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PRIIT PIKAMÄE

??? 11?? ??????? 2020 (1)

?????? C?231/19

Blackrock Investment Management (UK) Limited

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Commissioners for Her Majesty's Revenue and Customs

{?????? ??? Upper Tribunal (Tax and Chancery Chamber)

[????????? ?????????????? ?????????? (????? ?????????????? ??? ??????????????), ????????

?????????]

??? ??? ??????? ?????????????? ???????????}

«????????????? ?????????? – ????? ?????????????? ?????? (???) –?????? 2006/112/?? – ?????
135, ?????????? 1, ??????? ?? – ?????????? ??? ?????????????? ??????????? ?????????? –
?????? ??????? ?????????? ??? ?????????????? ?????????????? – ?????? ?????? – ??????
?????????? – M????????? ??????? ?????????? ????????????

1.

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

2.

? ?????????? ?????????? ?????????? (?? ?????: ??) ?????????????? ??????, ??????? ???
?????? 135, ?????????? 1, ??????? ??, ??? ?????? 2006/112/?? ??? ???????????, ??? 28??
????????? 2006, ??????? ?? ?? ?????? ?????? ?????? ?????? ?????????????? ?????? (2). ??????????,
? ?????????? ?????????? ??? ??? ?????? ?? (?? ?????: ??? ??????) ?????????? ??? ??
????? ???.

3.

? ??????? BlackRock Investment Management (UK) Ltd (??? ????: BlackRock) ??????????????
???? ?? ??? ??? ??? ??????????. ????, ?????????????? ??? ?????????? ??? BlackRock
Financial Management Inc (??? ????: BFMI), ?????????? ?????????????????? ??? ??? ?? ????
?? ?????? ?????? ?? ??? BlackRock. ? BFMI ?????????????? ??? ?????????? ?????????? ??
??? ??????? Aladdin (??? ????: Aladdin) ? ????? ?????? ??? ?????? ??????????
????????????? ???????????, ??? ? ??????? ??? ???????, ? ??????? ??? ?????????, ? ???????
??? ???????, ? ??????? ??? ??????? ??? ?????????? ??? ? ?????????? ??? ??????????
?????????. ?????????? ??? ? BFMI ????? ?????? ?????????????? ???????, ? BlackRock
??????????, ??? ??????? ??? ?????????? ?????????????? ??? ?????????? (3), ??
????????? ? ??? ??? ??? ??? ??? ?????????? ??? ?????????? ??? ??? BFMI.

4.

? ??????? ??? ?????? ?????? ??????? ?????? ??? BlackRock ??? ??? Commissioners for Her Majesty's Revenue and Customs (????????????? ??? ?????????????? ???, ??????? ??????????, ??? ???: ?????????? ???) ??????? ?? ?? ?????????? ??? ?????????? ??? ?????????? ??? ???? 135, ?????????? 1, ??????? ??, ??? ?????? 2006/112. ??? ?????? ??? ? BFMI ?????? ?????????? ?????????? ??? Aladdin, ????? ?????????????? ??? ?? ??? ??? ??? ?????? ?????? ???, ??????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?? ?????? ???????, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

5.

?? ??????? ????????????, ?? Upper Tribunal (Tax and Chancery Chamber) [????????? ??????????????
????????? (????? ??????????? ?? ??????????????) ??????? ?????????], ?? ?? ??????????
?? ?? ?? ?? ????? ??????????? ? ?? ?? ?? ?????????? ??????? ?? ?????????? ??????????????
????? ?? ?? ??????????? ?? ??????????? ???????????, ?????? ?? ?? ?????????? ??????????
?????????? ?? ?? ?? ?? ?? ????? ???????, ??? ?????????? ?????????? ??????????.

I. ?? ?????? ????????

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

6.

????? ??? ??????? 2, ??????????? 1, ??????? ??, ??? ??????? 2006/112, ??? ???? ??????? «?? ?????? ????????, ??? ??????????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ».

7.

?? ?????? 132, ??????????? 1, ?????????? ???, ??? ??????? ?????? ????:

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

[...]

??)

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

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

8.

????? ?? ???? 135, ?????????? 1, ??????? ??, ??? ?? ???? ??????:

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

[...]

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

9.

? ? ?????? 135, ?????????? 1, ??????? ??, ??? ?????? 2006/112, ? ???? ?????????? ??
?????????????, ??? 1?? ?????????? 2007, ??? ??? ?????? 77/388/?? ?? ??????????, ???
17?? ???? 1977, ??? ?????????????? ?? ?????????? ??? ?????????? ???, ??? ?????????? ??
???? ???? ?????? ?????? – ?????? ?????? ??? ?????????????? ????: ??????????
????????????? ??? (?? ??. ???. 09/001, ?. 49, ??? ?: ??? ??????), ??? ??????????, ???
?????, ?????????????? ?? ?????? ??? ?????? 13, B, ??????? ??, ?????? 6, ??? ??????
????? (4).

10.

?????? ? ???? 194 ??? ?????? 2006/112, ??? ? ?????? ?????????? ?? ????
????????????? ?? ?????? ??? ?????? ??? ?????? ?????????? ? ???, ?? ?????? ??? ?????? ??
????????? ?? ?????????? ??? ?????????? ??? ?????????? ?????????????? ??? ??????????????.

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

11.

? ? ?????? 31, ?????????? 1, ??? Value Added Tax Act 1994 (????? ?? 1994 ??? ?? ??)
?????????, ?????? ????:

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

12.

? ? ?????????? 9 ??? ?? ???? ?????? ???????, ??? ?????? 9 ??? ?????? 5, «? ? ??????????»
????????????? ?????????? ?????????? ??? ?????? ?????????? . ?????????? ??? ???
????????? ??? ?? ?????? ???, ??? ?????? ???????, ?????????? ????.

II. ? ?????? ?? ???? ?????? ??? ?? ?????????? ??????

13.

? BFMI, ?????? ?? ???? ?????? ?????? ?????????????? ??? ??, ?????? ?????????? ???
BlackRock. ? BlackRock ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ??????????
???? ?? ?? ?? ?? ?? ?? ?????? ?????? ???'. ?????????? ??? ?????????? ?????????????? ???

?????????????, ? BlackRock ????? ?????? ??? ?????????? ??? ???? ? BFMI ??????? ???
??? ?????????? ??? ?????? ? ?? ??? ????? ?????? ?????? ??? BlackRock.

14.

???? 2 ????? 2012, ? BlackRock ?????? ??? ??? ?????????? ??? ??????????????
????????????? ??????? ?? ?? ?? ?????????? ??? ?????????? ??? Aladdin ???????, ???
?????? ??? ??????????? ?, ?? ?????????? ??? ??? ???.

15.

???? 24 ??????? 2013, ? BlackRock ?????? ?????? ?????????? ??? ??? ?? ???????
????????? ??? 1?? ?????????? 2010 ??? 3 ?????? 2013.

16.

? ? ??????? ??? 30?? ?????????? 2013, ? ?????????? ??? ?????? ?????? ??? ?????? ??????????
????? ??? ??? ?????? ?????????? ??? ???.

17.

? BlackRock ?????? ??????? ?????? ??? First-tier Tribunal (Tax Chamber) [?????????????
????????????? ?????? (????????????? ???), ?????? ??????], ?? ?????, ?? ??????? ???
15?? ?????????? 2017, ??? ??????. ?? ?? ??? ?????????? ??????, ?????? ?????, ??? ??
????????? ??? ?????? ? Aladdin ?????????? ????????? «????????????» ?? ?????? ??????????
???? ?????????? ??? ?????? 135, ?????????? 1, ?????????? ?, ??? ?????? 2006/112. ??????,
??? ?????? ?????? ? ?????? ??? ?????? ??? ?????????? ?? ??? ?????????? ??? ? BFMI ??????
????? ??? ??? ?????? ??????????, ?????????? ??? ?? ?????????? ?????? ?????????????? ???
????? ?????? ??? ?? ??? ?????? ??? ?? ??? ?????? ?????? ?????????? ??? ?? ??? ??? ?? ???
????????? ?????????? ??? ?????????????? ??? ?????????? ??? ?????????????? ??? ? BlackRock,
????? ??? ??? ??? ?????? ??? ??? ??? ??? ??? ???, ?????? ?? ?????????? ??? ??????
????????????? ??? ??? ?????? ??? ??? ?? . ??? ??? ?????????? ???, ? ?? ??? ?????? ???
????? ??? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???.

18.

????? ?? ?????? ??????????, ??????? ?????????? ?????????? ??? ??????????????
?????????????, ?? ?? ??? ????? ?????????? ???????????, ??????, ???, ??? BlackRock, ??
????????????? ?? ?? ?????????? ??? ?????????? ?????? ?????? ?? ??????????????
?????????????. ? ?????????? ?????????? ?????????? ?????? ??????????, ?????? ??????????
????????????? ?????????? ??? ?????? ??? ?????????????? ?????????????? ??? ??????????
?????????, ?? ?????????? ?????????? ?????????? ??? BlackRock ?????????? ??? ??
Aladdin, ?????? ?????????? ? ?????? ?????????? ?????????? ?????????? ?????????????? ??????????
????????? ??? ?????????? ?????????? ?????????, ?????????, ?? ?????????? ??? Aladdin ??????
?? ?????? ??? ?????? ??????????. ??? ??????, ? Aladdin ?????? ??? ??????????????
????????????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ?????????? ?? ???
????? ??? ?? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????? ?????????? ??? ??????
????? ?????? ?????? ?????????? ?????????? ??? BlackRock ?? ?????????? ?? ??? ??????????
??? ?????????? ??? ?????? ??? ?????????? ?????????? ??????. ??????, ? BlackRock ??????????????
????? ?? ??? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????????? ?????????? ???
Aladdin ??? ?? ?????????? ??? ?? ?????? ??? ?????????? ????. ??????, ? ?????????? ???
????????? ?????? ?? ?? ??? ? BlackRock ?????? ?????????? ?????????? ?????????? ??????????
?? ??? ??????, ??? ?? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ??? ?? ??? ??? ???

??? ?????????? ?????????? ??????. ??????, ? BFMI ?????? ?????? ?????? ?????? ?
????????? ?? ?????????? ?????? ?????? ??? ??? BlackRock, ?????? ??? ?? ????
????? ?????????? ????.

19.

??. ?????? ?????????? ?????????? ??? ?? ?????? ??? ?????? ?????? ?? ?? ???? 135,
????????? 1, ??????? ??, ??? ?????? 2006/112 ?????? ???' ?????? ??????????
??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?? ?????? ?????????? ?
????? ????. ??????, ??? ?????? ?????? ?????? ?????????? ?????? ?????? ??? ?? ???
?????????. ??? ? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? Aladdin
????? ??? BlackRock ?????????? ?? ??? ?????? ? ?????? ??? ?????????? ?????? ?????????? ????
????? ??????, ?? ??? ?????? ??????, ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? Aladdin
?????, ?? ??? ?????? ??????, ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ??? ?? ?, ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

20.

??????, ??? ?????? ??? ?? 4?? ??? 2017, ?????? ??? ?????????? (5), ???
????? ??? ?? 132, ?????? 1, ?????? ???, ??? ?????? 2006/112 ??????,
?? ?????????? ???, ???' ????, ??? ??' ?????? ?????????? ?????? ??? ?????? ???
??? ?????? ?????????? ? ??? ?????? ?????? ?????????, ?????? ?????? ?? ?? ?? ??? ??????
????????? ??? ?????????? ? ?????? ?????? ?????????? ????. ???????, ??????, ??????,
?? ?????? ?? ? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??????, ???
????? ??? 135, ?????? 1, ?????? ??, ??? ?????? ????. ??????, ??????, ??
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
??? ?????? ??? ?????? ??????, ??? ?????? ??? ? ???' ?????? ?????? ?????????? ???
????????? ?? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

21.

??????????, ?? ?????? ?????????? ?????? ???, ??? ?????? ??? ?????????? ??? ??????
135, ?????? 1, ?????? ??, ??? ?????? 2006/112, ? ?????????? ??? ?????????? ???
???' ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ?????????? ?,
????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ??????
?????. ???????, ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
?????????.

22.

??????, ?? ?????? ?????????? ?????? ???, ?? ?????????? ??? ?????? ?????????? ???
????????? ??? ?? ??? ?????? ?????? ??????, ??? ?????? ?? ?????????? ?? ??????????
??? ?????? ? ?????? ??? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? 135,
????? 1, ?????? ??, ??? ?????? 2006/112.

23.

?? ?????? ???, ?? Upper Tribunal (Tax and Chancery Chamber) [?????? ??????????]

? ??????? (????? ??????????? ??? ?????????????)] ?????????? ?? ??????????? ??? ??????
??? ?????????? ??? ?? ????? ??? ?????????? ?? ?????????? ?????????? ??????:
«????? ??? ??? ?????????? ??? ?????? 135, ?????????? 1, ?????????? ??, ??? [????????? 2006/112]
????? ?????? ?????? ?????????? ?????????? ?? ??? ?????? ?????? ?????????? ??????????
????? ??? ?????? ??? ?? ??? ?????? ??? ?????? ?????? ?????????? ??????????, ? ?????? ??
????????? ??? ?? ?????? [?] ??? ??? ??? ?? ?????????? [????? ?????????]:
?)

? ?????? ? ?? ??? ?????? ?????? ?? ?????????? ?? ?????? ?????????? ???????????, ??? ??
???, ??? ?????? ?? ?????????? ??? ? ?????? ?????? ??????????; ?
?)

? ?????? ? ?????????? ??? ?? ??? ?????? ?????? ?? ?????????? ?????? ??? ?????? ???
??? ?????? ?????????? ?? ?????????? ?????????? (?? ?????????? ?????? ?? ?? ???
??? ??? ?????????? ?????????? ?? ??? ??? ??? ??? ??????), ??? ?????? ??? ??????
????????? ?? ?????????????? ?? ?????????????? ??? ?????? ??? ?? ?????????? ??? ???;
»

III. ? ?????????? ?????? ??? ??????????

24.

? BlackRock, ? ?????????? ??? ?????? ?????????? ?????? ??? ? ?????????? ???????
????????? ?????? ??????????.

25.

? ??? ??' ?????????? ?????? ? ?????? ?????? ?????? 18 ?????????? 2019, ??????????
????????? ??? ?????????? ??? ? BlackRock, ? ?????????? ??? ?????????? ???????
????? ??? ? ??????.

IV. ??????

26.

? ? ?????????? ???, ?? ?????? ?????????? ???, ??' ??????, ?? ??????????????
?? ??? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?? ??????????
????????? ?????? ?? ?????? ?????????? ?????? ??? ?????? 135, ?????????? 1, ????????
?, ??? ?????? 2006/112 ??? ?????? ??? ?? ?????? ?????? ?????? ?????????? ??
????????????? ??? ?? ??????????, ??????????, ?? ??? ?????? ??????.

27.

? ??????????, ?? ?? ??? ?????? ?????????? ?????????? ?? ? ??? ?????? ?????? ??? ??
?????? ??? ?????? ?? ?????????? ?????? ?? ??? ??? ??? ?????????? ?????????? ???
?????????. ????????????, ?? ??? ?????? ??? ?????????? ?????? ?????????? ???, ??? ??????
??? ?????? ???, ?? ?????? ?????? ?????????? ?????? ??? ??, ??? ?????? ?
????????? ?????? ???' ??? ?????? ??????, ?? ??? ??? ??? ?????? ??????, ??? ?????? ?
????????? ?????? ????. ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?? ?????? ??????????
??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ?? ?????????? . ? ??? ????
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? (6) ?????? ??
????????? ??? ?????? ??? ?????? ?????? Aladdin ?????? ??? ?? ?????????? ????

?????????.

28.

????????? ? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ?????????????? ??????????????
?????????, ???' ?????????? ??? ?????? 135, ?????????? 1, ?????????? ?, ??? ??????
2006/112, ?????? ?????? (7), ??????????, ?? ??? ??????????, ?????????? ?????? ???
????????????? ?????? ?????????????? ?????????????? ?? ?????? ??? ?????????? ?????? ???,
?????? ?????? ?????? ??? ??? ?????? ?????????????? ?? ?????????? ?????????????? ?? ??? ???
?????????. ?????????? ??? ?? ?????????? ???, ???' ??????????, ?????????? ?? ??? 135,
????????? 1, ??? ?????? ??? ?????? ??? ?????????? ??? ??????, ??? ?????? ??? ??
????????? ?????????? ??? ?????? ??? ?????? ?? ??? ?????????? ??? ?????????? ?? ?? ??? ??????
(????? A), ?????????? ?? ?????? ??? ??????, ??? ?????? ??? ??? ?????? ???????, ??
??? ??? ?????????? ?????? ?? ?? ??? ?????? ?????????? ??? ?????????? ?? ?? ?????????? ???
?? ??? ?????? (????? B) ???, ????, ?? ?????????? ?? ?? ?????????? ??? ?????????? ???
????? ?????? ?? ?????? ?? ?????? ??? ?????????? ?????? (????? ?).

? . ?????????????????? ?????????????? ??????? ?? ??? ?????????? ??? ?????? 135, ??????????
1, ??? ?????? 2006/112

29.

??????, ??? ????? ?????????? ?????????? ??? ?? ?????????? ??? ?????????????? ??? ?????
135, ?????????? 1, ??? ?????? 2006/112 ?????????? ?????????? ?????? ??? ?????? ???
?????? ?? ?????? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?? ?? ?? ?????? ?????? ??? ??, ??? ?? ?????? ?????? ?? ?????????? ???
??? ?????? ?????? ??? ?????? ?????????? ??? (8).

30.

?????????, ??????????????? ??? ?? ??? ???? ??? ?????????????????? ??? ?? ??? ?????????? ???
????????? ??? ?????? 135, ?????????? 1, ??? ?????? 2006/112 ?????? ?? ??????????????
?????, ?????????? ??? ?? ?????????? ????? ?????????????? ?????? ?????????????? ??? ?? ??? ?????? ???
? ??? ?????????? ?? ??? ????? ?????????? ??? ?????????????? ?? ?????????????????? ?? ?????????? ?????
??? ?????????? ??? (9). ???????, ??? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????????? ??? ?????? 2006/112, ?????????? ?? ??? ?????????? ??? ?????
2, ?????????? 1, ??????? ??, ??? ?????? (10).

31.

?????? ????????, ? ??????? ?? ?????? ?????? ?????? ?? ?????? ??????? ?? ?????? ??????? ?? ?????? ??????? ?? ?????? ??????? ??
?????????? ?? ??? ?????????? ?? ?????? 135, ?????????? 1, ??? ?????? 2006/112 ???
?? ?????? ?? ??????? ?? ?????? ?? ?????? ??????????????? ???????????????, ??? ?????? ??????? ??
?? ?????? ??????? ???. ??? ??? ?????? ?????? ??????????? ?? ?????? ??????????????? ??????? ??
?????? ?? ??????? ?? ??????????? ?? ??????????? ?? ?????, ??? ?????? ??????????? ???????, ???
????????? ????????, ?????? ?? ??????????? ?? ?????? ??????? ?? ?????? ?????? ?? ???????????
??? ??????????? ?? (11).

? ?? ???? ?? ??? ???? ?????????? ??????? ?? ?? ???? ?????????? ?? ?? ???? 135,
????????? 1, ??????? ??, ??? ?????? 2006/112

32.

?? ?????? 135, ?????????? 1, ??????? ??, ??? ?????? 2006/112 ?????????? ??? ?? ???? «??

? ?????????? ??? [??], ??? ? ???????? ??? ?? ?????? ???». ??? ?? ?????? ??? ????????,
????? ???????? ???, ??????, ? ?? ??? ?????? ?????? ??? ?????? ????????, ?? ??? ?? ????????,
????? ?????????? ?? ?????? ??? ?????????????? ?? ?. ????????, ?? ????????????????,
??? ?????? «?????????» ?????????? ??? ?????? ?????????? ??? ?????????? ??? (12).
??? ?? ?????? ??? ?????????????? ?? ?????????????? ?? «????????? ?????????? ???»
??? ?? ?????? ??? ?? ?????? ????????, ?????? ?? ?????? ??? ?? ?????? ????????????.

33.

? ??????????, ??? ?? ???????? ??? ?????? ?? ??? ?????? ??? ?????? 135, ?????????? 1,
????????? ?, ??? ?????? 2006/112 ????????, ???, ??? ?????? ??? ?????? ??? «??», ?
????????? ??? ?????? ?? ?? ?????????? ??? ?????? ??? ?????? (13). ?? ?? ??????,
????????? ??? ?????? ?????? ?????????? ??? ?? ??? ?????? ?????? ??? ?????? ??????????
????????? ??? ?????? ?????? ?????????? ???, ?? ?? ?????? trust, ??? ?? ?????? ??? ??????
????????? ??? (14). ????????, ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? «??» (15),
????????? ? ?????? «????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????? ?? ??? ?????? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????????? ???
(16). ??? ?? ??? ?????? ??????, ?????????????? ??? ?????? ??? ?????????? ??? ??????????????
??? ??????????, ??? ?????? ????????, ??? ?????? ??? ?????????? ??? ?????? ??? ????????????,
??? ?? ?????? ??? ?? ?????? BFMI ??????? ????????, ?????? ??? (17).

34.

? ??????????, ??? ?????? ?? ?????? ?? ?? ?????????? ??? BFMI ??????? ?? ?????????? ??, ??
???????????, ??? ?????? ??? ?????? «?????????», ??????, ???' ?????, ??? ?????????? ??? ???
4?? ?????? 2006, Abbey National, ??? ?? ?? ?????? ??? ?????? ??? ?????? ??? ??????????
????????????? ?? ??? ?? ?????? ??? ?????? ???, ?? ?? ??????, ? ?????? ??? ??????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ?? ?????? ??? ?????? ??? ?????????? ???
????????? ?????? ???' ??? (18).

35.

??? ?????? ?? ?????????? ??? ?????? «?????????», ?????????????? ??? ?? ??? ?????? ???
????????????? ?? ?????? ?????????? ??? ?????? ?????????? ??? ????????????, ???' ?????? ??
????????? ??? ?????? ??? ?????? ?????? ??? ?????? 135, ?????????? 1, ?????????? ??,
??? ?????? 2006/112, ?????? ??? ?????????? ?????????? ??? ????????????, ?????????? ??
????????? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????????? (19). ??????????,
?? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ?????????? ?????????? ???
?? ?? ??? ?????? ?????? (20). ????????, ??? ?????? GfBk (21), ?? ??????????
????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??
????????? ??? ?????????? ?, ?? ?????????? ??? ?????????? ?????????? ?, ?? ?????????? ??
????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ???, ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? «?????????» ?? (22).

36.

?? ????????, ?? ?????????? ??? ?????? ??? ? ?????????? ??, ??? ?? ?????? ??? ?????? 135,
????????? 1, ????????, ??, ??? ?????? 2006/112, ?????????? ?? ?????? ?? ?????? ??
????????? ??? ?????????? ??? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????? (23). ?? ?????????? ???, ?? ?? ??????, ???, ?????????? ?? ?????? ??

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

37.

????? ??? ??????, ?? ?????????? ?????????? ?????????? ?????? ??? ??????, ??? ??
?????????????? ?? ?????????????? ?????? ??? ?????? ??? ?????? ??? ?????? 135, ??????????
1, ??????? ??, ??? ?????? 2006/112, ?? ?????????? ?????????? ??? ?????? ??????????
????? ?????????? ?? ?????? ?????????? ?????? ??????, ?????????? ??????????, ??? ??
????????? ?????????? ??? ?????? ?????? ?????? ??? ?? ?????????? ?? (25). ???
?????????, ????? ?? ?????????? ??????, ? ?????? ?????? ?????? ??? ?????????? ??? ?????? ??? ??????
?????????? ??, ??? ?? ?????? ?? ?????????? ?? ? ?????? ?????? ?? ?????????? ??? ?????? ???
??? ?????? ?????????? ???, ? ?????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? BFMI ???, ??????????, ?? ?????? ???
????????? ??? ?????????? ???.

38.

????? ??? ?????? ??????, ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
? BlackRock ??????? ?????????? ??? ?? BFMI ??? ??? ?????????? Aladdin, ??? ??
????????????? ?? ?????? ??? ?????????? ??? ?????? ??? ?? ?????? ??? ?????? ??????????. ??????????,
?? ?????? ?????????? ?????????? ???, ??????, ? Aladdin ?????? ?????????? ???,
????????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ??????????
????????????? ??? ?? ??? ?????????? ??? ?????????? ??? ?????????? ???, ? Aladdin ?????????? ???
????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ???? ? Aladdin ?????????? ???
????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? Aladdin ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ???
??? ?? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??
????????? ??? ??????. ??? ?? ?????? ?????????? ??? ??? ?? First-tier Tribunal (Tax
Chamber) [????????? ?????? (????????? ???)] ?????????? ???
????????? ??? ?? ?????????? ??? ?????? ??? ?????????? Aladdin ?????? ? BFMI ?????? ??
????????? ??? ?? ?????????? ??? ?????? ??? ?? ?????????? ??? ?? ?????? ??? ?????????? ???
????? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????
135, ?????????? 1, ??????? ??, ??? ?????? 2006/112, ?????? ?? ?????????? ??? ??????
?????, ?????????? ??????, ??? ?????? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ??
????????? ?? (26).

39.

????? ??? ?? ???? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ?? ?????????? ???
????????? ?????? ?? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ?? ?????? ??? ??????
????????? ?????? ?? ?????? ??? «????????? ??» ??? ?? ?????? ??? ?????? ?? ?????? 135,
????????? 1, ??????? ??, ??? ?????? 2006/112 ??? ? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??????, ?????????? ???, ???,
??, ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? 267 ???,
????? ?? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??????
????????? (27). ??????, ??? ?????? ??? ?????????? ???, ??? ?????? ?????? ??? ??????
????????? ?? ?????????? ??? ?????? ?????? ?????????? ???, ??? ?? ?????????? ??? ??????
?? ?????? ??? ?????????? ??? ??? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ???

????????? ?? ?????? ??????? ???? ??? ?????????? ????? ?????????? ??? ?????? ?????? ?????? ?????????? (28). ???????????, ??????? ??? ?????? ???????????, ?? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ?? ?????????? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? «?????????? ??» ??? ?????? ?????? ??? ?????? 135, ?????????? 1, ??????? ??, ??? ?????? 2006/112 (29).

40.

????? ??? ?????? ???????, ??????? ??????????????? ??? ?? ???? ?????? ?????????????? ???????, ???
?? ??????? ??? ??????????? ??? ??????????? ??????? ?? ??? ?????? ??????? ???????, ??
?????????????? ????????. ?? ?? ??? ?????? ????????, ??????? ???????????
???????????, ??????? ??? ??????????? ??? ?? ??????????? ??????? ??? ??????? ? BFMI
?????? ??? ?? Aladdin ??? ?? ??????????? ?? ??????? ?? ??????????? ??? (30). ???????,
?? ?? ??????? ?????? ?????????????? ????????, ?? ??????? ??????????? ??????? ??
?????????? ?? ?? ?????? ?????? ??????? ?? ??????? ?? ??????????? ?? ??????? ??????????? ???????????
?? ?? ? ??????????? ?? ?? ?? ?????? ??????? ?? ??????? ??????? ?? ??????????????? ??????? ??
?? ?? ??? ??????? ?????? ??????????? ?? ??????? ??????? ???????.

41.

????? ????????, ??? ?????? ????????, ???? ??? ?????? ????????, ?? ??????????? ?? ???? ??
?????? ??, ??? ?????? ????????, ???? ??? ?????? ??? ?????????????? ??????????? ??????????? ??
?????? ???, ??? ?????? ?? ?????????????? ?? ?????????????? ?????????? ?? ?????????? ??
?????? ?????????? ??????????? ??? ???????, ???? ?? ?????????? ?????? ?????? ?????????? ??
????????? ??????. ????, ????, ?? ?????????????? ?? ?????? ?? ?????????? ?? ?????? ?? ??????
????? ??????? ?? ????????, ??????? ?? ? ?????????? ?? ?????? ?? ??????????
?????????? ??????? ?? ???????, ??? ?????? ?? ?????????? ?? ?????? ?? ??????????
????????? ?? ??? ?????? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ??????????
????????? ?? ?????? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????????? (31).
?????????, ?? ??????? ?? ?????????? ?? ?????????????? ?? ?????????????? ?? ?????? 38 ??? ???????
?????????, ????, ??? ??????? ?? ?????????? ?? ?????????? ?? ?????????????? ?? ???????????, ?? ?????? ??
????????? ?? ?? ?????????? ?? ?????? ? BFMI, ???? ?? ?????????? Aladdin (??? ????:
????????? ?? Aladdin), ???? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ??????????
????? ?????????????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ??????

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

42.

????' ??????, ?????????????? ??? ? ?????? ?????? (32) ?????? ?? ?????????? ??? ???
?????????? (33). ??????????????, ??? ?????? Deutsche Bank (34), ?? ??????????
????? ??? ??????? ?????? ??????, ?????? ?????, ??? ??? ?????????? ?????? ?? ????????
??? ??????? ??? ?????? ?????? ??? ? ?????? ??? ? ?????????? ?????? ??? ? ??????????
????? ??? ?????? ?????? ?????? ???????????, ??? ?? ?????????? ?????? ? ?????? ???????????,
?????????? ??? ?????? ?????? ?????? ?????? ????? ?????????????? ?? ?????????? ???
?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????????? ?? ?????????? ???
?????????? ?????????? ??????, ??? ?????? ? ?????????? ?? ??? ?????? ?????? (35). ??????????,
????? ??????? ??? (36), ?? ?????????? ?????? ??? ?? ?? ??? ?????? ?????? ??? ????? «?????
????????? ??????», ??? ?? ?????? ?? ?????????? «??? ???? ??????» ?? «?????????
????? ?????????? ??? ?? ?????????????? ??? ?????????? ??????, ??? ??? ?? ??????
????????? ?? ?????????? ?? ??? ?? ?????? ?????? ??? ?? ?? ?? ??????????» (37). ???????, ???
?? ?????????? ??? ?????????? ?????? ?????????? ??? ?? ?????? ?????????? ??? ?????????? ???
????? ?? ???????????. ??? ?????? ?????????? ?????????? ?????????? ??? ?????? ?? ?????????? ???

43.

?? ?????????? ?????????? ??? ?? ?????????? ??? Aladdin ?????, ?????? ??? ?????? ?????? ??? ??
?????????? ?????? ??????????, ?????????????? ??? ?????????? ??? ?? ?????????? ??? ?? ?????????? ?? ???
????????? ??????? ???????, ?????? ?? ?????????? ?? ?????????? ??? ?? ?????? ?????? ?????????? ??
?????????? ??????? ??????? (1). ??? ???????, ??????? ?? ?????? ??? ?????????? ?? ??????????
?????????????, ??????? ?????????? ?????????? ?? ??????? ?? ?????? ?????????? ??????????
????????????? ?????????? ?????????? ???????, ?? ??? ?????? ?????? ?????????? ?? ??????????
????????????? ??? ?? ?????? ?????? ?????????? ?????????? (2). ?????, ?????? ?? ??????????
? ?????????? ?????????? ??????? ?????????? ?????????? ?????????? ??? ?????? ?????????? ??????????
????????????? ??? ?? (3).

1. ??? ??? ?????????????? ??? ????? ??????? ?? ??????

44.

??? ??? ??????? ?????????????? ?????????? ??? ??? ?????????? ?? ??? ?????? ?????????? (39)
????????? ??? ?? ?????? ?????????? ?????????? ??? ?????????? ??? Aladdin ?? ??????
?????. ??????, ?????????? ??? ? ?? ?????? ?????? ?????? ?????????????????? ??? ??? ??
BlackRock ??? ?? ?????????? ??? ?? ??? ??? ??? ?????? ??????????, ?? ??????
?????? ?? ??? ?? ?????? ??, ?? ?????????? ??? ? ?????? ?? ?????????? ?? ??????????, ? ??????
????????? ?????? «????? ??? ?????????? ?????» ?? ?????????? ??? ?????? ??????????
????? ??? ?? ?????????? ??? ?????????? ??? ?? ?????? ?????????? ?? ?????????????? ??????
??? ?????????? ??? ?????????????? ? BlackRock, ?????????????? ?? ??? ?????????????? ??????,
????? ?? ?????????? ??, ?? ?????? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ??
????????????? ? BlackRock. ?? ?????? ??? ?????? ??? ?? ?????? ?????????? ?????????? ??
????????? ??? ?????????? ??? ?? ?????????? ??? Aladdin ?????????? ?????? ?????? ?
????? ?????????? ??? ?????????? ?????.

45.

????? ??? ????????, ??? ??????? ?? ?????????? ?????? ?????? ? ?????? ?????????? ??
????? ?????? ??? ?? ??? ? ?????????????? ?????????????? ?????? (40). ? ?????????? ???
????????? ?????????? ??????, ??????????, ??? ? ?????? ?????? ?????? ?????? ?????? ?????? ?
????? ?????????? ??? ?????????? ??????, ?????????? ??? ? ?????????? ??? ? ?????????? ??? ?????
????????? ????, ??? ?????????? ??? ?????????? ??????, ?? ?????? ?????? ?????? ??? ??????
????? .. ?? ?? ?????? ?????????? ? ?????? ?????? ?????? ?????? ?? ?????????????? . ??? ?? ??????
????????? ??? ?????? ?????? ??? ?? ?????????? ?????? ?????? ?????? ?????? , ?? ?????? ??
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????.

46.

????? ????????, ??? ?? ??????????? ???, ??? ??? ?????????? ???, ??? ??, ??? ?????? ?????? ???, ??? ??, ??? ?????? ??????
????? ?????? ?? ?????????? ?????????? ???, ??? ??????????, ??? ?? ?????????? 1,
?????????? 2, ??????? ??????, ??? ?????? 2006/112. ?????? ??????? ??, ??? ? ?????? ??
?????????? ??, ??? ??, ??? ?????? ??, ??? ?????? ??, ??? ?????????? ??, ??? ?????? ??, ??? ?????? ??
????????????? ??, ??? ??, ??? ?????? ??, ??? ?????? ??, ??? ?????? ??, ??? ?????? ??, ??? ?????? ??, ???
??? (41). ????????, ??? ?????? ??, ??? ?????????? ??, ??? ?????????? ??, ??? ?????? ??, ??? ??????, ??? ??
????????????? ??, ?? ?????????? ??, ??? ?????? ??, ?? ?????? ??, ?? ?????? ??, ?? ?????? ??, ??
????????????? ??, ??? ?????????? ??, ??? ?????? ??, ??? ?????? ??, ??? ?????? ??, ??

????????????? ??? ??? ????? ??? ??? ?????????????? ??????????, ?? ?????????? ?????????? ??? ??? ?????????? ?? ???? ?????? ?? ???? ?????? ??????????. ? ?????????? ??? ?????????? ?? ???? ?????? ??? «accessorium principale sequitur».

47.

????????????? ? ?????? ??????????? ??? ?????????????? ????? ?????????????????? ?????? ?????????? ?????? ????
????????? CPP (42). ????? ??????? ??? ?? ?????????? ?????????? ?????????? ?????, ?? ?????????? ?????
???? ??????? ?? ?????????? ?? ?? ?????????? ?????????? ?????????? ??? ?????????????? ??? ?????????? ???
????????????? ??????? ?????? ?????????? ?????????? ?????????, ??????? ?????????? ?????????? ??????????
?????, ???? ?????????????? ?????????? ??? ??? ?????????? ?????????? ?????????? ?????? ?????????? ??????????
?? ??????? ??? ?????????? ??? ?????????????? ?????????? ??? ?? ?????? 13, B, ?????????? ??,
??? ?????? ??????? (43). ?? ?????????? ?????????? ??? ?????? ??? «? ?????? ???
????????????? ??? ??? ?????? ?????????? ?? ?????????? ?????????? ??? ?????? ???
????????????? ??????? ??? ?? ?????? ?????????? ? ?????????????? ?????????? ??? ?????????? ???
????» (44). ???????, ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?? ?????? ? ??????????
????????? ??????? ?? ?????????? ??? ?????????? ??? ?????? ?????? ???, ???????????, ??? ?
????????????? ?????????? ??????? ?? ?????????? ??? ?????? ?????? ?????????? ?????????? ???????,
?? ??????? ?????????? ??? ?????????? ?????? ?????????? ??? ?????? ?????? ?????????? ??? ?? ??? ??????
?????? (45). ?? ?????????? ?????????? ?????? ??? ?????? ?????? ?????? ??? ?????????? ???
????????? ??????? ??????? ??? ??? ?????? ?????? ?????????? ??? ?????? ?????? ???????, ??? ?????? ??
???? ??? ?? ?????????? ??? ??? ?????? ?????? ?????????? ??? ?????? ?????? ??????? ??? ??????????
????????? (46).

48.

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

49.

??????????????, ??? ??????? ?? ???? ?????? ?????????? ? ??????? Žamberk (47), ???????
?? ?????????????? ?? ??????????? ?? ? ?????????? ?? ?????????????? ?????? ?? ?????? ?? ??????
????????? ?????? ?????? ?????????? ?????????????? ?? ?????? ?????? ?????????? ???????????????,
????? ??? ?????????? ?????? ?????????????? ?????? ?????? ??? ??????, ??????? ??? ??????
132, ?????????? 1, ??????? ??, ??? ?????? 2006/112. ??????, ?? ?????????? ??????
??? ?? ??????? ??? ?? ?????????? ?????? ?????? ?????? ??? ?????? ?????????? ?????? ???
????? ??? ???????????, ?????? ?? ?????? ?????? ?????? ?? ?????? ?? ?????? ??? ?????? ???
????????????????? ???????????????, ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ??????
????? ?? ??????????, ?????? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? (48)
. ??? ???????, ??? ?????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
?????? ??????? ?? ??? ?? ?????? ??? ?????? ?????? ?????? ???????????????, ?? ??????? ???
????? ?? ??????? ??????.

50.

? ????? ?????????? ?????????? ?????? ?????? Stadion Amsterdam (49). ???? ?????? ???
??? ?????? ??????? ? ?????? ???, ?? ?????????? ?????? ?? ?????????? ??? ??
????????????? ?????????????? ?????????? ??? ?????? ??? ?????????? ?? ?????????? ??? ??
?? ?????? ??? ?????? ??? AFC Ajax ??? ??? ?? ?????????? ?? ?????? ??? ?? ???
????????????? ????. ?? ?????????? ?????????? ??? ?????? ??? ?? ?????? ??? ?? ?????? ???,
????????????? ??? ?????? ??? ??????, ?? ?????? ??????, ??? ?????? ??? ??????, ???
AFC Ajax, ?? ?????????? ??????. ?? ?????????? ?????? ?? ?????????? ??? ??????????, ???

??????, ?????? ??? ? ?????????????? ??? ???. ?????? ??? ?????? ??? ?????? ?????? ??????. ????????,
????????? ??? «??? ????. ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
?????? ??? ?????????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ? ?????? ??? ? ??????
?? ??? ? ??? ? ??? ? ?????????? ???», ?? ?? ??????? ???, «[?] ? ?????????? ??? ?????? ???
? ??????? ?? ?????????? ??? ?? ??????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ???
????????????? ??? ?????????? ??? ??? ??? ??????? ??? ?? ?????????? ??? ???, ?????? ?? ??????????
???? ?????? ?????????????? ??? ??????? ??? ?? ??????? ? ?????? ? ?????????? ?? ?????? ?
????????????? ??? ?????????? ???» (50). ??? ? ? ?????? ???, ?? ?????? ?????????? ???
?? ??? ? ??? ? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?? ?????????? ???
????????? (51).

51.

??????, ??????????????? ?????? ??? ?????????????? ?????????????? ??? ???? ?????? ??????????, ???
?????????? ??? ?? ?????? ???????????, ?????? ??? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????? «accessorium principale sequitur». ????????????, ??? ??
?????????? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ???? BlackRock
????????? ?????????? ???????????, ?? ?????? ?????????? ?????????? ??? ?????????? ???
????????? ?????????? ???????????, ??? ?? ??????, ?????????? ??? ?? ??????, ?????????? ??
????????? ?? ?????? ?????? ?????????? ?????? ??? ?????? ??? ?????????? ?????????? ?? ??? ??
????????? ??? ?? ?????? ?????? ??? ?????????? ??? Aladdin, ?? ?????????? ??? 1? ?????????? 2010 (52)
). ????? ?? ?? ?????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?? ??? ?? ?????????? ??
????????? ???????, ??? ?? ?????????? ??? ?????????? ?????? ???' ??????????
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? (53) ???????
?? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????, ???
???? ?????? ?????????? ??? ?????????? ?? ?????????? ?? ?????? ?????? ?????????? ?????? ??? ??
?????????, ???????????, ??? ?? ?????????? ?????????? ??? ??????. ??? ????????, ???
????????? ??? ?? ?????? ?????? ?????????????? ??? ????????, ? ??? ?? ?????? ?????????? ??????????
??????, ??? ?? ?????? ??? ?????????? ??? ?????????? ??? ????????, ??? ?????????? ?????? ??
????????? ?????????? ?????????? ??? ?????? ?????????? ?????????? ?????????? ??????????, ??
????????? ?????????? ??? ??????, ?????????? ??? ?????????? ??? ?????????? ??? ??????????, ??????????
?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??
????????? ??? ??????, ?????????? ?????????? ??? ?????? ?????????? ??? ?????????? ???
????????? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???

52.

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

53.

? BlackRock ???????????, ???' ??????, ??? ?? ?????? 135, ?????????? 1, ?????????? ?, ??
?????? 2006/112 ?????? ?? ?????????? ??? ??? ?????? ??? ?????????? ??? ??????????
????????????????? ?????? ??????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????

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

54.

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

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

55.

????? ?????????? ??? ???? ?????????? ??? ???? ?????????? ?????? ?????????? ??? ???? ??? ????
????????????? ??? ???? ?????????? ??? ???? ?????????? ?????? ??????????, ? ?????????? ???
????????????? ??? ???? ?????? ?????????? ??? ???? ?????? ?????? ?????? ?????????? ??????????
????????????? ?????????? ????. ?????? ??? ?????????? ?????? ??? ?????? ?????? ??????????
????????? ?????????, ??? ???? ?????? ? ?????????? ??? ?????? ?????? ?????????, ?? ??????????
Talacre Beach Caravan Sales (55) ??? ??????? ??? ?????? (56) ?????????? ???
????????? ?????????? ??? ???? ?????????? ?????? ??? ?????????? ?????? ??? ?????????? ??????????
?????? ?????? ?????? ??? ???? ?????????? ?? ?????????? ?????????? ?????????? ??? (57).
?????????, ??? ???? ?????????? ??? ???? ?????????? ?????????? ?????? ??? ???? ?????????? ???
????????? ?????????? (58), ??? ???, ?????????? ??? ???? ???? ?????????? ???
????????? ?????????? ??????, ??? ?????? ??? ?????????? ??? ?????????? ???

56.

?????????????, ??????, ? ??????? ??? ?? ?????? ?????????? ?????????? ? ??????? Talacre Beach
Caravan Sales (59) ??????? ?? ?????? ?? ? ?????????? ?? ?????????????? ?? ?????? ?? ??????
?? ????? ?????????????? ?????????????? ?? ?? ?????? ?? ??????????. ? ?????????? ?? ??????????
????????? (60) ??????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ??
????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??
??????, ?? ?????????? ?? ?????? ??, ??? ?? ?????? ?????????? ?? ?????? ?? ?????? ?? ?????? ??
????????? ?????????? ?????????? (????????? ?? ?????? ?????????? ?? ?????? ?? ??????), ??
????????? ?????????? ??????????, ??? ?????, ??????????. ??????, ? ?????? ???
????????? ??????? ?? ?????????? ?????????????? ?? ?????? ?????????? ?? ?????????? ?? ??????
????? ?? ?????????? ?? ?????? ?????????? ?????????????? ?? ?????? ?? ??????

57.

???????, ?????????????? ??? ?? ??????? ???? ?? ??? ????? ?????????? ??? ?? ????? ??????????,
????????? ??? ?? ??????? ?????? ??? ? ??????? ???? ?? ?????? ?????, ??????? ??? ??????
28, ?????????? 2, ??? ????? ?????? (61), ?? ?????????? ?????????? ?? ??????
????????? ??? ?????????? ???, ?? ????? ?????????? ?? ????? stand-still ???
?????? ?????????? ??? ?? ??????? ??? ?????? ??? ?????? ?????????? ??? (62). ???????,
?? ?????????? ??? ????? ?????? ??? ?????????? ?????? ??? ?? ??? ????? ?????? ???
????????? ??? «[?]?? ?? ??????? [...] ?????????? ?????????? ??? ? ?????? ?????? ??????

? ?????????? ???????? ?? ??? ??? ??????????? [??], ?????? ??? ? ?????????????? ? ??????? ????
????????? ?????? ???????? ?????????? ?? ??? ?? ??? ???????????, ?????? ??? ???? ?????? ???
????????? ?? ?????????????? ??? ?? ?????? ?? ?????? 28, ?????????? 2, ?????????? ??, ???
????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?? ?????? ?????? ?????? ??? ?????????? ???
?????» (63).

58.

? ???????, ??? ?????? ??? ??????? ??? ??? ?????? ??????? ? ??????? ??????? ???
?????? (64), ??????? ?? ?? ?????????? ?????????? ??? ?????? ??????? ?????? ??? ???????
????????? ?? ?????? ??? ??????? ??????? (65), ?? ?????????? ??????? ?? ??????? ??
? ?????? ?????????? ??????? ??? ?????????? ??? ?????? ??? ?? ?????? 96 ??? 98 ??? ???
?? ????? 99, ?????????? 1, ??? ?????? 2006/112. ??????????, ? ??????? ??????????
??? ? ??????? ?????????? ??? ?????????? ??? ?????????? ?????? ?? ?????? ??? ?????? ???
?????? ?? ?????? ?????????? ?? ?????????? ??? ?????????? ?????? ?? ?????? ?????????? ???
?? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ?????? ?? ?????????? ?????????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?? ?????????? ??????. ?? ?????????? ??????
??? ? ?????? ?????? ?????? ?????? ?????? ?????? 98, ?????????? 1, ???
????????? 2006/112, ?? ?????? ?????????? ??? ?????????? ??? ?????? ?????? ?? ??????????
????????? ?????????? ??? ?? ??? ?????????? ?????????? ??? ?????????? ?????????? ???
????????? ??? ??????. ???????????, ??? ?????? ?????, ??? ?????? ?????, ??? ?????? ?????? ???
????? ?????????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? (66). ??? ?????? ?????? ??? ?????????? ?????? ?????? ?????? ??????
??????, ?? ?????????? ?????? ??? ??? ?????????? ?? ?????????? ?? ?????? ??? ??
????????? ??? ?? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (67), ???
????? ?? ?????? ?????? ?? ?? ?????????? ?????? ?????? ?????? ?????? ??? ?? ???
?????????.

59.

? ??????, ?????? ??? ?? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ?? ?? ???
????????? ?????? ??? ??? ??? ?????? ?????? ?????? ?????????? ??? ?? ??????? ??????????
?????????. ??????, ? ??? ?????? ?????? ??? ?????????? ?? ?????? ??? ??? ??? ??????????
??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????????
????????? ?????? ??????????. ??????????, ? BlackRock, ??? ?????? ??? ?????? ??? ??????
?? ??? ?????? ??? ?????????? ?? ?????????? ?? ?????????? ?? ?? ?????? ??? ??? ???
????????? ?? ???????, ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? (68)
, ? ?????, ??? ??? ??? ???, ??? ??? ?????? ?????? ??? ?????? ??????.

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

60.

? ?????? ??? (69) ??????? ??? ?????? ?????????? ??? ?????? ?????????? ?????? ???
?????? ?? ??? ?????? ?? ??? ?????? ?? ?????? ?????? ?????? ??? ?????????????? ?????? ???
????????? ??? ?????? ?????? ?????????? ?????? ?????? (??? ????: ???) ? ??????
????????? ??? ?????? 132, ?????????? 1, ?????? ???, ??? ?????? 2006/112. ??
????????? ??????, ?????? ???, ?? ??? ?? ?????? ???, ? ?????????? ??? ?????? ??? ?? ???
????? ?????? ?????? ??? ?????? ?? ?????????? ?? ?????? ??? ?????? ?????? ?????? ??????
????????????? ??? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????????????? (70). ??
????????? ??? ?????? ??? ? ?????? ??? ??? ?????? ?????? ?????? ??? ?????? ?????? ???
????? ??? ?????? ?????? ?????? ??? ??? ?????? ?????? ?????? ?????? ??? ?????? ???

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

61.

??. ?????? ??? ??????? ?????????? ??? ?????????????? (71) ??? ?????? ?????????? ??? ????
??? ? BlackRock ?????????????? ??? ?????? 53 ??? 54, ?? ?????? ?????????? ??? ??????????
??? ?????????? ??? ?????? ?????????????? ??? ?????? ?????? ??????. ??????????????, ???
????? 53 ??? ????????, ?? ?????????? ?????????? ??? «?? ?????????? ??? ?????? ???
??? ??? ??? ?????? ?? ??? ?????? ?????? ?????? ?????????????? ?????????????? ?????? ???
????? ??? ?????????? ???, ??? ?????? ??? ?????? ??? ?? ???? ?????? ?????????? ?????? ???
????????? ??? ??? ??? ?????????????? ?????? ??? ?? ??? ?????? ??? ???? ????
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ???».
??? 54 ??? ?? ??? ??????, ?? ?????????? ?????? ?????? ?????? ?????? ?????? ??? ????
????? ?????? «?? ?????????? ??? ?????? ??? ?????? ?????????? ?????? ?????? ???
??? ??? ?? ?????????? ??? ?????????? ??? ?????? ???, ?????????? ??? ?????? ??? ?????? ???
????? ??? ??? ?????????????? ??? ?????? ??? ?? ?????????????? ??? ??? ?????? ???
????????? ??? ? ?? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ???» (72).

62.

????? ??? ? ??????? ?????????? ??? ?????????????? (73) ??? ?????? ?? ?????????? ???
????????? ??? ??? ??? ?????? ??????. ??????, ??? ??? ?????? ??? ?????? ?????? ??????????
???, ???' ????, ? ?????? ?????? ??? ?????? ?? ?????????? ?????? ?????? ??? ????
????????? ??? ?????????????????? ??? . ??????????, ?? ?????????? ??? ?????? ???
?????????, ??? ?? ??? ?????? ??????, ??? ?????? ??? ?????? 132, ?????????? 1, ???????
???, ??? ?????? 2006/112, ?? ?????? ?????? ?????? ?? «?????» ??? ?????? ??? ??????
??? ??? ??? ?. ??????, ?????????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? 135, ?????????? 1, ??????? ?, ??? ?????? ????. ??? ??????, ??? ????
??? ?????????? ??? ??? ?????? ?????????? ?????? ??? ? ?????????? ??? «?????» ??? ??
????????? ?? ?????????? ??? ?? 132, ?????????? 1, ???????? ???, ??? ??????
2006/112 ??? ?????? ?? ?????????? ??? ?????? 135, ?????????? 1, ???????? ??, ??? ??????
??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ?????????? ??? ?????????????? (74), ?????? ??? ?????????????? ??? ??????
51 ??? 53, ?????????? ??? ?? ?????????? ??????, ??? ?????? ???, ??? ?????? ???
??? ?????? ??? ?????? 132, ?????????? 1, ???????? ???, ??? ?????? 2006/112.

63.

??????, ??????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
???' ????, ?? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????????, ????
????????? ??? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??????????
??? ?? ??? 258 ??? 260 ??? ? ??? ?????????? ??? ?????? 267 ???,
?????????, ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ??????
?? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ????. ??? ??????????,,
??????, ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? (75) ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?????????? ??? ?????? ??? ?????? ??????. ???????, ?? ?????????? ?????? ???
????????? ?????????? ??? ??????, ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?? 132, ?????????? 1, ?????? ???, ??? ?????? 2006/112 ???
????????? ??? ?????? ????. ?????????? ??? ?????? ??? ?????? ?????? ???, ??? ???, ?? ???

????????? ?????, ?? ?????????????? ??? ?????????????? ??? ????? ?????????????? ?????? ?????????????? ??????? ?????????????? ???
????????? ?? ??? ?????????????? ??? ?????????????? ?????? ?????????? ?????? ?????? ?????? (76). ?
????????????? ??? ??????????????, ?????? ??? ? ?????????????? ??? ?????? ?? ?????? ??????
?????????, ??? ??????? ?? ?????????? ??? ?????????? ?????? ??????????. ???????? ??? ??????
?????????, ?????? ??? ?????? ??? ? ?????? ?????? ?????? ?????? ?????? ?????????????? (77) ???
????????? ??????? ?????? ?????????? ?? ?????????? ?????? ?????? ?????? ??? ??? ??? ??????
??????.

64.

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

65.

66.

? ??????????? ??? ?????????? ??? BlackRock. ???????????, ??? ?????? ??? ?????????? ???
Aladdin, ??? ?????? ??????? ?? ?????????? ??? ??? ?????? ?????????????? ??? ?????? ??? ??????? ???
?? ??? ?????? ??? ?? ?????????????? ??? ??? ?????? ??? ?????????? ??? ?????? ?? ?????????? ???
?? ??? ??? ?? ?????????? ??? ??? ?????? ??????????. ???????, ? BlackRock ??????? «??
?????? ??? ?????????? ??? ??? ?????? ?????? ?????????? [??] ???????????, ???' ??????,
??????? ?? ??? ??? ??? ??? ?????????? ?????????? ??????????». ?????? ?? ??????? ???
????????? ??? ?? ??? ??? ??? ?????? ????. ?????????????? ??? ?? ?????? ??? ?????? 135,
????????? 1, ??????? ?, ??? ?????? 2006/112 ??????? ??? ?????? «??????» ???
????????? ??? «??????» ??? ??? ??????? ?? ??????? ?? «?? ????????

????????? ??? ??? ?????????? ??». ???????, ??? ?????? ?????????? ? ?????????? ???
????????? ???????, ??? ?????? ?????????? ?? ??? ?????? ?????????? ??? ?? ??? ??? ??
????????? ??? ??? ??? ?? ??? ?????????? ?????????? (80). ???????????, ?
????????? ??? ??? ?????? ?????? ?? ?????????????? ?????????? ??????? ?????? ??? ??? ???
?? ?? ??? ??? ?????? ?????????? ??? ?????????? ??? ??????? ?????? ?????? ???????????.
???? ???????, ??????? ?? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ???
????????????? ?? ?? ??? ??? ?. ???????, ? ?????????? ??? ?????????? ??? ?????????? ???
?? ??? ??? ??? ?????????? ?????????? ?? ??? ?????? ?? ?????????? ?? ?????? ??? ?????????? ??
????????? ??? ?????????? ?????? ??? ?????? ?????????, ??? ?????? ?? ?????????? ??? ?????????? ???
?? ?????? ??????. ???????, ?? ?????? ?????? ??? ?????????? ?? ?????????? ??? ?????? ???

67.

? ??????? ??? ?????????????? ??? ?? ?????????? ??? ?????? ??? ????? «? ?????????????? ???
[?????] ??????? ??? ?????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ??????
?? ?????????? ???, ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???»,
????????? ??? ?? ?????????? «?? ?????? ??? ?????? ?????? ?????? ?????? ?????????????? ???
????? ??? ?????? ??? (81). ???????, ?? ?? ?????????? ??? ?????????? ??? ?????? ??? ???
??????, ??? ?? ?????????????? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ???
????????????? ??? ??? ?????? ?????????? ???, ??? ?????????? ??? ?? ??? ?????? ??? ??????????
????????? ?? ??? ?????? ???, ? ?????? ?????????? ??? ?????????? ??? ?????? ??? ???
????????????? ??? ?????????? ??? ??? (82). ???????????, ? ?????????? ??? ?????? ?????????? ???
?? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ?????? ???
??? ???????, ?????? ??? ?????? ??????????????, ?????????? ??? ?????????? ??? ?????????? ???
??? ??? ?? ??? ?????????? ????. ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
???? ?????????? ? BlackRock ??? ??' ?????????? ???, ??? ?????? ???, ?? ???
???? ???????, ?? ?????????????? ??? ??? ?????? ??? ? BlackRock ?????????? ??? ??????????
??? Aladdin ??? ?? ?????????? ??.

68.

? ???????????, ? ?????????? ?? ??????? ?? ?? ?????????? ??? Aladdin ?????????? ??
?????? ?? ?????????? ??? ?? ?????????? ???. ??? ?????? ???, ?? ??????
?????? ??????? ?? ??? ??? ??? ?????????? ??????????????, ?????? ??? ?????? ??
????????????? ??? ?????? ?? ?????? ?? ?????????? ??? ?????? ?????? ??? ?????? ???
????????? ???, ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ???
?? ?????? ??? ??????????, ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ??????????
????????? ??? ?? ??? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?? ??? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? (84). ???????, ?
???? ??? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? (85). ?? ??????????, ??? ?????? ?????? ???, ?? ?????? ???

????????? ?????? ??? ?????? ??? ???????????, ?? ?????? ?????????? ??? ?????????? ?????? ?????????? ?????????? ??
 ?????????? ??? ??? ????? ?????????, ?? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????????? ??
 ?????????? ??????. ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????????????? ?? ??? ?????? ??????????
 ??? ???? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? 46 ??? 50 ??? ?????????? ???
 ??????????, ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ???
 ??? ?????????? ???????, ?? ??? ?????? ??? ??? ?????? ?????? ??? ??? ??? ?????????? ??? ??
 ???, ?? ?????????? ??? ???????, ?? ?????????? ?? ?????????? ??? ?????????? ?????????? ???, ???
 ?? ?????????? ??? ??? ??? ?????????? ??? ??? ?????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ??
 ?????? ?????????? ??? (86).

69.

??????, ?????? ??? ??? ????? ??????? ???????, ? ?? ????????????, ??? ??????? ???, ??? ???????
?????? ?? ???? ????? ?????????? ?? ?????????? ??? Aladdin ?? ?????????? ?????????? ??
????????? ?????? ?????????? ??? ?????????? ?? ??????? 135, ?????????? 1, ??? ??????
2006/112. ? ??????? ??? ?????????? ?? ?????????? ?? ??????? ??? ??????? ?? ??????????
??? ??? ??? ?? ?????????? ?? ??? ?? ??? ?????????? ?? ??????? ??? ??????? ?? ??? ??
????????? ?? ?? ????? ?????????????? ?????? ??? ??????????????. ?????? ??? ?????? ???
?????? ??? ??? ??? ?????? ??????? ?? ?????????????? ?? ?????????? ?? ?? ?????????? ??
????????? (87). ??????? ?????????? ??? ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ??
????? ?????????? ?? ?? ??????? 2006/112 ??? ?????? ?????????? ? BlackRock (88). ?????? ??
????????? ?? ?? ??????? ??? ?????? ?? ?????????? ??????? ?? ?????????????? ?? ?? ??????
??????, ?????? ?? ??? 135, ?????????? 1, ??? ?????? 2006/112, ?????????? ???
????????? ??? ??? ?????????? ??? ??, ?????? ??? ?????????????? ??? ??? ??? ?????? ??? ??
????????? ??? ??? ?????????? ??? ?????????? ?? ?????????? ?? ?????????? ??? ??????????
?????????.

70.

71.

??????????, ?????????? ??, ??? ?????????????? ?????? ??? ?????? ??? ?????????? ?????????? ???
?????????? ??? ?????? ??? ?????? ??????, ?? ?????? ?????????? ?????????? ? ?????????? ?? ??????????
???? ?????????? ??? ?????? ?????? ?? ?????????? ??????????, ??? ??? ?????????? ??? ?
????????? ??? ?????????? ?? ?????? ?????? ?????????? ?????????? ?? ?????? ?? ?????????? ???
????????? ??? ?????? ?? ?????????? ?? ?????????? ?????????? ??? ?????? ?????????? ???
????????? ??? ?????????? ??? ?????? ???. ???????, ??? ?????????? ???, ??
????????? ??? ?????????? ?????? ??? ?? ?????????? ??? ?? ?????? ?? ?????????? ??? ?????? ??????????
????????? ??? ?????? 135, ?????????? 1, ??? ?????? 2006/112, ??? ??? ?????????? ??? ?
????????? ??? ?????????? ?????????? ?????????? (? ? ?????????? ??? ?????????? ??? ?????? ???
????????? ?????????? ??? ??????????) ?? ?????????? ??? ?????????? ??? ??
????????? ???, ?????? ??? ?? ?????? ?? ??????????, ?? ?????? ??????????, ???
????????? ?????? ?????? ?????????? ?? ?????????? ??????. ?????????? ?????? ??????????
???? ??? ?????? ??????, ??? ?????? ? ?????? ??? 135,
????????? 1, ?????? ??, ??? ?????? 2006/112 ?????? ??? ?????? ?? ??????????.

V. ???????

72.

??? ?? ??????? ??? ?????? ??????????????, ?????????? ??? ?????????????? ?? ??????????? ???
????????????? ??????? ??? Upper Tribunal (Tax and Chancery Chamber) [?????????
????????????? ??????? (????? ??????????? ??? ??????????????), ??????? ??????] ?? ????:

?? ????? 135, ?????????? 1, ??????? ??, ??? ?????? 2006/112/?? ?? ???????????, ???
28?? ?????????? 2006, ??????? ?? ?? ????? ?????? ?????? ?????? ?????????????? ?????, ?????? ??
?????????? ?? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ???????????, ??? ? ??????
????? ????? ??, ? ?????? ??? ?????? ?????????? ?????????? ?????? ?????? ?? ?????? ??????
????????????? ?? ?????? ?????? ?????????? ?????? ??? ?????? ?????????????? ???
????????? ??? ?????? ?????? ??????????, ??? ?????? ?????? ?????? ??? ?????? ?????????????? ???
?? ???????.

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

(2) ?? 2006, L 347, ?. 1.

(3) ?????????? ??? ?? ??? ??????????????, ? ??? ?????????????????? ??? ?????????? ??? ??? ???
???????, ???? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????????? ???.

(4) ??? ?????????? ????, «[?]????????? ??? ???? ?????????? ?????????? ???
????????? 2006/112 ????, ?????????? ???' ?????? ?????????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? ?????? 77/388, ? ?????????? ??? ?????????? ??? ?????? ??? ??????????
????? ?????? ??? ?????? ??? ?????? 2006/112» (??????? ??? 10?? ?????? 2019,
PSM K, C-214/18, EU:C:2019:301, ??? 37).

(5) C-274/15, EU:C:2017:333.

(6) ????? ?????? ??? ???????????? ??? «????? ??????» ??? ??????????? ???, ??? ?? ????.
73 ??? ???? 78, ????????, ??? ?????? 2006/112 ????????, ??? ???? ????????,
???????, ??? ?????? ????????, ????????????, ????????????, ??? ???? ?????? ????????,
????????? ????????, ??? ????????, ??? ???? ?????? ?????? ????????, ??? ???? ???? ????????,
????????? ????????, ??? ???? ????????, ??? ???? ????????, ??? ???? ????.

(7) ??????? ??? 4?? ??? 2006, Abbey National (C-169/04, EU:C:2006:289), ??? 28??
?????? 2007, JP Morgan Fleming Claverhouse Investment Trust ??? The Association of
Investment Trust Companies (C-363/05, EU:C:2007:391), ??? 19?? ??????? 2012, Deutsche
Bank (C-44/11, EU:C:2012:484), ??? 7?? ??????? 2013, GfBk (C-275/11, EU:C:2013:141), ???
7?? ??????? 2013, Wheels Common Investment Fund Trustees ??. (C-424/11,
EU:C:2013:144), ??? 13?? ??????? 2014, ATP PensionService (C-464/12, EU:C:2014:139),
????? ??? ?? 9?? ?????????? 2015, Fiscale Eenheid X (C-595/13, EU:C:2015:801).

(8) ??., ?????? ????, ?????? ??? 9?? ?????????? 2015, Fiscale Eenheid X (C-595/13,
EU:C:2015:801, ????? 30 ??? ??? ?????????????? ??????????).

(9) ??., ?????? ????, ?????????? ??? 28?? ?????????? 2010, Axa UK (C-175/09,
EU:C:2010:646, ??? 25), ??? 17?? ?????????? 2013, Woningstichting Maasdriel (C-543/11,
EU:C:2013:20, ??? 25), ??? 12?? ??????? 2014, Granton Advertising (C-461/12,
EU:C:2014:1745, ??? 25 ??? ??? ?????????????? ??????????), ??? 16?? ?????????? 2017,
Kozuba Premium Selection (C-308/16, EU:C:2017:869, ?????? 39 ??? 45), ??? 25?? ???????
2018, DPAS (C-5/17, EU:C:2018:592, ??? 29), ??? ??? 19?? ?????????? 2018, Mailat (C-
17/18, EU:C:2018:1038, ??? 37).

(10) ?????? ??? 10?? ??????? 2019, PSM K (C-214/18, EU:C:2019:301, ????? 43).

(11) ??????? ??? 4?? ??? 2006, Abbey National (C-169/04, EU:C:2006:289, ????? 68),
??? ??? 7?? ?????? 2013, GfBk (C-275/11, EU:C:2013:141, ????? 31).

(12) ?? ??? ?? ?? ??? ?????????? ??? ??????? «??» ??? «?????????», ?. ?????????? ???
?????? ?????????? J. Kokott ??? ?????? Fiscale Eenheid X (C-595/13, EU:C:2015:327,
????? 16 ??? 57).

(13) ?????? ??? 4?? ??? 2006, Abbey National (C-169/04, EU:C:2006:289, ????? 53).

(14) ?????? ??? 4?? ??? 2006, Abbey National (C-169/04, EU:C:2006:289, ????? 53).

(15) ?????? ??? 7?? ?????? 2013, Wheels Common Investment Fund Trustees ??. (C-
424/11, EU:C:2013:144, ????? 16 ??? ????? ?????????????? ??????????).

(16) ?????? ??? 7?? ?????? 2013, Wheels Common Investment Fund Trustees ??. (C-
424/11, EU:C:2013:144, ????? 17 ??? ??? ?????????????? ??????????). ??? ?? ??????????,
«?? ?????? ??? ?????? ??? ??????, ????? ?? ??????? ??? ??? ?????? ??? ?????? ??? ?????? ??? [??]», ??
????????? ?? [??] ??? ?????????? ?????????? ?????????????? ??? ??? ?? ?????????? ???».

(17) ?????? ???, ??? ?????? ?????????????? ??????????, ?? ?????? ??????????
????????????? ??? «????????? ??? ?????????? ??? ?? ?????????? ?????????? ??????????
????????? «?????????» ??? ??? ?????? ??? ??? ?????? ??? ?????? ??? 135,
????????? 1, ??????? ?, ??? ?????? [2006/112]».

(18) ?????? ??? 4?? ??? 2006, Abbey National (C-169/04, EU:C:2006:289, ?????? 40 ???
43), ??? ?????????? ??? ?????? ?????????? J. Kokott ??? ?????? Fiscale Eenheid X

(C?595/13, EU:C:2015:327, ?????? 48).

(19) ??????? ??? 4?? ????? 2006, Abbey National (C-169/04, EU:C:2006:289, ????? 64).

(20) ??????? ??? 4?? ????? 2006, Abbey National (C-169/04, EU:C:2006:289, ????? 65).

(21) ??????? ??? 7?? ??????? 2013, GfBk (C-275/11, EU:C:2013:141).

(22) ??????? ??? 7?? ??????? 2013, GfBk (C-275/11, EU:C:2013:141, ????? 27).

(23) ??????? ??? 4?? ????? 2006, Abbey National (C-169/04, EU:C:2006:289, ????? 66). ?? ??????????? ??? ??????????? ??? ??????? ??? 7?? ??????? 2013, GfBk (C-275/11, EU:C:2013:141, ????? 20). ??., ??????, ?????????? ??? ??????? ?????????? P. Cruz Villalón ????? ?????? GfBk (C-275/11, EU:C:2012:697, ?????? 25).

(24) ??. ?????? ??? 4?? ????? 2006, Abbey National (C-169/04, EU:C:2006:289, ????? 67). ?? ??????????? ??? ??????????? ??? ??????? 63 ??? ??????? ??? 13?? ??????? 2014, ATP PensionService (C-464/12, EU:C:2014:139).

(25) ??. ??????? ??? 5?? ??????? 1997, SDC (C-2/95, EU:C:1997:278, ????? 66), ??? 4?? ????? 2006, Abbey National (C-169/04, EU:C:2006:289, ??????? 70 ??? 72), ??? ??? 7?? ??????? 2013, GfBk (C-275/11, EU:C:2013:141, ????? 21).

(26) ??. ?????? ??? 13?? ??????? 2014, ATP PensionService (C-464/12, EU:C:2014:139, ??????? 65 ??? 75).

(27) ??., ?????? ????, ??????? ??? 8?? ??????????? 2011, Rosado Santana (C-177/10, EU:C:2011:557, ????? 32), ??? ??????? ??? 24?? ?????????? 2019, Topaz (C-211/17, ?? ???????????, EU:C:2019:906).

(28) ??. ??????? ??? 27?? ?????????? 2005, Levob Verzekeringen ??? OV Bank (C-41/04, EU:C:2005:649, ????? 23), ??? 27?? ?????????? 2012, Field Fisher Waterhouse (C-392/11, EU:C:2012:597, ????? 20), ??? ??? 21?? ?????????? 2013, Žamberk (C-18/12, EU:C:2013:95, ????? 31).

(29) ??????? ??? 13?? ??????? 2014, ATP PensionService (C-464/12, EU:C:2014:139, ????? 75).

(30) ?? ?? ?????????? ?????????? ??? ?? ?????????? ???????????, ?? First-tier Tribunal (Tax Chamber) [????????????? ?????????? ?????????? (?????????? ?????)] ???????? ?? ?? ??? ???????????.

(31) ?? ?? ?????? ??????? ?????????????? ???, ? ??????? ?????? ?????????? ??????????? ?? ??? ?? ?????????? ??? ?????????????? ??? ?? ?????????? ??? BFMI ?????????? ???, ???????????, ?? ??? ?? ??? ?? ??? ?????????? ??? ?? ?????????? ?? «?????????? ??».

(32) ??????? ???, ?? ?????????? ??? ???????????, ? ?????? ?????? ?????????? ??????? «????????? ????» (??., ?????? ????, ?????????? ??? 17?? ?????????? 2013, BG? Leasing, C?224/11, EU:C:2013:15, ??? ??? 16?? ?????? 2015, Mapfre asistencia ??? Mapfre warranty, C-584/13, EU:C:2015:488) ? «?????? ??????? ??????» (??., ?????? ????, ??????? ??? 8?? ?????????? 2016, Stock '94, C-208/15, EU:C:2016:936). ??? ?????????? ???????, ?????????? ?? «?????? ??????».

(33) ??? ?????????? ? ?????? ?????????? ?. Sharpston ?? ??? ?????????? ??? ???

?????? Deutsche Bank (C-44/11, EU:C:2012:276, ?????? 24), «?????? ?????? ?????? i) ????, ??? ? ??????????? ??? ???? ??????????? ?????? ?????????? ?????? ?????? ?????? ??????, ????? ??????????????? ?????????? ??? ????? ?????????? ?????????? ??????, ??? ?????? ? ??????????????? ?? ??? ????? ???????, ? ii) ??? ???? ? ??????????? ?????? ??????? ?????????? ???????, ??? ??????, ??? ???? ?????? ?????????? ».

(34) ??????? ??? 19?? ??????? 2012, Deutsche Bank (C-44/11, EU:C:2012:484).

(35) ?????. ??????? ??? 19?? ??????? 2012 (Deutsche Bank, C-44/11 (EU:C:2012:484, ??????? 19 ?? 21 ??? ??? ?????????????? ?????????)).

(36) ??????? ??? 19?? ??????? 2012, Deutsche Bank (C-44/11, EU:C:2012:484).

(37) ?????. ??????? ??? 19?? ??????? 2012, Deutsche Bank (C-44/11, EU:C:2012:484, ??????? 26 ??? 27).

(38) ?????. ??????? ?? 21?? ??????????? 2013, Žamberk (C-18/12, EU:C:2013:95, ???? 30
??? ???. ?????????????? ??????????).

(39) ?????????? ??? ???????? ?????????? ?????? ??? ?? First-tier Tribunal (Tax Chamber) [????????? ??? ???????? ?????? (????????? ???)].

(40) ?????????? ??? ? ?????????? ??????????????, ???? ??? ??' ?????????????? ??????????, ??? ?????????? ?????????? ?? «????????????????? ?????? ?????? ?????? ?????? ?????? [?? ??? ??? ??? ??????]».

(41) ?????, ??????? ?? 25?? ?????????????? 1999, CPP (C-349/96, EU:C:1999:93, ????? 29).

(42) ??????? ?? 25?? ??????????? 1999, CPP (C-349/96, EU:C:1999:93).

(43) ??? ????? 135. ?????????? 1. ???????? ??, ??? ?????? 2006/112.

(44) ??????? ?? 25?? ??????????? 1999, CPP (C-349/96, EU:C:1999:93, ????? 29). ??.,
???????, ?????????? ?? ??????? ?????????? ?. Fennelly ??? ????? CPP (C-349/96,
EU:C:1998:281, ?????? 26).

(45) ??????? ??? 25?? ??????????? 1999, CPP (C-349/96, EU:C:1999:93, ???? 30). ??
????????????? ??? ?????????????? ??? ?????????? ??? 19?? ??????? 2012, Deutsche Bank
(C-44/11, EU:C:2012:484), ??? ????? ?? ?????????? ??????, ?????? ?????, ??? ? ??????
????????????? ??????????????, ?????? ?????????? ?????????????? ??????????????, ??? ???
????????????? ??? ???, ??? ?????????? ??? ?????????? ?????????????? ?????????? ??? ???
???? ?????????? ??? ?????????? ??? ??? ?????????? ?????????? ?????????? ???, ?????????? ???
??? ?????????? ?? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????????????? ??
????????? ??? ??? ?????????? ??????. ?????? ??????????, ??? ?????? 22
??? 29 ??? ???????, ??? ?????? ??? ?????? ??? ?????, ?? ?????????? ??????
????????? ??? ? ?????????????? ?????????? ??? ?????????? ??? ?????? ? Deutsche Bank
??? ??????? ??? ?????? ??? «????????? ???» ??? ???? 135, ?????????? 1, ???????
??, ??? ?????? 2006/112, ?????????? ??? ?????????? ?? ?????????? ??? ??????????????
????????? ??? ?????? ??????, ??? ?????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??????
????? ??? ? ?????????? ??? ?????? ??????.

(46) ?????. ??????? ?? 18?? ?????????? 2018, Stadion Amsterdam (C-463/16, EU:C:2018:22, ????? 23 ?? ????? ?????????????? ??????????)

(47) ??????? ?? 21?? ??????????? 2013 (C-18/12, EU:C:2013:95).

(48) ??????? ?? 21?? ??????????? 2013, Žamberk (C-18/12, EU:C:2013:95, ????? 32).

(49) ??????? ?? 18?? ?????????? 2018 (C-463/16, EU:C:2018:22).

(50) ??????? ??? 18?? ?????????? 2018, Stadion Amsterdam (C-463/16, EU:C:2018:22, ????)
26 ??? ??? ?????????????? ??????????). ? ?????????? ????. ????. ????? ??? ??????
?????????, ? ?????????? ????. ????. ????? ?? ?????????? ?????????? ????. ????. ????. ????.
????????? ?? ?? ??????? ??? 19?? ?????????? 2012, Purple Parking ??? Airparks
Services (C-117/11, ?? ??????????????, EU:C:2012:29, ??? 31), ????. ????. ?? ??????????
????????? ??? «?? ??????? ???, ??? ????? ??????????, ?? ?????? ?????????? ?????????? ??
????????? ? ?????????? ?????????? [??? ??? ?????] ?????????? ??? ? ??????????
???? ????? ?????? ?? ??? ?????? ??? ?????? ?????? ?????? ?????? ». ??? ?????? 39 ???
????????? ?????, ?? ?????????? ?????????? ??? «? ?????????? ?????? ?????? ?????????? ??
????????? ?????? ??? ?????? ??? ?????????? ???' ??????, ?????????? ?????????? ??????????
????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ?????????? ?? ????.
????????? ?????? ».

(51) ??????? ?? 18?? ?????????? 2018, Stadion Amsterdam (C-463/16, EU:C:2018:22, ?????
26 ??? ??? ?????????????? ??????????).

(52) ?????? ?????????????? ??????????, ??????? 1, ?????? 9.

(53) ?? First-tier Tribunal (Tax Chamber) [????????????? ??????????? ?????????? (???????????)
?????], ?????????????? ??? ?????? ??? 7?? ?????? 2013, GfBk (C-275/11,
EU:C:2013:141), ???????, ??? ????? 184 ??? ??????? ???, ??? «?? ?????????? ??? Aladdin
????????? ?????? [...] ?? ??? ???????????? ??? ??? ????? ?????????? ??? ?????????? ??
????????? ??????», ??????????? ??? ?? «????????? ?????? ??? ?????????? ??? ??????????, ???
?????????, ?????????? ??? ?????????? ??? ?????????? ????? ?????????? ??? ??????????».

(54) ?????????? ???, ??? ???? ??' ?????????????? ??????????, ? ?????????? ?????????????? ??? ?????????? ?????????? ?? «????????????? ?????? ?????? ?????? ?????? ?????? ?????? [?? ??? ??? ??????]».

(55) ??????? ?? 6?? ?????? 2006 (C-251/05, EU:C:2006:451).

(56) ??????? ?? 6?? ????? 2010 (C-94/09, EU:C:2010:253).

(57) ??? ?????? ??????? ???. ?????????????? ?????????????? ??????????????, ???. ?????????? ???
?????? ?????????? M. Szpunar ????. ?????? Regards Photographiques (C-145/18,
EU:C:2019:184, ?????? 30).

(58) ?????? 22 ??? ?????????? ?????????????????? ???????????.

(59) ??????? ?? 6?? ??????? 2006 (C-251/05, EU:C:2006:451).

(60) ? ??????? ?????????? ?????????? (????????? ?????????? ??????????) ???
????????? ?????? ??? ??? ??????, ?? ?????? ??? ?????????? ??????????, ??? ??????????
????????? ??? ??????? ??? ?????? ?????? ?????????? ?????? ??? ?????? 28, ?????????? 2, ???
????? ??????. ??? ? ? ?????? ?????? ?????? ?????????? ?????????? ?????????? ??????????
????????????? ??? ? ? ?????? ?????? ???, ? ?????? ?????? ??? ? ??? ? ? 1? ?????????? 1991.

(61) ??? ????? 110 ??? ??????? 2006/112.

(62) ??????? ?? 6?? ?????? 2006, Talacre Beach Caravan Sales (C-251/05, EU:C:2006:451).

(63) ??????? ?? 6?? ?????? 2006, Talacre Beach Caravan Sales (C-251/05, EU:C:2006:451, ????? 24).

(64) ??????? ?? 6?? ????? 2010 (C-94/09, EU:C:2010:253).

(65) ?? ?????????? III, ?????? 16, ??? ??????? 2006/112 ?????????? ??? ?????????? ??????????
?????????? ????? ?????? ?????????? ?? ?????? ??? ??????? ?????????? ??????.

(66) ??????? ?? 6?? ????? 2010, ??????? ?? ?????? (C?94/09, EU:C:2010:253, ????)
39). ? ?????????? ?? ?????????????? ?? ? ?? ????? ?????????? ?????????????? ?????? ?? ?????
????????? ?? ?????????????? ?? ?????????????? ?????? ?? ?????? ?????????? ?? ?????? ??
?????????.

(68) ??????? ?? 4?? ????? 2017 (C-274/15, EU:C:2017:333).

(69) ??????? ?? 4?? ????? 2017 (C-274/15, EU:C:2017:333).

(70) ?? ??????????? ?? ?????????? ? ?????????? ?????????? ?? ?????????? ??? ? ??????????????????
????????? ?? ?????????? ?? ?????????? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ??
????????????????? ?? ?????????? ?? ?????????? ?? ?????????????? ?? ?????????????? ?? ?????? ??
????????????? ?? ??? ?? ?????????? ?? ?????????? ?? ?????????? ?? ??????. ?? ?????????? ??
????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????????? ??
????????????? ?? ??????? ?? ??? ? ??????? ?? ??????? ?? ??????? ?? ??? ?????????? ??
????????????? ?? ??????? ?? ?? ?????????? ?? 30 % (?? 45 % ?? ?????????? ?? ??????????)
?? ?????????? ?? ?????? ?? ???????.

(71) ??????? ?? 4?? ????? 2017 (C-274/15, EU:C:2017:333).

(72) ??????? ?? 4?? ????? 2017, ??????? ?? ?????????????? (C-274/15, EU:C:2017:333, ?? 54). ? ??????????? ?? ???.

(73) ??????? ?? 4?? ????? 2017 (C-274/15, EU:C:2017:333).

(74) ??????? ?? 4?? ????? 2017 (C-274/15. EU:C:2017:333).

(75) ??????? ?? 4?? ????? 2017 (C-274/15, EU:C:2017:333).

(76) ??, ?????? 45 ??? 46 ??? ??????? ??????????

(77) ??????? ?? 4?? ????? 2017 (C-274/15, EU:C:2017:333).

(78) ???. ??????? ??? 28?? ??????? 2007, JP Morgan Fleming Claverhouse Investment Trust
???. The Association of Investment Trust Companies (C?363/05, EU:C:2007:391, ????? 45).

(79) ???. ?????????? ??? 28?? ??????? 2007, JP Morgan Fleming Claverhouse Investment Trust
??? The Association of Investment Trust Companies (C-363/05, EU:C:2007:391, ????? 45), ???
7?? ??????? 2013, Wheels Common Investment Fund Trustees ??. (C-424/11, EU:C:2013:144,
????? 19), ??? 13?? ??????? 2014, ATP PensionService (C-464/12, EU:C:2014:139, ????? 43),
??? ??? 9?? ?????????? 2015, Fiscale Eenheid X (C-595/13, EU:C:2015:801, ????? 34). ??.,
????? ?????? ??? ?????? ??? ??????????, ?????????? ??? ??????? ?????????? J. Kokott ????
????????? Abbey National (C-169/04, EU:C:2005:523, ?????? 28 ??? 29), ??? ???? ?????? ?
????????? ??? ?? ?????? ?? ?????????????? ??? ?????? ??? ?????????????? ?????? ??? ??????????
??? ?????????? ?? ?????? ??????????, ?????????? ??? ?? ?????????? ?????? ?????? ?????? ??????????
????????? ?? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????. ?
????? ?????????? J. Kokott ???????, ???, ?????, ?? ?? ????? ?????????? ??? ??????????
??? ?????????? ?????? ??? ?? ?????????? ??? ?????? ?????? ?????????? ??? ??????????.

(80) ??????????, ?????? ?? ?? ??????????? ?? ?????????????? ?? ?????????????? ?? ?????????????? ?? ?????????????? ?? ?
????? ?? ?????? ?? ?????????? ?? ?????????????? ?? ?????????????? ?? ?????????????? ?? ?????????????? ?? ?????????????? ??
????? ??, ?????? ?? ?????????????? ?? ?????????????? ?? ?????? ? ?????? ? ?????? ? ??????????????
?????????? ?? ?????????? ???. ??? ?????? ??????????????, ?????????????? ?? ? ?????? ??
????? ?? ?????? ?? ?????? ?????????? ?? ?????????? ?? ?????? ??.

(81) ???. ?????????? ??? ??????? ?????????? J. Kokott ????. ????? Levob Verzekeringen ??? OV Bank (C-41/04, EU:C:2005:292, ????? 66 ??? ?????????? 23).

(82) ???. ?????????? ??? ??????? ?????????? J. Kokott ????. ?????? Talacre Beach Caravan Sales (C?251/05, EU:C:2006:295, ?????? 32).

(83) ???. ?????? 30 ??? ??????? ??????????

(85) ?????. ??????? ?? 19?? ??????? 2012, Deutsche Bank (C-44/11, EU:C:2012:484, ????, 45), ??? ?????????? ?? ??????? ?????????? E. Sharpston ????, ?????? Deutsche Bank (C-44/11, EU:C:2012:276, ?????? 60).

(86) ??????? ?? 18?? ?????????? 2018, Stadion Amsterdam (C-463/16, EU:C:2018:22, ???? 36).

(87) ???. ?????? 34 ??? 36 ??? ?????????? ??????????.

(88) ???? ??????? ?????????????? ???, ? BlackRock ????????? ?? ?????? 136 ??? ?? ?????
168. ??????? ?? . ??? ?????? 2006/112.