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Case C-40/09

Astra Zeneca UK Ltd

Case

Commissioners for Her Majesty's Revenue and Customs

(Tax and Duties Tribunal, Manchester, Case C-40/09, 2010)

«The Commission states that, according to Article 1(1) of Directive 2006/112, the taxable amount is the value of the goods or services supplied, including any taxes, duties or surcharges, exclusive of VAT, which is added to the net value of the goods or services supplied to the consumer. The Commission further states that, according to Article 1(2) of Directive 2006/112, the taxable amount is the value of the goods or services supplied, including any taxes, duties or surcharges, exclusive of VAT, which is added to the net value of the goods or services supplied to the consumer. The Commission further states that, according to Article 1(2) of Directive 2006/112, the taxable amount is the value of the goods or services supplied, including any taxes, duties or surcharges, exclusive of VAT, which is added to the net value of the goods or services supplied to the consumer.»

Article 1(1) and (2) of Directive 2006/112

The Commission states that, according to Article 1(1) of Directive 2006/112, the taxable amount is the value of the goods or services supplied, including any taxes, duties or surcharges, exclusive of VAT, which is added to the net value of the goods or services supplied to the consumer. The Commission further states that, according to Article 1(2) of Directive 2006/112, the taxable amount is the value of the goods or services supplied, including any taxes, duties or surcharges, exclusive of VAT, which is added to the net value of the goods or services supplied to the consumer.

(Article 1(1) and (2) of Directive 2006/112, Case C-40/09, 2010)

Article 1(1) and (2) of Directive 2006/112, Case C-40/09, 2010. The Commission states that, according to Article 1(1) of Directive 2006/112, the taxable amount is the value of the goods or services supplied, including any taxes, duties or surcharges, exclusive of VAT, which is added to the net value of the goods or services supplied to the consumer. The Commission further states that, according to Article 1(2) of Directive 2006/112, the taxable amount is the value of the goods or services supplied, including any taxes, duties or surcharges, exclusive of VAT, which is added to the net value of the goods or services supplied to the consumer.

Article 1(1) and (2) of Directive 2006/112, Case C-40/09, 2010. The Commission states that, according to Article 1(1) of Directive 2006/112, the taxable amount is the value of the goods or services supplied, including any taxes, duties or surcharges, exclusive of VAT, which is added to the net value of the goods or services supplied to the consumer. The Commission further states that, according to Article 1(2) of Directive 2006/112, the taxable amount is the value of the goods or services supplied, including any taxes, duties or surcharges, exclusive of VAT, which is added to the net value of the goods or services supplied to the consumer.

(??, ??????? 29-32, 35 ??? ????????)

???????? ???? ????????????? (????? ??????)

??? 29?? ??????? 2010 (\*)

«???? ?????? ??? – ????? 2, ????? 1 – ?????? ??? “???????? ?????????? ?? ????????? ??????”  
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???? ????????? C?40/09,

?? ?????????????? ??????? ?????????? ?????????????????? ?????????? ?????????? ??? ??????? 234 ??,  
??? ?????????? ?? VAT and Duties Tribunal, Manchester (????????? ??????????), ?? ?????????? ???  
16?? ?????????????? 2009 ? ?????? ?????????? ??? ?????????????? ????? 29 ?????????????? 2009, ???  
????????? ??? ??????

**Astra Zeneca UK Ltd**

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**Commissioners for Her Majesty’s Revenue and Customs,**

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

????????????? ??? ????? K. Lenaerts, ?????????? ??????????, R. Silva de Lapuerta (?????????????), E.  
Juhász, T. von Danwitz ??? D. Šváby, ??????????,

????????? ??????????????: P. Mengozzi

?????????????: N. Nanchev, ?????????????? ??????????????,

????????? ?????? ??? ?????????? ?????????????? ??? ?????????? ??? ??’ ?????????????? ?????????????? ???  
11?? ?????????? 2010,

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

– ? Astra Zeneca UK Ltd, ?????????????????? ??? ????? M. Conlon, QC, ??? D. Southern,  
barrister, ?????????????? ???’ ?????????? ??? G. Salmond, solicitor,

– ? ?????????????? ??? ?????????? ?????????????, ?????????????????? ??? ??? H. Walker,  
????????????????? ??? ??? N. Fleming, QC,

– ? ?????????? ??????????, ?????????????????? ??? ????? K. ?????????? ??? I. ?????????????,  
?????? ??? ??? ?? ?. ??????,

– ? ?????????? ??????????, ?????????????????? ??? ??? R. Lyal ??? ??? M. Afonso,

???? ?????? ??? ?????? ?????????????? ??? ?????????? ??? ?????????????? ??? ?????? ?? ??????????????  
??? 22?? ?????????? 2010,

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1 ? ?????? ?????????? ?????????????????? ?????????????? ?????? ??? ?????????? ??? ??????? 2,  
???????? 1, 6, ?????????????? 2, ?????? ???????, ?????????? ??, ??? 17, ?????????????? 2, ??? ??????  
????????? 77/388/??? ??? ??????????????, ??? 17?? ?????? 1977, ?????? ?????????????????? ???  
????????????????? ??? ??????? ?????? ??? ?????????? ?? ?????? ??????? ??????? ?????????? – ??????  
????????? ?????? ?????????????????? ??????: ?????????????? ?????????????? ?????? (?? ????. ????. 09/001, ?.  
49), ?????? ?????????????????? ?? ??? ??????? 95/7/?? ??? ??????????????, ??? 10?? ?????????? 1995  
(?? L 102, ? 18, ??? ??????: ?????? ???????).

2 ? ?????? ???? ?????????????? ??? ?????????? ?????????? ?????????? ??????? ??? Astra Zeneca  
UK Ltd (??? ?????: Astra Zeneca) ??? ??? Commissioners for Her Majesty's Revenue and  
Customs (??? ?????: ?????????? ??? Commissioners), ?????????? ?? ??? ?????? ??????????????????  
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3 ?? ?????? 2, ??????? 1, ??? ?????? ?????????? ?????????:

«????? [????] ??????????????:

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

«1. ?????????????? ?? “????????????????? ?????? ??????” ?????????????????? ??????, ?????? ?????? ??????????????  
??? ?? ?????????????????? ??????, ??? ??? ??? ?????????????????? ?????????????????????? ??? ??????????????????  
????? ?????????????? 2, ?????????????????? ??? ?????????????????? ?????????? ??? ?????????????????????? ???  
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2. ?????????????????? ??????????????????????, ?????? ??? ??????? ??? ?????????????? 1, ?????? ?????? ??  
????????????????????? ??? ??????????????, ??? ?????????? ? ??? ?????????????? ??????????????  
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????????, ?????? ??? ?????? ?????????????? ??????? ?????????????? ??????????????».

5 ?????? ?? ?????? 5, ?????????????? 1, ??? ?????????:

«?? “????????????? ???????” ?????????????? ? ?????????????? ??? ?????????????? ?? ?????????????? ?????????? ??????????  
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6 ?? ????? 6, ?????????? 1, ????? ?????, ?? ? ???? ??????? ??????:

«?? “?????? ??????????” ?????????? ????? ?????, ? ????? ???? ?????????? ?????????? ?????? ?????  
???? ?????? ???? ??????? 5.»

7 ?? ????? 17, ????????????? 2, ?????????? ??, ??? ?????? ?????????, ?? ?? ??????????? ????  
????????????? ???? ???? ?????? 28?? ???? ?????????, ????????????:

«???? ???? ?????? ???? ???? ???? ? ???? ?????????? ?????????????????????? ???? ???? ?????????????????? ????  
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?) ??? ?????????????? ? ?????????????????? ??? ?????????????? ???? ?????? [????] ??? ?? ?????? ??? ???  
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? ?????????????? ???? ???? ?????????????????? ???? ?????? ?????????????????? ????? ??????».

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8 ? Astra Zeneca ?????? ?????????? ??? ?????????????????????????????? ????? ?????? ???  
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9 ? ?? ?????? ?????????? ?????????? ??????? ?????????????????? ???, ?? ?????????? ??? ?????????????????? ?????  
???, ??? ?????????? ?????????? ?????????????????? ?? ???? ?????????? ?????????? ?????, ?? ???? ???????????  
«????????????? ??????????» («Advantage Fund», ??? ??????: ?????????? ??????????), ?? ??????  
????????????????????? ???? ?????? ?????????????????????? ?? ?????? ???, ?????????????????, ?????????????? ?????????? ????  
????????? ?????????????? ?? ???? ?????????????? ?? ?????????????????, ??? ???? ?????????? ??? ???? ???? ?????????  
???? ?????????????? ? ?????????????????? ?????????????????? ??????????????????, ? ??????  
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10 ?????????? ??? ???? ???? ?????????? ??? Astra Zeneca ?????? ?????? ?????????????????? ???  
????????????????????????????? ?????????????? ?????????????? ?? ?????? ?????? ?????????? ?? ?????????????????????????? ??  
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11 ?? ?????????????? ?????? ?????? ?????????????????? ????? 10 ?????? ?????????????? (GBP), ????? ???  
????????????? ?????????????? ???? ?????????????????? ?????????????????????? ?????????????? ????? (???????? 9,25 GBP ???  
9,55 GBP).

12 ? Astra Zeneca ?????????????????? ???? ?????????????? ???? ???? ???? ???? ???? ?????????? ???? ???? ?????  
????????????????? ?? ?????????????? ???? ???? ???? ?????????, ???? ?? ?????????????? ???? ?????????????? ??????  
????????????????????? ???? ???? ???? ?????????????????? ?? ?????????????? ?? ?????? ?????????? ???? ???? ???? ?????  
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13 ??????, ? Astra Zeneca ??????????????????, ?? ?????????????, ??? ?? ?????????? ?? ?????????????????? ??  
????????????? ???? ???? ???? ?????????????????? ?????? ???? ?????? ?????? ??????????????, ?? ?? ?????????????? ???? ??  
????????? ???? ?????????????????????? ?????? ?????????????? ?????????? ???? ??????????????????, ??????, ?????? ??????,  
?? ?????????????????? ?? ?????????????? ???? ???? ???? ?????????? ???? ?????????????????? ?????? ?????????????????, ?????????????  
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14 ???' ??????????????, ? Astra Zeneca, ?????? ?????????????? ?????????? ???? ?????????????????? ???, ??????????  
????? ?????????????? ??? Commissioners ?????????????? ?????? ?????????????????? ???? ?????? ?????????? ??? ?????  
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15 ??????????, ? ?????????????? ??? Commissioners ?????????????? ???, ?????????, ? Astra Zeneca ???

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?????????, ?????? ?? ?????????? ?????? ?????????????????????? ??? ??? ?????????? ??? ???  
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16 ? ?????????? ??? Commissioners ?????????? ???, ????????????????, ? Astra Zeneca  
????????????? ?? ?????????, ?? ????? ?????????, ??? ??? ??? ?????????? ?????? ??? ?????? ???  
????????????, ????? ?????????????????? ?? ?????????? ??? ??? ??? ?????????????????? ????? ?????????? ?????  
?????? ??????????????????, ?? ?? ?????????? ??? ?????? ?? ?????????? ?????????????????? ?? ??????????  
????????, ????? ?????????? ??? ?????? ??? ?????????????????????? ??? ?????????? ?????????? ???  
?????????????????, ????? ?? ?????????? ?????????? ??? ?????????? ??? ?????????????????? ?????????????????? ??  
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????????? ?????? ?????????????, ?????????????? ??? ? ?????? ??? ?????????????????? ?????????????? ??????????????????  
??? ?????????? ?????????? ??? ??????????????, ? Astra Zeneca ?????????????????? ?? ??????????, ?? ?????  
????????, ??? ??? ??? ??? ?????? ??????

17 ???' ?????????????, ? ?????????? ??? Commissioners ?????????? ??? ?????????? ??? Astra Zeneca  
????? ?????????????? ??? ?????? ?????????? ???, ?????? ?????????? ?????????? ??? ?????????????????? ???,  
????????? ?????????? ?????????? ?????? ?????????? ??? ?? ?????????????? ??? ?????????????????? ???, ??  
????????????? ??? ?????????????? ??? ?? ?????????????? ?????????????????????? ?? ?????????????? ?????????? ??? ??? Astra  
Zeneca ?????? ?????????????????? ???.

18 ? Astra Zeneca ?????????? ?????????????? ?????? ??? ?????????? ?????????????? ?????????? ??? ??????????????  
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19 ??? ??? ?????????????? ??????, ?? VAT and Duties Tribunal, Manchester, ?????????????? ??  
????????????????? ?? ?????????????????? ??? ?? ?????????????? ??? ?????????????????? ?? ?????????????? ??????????????????  
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«1) ??? ??? ?????????????????? ??? ?????????????? ?????????????, ?????? ?????? ?????????????????? ?????????????? ??  
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??? ?? ?????????????? ??????????????, ?????? ?? ?????? 2, ?????????????? 1, ??? ?????? ?????????? [...] ???  
????????? ??? ? ?????????????? ??? ?? ?????? ?????????????????? ??? ??? ?????????????? ?????? ?????????????????? ??????????  
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2) ?? ?????????????? ?????????????? ?????????????????? ??? ?????? ??????????, ?????? ?? ?????? 6, ??????????????  
2, ?????????????? ??, [????? ?????? ??????????] ??? ?????????? ??? ? ?????????????? ??? ?????????????? ??? ???  
????????????? ?????? ?????????????????? ?????????????? ?? ?? ?????????????? ?????????????? ?????????? ?? ?????????????????????? ??  
????????? ??????????????, ?????????????????????? ?????????? ??? ?? ?????????? ?????????????????????? ??? ?????? ?????? ???  
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3) ?? ? ?????????????? ??? ?????????????? ??? ?????????????? ?????? ?????????? ?????????????? ?? ??????????????  
????????? ?????? ??? ?????????? ??? ?????????? 2, ?????????????????? 1, [????? ?????? ??????????], ?????? ??????????  
????????????????? ?????? ?? ?????????? 6, ?????????????????? 2, ?????????????? ??, [????? ?????? ??????????], ?? ?????????? ??  
????????? ?????? ??? ?? ?????????? 17, ?????????????????? 2, [????? ?????? ??????????] ?????????????? ??? ??????????????  
??? [?????] ??? ?????? ?????????????? ? ?????????????????? ?????? ??? ?????? ??? ??? ?????????????? ??? ??????????????  
????? ??????????????????, ?????????? ?? ?????? ?????? ??? ?????????????? ?????????????, ?????????? ?? ??????????  
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20 ?? ?? ?????? ?????????, ?? ?????????? ?????????????????? ??????, ???' ?????????, ?? ?????????????????????? ??

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

21 ???????, ?????? ?? ?????????????? ??? ? ????? ??????? ?????????? ??? ????? ????? ??????  
????????????? ??? ??, ?????????? ??? ???????????????, ??? ????? 2, ??????? ?? ???  
???????????????????? ???????, ?????? ??? ??? ?????????????? ???????, ??? ?????????????? ??????? ??? ???  
????????? ?????????? ??? ?????????????????????? ?? ?????????? ??????? ??? ?????????? ??? ??????  
??? ??? ???????, ??? ????? 4, ?????????????? 1, ?? «????????????? ????? ?????» ?????????????????? ??????,  
????? ?????? ?????????????, ?????????????? ?????????????????? ??????? ??? ?????? ? ???  
????????????????????? ??? ?????????????????????? ?????? (?? ?????????????? ??? 26?? ????????? 1987, 235/85,  
?????????? ???? ???? ??????, ????????? 1987, ?. 1471, ????? 6- ??? 12?? ??????????????? 2000,  
C?260/98, ?????????? ???? ?????????, ????????? 2000, ?. I?6537, ????? 24, ??? ??? 12??  
????????????? 2009, C?154/08, ?????????? ???? ??????????, ??? ???? ?????????????????? ?????? ???  
?????????, ????? 87).

22 ??????? ?? ??? ??????? ??? ??????? 4, ?????????????? 2, ??? ?????? ?????????, ??????? ???  
????????????????? ?????????????????????? ?????????????????????? ???? ?? ?????????????????????? ??? ?????????????,  
??? ?????????? ? ??? ?????????????? ?????????????? (?? ?????????????????????? ?????????????? ?????????? ????  
????? ??????, ????? 7, ?????????? ???? ?????????, ????? 25, ??? ?????????? ???? ??????????, ?????  
88).

23 ? ?????????? ??? ?????????? ?????? ?????????? ??????? ??? ??????? ??? ??????? ?????????????? ???  
????????????? ? ??????? ??? ?????????????????? ?????????????????????? ??? ??? ?????????????????????? ??????????????  
???, ?? ?? ??? ??? ? ?????????????????????? ?????? ?????????????? ??????????, ?????????????????? ??? ??????? ?  
??? ?????????????????????? ??? (?? ?????????????????????? ?????????????? ?????????? ???? ???? ??????, ?????  
8, ?????????? ???? ?????????, ????? 26, ??? ?????????? ???? ??????????, ????? 89).

24 ??????? ??? ?????????? ??? ??????? ?????????????? ??? ???, ?????????????? ? ?????????????? ???  
?????????, ??? ? Astra Zeneca, ?????????? ?????????????? ?????????????????????? ?????? ??? ??????? ???  
?????? ?????????, ?? ?? ??? ??? ?????????? ?????????? ?????????????? ?????? ?????????????????? ??? ???????  
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25 ?? ?????????? ???? ?????????? ??? ??????? ??????? ?????????????? ?????????????? ?????????? ??????  
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?? ?????????????????????? ??????????????????, ?? ??????????, ?????? ?????????????????????? ? ?????????? ?????????????????? ??  
?? ??????? 31 ??? ?????????????? ???, ?? ?? ???? ?????????? ?? ?????????? ??? ?????????????????? ???  
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26 ???? ??????????, ??? ?????? ??? ?? ?? ???? ?????????? ??? ?????????????????? ?????? ???  
????????? ?????????????? ???????, ? ?????????? ?????? ??? ?????????, ??? ?????? ?????????? ??? ???,  
«????????????? ??????» ???? ??? ??????? ??? ??????? 5, ?????????????? 1, ??? ?????? ?????????, ?????  
?????? «????????? ??????????» ???? ??? ??????? ??? ??????? 6, ?????????????? 1, ??? ?????????,  
????????????? ???, ?????? ??? ?????????? ?????? ?????????????, ?????? ?????? ??? ??? ?????????  
????????????? ??????, ?????? ??? ??????? ??? ??????? 5, ?????????????? ?? ??????? ??????????????.

27 ?????????????? ?? ?????????????? ?? ??????? ?????????????? ?????? ? ?????????? ??? ?????????? ???  
????????????? ??? ??????? ?????? ?????????????????????????? ?? ?????????? ???????, ?????????????????????? ???,  
????? ?????? ??????????????, ? ?????? ?? ?????? 2, ??????? 1, ??? ?????? ?????????? ??????? ??? «?????????  
????????????? ??? ?????????????????????????? ?? ?????????? ??????» ?????????????????? ??? ??????? ???????  
?????????? ??????? ??? ?????????????????? ?????????????? ??? ??? ?????????????????????? ?????????????????? (??.  
????????????? ??? 8?? ????????? 1988, 102/86, Apple and Pear Development Council, ????????? 1988,  
?. 1443, ????? 12- ??? 16?? ?????????????? 1997, C?258/95, Fillibeck, ????????? 1997, ?. I?5577,



??? ?????? ??? ?? ?????? ????? ?????????????? ??? ?????? ??? ?????????? ????? ?? ??????  
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36 ??????? ??? ?????????? ??? ?????? ??? ?????? ?????????, ?????????? ? ?????????? ???  
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37 ?????????? ??? ? ?????????? ?????????????? ????? ?? ?????? ?????? ?????????????? ??? ??????? ??????  
??? ?????????????? ?????????????????? ??? ?????????? ?????????? ??? ?????????? ????????????????, ?' ????  
????????????????? ?? ?????????????? ??? ??? ?????????????? ??????????. ?? ?????? ??? ?????? ??????????????  
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??? ?????? ??????? ???????, ?? ?????????????? (?????? ??????) ??????????????:

?? ?????? 2, ??????? 1, ??? ?????? ????????? 77/388/??? ??? ??????????????, ??? 17?? ??????  
1977, ???? ?????????????????? ??? ?????????????? ??? ??????? ?????? ??? ?????????? ?? ?????  
????????? ??????? ??????????? – ?????? ?????????? ?????? ?????????????????? ??????: ??????????????  
????????????????? ????, ???? ?????????????????? ?? ??? ????????? 95/7/?? ??? ??????????????, ???  
10?? ?????????? 1995, ???? ??? ??????? ??? ? ?????????? ?????????????? ?????????????? ???  
?????????, ? ?????? ??????????? ?? ?? ?????? ??????????? ?? ?????? ?????????????????????? ?????  
????????????????????? ??????, ?????? ?????? ?????????????? ??? ?????????? ??? ?? ??????? ??????  
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(?????????????)

\* ??????? ??????????????: ? ?????????.