

???????? C-267/09

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«????????? ??????? ?????? – ?????????? ??????????? ??? ?????????? – ????? 56 E? ??? 40 ???  
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(?????? 56 E?. ??????? 77/799 ??? ??????????)

(?????????? ???. ????. ???., ?????? 40-????????? ????. ?????????????? 77/799 ??? 2008/55)

1. ?????????? ? ?????????? ??? ?????????????????????????? ??? ?????????????? ?????????? ??? ?  
????????????? ??? ?????????????? ?????? ?? ??????? ?????????? ??? ?????????? ?????? ?????????? ?????????? ???  
????????????? ?? ?????????, ??????? ?????? ?????????????????? ?????? ?????? ?????? ?? ?????? ?????? ??? ?????? ??????  
????? ?? ?????????? ??? ?????? ?????????? ?????????????? ?? ??? ?????? ?????????? ?????????????? ???  
????????????? ??? ?????????????? ?????, ??????? ?? ?????? ?????????? ?????????? ?????????????? ???  
????????? ??????????. ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????????????? ? ?????????????? ???  
????? ??? ?? ?????????????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???  
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????????? ?????????? ?????????????? ??? ?????????? ?????????? ?????????? ?????????? ?????????? ??????????, ?  
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????????????? ??? ?????? ?????????? ?????????? ?????????? ?????????????? ?????????? ?? ?????? ??? ?????? ???  
??? ?????? ?????????? ??????????, ??????? ??? ?????? ?????????? ?????????? ?? ?????????? ?????????? ???  
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????????? ??????? ??????????? ??????? ??????????? ??? ??????????? ?????????????? ??????????? ???  
?????????? ?? ????? 56 ?? ? ??????? ??? ??????? ?? ??????? ??? ??????????? ??? ??????????????,  
????????? ??????? ??? ??????? ??????????? ??? ??????? ??? ??????? ??? ?? ?????? ??????? ???????, ???  
?? ??? ??????????? ??? ?? ??????????? ??????????? ??? ??????????? ??? ??????????? ??? ???????????  
????? ??? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ??????????? ??? ??????? ???  
????????? ??? ??????? ??? ??????? ??? ??????? 77/799 ??? ????? ??????????? ??? ??? ??????????? ???  
????? ??????.

? ???????, ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? 56 ?? ?????? ???  
?? ?????? ??????? ??? ??????? ?? ??? ?????? ?????????? ?????? ??? ?????????? ???  
????????????? ??? ??????? ?? ?????????? ??? ?????????? ?????? ??? ?????????? ???  
????? ????, ??? ??????? ?????????? ?????????? ??? ?????????? ??? ?????????? ???  
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(???. ??????? 38, 42-43, 53, 61, ??????. 1)

2. ??????? ?? ?????????? ??? ?????????? ?????????????? ??? ?????????? ???  
?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? (???)  
?????? ?????? ?? ?????????? ?? ??????? ?? ?????? 40 ??? ?? ?????????? XII ??? ?? ???  
?????????, ?? ?????????? ?????? ??? ?? ?????? ?????? ?????????? ?? ??? ???' ??????  
????????? ?????? 56 ?? . ???????, ? ?????????? ?????? ?? ???  
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? ???????, ??? ?? ??????? ??? ? ?????????? ?????????? ?????????? ?????????? ???  
????????????? ??? ?????????? ??? ?????????? ?????????? ?????????? ??? ??? ?????? ???  
????? 56 ??? ?????????? ??? ???, ?????? ??? ?????????? ??? ?????? ??? ?????? ???  
????????? ?????? ?? ?????????? ??? ?? ?????? ??? ?????? 40 ??? ?????????? ??? ???  
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? ??????????, ??????, ?????, ?? ?????? ?????????? ?????? ??? ?????????? ???  
????? ???? ??? ?????? 77/799, ??? ??? ?????? ?????? ??? ?????????? ??? ?????????? ???  
????? ???? ??? ?????? ??? ?????? ??? ?????? ??? ?????, ?????? ??? ??? ?????? 2008/55, ???  
??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ?????? ??? ?????????? ???  
??????, ?????? ??? ?????? ??? ?????, ??? ?????????? ?????? ??? ?????????? ???  
??? ?????? ?????? ?????? ??????, ?? ?????????? ??? ?????? ??? ?????? ?????? ???  
????????? ?????????? ??????????, ???, ?????????, ?????????? ??? ?????????? ?? ?????? ???  
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??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??????????????, ? ?????????? ?????? ?????????? ?????????? ??? ?????????? ???  
????? ?????????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??? ??? ???  
??? ??? ??? ??? ??? ?????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
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(???. ??????? 51-52, 54-57)

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??? 5?? ????? 2011 (\*)

«????????? ??????? ?????? – ??????? ?????????? ?????????? – ?????? 56 E? ??? 40 ???  
????????? ??? ???. ??? – ?????????? – ?????? ?????????? – ?????????????? ??????  
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???? ?????? C2267/09,

??. ?????????? ??????? ???. ?????? 226 ?? ??? ??????????, ? ?????? ??????? ???. 15  
?????? 2009,

????????? ???????, ?????????????? ??? ??? R. Lyal ??? G. Braga da Cruz, ?? ???  
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????????? ???????, ?????????????? ??? ??? L. Inez Fernandes,

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????????? ??? ???????, ?????????????? ??? ??? M. Muñoz Pérez,

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

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

????????? ??? ??? J.-C. Bonichot (??????), ?????? ???????, K. Schiemann, L. Bay  
Larsen, C. Toader ??? A. Prechal, ???????,

????? ??????????: J. Kokott

?????????: M. Calot Escobar

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?????? ??? ?????????? ??? ?????, ??? ?????? ?? ?????? ????????????, ?? ?????????? ???  
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1 ?? ??? ??????? ??? ? ??????? ??? ?????????? ?????????? ??? ?? ??  
????????? ?? ?????????? ???, ?????????? ??? ?????????? ?? ??? ?? ?? 130 ??  
????? ?????????? ?????????? ?????? (Código do Imposto sobre o Rendimento  
das Pessoas Singulares, ??? ????: CIRS), ??? ?????????? ??? ?????????????? ???  
????????? ?? ?????????? ?????????? ?????????? ??? ??????????, ? ??????????  
????????? ??? ?????????? ?????????? ??? ?????? ?????? 18 ?? ??? 56 ?? ???  
??? ?? ?????????? ??? ?????? ??? ?????????? ??? ??? ?????????? ?????????? ???,  
????? 1992 (?? 1994, L 1, ?. 3, ??? ????: ??????? ??? ??? ???).

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2 ?? ????? 40 ??? ??????? ??? ??? ??? ?????? ???:

«??? ?????? ??? ??????? ??? ??????? ?????????, ??? ?????????? ??????????  
????? ??? ?????????? ???, ??? ?????? ?????????? ??? ?????? ?? ?????? ???  
????? ??????? ?? ?????? ??? [????????? ??????????] ? ??? [????????? ??????  
????????? ?????????? – (????)] ??? ?????? ?????????? ??? ?????? ???  
????????? ? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????. ??? ?????????? ???  
????????? ?? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ???.

3 ?? ?????????? ??? ??? ?????????? ??? ???, ?? ??? «????????? ??????????  
?????????», ?????????? ??? 88/361/??? ??? ??????????, ??? 24?? ?????? 1988,  
??? ?? ??? ?? ??????? ??? ?????? 67 ??? ?????? [?? ??? ??? ?????????? ?? ??  
????????? ??? ??????????] (?? L 178, ?. 5). ?????? ??? ?????? 1, ?????????? 1, ??? ?? ???  
??????, ?? ??????? ?????????? ?????????? ?????? ?? ??? ?????????? ???  
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4 ?? ????? 130 ??? CIRS ?????:

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1. ?? ?????????? ?????????? ??? ?????? [????????? ??? ?????????? ??????????] ???  
?????????, ??? ??? ?? ?????? ?????? ?????? ??? ?????????? ??? ?????? ??????????  
??? ?????? ??? ??? ??? ?????? ?????? ?????????? ?? ?????? ??? ?????????? ???  
????? ? ?????? ??????, ?? ?????? ? ?????? ?????? ??? ?????????? ???, ??? ??  
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2. ??? ?????? ?????????? ??? ?????????? ? ?????????? 1, ? ?????? ?????? ??? ??????  
??? ?????? ?????? ?????????? ???, ?????????? ??? ?????? ??? ??????????  
??????, ?????????? ??? ? ?????? ??? ??????.

3. ?? ?????????? ?? ?????????? ??? ?????????? 1, ??? ?????????? ??? ??????????  
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????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????  
??? ??? ?????? ???, ?????????? ??? ??????.

5     ?? ?????????? ???????? 463/79, ??? 30?? ?????????? 1979, ?? ??? ???? ???  
????????? ??? ???? ??? ?????? ?????? ???, ?????? ??? ?????? ??? 2 ??? 3:

«????? 2

1.     ??? ??? ???????? ???????? ?????????????? ???????? ??? ?????? ?????? ??? ??????  
????????? ??? ??????????, ??? ???? ?? ?????????????? ??? ??? ?????????? ??? ?? ??? ?????? ???,  
????????? ?? ?????????? ?? ?????????? ?? ?????????? ?????????? ? ?? ?????????? ??????  
????????????? . ??? ???? ??? ?????? ???, ?????????? ?????? ?????????????? ?????????? ?? ??  
????????? ?? . ????. 1, ?????????? ??? ?? ?????????? ?? . ????. 3 ?? ?????????? ??????????  
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5.     ????? ?????? ??? ?????????????? ??? ?????? ?????? ?????????? ??????????, ?? ?????? ??????????  
????? ?????????? ?????? ?????????? ?????????? ?????????? ?????????? ?? ??????????  
????????? , ? ?????? ??? ?????????? ??? ?????? 2, ?????????? 1, ?????? ??? ???  
????????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????????????? ?????? ???  
????????? ?? ?????? ??? ?????? ?????? ?????????? .»

6     ?? ?? ??? ?????????????? ?????????? ?????????? ?? ??? ?????????? ??????????  
21.305/2003 (*Diário da República*, ??? II, ????. 256, ??? 5?? ?????????? 2003, ?, 16 629), ?  
????? ?????????? ??? ???? ?? ??? ?????? ?????????? ?????????? ?????????? ??? ??? ??????????  
????? ??? ?????? ?????????? ?????? ?????????? ?????????? ??? ?????????? ?????????? ???  
????????? ????, ?? ?????????? ?????? ??? ?????????? ?????????? ?????????? ?????????? ???  
????????? ?????????? ?????????? ??? ?????????? ?????? ??? ?????????? ?????????? ???  
????????? , ?????? ??? ?????? ?????????? ?????? ??????, ?????????? ??? ?????????? ??  
????????? ?????? . ? ??? ?????? ?????? ?????????? , ??????, ??? ?????? ?????? ?????????? ??  
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ??  
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???.

7     ? ?????????? 14/93 ??? 31?? ??? 1993 ??? ?????? ?????????? ?????????? ???  
??? ?????? ??? 4:

«? ?????????? ?????????? ?????????? ??? ?????? ?????????? ?????? ?? ??????????  
????????? ?????????? ??? ?????? ??? ?????????? ?????? ?????????? ?????????? ??????????  
????????? ?? ?????????? ??????, ?????? ??? ?????? ?????? ?????? ?????? ?????????? ???  
????????? ?????????? ?????? ?????? ?????? ?????????? , ??? ?????? ?????? ?????? ??  
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8     ? ?????????? ?????? ??? 18 ?????? 2007 ??? ?????????? ?????????? ??????????  
????????? , ?? ?? ??? ?????? ?????????? ??? ???? ?????? ??? ?????? ?????????? ?? ??????????  
?? ?????????? ?????????? ?????? ?????? ?????????? ?????? ?????????? ?????? ?? ??????????  
????? ??? ?? ?????? ??? ??? ?? . ? ?????? ?????? ?????????? ?????? ??? ?????????? ??? ??  
????????? ??? ?????? ??? ?????? ?????? ?????????? ?????? ??? ?????????? ?????? ???  
????? 18 ?? ??? 56 E?, ?????? ??? ??? ?????????? ?????? ??? ?????????? ??? ??? ???.

9     ?? ?? ??? 18     ????????? 2007 ??????, ? ?????????? ?????? ?????????? ???

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10 ? ?????????? ??????? ?? 26 ??????? 2008 ??? ?????????????? ???????????  
????????????? ??, ??????? ?? ?? ?????? ?? ?????? ?????, ??????????? ??  
?????????? ??, ?????? ?????????? ?? ?? ?????? ?? ?? ?????? ??, ???????.

12    ? ?????????? ??? ??????????????? ?? ??? ?????????? ??? ?????? ??? ?????????? ?? ??? ?????? ???  
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13 ? ?????????? ??????????? ?? ???? 130 ??? CIRS ?????????? ?????? ??????????  
????????? ??????????? ?? ???? ??????, ??? ?????? ??? ?????? ?????? ?????????? ???  
????????? ??????????? ?? ???? ?????? ??? ?????? ?????????? ?????????? ??? ??????????????  
??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??????. ??????, ? ?? ??? ?????? ?????? ???  
????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????  
????????? ?????????? ??? ?????? ??? ?????????? ?????????? ?????????? ?????????? ???  
????????? ??????. ??? ?????? ?????? ?? ?????? ??????, ??? ??? ?????? ??????????  
?????????, ??? ?? ??? ?????????? ?????? ?????? ?????? ??? ??? ?????????? ??????????  
??? ?????????? ?? ?? ??? ?????? ??????, ??? ?? ?????????? ?????????? 463/79 ??? ??  
????????? ?????? 21.305/2003. ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ??  
????????? ??? ?????? ???, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ??? ?????? ??????, ??? ?????? ??? ?????? ?? ?????????? ?????? ??? ?????  
????????? ??? ?????? 130 ??? CIRS.

14 ????????, ? ????????, ????????, ?????????????? ?????????????? ?????????????? ?????? ??? ???????????  
????????? ??? ?? ?????? ?? ?????? ?? ?????????? ?????????????? ?????????? ??? ?????????? ??? ??????  
????????? ?????????? ??? ?????????? ?????????????? ?????? ?????????? ?????????????? ??? ?? ??  
????????? ?????? ?? ?????? ?? ?????????????? ??? ?????????????? ??? ?????????????? ??? ??????????????  
????????? ??? ?? ?????????????? ?????????? ?? ?????????????? ?????????????? ??? ?????? ??? ?? ?? ??  
????????? ??? ?????????? ?????? ?? ?????????????? ?????????????? ??? ?????? ?????????? ??? ??????????, ?  
????????? ?????????? ??? ?????????? ?? ?????? ??? ?????????????? ?????????? ??? ?????? ?????????? ???  
?? ?????????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? 2008/55/E?, ??? ??????????,  
??? 26?? ?? 2008, ??? ??? ?????????? ?????????? ??? ??? ?????????? ?????????????? ??? ??????????  
?? ?????????? ??????????, ???????, ?????? ??? ?????? ?????? (?? L 150, ?. 28), ??? ??? ??????  
77/799/???, ??? ??????????, ??? 19?? ?????????? 1977, ??? ??? ?????????? ?????????? ???  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? (?? ????. ????. 09/001, ?. 86),  
???? ?????????????? ??? ??? ?????? 92/12/???, ??? ??????????, ??? 25?? ?????????? 1992  
(?? L 76, ?. 1, ??? ????: ?????? 77/799).

15      ????? ?????? ??? ?????????? ??? ?????????????? ??? ????? ????? ??? ?????????? ?? ??? ?????? ?????  
? ?? ?????? ??? ??????? ??? ????? ?????????? ??? ?????????? ??? (???, ???), ??? ???? ?????? ????

? ??????, ? ?????????? ??????????????, ??????, ??? ? ?????????? ??? ?????????????? ?????? ?????? ???  
????????????? ?????????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ??? ?????????? ???  
????????? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???,  
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
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16 ? ?????????? ?????????? ??? ?????? ??? ??? ?????? ?????????? ? ?????????? ??? ?????? 18 ??  
?? ?????????? ??? ??? ???? ?????? ??? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ??  
??????. ?????????? ??? ? ?????????? ??? ?????????? ?? ?????? 130 ??? CIRS ??? ???  
????? ???? ?????????? ??? ?????? ???, ?????? ?? ???? ?????? ?????????? ??? ?????? ???  
????????? ??? ??????, ??? ???????????, ?? ?????????? ??? ?????? ?????? ?????????? ??? ??????  
????????? ??? ?????, ?? ?????? ?????????? ?? ?????? 18 ??.

17 ? ?????????? ?????????? ??? ?????????? ?? ?????????? ?????????? ?????????????? ???  
?????????. ??????????, ?????????? ??? ? ?????????? ??? ?????????? ?????????? ???  
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????????? ?? ?????????? ??? ?????? . ??????, ?????????????? ??? ??????  
????????? ??? ???? 130 ??? CIRS ?????? ?????????? ??? ?????? ?????? ??? ?????? ???  
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ???, ? ?????????? ?????? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??  
????????? ??? ?????? ??? ?????????? ??? ?????? 42, ?????????? 2, ??? ??????????  
????????? ??? ?????????? ??? ?????????? ???, ??????, ??? ?????? ?????? ?????? ??? ??????????  
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ?????????????? ??? ?????????? ???  
?? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? 18 ??.

18 ??? ??? ??????, ??? ??? ?????, ??? ??????, ??? ?????, ??? ?????????????? ??????????  
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????????? ??? ??????, ? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ???  
?? ?????????? ??? ??? ?????? ??? ?????? 130 ??? CIRS ?????????? ?? ?????????? ???  
????????? ??? ??????, ??? ? ?? ?????? ???, ??? ?????? ?????? ?????????? ??? ???  
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19 ????????, ??? ??? ?????????? ?????????? ?????????? ?????????? ??? ??????????  
????? ??? ?????????? ?? ?????????? ?????? ?? ??? ?????? ?????????? ??????????  
????? 463/79 ??? ? ?????????? ?????? 21. 305/2003, ?? ?? ??? ?????? ??????????  
????? ?????????? ?? ?????????? ?????? ?????????? ?????????? ??? ?????? ?? ??????????  
????? ??? ??? ?????? ??? «????????? ??? ?????????? ?????? ?????????? ??????»,  
????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????, ??? ?????? ??? ??????????  
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20 ??? ????, ??? ??????, ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???  
????????? ?????????? ?????????? ?????????? ??? ?????? ?????? ?????? ?????????? ?????????? ???,  
????????? ?????????? ?????????? ???, ?????? ?????? ?????? ??? ?????? ?????? 130 ??? CIRS ????  
? ?????????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ???  
????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?? ??? ???  
????? ??? ?????? ?????? ?????? ???, ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ??????  
????? ??? ?????? ?????? ?????? ???, ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ??????

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

21 ? ?????????????? ?????????? ?????????????? ??????? ??? ?? ?????????????? ???  
????? 58, ?????????? 1, ?? ??????????, ?????? ??? ?????? 130 ??? CIRS ??? ??  
????????? ??? ?????????????? ??? ?????????? ?????? ?????? ?????? ??? ?? ?????????????? ???  
????????? ?????, ?????????? ??? ?????????? ?????? ?????? ?????????? ?????????????? ??????????????  
????????? ??? ?????? ?????? ?????????? ?????? ?????? ?????? ?????????? ?????? ??? ?? ??????  
????????? 77/799, ??? ?????????? ??? ???????, ??? ?????? ?????? ?????? ?????? ??? ?????? ???  
??? ?? ??? ?????? ?????????? ??? ?? ?????????? ?????, ???????, ?????????? ??? ?????? ???  
????????? ?????, ??? ?????? ?????????? ?? ?????????? ?????? ?????? ?????? ??? ??????????  
????????? ?????? ?????????? ?????? ???????, ??? ?????? ?????????? ?????? ?????? ?????? ???  
????????? ?????, ? ?????????? ??? ?????? ?? ?????????? ?????? ?????? ??? ?????? 2008/55, ???  
????? ??? ?????? ??? ?????, ? ?????? ??' ?????? ?????????????? ?????? ???  
????????? ??? ?? ?????? ??????????.

22 ? ?????????? ?????????? ?????????? ??? ? ??????? ??? ?????? ?? ?????????? ???  
?????? ??? ?? ????? 18 ??, ?? ?????? ?????? ??? ?????? ?? ?????????? ???????, ???  
??? ?????????? ??? ?????? ?????????? ??? ?????? 130 ??? CIRS. ????, ? ??????? ?? ???  
????????? ??? ?????? ??? ?????????? ?????? ?????????? ?????????? ??? ?????? ??  
????????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ???  
????????? ?????????? ??? ?????????? ? ?????? 77/799 ??? ?????????? ?? ?????? ??????????  
????? ??? ?????????? ??????.

23 ??? ?????????? ?????????? ??? ?? ??????? ?????????? ?????? ?? ?????????? ? ??????  
??? ??? ?????? ?????? ??? ?????????? ??? ? ?????????? ?????? ?????????? , ?????????? ???  
??? ?????? ??? ? ?????????? ??? ?????????? ??? ?????????? ?????? ?????? ???  
????????? ???????, ?? ?????????? ??? ?????? ?????????? ?? ?????????? ?????? ?????? ???,  
????????? ? ???, ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???,  
????? ??? ?????? ???????.

24 ??? ?????? ??? ?????? ?????? ?????????? ?????????? , ? ??????? ??? ?????? ??? ??  
????????? ???????, ?? ?????????? ?? ?????? 18 E?, ?????? ??? ?????????? ??? ?? ???????  
????? ?????? ?????????? ?? ?????????? ?????? ?????? . ??????, ?? ?? ??? ?????? ???  
????? ?????? ?????????? , ?????? ? ?????????? ??? ?????? ?????????? ?????? ???  
????????? ?? ??? ?????? ?????????? ?????? , ?????? ?????? ?????????? ?????? ???  
????????? ???, ? ?????? ?? ?????? ?? ?????????? ?? ?????????? ?????? ??? ?????? ???  
????????? ? ???????, ???, ??????, ?????? ??? ?????? ?????????? ?????? ???  
????????? ?????? . ??????, ? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ???  
????????? ??? ?????????? ??? ?????? ?????? . ?????, ?? ?????? ??? ?? ?????? ???  
????????? ??? ?????????? ??? ?????? ?????? . ?????, ?? ?????? ??? ?? ?????? ???  
????????? ??? ?????????? ??? ?????? ???.

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

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

25 ??? ?? ?????? 38, ?????????? 1, ??????? ??, ??? ?????????? ?????????? ???  
????????? ??? ?? ?????? ?????????? ?????????? ??? ?? ?????????? ??????????

?????? ?? ?????????????? ?? ?????????????? ?? ?????????? ?? ?????? ?? ?????????? ?????????? ???????  
??? ??????????, ???? ??? ? ?????????????? ??? ?????? ??? ?????? ?? ?????? ?????????? ??? ?????? ???  
??? ??????, ?????????? ? ???? ?? ?????? ?? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ??  
????????? ?? ?????? ??? ?????? ?? . ??????, ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ??  
????????? ??? ?????? ?????? ?????????? ??? ?????? ?? ?????? ?????????? ??? ?????? ??? ??????  
?????? ?? ?????????? ??? ?? ?????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??  
????????? ??? ?????????? ??? ?????? ?? ?????? ?? ?????? ??? ?????????? ??? ?????? ??? ??  
?? ??????????, ???? ?? ??? ?????? ?????????? ??? ?????? ?? ?????? ?????????? ?? ?????? ???  
ultra petita ???? ?? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?????? (??., ?????? ???,  
?????? ??? 14?? ?????????? 2010, C-343/08, ?????????? ??? ?????? ?????? ???????????, ??  
????????????? ??? ?????? ??? ??????, ??? 26 ??? ??? ?????????? ??????????).

26 ?? ??? ??? ?????? ???????, ? ??????? ???????, ???? ?? ?????????? ??? ?????? ???  
??? ?????????? ???, ??? ?? ??????????? ??? ? ?????????? ?????????? ?????????? ???  
????????? ??? ?????? ?????? ??? ?????? 18 E? ??? 56 E?, ?????? ??? ??? ??????????  
????? ??? ?????? ??? ??? ???.

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

28 ??? ???????, ??? ?????? ??? ?????????????? ?????? ?? ?? ?????????? ??? ??  
??, ?????????? ? ?????????? ??? ?? ?????????? ??? ?????? ?????? ?????? ??? ??  
?????????, ??????????, ?????? ?????? ??? ?????????? ??? ?????? 18 ?? ??? 56 E?,  
????? ??? ?????? ?????? ??? «????????? ?????» ??? ?? ??? ?????? ??????. ??????????,  
??? ???????????, ??????, ??? ? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ??  
????? ?? ?????????? ?????? ??? ?????? 40 ??? ?? ??? ?????? ??????. ??????????,  
????????? ??? ??????, ??????, ??????, ?????? ?????? ??? ?? ?????? 59 ???  
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????? ???  
?? ??? ?????????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ??  
????????? ?????? ?? ?????? 40 ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????? ??? ?????? ??????.

29 ??? ?????, ? ?????????? ?????? ?????????? ?????????? ??? ?? ?????????? ???  
????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ?????????? ??? ??  
??? ??????, ? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ???  
??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???  
????????? ??? ??????.

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

31 ??? ?? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ??? ??  
????? ??????.

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

32 ??????? ?? ?????????? ??, ??? ?????????? ? ???????, ?? ????? 130 ??? CIRS ??????  
????????? ?? ?????????? ?????????? ??????????, ??? ?????????? ?? ????? 56 ?? ??  
40 ??? ?????????? ??? ??? ???, ????? ??? ??? ?????????? ?????????? ??????????, ???  
????????? ?? ??? 18 ??.

-     ????? ?????? ??? ???????? ??? ?????? 56, ?????????? 1, E?

33 ??? ?????????????? ??? ?? ????? 130 ??? CIRS ?????????? ??? ?????????? ??????????  
?????????? ?????????? ??? ????? ?? ????? ?????????? ?????????? ??? ?????????? ?????????????  
????????? ??? ?????????? ?????????? ??? ????? ?? ????? ????? ?????????? ?????????? ???  
????????????? ??? ?????????? ?????????? ??? ?????? ?????? ?????????? ?????? ??? ??? ?????.  
???? ??? ??? ?? ?????? ?? ?????? ?????? ?????? ?????? ????? ?? ?????? ?????????? ????? ??  
????????? ??? ??? ????? ?????????? ??? ?????? 56 ??, ???????? ?????? ?? ?????????? ??? ?????? ?  
????????? ??? ?????????? ??? ?????????? ??? ? ?????????? ??? ?????????? ??? ?????? 130 ???  
CIRS ?????????? ??? ??????????, ??? ????? ?????????? ??? ?????????? , ??????????  
????????? ??? ?????????? ?? ??? ?????????????? ?????????? ??? ?????????? ?? ?????????.

34      ????? ?????? ??????????, ?? ??????? ?????????? ?????????????? ??? ??????????????  
????????? ?? ??????? ?????????? ??? ?????? ??????? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ??? ?????? ???, ??? ?????????? ??? ??? ?????????? ??? ?????? ??? ??????  
????????? ??? ?????????????? ??? ?????????? ? ??? ?????? 88/361, ?????? ?  
????????? ??? ?????????? ?? ??? ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ?????? (?. ??????? ??? 25? ?????????? 2007, C?370/05,  
Festersen, ?????? 2007, ?. I-1129, ????? 23, ??? ?? 11? ?????? 2007, C?451/05, ELISA,  
????? 2007, ?. I-8251, ??? 59).

35 ???????, ?? ??? 130 ??? CIRS ??????? ??? ????? ?????????? ??? ????? 56,  
????????? 1, ??, ??? ?????????? ?????? ??? ?????????????? ??? ?????????? ??????  
????? ??? ?????? ??????, ??? ??? ??? ?????? 40 ??? ?????????? ??? ??? ???, ?? ??????  
????????? ?????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
?? ??? ???????, ??? ?????? ??? ??? ?????? ??? ??? ??? (??., ??? ?????? ??? ?? ?  
????, ?????? ??? 28?? ???????? 2010, C?72/09, Établissements Rimbaud, ??? ??? ???  
????????? ??? ??? ???????, ??? 21).

36 ??????? ??..., ???????, ?? ???????, ?? ? ???????, ?? ? ???????, ?? ? ???????, ?? ???? 130  
?? CIRS ???????, ???????, ??? ???????, ???????.

37      ???????, ??? ?????????????? ???, ?????????? ?????? ?????? ?????????? ??????????????????  
??? ?????????? ?? ?????????? ?????????? ??????????, ?? ????? 130 ??? CIRS ???  
????????????? ?? ?????????? ?? ?????????? ?????????? ?????????? ??? ?? ?????? ??? ?????? ?? ??????  
??? ?????? ??? ?? ??? ????? ??????????. ??????? ?????? ?????????? ?????????????? ??? ?? ???  
?? ??? ?????????????????? ?????????? ?????????? ?? ??? ????? ?????????? ??? ?? ?? ??????????  
????????? ??? ?????????? ???, ????, ??? ?? ?? ?????????? ?? ?????????? ?? ?????????? ?? ??????. ??  
????? ?????????? ??? ? ?? ??? ????? ?????????? ??????? ?? ?????????? ?? ?????????? ?? ?????????? ???  
????????? ?????????? ??????????, ??? ????? ?????????????? ?????????? ?? ?????? 56,  
????????? 1, E? ??? 40 ??? ?????????? ??? ??? ???.

38 ??????????, ?????????????? ??? ??? ??? ?????? ??? ?????????? ??? ??? ??????????  
????????? ?????????? ?????????? ?????????? ? ?????????? ? ?????????? ??? ??????????????  
??? ?????????? ?????? ??? ? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???

?????????? ??????????? ??????? ????????, ? ??????????? ?????????? ?????????? ??????????  
???????, ??? ?? ?? ?????????? ? ????????, ?????????? ??? ??????? ?????????? ??????????  
??????? ?? ?????????????? ?????????? ??? ?????? ??? ?????????? ?????????? ???  
????????? ? ?????? (??., ?????? ???, ??????? ELISA, ????????????, ??? 81?  
?? 18?? ??????? 2007, C-101/05, A, ?????? 2007, ?. I?11531, ??? 55, ??? ?? ??  
11?? ?????? 2009, C-155/08 ??? C-157/08, X ??? Passenheim-van Schoot, ?????? 2009, ?. I-  
5093, ??? 45).

39      ????? ???? ??????????, ? ?????????? ??? ?????????? ? ??????? ?????? ?????????? ???????, ??????????, ??????????, ?????????????? ?????? ??? ?????????????? ??????, ?????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ? ?????? 2008/55 ??? ??? ? ?????? 77/799 ?????? ??? ??? ?????? ?????? ?????? ??????.

40    ?? ???? ??? ?????? 77/799, ??????? ?? ??????????? ???, ??????? ??? ???????????  
?????????? ??? ??????????? 1, 3 ??? 4 ??? ????? 1 ?????, ?? ??????? ????? ??? ??????  
????? ??????????????? ??? ????? ??????????? ??? ??????? ?? ??????? ??????? ??? ?????  
??? ????? ??????????. ??? ?? ????? 2 ??? ?? ????? ???????, ??? ? ??????????  
?????????? ??????????????? ??????? ??????????? ??? ??????? ??? ??????? ???  
?????????????? ??????? ??????. ??? ??????????? ??? ?? ?????? 3 ??? ??????? ???, ??  
???????? ?? ??? ??? ?????? ?????? ?????????????? ?????? ?????????????? ?????? ???????????  
?????, ????????, ??? ??????? ?????????? ?????????? ??? ?????????? ??? ?????????????? ???  
??? ?????? ? ?????, ??????? ?? ?? ????? 4 ?????, ??????????. ???, ??????? ?? ?? ???  
11 ??? ?????? 77/799, ?? ??????? ?????? ??? ??????? ??? ??????? ?????????? ??????????  
?????????? ??????? ?? ??? ??????? ?????????? ???????????, ??? ??????? ??? ??????? ??????  
?????? (????????????? ?????? ELISA, ??????? 39, 40 ??? 42).

41 ? ?????????????? ??????????? ??????????????, ??????????, ??? ??????? ?? ?????????? ??????  
????????????? ?????????????? ?????????? ??? ?????? 2 ??? ?????? 77/799 ???? ????  
????????? ??? ??? ??? ??? ??? ??????? ??? ?????? ?????????????? ??????????, ?????? ????  
??? ?????? ?????????? ??? ?????? ?????? ?????????? ?????????? ??? ??????????  
??????????, ??? ??? ??? ?????? ?????? ? ?????????? ?????????? ???? ?? ?????????? ?????? ???  
????????? ??? ?????????? ??? ??? ?????? ?????????? ?????????? ??? ?????????? ??? ?????????? ???  
????????????? ?????? ??????????.

42 ??????? ?? ?????????? ??????? ???, ??? ?????? ??????????, ? ?????????????? ???  
??? ?????????? ??? ?? ?????????? ??? ????? ?????????? ??????? ?? ?????? ?????? ???  
????????? ??? ?????? ?????????? ?????????? ?? ??? ?????? ?????????? ?????? ? ??????????????  
??? ?????????? ???, ?????? ?? ?????? ?????????? ?????????? ?????? ??????????  
??????????. ???????, ??? ?????? ?????????? ??? ?????????? ?????? ?????????? ???  
????? ??? ?? ?????????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???  
????? (??., ?????????? ?????? ELISA, ??? 91 ??? ??? ??????????).

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

44 ????????, ?? ??????? ?????? ?? ?????? ?????? ?????????????? ?????????????? ??????????????  
????????? ?? ???? ?????????????? ?????? ?????? ??????, ?????? ?? ??? ?????? ??? ??????  
????? ?????? ?????????? ?? ?? ?????????????? ?? ?????????? ?????? ? ?????????? ??????????

????????????? ??????????? ??? ??????? ????? ??????? ??? ?????????? ?????? ?????? ??????  
????????? ??? ?????????????? ??? ?????????????? ????? ?????????? ??? ?????????? ??????????  
????????????? ??? ?????????? ??? ?????? 77/799.

45    ????????, ??? ?????????? ???, ?? ??????? ?????? ??? ?????? ?? ??????? ???  
????????? ?????????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???  
????????? ??? ?????????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ???  
??? ?????????? ?????????? ??? ?????? ??? ?????? ???, ??? ?????????? ??? ?????????? ???  
?? ?????????? ??? ?????????? ? ?????? 77/799 ??? ?????? ??? ?????? ??? ?????? ?????????? ???.  
??????, ?????????? ?? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ???, ???????,  
?? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ???  
????? ?????? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? 2008/55, ?????? ??? ?? ??????  
??? ?????? ??? ?????????? ratione temporis ?? ??????????.

46    ?? ?????? ?????????? ??? ? ?????????? ?????????? ?????????? ?????????? ??????  
????? ??? ?????????? ??? ??? ?????????? ??? ?????? ?????????? ?????????? ??? ??????????  
????? ???, ???' ?????????? ??? ?????? ?????????? ? ?????????? ??? ? ?? ???  
????????? ??? ?????? ??? ?????? ?????????? ?????? ?????????? ??? ??????????  
????????? ?????????? ??? ?????????? ?????? ?????????? ?????????? ?????????? ??????????  
????????? ??? ?????????? ?????? ?????????? ?????? ?????? ?????????? ??? ?????? 56 ??.

47    ???????, ? ?????????? ?????????? ?????????? ?????????? ??? ?????? ?????????? ??????????  
????????? ?????????????? ??? «????????? ??????????» ??? ?????????? ? ??????????  
??????????, ?????????? ??? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????? ???  
????????????? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ?????? ??? ??????  
??? ?????? ?????????? ???, ?????????? ??? ? ?? ??? ?????? ?????????? ??? ?????? ??? ??????  
????????? ??? ?????????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ??? ??????????  
????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????????  
????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????????  
????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????????  
????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???  
????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ??????  
????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??????  
????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???  
????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???  
????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???  
????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???  
????? ??????.

48    ??????????, ??????????, ? ?????????? ???, ??? ?????????? ? ?????????? ? ??????????  
?????????, ? ?????????? ?????????? ?????????? ?????????? ??? ?????????? ?? ?????? 130  
??? CIRS, ??????????, ??? ?????????? ?? ?????????? ??? ?????????? ???, ?? ?????????? ???  
????????? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?? ?????? ???  
??? ?????????? ??? ?????????? ?????? ???, ??? ?????? ??? ?????? ?????????????? ???  
????????? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ?????? ??? ??????  
????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???  
????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???.

49    ??????????, ??? ?????????? ???, ?????? ??? ?????????? ??? ?????????? ???  
????? 3, ?????????? 5, ??? ?????????? ?????? 463/79 ??? ??? ??????????  
????????? 21.305/2003, ?? ?????????? ??? ?????? ?????????? ??? ??????, ??? ?????? ?? ??????  
??? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ?????? ??? ?????? ???, ?? ?? ??? ?????????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ?????? ??? ?????? ???, ??? ?????? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ?????? ??? ?????? ???, ??? ?????? ?????? ??? ?????? ??? ??????  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

? ?????????? ??? ?????????????? ??? ???? ??????? ?? ?? ?????? ??? ??????????????????  
????????????? ??????????????. ? ?????????? ??? ??????, ?? ?? ??????, ?? ?????????????? ???  
????????? ?????? ?????????????? ?????????? ????? ?????????????????? ?????????????????? ???  
??? ?????????? 14/93, ? ?????, ?????????? ??? ?????? ??? ?????, ??? ?????? ???  
????????? ?????????????? ??? ?????????? ?? ?????????? ????? ?????????? ?????? ??? ?????????? ???  
???? ?????? ??? ?????????? ??? ?????????? ?? ?????? 130 ??? CIRS. ??? ?????? ??? ??????????  
? ?????????????? ??? ?????? 46 ??? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ?? ??????????  
?? ?????????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????????? ??????????????  
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- ??? ?????? ??? ?????????? ??? ?????? 40 ??? ?????????? ??? ??? ???

50 ??? ??? ??? ?????? ?????? ??? ?????????? ??? ?????????? ??? ??? ??? ?????? ??? ?????? ?? ??????  
????????? ?????????? ??? ?????????? ?????? ?????????? ??? ?????????????? ??? ??????????  
????????? ??? ?????????? ?? ?????????? ??? ???, ?????? ???? ?????????????? ??? ??????????  
????????? ?????????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????. ??? ?? ?????? ???, ??????  
????????? ??? ?? ??? ?????? ?????????? ?????? ?? ?????????????? ??? ?????? ?? ??????  
????????? ?????? ??? ?????? ?????????? ?????? ??? ?????????? ??? ?????? ??? (???. ?????????? 1/92, ???  
10?? ?????? 1992, ?????? 1992, ?. -2821). ??? ?????? ???, ?????????? ????  
????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??? ???, ?? ??????  
????????? ???' ?????? ?? ??? ?????? ??? ???????, ?? ?????????????? ??? ?????? ??????????  
????? ???? ??? ?????? ??? (??????? ??? 23?? ?????????? 2003, C452/01, Ospelt ???  
Schlössle Weissenberg, ?????? 2003, ?. I-9743, ????? 29, ??? ??? 19?? ?????? 2009, C-  
540/07, ?????? ??? ?????? 2009, ?. I-10983, ????? 65).

51 ???????, ???????? ?? ?????????? ??? ?????????? ?????????????? ??? ??????????  
?????? ??????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ???  
????????? ?? ?????? ?? ?????? 40 ??? ?? ?????????? XII ??? ?? ??? ?????? ??????????, ??  
????????? ?????? ?? ?????? ??? ?????? ?????????? ?? ??? ???' ?????? ??????????  
????????? ??? ?????? 56 ?? (???. ?????? ??? 11?? ?????? 2009, C521/07, ?????? ???  
????? ????, ?????? 2009, ?. I-4873, ????? 33, ??? ?????? ??? ?????? ???,  
???????????, ??? 66).

52 ?????????? ??? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??????????  
????????? ??? ?? ?????? ??? ?????? 56, ?????????? 1, ??, ?????? ?? ?????? ???  
????????? ?????????? ?????????? ?????????? ??? ?????? ?????????? ? ??????????  
????????? ?? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ?????????? ???  
????????? ?????? ??? ?????? ?????? 40 ??? ?????????? ??? ??? ???.

53 ??????????, ????????, ? ?????????? ???, ??? ?????????? ??? ?????? ??? ?????? 43 ???  
46 ??? ??????? ????????, ? ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????????? ??? ?? ?????? ??? ?????? 56 ?? ??? ??? ?????????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ???  
??? ?????????? ??? ?????? ?????? ???, ?????? ?? ??? ?????? ?????? ??? ?????? ???  
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
77/799, ?????? ?????????? ??? ??? ?????? ?????? ?????? ?????? ?????? ??????.

54 ??????????, ??? ?????? ?????? ?? ?????????? ?, ?????????? ?????? ?? ???  
????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ???  
????? ?? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???  
????, ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (??., ??? ???

?????? ???? ?, ?????????????????? ??????? ?, ?????? 60, ??? ?????????? ????? ??????????, ?????? 69).

55      ?? ???????????, ?????? ?? ???????????, ??? ?????? ???????????, ??? ?????? ??  
????????? ?????? ?? ?????? ?????? ?????? ?? ?????? ?????? ?? ?????? ?? ?????? ?? ???? 77/799, ??? ??  
????? 2008/55, ?????? ?? ?????? ?????? ?????? ?? ?????? ?? ?????? ??, ??? ?????? ?????? ??  
?? ??????????????? ?? ?????? ?? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ??, ?? ?????? ?? ??  
????? ?? ?????? ?????? ?? ?????? ?????? ?? ?????? ?????? ?? ?????? ??.

57      ??????????, ? ?????????? ?????????? ?????????????? ?????????????, ?????????? ?????? ???  
????????????????? ??? ?????????? ??? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ???  
??? ??? ??? ??? ??????, ??? ?????? ?????? ??? ?????????? ?????? ??? ?????? ??? ??? ?????? ???  
????? ?????????????? ??? ?????????????????? ??? ?????????????? ??? ?????? ??? ?????? ???  
????????????? ??? ??????????????.

58      ???' ??????????, ? ??????? ?????? ?? ???????????, ??????? ?????? ??? ?? ?????? ???  
?????????? ??????????? ?? ?????? ??? ??????????? ?? ?????? ??? ?? ?????? ??? ?? ?????? 40 ???  
????????? ??? ???.

-      ????? ?????? ??? ?????????? ??? ?????? 18 ??

59 ? ????????, ???, ??? ?? ??????????? ?? ??????????? ?? ? ?????????? ?? ? ???????????  
?????????? ??, ??? ?? ??????????? ?? ? ??????????? ?? ? ??????????? ?? ? ?????? 18 ??.

60 ?????????? ??? ? ??????? ?????????? ??????? ?????? ??????? ?????? ??? ?????????? ??  
??? ??????? ??????? ?? ??? ?????? ??????? ?????????? ??? ????????, ??? ?????????? ??  
????????? ??????? ?? ??? ?????? ??????? ??? ?? ?????? ??? ?????? 18 ??, ?????????? ?? ???  
????????? ?????????? ??? ??????? (??., ???' ???????, ??????? ??? 26?? ?????????? 2006,  
C?345/05, ??????? ??? ???????????, ??????? 2006, ?. I?10633, ????? 45).

61     ???? ?? ??????? ??? ?????????????? ?????????????? ?????????????? ???, ?????????????? ???  
????????????? ?? ???? ?? ?????? 130 ??? CIRS, ??? ?????????? ??? ??????????????  
????????? ?????????? ?? ?????????? ?????????? ?????????? ??? ??????????, ???  
????????? ?????????? ?????????? ??? ?????????? ?????????? ?????????? ??????????, ? ??????????  
????????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????? 56 ??.

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

62      ????? ?? ?????? 69, ??????????? 2, ??? ?????????? ????????????, ? ??????? ??????????  
????????????? ?? ?????????? ?????, ?????? ?????? ?????? ?????? ?? ?????? ??????????  
?????????. ???? ?? ????? 69, ?????????? 3, ??? ?????? ??????????, ?? ?????????? ?????? ??  
????????? ?? ?????? ?? ?????????? ?? ?????? ?????? ?????? ?? ?????????? ?? ?????? ??  
????????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

63      ????? ?????????? ??????? ??????? ?? ??????? ?????? ??? ???? ?????????? ??? ?????????? ?

? ??????? ? ???????, ??????, ?? ??? ?????????? ??? ?????? 56 ?? ??? ?????? ???  
????????????????? ??? ?????????? ?????????????? ?????????? ?????????? ?? ??????????  
??????, ???, ???????, ??????? ?? ??? ?????????? ??? ?????????? ??? ??? ??? ???  
?????.

64 ?? ???????, ? ?????????? ?????????? ??? ?????? ?? ??? ?????? ??? ?????? ???  
????????? ??????, ??? ? ??????? ?????? ?? ?????? ?????? ??? ?? ??? ??????.

65 ??? ?? ??? 69, ?????????? 4, ?????? ??????, ??? ?????? ??????????, ?? ??????  
????? ??? ?????????? ??? ??? ?????? ?? ?????????? ??? ??????. ?? ?????????? ??? ??????  
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??? ??? ?????? ??????, ?? ?????????? (???????) ??????????:

1) ?? ?????????? ??? ?????????? ?? ??? ?????? 130 ??? ?????? ??????????  
????????? ?????? (Código do Imposto sobre o Rendimento das Pessoas  
Singulares, ??? ?????????? ??? ?????????????? ?????????? ?????????? ??  
????????? ?????????? ??? ?????????? ??? ??????????, ??? ?????????? ??????????  
????????? ??? ?????????? ?????????? ??????????, ? ?????????? ??????????  
????? ??? ?????????? ??? ?????? ??? ?? ??? 56 ??.

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

3) ? ?? ?????????? ??? ?????????? ??? ?????? ?? ??? ?????? ??? ?????? ???  
????????? ??????. ? ?????????? ?????? ??? ?????? ?? ??? ?????? ?????? ??? ?? ???  
?????.

4) ?? ?????????? ??? ?????????? ??? ?????? ?? ??? ?????? ??? ?????????? ???.

(?????????)

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