

???????? C-530/09

## **Inter-Mark Group sp. z o.o. sp. komandytowa**

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# Minister Finansów

(?????? ??? Wojewódzki S?d Administracyjny w Poznaniu

???? ???? ??????? ?????????????????? ??????????)

«???? – ??????? 2006/112/?? – ?????? 52, ???????? ??, ??? 56, ??????????? 1, ???????? ?? ???  
??? – ?????? ??????? ?? ?????????????? ?????? – ?????? ?????????????? – ???????,  
?????? ?? ?????????? ?????????? ??????????»

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

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

(?????? 2006/112 ??? ??????????, ??? 52, ??????? ?, ??? 56 § 1, ??????? ? ? ? ? ?)

? ??????? 2006/112, ??????? ?? ?? ????? ?????? ?????? ?????????????????? ????, ?????? ??  
?????????? ?? ?? ?????? ?? ? ?????? ?????????? ?? ?????????? ?? ??????????? ?? ???????????, ?? ??  
????????? ?? ?? ?????? ??, ???????????, ?? ?????????? ?? ?? ?? ?????????? ???????????  
?????????? ?? ?? ?????? ?? ?????????? ?? ??????????? ?? ?????????? ?? ?? ?????????? ?? ?? ??????????  
? ?????????? ?????????? ???:

- ??? ?????? 56, ??????????? 1, ?????????? ???, ??? ?????? ????????, ??? ???? ???? ??????? ??????  
??? ??' ?????????????? ??????? ??? ?????? ?????? ??? ????? ?????????? ???????  
?????????? ??????? ??? ?? ??? ????? ???????.

???? ? ? ?????? ?????? ??? ?????????? ????? ?????? ?????? ?????????????? ????????????, ???? ???  
?????? ? ? ? ?????? 56, ?????????? 1, ??????? ?, ??, ?????? ? ? ?????? ?????????? ????????????  
?? ?????????????? ??? ? ? ??????? ?????????? ?????????? ?????????????? ?? ?????????? ?? ????  
??? ??? ?????? ??? ??? ?????????? ??? ?????????? ? ??? ?????????? ??? ?????????? ??? ??????  
?? ?????? ??? ?????? ??? ???????, ? ?? ?????? ?????????? ????? ??????????????  
?????????? ? ? ? ?????????? ??? ?????????? ??? ?????????? ??? ?????????????? ??????????. ? ??????????

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

?????????, ??? ? ? ???? ?????????? ??? ?????? ??? ?????????? ?????? ??? ???? , ??? ??  
????????????? ? ?????? ?????? ?? ?????????? , ??? ? ???? ?????? ??? ?????? 52, ??????????  
??, ??? ?????? 2006/112, ??? ? ???? ?????? ??? ? ?????????? ??? ?????? ? ???? ??????  
????????? ? ??? ? ?????????????? , ??? ? ???? ???? ????' ?????????? , ?? ??????????????  
????. ?????????, ?????????? ??? ? ?????? ??? ?????????? ??? ? ??? ?????? ??  
????????????? ??? ???? ?????? ?????????? ??? ?????? , ? ?????????? ??? ???? ??????????  
????????? ? ???? ?????????????? ?? ?????? ?????????? ? ?????????? ?????????? ??????????  
????????????????? ?? ?????? ?????? ?????? ????? ?????????? ?? ?????? ?????????? ??????????  
??? ? ???? ??? ?????????? ??? ? ???? ?????????? ??? ?????????? ?????????? ?????????? ??? ??.  
????, ??? ?????????? ??? ? ?????? ??? ?????????? ??? ?????????? ?????? ??? ???? ?????? ??? ????  
????????? ??? ???? 56, ?????????? 1, ?????????? ?, ??? ? ???? ?????? 52, ??????????  
??, ?????? ?? ?????????????? ?? ?????? ?????????? ?????????? ???????, ??? ? ???? ?????? ???  
????? 56, ?????????? 1, ?????? ???, ?????? ?????????? ?? ?? ? ???? ?????????? ??? ????  
????????? ??? ? ???? ?????? ?????????? ?????????????? ?? ?????? ?????????? ? ??????????  
????????? ?????????????? ?? ?????? ?????? ?????????? ??? ???? ?????????? ?????????? ??? ????.

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

(???. ??????? 18, 20-21, 26-27, 32-33 ??? ??????.)

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??? 27?? ??????? 2011 (\*)

«?? – ?????? 2006/112/?? – ?????? 52, ?????????? ??, ??? 56, ?????????? 1, ?????????? ?? ??  
?? – ?????? ??????? ?? ?????????? ?????? – ?????? ?????????? – ?????? ??  
?????? ??? ?????????? ?????????? ??????????»

???? ?????? C?530/09,

??? ??? ? ? ?????????? ?????? ?????? ?????????? ?????????? ?????? ??? ??????  
267 ???, ??? ?????? ?? Wojewódzki S?d Administracyjny w Poznaniu (??????) ?? ??????  
??? 26?? ?????????? 2009, ? ?????? ?????? ??? ?????????? ??? 18 ?????????? 2009, ???  
?????? ??? ???

**Inter-Mark Group sp. z o.o. sp. komandytowa,**

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## **Minister Finansów,**

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

?????????? ??? ??? A. Tizzano, ??????? ????????, M. Safjan, M. Ileši?, J.?J. Kasel (???????) ??? M. Berger, ????????,

????????? ??????????????: Y. Bot

?????????: K. Malacek, ??????? ??????????,

????????? ?????? ??? ??????? ???????????? ??? ???????? ??? ??' ?????????????? ?????????????? ???  
8?? ?????????? 2010,

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

- ? Inter-Mark Group sp. z o.o. sp. komandytowa, ???????????????? ??? ??? P. Ku?miak, doradca podatkowy, ??????????????? ??? ??? M. Witkowiak, ekspert,
  - ? ????????? ??????????, ???????????????? ??? ??? A. Kramarczyk ????? ??? ??? ??? M. Szpunar ??? B. Majczyna,
  - ? ????????? ??????????, ???????????????? ??? ??? J. Möller ??? C. Blaschke,
  - ? ????????? ??????????, ???????????????? ??? ??? Z. ???????????? ??? ?. ????????????, ????? ??? ??? ??? ?. ????????????,
  - ? ????????? ??????????, ???????????????? ??? ??? G. Palmieri, ???????????????? ??? ??? P. Arena, avvocato dello Stato,
  - ? ????????? ??????????, ???????????????? ??? ??? K. Herrmann ??? ??? ?. T??????????????,

???? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 13?? ?????? 2011,

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1 ? ?????? ??????? ?????????????? ?????????? ?????? ??? ?????? ??? ?????? 52,  
???????, ??, ??? 56, ?????????? 1, ????????, ??, ??? ?????? 2006/112/?? ??? ????????????,  
??? 28?? ?????????? 2006, ??????? ?? ?? ????? ?????? ?????? ?????? ?????????????? ??? (?? L  
347, ?. 1).

2 ? ?????? ??? ??????????? ??? ?????? ???????? ?????? ??? Inter-Mark  
Group sp. z o.o. sp. komandytowa (??? ????: Inter-Mark), ?????? ???????? ??????  
????????? ??? ?????? ?????????????? ??? (??? ????: ???) ??? ??????, ??? ??? Dyrektor  
Izby Skarbowej w Poznaniu (????????? ?????? ?????????? ?????????? ?????? ??? Pozna?, ???  
????: Dyrektor), ?????????? ?? ?????? ??? Minister Finansów (????????? ??????????),  
???? ?????? ??? ????????, ??? ?????????? ??? ?????????? ??? ???, ??? ?????? ???  
????? ????????, ??? ?????????? ? ??? ?????? ????????.

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3      ?? ?????? 45 ??? ??????? 2006/112 ??????? ?? ????:

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

4      ?? ?????? 52, ?????????? ?, ??? ??????? ?????? ?????? ?? ????:

«? ?????? ??????? ???? ?????????? ?????????? ?????? ? ?????? ?????? ?????? ?????????? ??????;

?) ??????????????, ??????????????, ??????????, ??????????????, ??????????????,  
???????????? ? ?????????? ??????????????, ?????????????????? ??? ?????????????? ???  
????????? ??? ?????????? ??? ??????????, ??? ??????????, ??? ??? ??????????????  
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5      ????? ? ? ?????? 56, ??????????? 1, ?????????? ? ? ??? ?, ?? ? ? ???? ???????;

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

[...]»

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6 ?? ???? 27, ??????? 2, ?????? 3, ??????? a, ??? ????? ?? 11?? ?????? 2004  
???? ????? ?????????????? ?????? (Ustawa z dnia 11 marca 2004r. o podatku od towarów i  
us?ug, Dz. U. ????. 54, ?????? 535), ??? ????? ????? ??? ?????? ??? ??????????  
????????????? ??? ?????? ?????? (??? ????: ?????? ????, ???), ?????? ?? ???:

«????? ??????? ?????????? ??? ?????? ?? ?????????????? ??????????????, ??????????????,  
?????????, ??????????????, ??????????????, ?????????????? ? ?????????? ??????????????,  
????????? ??????????, ??? ? ?????????? ?????? ??? ?????????? ??????????, ?????? ???  
????????? ?????????? ??? ??? ?????????????? ???, ?????? ? ?????? ??? ??? ???  
????????? ?????????? ?? ?? ??? ?????? ?????????? [...]».

7      ?? ?????? 27, ??????????? 3, ??? ?????? ??? ?????? ??? ?????? ?? ?????:

«?? ??????????? ?? ???? ?? ?????????????????? ?? ???? ?????????? 4 ?????????? ?? ?????????? ??:

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

8      ????? ?? ?????? 27, ??????????? 4, ??????? 2, ??? ?????? ????, ? ??????????? 3 ????  
?????????, ?????? ????, ??? ?????????????? ???????.

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

9 ???? 11 ?????????? 2009 ? Inter-Mark ?????? ??? ??? Dyrektor ??? ??????  
????????????? ??????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ???  
????????? ??? ?????? ??????? ?????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ? ??????????  
????????? ??????????, ?????????? ?? ??? ?????? ??? ?????????? ??? ??????????. ??? ??? ?????? ??? ???  
???? ??????????, ??? ?????? ?????????? ??? ??????????????. ??? ??? ?????? ??? ???  
????????? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ???  
????? ??? ??? ?????? ?????????? ??? ??????????.

10    ?? ?? ??????? ?????? ???, ? Inter-Mark ??????????? ?? ?????????????? ?? ?? ??????? ??  
?????? ?? ??????? ??????????, ??? ??????? ??????, ?????????? ?????????? ?? ?????????? ?? ?? ??????  
??? ?????????????? ?? ?????????? ? ?? ?????????? ?? ?????????????? ????? ?? ?? ?????????? ?????????? ?? ??  
????????? ?? ?? ?????????? ????? ?????????????? ????? ?? ?????????? ? ?? ?????????? ?? ?? ?????????? ?? ??  
????. ? ?????? ?????????? ?????????????? ?? ?????????? ??? ?????????? ?????? ??? ?????????? ?? ??  
??? ??? ?????????? ??? ?? ??? ?????????? ?????????? ??? ?????????? ?? ?? ?????????? ??????????.  
?? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????? ?? ?? ??????????  
?????????????, ?? ?????? ??? ?????? ??? ?????????? ?????? ?? ?? ?????????? ?????? ?? ?? ??????  
????? ??? ???? ?????? ? ?????? ??????. ? Inter-Mark ??? ?????????? ?????? ?? ?? ??????  
??? ?????????? ??? ?? ?????????? ??????????????. ?? ?? ??? ????? ?????????? ?????? ?? ?? ??????????  
??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ??? ??? ?????? ??? ?????? ??? ?????? ??????. ??? ?? ??? ??? ?????????? ?????? ?? ?? ??????????  
????? ??? ?????? ??? ?????????? ?? ?????????? ?? ?? ??? ????? ?????????? ?????? ?? ?? ?????? Inter-  
Mark.

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

12 ?? ??? ?????? ???, ? Inter-Mark ??????????? ??? ?????? ??? ?????????? ??? ?????? ??  
?? ??????????????, ???? ??? ?????? ??? ?????? 2006/112. ??????????, ?????????? ??? ??  
????????? ?????????? ?? ?????????? ?? ?????????????? ?? ?????????? ?????????? ??????????  
????????? ??????, ???? ??? ?????????? ?????, ? ???? ?????????? ?????????? ?? ??????  
?????.

13 ??? ?????? ?????????? ?????????????? ?????? ??? 4?? ??? 2009, ? Dyrektor, ??????  
?? ?????? ??? Minister Finansów, ?????? ??? ?????????? ??? ?? ?????????? ??? ??  
????? ?? ??????, ???? ?? ?????? 27, ?????????? 2, ?????? 3, ??????? ??, ??? ?????? ???  
???, ?? ?????????????? ?? ?????????? ?????????? ??? ?????? ?????? ?????????? ?????.  
???? ?????? ??? ?????????? ???, ? Dyrektor ?????????? ??? ? ?????????? ?????????? ???  
????????????? ??? ?????????? ??? ?????? ??? ?????????? ????? ?????????? ??? ?????? ??  
????? ??? ?????? ??? ??????????, ??? ?????????? ???? ?????? ?????? ?? ?????? ???  
Mark ??? ???????, ???? ??? ?????? ???, ?????? ?????? ?????? ???????????, ???  
????????? ??? ?????????????? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ??????  
????????? ??????.

14 ? Inter-Mark ?????? ??????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ???  
?????? ??? ?????????? ??????????. ???? ?????? ??? ?????????? ???, ?????????? ??? ?  
????????? ??? ?????? ?????? ? Dyrektor ??????????, ?????? ???, ??? ?????? 52, ??????  
??, ??? 56, ?????????? 1, ?????????? ?? ???/? ???, ??? ?????? 2006/112, ?????? ??? ??  
????????? ??? ??????????, ???? ??? ?????????? ??? ?????? ?????????? ??? 17?? ??????????  
1993, C?68/92, ??????? ??? ?????? (?????? 1993, ?. I?5881), C?69/92, ??????? ???  
????????? (?????? 1993, ?. I?5907) ??? C?73/92, ??????? ??? ?????? (??????  
1993, ?. I?5997), ?????? ??? ??? ?????? ??? 26?? ?????????? 1996, C?327/94, Dudda  
(?????? 1996, ?. I?4595), ??? 5?? ?????? 2003, C?438/01, Design Concept (?????? 2003, ?.  
I?5617), ??? ??? 9?? ?????? 2006, C?114/05, Gillan Beach (?????? 2006, ?. I?2427), ???  
?????? ??? ??? ?????? 77/388/??? ??? ??????????, ??? 17?? ?????? 1977, ???  
????????? ??? ?????????? ??? ?????????? ??? ?????, ??? ?????????? ?? ??? ?????? ?????? ??????  
???????? – ??? ?????? ??? ?????? ?????? ?????????? ????: ?????????? ?????????? ??? (??  
???. ????. 09/001, ?. 49, ??? ????: ??? ??????).

15 ??? ??? ??????? ????, ?? Wojewódzki S?d Administracyjny w Poznaniu ??????? ??  
?????????? ?? ?????????? ??? ?? ?????????? ??? ?????????? ?? ?????????? ???????????  
?????:

«?) ??? ?? ?????? 52, ??????? ??, ??? ?????? 2006/112/[...] ??? ?????? ??? ??  
????????? ?? ?????????? ?? ??? ?????? ?????? ?????? ?????? ?????????? ?????????? ??  
??????, ?? ?????? ?????? ?? ?????? ?????? ??? ?????? ?????? ?? ?????????? ??? ?????????? ??  
????????? ?????? ?????????? ?????? ??? ?????????? ?????? ?? ?????? ?????? ??  
????????? ??? ?????????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???,  
????? ?????? ??? ?????????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???, ???  
????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ???;  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???;

? ) ? ?????? ?? ??????? ?? ??????? ?? ?????? ?????????????? ???????????, ??  
?????? ??????????????, ??? ???? 56, ?????????? 1, ??????? ?, ?? ??????  
2006/112, ??? ???? ??? ????? ?? ?????????? ?????????????? ??? ?????? ???? ??????  
????????????? ??? ??? ??? ????? ?????????? ?? ?????????? ???, ?? ?????????? ??  
????????? ??? ???? ???? ?????? ???????????, ??? ??? ??? ?????????? ??? ???? ??????  
????????? ???,  
????????? ??? ? ?? ??? ????? ?????? ?????? ?? ??? ?????? ?????? ?????? ??????  
????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ?????? ?? ?????? ??????  
????????? ?????? -?????? ??? ?????? ?????????? ??? ?????? ???? ?????? ???? ??????  
????????? ?????? ??? ?????????? ??? ?????? ??????, ??? ??????????, ? ?????????? ??? ?????? ??????  
??? ?????????? ??? ???? ?????????? ??? ?????? ?????? ?????? ?????????? - ??? ??? ??  
????????? ??? ?????????? ??? ?????? ??????, ?? ?????? ?????????? ?? ?????????? ??? ?????? ??????  
????, ?????????? ??? ?????? ?????? ?????????? ?????? ?????????? ??? ??? ??? ?????? ??????  
???? ??? ??????, ?? ?????? ?????? ?????? ?? ?????? ??? ?????????? ?????? ??????, ??  
????????? ??? ???????, ??? ?????? ?????????? ?????? ?????? ?????????? ?????? ????.  
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?? ???? ?????? ?????? ???? ???? ???? ?????? ??? ???? ?????? ??? ???? ?????????? ??? ???? ?????????? ???  
????????? ???, ?????????? ??? ?????? ?????? ??? ?????? ??? ???? ???? ?????????? ??? ???? ?????????? ???  
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?? ? ? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ???? ?????????? ???  
????? ??? ? ???? ?????????? ??? ?????? ?????? ?????? ?????? ??? ???? ???? ?????? ?????? ??? ???? ?????????? ???  
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16 ? ? ? ?????? ???, ? ? ?????? ?????????? ?????? ???' ?????? ?? ?????????????? ?? ?  
?????? 2006/112 ?????? ?? ?????????? ??? ???? ?????? ??? ?????? ??? ?????????? ??? ???? ?????????? ??  
?????????, ?? ??? ?????? ?????? ?????? ?????? ???, ?????????? ???, ?? ?????????? ??? ???  
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ???  
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????? 52, ??????? ??, ??? ?????? 2006/112 ? ? ???? ?????? ?????????? ?????? ?????? ???, ???  
?? ????? 56, ?????????? 1, ??????? ??, ??? ???? ??????.

17 ?????????? ?? ???? ?????? ?????? ?????? ??? ???? ?????? ?????????? , ?????? ??  
????????? ?????? ??, ??? ?????????? ? Inter-Mark ??? ? ???????, ?????? ??????????  
???? ???? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???  
????????? ??? ?????? 56, ?????????? 1, ??????? ??, ??? ?????? 2006/112.

18 ??????, ?????????? ??? ? ? ?????????? ??? ?????? ?????? ??? ???? ? ? ?????? ??? ????  
«????????» ?? ?????????? ?? ???? ?????? ?????????? ?????? ?????? ?????? ??? ???? ???? ???? ???? ????  
?????? 9, ?????????? 2, ??????? ??, ??? ?????? ??????, ??? ?????? ???? ?????? ???? ???? ???? ???? ????  
????????? ?? ?????? ??? ?????? 56, ?????????? 1, ??????? ??, ??? ?????? 2006/112,  
????? ?? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???? ?????? ??? ???? ???? ????  
?? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???? ?????? ?????? ???, ??  
????? ??? ?????? ??? ?????? (??., ??' ???, ??? ?????????? ?????? ?????? ?????? ?????? ???  
??????, ??? 18).

19     ?? ???? ??????? ???. ????. ?????? ?????? ?????? ??????????? ?????????????? ?????? ??????????????

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

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

???. ?????????? ?????????? (???. ?????????????? ???. ?????? ?????????? ???. ?????? ??????, ?????? 19).

20     ?? ?? ???????, ? ?????? ??????????? ??? ??????????? ??? ??????????? ??? ?? ?? ?? ???????  
?????? ??????? ??????????? ??????????? ??????? ?? ??????? ?? ??????? ???????????  
??????????, ??? ?? ??????? ??? ?????? 56, ??????????? 1, ?????????? ??, ?? ??????  
2006/112, ??? ?? ??????? ??? ??????????? ??? ??????????? ??? ?? ??????? ??????????  
?????????????? ?? ??????????? ?? ?????? ??? ?????? ??? ?????? ??? ??? ??????????? ??? ??????????? ?  
??? ?????????? ?? ?????????? ? ??????? ?? ?????? ??? ?????? ??? ?????? ??? ??????????, ? ??? ??????????  
????????????? ??? ?????????????? ?????????????? ??? ?????????? ??? ?????????? ??? ?????????? ???  
????????????? ?????? . ? ?????????? ??? ??????????, ?????? ??????, ??? ?? ?? ?? ?? ??  
????????? ?????????? ??????????? ??? ?? ?? ?????????? ??????????? ?? ?? ?? ?????? ?? ??????  
????????????? ??? ?? ?? ?????? ? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??  
????????? ?????????? ??????????? ??? ?? ?? ?????????? ??? ?????????? ??? ?????????? ??? ??

21 ??????????, ??? ???? ?????????? ??? ?????? ??? ?????????????? ???, ??? ?????? ???  
? ?????? ??? ???? ?????? ??? ?????? ?? ?????????????? ?? ?????? ??????????????  
?????????, ??? ???? ?????? ??? ?????? 56, ?????????? 1, ?????????? ?, ??? ??????  
2006/12.

22 ??????????, ??? ????? ??, ??? ?????????? ???, ???? ?????????? ???, ? ?????? ?????????? ??? ?????? 56, ?????????? 1, ??????? ??, ??? ?????? 2006/112, ?????? ?? ?????????? ?? ? ?? ?????????? ?????? 52, ??????? ??, ??? ?????? ??????.

23 ???????, ?????????????? ???, ??? ????? ????? ?????? ?????????? ?????????? ??  
????????????? ?? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? 52, ?????????? ??, ???  
????????? 2006/112, ?????? ??? ?????? ?????????????? ?? ?????????????? ??? ?????? ?  
????????? ?????? ??? ?????? ?????????? ??????????, ?? ?????????? ?????? ??? ??  
????????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? 9, ?????????? 2, ?????????? ??, ???  
????? ???????, ? ???????? ??? ?????? ?????????? ?? ?????? ??? ?????? 52, ?????????? ??,  
??? ??????? 2006/112, ????, ?????? ????, ?? ????? ?????????????? ??? ?????????? ???  
????? ??' ??????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????????  
????? ?? ??????? ?????? ?????? ?????? ?????? ?????? ?? ??????????????, ??????? ??  
?? ??? ?????????? ?????????? ?? ?????? ??? (????????????? ?????? Gillan  
Beach, ??? 24).

24 ???????, ??? ?????? ?????????? ??? ?????? ??? ?????????? ?????????????? ???  
????????????? ??? ?????????? ??? ?????? ?? ?????????????? ?? ??????????, ??? ?????? ??? ?????? ???  
????? 52, ??????? ?, ??? ?????? 2006/112, ??? ?????? ?? ?????????? ??? ?? ???  
????????? ??? ?????? ??????? ?????????? ??? ?????????????? ??? ?????? ? ?????????? ??????????????,  
?????????????, ????????, ??????????????, ??????????????, ?????????????? ? ??????????????  
?????????, ? ?????????? ??? ?????????????? ?? ?????????? ??? ?????? ? ??????, ?? ????????, ?  
????? ?????? ? ? ??? ?????????????? ??? ??? ?????????? ?????????????? ?????????? ?  
????????? ??????????.

25      ????? ??????? ????? ?? ?????????????????? ??? ?????????? ?????????????? ?????????? ???  
?????????????, ???? ?????????? ??? ? ?????????? ??? ? ??? ?????????? ??? ? ?????????? ?????  
????????????? ?????????????????????? ??? ???? ?????? ?????????????????? ?????????? ? ??????????  
????????????? ?????? ?? ?????????? ?? ?????????? ?????????????? ?????? ?? ?????????????? ???  
????? ? ?????????? ??? ???? ?????? ?????? ? ?????????? ???, ?? ? ? ??????, ?????????? ??????????

??? ?????? 52, ????????, ??? ?????? 2006/112.

26    ??? ??????????, ???????, ?? ?????????? ?? ?????????? ??? ?????? ? ?????????? ?????????? ?  
? ?????? ??????????????????, ??? ?????? ???' ??????????, ?? ?????????????? ???.  
?????????, ?????????? ??? ?? ?????? 52, ?????????? ??, ??? ?????? 2006/112 ?????????? ??? ?  
??? ?????? ?? ?????????? ??? ?????? ?????? ?????????? ??? ??????, ? ?????????? ???  
????????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ?????????? ??  
????????? ?????????? ?????????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??  
????????? ?????????? ??? ?? ?????? ??? ?????????? ??? ??? ?????????? ??? ?????? ?????????? ??  
????????? ??? ???.

27    ?????, ??? ?????????? ??? ? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ???  
????????? ??? ?? ?????? 56, ?????????? 1, ????????, ??? ?? ?????? 52, ?????????? ??,  
??? ?????? 2006/112, ?????????? ?? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??????????  
????? ?? ?????????? ?? ?????? ?????? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????????? ??  
????????? ? ?????? ???.

28    ???????, ?????????????? ???, ??? ?????? ??? ?????????????? ??? ?? ??? ?????? ??????  
?????????, ? ??? ?????? ???' ?????? ???' ?????????? ?????? ??? ?????? ??? ?????? ???  
????????? ?? ??????, ??? ??? ?????? ???, ?? ?????? ?????????? ???, ??? ?????? ?????????? ?????????? ???  
????????? ??????. ??? ?????????? ???, ?????? ?? ?????? ?????? ??? ?????? ??? ?????????? ???  
????????? ?????????? ?????????? ??????????, ??? ??? ?????? ??? ?????? ??? ?????? 56,  
????????? 1, ?????????? ???, ??? ?????? 2006/112. ??? ?????????? ??? ?? ?????? 26 ???  
????????? ??????, ? ?????????? ??? ?????????? ??? ?????? ??? ?? ?????? ?????????? ???  
????????????? ?? ?????????? ?????????? ? ?????????? ?????????? ??? ?????????? ??? ??????????????????  
?? ?????????? ???.

29    ?????? ?? ?????????? ???, ?? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???  
??????????, ??? ?????? ??? ? ?????? ??? ?????? ??? ?????? ???, ?????????? ??? ??, ??  
????????? ? ?????????? ?????????, ?? ?????? ??? ?????? ?????????? ??? ?????????? ??  
????????, ??? ??? ?????? ??? ?????? 45 ??? ?????? 2006/112.

30    ???????????, ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??  
????????? ??? ?????????? ?????? ?? ?????? ??? ?????? ?????????? ??? ?? ?????? ??? 45  
(??., ???' ???????, ?????? ??? 7?? ?????????? 2006, C?166/05, Heger, ?????? 2006, ?.  
I?7749, ?????? 24, ?????? ?? ??? ?????? ??? ?????? 9, ?????????? 2, ?????? ??, ???  
????? ??????).

31    ?????????????? ???, ??? ?????? ??? ?????? ??? ??????, ? ??? ?????? ?????? ??????????  
??? ?????????? ???, ?? ???????, ?? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ???  
????????? ?????????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ?????? ??? ?  
????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ???.

32    ??? ?????? ??????????, ??? ?????? ?? ??? ?????? ?????? ?? ?????????? ?? ??????????  
??????????, ?????????? ?? ???????????, ?????????? ?????? ??? ?????? ?????????? ???  
??????????, ?? ?????? ?????????????? ??? ?????? ?????? ?????????? ?????????? ??? ?????????? ?? ??  
????????????? ??? ?? ?????? ??? ?????? 2006/112.

33 ??????? ??? ?????? ?????????? ???????, ??? ?????????? ??????? ??????? ?? ?????? ?  
????????? ??? ? ??????? 2006/112 ??? ?????? ??? ?????? ??? ? ?????? ?????????? ??? ??????????  
??? ???????, ?? ??? ??????? ?????? ?????? ???, ???????????, ?? ??????? ??? ??  
????????? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?? ??????? ??? ??  
????????? ??? ?? ??????? ? ?????? ?????? ?????????? ?????? ?????? ?????? ?? ??????:

- ??? ??? 56, ?????????? 1, ??????? ??, ??? ?????? ??????, ??? ?? ?? ???  
????????? ?????????? ? ?????????????? ??? ?????????????? ??? ?????????????? ??????:

- ??? ??? 52, ??????? ??, ??? ?????? ??????, ??? ?? ?? ??? ??????????  
????????? ??? ?????????? ??? ?????????? ?????? ? ?????????? ??????????  
??????????, ???????????, ?????????, ?????????????, ?????????????, ?????????????, ??????????????  
??????????, ?????????, ? ?????????? ??????? ?? ?????????? ?? ?????? ??? ?????? ?? ?????, ??  
????????, ? ?????? ??????? ?? ??? ?????????????? ??? ?? ?????????? ??????????????  
????????? ? ?????????? ??????????:

- ??? ??? 56, ?????????? 1, ??????? ??, ??? ?????? ??????, ??? ?? ?? ???  
????? ??? ??' ?????????? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??????????  
????????? ?????? ??? ??????:

### ??? ??? ?????????? ??????

34 ??????? ??? ? ?????? ?????????? ??? ?? ??? ?????? ?????? ?????????? ??? ?????? ???  
??? ?????????? ?????????????? ??? ?????? ?????? ?????? ?????? ?????????? ?????????? ??, ?? ???  
????????? ?? ?????????? ??? ??? ?????????? ??????. ?? ?????? ??? ?????? ??????????  
???? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??????????.

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

? ?????? 2006/112/?? ??? ??????????, ??? 28? ?????????? 2006, ??????? ?? ?? ???  
?????? ?????? ?????? ?????????? ?????, ?????? ?? ?????????? ??? ?? ?????? ??? ?  
????? ?????????? ??? ?????????? ??? ?????????, ?? ??? ?????? ?????? ?????? ??????  
??, ??????????, ?? ?????????? ??? ??? ?????????? ?????????? ?????????? ??? ??????  
????????? ??? ?????????? ?? ?????????? ? ?? ?????????? ?????? ?? ?????? ?? ??????  
????????? ?????????? ?????? ?????? ??????:

- ??? ??? 56, ?????????? 1, ??????? ??, ??? ?????? ??????, ??? ?? ?? ???  
????????? ?????????? ? ?????????????? ??? ?????????????? ??? ?????????????? ??????:

- ??? ??? 52, ??????? ??, ??? ?????? ??????, ??? ?? ?? ??? ??????????  
????????? ??? ?????????? ??? ?????????? ?????? ?????? ?????????? ??????????  
??????????, ???????????, ?????????, ?????????????, ?????????????, ??????????????  
?????????? ? ?????????? ?????? ?, ?????????? ??? ?????? ?????? ?? ??? ?????????????? ?? ??????  
?? ?????? ? ??????, ?? ??????, ? ?????? ?????? ?? ??? ?????????????? ??? ??  
????????? ?????????? ?????? ?????????? ?????????? ??????????:

- ??? ??? 56, ?????????? 1, ??????? ??, ??? ?????? ??????, ??? ?? ?? ???  
????????? ??? ??' ?????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????  
????????? ?????? ?????????? ?????????? ??? ?? ?????? ??????:

(?????????)

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