

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

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

JEAN RICHARD DE LA TOUR

??? 12?? ???????? 2020 (1)

?????? C?703/19

J.K.

????

Dyrektor Izby Administracji Skarbowej w Katowicach,

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

Rzecznik Ma?ych i ?rednich Przedsi?biorców

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

«????????????? ?????????? – ?????????? – ????? ?????????????? ????? (???) – ??????
2006/112/?? – ????? 98 – ?????????? ?? ?????? ?????? ?? ?????????????? ????? ? ?? ??????????????
????????????? ?? ?? ?????????? ?????????????? ?????? ?? ?????????? ?????????? –
????????????? ?????????? ?????????????? ?? “????????????? ??????” ? “????????? ??????????”
– ?????????? ??, ?????? 1 ??? 12? – ??????? ?? “?????????” ??? ??? “?????????”
????????????? ?? ?????????” – ??????? ?????? ??? ????? ?????????????? ?????????? ?? ??????
?? ?????? ?? ????? ?????????? – ??????? ?????? ??? ????? ?????????? ?? ?????????? ?? ??????
????????????? ?? ??????»

I. ????????

1. ? ?????? ?????????????? ?????????? ?????? ??? ?????????? ??? ?????? 98, ??????????
2, ??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????? 2006, ??????? ?? ?? ???
?????? ?????? ?????????????? ?????? (2), ?? ?????????? ?? ?? ?????????? III, ?????? 12?, ??
?? ??? ?????? ??? ?? ?? ?????? 6 ??? ?????????? ?????????? (??) 282/2011 ???
?????????, ??? 15?? ?????? 2011, ??? ?? ?????? ?????? ?????????? ??? ??????
2006/112/?? ?????? ?? ?? ?????? ?????? ?????? ?????????????? ?????? (3).

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

????????????? (franchise).

3. ??? ??? ???????????? ????, ?? ?????????? ?? ?????????? ??? ?????? ??? ???? ???
?????? ??? ??? «????????? ?????????? ??? ??????» [???: ?? ?????????? ??????? ???
?????? ?????????? ??? ??? «????????? ??? ??????????»], ? ?????? ??????????????
??? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ?? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
(??) ?? ?????? ?????? ?????? ?????? ? ??????.

4. ? ?????? ??? ?? ???????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ???? ???
????? ?? ??? ??? ??? ?????? ??? ?????????? ???, ??????? ?? ?? ?????????? ??? ?????????? ???,
??? ??? ?????? ?????? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ???
??? ?????? ??? «?????????» ??? ??? ?????? ??? «????????? ?????? ?????? ??? ?????? ???
??? ?????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ???
??????, ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?? ??? ??? ??? ??? ?????? ???, ?????? ??? ?????? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???.

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

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

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

5. ??? ??? VIII ??? ?????? ???, ? ?????? ?????????? «?????????», ?? ??????
2, ?? ??? ?????? ?????????? «???? ??? ?????? ??? ??????», ?????????? ?? ??? 1, ??
????? ??? «[?]????? ??????» ??? ?????? ?? ??? 96, ??? ??? ?? ???:
«?? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ??? ??? ?????? ????.» (4)

6. ?? ?????? ??? ?? ??? ?????? 2, ?? ??? «????????? ??????????»,
????????? ?? ??? 98 ??? ?????? ??? (5), ?? ??? ?????? ??? (6):

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

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

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

3. ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 1
????? ?????? ??? ?????? ??? ?????? ???, ?? ??? ?????? ??? ?????? ?? ?????? ???
????? ??? ?????? ??? [(7)] ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

7. ?? ??? 99 ??? ?????? ??? ?????? ??? :

«1. ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ??? ??? ?????? ??? ?????? ??? 5 %.

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

?????? ?? ?? ????? 167 ??? 171 ??? ?? ????? 173 ??? 177.»

8. ?? ?????????? III ?? ??????? ??? ?????????? «?????????? ??? ?????????? ??????????
????????? ?????????? ??? ??????? ?? ??????? ?????? ?????? ?????????? ?????????? ??? ??
????????????? ??? ?????? 98». ??? ?????? 1 ?????? ??????????????, ?????? ?????, ?? ??????
(????????????? ??? ?????, ?????? ??? ??????????) ??? ?????????? ??? ??????????
??? ??????????. ??? ?????? 12? ??? ?? ??? ??????????????, ?? ?????? ?????????? ?? ??
?????? 2009/47/?? ??? ??????????, ??? 5?? ????? 2009, ??? ??? ?????????? ??? ??????
2006/112/?? ??? ?????? ??? ?????????? ?????????? ??? ?????? ?????????? ??? (8),
????????????? ?? ?????????? ?????????? ??? ?????? [???: ?? ?????????? ?????? ???
????????? ?????? «????????? ??? ??????????»]. ? ?????? ??? (????????? ???/? ??
?????????) ?????? ??????? ?? ??????????.

2. ?????????????? ?????????? 282/2011

9. ????? ??? ?????????????? ?????? 10 ??? ?????????????? ?????????? 282/2011, «????? ?????????? ?? ?????????? ?????? ?? ?????????? ?????? ?? ?????????? ?????????? ?????????? ?????? ?? ?????????? ? ?????? ???, ??? ? ?????????? ?????????? ?????? ???».

10. ???????? 6 ????? ???? ?????? ?????????????????? ?????????????? ?????? ????;

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

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

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

11. ?? ???? 5a ??? ustanawia o podatku od towarów i usług (????? ????) (9), ??? 11?? ?????? 2004, ??? ?????? ??? ?????? ??? ?????? (10), ?????? ?? ????:

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

12. ?? ?????? 3, ?????????? 1, ??? rozporz?dzenie Rady Ministrów w sprawie Polskiej Klasyfikacji Wyrobów i Us?ug (????????? ??? ?????????? ?????????? ??????? ?? ??? ?????????? ?????????? ??? ?????? ??? ??? ??????????) (11), ??? 4?? ?????????? 2015, ?????? ?? ????:

«???. ????. ??????..

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

[...]

??? ??? 31? ?????????? 2017 ?????????? ? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ???
????????? ? ?????? ?????????? ?? ??? rozporz?dzenie Rady Ministrow w sprawie Polskiej
Klasyfikacji Wyrobów i Us?ug [????????? ??? ?????????? ?????????? ?????????? ?? ??? ??????????
????????? ??? ?????? ??? ??? ?????????? (12)] (PKWiU) ??? 29? ?????????? 2008.»

13. ?????? ?? ?? ?????? 41, ?????????? 1, ??? ?????? ???, ? ?????????? ?????????? ???:
??? ?????? 22 %. ?? ?????? 41, ?????????? 2a, ??? ?? ??? ?????? ?????????? ?? ???:

«??? ?????? ??? ?????????? ??? ?????????? 10 ??? ?????? ?????? ?????? ?????? ??????????
????????? 5 %.»

14. ??? ?????????? 10 ??? ?????? ???, ?? ?????? 28 ??? ?????? «?????????????????
??????, ?? ??????? ?? ??????? ?? ?????????? ??? ?????????? ??? 1,2 %».

15. ?? ??? 3, ?????????? 1, ??? rozporz?dzenie Ministra Finansów w sprawie
towarów i us?ug dla których obni?a si? stawk? podatku od towarów i us?ug oraz warunków
stosowania stawek obni?onych (????????? ??? ?????????? ?????????? ??? ?? ???
??? ??? ?????????? ??? ??? ?????? ?????????? ?????????? ?????????? ??? ??? ???
????????? ??? ?????????? ??? ?????????? ?????????? (13), ??? 23? ?????????? 2013,
?????? ?? ???:

«? ?????????? ??? ??? ?????? 41, ?????????? 1, ??? ?????? [????? ???] ?????????? ?? 8 %
???:

1) ?? ?????? ??? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
?????????.»

16. ?? ?????? III, ??? 7, ??? ?????????? ??? ?? ??? ?????? ??? ?? ??? ?????? ??? ?? ???:

«????????? ?????????? ??? ?????????? ??? (PKWiU ex [(14)] 56) [(15)], ????? ??? ??? ??? ??????:

1) ?????????? ??? ?????? ??? ?????? ? ?????????????? ?? ?????????? ??? ??????????
??? 1,2 %,

2) ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ??????
????? ? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? 0,5 %,

3) ??? ??? ??? ?????? ??? ?????? ?????????????? ??? ? ???, ??????????
??? ?????? [...] ??? ?????????????? ???,

4) ?? ?????????? ??? ??????,

5) ?????????? ???,

6) ??? ??? ?????????? ???, ?? ?????? ?????????? ??? ?????????? ??? ??????????
??? 41, ?????????? 1, ??? ?????? [????? ???].»

17. ? ?????? 56.1 ??? PKWiU, ?? ????? «????????? ?????????? ??? ?????????? ???
????????», ??????????, ?????? ???, ??? ?????????? 56.10.11 («????????? ??????
????????? ?? ??? ?????? ?????????? ??? ??????????»), 56.10.13 («????????? ?????? ???
????????? ?? ??? ?????? ?????????? ??? ??????????»)

???????????? ?????????????????? (self service)») ??? 56.10.19 («????? ?????????? ??????????????»).

18. ????? ?? ??????? ???????????, ? ?????????? ??? PKWiU ??????? ?? ?????????? ???
rozporz?dzenie Rady Ministrów w sprawie Polskiej Klasyfikacji Dzia?alno?ci (?????? ???
?????????? ?????????? ??????? ?? ??? ?????????? ??????????? ??? ???????????
?????????????????) (16), ??? 24?? ??????????? 2007, ??? ?????????? ??? ?????? 56 ????? ??
???? ?????????? ?????????? ??? ??? ??????????????. ??? ?? ??? ????? ??????????????
?? ?????????????? ??????? ?????????? ??? ??????? ??? ?????????? ?????????? ??? ?????
????????? ??? ??????????????, ?????????????????? ??? ?????????? ??? ?????????? ??? ??????????
?? ?????????????? (self service) ??? ?????? ??? ?????????? ?????? ?? ??????, ?? ? ??????
?????? ??????????. ???????, ??? ????? ??????? ?? ?????? ??? ?????????????? ??? ??????????
?? ??????? ??? ?????? ?? ??????? ?? ?????? ?????????????? ??? ?????? ??????????. ?
????????? ?????????? 56.10.A, ?? ????? «????????? ??? ?????? ?????????????? ??????????
?????????», ?????????????? ??? ?????????? ?????????????? ??? ?????????? ?? ??????
????????? ?? ??????? ? ?? ??????? ??? ?????????? ?? ?????????? ?? ?????? ??? ??????????
?????????, ????? ?? ??? ????? ??????? ?? ?? ?????????????? ??????????, ?? ?????????? ?? ??????
?????? ?? ??????? ??? ?? ?????? ?????? ??? ?????? ?????????? ?????????? ??????????????
?? ?????????????? ???????????, ??????????, ?????????????? ???????, ??????????, ?????????????? ? ??? ??
????????? ?? ???????, ?????????????? ???????, ??????????, ??????????, ?????????????? ? ??? ??
????????? ?? ???????, ?????????????? ???????, ??????????, ??????????, ?????????????? ? ??? ??
????????? ?? ???????.

19. ?????????? ?????????? ?????????? ?????? ? ?????????????? ?????? ?????????? ?????? ?????????? ???
?????? ?????????? ??? «????????? ??????????» ??? PKWiU ??? ?????????? ??? ?????? ???
????? ??? ?????????? ? ?????????? «????? ??????, ?????????? ??? ?????????? ??
????????? ?????? ?????? ??? 1,2 %» (ex 10.85.1). ??? ??? ?????????? ??? PKD, ?
????????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ?????????? 10.85.Z ???
PKD, ? ?????? ?????? «????????? ?????? ?????????? ??? ?????? ??? ??????». ? ??????????
????????? ?????????? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? (?????
????????????????, ?????????????? ??? ?????????????), ?????????????? ? ?? ????????,
????????????? ??? ??? ?????????? ??? ?????????? (????? ??? ??????????)
??.), ?? ?????? ?????? ?????????? ??? ?????????? ??? ??? ?????? ?????? ?????? ?????????? ???
?????????. ? ?? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ??? ?????? ??????????, ? ??? ?????? ?????????? ??? ?????????? ???
????????? ??? ?????? 56 ??? PKD.

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

20. ??????? ?? ?? ???? ?????????? ?????????????? ??? ?????????????? ??? ??????????????, ?
????????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????????? (franchisee) ??? ?????????? ??????????????
????????? ?????????? (? fast?food) McDonald's Polska sp. z o.o. ??? ?????????? ???
????????????? ???, ??? ?????? ??????? ??? ?????????????? ??????, ??? ??????????,
????????? ???????, ???????, ??????? ??????????, ?????????, ???????, ???????, ???????, ???????,
????????? ???.. ?? ??????? ?????????????? ?? ?????, ??? ?? ??? ?????? ?????? ? ?????????? ??????????
????????? ??? ?????? ?????? ???, ??? ??????? ??????????, ?????????, ?????????????? ? ?????????? ????. ??
????????? ??? ?? ??????? ?????????????? ?????? ??? ?????????????? ?????? ??????????. ???
????????? ?? ?????????????? ?????? ??? ?????? ??? ?? ?????????????? ?????? ??? ?????????? ??? ??
????????????????? ?? ?????? ??? ??? ??????.

21. ??? ??????? ??? ???????????? ??? ?????????????? ???, ? ???????????? ????

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

- ??? ?????? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? («in-store»),
 - ??? ??????, ??? ?????????? ??? ?????? ??? ??????????, ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? («drive-in» ? «walk-through»), ???
 - ??? ?????? ?????????? ?? ?????? ?? ?????????????? ?????? ?????? ?????????? ?????? ?????? («food court»).

22. ??? ?????????? ??? 2016 ? Urz?d kontroli skarbowej (????????? ??? ?? ??? ??????????)
????????? ?????????? ???, ??????) ?????? ?? ?????? ??? ?????????? ??? ?? ??? ?????? ??? ??
???????????????, ??? ?? ??? ?? ?????????? ??? ?? ??? ?????????? ??? ?? ??? ?????? ??? ??
????????? ??? ?? 1?? ?????????? ??? 30 ??????? 2016.

23. ??????? ???? ??????? ??????, ? ?????????????? ??? ?????????????? ??? ?? ?????????????????? ???
????????????????? ??? ?? ?????????????????? ??? ?????? ??? ?? «????????????? ?????????? ???
????????? ???» ?????????????? ?? ?????????????? ??? 8 % ??? ??? ?? ?????????????? «?????????
?????????», ??? ?????????? ??? ??? ??????????????, ??? ??? ?????? ?????? ?????????????? ???
5 %. ?????? ?? ?? ??? ?????????????? ??? ?? ?????????? ?????? ??? ?????????? ??? ?????? ??????????
10.85.1. ??? PKWiU, ? ?????? ??? ?????????????? ?????? ??????????. ???? ??? ?? ???
????????? ???, ?? ?????? ??? ??????????, ?? ?????? ??? ?????????????? ?????????? ?????????? ??
????????? ???, ?????? ??? ? ?????????? ?????? ?????????? ?????????? ???, ??????????
????????? ?????? ?????????? ??? ?????????? ??? ?????????? ?????? ?????????? ??? ??????????
?? ??? ??? ?????? ??????????.

24. ? ??????????? ???, ?? ??????? ??? 21?? ??????? 2017, ?????????????? ?? ??? ???.
?????????? ?? ???? ?????????????? ?? ???? ?????????? ?????? ?????? ???????.

25. ?? ??????? ??? 1?? ??????? 2018, ?? Wojewódzki S?d Administracyjny w Gliwicach
(?????????? ??????????? ??? ??????????? ??? Gliwice, ??????) ???????? ??? ??????? ???
?????????????? ??? ??? ??????? ??? ??????????? ???, ??????? ??? ???????????
???, ??? ????? ??? ??? ??? ??? ??? ??? ??????????? ??? ??????????? ??? ???????????
? ??????.

27. ??????????, ?? ?????? ??????????? ?????? ???, ?? ?????? ??? ? ???????????
?????????? ?? ?????????????? ?? ?????????????? ?? ?????????????? ?? ?????????????? ??
????????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ???, ?????? ?????? ??????????

????????? ??? ??????? ?? ???? ?????????? ?????????????? ?????????????????? ? ??? ??? ????? ?????????? ???
«????????? ??????????». ??? ? ???? ?????? ??????????, ?? ?????????? ?????????? ??? ???
?????? ?????????? ?? ???? ?????? ?????? ?????? ??????????????. ??? ??? ?????? ??? ???
??????, ? ?????? ?? ???? ??? ?????? ?????????? ?????????? ?? ?????????? ?????????? ??????????????
??? ??? ?????? ???, ?????? ?????? ?????? ?????????? ?????????????? ??? ?? ?????????? ???
????????? ?????????? ?????????????? ??? ?????????? ??? ?????????? ???, ?????????? ??? ???
????????? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ?? ?????????? ??? ??????????
?? ?? ?????? ??? («drive-in») ? ??? (walk-through), ?????? ??? ??? ??? ?????? ??
????????????? ?????? ?????????? («food court»). ??? ?????????? ???, ? ??????????
?????? ??? ?????????????? ??? ??? ?????????????? ?????? ??? ?????????? ??? ???
??????, ?????? ?????????? ??? ?????? ??? ?????????????? ??? ??? ?????????????? ??????????.

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

29. ??? ??? ????????, ?? Naczelnego S?d Administracyjnego (????????? ??????????)
????????? ???? ?? ?????????? ??? ??????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ???
????????? ??? ?? ?????????? ?????????? ??? ??????????:

«1) ?????????? ????. ????? “????????? ??????????” ????. ????? ?????????????? ??????????
????????????? ??? [????? 98, ?????????? 2, ?? ?????????? ?? ?? ?????????? ???, ?????? 12?,
??? ??????? ???], ?? ?????????? ?? ?? ????? 6 ??? ?????????????? ?????????? [282/2011], ?
????? ?????? ?????? ?????? ? ????? ?????????????? ??? ?????????? ??? ?????? ??? ??????
??? ?????? ????, ????:

- ? ??????? ?????? ??? ??????? ??? ?????????? ??????? ?????? ??? ??????? ?????? ???
?????? ?????????? ??? ??????? (????????????? ?????? ??? ??? ?????????? ???
??????, ??????? ??? ???????)?
 - ??? ???????? ??? ?????? ???????? ?????????????? ??? ??????????????
 - ??? ???????? ??? ?????? ???????? ??? ?????? ???????
 - ? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?? ?????? ??????????????????
 - ? ??????? ??? ?????????????? ??? ?????????? ??? ?????????? ??? ?????????????? ???
????????? ???;

2) ??????? ? ??????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ???????, ???
????? ??? ?? ??????? ??? ?? ?????? ?????????? ?????????????? ??? ?????????????? ???
?????????, ??????? ??? ??? ?????? ?????? ?????? ?????????? ?????????????? ??? ?????? ??????????????;

3) ?????? ??? ?? ?????????? ??? ?????? ??????? ?? ??????? ??? ? ??????? ?????? ???
?????????? ?? ?????????????? ??? ?????????????? ?????? ? ?????? ?????????????? ??
????????????? ??? ?? ?????????? ??? ???????????, ??? ???? ?????????? ??? ?????? ???,
????????? ??????? ??? ?????? ???????;»

30. ??????? ?????????????? ?????????? ? ??????????????, ? Dyrektor Izby Administracji
Skarbowej w Katowicach (?????????? ?? ?????????????? ?????? Katowice, ???????), ?
Rzecznik Ma?ych i ?rednich przedsi?biorc?w (????????????????? ??? ??? ?????? ??? ??????
?????????????, ??????), ? ?????????? ?????????? ??? ??????????. ?? ?????????? ??????????
?? ?????????? ??? ?????? ?????? ?????? ???' ?????????? ?????????? ??????????.

IV. ??????

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

31. ??? ?????? ??? ?????????? ??? ?? ?????????? ??? ?????????????? ???????????, ?? ?????? ???
??? ?????? ?? ?????????? ??? ??????, ?? ?????? ?????????? ?????? ?? ?????????? ??
????????? ?????????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ???
????????? ??? ?????? ?????? ?????, ?? ?????? ?????? ?????? ?????? ?????? ???
????????????? ?? ?????????? ???????????, ??? ?????? ?????? ?? ?????????? ?? ?????????? ??????????
????????????? ??? ?????????? ?? ?????? 98, ?????????? 2, ??? ?????? ???, ?? ?????????? ??
?? ?????????? III, ?????? 12?, ??? ?? ??? ?????? ??? ?? ??? ?????? 6 ??? ?????????? ??
????????? 282/2011.

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

33. ?? ?? ??????, ????? ?????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ???
??? ?????? ??? ?????? ?????????? ??? ?????????? ? ??? ?????? ?????? ??????????????
?????????, ?????? ??? ?????? ?????? ?????. ?????????? ??? ?????? ?????????????? ??????????
????????? ?????????? ?????? «????????? ??????» ? «????????? ??????»
????? ?? ?????????? «????????? ??????», ??? ?? ?????? ?????? ?????????? ??? ?????? ??????????
????????? ?????????? ???, ??? 8 % ??? ??? ??????, ?????? ?? ?????? ?????? ???
????????? ???, ??? 5 % ??? ??? ???????, ?? ?? ?????? ??? ?????? ??? ?????? ???
?????????. ? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???
????????? ??? ?????????? ???????????, ??? ?????????? ??? ?????? ??? ?????? ???
????????? ?? ?????? ?????????? ???, ??? ?? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??????.

34. ?????? ??????? ??? ?? ?????? ?????????? ?????????, ?? ?????????????? ??????, ???
????? ?? ??? ?????? ?????? ?????? ?????????? ?????????? ?? ?????? ?????? ??? ??????
????????? ???, ?? ?????????? ?? ?? ?????????? III ??? ?? ?????? ?????? ??????, ???
????????? ??? ?????????? ?????? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?? ?????? ??? III, ?????? 1 ?? 12?, ??? ?????? ???, ???
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? (17). ?? ??? ??????, ? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?? ?????? ? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???

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

35. ??????????, ??? ??? ?????? ?????????????? ?????????? ?????????? ???, ?????????? ???
????????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ?????????? ?? ????
????????? ?????????? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????????? ???
????????? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ???, ??? ?
????????? ??? ?????????? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ???
«????????? ?????????? ??? ??????????» ??? ???? ??? ?????????? ??? ?????? ??? ??? ??? ?
?????????. ???????, ?????? ?? ?????????? ??? ???? ?????? ?????? ??????????????
????????? ?????????? ?? ??? ?????? ??? ?????????? ??? ?????????????? ??? ??? ?????? ??????????
?????????, ??? ??? ?????? ?????????? ?? ?????????? ??? ?????????? ??? 2?? ??? 1996, Faaborg-Gelting
Linien (18), ??? ??? 10?? ?????? 2011, Bog ??. (19), ?? ?????????? ??? ?????? ??? ??? ?
?? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??????????.

36. ???????, ? ??????? ?? ?????????? ??? ??????? ?? ????? ?????????? ????? ?? ????? ?????? ???????
????????????? ??????????. ??????????????, ??????? ?? ??????????????, ?????? ???, ??? ??
?????????? ???????, ?????? ??? ?????? ?? ?????????? ?????????? ???????????, ?????? ???, ??? ??
????????? ?????????? (20), ??????? ??, ??? ?? ?????????? ????? ?????? ??? ?????????? ??????????
????????? ?????????????? ?????????????? ?? ??????, ?????????? ??? ?????????? ??? ??????????
????????? ??? ?? ?????????? ??? ??????, ?????? ??????? ?? ?????????? ?????????? ??????????
????????? ??????. ???????, ??? ?? ?????? ???, ? ??????? ??? ?????? ?????? ?????? ??????????
????????? ?????????? ??? ?????? ?? ?????????? ?????? ??? ?????????? ??? «?????????» ???
??? ?????? ??? «????????? ??????????» ? «????????? ??????».

37. ??? ??? ?????????? ??? ?? ???? ?????????? ??? ? ?????????????? ??? ?????? ??? ??????????
?????????, ?????????? ?? ?????????? ?? ?????????? ?????????????? ??????? ?? ?? ?????????? |||
??? ??????? ?? ???? ??????? ?????????? ??? ?? ?????????? ??? ?????????????? ??????????
????????????? ?????????????? ??? ?? ??? ?????????? ??? ?? ??? ????? ??????????????, ??????????????
??? ?????????? ?? ?????????????? ?? ?????????? ?????????? ?????? ??? ?????? ?? ??????????
? ?????? ??? ?? ??? ????? ?????? ??? ?????? ?? ?????? ??? ?????? ??????????.

38. ????????, ????????, ??? ??????????? ?? ??????? ?? ?????? ??????????? ??????,
????' ??????, ?? ?? ????? 98, ??????????? 2, ??? ??????? ?? ?????? ?? ??????? III, ?????? 1
??? 12, ??? ?? ??? ????? ???????, ?? ??????????? ?? ?? ?????? 6 ??? ?????????????? ??????????
282/2011, ????? ?? ??????? ?? ??????????? ??????? ?????????????? ?????????? ??????? ???????
???? ????? ??????????? ?? ??????????? ?????? ?????????? ?????????? ?????????? ??? ?????? ???
«????????? ?????????? ??? ??????» ? ??? ?????? ??? «?????????», ??? ??? ??????????
????????? ?????????? ?????????? ???.

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

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

40. ??? ? ? ?????? 96 ? ? ??????? ?, ??, ??? ? ?????? ?????? ?????????? ??? ? ??????????
????????? ?????????? ??? ? ?????? ?????? ? ?????? ??? ? ?????? ?????? ?????????? ?????? ??? ? ??? ?
????????? ??????????.

41. ????? ?????????? ??? ??? ????, ?? ????? 98, ?????????? 1, ??? ? ? ??? ??????????
????????? ?? ?????????? ?????????? ??? ? ???? ?????????? ?????????? ????. ??? ? ? ????
????, ?? ?????????? III ??? ? ???? ?????????? ?????????? ?????????????? ??? ? ????
????????? ??? ? ???? ?????????? ?????????? ??? ? ???? ?????? ?? ?????????? ??????????
????????? ??? ? ???? ?????????? (21).

42. ?????? ??? ?????????? ?????? ?????? ?? ?????????? ?????????? ?????? ??? ??????????
????????? ?????????? ??? ? ???? ?????????? ?????????? ?, ?????? ?????????? ?? ?????? ??????
?? ??? ???, ?????????? ?????? ??? ?????????? ?????????? ?????????? (22). ??? ? ???? ??
??????, ?? ?????????? ??? ? ???? ?????? ??? ? ???? ?????????? ?????? ?????? (23).

43. ??? ?????? ?? ?????? ?????????? ?????????? ??? ?????????? ??? ? ???? ?????? ???, ??
????????? ??? ? ???? ??? ?????? ?? ?????????? ??? ?????????? ?????? ?????? ??????
????????? ?????????? ??? ? ???? ?????? ?????? ?????? ?????? ?????? ?????????? ???
??????, ?? ?????? ?? ?????????? ?????????? ?????????? ?????? ??? ?????? ??? ?????????? ???????, ???
?? ?????????? ?????????? ?????????? ? ? ???? ?????? ?? ?????????? ?????? ?????????? (24).

44. ?? ?????????? ?????????? ???, ??? ?????? ??? ?????????? ?????? ?????? ??????????
????????? ??? ? ???? ? ???? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??????, ? ??
??? ??????????, ?????????????? ?? ?????????? ??? ??? ?????? ???, ?????? ?? ?????????? ??
????????? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ??????, ?????? ??? ??
?????? ??? ??? ?????????? ??? ?????????? ?? ?????????? ?? ?????????? ? ?????????????? ???????, ???
?? ?????????? ??? ??? ?????? –? ?????? ?? ?????? ?????– ?????? ?????????? ???
????????? (25).

45. ?? ?? ??????, ??? ?????? III ??? ? ???? ?????? ??? ?????????? ??? ? ? ???? ???
?????? ?? ?????????? ??? ? ???? ?????????? ?????? ?????????? ?????????? ??? ? ????
????????? ??????????: «1) [?] ? ?????? [...]» ??? «12?) [???] ?????????? [?????????] ???
????????? [...]».

46. ?? ?????????? ?????????? ??? ??? ?????? ?????????? ? ?????????? ??? ? ? ???? ???
???? ? ??? ?????????? ?????????? ??? ??? ? ???? ?????? ??? ?????????? ?????? ??????????
??? ??? ??? ??? ??? ?????? ?????????? ? ?????????? ?????????? ??? ?????????? ???
??? ??? ??? ?????????? ??? ?????????? ???, ?? ?? ??? ?????? ?????????? ?????? ?? ??????????
????? (26) ??? ?????? ?? ??? ?????? ?????? ??? ?????????????? ??? (27).

47. ??????, ??? ?? ??? 98, ?????????? 3, ??? ?????? ???, ??? ??? ??????
?? ?????????? ?????????? ??? ?????????? ?????? ?????? ??? ?????????????? ??? ? ????
??? ??? ?? ??? ??????, ?? ??? ?????? ??? «?????? ?? ?????????? ??? ?????????? ???
????????? ??? ?? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ??????????».

48. ??????, ?? ?????????? ??? ?????? ??? ? ???? ??? ?????????? ??????????????
????? ?????? ??? ??? ?????? ?????????? ?????? ?????? ?????????? ?????????? ??? ? ????
????? ?????? (28).

49. ?? ??? ??????, ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ?????????? ??????
????????? ?? ??? ?????????? ??? ??? ?????? ?? ?????? ??? ?????? ?????? ??? ?????? ??????
????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??????
? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????
??? ?????? ??? 3?? ??? 2001, ?????? ??? ?????? (29), ?? ?????????? ?????? ???,
??? ?????????? ??? ?????? ?????? ?? ??? ?????? ?????? ??? ?????? ?????? ?????? ???,
????????? ?? ??? ?????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???

?????? (30) ? ?????????? ?????????? (31) ??? ????? ???????????.

50. ?????????????? ??? ????? ?? ?????????? ??? ?????????? ??? ?????? ?????, ???
?????? ?? ?????????? ??? ??? ????? 98 ??? ?????? ??? ??? ?????? ?????? ??????????????
???? ??? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????????????? ??????????
???? ??? ?????????? ?????? ? ?????????? ??? ?????????????? ??? ?????????? ??? ??? ??
???? ?????? (32). ???????, ??????? ??? ??? ?????????? ??????, ? ?????? ??? ?????? ???,
????? ?? ?????????? ?? ??? ?????????????? ?????????? ???, ?????????? ?? ?, ???????
??? ?????? ??? ?????????? ?? ?????? ??? (33). ?? ??? ?????, ? ?????? ??????????
?????????? ??? ?????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????? ?????? (34).

51. ??????, ?????? ?? ??????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
?????? ?? ??? ??? ??????? ??? ?????, ??? ??? ?????? ?????? ?????? ??????????????
??????, ?????? ??? ?????? ?????? ?? ?????? ?????????? ?????? ??? ?????? ???, ? ???
????????????? ??? ?????????????? ?? ??? ?????????? ???, ?????????????? ??????????????
????????? ??? ?????? ?????? ?? ??? ?????? ?????????? ??? ?????? ?????, ?????? ??? ??????
?? ??? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??????????.

52. ??? ?????? ??? ?????????? ??? ? ?????????? ??? ?????? ??? ?????????? ??? ??????????
????????????? ??? ?????????? ?? ??? ??? ?????? ?????? ??? ?????? ?? ??? ?????????? ???
????????? ??? ??? ??? ?????????? ?????? ??? ?????? ??????. ??????, ??????? ?? ???
????????? ??? ??? ?????????? ??? ?????? ??? ??????, ?? ?????????????? ?????????? ?????? ??
????????? ??? ??? ?????????? ??? (35).

53. ??????, ??? ????? ?????????? ??? ???????????, ?? ??? ?????? ??? ?????????? ??
????????? ??? ??? ?????????? ?????? ?????????? ??? ?????? ?????????? ??? ??????????
????????? ?????????? ??? ?? ??? ?? ??? 24 ?????????? ?????? ? ?????????? ???
????????? ??? III ??? ?????? ??? (36), ???????????, ??????????, ??? ?????????? ???
????????? ?????????? ?????????? ?? ?????? ??? ?? ?????? ??? ?????? ??? ?????????? ??????
?? ??? ?????????? ??? (37), ?????? ???, ???????, ?????????? ?????? ???
??????????, ??? ?????????? ??? ?????? ??? ?????????? ???????, ?????????? ??????????
?? ??? ?????? ??? ??? ??????????.

54. ? ??? ?????? ??? ?????????? ?? ?????????????? ?????????????? ??? ?????????? ???
?? ?? ?????????? ??? ? ?????????? ??? ?????????? ?? ?????????? ??? ?????? ??? (38).

55. ?????????? ??? ? ?? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??? (39), ???
?? ? ?????????? ??? ?????????? ??? ?????? ?? ??? ?????? ?????? ??? ??? ??? ??????
????????? ??? ?????? ?????????? ??? ?????????? ?????????? ??? ??? ?????? ??? ??????????.

56. ??? ??????, ?? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? III ??? ?????? ??? ?????? ???
????? ?????????? ??? ?????? ??? (40).

57. ??????, ? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? (41).

58. ?? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????, ??? ?? ?????????? ??? ??????????
?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?? ??? ?????? ??? ??????
????????? ??? ??? ??? ?????????? ??? ?????????? ??? III ??? ?????? ??? ? ??????

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

59. ? ???????, ?????????? ??? ?????? ?????????? ?? ?????? ?? ? ?? ???? ???? ????
? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???, ?????????? ?????? ???
????? ?????? ?????? ? ?? ?????? ?????? ?????? ?????? ???, ??? ? ?????? ??????, ??? ???? ????
?? ?????? ?????????????? ??? ?? ??? ?????? ?????? III, ??? ?????????? ??? ?? ?????? 1 ?
?? ?????? 12?, ??? ?? ??? ?? ?????????? ??? ?????? ??? ?????????? ?????? ?????? ? ??????
????????? ??? ?????? ?????????? ?????? ? ??? ?????? ??? ?????????? ??????????????.

60. ? ???????, ?????????? ???, ?????? ?????? ?????? ?????? ?? ? ?? ???? ???? ????????, ???
? ?????????? ??? ?? ??? ?????? ??? ?????????? ?? ? ?? ???? ???? ????????, ??? ????
????????? ?????????? ???, ??? ? ?????? ??? ?????? ?????? ?????? ?????????? (42), ??? ???? ??
????????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?? ??? ??? ?????? ??????????,
????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????????????? ?? ?????? ?????? ??????
??? ?????????? III ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????????? ??
????????? ??? ?????????? ??? (43). ??????, ?????? ?????? ?????? ??? ?? ? ?? ? ??????
????????? ??? ??????, ??? ?? ?????????? ??? ?????? ?????????? ??? ??????
????????? ???, ??? ?????????? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????????? III
?? ?????? ???, ?????????? ??? ??' ??? ?????? ?????? ?????? ?????? ?????? (44), ??' ??
????????? ?????????? ?? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ??? ?? ?????? ??? ??????
?? ?????????? ??? ?????? ?????? ?? ?? 98 ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ???
????????? ??????????.

61. ??? ???????, ??? ?????? ??? ?????? ??? ?????? ??? ?????, ?? ?????? ???
? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ??
????????? ??? ?????? ???, ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ???
????????? ???, ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ???
?? ?????? ?? ?????? ?????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??????
?? ?????????? ?? ?????? 5 % ??? ?????? ??? «?????? ??????», ? ???
????????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ???
?? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??????.

62. ? ?????????? ??? ? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???
? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? «?????????» ???
????????? ??? ?????? ???, ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
?? ??? ?????? ??? ?????? ??? ?????? ???.

3. ? ?????????? ?? ?????? ?????? ??? «????????? ?????????? ???
?????»

63. ??? 1?? ?????? 2009, ?????? ??? ???? ???? ???? ???? 2009/47 (45), ??? ?????? ??? III
?? ?????? ??? ?????? ?? ?????? 12?, ?????? ??? ?????, ??? ?????? ??? «????????? [????????? ??? ??????]», ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

64. ??? ??? ?????????? ??? 2 ??? ?????? 2009/47, ? ?????????? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ?????? ??? ? ?????????? ??? ?????? ??? ?????? ???.

65. ??? ?????? 6, ?????????? 1, ??? ?????????? ?????????? 282/2011, ? ??????, ???
?? ?????? 65 ?????, ?????????? ??? ???? 1? ?????? 2011, ? ?????????? ??? ??????
?????????, ?? ?????? ?? ?????????? ?????????? ?????????? ??? ?????????? ??? (46), ??
????????? ??? ?????????? ?????? ??? ?????????? ?????? ??? ?????? ??? ?? ??????
??? ?????????? ?????? ?? ?????????? ?????? ??? ?. ??? ?????????? 2 ??? ?????? ??????
????????????? ?? ??? ?????????? ?? ?????????? ?????? ??? ?????????? ?????????? ???
?????????.

66. ???? ???????, ??? ?????, ??????????, ??? ?????????? ?????????? ?????????? ???
?????????, ? ?????? ??????? ?? ?????????? ??? ?????????? ??? ?????? ???, ??? ??
????? ??? ??? ??? ?????? ?????????? ??? ?????? 6, ?????????? 1, ??? ?????????? ???
????????? 282/2011 ??? ??? ?????????? 2 ??? ?? ??? ?????? ??????????, ??? ?? ???
???, ??? ?? ?????????? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ??? ???
????????? ??? ???????, ??? ??? ??? ?????? ?????? ?????????? ??? ?????????? ???
????????? ??? ?????????? ??????. ???????, ?? ?? ??? ?????? ?????? ?????????? ?????? ???
????????? ??? ?? ?????????, ?????????? ?? ?????? ?????? ?????? ?????????? ???
????????? ?????? ??????.

67. ??????? ??? ?????? ??????, ??? ?? ??? ?????? ??? ?????? ?? ?????????? ??? ? ??????????
????????? ?????????? ?? ?????????? ??????, ??? ?? ?????????? «?????????» (47).

68. ?????? ?? ?? ??? 6, ?????????? 1, ?????? ???????, ??? ?????????? ?????????? ???
282/2011, ? ?????????? ??? ?????????? ?????????? ??? ??? ?????????? ?????????? ???
????????????? ??? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???
?????????.

69. ? ?????????? ?????? ?????? ??? ?? ?????????? ?? ?????????? ??? ?????????? ???
????????????? ?????? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ???
??? ?????????? ??? ?????? ???, ?? ?????? ?????????? ??? ?????????? ??? ?????????? ???
?????????, ? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??? ???
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????? (48).

70. ??? ???????, ? ?????? ??? «????????? [?????????]» ??? ?????????? III, ??????
12?, ??? ?????? ???, ?? ?????????? ?? ?? ??? 6 ??? ?????????? ?????????? 282/2011,
?????? ?? ?????????? ???, ?????? ?? ?? ?????????? ??? ?????? 46 ??? ??????
????????? ?????????? ??? ?????????? ???, ??? ?? ??? ?????????? ?? ??? ?????? ?????????? ???
???? ?????????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ?????????? ???
????????? ??? ?????? ??? ??? ?????? ???.

71. ??? ?????? ?? ??????? ??? ?? ??? ?????????????? III, ?????? 12?, ??????????????,
??????, ??? ? ?????? «????????? [?????????]», ? ?????, ??? ??????????????, ???
?????? ?? ?????? ??? ??? ??? ??? ??????, ?????? ??? ? ?????? «????????? [...]
[?????????]» ?????????? ?? ?? ?????? ??? ?????? 55 ??? ?????? ??? [«?????????
????????????? ??? ??????»], ?? ?????? ?????????? ?????????? ??? ??? 1? ?????????? 2010,
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ??? ?????? ?????? ???
2008/8. ?? ?? ??? ?????? ?????? ?? ??? ?????????? ??? ??? ?????? ?????? ???
????? ?????????? ??????????, ? ?????? ?????? ?????? ?????? ??? ?????? ?????????? ???
????? ?????????? ?????? ??? ??????.

72. ????????, ??? ? ?? ??? ?????????? ?????? ??? ?????????? ?????? ??? ?????????? ?????????????? ???
??? ?????????? ??????????, ?????????? ??? ?????????? ?????? ?????????? ?????????? ???, ? ???
????????? ??? ?????? ??? ?????????? ??? ?????????? III ??? ?????? ??? ?????? ??? ???? ?????? 2009/47 ???
????????????? ?? ??? ?????????????? ?????????? 282/2011, ?????? ?? ??????????????
????????? ?? ??? ?????? ??? ?????????? ?????????? ?????? ??? ?????? ??? ?????? ??? ??????????
?? ?? ?????????? ??? ??????????.

73. ???????, ? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ?? ??????? ??
?????? ?? ?? ??????? ?? ??????? ?? ??????? ?? ???????, ?? ?????????????? ?? ???????, ?? ??
????? ?? ?? ??????? ?? ??????? Faaborg-Gelting Linien, ?? ?????? ??????? ?? 2 ??
1996. ???????????, ? ?????? Bog ???., ? ?????? ??????????? ?? ??????????? ??
?????????? ???, ??????? ?? 10 ?????? 2011, ??? ?? ?????? ?? ???????????
?????????? 282/2011 ?? 15?? ?????? 2011.

75. ???????????, ???' ?????, ???, ??? ?????? Faaborg-Gelting Linien, ??????????????
????? ? ??? «??????» («restaurasjon») [???: ??? ?????????? ??????? ??? ??????????
?????????? ?? «?????? ??????????】. ???????????, ? ?????? ?????? ?????????? ??? ??????
??? ?? «?????? ??????» [???: ??? ??????? ??????: «????????????? ??????
?????????»] ?? ?????? ?????????? ??? ?? ??????????. ??????, ?? ?????????? ???
?????????? ??? ??????? ??? (50) ????? ?? ??????? ?????????? ?? ??????? ???
?????????? ??? ??????? ?? ??????????.

77. ??????, ? ??????? ?? ???? ?????????????????? ?????????? ?????? ??? ??????????????. ?
????????? ??? ??????, ??? ??? 6 ??? ?????????????? ?????????? 282/2011, ??? ??????????
?? ??????? ?????????? ??? ?????????????? ??? ?????????? («????????????????? ? ??») ? ??
????????? ??? ?????? («????????????????????? ? ??? ??? ?????????? ???»), ??? ??????
??? ?????????? ?? ??????? ??? «??? ??? ??????????????» (52).

78. ????' ?????? ??? ??????, ? ?????????? ??? ?????? ??? ?? ?????????? ?? ??? ??
????????? ??? ?????????? Faaborg-Gelting Linien, ?????? ??? ?????? ?? ?????????? ??
????????? ??? ?????????? ?? ??? ?????????? ??? ?????? ??? ?????????? ?? ??? ?????????? ??
??????, ?? ?????????? ?? ?? ?????????? ??? ??? ?????????? ??????? ?????????? ?? ??? ??????????
????????? ??????????, ?? ?????????? ?? ?????????? ?????????? ?????????? ?????????? ??????????????
???? ??? ?????????? ??? ??? ?????????? ?????? ??? ?????????? ??? ??? ?????????? ??? (53).

79. ???????, ??????????? ?????? ?? ??????? ?????????? ??? ???????, ??? ???????, ???
?????????? ??????? 282/2011, ??? ??? ???????????, ??? ??????? Bog ???., ???

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

80. ??? ??? ??????? ??? ??? ??? ??????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????????
Bog ???., ? ??? ?????? ??????? ??? ??? ?????????? ??? ?????? ??? ?????????? ?????????? ???
????????? ??? ??? ?????? ??????? ??? ?????? ???, ??????? ??? ?????? 2009/47 ??? ???
????????? rationae temporis (54), ????? ??? ?? ????? 6 ??? ?????????? ??? ??????????
282/2011 ?????? ?? ?????????? ??? ?? ?????? ??? ?????????? ??? ?????????? ???.

81. ???????, ?? ??? ?????? Bog ???., ?? ?????????? ?????????? ??? ?????? ?? ???????
????????? ?????? ?????????? ?????????? ?????????? ??? ?????? ??? ?????????? ?? ??????????
????????? ?????????? ??? ?????? ?????????? ???, ?????? ???, ?????????? ??? ??????????
????????? ?? ??????? ??? ?????????? ?? ?????? ?????? (55), ??????? ??? ??????????
????????? («?????») ?? ?????? ?????????? (56), ??? ?????? ??? ?????????? ???
?? ?????? ?????? (57) ??? ?????? ?????????? ??? ?????????? ?????????? (58).

82. ?? ??? ?? ??????? ?? ??????? ??? ?????????? ?? ?????????? ?? ?????????? ??? ??????????
????? 14 ??? ?????? Faaborg-Gelting Linien ??? ??? ??? ?????? «????????? ???
????????? ??? ?? ?????????? ?????????? ??? ?????????? ??? ??? ?????? ?????????? ??
????????? ??????», ?????????? ??? ?????? Bog ???., ??? ?????? 70 ??? 71, ??
????????? ?????? ??? ? ?????????? ?????????? ??? ??????, ??? ?????? ? ??
?????????????, ?????????? ??? ?????????? ?????????? ?????????? ??? ?????? ??????????
????? ?????????? ??????, ?????? ?? ?????????? ?? ?????????? ??? ?????????? ??????. ?? ??????????
????? ??? ? ??? «?????» ?????? ?????? ?? ?????????? ?????? ?? ?????????? ??? ??????,
????????? ? ??? ?????? ?????? ?????? ??? ?????? ?????? (59).

83. ???????, ?????? ?? ?????? ??? ?? ??????? ??? ?????????? ?????????? ??? ??????????, ???
?? ??????? ??? ?? ?????????? ?????????? ?????????? ???, ?????????? ?????? ??????????
, ??? ?????? ? ?????????? ??? ?????????? ??? ?????????? ? ?????????? ??? ?????? ??? ? ?????????? ???
????????? ??? ?????o????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????????? ?? ??????????
????????? ??? ?????? (60).

84. ??????, ??? ?? ?????? 6, ?????????? 2, ??? ?????????? ?????????? 282/2011, «[?]
????????? ?????? [...] ??? ?????? ?????? ?????? [...] ??? ?????? ?????? ??????
????????? ? ??????» (61), ??? ?? ?????????? ??? ?????? ?????????? ??? ?????? 1 ???
????? ?????? ?? ?????????? «??? ?????? ??? [...] ?????????? ??? ?????? ??? [? ???]
????????? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? [...] [? ???]
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? (62).

85. ??? ??? ??????? ????, ??? ?????????? ??? ?????? ?? ?????????? ??? ?? ???????
??? ??????? Faaborg-Gelting Linien ??? Bog ???.. ?????? ?? ?? ?????????? ???
????????? ?????????? ?? ?????? ?????????? ?? ?????????? ??? ?????? ?? ?????????? ??
????????? ?????????? ?? ?????? ?????????? ??? ?????????? ??? ?????? ?? ?????????? ???
????????? ??? ?????????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ?? ?????????? ???,
????? ??? ?????? ??????, ?? ?????????? ?????? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ??????, ? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???, ?????????? ???
????????? ??? ??????, ?????? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? «?? ???» ??? ???, ?? ???
????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ??????
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???.

86. ??? ??? ?????? ???, ?????? ??? ?????????? ??? ?????????? Faaborg-Gelting Linien

??? Bog ???., ??? ?? ??????? ??? ?????? ?????????? ??? ??????????? ?? ??????????? ?? ??????? ?? ?????
6 ??? ??????????? ?????????? 282/2011 (63), ?????????? ????? ?? ?????? ?????? ?????? ?????? ???
????????? «?? ??????» ?????? ?? ?????????????? ?? ?????????? ??????. ? ?????????? ???
????????????? ??? ??? ??? ?????? ??? ?????????? ??? (64).

87. ????????, ?? ??? ?????? ??? ??? ?????? ????? ???? ? ?????????? ????????

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

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

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

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

88. ???????, ?? ??? ??????? ??????? ??????? ?? ?????????? ??? ? ?????????????????? ???
????????? ?????????? ??????? ?????????? ??????? ??? ??? ??? ??? ?????? ? ?????????? ???
????????? ??? ??? ??????? ?????????????? ??? ?????????? ??????? ??? ?????????? ???????????.

89. ???????, ?? ??????? ????? ?????????? ??? ?????????? ?????????????? ?? ?????? ?????????? ???
?????????? ?? ?????????? ?????????? ?????????? ?? ?????? ?? ?? ?????? ?????? ?????????? ?????????? ??
????????????? ?? ?? ?? ?? ?????????????????? ?? ?????????? ?????? ?? ??????????, ?????????? ??
??????????, ?????? ?????? («in-store», «drive-in», «walk-through», «food court») (65).

90. ??????? ?? ??????????? ?????, ?????? ????? ?? ?????? ??? ???? ?????????????????? ??? ?
????????? ??? ?????????????? ?? ?????? ??????? ?????????????????? ??? ???? ?????? ?????? ??????????
????????? ??????? ?? ??????????? ?????? ??????? ??????????????, ??? ???? ?? ??????? ??
???????????, ???????, ?????????? ????????????????, ??????? ?????????????? ??????????????,
?????? ???????, ??????? ?????????? ?????????? ?????????? ???????, ?????? ?????? ??? ??
????? ??????? ?????????? ?? ??????????? ?? ???????, ??? ?????? ?????????????? ?? ?????????? ??
????????? ?????????????? ??????. ???????????, ???????, ??? ?????????????? ??? ?????????? ??
????????? ?????? ??????? ?? ??????? ?? ?????? ??? ?????? ??? ?????? ?? ?????????????? ??????????
?? ?? ?? ?? ??????????????, ?? ?? ?? ?????? ??????? ???????, ?? ?????? ?????? ?????? ?????????????? ??
??????????? ?? ?? ?????? ??? ??????? ?? ?????????? ?? ?????????????? ??? ?????? ?????? ?? ??
????????????? ???????.

91. ????? ??? ??????? ???, ??? ??? ??????? ??? ??????????? ??? ??????????? ??? ?????????? ??? ?????????? ???
?????????? ??? ????? 6 ??? ?????????????? ??????????? 282/2011, ?????????????? ??? ??
?????? ??? ?????????? ??? ???????????, ?????????? ??? ? ?????????? ?????????????? ???
????? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ??????????
??? ???????, ?? ??? ????? ?????????? ?? ?????????????? ?????????? ??? ??????? ??? ?????? ???,
????????? ?????????? ?????????? ??? ?????? ??? ?????????????? ??? ?????????? ??? ??????????
«????????? ?????????? ?????????» . ???????????, ????? ??? ?????? ???, ??? ??????????????
??? ???????????, ?? ??????? ??? ?? ??????? ?????????? ?????? ?????? ??? ?????? ??? ??? ???
?????? ??? ?????????? ????, ??? ?????? ??? ?????????????? ??? ?????????????? ???
????? ??? ?????????? ?????????? ?? ?????????? ??? ?????????????? ??? ?????????????? ? ???
(????????????? ????, ?? ??????? ??? ??????????) ??? ? ?????????? ??? (?????? ????, ?
????????? ??? ??????????), ??????? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ???
??? ??????? ??????.

92. ??????, ?? ??????? ???? ?????? ?? ?????????????? ??? ?? ??? ?????? ?????? ?? ??????????

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

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

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

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

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

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

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

93. ???? ?????????? ??? ? ??????? ?????? ?????? ?? ??? ?????? ?????? ?????????? ??? ???? ???????
??? ?????????? ??? ???? ?????? ?????? ?????????? ?????????? ????. ????????, ???
????????? ???, ?????? ?????? ??? ?????????? ?????????? ???, ?????? ???, ??? ??
????? ??? ?????? ??? ?????????? ??? ?????? 50 ??? 59 ??? ?????? ?????????? ?????????? , ??????
??? ?????????? ??? ?????? ?????? ?????????? ???, ??? ??? ?????? ?????????? ???
????????????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ??? ???? ?????? ??? ?????????? ???
III ??? ?????? ???.

94. ?? ??? ?????, ?????? ??? ?????? ?????????????? ??? ?????????? ?????? ?????? ?
????????? ?????? ?????????? , ?? ?????? ?????? , ??? ?????? ?????? ?????? ?????? ?? ???? ???
????????? ?????? ?????? , ?? ?????? ?????? ?????? ?????? ?? ?? ??? ?????? ?????? ?????? ??
????????? ?????? ?? ?? ???, ?????? , ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ?????? ?????? ?????? ???, ?? ?????? ??? ?????????? ???, ?????? ??? . ???.
??? ?????? ???, ?? ??? ?????? ?????????? ??? ?????? ?????? , ?????? ??? ?????? ?????????? ???
????? ?????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ?????? ??????
????????? ?????? . ?? ??? ???? ?????? , ? ?????? ??? ?????? ?????? ?????? ?????? ??????
????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? (66).

95. ??? ???????, ?? ?????????? ?????? ?? ?????????? ??? ?????? ?????????? ????:

- ?? ??? 98, ?????????? 2, ??? ?????? ???, ?? ?????????? ?? ?? ?????????? III, ??????
12?, ??? ?????? ??? ? ?? ??? 6 ??? ?????????? ?????? 282/2011, ??? ????
????? ??? ? ??? «????????? ?????????? ??? ??????» ?????? ??? ??????????
????????? ?? ??? ?????????? ??? ??? ?????? ??? ?????????? ??? ?????? ???, ??? ??????
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
??? ??? ?????????? ? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????? ??? ??? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
?????.

- ?? ??? 98, ?????????? 2, ??? ?????? ???, ?? ?????????? ?? ?? ?????????? III, ??????
1, ??? ?????? ???, ??? ??? ?????? ??? ? ??? «?????» ?????? ??? ??????????
????????? ??? ?????? ?????? ?????????? , ??? ??? ?????? ??? ?????????? ??? ??? ??? ??????????
????? ??? ??? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
??? ?????? ??? ?????? ???.

96. ?????????? ??? ?????? ??? ?????????????? ??? ?????????? ??? ?????????? ???
????? ???, ? ?????? ??? ???? ?? ??? ?????? ?? ?????????? ?? ?????????? ???
????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? , ?????????? ??? ??????
????????? ?? ?????? ??? ?????????? ?? ?? ??? ?????? ??? ?????? ??? ?????? ??????????
????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ???, ?????????? ??? ?????? ??????
????? ??? ?????? ??? ?????????? ??? ?????? ?????????? 5 %.

4. ? ?????????????? ??? ?????? ??????

97. ??? ?????? ??? ?????????? ?????????????? ???, ? ?????????? ??? ?????? ???
????????? ?????? ?????? , ??? ?????? ?????? ?????? ??? ?????? 21 ???
????????? ??????.

98. ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ??? ?????? ?????????? ??? ? ??????????
????? ??? ???, ??? ??? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??????

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

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

99. ????? ?????? ??? ?????????? ??? ?????????????????????? ??? ??? ?????????????????? ?????? ???
????????????? ??? ?????? ?????????? («in-store»), ?? ?????? ?????????? ?????????? ??
????????????? ??? ?????????? ?????????? (67) ??? ??? ?????????? ??????????, ???
????????????? ??? ?? ?????????? ????. ?? ?????????? ?????????? ?????? ?? ???:

«— ?? ??????? ??????? ?? ??????????????? ?? ??????? ?? ??????? ? ?????? ??
?????????? ?? ???????, ??????? ?? ??????? ?? ??????? ?? ???????

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

= ?????????????? ?????????? ?????? ?????????? ??? ?????????????? ?????????????? ? ??????????????

= ?? ?????? ?????????????????? ?? ?? ??????????? ?? ?? ?????????????? ?? ?? ??????????????

– ??????????? ?? ?????????? ??? ?????????? ? ?????????? ??? ??????, ??? ???????
?????????? ???????

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

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

100. ?????????????? ?????????????? ?? ??????? ??? ????????????, ??? ?????? ??????? ??
?? ??????? ?? ?? ?????????? (68), ??? ??????????? ?? ? ????????, ??? ? ??????? ??
?????? ?? ??????????? ?? ?? ??????? ?? ??????????? ?? ? ??????? ?? ??????? ??
??????????, ??? ?? ??????? ?? ??????? 98, ?????????? 2, ??? ??????? ??, ?? ??????? ??
?? ?? ??????? III, ?????? 12?, ??? ??????? ?????? ?? ?? ?? ?????? 6 ??? ???????????
????????? 282/2011. ???????????, ? ?????? ??? ?? ?????????????? ??? ??????? ??
????? ???????, ??? ?? ?? ? ?????? ??? ?? ??????? ??? ??????????? ?? ??????? ??
??? ???????????, ??? ?? ?? ? ?????? ??? ?? ??????? ??? ??????????? ?? ??????? ??
??? ??????????? ?? ?? ?????? ?????? ???????????, ? ?????? ??? ???????????, ??????????? ??
?????????? ?? ? ??????? ?? ??????? ?? ??????? ?? ? ???????.

101. ?????? ? ??????????? ??????? ?? ?????????? ?? ?????? ?????? ?? ?????? ?? ?????? ?? ???
?? ?????????? ???????, ? ?????? ???? ?? ?????? ?? ?????????????? ?? ?????? ?????? ??????,
????????? ???? ?? ??????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????
?????????? ?? ???? ???? ?????? ?????? ?????? ?????? (69).

102. ?? ?? ?? ?????? ???????????, ???? ?????????????? ??? ? ????????, ???? ?? ???????????

????? ??????????? ???? ???? ?? ?????????? ?? ???? ?????????? ??? ?????????????? ??? ????????????
????????? ??? ?????????? ??? (70).

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

103. ??? ???? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????????? ??
????????????? ?????????????? ?? ?????????? ??? («drive-in» ??? «walk-through»), ???
????????????? ??? ??? ?????? ??? ?????? ?? ??? ?????? ?????? ??? ?????? ??? ?????????? ???
????? ??? ?????? ??? ? ?????????? ??? ?????? ?????? ??????. ??????????, ?????? ?????? ??
????????? ???, ??? ??????, ??? ??? ????? ?????????? ??? ?????? ?????????? ?????? ?????? ??
??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ???
????????? ??? ? ?????? ??? ?????? ??? ?????? ?????? ??????????, ?????? ??? ?????????? ???
????? ??? ?????? ??? ?????? (??? ?????????????? ???, ?????? ??? ?????? ??? ?????????? ??? ??
?????????).

104. ??? ???????, ??? ???? ?? ?????????? ?? ???? ?????????? ?????????? ??? ?????? 6,
????????? 2, ??? ?????????? 282/2011.

105. ??? ???? ?????????? ??? ?????? ??? ?????????? ??? ?????? 91 ??? 92 ??? ??????
?????????, ??? ???? ?? ?????? ??? ?????????? ??? ?????? ?? ?????? ?????? ??? ?????????? ???
????????? ? ?????????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ??? ?????????? ???
????? ????. ?????? ?????? ??? ???? ?????? ?????????? ?????????? ??? ?????? ??? ?????????? ???
?? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? Bog ???.. (71).

106. ???????, ?? ?????? ?????? ?? ??? ?????????? ??? ???????, ?? ?????????????? ??? ???
?????? ?????????, ??? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??? ??????????????
????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???, ?????? ??? ?
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????????? ???.

107. ?? ??? ?????? ??????, ??? ???? ?? ????????, ??? ?? ????????, ??? ???? ?????? ??? ??????????????
?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? «drive-in» ??? «walk-through»
?????? ?? ?????????? ?? ?????????? ??? ??????????.

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

108. ??? ???? ??? ?????? ?? ?????????? ??? ?????? ?????????? ?????????? ?????????????? ???
????????? ?????? («food court»), ?? ?????? ?????????? ?????? ??? ?????????? ??? ??????
????????? ?????? ?????? ??? ?????????? ?????? ?????????? ???, ?????? ?????? ?????? ???
????????????? ??? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????????? ??? ?????? ???
????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ?????? ??? ??????, ??? ?????? ??? ?????? ??? ?????? ???, ?? ??????????
????????? ???, ?????????? ????. ?????? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ?????? («food court»). ??? ?????? ??? ?????? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
?? ?????????? ????. ? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? (????? ?????? ??? ??????, ??? ??????, ??? ?????? ???, ???
????????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???.) ???

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

109. ?????????? ??? ?? ?????? ?????????? ?????? ??? ? ?????????? ?????? ?????? ??????
?????????? ??????? ??? ?????????????? ?????? ?????? ??? ?????????? ?? ?????????, ?? ??? ??
????????? ??? ?????? ??????, ?????????? ?????? ?????? ??? ??????, ?? ?????????? ?? ???
????????? ?????? ???????????, ? ?????? ??? ?????? ??? ?????????? ?? ?????????? ?? ??????
????????? ??? ?? ?????????? ?????? ?????? ??? ?????????? ?????? ?????? ?????????? ??????.

110. ??????, ?????????? ??? ?????? ??? ?????????? ??? ?????????? ?????????????? ???
????????? ?????? ?????? ?????????????? ??? ?? ?????? ?????????? ?????????? ?????? ??????
????????? («food court») ?????? ?? ?????????? ?????? ?????????? ?????? ??????????.

111. ????????????, ?????? ?? ?????? ?????? ?? ??????? ??? ? ?????? ?????? ??????
????????????? ?? ??? ?????????? ??? ?????????? ?????? ?????????, ? ??????, ??????, ???
????? ??? ?? ?????????? ?????? ??? ?????????? ?????? ?????? ?????, ?????? ???
??????, ???, ??? ?????? ?????? ? ?????????? ?????? ??? ?????????? ?????? ??? (72), ???, ???
????????, ??? ?????? ?????????? ?????????? ?????? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ?????????? ?????? ?????????? ?????? ?????????? ?????? ?????? ??? ??????
????????? . ?? ??? ?????? ???????, ?????? ?????? ? ?????? ??? ?????? ??? ?????? ???????,
????????? ??? ?? ?????? ???????, ??? ?????? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???, ??? ?? ??????
??? ?????? 6, ?????????? 1, ??? ?????????? ?????? 282/2011, ? ?????? ???
«????????? ??????» ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?????????? ??? ??????.

112. ??? ?? ?????? ???, ? ??????? ?? ??? ?????????? ?? ?? ?????? ?????????? ???
????????????? ??? ?????? ??? ?????????? ?????? ?? ?????????? ??? ?? ?????? ??? ??????????
«walk-through» ? ?? ? ?????? ?????????? ?? ?????????? ?? ?????????? ??? ?????????? ?? ???
????????? ??? ?? ?????? ??? ?????? ??? ??????, ??? ?????? ?? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ??????, ?????????? ??? ?????? ??? ?????? (?????????
????????? ? ??? ?????? ??????)).

113. ??? ???????, ?????? ??? ?????? ??? ? ?????? ?????? ?????? ??? ?????? ??????
??????????, ?????? ?????? ???????, ?????? ? ??? ?? ?????? ?????? ?????? ?????? ???, ?
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ???, ?????? ?????? ??????
??????????, ??? ??? ?? ? ?????????? ??? ?? ?????? ?????? ?????? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ??????
?????.

114. ??? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ???
?? ?????? ? ?????? ???:

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

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

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

V. ???????

115. ??????? ?? ?????, ???????, ??????? ?? ???? ?????????? ?? ???? ??????? ?? ???? ??????? ?? ???? Naczelnego S?d Administracyjny (?????? ?? ???? ???????, ???????, ???????) ?? ???:

1) ?? ?????? 98, ??????????? 2, ??? ??????? 2006/112/??, ??????? ?? ???? ?????? ???????
????? ?????????????? ??????, ?? ?????????? ?? ???? ?????????? III, ?????? 12?, ??? ??????
????? ??? ?? ???? 6 ??? ?????????? ?????????? (?) 282/2011 ??? ??????????, ??
15?? ?????? 2011, ??? ?? ??????? ??????? ??????? ?????????? ?? ?????? 2006/112/?? ??????? ??
?? ?????? ?????? ?????? ?????????????? ?????, ??? ?????? ?????? ??? ???? «?????????
????????????? ??? ??????» ?????????? ??? ?????? ?????????? ?? ??? ?????? ?????????????? ??? ??
????? ??? ?????????? ??? ?????, ??? ?????? ?????????????? ??? ?????? ?????????? ??? ?????? ???
??? ?????????? ?????????? ?? ?????????????? ??? ?????? ?????????? ? ?????????? ??????????
????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?? ?????? ???
????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?? ?????? ???

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

2) ?? ?????? 98, ?????????? 2, ??? ??????? ???, ?? ?????????? ?? ???? ?????????? III, ??????
1, ??? ??????? ??????, ???? ??? ?????? ??? ???? «????????» ?????????? ??? ??????????
?????????, ???? ??? ??????????????, ???? ??? ?????? ??? ?????????? ??? ???? ??????????
????? ??? ?????? ??? ?????????? ?????????? ?????????? ??? ?????????? ?????? ??? ??????????
????? ?????? ??? ??????????.

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

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

2 ?? 2006, L 347, ?. 1, ??? ?????: ?????? ???.

3 ?? 2011, L 77, ?. 1.

4 ? ????? ?? ??????? ?????????? ??? ?????????? ?????????? ?????????? ?????????? ?? ?? ?? ????? 12,
????????? 3, ??? ????? ?????? 77/388/??? ??? ??????????, ??? 17?? ????? 1977, ???
????????? ??? ?????????? ??? ?????? ??????, ??? ?????????? ?? ??? ????? ?????? ??????
???????? – ????. ?????? ?????? ??? ?????????????? ?????: ?????????? ?????????? ??? (??
???. ??. 09/001, ?. 49, ??? ?: ??? ?????).

5 ?????? ?????? ?????? ??? ?????????????? ??? ?? ??? ???? ?????? 2008/?? ??? ??????????????, ???
12?? ?????????????? 2008, ??? ?? ?????????????? ??? ?????? 2006/112/?? ??? ?????? ??? ??? ??????
????????? ?????????? (?? 2008, L 44, ?. 11, ?????? 2, ??????????? 2), ?? ?????? ?????? ??? 1?
?????????? 2010.

7 ? ?????????????? ?????????????? ?????????????? ?? ??? ?????????? (???) 2658/87 ???
??????????, ??? 23?? ?????? 1987, ??? ?? ?????????? ??? ?????????? ?????????????? ???
?? ????? ?????????? (?? 1987, L 256, ?. 1). ?????????????? ??? ????? ?????? ???
????????????? ??? ?????????? ?????????? ??? ?????????? ?????? (????? L) ?? ?? ???
????????????? ?????????? ??? ?????????? ??????????.

8 ?? 2009, L 116, ?. 18.

⁹ Dz. U. ??? 2004, ??. 54, ?????? 535.

10 Dz. U ???. 2011, ??. 117, ??. 1054, ???. ???: ???. ???. ???. ???.

11 Dz. U. ??? 2015, ?????? 1676, ??? ????: PKWiU.

12 Dz. U. ??? 2008, ??. 207, ?????? 1293.

13 Dz. U. ??? 2013, ?????? 1719.

14 ??????? ?? ?? ?????? 2, ?????? 30, ??? ?????? ????, ? ??? «ex» ??????????????????
??? ?? ?????????? ?????? ? ?????????? ??? PKWiU ? ??? ?????? ??? ?????? ? ??
????????? ??? ?????????? ??????????.

15 ? ??????? ??? ???????????????? ??? ?????? ?????? ?????????????? ?????? «Us?ugi zwi?zane z wy?ywieniem (PKWiU ex 56)». ??? ?????? ?????? ?????????????? ??? ?????? ?????????????? ?? «????????? ??? ?????????? ?? ??? ?????? ?????? ??????» . ?????? ?? ?????????? ??? ? ?????? «????????? ?????? ??? ?????? ?????? ?????? ??????» . ?????? ?????????? ?? ?????? ??? ?????????????????? ??? ?????? ?????? 56 ??? ?????????????? ??? ?????????? 1209/2014 ??? ??????????, ??? 29?? ?????????? 2014, ??? ??? ?????????? ??? ?????????? (?) ???? . 451/2008 ??? ?????????? ?????????? ??? ??? ?????????? ??? ???? ?????????? ???

? ?????????? ? ?????????? ? ?????????? ???? ?????????? (CPA) ??? ??? ??? ? ?????????? ???
????????? (???) ????. 3696/93 ??? ? ?????????? (?? 2014, L 336, ?. 1).

16 Dz. U ??? 2007, ????. 251, ?????? 1885, ??? ????: PKD.

17 ??., ??????????, ??????? ??? 9?? ?????????? 2017, AZ (C?499/16, EU:C:2017:846).

18 C?231/94, ??? ????: ?????? Faaborg-Gelting Linien, EU:C:1996:184.

19 C?497/09, C?499/09, C?501/09 ??? C?502/09, ??? ????: ?????? Bog ?..?,
EU:C:2011:135.

20 ?? ??????? ?? ??? ???????? ??? ?? ?????? ?????????? ?? ?????????? ?? ?????????? Faaborg-
Gelting Linien ??? Bog ?..?, ?????????? ?? ?????????? ?????? ? ?????? ???, ? ?????? ??????
?? ??? ???? 1? ?????????? 2007 (???. ?????? 413 ??? ?? ??? ??????), ??? ????
????????????? ???, ??? 1?? ?????? 2009 (???. ?????? 3 ??? ?????? 2009/47), ?????????? ???
????? ?????????? ??? ?????? ??? ? ?????????? ?? ?????????? ?????????? ?????????? ???
???? «????????? ?????????? ??? ??????» [???: «????????? ?????????? ??? ??????????»
??? ?????????? ?????? ??? ??????].

21 ???. ??????? ??? 19?? ?????????? 2019, Segler-Vereinigung Cuxhaven (C?715/18,
EU:C:2019:1138, ?????? 22 ??? ??? ?????????????? ??????????).

22 ???. ??????? ??? 9?? ?????? 2017, Oxycure Belgium (C?573/15, EU:C:2017:189, ????
22 ??? ??? ?????????????? ??????????).

23 ???. ??????? ??? 3?? ?????? 2011, ??????? ??? ??? ?????? (C?41/09,
EU:C:2011:108, ?????? 53).

24 ???. ??????? ??? 9?? ?????? 2017, Oxycure Belgium (C?573/15, EU:C:2017:189,
????? 23 ??? ??? ?????????????? ??????????), ?????? ??? ??? 19?? ?????????? 2019, Segler-
Vereinigung Cuxhaven (C?715/18, EU:C:2019:1138, ?????? 31 ??? ??? ??????????????
?????????). ??????, ????? ?????????? ?? ?????? ??? ? ?????????? ??? ?????????????? ???
??? ?????? ??? ??? ?? ?????????? ?? ?????????? ??? ?????? ??? ? ?????????? ???
????????? ?????????? ? ?? ?????????? ??? ??? ?????? ??? ?????? ??? ?????????? ???
????? ??? ??????????, ?????? ?? ?? ?????????? ??? ?????? ?????????? ??? ?????????? ???
????? ?????????? ??????????, ?? ?????? ?????????? ??? ?????? ?????? ??? ?????????? ???
??? ?????????? ??? ?????????? 2006/112/?? ??? ?????? ??? ?????????? ??? ?????????? ???
????????????? ?????? [SWD(2018) 7 ??????] (?????? 1.2), ?????????? ??? ??? ??????????
?????.

25 ???. ??????? ??? 19?? ?????????? 2019, Segler-Vereinigung Cuxhaven (C?715/18,
EU:C:2019:1138, ?????? 31 ??? 32 ??? ??? ?????????????? ??????????).

26 ???. ??????? ??? 9?? ?????? 2017, Oxycure Belgium (C?573/15, EU:C:2017:189,
????? 25 ??? ??? ?????????????? ??????????), ?????? ??? ??? 19?? ?????????? 2019, Segler-
Vereinigung Cuxhaven (C?715/18, EU:C:2019:1138, ?????? 25).

27 ???. ??????? ??? 19?? ?????????? 2019, Segler-Vereinigung Cuxhaven (C?715/18,
EU:C:2019:1138, ?????? 25).

28 ???. ??????? ??? 9?? ?????? 2017, AZ (C?499/16, EU:C:2017:846, ?????? 25).

29 C?481/98, EU:C:2001:237. ???. ????? 33 ??? ?????????? ?????.

30 ??., ?????? ??????, ??????? ??? 9?? ?????????? 2017, AZ (C?499/16, EU:C:2017:846, ????? 36).

31 ??., ?????? ??????, ?????????? ??? 27?? ??????????? 2014, Pro Med Logistik ??? Pongratz (C?454/12 ??? C?455/12, EU:C:2014:111, ????? 60), ????? ??? ??? 9?? ??????? 2017, Oxycure Belgium (C?573/15, EU:C:2017:189, ????? 37).

32 ???????, ???????, ?? ??????????? ?? ???? ?? ???? , ??? ?????? 98, ??????????? 3, ??? ??
???? ???????, ??? ??????? «[?]?? ???? ?? ??????? ?? ?????????? ???????????» ??? ??,
??? ???????, ??? ??????? «????? ?? ???? ??????? ?? ??????????», ?????????? ??? ??
????? ??????? ?? ?????????????? ?? ??? ?????????????? ?????????? ???????????.
???????, ?? ??????? ?? ?? ??????? ?? ??? ???????, ?????????? ??????? ?? ???????
??? ?? ??? ??????? ??????? ?????????? ??? ?????? ??? ??????? ?????????? ? ??????????
?? ?? ?????????? ??? ??????? ??? ?????????? ?????????? ?????????? ??? ?? ??????? ??????????
? ??? ?? ?????????? ?????????? ???' ?????. ?????. ??????? ??? 8?? ??? 2003,
??????? ??? ?????? (C?384/01, EU:C:2003:264, ????? 27).

33 ?????? ?????? ??? ? ??????? ?????? ?????? ?????????????????? ??? ??? ?????? ??? ?????? ??? ??????????????
??? ?????????? ?????????????? ??? ??? ?????? ? ?????????? ??? ??????. ??., ??????, ??????
43 ??? 44 ??? ??????? ??????????. ?? ??????? ??????? ?? ?????????? ?????????????? ??? ??? ??
?????? ??? ??????????? ?????????????? ??? ?????????? ?? ?????????? ??????. ????. ??????? ???
1?? ?????????? 2020, Staatssecretaris van Financiën (????????? ?????????????? ??? ??? ??
????????????) (C?331/19, EU:C:2020:786, ?????? 25, 26 ??? 35). ?? ?? ??????, ? ??????
??? ?????????? ??? ??? ?????????? ?????????? ??? ?????? ?? ?????? ??????????????
??? ?????????? ?????????? ?????????? ??? ??? ??? ?????????? ??? ?????? ??????????
?????????.

?????????, ??? ?????? ??? ??????????, ?????? ??? ?? ????? 101 ??? ?????? ??? ??????
?? ?????? ??? ?????? ? ?????????? ??? ?????? ??? ?????? ??? ??????????, ??????????????????
??? ?????????? ??? ????????, ??? ??? ?????????? ??? ?????????? ??? ?????????? ??? ???
????????? ??? ?????? ??????????, ??? ?????????? ?????????? ??? ??? ?????? ?????? ??? ???
????????? ???.

34 ??., ???????, ?????????????? ??? ?????????? ?????????????? ??? ??? ?????????????? ???
????? ????, ?????? ??? ?????????? ?? ???? «VAT rates applied in the Member States of the
European Union, Situation at 1st January 2020» [?axud.c.1 (2020)], ?????? II, ?????????? ???
????????? ?????????? ??????????:
[https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/vat/how_vat_work_\(.4.5\),.????.?????.?????](https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/vat/how_vat_work_(.4.5),.????.?????.?????).

35 ???. ?????? 14 ??? 24 ??? ????????, ?? ?????? ?????????? ?????? ?? «????????? ??????» ??? ?? «????????? ??????» ??????????.

36 ???. ??????? ???. 9???. ??????? 2017, Oxycure Belgium (C?573/15, EU:C:2017:189, ????.
28 ????. ????. ????????????????. ???????????).

37 ??., ?????? ??????, ??????????? ??? 9?? ??????? 2017, Oxycure Belgium (C?573/15, EU:C:2017:189, ????? 30 ??? ????? ?????????????? ??????????), ????? ??? ??? 19?? ??????????? 2019, Segler-Vereinigung Cuxhaven (C?715/18, EU:C:2019:1138, ????? 36 ??? ??? ?????????????? ??????????).

38 ???. ??????????????? ?????????? ????. ?????????????? ??????????????. ??., ??????, ????.
????? ??? ?????????????? ?????????? ????. ?????????? «????? ??? ?????????????? ??????????????»
????? ????. ???, ?????????? ????. ?????????? ?????????? G. Hogan ????. ?????? Golfclub
Schloss Igling (C?488/18, EU:C:2019:942, ?????? 55 ??? 56, ?????? ??? ?????????????? 21 ???
22).

39 ?????. ??????? ?? 9?? ?????????? 2017, AZ (C?499/16, EU:C:2017:846, ????? 23).

40 ???. ??????? ??? 9?? ?????????? 2017, AZ (C?499/16, EU:C:2017:846, ????? 23 ??? ??? ?????????????? ??????????).

41 ??., ?????? ??????, ??????? ??? 9?? ?????????? 2017, AZ (C?499/16, EU:C:2017:846,
????? 24 ??? ??? ?????????????? ??????????).

42 ???.?????? 48 ??? ???????? ??????????.

43 ?????????? ???, ?? ????????, ??? ???? ???? ??????????, ???? ?? ???? ?????? ???????????, ? ???? ?????? ???????????
????????? ??? ?????????? ?????????? 5 % ???????????, ?????? ????, ??? «[?]?????
??????» ??? ??? ?????? ?????? ?????????? ?????????? 8 % ?????????????? ?????????? ????
«[?]?????? ??????» ??? ??? ? ?????????????? ??? ?????????? ??? ??????? ??
????????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? (PKWiU), ? ??? ??????????
?? ??? ?????????? ??? ?????????? ?????????????? (PKD) ??? ? ????, ?????????? ??? ???
????????? ??????????, ?????????? ??? ?????????? 10.85.1 ??? PKWiU «[?]?????
??????» ??? ??? ????? 56.1 ??? PKWiU «????????? ?????????? ??? ?????? ??????????»,
???? ?????? ?????????? ?? «????????? ?????? ?????????? ?????????? ??????????», ??
«????????? ?????? ?? ??????????», ?? «????? ?????? ?????? ??????», ?. ?. ??????
13 ??? 19 ??? ?????? ???????.

44 ?? ???????????, ?????????? ??, ??? ? ? ?????? ???????????, ? ?????????? ???????
?????????? ??, ?????????????????? ?????????? ?????????? ?????? ?????? ?????????? (?.
????? 18 ??? 19 ??? ??????? ??????????), ?????? ?????????? ?????? ?????? ?????????? ??????????.

45 ? ?????????? ??? ?????? ???????? ??? ?????? ??? ?????? ??? ?????????? Bog ?.?.?
????????????? ??? ?????????? 1 ??? ?????????????? ??? ?????? ?????? ?????? (?. ???? 8 ???
????????? ???), ??? ?????????? III ??? ?????? ???, ?? ?????? ????????, ??? ?????
????????? ?????????? ?? ?????? ?????? ???, ?? ?????? ???, ?????? ???, ??
????????? ??? ?????????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?? ?????????? ???
????????????? ??? ?? ?????? ??? ?????? ???, ??? ?????? ???, ?????? ???, ???
????? ??? ?????? ????. ?? ?????? ???, ???' ??????, ???, ?? ?????????
????????? ????, ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ???.

46 ???. ?????????????? ?????? 4 ??? ?? ????? ?????????????? ????????????

47 ??., ????. ?????? ??? ??????????? ??? ?????????? ????, ?????? 80 ??? 86 ??? ??????? ??????????.

48 ????., ??????, ?????? ??? ?????????? ??? ?????? ?? ?????????? ??????? ?? ??? ??? ?????????????? ??? ?????????? ??? ?????????? ???????, ??? ?????? ???????, ?????????????????? ??? ?????????? ???????, ??? ?????????? ???????, ??? ?????? ???????, ??? ?????? ?? ?? ?????? 37, ?????????? 3, ??? ?????? 2006/112/?? ??? ?????????? ??? 28?? ?????????? 2006, ??????? ?? ?? ?????? ?????? ?????? ?????????????? ?????? [COM(2012) 605 ??????] (?.. 7 ??? 10), ??? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???.

49 ? ?????????? ????.

50 ?. ?????? Faaborg-Gelting Linien (????? 13).

51 ?. ?????? Faaborg-Gelting Linien (????? 15).

52 ?. ?????? Faaborg-Gelting Linien (????? 14).

53 ?. ?????? Bog ?.. (?????? 19, 21, 36 ??? 43).

54 ?. ?????? Bog ?.. (????? 8).

55 ?. ?????? Bog ?.. (????? 13).

56 ?????? CinemaxX (????? Flebbe Filmtheater) (C?499/09), ?. ?????? Bog ?.. (????? 26).

57 ?????? Lohmeyer (C?501/09), ?. ?????? Bog ?.. (????? 32).

58 ?????? Fleischerei Nier (C?502/09), ?. ?????? Bog ?.. (????? 38).

59 ?. ?????? Bog ?.. (????? 8).

60 ?. ?????? Bog ?.. (?????? 77, 79 ??? 80).

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

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

63 ?. ?????? 80 ??? ?????? ??????????.

64 ?. ?????????????? ?????? ??? ?????????? ??? ?????? 86? ?????????? ??? ?????????? ???, ??? 18?? ??? 19?? ?????? 2009 [taxud.d.1 (2009) 357988], ?????????? ??? ?????????? ?????????? ?????????? ??????????: https://ec.europa.eu/taxation_customs/sites/taxation/files/guidelines-vat-committee-meetings_fr.pdf (?.. 117 ??? 118). ?? ?????? ??????????????, ??????, ??? ??? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ??? ?????????? ?????????? ??????????:

– ? ??? ?????? ??????, ?????? ? ?? (?? ??????????, ?????? ?? ?????? ??? ?????? ??? ??????????, ?????? ?????? ? ?????? ??????????)?

– ?? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?? ?????????? ???????

– ???????, ?? ?????? ??? ?????????? ?????? ?????????? ?????? ??????????, ?? ?????? ??? ?????? ??? ??????????

?????? ????/? ????? ???? ???? ???? ???? ???? ???? ???? ???? ???? ????.

?????????, ??? ? ?? ???? ???????, ??? ??????????? ?????, ? ?????? ?????? ???/?
?????, ????? ?????????? ??????????, ????? ??????? ??????, ? ?????? ??? ??????
????????????? ????? ??? ?????? 31 ??? 37 ??? ?????? ????. ?? ????? ??? ?????? ??
????????? ?????? ?????????? ??? ??? ?????????? ?????? (?????????????????????).
?? ?????, ?? ?????? ?? ?????????? ???), ??????? ?? ??? ?????????? 1 ???
????????? ??? ??? ?????? ???.

65 ???. ?????? 21 ??? ??????? ??????????.

66 ??., ?????? ????, ?????? ??? 27?? ?????? 2019, Belgisch Syndicaat van Chiropraxie
??. (C?597/17, EU:C:2019:544, ??? 48 ??? ??? ?????????????? ??????????).

67 ???. ?????? 20 ??? ??????? ??????????.

68 ???. ?????? 74 ??? 82 ??? ??????? ??????????.

69 ?????. ?????? Bog ??. (????? 64).

70 ??., ??????, ?????? ?????? ?????? ?????????????? ??? ?????? 31 ??? ?????? 21??
????????? 2018, Fontana (C?648/16, EU:C:2018:932).

71 ???. ?????? 81 ??? ??????? ??????????.

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