? ???? ??????? ?? ???? ??,
- ? ) ?????? ??????????? ?? ???? ??, ?????? ? ?? ???? ?????? ?? ???? ?? ???? ??????? ?? ????  
?? ???? ?? ???? ?? ???? 136,
- ? ) ?????? ??????????? ?? ???? ??, ?????? ? ?? ???? ?????? ?? ???? ?? ???? ??????? ?? ????  
?????????? ?? ???? ??????? ?? ???? ??????? ?? ???? ??????? ?? ???? 282 ?? 292 ?? ????  
????? ????????,
- ? ) ?????? ??????????? ?? ???? ?? ???? ???????, ?????? ? ?? ???? ?????? ?? ???? ??????? ?? ????  
?? ???? ??????? ?? ???? ?? ???? ??????? ?? ???? ??????? ?? ???? ?? ???? ??????? ?? ???? ?? ????  
????? ???????.

????? 315

? ????? ?????????? ??? ????? ??? ?????????????? ?????? ??? ?????? 314 ??????????? ???  
????????? ???????? ??? ?????????????? ? ?????????????? ??? ?????? ??? ????????????, ??????????  
????? ?? ????? ??? ??? ????? ?? ?????? ?? ?????????? ????????

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

????? 316

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

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

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

) ?????????????? ?????????????? ?????? ??? ??? ?????????????? ??? ??? ?????? ??? ??? ??? ??  
????? ???, ?????? ??? ?????????? ??? ?????? ??? ???????????, ?????? ? ?????????? ??? ?? ?? ???  
????? ??????? ?????? ?? ?? ??????? ???????????, ?????? ?? ?? ??? 103.

[...]

????? 317

????? ? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ???????????  
??? ??? 316, ? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?? ?? ??? 315.

????? ??? ?????? ??? ?????????? ?????????????? ???????????????, ?????????????? ? ???????????????  
????? ?? ?????? ?????????? ? ?????? ? ?????????????? ??? ?????? ??? ???????????, ? ??? ?????? ???  
?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?????? ??? ?????? ?? ?? ??? ?????? ???  
??? ?????? ??? ?????? ??? ???????, ? ?????? ?????????? ?? ??? ??? ?? ?????? 85 ??? 89,  
????????????? ?? ??? ?????????? ? ?????????????? ??? ??? ?????? ???.

[...]

????? 319

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

10. ?? ????? 320 ??? 322 ??? ?????? 2006/112 ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???  
????? ???????????. ?? ?????? ??? ?????? ????:

«????? 320

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

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

[...]

????? 322

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

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

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

?) ??? ??? ??? ?????????? ? ?????????????? ??? ?? ?????????????? ?????????????????? ??? ???  
?? ?????????????? ? ?????????? ?? ??? ?????????????? ??? ?? ?????????? ??? ?????? ??? ???  
????????? ??? ??? ??? ??????????..»

11. ????, ??? ???? 342 ??? ???? ??????:

«?? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ?????? ?? ?? ?????????? ?????????? ??? ???,  
????????????? ?? ?????????? ??? ?????? ????? ?????????? ??? ?????????? ?? ?? ??? ??? ??  
????????? ??? ?????????????? ??? ?????? 2 ?? ??? ?????????????? ??? ?????????? ??? ?????? ???  
????????????? ??? ??? ?????????? ??? ?????????? ??? ??????..»

**?? ?????????? ????**

12. ?? ?????????? ??? ?????????? ?????? ??? ?????? ?????????????? ??? ?????? ??? ??????????????  
????????????? ??? ?????????? ?????? ?? ?? ?????? 25a ??? Umsatzsteuergesetz (????? ???  
????? ?????? ???????, ??? ???: UStG). ? ?? ??? ?????? ?????????? ?????????????? ???  
?????:

«1. ??? ??????????, ??? ???? ?????? ??? ?????? 1, ?????????? 1, ?????? 1, ??????  
????????? ?????????? ?????? ?????????? ?????? ?????? ?? ?? ?????????? ??? ??????????  
????????? (????????? ??? ?????????? ??????), ?????? ?????????? ?? ??????????  
??????????:

1) ? ?????????????? ??? ?????? ???????????. ?? ?????????? ?????? ?????? ??????????  
??' ?????????? ?????? ?????? ?????? ?????? ?????????? ?????????? ?? ??????????????  
????????? ??? ?????????? ??? ?????? ???, ?????? ??????????.

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

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

a) ??? ?????????? ??? ????? ???? ?????????? ??? ????? ?????? ?????? ??? ?????? ??? ?????? 19,  
????????? 1 ?

b) ??? ?????????? ?? ?????? ??? ?????????? ??? ?????????? ??? ??????.

[...]

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

[...]

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

[...]

3. ? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ??? ?????????? [...] . ??? ?????????? ??? ??????  
????????? ??? ?????????? 2, ??? 2, ? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????  
????????? ??? ??????????.

[...]

5. [...] ??? ?????????? ??? ?? ?????? 15, ?????????? 1, ? ?????????? ??? ???, ???  
????????? ??? ?????????? 2, ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ??????????, ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???  
??? ?????? ??? ?????????? ??? ?????? ??? ?????? 13b, ?????????? 5.

[...]

7. ??? ?? ?????????? ??? ?????? ??? ??????:

1) ?? ?????????? ??? ?????????? ??? ?????? ??? ??????????

a) ??? ?????????? ??? ?????????? ??? ? ?????????? ??? ?????? ??? ??????  
????????? ??? ?????????? ??? ??????????, ?? ?????????? ??? ??? ??? ?????????? ??? ?????????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????, ? ?????????? ??? ??? ??? ???  
??? ?????????? ??? ??????????,

[...]».

**????????? ??? ?????????? ??? ??????????**

13. ? Harry Mensing ??? ?????????? ??? ?????? ??? ??????????, ??? ???? ???? ????  
????? 311, ?????????? 1, ?????? 5, ??? ?????? 2006/112 ??? ??? ?????? 25a, ??????????  
1, ?????? 1, ??? UStG. ?????????? ?? ?????????? ??? ?????????? ?? ??? ?????? ??????????  
????????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? . ??? ? ? ?????????? ???  
????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ??????????  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? H. Mensing ??? ?????? ??? ? ? ?????????? ??? ???? ???

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

14. ??? ?????? ??? 2014, ? H. Mensing ??????? ??? Finanzamt Hamm (???????????) ???  
Hamm, ???????) ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???  
????????? ?????????? ?????? ??? ????? ?????????? ??? ?????? ?????????? ????. ?  
????????? ??? ??????????, ????, ?? ??? ?????????? ?? ?????????? ?????????? ??? ?? ???  
????????? ?? ?????????? ?????????? ?????? ??? ?????? ?????????? ??? ??????????  
????????????? ?? ??? ?????? ???, ?????????? ?? ?????? 25a, ?????????? 7, ?????? 1,  
????????? a, ??? UStG, ?? ?????????? ?? ?????? ??? ?????? ??? ?????????? ??? ??? 19  
763,31 ???.

15. ?????? ?????????? ??? ??? ??????????, ? H. Mensing ?????? ?????????? ??? ??  
????????? ??? ?????????? ?????? ??? Hamm ?????? ??? Finanzgericht Münster  
(????????? ?????????? Münster, ??????). ?? ?????????? ???, ??????????  
????????? ?? ??? ?? ?????????? ??? ?????? 25a, ?????????? 7, ?????? 1, ?????? a,  
??? UstG ??? ?? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? 314 ??? 316  
??? ?????? 2006/112, ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ???  
????????? ??? ?????????? ?? ?????????? ?????????? ??????????:

«1) ??? ?? ??? 316, ?????????? 1, ??????? ??, ??? ?????? [2006/112] ??? ?????? ???  
?? ?????????? ??? ?????? ?????????? ?????? ?? ?????????? ?? ?????????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????????? ?????????? ?????????? ?????????? ??? ?????? ???  
????????? ???, ??? ?????? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ???  
????????? ???, ?? ?????? ??? ?????????? ?????? ?????? ??? ?????? ??? ?????? ???  
????? 314 ??? ?????? [2006/112];

2) ?? ?????????? ?????????? ?????????? ??? ?????? ?????? ??????: ?????????? ??? ??  
322, ?????? ??, ??? ?????? [2006/112] ?? ??? ??? ?????????? ?????????? ??????????  
??? ?????? ?????? ??? ?????????? ??? ??? ?????????? ?????? ?????????? ??????????  
????????????? ??????, ??? ?????? ??? ?????? ??? ?????????? ?????? ?????? ??????????  
????????? ??????;»

16. ? ?????? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???  
???? 17 ????? 2017. ?????? ?????????? ??? H. Mensing, ? ??????????  
????????? ??? ? ?????????? ???????. ?? ?????? ?????????? ?????? ??? ?????? ???  
????????? ?????? ??? 14? ?????? 2018.

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

17. ?????????????????????????????????, ?? ??????? ?????????????????????, ???' ???????, ??  
????????????????? ??? ? ?????????????? ??? ????? ????? ?????????????? ??? ????? ?????????? ???  
????????????? ??? ?????????????? ???????, ?????? ??? ?????? 316, ??????????? 1, ?????????? ?,  
??? ??????? 2006/112, ??? ?????? ?????????????????? ?????????????????? ??? ?????? ??? ?????????? ???  
????????????? ? ??? ?????????????? ???, ?? ?????? ?????????????????? ?? ??? ?????? ???  
??? ??? ?????????? ??? ?????????????? ??? ?????????? ??? ?????????? ?? ??? ?????? 314 ??? ?? ???  
?????. ?? ??????? ??? ???????, ??? ??????????????????, ??? ?????? ?????????? ??????. ?? ???  
????? ?? ?????? ??????? ??? ?????? 314 ??? 316 ??? ??????? 2006/112. ?? ??????  
????????? ??? ?? ?? ?????????? ??? ?????????????? ?????? ?????? ??? ?????????? ???  
????????? ?????????????? ?????????????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????????? ???  
????????????? ??? ?????? ?????????????? ?????????????? ??? ?????? ?? ?????? ??? ?????? ???.

? ?????? ?????? ??? ?????? 314 ??? 316 ??? ?????? 2006/112

18. ?? ??????? ????????????, ?????????????? ??? ????????? ?????????????? ???????????,  
????????????? ???, ??? ???? ?? ????? ???, ?? ????? 314 ??? ?????? 2006/112 ???  
????????????? ?? ?????? ?????????? ??? ?????????? ??? ?????????? ??????. ?? ??? ???? ???,  
???? ??? ???? ??? ?????????? ???, ?? ?????? ??? ?????? ?? ?????? ?????? ?? ?????????? ???  
????????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????????? ???  
????????? 314 ? ?????????? ??? ?????? 314 ??? 316 ??? ?????? ?????.. ??? ?????? ??????  
??? ?????? ??? ?????? ??? ?????? 314 ??? 316 ??? ?????? 2006/112 ?? ?????????? ???  
????????????? ??? ?????? 25a, ?????????? 7, ?????? 1, ?????? a, ??? UStG ??????????  
??? ?? ??????? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ???  
???? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ???, ?? ?????? ???  
??? ?????????? ?? ?????? ?????????? ??? ??? ??? ??? ?????? ??? ?????? ??? ?????? ???  
????????????? ?????????? ??? ?????? ?? ?????? 138, ?????????? 1, ??? ?????? 2006/112 ??  
????????? ?? ?? ?????? 169, ????????, ??, ??? ?????? ??????. ????????, ?? ?????? ???  
????????????? ??? ?????? 314 ??? ?? ??? ?????? ??? ?????????? ??? ?????? ?????? ??????  
?? ?????? ???.

19. ????????, ? ?? ??? ?????????? ??? ???????? ?????? ??? ?????? 314 ??? 316 ???  
?????? 2006/112 ??? ??? ?????????? ??????????????????.

20. ???' ????, ??? ?????? ??????? ?????????? ??? ?? ?????????? ??? ?? ???  
?????????. ? ?????????? ?????? ??? ?????? 314 ??? ?? ??? ????? ?????? ??? ??  
????????? ??? ?????????? «??????» ??? ?????????? ??? ?????????????? ??? ??  
???? ????. ????? ?????? ??? ?? ??? ????? ?????? ?????????? ?????????? ??? ??  
????????? ?? ?????????????? ??? ?????? ??? ????? ?????? ?????????? (3). ??????????, ?? ??? 316,  
????????? 1, ??? ?? ??? ????? ?????? ?????? ??? ????? ?????????? ??? ?? ?????? «??  
????????? ?? ?????[?] ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? «????  
????????????? ?' ??? ??????????, ?? ?????? ?????????? ??? ?? ?????????? ??? ??  
????? 314. ??? ?? ?????????? ??? ?????????? ?????? ?????? ?????????? ??? ?? ??????  
????????? ??? ?????????? ??? ?????????? ?????? ?????? ?????? 316, ?????????? 1,  
??? ?????? 2006/112 ?????? ??? ?? ?????? ??? ?????????? ??? ?????? 314 ???  
????????? ????. ???????, ??? ?? ?? ?????? ?????????? ??????????, ??? ?? ??? ?????? ???, ??? ??  
????????? ?????????? ?? ?????????? ??? ?????? 316, ?????????? 1, ??? ?????? ????  
????????? ?? ?????? ?????? ?? ??? ?? ??? ?????? ?????? ?????? ?????????? ??? ??????????  
????? 314 ??? ?????? ?????????? ??? ?????????? ??????. ??????, ?? ?????? 316  
????????? ?? ?????? ?????? ?????? ?????? ?????? ??????, ?????????? ????  
????????? ??? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????

21.    ?? ??????????????????? ?? ????? ?? ??????????????????? ?? ?????? ?? ??????? ? ?? ??????????? ?? ?? ??

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

22. ?? ?????????????? ??? ?????? 314 ??????, ?? ?????? ??? ?????? ?????? ?????????? ??????????  
??? ?????? ??????, ?????? ?? ?????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????  
????????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???.  
??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??????????, ?? ?????? ??? ?????? ?????????? ???  
??? ?????? ?????? ??????, ?????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?? ??????????  
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????????  
????? ??????, ?????? ??? ?????? ??? ?????? ?????? ?????? («????? ??? ?????»). ?  
????????? ??? ?????????? ??? ?????????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????  
??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ?? ?????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??????.

23. ?????? ??? ?????? ??? ?????? ?????? ? ?????? ?? ?????????????? ?????????? ??? ??????  
?? ?????? ??? ?????? ? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ???  
????????? ??? ??? ??? ??? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??? ???  
????????? ??? ??? ??? ??? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ???  
????????? ??? ??? ??? ??? ??? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ??? ??? ??? ??? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????? ??? ??? ??? ??? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ??? ???  
????? ??? ??? ??? ??? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ??? ???  
????? ??? ??? ??? ??? ??? ??? ?????? ??? ?????? ?????? ??? ?????? 314 ??? ?????? 2006/112. ??????, ??  
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ???  
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (??? ?????? 316 ???  
????? 2006/112). ??????, ?? ?????? 316 ??? ?????? 2006/112 ?????? ?????? ??? ?????? ???  
????????? ?????? ??? ?????? ??? ?????? 314 ??? ?????? ?????? ???.

24. ??? ?????? ??? ?????? 316 ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ? ?????????? ??? ??  
????????? ??? ??? ?????? ??? ?????????? ??? ?????? ?????? 314 ??? ?????? ??? ?????? ??? ??????  
?????, ?????? ??? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
??? ?????? ??? ??????.

25. ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???  
????????? ??? ?????????????? ??? ?????? 316, ?????????? 1, ?????????? ??, ??? ??????  
2006/112 ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? 314. ?? ??????  
????? ?? ??? ???, ??????, ?? ?????????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ??????  
????? (????? 314, ?????? ??), ???, ???' ??????, ?? ?????????? ??? ?????? ??? ?????? ???  
????????? ??? ???, ??? ?????? ??? ?????? ?? ?????????? ?????? ??? ?????? ??? ?????? ???  
????? 314, ?????? ?? ??? ??? (4).

26. ? ?????????? ??? ?????? ??? ?????????? ??? ?????? 314 ??? 316 ??? ??????,  
????????? ??? ?????? ??? ?????? ?? ?? ?????? 316, ?????????? 1, ?????????? ?? ??? ??.

27. ?? ?????? 316, ?????????? 1, ?????????? ??, ??? ?????? 2006/112 ?????? ?????? ???  
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????? 314 ?????? ??? ?????? ??? ?????? ?? ?????? «????????? ?????? ??? ?????? ??? ?????? ???» ???  
????????? ??? ??? ?????? ?????? 314 ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

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

28. ?? ? ? ????? 316, ?????????? 1, ????????, ?????? ?????????? ?????? ?????????? ??????  
????? ??? ?????????? ??? ?????????? ??? ?????? «????? ?????? ?????? ?????? ??????  
?? ? ? ?????? ??????????» ??? ??? (5). ?????? ??? ?????? ??? ?????? ?????? ??? ??? ??  
????????? ?????????? ?????????? ??? ??? ??? ?????, ??? ?????? ?????? ?????? ??? ??  
?????????, ??? ?? ?????? ???, ??? ?????????? ??? ?????????? ?????? ?? ?????????? ??  
????????? ?? ?????????? (????? 314, ?????????? ???) ? ?????????? ??? ?? ??? ???  
(????? 314, ?????????? ??? ???).

29. ??? ?????????? ?? ??? ??????, ??? ?????? ?????? ? ?????????? ?????? ???  
????? 314 ??? ??? ?????? 316, ?????????? 1, ????????, ??? ???, ??? ?????? 2006/112.  
????? ?????????? ???, ??? ??? ?????? ?????? ? ?????? ??? ?? ?????? 314 ??? ?? ???  
????? ?????? ?????????? ??? ??? ?? ?????? 316, ?????????? 1, ????????, ???, ???  
?????.

30. ? ?????????? ??? ?????????? ??? ?????? 316, ?????????? 1, ??? ? ???? ?????? ???  
??? ?????? ??? ?????????? ??? 314 ??? ?????????? ??? ?????? ???????. ?  
????????? ??? ?????????? ??? 314 ??? ?????? ?????? ?????? ?????????? ??? ??  
????????? ??? ?????????? ??? ?????????? ?????? ??????. ?? ?????? ?? ???, ??????, ?? ??????  
??? ?????????? ??? ?????? ?????????? ?? ?????????? ??? ?? ?????? ?? ?????????? ??  
????????? ??? ?????? ?????? ?????? ?????? ??? ?? ?????? 314; ?? ?????????? ??????????  
?? ?????????? ??? ??? ?????? ?????? «opt out», ??? ? ?????????? «opt out» ??? ??  
????????? ??? ?????????? ?????? ?????? ?????? ??? ?? ?????? 319 ??? ?????? 2006/112,  
?? ??? ?????? 316 ??? ?????? ?????? ??? ?????? ?????? ??? «opt in» ??????.

31. ?????, ? ?????????? ??? ?????????? ??? ?????? 316 ??? ?????? 2006/112 ??? ??  
????????? ??? ?????????? ??? 314 ??? ?????? ?????? ?? ?????? ?? ?????????? ???  
????????? ?? ?????? ??? 322. ? ? ???? ?????? ?????? ??? ?????? ?????????? ??? ??  
????????? ?? ?????????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????????? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??  
????????? ??? ?????????? ??? ?????? 316, ?????????? 1. ?????????? ??, ?? ??????  
322, ?????????? ?? ?????? ??? ?????? (????? 316, ?????????? 1, ?????? ???), ?? ??????  
322, ?????????? ??, ?????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?? ?????? ???  
(????? 316, ?????????? 1, ?????? ???), ??? ? ???? 322, ?????????? ?? ?????? ??? ??  
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??????????  
(????? 316, ?????????? 1, ?????? ???).

32. ??????, ?? ?????? 314 ??? ?????? 2006/112 ?????????? ??? ?????? ??? ??????  
????? ??????, ?????? ?????? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?? ???  
????????? ??? ?????? (6). ???????, ??? ? ?????? ??? ?????? 316,  
????????? 1, ??? ? ???? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? 314 ??? ?????? ???, ??? ? ?????? ??? 322 ?? ?????? ??? ?????? ?????? ???  
?? ? ? ?????? ??? ?????? ??? ?????? ??? ?????? 316, ?????????? 1, ?????? ??  
?? ? ? ?????? ??? ?????? ??? ?????? ???, ??? ? ???? ??? ? ???? ?????? ??????????  
?? ?????? 322, ?????? ??.

33. ??? ??? ? ? ???? ?????? ??? ? ???? 316, ?????????? 1, ??? ??????  
2006/112 ?????? ?? ?????????? ??? ?????? ??? ? ?????????? ??? ? ???? ?????? ???

????????? ??? ?????????????? ??? ?????? 314 ??? ?????? ?????? ?????.

?????????? ?????????? ??? ?????????? ??? ?????????? ?????? ?????? ??? ?????? 316,  
????????? 1, ??????? ??, ??? ?????? 2006/112 ??? ?????? ?????? ??? ?????? ?  
????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???

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

35. ????? ???? ?????? ????? ?????????????? ??????????????, ????? ?????????????? ??????????????????  
????????????????? ?????? ??? ?????????????? ??? ????? ?????????????? ?????? ??? ????? ?????????????? ???  
????????? ?????????????????? ?? ??? ????? ?????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????  
????????????????? ??????????, ? ?????????? ??? ?????????????? ??? ?? ?????? ?????????????? ??? ??  
????????????? ??? ????? ?????????????? ??? ?????? ?????????? ?????????????? ??? ?????? ??? ??? ?? ?????????? ???  
????????????, ??????? ?????? ?????? ?????? ?????? ??? ?????????????? ??? ?????? ??? ?????????????? ???  
????????????? ??? ?? ?????????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ? ?????????? ??? ?????  
??? ??? ?????????????? ??????????. ??????????, ? ?????????? ??? ?????????????? ??? ?????????? ???  
????????? ??? ??? ?????????????? ?????? ??? ?? ?????????? ??? ?????? ??? ??? ??? ????? ?????????? ???  
??????, ??? ?????????????? ??? ??? ?????????????? ?????? 51 ??? ?????????? 2006/112, ??????????????  
???? ?????????? ??? ?????? ?????????????? ??? ????? ?????????????? ??? ????? ?????????????? ???  
????????????? ??? ?????? ???.

36. ??????????, ??? ?????????? ??? ?? ??? ????? ?????????????????????? ??? ?????  
?????????? ?? ??????? ??? ?????? ?????? ?? ?????? ?? ??? ?????????? ??? ??????????  
?????????? ??? ?? ??? ?????? ?????? ??? ?????? 314 ??? 316 ??? ?????? 2006/112 (??.  
?????? 20 ??? 32 ??? ??????? ??????????).

37. ???????, ??? ?????????? ?? ?????? 316, ?????????? 1, ??? ???? ?????? ?,  
????????? ?? ?????? ?????? ??, ?????? ? ?????????? ?? ?????????? ?? ?????? ??  
????????? ?? ?????? ?????? ??, ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ??  
?????????. ?????? ??? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ??  
???? ?????????????? ?? ?????? ?????? ??, ?????? ?????? ?? ?????????? ?? ?????? 316,  
????????? 1, ??? ?????? 2006/112.

38.    ??? ??????? ??? ???, ??? ?????????????? ???????? ??? ?????? ??? ?????? ??? ?????????? ??????????????  
????????? ????. ? ??? ?????? ?????? ?????? ??? ???, ?? ??? ?????????? ??? ?????? ??? ?????? 318,  
????????? 1, ??? ?? ??? ?????? ?????? ??? ??, ?? ??? ?????????? ?????? ??? ?????? ??? ?????????? ???  
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 2, ?????????? 1, ?????????? ??, ???  
????????? ????, ? ?????????? ?????? ?????????? ?????????? ??? ?? ??? ?????? ?????? ???  
????? ??? ??????????. ? ?????? ??? ?????????? ?????? ??? ?????????? ??? ?????? ??? ????????,  
??????, ??? ?????????? ?????? ?????????? ??? ?????? ??? ? ?????????? ??? ?????? ??? ?????? 136  
?? ?? ??? ?????? ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ????. ? ??????????  
????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

39. ?????????? ?????????????? ??????????, ? ?????????? ?????? ??? ?????????? ??????????  
????????.. ? ??????? ?????????? ?? ?????? ?? ??? «????? ?????» ??? ??? ?????? ??????????  
????????? ?????? ??? ?????????? ????. ???????? ?????? ?? ?????????? ?????????? ???

????????????? ????? ???? ?????? ?????? ?????? ?????????????? ??? ?????????????????????? ??? ????  
????????? ??? ?????????????????? ?????????????? ??? (????? 169, ?????????? ?, ??? ??????  
2006/112). O ??? ??????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????????  
??????, ??? ?????????? ??? ?????????? ?????? ?????????? ?????????? ?????? ??? ?????? ?????? ??????, ???  
??? ?????????? ????. ?????? ??? ?????????? ??? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ???  
????? ???????, ??? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???  
????? ??????? ??? ?????????? ?????? ??? ?????????? ???.

40. ?????????? ??????????? ?????????? ?????????? ?????????? ??? ??? ??? ?????????? ??????. ?  
????????? ?????????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????????????? ??? (????  
??? ?????? ??? ?????? 2006/112), ?????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????? ??? ?????? ?????????? ??? ???.. ????????, ? ?????????? ?????????? ???  
????????? ??? ??? ??? ??? ??? ????????, ?????????? ?????????? ?? ?????? ??? ??????????  
??? ?? ?????? ??????.

41. ??????????, ??????, ?????? ?????? ???????????????, ?????????????? ??? ?????????????? ???  
????????????? ?????????????? ?????????????? ?????? ??? ?????????????? ?????? ??? ?????? ??????  
????? ? ??? ?????? ?????????????? ?? ??? ?????? ?????? ?????? (????? ??? ?????? ??????????????)  
?????????). ???, ????????, ?????? ?????? ??? ? ?????? ???????????, ??? ???????????  
????????? ??? ?????? ?????? ?????? ??? ???, ?????? ?????? ??????????? ??? ??? ?????? ???  
????????? ??? ?????? ?????? ?????? ???, ?????? ?? ?????????? ??? ?????? ?????????? ??? ??  
316 ??? ?????? 2006/112 ??? ?????? ???, ??? ??? ?? ??? 322 ??? ?????? ???, ??  
????? ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?? ?????????? ?????????? ???  
??????, ??? ?? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ? ???????  
????????? ??? ?????? (??? ?? ?????? ?????? ??? ???) ? ??? ?????????? ?? ??? (7).

42. ??????? ??? ?????? 316 ??? ??????? 2006/112 ??? ?????? ? ??????? ??? ??????  
????????????? ????, ??? ?????? ? ??????? ??? ?????????????? ???, ? ??????? ??????????  
????????????? ?????????????? ??? ?????????????? ??? ?????????????? ???, ??????? ??  
??? ?????????????? ?????????? ??? ???????????, ?? ??? ?????????????? ?????????? ??? ? ???  
????????????? ?????????????? ?????????????? ??? ?????????????? ??? ? ??????  
????????????? ?? ?????????????? ?????? ??? ??? ?????? ??????. ?? ?????? ??? ??????????  
????????????? ?????????????? ??? ? ?????????? ??? ?????????????? ??? ?????? ??? ?????????? ??  
????? ?????????????? ?????????? ???, ?? ?????????? ??? ?????? ??? ??????  
????????????? ??? ?????? ??? ?????????????? ??? ?????????????? ?????? ??? ??? ??????  
????????????? ??? ?????? ??? ?????????? ?????? . ? ?????????? ??? ?????????? ?????? ??? ??  
????? 324 ??? ?????? 2006/112.

43.    ??? ??? ??? ??? ????? ??? ?? ???? ??? ?? ?????????? ?? ???? ?????????? ??? ?????????? ??? ?????????? ???  
    ??? ?? ?????????? ??? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?????????? ??? ????????, ?? ??????????  
    ??? ?? ?????? ??? ?????? ??? ??????????????, ??????? ?? ?????????????? ??? ????????. ? ??? ???  
    ????????? ??? ?????????? ??? ?????????? ??? ??????? ?? ????? ?? ?????? ?? ?????????? ??? ??????  
    ????????? ??? ?? ??? ??? ?????, ?????????? ??? ???' ??? ?? ??? ?????? ??? ?????? ???  
    ?????????.

44. ? ??????????? ???. ???? ?????? ????. ?????????????? ????. ?????? ????. ?????? 316 ????. ??????  
2006/112 ????, ????????, ? ????????, ??? ?????????? ????. ?????????????? ?????????? ??????????????  
????????? ?????? ????. ?????????????? ????. ?????? 103 ????. ???. ?????? ??????. ? ????????. ????.  
????????? ???. ?????????? ???. ?????? ??????. ?????????? ????. ?????????????? ?????????????? ,  
????????????? ???. ?????????????? ???. ?????? ??????. ?????????? ?????????? ????. ????. ???. ??????????????  
????????????? ???. ?????? ????. ?????? ??????. ?????????? ????. ????. ????. ?????????? ????. ???.  
????????? ???. ????. ???. ?????? 94, ?????????? 1, ????. ???. ?????? ??????, ? ?????????? ????.

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

45. ??? ??????? ??? ?? ??????? ??? ?????? 316 ??? ?????? 2006/112 ?????? ??  
????? ??? ??? ?????, ?????? ??? ?? ?????????? ??? ? ?????????? ??? ?????? 103 ???  
?????? ?????? ?????? ?????? ?????????? ??? ?? ?????? ??? ? ?????????? ??? ?????? 316 ???  
????? ?????????? ??' ????. ?????? ? ?????, ?????? ??? ?????? 316 ??? ?????? 2006/112,  
????????? ??? ?? ????? 314 ??? ?????? ????, ??? ?????? ? ?????? ??? ??????  
?????????.

46. ???????????, ?????? ?? ?????????? ???, ??????? ?? ?????? 316, ?????????? 1,  
?????? ??, ??? ?????? 2006/112 ??? ?????? ??? ?????? ??? ?????? ??????????  
????? ??? ?????? ?????? ???????, ? ?????? ??? ?? ?????? ?????????? ??? ??????  
????????? ?????? ?????? ???????, ??? ??? ?????????? ?????????? ? ?????????? ??? ???  
????????????? ?????? ???????, ?? ??????? ?? ?????????? ?? ?????????? ??? ??????????  
????? ??? ?????????? ????. ???????????, ?????????? ??? ?????? ?????? ?????? ?????????????? ???  
????? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??? ?????? ?????? ???  
????? ???????, ??????? ?? ?????????? ??? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ???  
????? ?????????? ??? ?? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ???  
????? ?????? ??? ?????? ?????? ???.

47. ??? ??? ?????? ??? ?????????? ??????, ?????? ??? ?? ?????????? ??? ??????????  
????? ?????? ?????? ?????? ?????? ?????????? ??? ?????????? ?? ?? ?????? ??? ??????  
316, ?????????? 1, ?????? ??, ??? ?? ?????? ?????? ??? ?????????? ?????? ??????????  
????????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ??????  
????????????? ?? ?????? ???.

- ?????????? ??? ?????? ??? ?????? ???????????????, ??? ?????? ??????, ??? ??? ???  
??? ?????????? ??????

48. ? ?????????? ?????????? ?????????? ?????? ??? ,?? ?????????? ??? ?????? ??? ??????????  
??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ???, ??? ?? ???  
?? ?????? 317, ?????? ?????? ?????? ?? ?????????? ??? ?????????? ??? ?????? ?????? ????  
????????????? ??? ?????? ?????? ???, ??? ?????? ?????? ?????? ?????? ??? ?????? 2006/112  
??? ??? ??? ??? ?????????? ??? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ???  
????????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??????  
?? ?????? 316 ??? ?? ?????? ??????, ??? ?????? ?????? ?? ?????????? ??? ?????? ???  
????? ?????? ?? ?????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???  
????????? ??? ?????? ?????? ?????? ??? ?????? ???.

49. ??????, ? ?????? ??? ?????? ?????? ??? ?? ?????????? ?????? ?????????? ??????????  
????? ??? ??? ?????? 317, ?????? ??????, ??? ?????? 2006/112 ?????? ??????  
??????????. ??? ?????? ?????? ??? ?????? ?????? ??? ?????????? ?????? ?????????? ??????  
??? ?????? ? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ???  
????? ??? ?????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? 315 ?? ?????????? ??  
?? ?????? 317, ?????? ??????, ??? ?????? ??????. ?????? ?? ??? ?????????? ???, ??  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??????  
????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ???  
????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

50. ?????????????? ?????? ????????????????, ??????????, ??? ????? ?????????????? ??????????????  
????????????????? ?????? ??? ?????????? ? ?????????????? ??? ?????? ?????????????? ?????? ??? ?????  
????????? ??????, ??? ??? ??? ?????????????????? ??????????????. ??? ??? ??? ????? ??????????????, ?  
????????? ??? ?????????????? ?????? ???, ??????, ??????, ?????????????? ??????????????.

51. ??????????????, ??? ?????????? ?????????? ?????? ??? ?????? ?????? ??? ??????  
???????, ??? ??????? ?? ?????????? ??? ?????????? ??? ?????????? ? ?????????? ??? ??  
????????? ??? ?????? ??? ?????????????? ?????????????? ??? ? ??? ?????? ??? ?????? ???  
????????? ? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ? ?? ??? ?????? ???  
????????? ??? ?????? ???, ?????? ???, ??? ?????????? ??? ?????? ??? ?????? 316,  
????????? 1, ??????? ??, ??? ?????? 2006/112. ? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ??? ?????? ??? ?????????? ??? ??????, ???????, ?? ??? ?????? ??? ??????  
(????????????????? ??? ??) ??? ?? ?????????? ??????. ???????, ?? ?????????? ??? ??????  
??? ?????????? ?? ?????? ??? ??? ??? ?????????? ? ?????????????? ??? ?????? ??? ??????????,,  
????????? ? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??????  
??????.

52. ??????????? ?????? ? ?????????? ??? ?????????????????? ??????????????, ?????? ?  
?????????? ?????? ??? ?????????????? ?????????? ?????? ?????????????? ??? ?????? ??? ??,  
????????? ??? ? ?????????????? ?????????? ?????????????? ??? ?????? ?????????? ??? ??????  
318, ?????????? 1, ??? ?????? 2006/112. ? ?????????? ??? ?????? ?????????????? ???,  
??????, ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????????????? ?????????? ???  
?????? 2, ?????????? 1, ??????? ??, ??????? i, ??? ?????? ??????, ?????? ??????? ?? ???  
????????? ?????? ?????????? ??? ?????? ?????? ?????????? ??? ?????? 322, ??????? ??, ???  
?? ??? ??????. ? ?????????? ??? ?????? ?????????????? ??????, ???????, ?? ??????????????  
?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ????. ?? ?????? ???  
??? ??????????, ??????, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? 312, ?????? 2, ???  
?? ??? ??????. ?? ?????? ??? ?????????????? ?? ?????????????? ?????? ?? ?? ?????? 315,  
?????? ??????, ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
?????????.

53. ??????? ??? ?????? ?????? ?????? ?????????????????? ??? ??? ?????????????? ??? ??? ?????????????? ???  
????????? ?????????????????? ?????????????? ??????????????????, ????????, ??? ??? ??????????????  
??? ?? ?????? ??? ?????????????????? ??????????. ?????? ??? ?? ?????????????? ?? ??????  
?????????? («????? ??? ?????»), ??? ?????? ??????? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ???  
?????????? ??????? ??? ?????? ?????????????? ?????? 51 ??? ?????? 2006/112. ??? ??????????  
??? ??????????? ??? ?????? ?????????????? ??? ?????? ?????????????? ???????, ?? ?????? ???  
?????????? ?????????? ?? ?????? 317, ??????? ??????, ??? ?????? ?????, ?? ?????? ???  
??? ??? ??? ?????????? ??? ?????????? ?????? ?????? ?????? ?? ?????????? ??? ??? ??? ???  
????????? ? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? (????? ? ??? ??????) ??? ? ???  
????? ??? ?????????. ? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ???  
?????????? ?????????? ?????? ???, ?? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ???  
?????????? ?? ?????????? ??? ?????????? ??????, ??? ?????? ?????????? ??? ?????? ?????????? ???  
????????????? ?????? ??? ?????? ?????????? ??????, ??? ?????? ?????????? ??? ?????? ?????????? ???  
????????????? ?? ?????? ??? ?????? ?????? ???.

54. ????? ?? ?????? ???, ?? ??????? ?????? ???? ?????? ?????? ??????? ?? ???????? ???  
??????????, ??? ?????? ??? ? ??????? ??? ?????? ?????? ??? ?????? 312, ?????? 2, ???  
????????? 2006/112 ?????? ?????? ???? ?? ?????????? ??? ?????????? «? ??????????» ??? ???  
?????????? ??? ?????? ??????????. ???????, ???????, ?? ?????? ?? ?????????????? ???  
???? ?????? ? ?????? ??? ?????? ??????? ? ?????????? ??? ?????? ?????????? ???

? ?????????? ????. ????????, ?? ???? 322, ??????? ??, ??? ?? ??? ?????????? ?????????? ??  
????????? ?? ???? ?????????? ???? ??? ?????????? ?? ??????? ?? ???? ?????????? ?? ????  
??? ?? «??? ?? ?????????? ?????????? ?????» ??? ??????? ?? ???? ?????????? ?? ????  
????????? ????, ???? ?????? ?????????? ?????? ?????? ?????? ?????? ??? ??????????  
??? ?? ?????????? ?????? ???? ??? ?????? ?????? ?????? ?????? ?????? ?????? ????.  
??????, ???? ?? ?????? ???? ?????? ?? ?????? ???? ??? ???????.

55. ??? ??????, ??????, ??? ? ?????? ??? ?????, ??? ?????????? ? ??????????  
?????????, ?????????? ???? ?????? ?????????? ???? ??? ?????? ?????? ??? ??????????  
????????? ??? ?????????? ???? ?????????? ?????? ?? ?????????? ?????????????? ????,  
?? ?????? ?????? ? ?????????? ???? ?????? ?????? ?????? ??? ?????? ?????????? ????  
????? ???? ???? ??? ?????? ???? ??? ?????? ?????? ?????? ?????? ??????.

56. ????? ??? ????????, ????????, ???? ?? ?????? ??? ?????, ??? ?????????? ??? 316, ??????????  
1, ??????? ??, ???? ?? ????????, ???? ?? 322, ??????? ??, ??? ?????? 2006/112.  
????????? ???? ??? ?????? ?????? ?????? ?????? ???? ?????????? ?????????????? ????  
«??? [...] ?????????? [????? ?????????? ???? ??? ?????? ??????] ???? ??? ??? ??  
????????? ? ??? ?????? ?????? ???». ????????, ??????, ??? ?????? ?????? ??????????  
????????? ???? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???, ??? ?????? ?????? ??????  
2006/112 ?????? ???? ??? ?????? ?????? ?, ?????? ??? ?????? ?????? ?????? ???? ??? ??????  
????? ???? ??? ?????? ?????? ??????, ???? ??? ?????? ?????? ?????? ???? ?????? ????  
????????? ???? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???? ??? ?????? ????  
????? 14, ?????????? 1, ??? ?????? ??? (8) ?? ??? ?????? ??? ?????????? ????  
????????? ?????? ??? ?????? 20, ?????? ??????, ???? ??? ?????? ?????? (9). ? ??????????  
????????? ???? ??? ?????? ?????? ??? ?????? ??? ?????? ???? ??? ?? ???? ????  
?????????, ???? ??? ?????? ??? ?????? 2, ????????, 1, ??????? ??, ???? ??? ?? ????  
????? ??? ?????????? «?? ?????????? ???? ??? ?????? ?????? ??? ?????????? ???? ????  
??? ?????? ??? ?????? ???» ? ??? ?????? 138, ????????, 1, ???? ?? ????  
????????? ???? ??? «????????? ??? ?????? ??? ?????? ?????? ?????? ???? ????  
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???? ????  
??? ?????? 316, ?????????? 1, ??????? ??, ??? ?????? 2006/112 ??? ??????, ????, ??  
????????? ?????????? ???? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ????  
????????? ???? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ????  
????????? ???? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ????

57. ????, ?? ???? 322, ??????? ??, ??? ?????? 2006/112, ?? ??? ?????? ?????????? ??  
????? 316, ?????????? 1, ??????? ??, ??? ?????? ???, ?????? ??? ?????? ?????? ??????  
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ????  
????? ???? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? (??.,  
?????, ???? 54 ??? ?????? ??????).

58. ???????, ??????, ???????, ?????????? ?? ?????????????? ??????????? ? ?????????????? ???  
????????????? ?????????? ?? ?????????????? ??? ?????????? ?????? ?? ??????????????  
????????????? ?? ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??????  
????? ??? ?? ?????????? ?????????????? ?????? ??? ?????????? ?????? ??? ?????? ??? ??????  
????? ?????? ?????? (??? ?? ?? ??? ??????????: ??? ?????? 316, ?????????? 1, ?????????? ?? ??  
??), ??? ?? ?? ?? ?????????? ?????????? (????? 316, ?????????? 1, ?????????? ??), ???  
?? ?????? ??? ? ?????????? ?? ?????? ?????? ?????? ?????? ??? ?????????? ?????? ???  
?????????, ??? ? ?????????? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?? ?????????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ??  
(10);

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

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

61. ??????, ???????, ?? ?????? ?????? ??? ?????? ??? ? ?????? ??? ?????????? ???  
?????? ??? ?????? ?????????? ??? ?????? 316 ??? ?????? 2006/112 ??? ?????? ?????????? ???  
??? ?????????? ??? (????? ??? ?? ?? ?????? ?????? ?? ?????? ?????? ?????? ??? ?? ??  
????????? ?? ?????????? ???). ???????, ??? ? ?????????? ??? ?????? ??? ?????? ?????? ??  
????????? ?? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????????? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???  
????????? ???.

62. ??? ?????? ??????????, ?????????? ?????? ??? ?????????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????????? ??? ?????? 316 ??? ?????? 2006/112 ??? ??????  
??? ? ??????? ??? ?????? ??????????, ?????? ??? ?????? ?????????? ??? ?? ??  
????????? ??? ?????? ??? ?????? ?????? ??????, ??? ?????? ?????? ?????? ?????? ??????  
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
????? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???, ?????? ??  
????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?? ?????? ?????? ?????? ?????? ???  
??? ?????????? ??????, ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???  
volenti non fit iniuria, ??? ??? ?????? ?????? «????????? ???» ??? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ???.

63. ????? ?? ?????? 342 ??? ??????? 2006/112, ?? ?????? ????? ??????? ?????? ?? ???????????  
????? ??????????? ?? ??????????? ?????? ????? ??????????? ?? ??? ???????????  
?????????????? ?????? ??? ???????????, ?????? ?????, ??? ??? ?????????? ??? ???????????  
??? ?????????? ??????. ?? ?????? ??? ??????????, ??????, ?? ?????? ?? ?????????? ?? ??????????  
????????? ??? ????? ??????, ??? ??? ?? ?????????? ?????????? ??? ?????????? ???  
????????? ?????? ?????? ??????.

- ?????????? ??????????? ??? ?????????? ??? ??????? 316, ?????????? 1, ????????, ??,  
?? ?????? 2006/112

64. ??? ? ??' ?????????? ???????, ? ?????????? ?????????? ??????? ?? ??????  
????????? ??? ?????? ??? ??????????? ??? ?????????? ?????????? ??? ?????????? ???  
????????? ??? ?????? ?? ?????????? ?????????? ?????? ??? ?????? ? ?????????? ???  
???? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ????. ??????????,,  
????????? ??? ?????? ??? ?????????? ??? ?????????? ?????? ?????????? ??? ?? ??????  
????? ??? ?????? ??? ?????? ?????? ??? ?????????? ?????? ?????????? ?????????? ???  
????????? ??????, ? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ? ?????????? ???  
????????? ??? ??????, ??? ? ?????????? ?????? ?????? ??? ?????? 316, ?????????? 1,  
????????? ??, ??? ?????? 2006/112 ??? ??????????, ??????, ??? ?????? ??????????  
????? ?????? ??? ?????, ??? ?? ?????? ??????, ??? ??? ?????? ??? ?????? ??? ??????????  
????, ??? ? ?? ????? ?????? ??? ?????????? ??? ?????????? ?????????? ?????????? ???  
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

65. ??????, ????????, ?? ?????????? ??? ?? ?????? 314 ??? 316 ??? ?????? 2006/112  
??? ?????????? ?? ?????????? ??? ?????? ??? ?? ?????? ??? ?????????? ??? ?????? ??? ??  
????????? ??? ?????? ??? ??????????, ??? ??? ?? ?????? ??? ?????????? ??? ?????? ????. ??  
????????? ??? ?????????? ??? ?????? 314, ?????????? ?? ??? ?? ??? 316, ?????????? 1,  
????????? ?? ??? ??, ??? ?? ?????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ??? ?????? ?????? ?????????? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?? ??? ?? ?????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ????. ? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ???  
????? ?????????? ?????? ??? ?????? ??? ?????? ?? ?????????? ?????? ??? ?????? ??? ?????? ???  
??? ?????? ?????????? ??? ?????? 314, ?????????? ?? ??? ??, ??? ?? ?????? ??? ??????  
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? (??), ????  
????????? ??? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????????? ??? ?????? 316, ?????????? 1, ?????????? ?? ??? ?? ?????? ??? ?????? ??? ??  
????? ?? ?????????? ?? ?? ?????? ?????????? ??? ??????????.

66. ???????, ??????? ? ?????????????? ?????????? ?????? ??? ?????????? ???????, ???  
??????, ?????????????? ??? ?????? ?????????? ??? ?????? ?????? ?????????? ??????????, ??????????,  
????????? ?????????? ?? ?? ?????? ?????????? ?????? ??? ?????? ??? ?????? ???  
????????????? ?????????? ?????? ??? ?????? ?????? ??????. ??????, ??? ??????????  
????????????? ?????????? ?????? ?????? ?????? ?????? ??????. ???????, ??? ??????????  
????????????? ??? ??? ??? ??? ?????, ???, ??? ?????????? ?????????? ??? ??? ??? ??? ???  
????????????? ?????? (??, ?????? 139, ?????????? 1, ??????? ??????, ??? ??????)  
2006/112) ?? ?????????? ??? ?????????? ?????????? ?????????? ???????, ??????, ?? ??????????  
?? ??? ?????? ?????????? ?????? ??? ?????? 316, ?????????? 1, ?????????? ??, ??? ??  
????? ??????.

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

67. ??????? ??? ??????????????, ???????? ??? ?????????? ?? ????? ??? ?????  
????????????? ?????? ??? ?????????? ??? ???? 316, ?????????? 1, ??? ?????? 2006/112  
???? ??? ?????? ??? ? ?????????????? ??? ????? ?????????? ??? ?????????? ?????????? ???  
????????? ??? ?????????? ??? ?????????? ?????, ????? ??? ?????????? ???, ??? ??????????  
????????? ?????????? ????? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ????  
????????? ???, ?? ?????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????  
???? ?????????? ??? ?????????? ??? ?????????? ??? ?????? 314 ??? ???? ?????, ????? ???  
???? ?????????? ??? ????? ??? ?????? ??? ????? ?????? ?????????? ??? ??? ??? ??? ???  
????????????? ??????, ??? ????? ??? ?????? 318, ?????????? 1, ??? ?????? ?????.

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

68. ??? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ??? ?????????? ??? ?????? ??  
????? ??? ??? ?????? ?????????????? ???, ??? ?????? ?????? ?? ?????????? ??? ?? ??????  
?????.. ?? ?? ?????? ?????????? ?????????? ???, ?? ?????? ?????????? ?????? ??  
????????????? ??? ?? ?????? 322, ??????? ??, ??? ?????? 2006/112 ??? ??? ?????? ??  
????????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ?? ?????????? ??? ??? ???  
????????? ??? ?????? ??? ??? ?????????? ?????? ?????? ?????????? ?????? ?????????? ??????????  
?????, ??? ?????????? ??? ?????? ?? ??? ????? ?????????? ??? ?????? ?????????? ?? ??????????  
??? ?????????? ?????? ??? ?????? 316, ?????????? 1, ?????????? ??, ??? ??????  
?????, ??? ????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ?????????? ?????? ???  
????????? ?????? ?????????? ??? ?????????? ?????.

69. ?? ?????? ??? ?????????? ?? ?? ?????? ???, ?????????? ??? ?????? 25a,  
????????? 7, ?????? 1, ?????? a, ??? UstG ??? ?????? ??? ?????????? ???  
????????? ?????? ?? ?????? ?? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??????????  
?? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??????????  
?? ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??????????  
?? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????? ?????? ???.

70. ???????, ?? ?? ?????? ??????????, ?????? ??? ?????????? ??? ?????? 25a, ?????????? 7, ?????? 1, ?????? a, ??? UStG ??? ??????  
??? ??? ?????? 2006/112, ?? ?????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ??? ??  
????????? ??? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??????????  
?? ?????????? ??? ??????. ?? ???, ???????, ?? ??? ?????? ?????????? ??? ?? ??????????  
????????? ??? ?????? ??? ?????? ?????????? ?? ?????? ??? ?????????? ??? ?????? ??? ??????  
?? ?????????? ??? ?????? ??? ??????; ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ???  
??????, ??? ??? ???, ??? ?????? ?????????? ??? ?????? ?????? ???, ???????, ??? ??????  
????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? (11), ??? ??  
????????? ??? ?????? ??? ?????? ?????? 322, ?????? ??, ??? ?????? 2006/112  
?????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ??????  
????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????????? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ?? ?????? ??????  
????????? ??? ?????? ???.

71. ?? ?????? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ?????????? ???  
????????? ????. ?????? ?????? ?????? ??? ?????????? ??? ?????? ???, ?? ?????? ??????????  
?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ??????????  
?? ?????? ??? ?????? ????. ?? ??? ?????? ???, ?? ?????? ?????????? ?????? ??? ??????

? ?????????????? ?????? ? ??? ?????????????? ?????????? ?? ?????????? ?????? ???????, ???  
?? ?????? ??? ?? ??? ?????????????? ?????????????? ?????????????? ??? ?????????? ??????  
?????????, ???? ??? ????? ?????? ?????????? ??? ???????????. ?? ?????????? ?????????? ??????????  
????? ??? ????? ?????? ?????????? ??? ?????????? ???, ???? ?? ?????????? ?????? ???  
????????????? ?????????? ?????????? ??? ?????????? ??? ?? ?????????? ??? ??? ?????????? ?????? ???  
????????? ??? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ??? ??????  
??? ?????????? ??? ?????????????? ??? ?????????????? ?????? (12). ? ?????????????? ??? ???,  
????? ???? ?? ?????????? ?????? ??? ?????????????? ?????? ?????? ?????? ?????? ?????? ???  
??? ???? ??? ??? ??? ?????? ??????, ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????? ??????, ???? ??? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? 2006/112 (13).

72. ??????? ?????? ??? ?????? ?? ?????????? ??? ?? ??? ?????????? ???? ? ???????????. ??????  
????? ???????? ??? ?????? ??? ?????????? ? ?????????? ???? ??? ??????, ???? ?????? ??  
????????? ???????? ??? ??????, ???? ?????? ?????????? ??? ?????? ?????? ?????????? ??? ??  
????? ??????, ???? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???, ?  
??? ???? ??? ?????????? ??? ?????? ?????? (????? ??????) ??? ?????????????? ??? ?????? ???  
??? ?????????? ??? ?????? (????? ??????). ??? ??????????, ????, ????, ?????? ?????????? ???  
?? ???? ?????? ??????. ?????????? ??? ?????? ??? ?? ?????????? de facto ?? ?????????? ??? ??  
?????? 2006/112 ???????? ??? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????????? ???  
????? ??????????, ???? ?? ??? ?????? ?????????? ?? ??? ?????? ?????? ?????? ?????????? ?????? ???  
????????? ??? ?????????? ?????? ??? ?????????????? ?????? ?????? ?????? ?? ??? ?????? ??????????  
????????? ?????? ?????? ??????.

73. ??????, ??? ?? ?????? ??????, ?????????????? ??? ?????????? ???? ??????  
2006/112, ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ??  
????? ?????????? ??????, o ?? ??? ?????????? ??? ?????? ??? ?????? ?? ??????????  
????? ??? ?????????? ??? ?????? ?????? ?????? ?????????? ?? ?????? ??? ?? ??? ?????? ???,  
????? ??? ?? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?????????, ???? ??? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ?????????? ??? ?????????? ???  
?? ??? ??????????.

74. ? ?????????? ??? ?????? ??? ?????????? ??? ?? ?????? ???, ??? ?????????? ???  
?????? 46 ??? 60 ??? ?????? ?????? ??????????, ??? ?????????? ??? ?????????? ???  
????????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ??????  
????????????? ?? ??? ?????? ???, ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????  
?????? 2006/112 ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????  
????????? ?? ?????? ??? ?????? ??? ?????? ?????????? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? ?????? ??? ??????.

75. ??????, ??????, ??? ?????? ?????????? ??? ?????? ?? ?????? ? ?????????? ??? ??  
????? 322, ?????? ??, ??? ?????? 2006/112 ??? ?????? ??? ?????? ??? ?????????? ?? ??????  
??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? 316, ?????? 1, ?????? ??, ??? ?????? ???, ??? ?????? ??? ?????? ??? ??????  
????????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?????????.

I. ??????

76. ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???

????????????? ?????????? ??? Finanzgericht Münster (????????????? ?????????? ?????????  
Münster, ???????):

1) ?? ????? 316, ?????????? 1, ??? ?????? 2006/112/?? ??? ??????????, ??? 28??  
????????? 2006, ??????? ?? ?? ????? ?????? ????? ?????????????? ?????, ??? ????  
????? ??? ? ?????????? ????? ????? ?????????? ????? ?????????? ?????????? ???  
????????? ??? ?????????? ??????, ????? ??? ?????????? ?????, ??? ??????????  
????????? ?????????? ?????????? ?????? ?????? ??? ?????????? ?????, ??? ??????????  
????????? ???????, ?? ?????? ????? ?????????????? ?? ????? ?????? ??? ??? ??? ??????????  
???? ?????????? ??? ?????? ??? ?????? ??? ?????? 314 ??? ?? ??? ?????, ?????? ???  
???? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??? ??? ??? ???  
????????? ?????? ??????, ??? ??? ?????? 318, ?????????? 1, ??? ?????? ?????.

2) ?? ????? 322, ????????, ??? ?????? 2006/112 ??? ??? ?????? ??? ?????????? ??  
????????? ??? ?????????? ??? ?????? ?????? ?????????? ?? ?????? ??? ??? ?????????? ???  
????? ??? ??? ?????????? ?????? ?????????? ?????????? ?????????? ?????, ???  
????????? ??? ?????? ?? ??? ????? ?????????? ????? ?????? ?????????? ?? ?????????? ???  
????????? ?????? ?????? ??? ?????? 316, ?????????? 1, ????????, ??? ?????????? ???,  
????? ??? ??? ?? ?????????? ?????? ??? ?????????? ?????? ?????? ??? ?????????? ??  
?? ??? ?????? ?????? ??????.

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

2 ?? 2006, L 347, ?. 1, ??? ?????????????? ?? ??? ?????? 2013/61/?? ??? ??????????, ??  
17?? ?????????? 2013 (?? 2013, L 353, ?. 5).

3 ??? ??? ?????????? ?????????? ??? ?????????? ??? ??? ?????????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? 319 ??? ?????? 2006/112.

4 ? ?????????? ??? ?????? 314, ????????, ??, ?? ?????????? ?????, ?????? ??? ?????  
????? ?? ?????? ?????? ?????? ?????????? ?? ?????????? ? ?????? ??? ?? ??????????  
????? ??? ??????????.

5 ? ?????????? ??? ???.

6 ??? ??? ?????????? ??? ?????? 314, ????????, ??, ? ??? ?????? ??? ?????? ??  
????????? ?? ??? ??? ??? ?????????? ??? ?????? 316, ?????????? 1.

7 ??? ?????? ?? ?? ??? ?????? ?????????? ?????????? ??? ? ?????????? ??? ?????? 316,  
????????? 1, ????????, ??, ?? ?????? 2006/112 ????????, ??? ??????????  
????????? ??? ? ?????? ?????????? ?????? ?????????? ??? ?????? ??? ??????????  
????????? ??? ?????? ? ???????????. ?? ?????????? ??? ?????????? ???  
????????? ??? ??? ?????????? ?? ?????????? ?????????? ??? ?????? ??? ?????? 314 ??? ??  
????? ????, ??? ?? ?????? 316 ??? ?????? ?????? ??? ?????????? ??? ?????? ???  
????????? ??? ?????? (????????? ??? ?????? ??? ?????? ????) ? ??? ?????? (????????? ???  
????????? ? ??????).

8 «[...] ? ?????????? ??? ?????????? ?? ?????????? ???????, ?? ??????, ?????????? ???».

9 «[...] ? ?????????? ??? ?????????? ?? ?????????? ???????, ?? ??????, ?????? ??????  
????? [...]».

10 ???. ??????????? ???? 4 ??? ?????? 2006/112.

11 ??., ?????? ???? , ?????? ??? 18?? ?????????? 2014, Schoenimport «Italmoda» Mariano Previti ?... (C-131/13, C-163/13 ?? C-164/13, EU:C:2014:2455, ????? 55 ??? ??? ?????????????? ??????????).

12 ??., ?????? ???? , ?????? ??? 28?? ?????????? 2013, MDDP (C-319/12, EU:C:2013:778, ????? 41).

13 ?????? ??? 28?? ?????????? 2013, MDDP (C-319/12, EU:C:2013:778, ????? 56, ?????).