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

MICHAL BOBEK

??? 10?? ??????????? 2020(1)

?????? C?449/19

WEG Tevesstraße

?????

Finanzamt Villingen?Schwenningen

[?????? ??? Finanzgericht Baden?Württemberg
(?????????? ??????????? ????????????????????, ????????)
??? ??? ?????? ??????????????? ??????????]

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

I. ????????

1. ????? ?????????????? ??????? ??????? ?????????? ?????? ?????????????? ???
????????? ?????????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????????? ???
????? ?????????????? ??? (???: ??) ??? ??? ?????? ??? ??? ?????? ??? ?????????? ???
????????? ?? ?? ?????????? ????. ? ?????? ?????????? ??? ?????? ?????????? ??? ?? ??? ?? ???
?????. ? ??? ?????? ?????? ???, ??? ?? ?????????? ???????, ? ?????? ?????????? ?????? ???.
????????? ?????????? ?????????? ?????????? ??? ?????????? ??? ?? ??? ??.
2. ??? ?????? ???, ?? Finanzgericht Baden?Württemberg (?????????? ???????????
???????????????????, ????????) ?????? ?? ?????????????? ?? ? ?????? 2006/112/E? (2) (???:
???: ?????? ???) ?????????? ?? ?????? ?????????? ? ?????? ?????????? ??? ?????? ?????????? ??? ?? ???
??? ?????? ?????????? ??? ?????? ?????????? ?????????? ?????? ?????? ?????????? ??? ??
????????? ?????????? ??? ?? ?????? ??? ?????? ?? ?????? ?????????? ?????? ?????? ?????? ??? ??
????????? ??? ?? ??? ?????? ?????? ?????? (????? ? ??????????) ?????????? ??? ?????? ?? ???
????????? ?? ?? «?????» ??? ?????? ??? ?? ?????? ???, ??? ? ?????? ??? ?????? ??? ??
???? ?????????? «?? ?????? ??????» ??? ??? ?????? ??? ?????? ??? ?????? 2, ?????????? 1,
?? ?????? ??? ??.

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

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

3. ? ?????????????? ????? 4 ??? ??????? ????? ?? ????? ?? ?????:

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

4. ????? ?? ?????? 2, ??????????? 1, ?????????? ?? ??? ??, ??? ??????? ????? ???

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

?) O? ??????????? ?????? ?? ?????????????????????? ?? ?? ?????????? ?????? ?? ?????? ?? ?????? ???)
?????? ?? ?????? ?? ?? ?????????? ?? ?? ?????? ?? ?? ?????? ?? ?? ?????? ?? ?? ?????? ?? ??),

[...]

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

5. ?? ?????? 9, ??????????? 1, ??? ??????? ??? ???, ?? ?????? ?????? ??? «????????????? ???? ??», ??? ? ????:

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

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

6. ?? ???? 14, ?????????? 1, ??? ?????? ??? ?????? ?? «????????? ??????» ?? «????????? ??? ?????????? ?? ??????? ??????, ?? ??????, ??????? ?????», ??? ??? ?? ?????? 15, ?????????? 1, ??? ?????? ??? ?, «????????[?]?? ? “????????? ??????” [...] ? ??????????».

«1. ?? ?????? ????. ??????????????? ???. ?????????????? ???????;

[...]

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

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

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

8. ?? ?????? 1 ??? 4 ??? Umsatzsteuergesetz (???) ?????????? ?????? ????

????????????? ?????) (???) ????: UStG) ?????? ???? ?????? ?????? ???? ????

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

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

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

«????? 1 – ?????????????? ??????

(1) ????? ???? ?????? ??????? ?????????? ?? ?????????? ????????

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

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

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

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

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

[...]

?????? 4 – ?????????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ??????

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

[...]

13. ???? ?????????? ??? ??????????? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ??????
??? Wohnungseigentumsgesetz (????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????
????????? ????) [...] ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
??? ?????? ??? ?? ?? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??????????
?????, ????????, ??????? ? ?? ?????? ?????? ?????? ?????????? ??? ?????????? ??? ??????????
????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ??????.

9. ? Wohnungseigentumsgesetz (????? ??? ??????????? ??????????? ??? ?????? ??????????? ???????????) ?????? ??? ?????? ??? ??????? ?? ??????????? ??????????? ??????????? ?????? ????????????. ??? ???? ??? ?????? ??? ??? ?????? ?????? ??????? ?? ???????????, ? ?? ??? ?????? ?????? ?????? ?? ????:

«????? 10 ??????? ????»

(1) ?? ??? ?????????? ?????????? ??????????, ?? ?????????? ?????????? ??????????
 ?????? ??????? ??? ?????????????? ??? ??? ??????????????, ?? ?????? ?????????????? ??????????
 ?????? ?? ??? ????? ??????? ??? ?????????????? ?????????? ??? ?? ??????????????, ??? ??
 ?????????? ??? ?????????? ??????

[...]

????? 16 ???????, ??????? ??? ??????

[...]

(2) ???? ?????????? ?????????? ?????????? ?????? ?????????? ?????? ??? ??????
????????? ?????????? ?????????? ?????????? ?? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????????????
????? ??? ??????? ??? ??????? ?? ???????, ??? ??????? ??? ?????? ??????????
???????????, ??? ??? ??? ?????? ??? ?????? ??? ?????????????? ???' ??????? ?? ??
????? ?????????? ??? (????????? 1, ??? ??????).

(3) ???? ?????????? ??? ?? ?????? 2, ?? ?????????? ?????????? ?????????? ??????????
?? ?????????? ??? ?????????? ??? ?? ?????????? ?????? [...] ??? ?? ??????????????
? ??? ?????????? ??? ?????????, ?? ?????? ??? ?????????? ?? ?????????? ??? ?????? ??
??????, ??? ??? ??? ??????? ??? ??????? ?? ?????????? ?? ?????????????, ?? ?????????????? ?? ??????? ??
????????????? ? ??? ?????? ??? ?? ?????????? ?? ?????????? ?? ?????????????? ?????? ??? ??????? ??
????????? ? ??? ?????? ??? ?????? ?????????, ?????? ?????? ?? ??? ?????? ??? ?????? ??? ??????
?????????.

III. ?? ?????????? ??????????, ? ?????????? ??????? ??? ?????? ?????????? ??????????
?? ?? ?????????? ??????

10. ? WEG Tevesstraße (??? ????: ??????????) ?????? ??? ?????????????? ??????????
?? ?? ??? ?????????????? ??? ?????? ??? ?????? ?????? (??? ??????? ???????, ??? ???????
????? ??? ??? ?????) (??? ????: ?????????). ?????????? ??? ?????? ??????????????
????????? ? ?????????? ??? ?????? ?????? ?????? ??? ?????????????? (??? ????:
????????????). ? ?????????????? ?????????? ??? 20 ?????????? ??? ?????? ??? ??????? ??
???? ??????, ??? ?????? ??? ?????????? ?? ?????????? ??? ?????????? ?????? ??? ??????? ??
??? ?????????? ?? ?????? ??? ?????.

11. ?? 2012, ? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??????????
????????? ??? ?????????? ?????? (??? ????: CHPU). ?????? ?? ?????? ??????????
????????? ??? ??? CHPU. ?? ???????, ?????? ??? ?????????? ?????????? ?? ??????
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????????? ???
?????????.

12. ?? ????, ? ?????????? ?????? ?? ?????? ??? ?????????? ??? ?????????? ??? ??????????
????? ??? ?????????? ??? ??? ?????? ??? ??????, ??? 19 765,17 ???, ??? ?????? ???
??? ?????? ?????? ??? ?????????? ??? CHPU.

13. ??? 3 ?????? 2014, ?????? ?????? ??? ?????? ??? ?????? ???????, ? ??????????
????? ??? Villingen?Schwenningen ?????? ??? ?????? ??? ?????????????? ??? 28 % ???
????????? ??? ??? ??? ?????? . ??? ?????? ?????????? ???, ?? ??? ??? ???
????????????? ??? ??? ??? ?????? ??? ?????????? ?????? ?? ??? ?????? ?????????? ??? ??????
????????? ?????? . ??? ?????? ?? 72% ??? ?????????? ??? ?????? ??? ??? ?????? ???
????? ?????? ??? ?????? ?????????, ? ?????????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ??? ??? ???, ??? ?? ?????? 4, ?????????? 13, ??? UStG, ? ??????
????????? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ??? ??? ???.

14. ?????? ?????????? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?? ???
?????????, ? ??? ?????? ??? ?????????, ? ?????????? ??? ?????? ?????????? ???
Finanzgericht Baden?Württemberg (????????? ?????????? ?????????????? ?????????????). ??????
?????, ? ?????????? ??? ?????? ??? ?? ?????? 4, ?????????? 13, ??? UStG ?????????? ???

?????? ???? ?????? ??????? ???? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
???. ?????????? ??? ??????? ??? ?????? ??? ??????, ? ?????? ?????????? ??? ??????
????????????? ??? ?????? ?? ?????????? ?? ???, ?????? ? ?????????? ?????? ?????????? ??? ??
????????? 72 % ??? ??????? ??? ??? ??? ??? ??????.

15. ?????? ?????????? ?? ??? ?? ? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ???
?? ?????? ??? ??????, ?? Finanzgericht Baden-Württemberg (????????? ??????????)
????????????? ??? ?????? ?? ?????????? ?? ??? ?????? ??? ?????????? ??? ?????? ??? ??
????????? ??? ?????????? ?? ?????????? ?????????? ??????;:

«????? ?? ?????? ??? ?????? 2006/112/E? ??? ???????, ??? 28?? ?????? 2006,
????? ?? ?? ?????? ?????? ?????? ?????????????? ??? (?? 2006, L 347, ?_. 1), ??
????????? ??? ??? ?????? ??? ?????????? ?? ?????? ?????? ?????? ??? ?? ??? ??
? ?????? ?????????? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ?????????? ???
????????? ?????????? ??? ?????? ?????????? ??????;»

16. ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ? ?????????? ???????.
???? 22 ????? 2020, ?? ?????????? ??? ?????? ?????????? ?????? ??? ?????? ??? ??????????
???? ??? ?????? ?????? ??? ?????? ???.

IV. ??????

17. ?? ?????? ?????? ??? ?????? ??? ?????? ?????? ???????. ?? ?????? ??????????????
????????? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????? ?? ?? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?? ?????? ???
????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? (?? ?). ?? ?????? ?, ??
????? ?? ?????? ?????? ??? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
????? ??? ?????? ??? (?? ?). ??????, ?? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?? ???
????????? ?????? (?? ?).

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

18. ?? ?????? ?????????? ???' ?????? ?? ?? ?????????? ??? ?????? ??? ??
????????? ?? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ??? ??
????????? ?? ?????? ?????? ?????????? ?????? ?????? ?????? ?????? ??? ??
????????? ??? ?? ??? ??????.

19. ?????? ??? ?????? ??? ?????? ?????? ?????????? ?????? ?????? ??? ?? (3),
????? ?????? ??? ?????? ??? ?????? ?????? ?? ?????? ??? ?????? ??? ?????? ???
????? ?????? ?????? i) ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ?????? ??? ?????? IX ??? ?????? ???.

20. ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

21. ??? ?????? ?????????? ?? ?????????? ???' ?????? ??? ?????? ??? ??

?????????

1. ?????? ??????? ?? ?? ?????? ?? ???? ???????????;

22. ?? ?????? ??????????? ????????, ???? ??? ?????? ???? ??????????? ???? ???? ???
????????????? ????????, ???? ??? ??????????? ?????? ?????? ???? ??????? ?????? «die
Wohnungseigentümer» (?????????????) ?? ??????? ???? ?????????? ???? ???? ??????
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
?? ?????? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? 20 ?????????? ???? ?????????? ???
???????, ?? ?????? ???? ?????? ?????? ?????? ???? ?????????????? (? ?????????? ???
????? ?????? ?????? ??????). ???????, ???? ?????? ???? ?????? ???? ?????????? ??
????????? ?????? ???????.

23. ?? ?????? ???? ?????? ?????? ???? ?????? ??????: ?????? ? ?????? ???
????????? ???? ?????? ?????? ?????? ???? ?????? ?????? ???? ??????; ?? ?? ???? ??????
????????? ?????? ? ?????? ???? ?????? ?????? «die» ???? ???? ?? ?????? ??????
«Wohnungseigentümer» ?????? ???? ???? ?????? ?????? ???? ?????? ???? ?????? ???
????? ???? ?????? ???? ?????? ???? ???? ?????? ???? ???? ?????? ???? ???? ??????
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???? ??????
????? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???? ???? ??????
????????? ?????? ???? ?????? ?????? ?????? ?????? «die Wohnungseigentümer» ??????
??, ???? ???? ?????? ?????? ?????? ?????? ?????? ?????????? ?????? ?????? ????
?????????????;

24. ? ?????? ???? ?????? ?????? ???? ?????? ???? ?????? ?????? ???? ???? ? ???? ???
?????????. ?? ?????? 4, ?????????? 13, ??? UStG ?????? ?????? ??????. ???? ?? ?????? ???
??? ?????? ?????? ?? ??????????, ?????? ?????, ?????? ?????? ?????? ???????????, ????
????? ?????????? ???? ?????? ?????? ?????? ?????? ?????? ?????? «die Wohnungseigentümer»
????????? ???? ????

25. ? ?? ???? ?????? ?????????? ???????, ???? ???????, ???? ?????? ???? ??????
?????????. ?????? ????, ? ?????? ???? ?????? ?????? ?????? ?????? ?????? ?? ?? ????
??????, ? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ????
????? ???? ???? ?? ?????????? ?????? ???? ?????? ?????? (?) ???? ?????? ???? ??????
????????? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ????
????????? ?????? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???? ??????
????? ???? ?????? ???? ?????? ?????? ?????? ?????? ?????? ?????? ???? ?????? ??????
????? ???? ?????? ???, ?? ?????????? ?????? ?????? ?????? ???? ?????? ???? ?????? ????
????? ???? ?????? ???? ?????? ???? ?????? ?????? ?????? ???? ?????? ???? ?????? ????

2. ?? ?????????? ?????? (?? ???????) ???? ???? ???????????;

26. ???? ???? ?????????? ? ?????? ???? ?????? ???? ? ?????? ???, ? ?????? ???
????????? ?????? ?????? ???? ?????? ?????? ???? ?????? ???? ?????? ???? ?????? ???
??????????. ?????? ???? ?????? ?????? ???? ?????? ?????? ?????? ?????? ?????? ???, ????
????????? ?????? ?????? ?????? ?????? ???? ???? ?????? ?????? ?????? ???, ????
?????????.

27. ?????? ???? ?????? ?????? (4).

28. ???? ???? ?????? ???? ?????? ???, ?? ?????? ???? ?????? ???, ???? ???? ?????? ????

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

29. ????????, ??????? ??????????? ?????? ? ??????? ?? ??? ?????? ??? ?????????????? ??
?????????? ?? ??????? ?? ??????????? ??????????????. ??????, ?????? ?? ??????? ??????????????
?????????? ??? ??????????? ??????. ?? ??? ??????, ??????????? ?????????? ??? ??? ??????
????????????? ?????? ????????. ????????, ? ?????? ??????????? ?????? ?? ?????????? ??????
????????? ??????? ?????????? ?????? ????????, ??? ?????? ???????????, ??? ?????? ???' ??????? ??????
??? ??? ?????? ??????? ?????????? ????????, ?????????????????? ??? ??????? ??????
?????????. ?? ??????????, ? ?????? ??????????? ?? ?????????? ??? (? ??????? ???) ???
?? ??? ?????????? ????????????????, ?????????????????? ?????????????? ?????????? ??? ??????????.
? ?????????? ?? ?????????? ??????? ??? ?????? «????????» ???????.

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

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

31. ??? ?? ?????? ??? ?????? ??????????? ?????? ??? ?????? ??? ??????? ??? ?????? ???, ??????
?? ?????????? ??? ?????? ??? ??????????????? ?? ?????? ?????? (?? ?????? ?????????? ???
????? 2 ??? ?????? ???) ??? ?????? ?????? ?????? (????? ??????????? ??? ?? ??????
5 ??? ?? ??? ??????) ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? (?????
?? ?????? ??? ?????? 9 ??? ?????? ??????). ?????? ?????? ?????? ??? ??????
????????? ?????? ??? ??? ?????????? ??? ?????????????? ??? ?????? ?? ??? ?????? ???
???.

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

1. ?????? ?????? ?? ???????;

33. ?? ?????? 2 ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?? ?????? ??????????? ??
???. ?????? ????, ??????????? ??? «????????? ?????? ??? ??????????????? ??
????????? ??????» ?????????? ???? ?????? ?????????? ?? ???.. ? ?? ?????? ?????? ???
????????? ???? ??? ?????? ???? ?????????? ??? ?????? ?????? ?? ?????????? ???? ???
????????? ???? ?????????? «?? ?????? ??????», ??? ?????? ?????????? ???
????? ?? ?????????? ???? ??? ?????? ?????? (5). ? ?? ??? «????????? ??????» ?????????? ???
????? ? (????????? ???? ??? ??????, ?????? ?????? ??? ?????????? ????) ???? ??? ??????
????? ??? ??? ?????? ??? ?????????????? ??? ?????? ?????????????? ??? ?????? (6).

34. ??????, ? «????????? ??????????» ?????? ?? ??? «????????? ??? ?????? ??????????» ??
???. ?????? ?????? ?????????? ?????????? (7). ?????? ??? ?????? ?????? ?????????? ???
????????? ??? ?????? ?????? ?? ?????? ?????? ?????????? ??????, ?????? ??
????????? ?????? «????????? ??????» ?? ??? ??? ???????. ?? ??? ??????, ?????? ??
????? ?? ?????? ???? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? (8).
???????, ? ?????? ?????? ??? ?????? ?????????? ??? ?????? «????????? ??????» ?????? ???

??? ?????? ??? ??????? (9).

35. ?????????? ??? ?????? ??? ?????? ??? ? ?????? ??? ?????????? «?????? ???»
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????
«?????? ???» ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? 2 ??? ??????
????? ????. ???????, ? ?????? Apple and Pear Development Council ??????? ??????????????
«?????? ???» ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ??? ?????? ?????????????? ??? ?????? ?????????? ??? ?????? ?????? ??? (?)
????????? ??? ?????? ??? ??????????????), ?????????? ?? ?????????? ??? ?????? ??? ??????
????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?? ?????? «??????» ??? ?????????? ??? ??? ?????????????? ??? ??????????
(10). ?????? ??????? ??? ? ?????? ??? «?????? ???» ?????? ??? ?????? ??? ??????
??? ?????? ?????????? ?? ?????? ???.

36. ???' ???, ? «?????? ???» ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
«????????? ???» ??? ?????????? ? ?????????????? ??? ?????? ??? ?????? ??? ??????????
??? ? ?????????? «?????? ???» ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ?????? «??????» ??? ?????? ?? ?????????? ??? ?????? ???
????? ??????????. ??? ?????? Apple and Pear Development Council, ??? ?????? ?? ?? ???
«????????? ???» ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?? ??????
????????? ??? ?????????? ??? ??????????, ??? ?? ?????? ?????????? ??? ?????? ??? ??? ??
????????? ??? ?????????? ??? ?????????? «?????? ???» ?? ?????????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? (11).

37. ? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??????????, ???
?? ?????????? ??? ? ?????? ?????? ?????????? ??? ?????? ??? ?????????? ??? ??????
?????? ????, ? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???
??????, ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ?????? ??? (12). ??????, ??? ?????? Tolsma, ??? ?????? ??????????
????? ?? ?????? ??? «?????? ???», ?? ?????????? ??? ?????? ??? ?????? ??? ??????
?? ?????? ??? «????????? ???» ?????? ??? ?????????? ??? ?? ?????????? ??? ?????? ???
????? ??? ?? ?????? ??? ?????? ??? ??? ?????? ??? ?????????? ??? ?? ?????? ???
????? ?????????? ??? ?????? ??? (13).

38. ?????? ??? «????????? ???» ??? ?????? ???
Kennemer Golf ??? ??? ??? ?????? Le Rayon D'Or, ??? ? ?????? ???' ?????? ??? ??????
??? ?? ?????????? ??? ?????? ??? ?????? «????????? ???» (?? ??????????)
?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????????????? «?? ?????? ???», ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ??? ?????? (14).

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

2. ?????????? ??????????;

40. ?? ??? 9 ??? ?????? ??? ?????? ??? «????????? ???» . ??? ??
????? 9, ?????????? 1, ??? ?????? ???, ?? «????????? ???» ?????? «????????? ???»
?????, ??? ?????? ?????????? ??? «?? ?????????? ???» «????????? ???»,

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

41. ?????????? ??? ?????? ?????????????? ??? ?????????????? ??? ?????? ?? ??? ??????,
????????????? ??? ?????? ?????????????? ?????????????? ?????????????? ?? ?????????????? ??? ??????
«????????? ??? ?????» (15). ??????, ? ??? «????????? ??????????» ?????? ??????
?????? ?????????? ??? ??? ?????????????? ??????????, ??? ??? ?????? ??? ?
????????????? ?????????? ??? ??????????, ?????????? ??? ?????? ? ??? ?????? ? ??? ??????????????
??? (16).

42. ?????? ?????????????? ?? ?????? ?????????? ??? ?????? ??? ?????? 2 ??? 9 ???
?????? ??? ?, ?????? ??? ?????? ??? ?????? ??? ??? ?????? ?????? ??????.

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

43. ??? ???? 15 ??? ?????? ???, ? «?????????» ?????????? ?????????? ???.

44. ? ??? ?????? ?????? ?? ?????????? ???' ?????? ?? ?????? ??? ?????????? ??????:
??? ??? ?????? ? ?????????? ?????????? ??? ??? ?????????????? ?????? ??? ??????????????
??? ??? ?????? ??? ?????? ? ?????????? ?????????? ??? ??? ?????? ?????? ??????????????
????????? ??? ??????????????. ?? ?????????? ??? ??????????, ?????? ??? ??
????????????? ?????????????? ??? ?????????????? ??? ??? ?????? ??? ?????? (??
?????????) ?? ?????? ???, ??? ?????? ??? ?????? (17).

45. ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ?????? ??????, ???
?????? ?? ?????? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????? ???
????? ?????? ??? ?????????? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ??????????.

46. ?? ?????? ?????????? ??? ?? ?????? «????????? ??????????????». ?
????????? ?????????? ??? ?????????? ?????? ???, ?????????? ?????? ??? ??????????
??? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??????????
(?? ??????????????, ? ?????? ???' ?????? ?????? ??? ??????????????) ??? ??? ?????? ???
????????? ??? ?????????? (????, ?? ??????????????), ?? ??? ?????? ??? ?????? ???
????????? «????????? ??????????????». ??? ??? ??????, ?? ??? ?????? ??? ?????? ???
????? ??????????, ??? ?????????? ??? ??? ?????? ?????????? ??? ? ?????????????? ???
????? ??????????????. ?? ?????? ??? ?????? ?????????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ???.

47. ? ?????? ?????????? ??? ?????? ??????.

48. ??????, ??? ?????? ?? ??? ?????? ??? ?????????? ???????, ?? ?????? 9, ?????????? 1, ???
??????, ??? ?????? ??? ?????????? ?????, ??? ?????? ??????, ??? ?????? ???
????????????? «any» ??? ???? ?????? «?? “????????? ???????????” ?????????? ???
????????????? ??? ??????????, ??? ?????? ??? ?????? ??? ?????????? ??????????». ??????????
????? ??? ? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ??? ?????????? ??????
??? ?????????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ??? ?????? ??????
?????????, ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
? ??? ?????? ??? «????????? ??????» ??? ???? ?????? ?????? ??? ?????? ???
????????? (18).

49. ??????, ??? ??? ?? ??? ?????? ??? ?????????? ???????, ??? ?????????? ??
?????? ??????????, ??? ?? ?????????? ?????? ? ?????? ?????????? ?????? ?????? ??????

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

50. ????????. ??? ?????????????? ??? ?????? ??? ? ?????? ?????????? ???
????????????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? «????????? ?????? ??????????» ??? ?????? ?????? ??? ?????? 9, ?????????? 1, ???
????? ????. ????. ??? ?????? ??? ?????? ?????? ?????????? ???, ?? ?????? ??????????
?? ?????? ??????????: ?? ? ?????????? ?????? ?????????? ???, ??? ?????????? ???, ???
????????? ??? ?????????? ?????, ?? ?????????? ??? ?????????? ??? ?????? ??? ? ?????? ???
??? ?????????? ??? ?????????? ?????? ??????, ??? ?????????? ??? ?????????? ??? ?????? ???
«????????? ??????», ??? ??????, ??? ?????? ?????? ??????, ?? ??? ??????
?????????. ?????? ??? ?? ??? ?????????? ?????? ??? ?? ??? ?????? ?????? ???
????? 9, ?????????? 1, ??? ?????? ??? (19).

51. ?? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? 4, ?????????? 13, ??? UStG.
? ?????? ?????? ?????????? ??? ?????????? ??? ?????????? ??????. ??????, ?? ?????? 4,
????????? 13, ??? UStG ?????? ?????? ??? ?????? ?????? ??? ?????????? ???
????????? ??? ?????? 135, ?????????? 1, ?????????? ???, ??? ?????? ??? ?????? ???
?? «??? ?????? ?????? ?????? ??????». ???????, ? ?????????? ?????? ?????????? ??????????
??? ? ?????? ??? ?????????? ??? ?????? 4, ?????????? 13, ??? UStG ?????? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??????. ? ?? ?????? ??????, ? ?????? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? 77/388/??? ???
????????? (20) (??? ????: ??? ?????), ?????????? ??? ?? ??? ?????? ??? ?????? ???
????????? ??? ??? ???, ?????? ???, ??? ?????? ??????.

52. ?????? ??? ?? ??? ?????? ?????????? ??? ?? ?????? ??????.

53. ?? ?????? 135, ?????????? 1, ??????? ???, ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ?????? ?? «????? ?????? ??????», ??? ?????????? ??? ?????? ?????? ???
????? ?????? (21). ??????????, ? ?? ?????? ?????? ?????? ??? ?????? ??? ?? ??????
????????? ?????????? ??? ?? ??? ?????? ?????? ??? ?????? ?????? (22).

54. ??????, ?????????? ?? ?????? ??? ??????????, ??? ?????? ?????? ?????? ??????????
????? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ?????? ??????????, ?,
?????????, ? ?????? ?????? ?????????? ?????? ??? ?????? ?????? ??????, ??? ??????
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ???
?????????, ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
? «????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????». ?? ?????? ??? ?????? «????? ??????
????????? ??????». ?? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????
????????? ???, ? ?????? ?????? ??? ?????? ??? ?????? ?? «?????», ??? ??????
????????? ??? ???.

55. ????????, ????????, ?? ?? ?????????? ?????? ?????? ??? ?? ?????????? ???
(????? ?? ?????? ??? ?????????? ?? ??????) ??? ? ?????????? ??? ?????? ???
????????? ?????? ?????? ?????? ??? ?????? ??? ?????? «????? ??? ??????», ??
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??????.

? ?????????? . ??????????, ? ?????????? ?????????? ??? «?????????» ??????? ??? ??? ???
???? ??? ????? ??? ????? ???, ??? ?????? ?????????, ?????????? ??? ??? ??? ???
«?????» ?????? ??? ??? ?????? ?????? ??? ?????? ? ?????? ??? ?????? ??? ??? ?????? ??????
?????????, ??? ??? ??? ?? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ??? ?????? ??????
????????? ?????? (23). ?????? ?????? ??? ?????? ??? ?????? ??? ?????????????? ??????????
??? ?????????????? (24).

56. ?????? ? ?????????? ??? ??? ??? ??? ?????? ??? ?????? ??? ?????????? ??????????, ??????????
??? ??? ?????? ?????????? ??? ??? ?????? ?????????? ??? ?????????? ??? ? «?????????»
????????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
«?????????», ? ????, ?? ??? ??????????, ?????????? ??? «?????» ?????? ??? ?????? ???
????????? ?????? ??? ?????? 135, ?????????? 1, ?????? ???, ??? ?????? ??? (25).
????? ??? ?? ???, ?? ??? ?????? ?????? ??? ?????? ?? ?? ?, ??????, ?? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????????????? ??????????, ? ??????
????????? ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??
????? ?????????? «?????» ?????????????? (26).

57. ??????, ??? ??? ??? ?????????? ??? ?? ? ?????? ?????????? ?? ????????, ???
????????? ??????????, ?? ?????? ?????? ??????????, ?? ??? ?????? ?????????? ?????????? ???
«?????????» ??????. ??? ?????? ?????? ?? ??????????, ?? ?????? 135, ?????????? 1,
????????? ???, ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? «?????????» ??????
??? «????? ?????? ?????? ??????» ??? ??? ??? (27). ??? ?????? ?????? ??????????
?????????, ??? ?????? Wojskowa Agencja Mieszkaniowa w Warszawie ?????????????? ???
??? ?? «?????????» ??????, ??? «? ?????? ???, ?????????? ?????????? ??? ??????????
????? ??? ?????????? ?????????? ??????????, ??? ?????????? ?? ?????? ???, ???
?? ??????????, ??????, ?? ?????????? ??? ?????????? ?????? ?? ?????? ?????? ???
????????? ?????? ??? ?????? ???» (28).

58. ??? ?????? ?? ?????? ??? ?????????? ??? ??? ?????????? ??????? ?? ??? ???
??????, ? ?????????? ?????? ??? ????. ? ?????????? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ?????? ?????? (29). ????, ???? ?? ?? ???
????????? ?????????? ??? ?????? ??? ?????? ?????? ?? ?????? ??? ?????????? ??????????
????? ??? ?? ?????????? ??? (30).

59. ?? ??? 135, ?????????? 1, ??????? ???, ??? ?????? ??? ??? ??? ?????? ???
????? ??????????. ?? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ???,
????? ?? ??? 13, ?????????? ?, ?????? ??, ??? ?? ??? ?????? ???, ??? ?????? ????
?????. ?????? ??? ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ?? ??????????.

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

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

61. ?????????? ??? ?? ??? ?????? ?????? ?????????? ??? ? ?????????? ?????? ???
????????? ?????? ?????? ?????????? ?????? ?????? ?????? ? ?????????? ?????? ??? ??
????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ??????????
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

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

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

63. ??????, ??? ?????? ?? ?????? ??? ?????????????? ??? ?? ??????????????, ???
?????? ?? ?????????? ?????? ?????????? ??????? ?? ?????????? ?????????? (31), ???
????? ?? ?????? ?? ??? ??? ?????????? ?? ?????? ?????? ?????? ?? ??? ??????????
?? ?????????????? ?????????? ?????? ??? ?? ?????????? ?? ?????? ??????????.

64. ???????, ?????? «????? ?????» ?????? ??? ?????? ?????????? ???????
????????? ??????; ??? ?????? «????? ?????» ?????????? ??? ?????? ??? ??????
«????????? ??????», ??? ??? ?????????? «?????» ?? ?????? ?????????? ??????? ???
????? (32). ?????? ??? ?????? ??? ?????? ?????? ?????????? ?? ??????.

65. ? ???????????, ?? ?? ??? ?????? ???, ??? ?????? ??? ?? ?????????? ? ??? ??
????????? ?????? ???????. ??? ?????? ?????????? ?? ?????? ?? ?????????? ???
????????? ?????? ??? ?????? ??????????????, ? ??????????????, ??? ??? ?????????? ??????
???? ?????? ??? ?????? ?? ?????? ?????????? ?? ?????????????? ???????. ? ?????????? ???
????????? ??? ??? ?????? ??? ?????????????? ??? (????? ? ?????? ??? ??????????)
????? ??? ?????? ??? ?? «?????» ??? ?????????? ?????????? ?????????? ??? ??????????
???? ?????????? ?????????? ??? ??? ?????????? «?????????» ??? ?????????? ??? ??? ??
????? ??? (33). ?? ?????? «?????» ?????????? ? ?????????? ?????? ?????????? ??????
?? ?? ?????? ??? ?????????? ?? ?????????????? ??????????, ?????? ??? ?? ??? ?????? ??
????????? ?? ?????????? ?? ?????????? ??? ??? ?????? ??? ?????????? ?????????? ?? ??
????????? ?? ?????????? ??? ?????????? ??? ??? ??? ?????? (34).

66. ?? ??? ?????, ??? ?????? ?? ?????????? ?????? ?????????? ??? ???????
«?????» ?? ??? ?????????????? ??????. ?? ?????? ??? ?????? ??? ?????? ??? ???????
????? ??? ?????????? ??? ?????????? ??? ??? ?????? ?????? ?????? ?????? ??????
????? ?? ?????? ??? ?????? ?????? 2, ?????????? 1, ??? ?????? ??? ??
(35).

67. ?????? ?????? ???, ?????????? ?????? ?????? ??? ?????????? ??????, ??? ?? ???
????????? ??? ?????????? ??? ?? ?????? ??????????, ?? ?????????? ?????? ??? ??
????? ?????????? ?? ?????????? ?? ?????? ??? ??? ?????????? ?????? ??? ?? ??
????????? ??? ?????? ??? ?????????? (36). ???????, ??? ??? ??? ?????? ??????
????????? ?? ?????? ?????? ?????? ??? ?????????? ?????? (????? ??? ?????????? Apple and
Pear Development Council), ?, ???????, ? ?????????? ?????????? ??? ?????????? ??? ??
????? ?????????? ??? ?? ?????????? ?????? ??? ?? ?????? ?????? (????? ??? ?????????? ??? ??
??? ?????? ?????? ??? ?????? ?????????? ?????????? ??????), ??? ?????? ?????????? ??????
????????? ??? ?? ?????????? ??? ?? ?????????? «????????? ??????». ??????????, ?? ???
?????????, ? ?????? ?????? ??? ?? ?????? ?????????? ?????????? ?????????? ??????????
????????? ?? ?????????? «?????» ??? ? ?????? ??? ??????& ?????? ?????????? ??????????
?? ?????????? ?????? (37), ??? ??? ?????????? ?? ?????? ?????? ??? ??
????????? ?????????? ??? ?? ?????????? ??????????.

68. ??? ??? ?????? ?????, ?????? ??? ? ?????? ?????????? ?????? ??? ?????? ??????????, ??
????????? ??? ?????? ?????????? ?????? ??? ??????????????, ?????? ?????? ?? ??
????????? «????????? ??????», ?? ?? ?????????? ??? ?????? ?????? ?????? ?????????? ??
????????? ??? ?????? ??? ?? ?????? ??? ???????????. ??? ??? ?????? ?????? ??? ??
????????? ?????? ?????????? ??? ?? ?????? ?????????? ??? ?????????? ??????, ??

?????? ???? ????????????????? «?? ???????? ??????» ?????? ??? ?????? ?????????? ???
?????? 2, ?????????? 1, ??? ?????? ????.

69. ??? ??????????, ?? ?? ?????????? ?????????????? ??? ?????????? ?????? ?? ???????,
????? ??? ?????? ??? ?? ????? 4, ?????????? 13, ??? UStG ??? ?????????? ??? ?????
????? ????. ????????, ?? ??? ?????? ?????????? ??? ??? ?????? ???, ?? ?????? 4, ??????????
13, ??? UStG ?? ??????? ?? ??????? ?? ??? ?????? ?????????? ??? ?????? ?????? ???
????????????? ??? ?????? ?? ??? ?????? ?????????? ??? ?????????? ?? ???.

2. ??????? 2: ? ?????????? ??? ????? ?????????????? ??????????

70. ??? ?????? ??? ??????? ??????????, ? ?????????? ?????? ?????????? ?????????? ???
????????????? ???????, ??? ?????????? ??? ?????? ?????? ??? ?????????? ???
????????????? ??? ?????? ??????. ??? ?????? ?????? ???, ? ?? ??? ?????? ???
????????????? ??? ?? ??????? ?????? ?????? ?????? ?????????? ???????????. ? ?????????? ???
????????????? ?????? ?????? ?????????? ?????? ??? ?????????? ??????. ?? ?????????? ???
????????? ??? ?????????? ?????? ??????.

71. ??? ?? ??? ?????? ???????, ?? ?????????? ??? «????????? ??????????» ??? ?? ???????
?????? ?????????? ??? ??????? ???, ??? ?????? ??? ?? ?????? ?? ?? ??? ?????? ???????,
????? ?????? ?? ???????????. ????????, ??? ?????? ?????? ?? ?????? ?????? ?????? ???
?????, ???' ??????? ???, ??? ?????? ?????? ?????????? ?????? ?????? ?????? ??????????
????? ?? ?????????????? ?????? ??? ?????? ??? ?? ?????? ?????? ??? ?????? ???
??? ?????????????? ???, ??? ?????? ?????? ?? ?????? ?????? ??? ?????? ??? ?? ?????? ???
????????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???.

72. ?????? ??? ???????, ??? ?? ?????? ???, ?? ?????????? ??? ?????????????? ?? ???????
2 ?????? ? ?????? ?????????? «?????» ??? ?? ?????????? ?????????? ?????????? ??????????
??????. ????????, ?? ?? ?????????????? ????????, ??? ?????????????? ??? ??????????????
??? ?? ?????? ?????????? ??? ?? ?????? ?????? ?????? ?????, ??? ? ??????????
????????? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????????? ??? ?? ?????????? ?????? ??? ?????? ?????? ??? ?? ??????
????? ?? ?? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
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????????? «?? ?????? ???» ??? ?? ?????? ??? ?? ?????? 2, ?????????? 1, ??? ??????
????? ???.

73. ?? ?????? ?????????????? ??????? ?????????? ??? ?? ?????? ?? ??? ??????
????????????? ??? ??????. ?????, ??? ? ?????? ?????????? ?????????????? ??? ?????
????????? ??? ?? ?????? ?????????? ?????? ??? ?????? ?????? ?????????? ??? ?????? ???
?? ?????? ?????????? ??? ?? ?????????? ??? ?? ?????? ?????? ?????????? ??? ?????? ??? ??
????????? ??? ?????? ?????? ?????? ?????? ??? ?? ?????? ?????????? ??? ?????? ??? ??
????????? ??? ?????? ?????? ?????? ?????? ??? ?? ?????? ?????? ??? ?????? ?????????? ???
????? ?????????? ??? ?????? ??? ?????? ?????? ???, ?.?, ??? ?????? ?????? ??? ?????? ???
????????????? ??? ?????? ?????? ?????? ???, ?????????? ?? ?????????? ??? ??????????
????????? ?? ?? ?????? ??? ?????? ???, ??? ?? ?? ?????? ?????????????? «?? ??????
?????», ?????? ??????, ?????????? ?? ??????, ?????????????? ??? ?????? ?????????? ???
?? ?????? ?????? ??? ??????.

74. ??? ?????????????? ??? ?? ?????? Kennemer Golf ??? Le Rayon d'Or, ???
????? ??? ?? ??? ?????? ?????? ?? ?????????? ??? ?????? ?? ?? ??? ?????? ??? ??????
??? ?????????? (38). ???????, ?? ?????? ??? «????????????? ??????» ?????????? ????

?? ?????????? ??????? ??? ?? ????? ?????????? «?????? ??????». ??? ?????????? ??
????????? ??? ? ?????????? ?????? ??? ?????? ?????????????? ??? ??? ??????????????
????????? ???, ????????, ??????? ?? ?????????? ?????? ?????????????? ???????. ???
????????? ???, ?????????? ?????? ??? ?????????? ?????? ?????????????? ???????. ???
????? ?????? ?????? ??????. ???????, ? ?????? ?????????? ?????? ?????? ???, ???
????? ???, ?????????????? «?? ?????? ?????» ??? ???? ?????? ??? ?????? 2,
????????? 1, ??? ?????? ???, ??? ?????? ???.

75. ??? ??? ?????? ???, ?? ??? 4, ?????????? 13, ??? UStG ?? ?????????? ???
????? ??? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????, ??? ? ??? ???
????????? ?? ??? ?? ??? ?????? ???, ? ??? ?????? ??? ?????? ?? ?????? (39), ???
????????? ??? ?????? ??? ?????????? ?????????? (40). ???????, ?? ??? 4,
????????? 13, ??? UStG ?? ?????????? ??? ?????? ??? ??? ??? ?????? ???
????????? ?????????? ??? ??? ???.

76. ?????? ??? ?????? ??????, ??? ?????? ?????????? ?????????? ?? ??????????
??? ?????????? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ???
????, ?????????? ?????? ??? ?????? ??? ?????? ?????????? ?????? ?? ???
«????????? ??????» ??? ?????????? ?????? ??? ?????????? ??? ?????? ???
??????, ??? ??? ?????? ??? ?????????? ?? ?????? ??? ?????? ??? ??????????
??? ?? ?????? ?????????? ?????? ??? ?????? ??? ?????????? ???, ??? ??????????
?? ?????? ??? ?????? ??? ?????? ??? ?????? 2, ?????????? 1, ??? ?????? ???
??, ??? ??? ??? ???, ? ??? ?????? ?????? ??? ?????? ?????? ???.

V. ??????

77. ?????? ??? ?????????? ?? ??? ?????? ??? ?????????? ??? Finanzgericht
Baden-Württemberg (????????? ?????? ?????????? ??????????????, ????) ??? ???
?????:

? ?????? 2006/112/E?, ??? 28?? ?????? 2006, ?????? ?? ?? ??? ?????? ?????? ???
????????????? ???, ?????? ?? ?????????? ??? ??? ?????? ??? ?????????? ?? ???
????? ??? ?????? ?? ??? ?????? ?????????? ??? ??? ?????? ??? ?????????? ?? ???
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?? ???
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????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

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

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

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

3 ? ?????????? ??? 7 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?? «????????? ?? ?????????? ?? ?????? ??? ?????? ??? ?????? ???.

?????? ?? 3?? ????? 2001, ??????? ??? ?????? (C?481/98, EU:C:2001:237, ????? 22).

4 ?? ??????? ?? 5?? ?????????? 1981, Coöperatieve Aardappelenbewaarplaats (154/80, EU:C:1981:38, ????? 14), ?? 1?? ?????? 1982, Hong?Kong Trade Development Council (89/81, EU:C:1982:121, ????? 10). ?? ?? ?????? ?? ?????? ??????????, ????? ????? ?? ?????????? ?? ?????????? ?? «?????? ??????». ?? . ?????????? ?? ?????? Gmina Wroclaw (C?665/16, EU:C:2018:112, ????? 57).

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

6 ?? . ??????? ?? 13?? ?????? 2018, Gmina Wroclaw (C?665/16, EU:C:2018:431, ????? 43).

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10 ?????? ?? 8?? ?????? 1988, Apple and Pear Development Council (102/86, EU:C:1988:120, ????? 14).

11 ???. (????? 14).

12 ?????? ?? 29?? ??????? 2009, ??????? ?? ?????????? (C?246/08, EU:C:2009:671, ?????? 50 ?? 51).

13 ?????? ?? 3?? ?????? 1994, Tolsma (C?16/93, EU:C:1994:80, ????? 17).

14 ??????? ?? 21?? ?????? 2002, Kennemer Golf (C?174/00, EU:C:2002:200, ?????? 40 ?? 42), ?? 27?? ?????? 2014, Le Rayon d'Or (C?151/13, EU:C:2014:185, ????? 37).

15 ??? ?????????? ?? Terra ??? Kajus, ??? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ? «????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????» ?????????? ?????????? ??? ?????? ??? «????????????? ??? ?????? ??? ??????».. ?. Terra, B.J.M., ??? Kajus, J., *Introduction to European VAT*, IBFD Publications, 2018, ?. 371.

16 ???., ????, ???, ??????? ?? 5?? ?????? 2018, Marle Participations (C?320/17, EU:C:2018:537, ????? 22), ?? 10?? ?????? 2019, PSM «K» (C?214/18, EU:C:2019:301, ?????? 41 ?? 42).

17 ??????? ?? 22 ?? 30 ?? ??????? ??????????.

18 ????. ??????? ?? ?????? ?????????? J. Kokott ??? ?????? Posnania Investment (C?36/16, EU:C:2017:134, ?????? 25).

19 ? ?????????? ?????????? ?? ?????? ??? ?????? ?????????????? ?????? ?? ?????? ?????? ?? ?????? ?? ?????? ?????????? ?? ?????? ?????? ?????? ?? ?????? ?? ?????? ??

?????????? ?? ?????????? (?????????) ?????? ?????? (??? ??? ???????????) ???
??????; ? ??????? ?? ???? ?????? ??? ?????? ??? ?????? ?? ????? ??????: ?????? ?
????????? ?????? ?? (??? ??? ?????) ?????????? ??? ?????????? ?????? ??? ??????,
???? ?????????? ?? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??????????
??? ??????.

20 ??? ?????? 77/388/??? ??? ??????????, ??? 17?? ??? 1977, ??? ?????????????? ???
????????? ??? ?????? ???, ??? ?????????? ?? ??? ?????? ?????? ?????? ?????? – ???
????? ?????? ?????????????? ????: ?????????? ?????????? ??? (?? ????. ????. 09/001, ?. 49).

21 ??? ?????? ??????????, ?? ?????? ?????????? ?????????? ??? ?????? ??? ??????
??? ??? ?????? ??? ?????????? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ??????????????, ??? ??????,
???? ?????? ?????????? ??? ??????????, ?? ?????? ??? ?????? ??? ?????? ?????????????? ???
??? ?????? ??? ?????? ?????????? (??., ??? ???????????, ?????? ??? 16?? ??????????
2017, Kozuba Premium Selection, C?308/16, EU:C:2017:869, ??? 38 ??? ???
????????????? ??????????).

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Management (UK) (C?231/19, EU:C:2020:513, ??? 22).

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???? ?????????????? ??????????).

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????? 30 ??? ??? ?????????????? ??????????).

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??? 10 ??? 31), ??? 27?? ?????????? 2012, Field Fisher Waterhouse (C?392/11,
EU:C:2012:597, ????? 23), ??? 27?? ?????? 2013, RR Donnelley Global Turnkey Solutions
Poland (C?155/12, EU:C:2013:434, ????? 24), ??? ??? 19?? ?????????? 2018, Mailat (C?17/18,
EU:C:2018:1038, ????? 40).

26 ??., ??????, ??????? ?? 6?? ?????? 2010, ??????? ??? ?????? (C?94/09,
EU:C:2010:253, ????? 34).

27 ??o?????? ?? 4?? ?????????? 2001, «Goed Wonen» (C?326/99, EU:C:2001:506, ?????
52), ??? ??? 28?? ?????????? 2019, Sequeira Mesquita (C?278/18, EU:C:2019:160, ????? 19).
??., ??????, ?????????? ?? ?????? ?????????? V. Trstenjak ??? ????? RLRE Tellmer
Property (C?572/07, EU:C:2008:697, ????? 32).

28 ??????? ?? 16?? ??????? 2015, Wojskowa Agencja Mieszkaniowa w Warszawie
(C?42/14, EU:C:2015:229, ????? 47).

29 ??., ?????? ?????, ??????? ?? 14?? ??????? 2013, Agrargenossenschaft Neuzelle
(C?545/11, EU:C:2013:169, ????? 52).

30 ???. ??????? ?? 17?? ?????????? 1996, Denkavit ?.?. (C?283/94, C?291/94 ???
C?292/94, EU:C:1996:387, ????? 29).

31 ??? ?????????? ?? 26 ??? 30 ??? ??????? ??????????.

32 ????? ?????????? ??? ?????? 34 ??? 39 ??? ?????????? ??????????.

33 ??., ??????, ??????? ?? 3?? ?????? 1994, Tolsma (C?16/93, EU:C:1994:80, ?????
14), ? ????? ??????? ?? ??????? ?? ?????? ????? ?????? ?????????? ?????????????? ??????».

34 ?? ??????????? ??????? ?? ??????????? ?? ??? ?????? ??? ????? ??????????????? ?????? ?????? ??????
???? ??????? ?? ???????, ??? ??? ????? ? ??????????? ??? ?????????? ???????????????
?????????? ??????? ?? ??????????? ?????? ??? ?,? ? ??????????? ??????????????? ???
?????????? ??????. ????. ??????? ??? 8?? ??????? 1988, Apple and Pear Development
Council (102/86, EU:C:1988:120, ??? 14).

35 ????? ????, ???????, ???????, ???????, ?? ???? ???????, ??? Conseil d'Etat
(???????, ???, ???????, ???) ??? 7?? ???????, 2001 ???, ???????, ???,
212273, ECLI:FR:CEORD:2001:212273.20011207, ???, ???, ???????, ???, ???,
???????

36 ??????? ?? ?? ?????????????? ?? ?? ?????? 16, ??????????? 2, ???
Wohnungseigentumsgesetz (????? ?? ?? ?????????? ?????????????? ?? ?? ?????? ?????????????? ??????????).

37 ?????????? ??? ??????? ?????????? G. Slynn ??? ?????? Apple and Pear Development Council (102/86, ?? ????????????????, EU:C:1987:466, ?. 1461).

38 ??., ????, ???????, ?????????? ?? 21?? ??????? 2002, Kennemer Golf (C?174/00, EU:C:2002:200, ???? 40), ??? ?? 27?? ??????? 2014, Le Rayon d'Or (C?151/13, EU:C:2014:185, ???? 37).

39 ?????, ? ??????? ?????????? ??? ?????????? (? ??? ?????????? ?????????? ? ???
?????, ??????) ????, ?????????? ?????????? ??? ?????????? ??? ?????????? ? ??? ?????
????????????? ?? ?????????????? ?????? ??? ?????????? ?????? ??? ?? ?????????? ?? ???.
?????????, ????? ?? ??? ?????? ?????? ?????????? ?????????? ?????????????? ?????????? ??? ??
????? ?????????? ?????????? ?????? ?????????????? ?? ????????, ????? ?? ??? ?? ??????????
(?????) ?????????? ???, ?? ??????? ?????? ?? ?????, ??????? (?????????????)
????????? ???????, ?????????????? ???' ?????? ?????????????? ???????, ???????, ???
????????? ?????????? ??? ?????? ???, ???????, ??? ???????, ???' ??????
????????? ??????????.

40 ??., ??? ????????????, ??????? ?? 19?? ?????????? 2019, Segler?Vereinigung Cuxhaven (C?715/18, EU:C:2019:1138, ????. 36 ??? ???. ?????????????? ????. ??????????).