

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

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

??? 20?? ??????? 2023 (*)

«????????????? ?????????? – ?????????? – ????? ?????????????? ????? (???) – ?????
2006/112/?? – ????? 14, 15 ??? 24 – ?????? ?????????????? ?????????? ?????????? –
????????? ??? ????? ?????????? ?????????????? ?????????? ??????????, ?????????? ???
????????? ?????????? ??????????, ????? ??? ?????? ?????????? ?????????? ??? ??????????
????????? – ?????????????? ?? “????????? ??????” ? ?? “?????? ??????????”»

???? ??????? C2282/22,

? ? ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????, ???
?????? ?? Naczelnego S?d Administracyjny (?????? ?????????? ??????????, ???????) ??
?????? ?? 23?? ?????????? 2022, ? ??? ?????????? ??? ?????????? ??? 26 ??????????
2022, ??? ??????? ??? ????

Dyrektor Krajowej Informacji Skarbowej

????

P. w W.,

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

Rzecznik Ma?ych i ?rednich Przedsi?biorców,

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

????????? ??? ??? ?. ?????? (??????), ?????? ???????, ?. Ileši? ??? I. Jarukaitis,
???????,

????? ??????????: T. ?apeta

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

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

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

- ? Dyrektor Krajowej Informacji Skarbowej, ?????????????? ??? ??? B. Ko?odziej, ??? D. Pach ??? ??? T. Wojciechowski,
- ? Rzecznik Ma?ych i ?rednich Przedsi?biorców, ?????????????? ??? ??? P. Chrupek, radca prawny,
- ? ??????? ????????, ?????????????? ??? ??? B. Majczyna,
- ? ??????? ????????, ?????????????? ??? ??? O. Serdula, M. Smolek ??? J. Vlá?il,

- ?????????? ???????, ?????????????? ??? ??? A. Armenia ??? U. Ma?ecka,
?????? ??? ?????????? ??? ?????, ??? ?????? ?? ?????? ??????????, ?? ?????????? ???
?????? ??? ?????? ??????? ???????,
- ?????? ??? ???????
- ??????
- 1 ?? ?????? ?????????????? ?????????? ??? ?????? ??? ??????? ??? ?????? 14, ?????????? 1,
??? ??? ?????? 24, ?????????? 1, ??? ?????? 2006/112/?? ??? ???????, ??? 28??
????????? 2006, ??????? ?? ?? ?????? ?????? ?????? ?????????????? ??? (?? 2006, L 347,
?. 1), ??? ?????????????? ?? ??? ?????? 2009/162/?E ??? ??????????, ??? 22?? ??????????
2009 (?? 2010, L 10, ?. 14) (??? ????: ?????? 2006/112).
- 2 ?? ?????? ??? ?????????? ??? ?????? ?????????? ??????? ??? Dyrektor
Krajowej Informacji Skarbowej (????????? ?????? ?????????? ??????????, ???????) (??
????: ?????????? ???) ??? ??? P. w W. ?????? ?? ?????? ?????????? ??????????
????????????? ?????????? ??? 16?? ??? 2017 (?? ????: ?????????? ??????????
?????????).
- ?? ?????? ???????
- ?? ?????? ??? ??????
- ? ?????? 2006/112
- 3 ?? ??? 2, ?????????? 1, ??? ?????? 2006/112 ?????????? ?? ????:
«???? [???? ?????????????? ??? (??)] ?????????? ?? ?????????? ??????:
?) ?? ?????????? ??? ?????????????? ?? ?????????????? ?? ?????????? ??? ?????????? ???
????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ?? ??? ?????????? ???,
[...]
- ?) ?? ?????????? ??????????, ??? ?????????????????? ?? ?????????? ?????? ??? ?????????? ???
????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ?? ??? ?????????? ??? ??? ???,
[...]».
- 4 ?? ??? 14, ?????????? 1, ??? ?? ??? ?????? ?????? ?????????? ?? ????:
«?? “????????? ??????” ?????????? ? ?????????? ??? ?????????? ?? ?????????? ???????, ??
??????, ?????????? ????.»
- 5 ?? ??? 15, ?????????? 1, ??? ?? ??? ?????? ?????? ?????????? ?? ????:
«????????????? ?? ?????????? ??? ? ?????????? ???????, ?? ??????, ? ??????????, ?? ???
??? ?????????? ????.»
- 6 ?? ??? 24, ?????????? 1, ??? ?? ??? ?????? ?????? ?????????? ?? ????:

«?? “?????? ??????????” ??????? ?????? ?????? ? ?????? ?????? ??? ?????????? ?????????? ??????..»

? ?????? 2014/94/??

7 ????? ?? ?????? 4, ??????????? 8, ??? ??????? 2014/94/?? ??? ?????????? ??????????????
??? ??? ??????????, ??? 22?? ??????? 2014, ??? ??? ??????? ??????? ?????????? ??????????????
?????? (?? 2014, L 307, ?. 1):

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

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

8 ?? ?????? 7, ??????????? 1, ??? ustanowiona o podatku od towarów i usług (????? ???? ???
????? ??? ?????? ??? ?????????), ??? 11?? ??????? 2004 (Dz. U. ????. 54, ??? 535), ??
????? ??? ?????? ??? ??????? ??? ?? ??????? ??? ?????? ??? ?????? ??? (?? ?????: ?????? ??? ????),
?????????? ?? ????:

«?? ??????? ?????? ?? ?????? 5, ?????????? 1, ?????? 1, ?????? ? ?????????? ?? ??????? ?? ?????? ?? ?????? ?????? ?? ?????? [...]».

9 ?? ?????? 8. ??????????? 1. ??? ?????? ????. ??? ?????? ?? ?????;

«?? ?????? ?????????? ?? ???? ?? ?????? 5, ?????????? 1, ?????? 1, ?????? ??? ?????? ??
????????????????? ?? ???? ?????? ? ?????? ?????? ? ?????? ?????? ? ?????? ?????? ?????? ??????????????,
? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? 7 [...]».

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

10 H.P. w W. ??????? ?? ??????? ?????????????? ?????????????? ??? ?????????????? ??
?????????? ??????? ?????????????? ??????? ?????????????? ?????????????? ??????????. ??
?????? ?????? ?????? ?????????????? ?? ?????????? ?? ?????????? «?????????????», ??? ??
?????? ?????????? ?????????? ?? ?????????? ?????????? ?????????? ?????????? ??? ??
????????? ?????????? ?????????????????? ??????????. ? ?????????? ?????????? ??????????????
?????????? ?????????? ??? 80 % ??? ?????????????? ??? ?????????? ?? ?? ?????? ??????????
????????? ?????????? ?? ??? ?????? 20 ??? 30 ????. ? ?????????? ?????????????? ??????????
?? ?? ?????? ?????????? ?????????? ?????????? ?????????? ?? ?????????? 4 ??? 6 ???.

11 ? ????? ???? ?????????? ?????? ??????? ??????????, ?????? ?????, ??? ?? ?????????? ???
??????????????, ?????????? ?? ???? ???? ????? ?????????? ?????????? ?????????? ? ??
????? ??? ???? ?????????? ???????, ?????? ??? ???? ??? ???? ?????????? ???
????????? ? ?????????????? ??????. ?? ??????? ??????? ?? ?????????????????? ??? ??
????? ??????? ?????????????? ? ??? ?????? ??? ?????????????? ??????? ?????????? ??????????,,
????? ?? ?????????? ? ?????????? ??????? ?????????? ????? ?????????? ??? ?????????? ??? ??
????????? ?????? ?? ?????? ?????????????? ?? ?????? ?????????? ??????????, ?????????? ??
????????????? ??? ?? ?????? ?????????? ?????? ?????????? ??????????.

12 ? ?????????? ??? ?????????? ?? ??? ????? ?????????? ?????????????????? ????????, ????????, ??
?????????????, ??????? ?? ??? ?????? ?? ?????????????? ?????????????????? ????????, ??? ?????? ???

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

- ???? ?????? ?????????? ????????????????, ?????????????????? ??? ??????????????
????????? ??? ?????????? ?????? ??? ????????,
- ??? ?????? ?????????? ?????????? ?? ?????????? ?????????? ??? ??? ??????????
??? ?? ??? ????????,
- ??? ?????? ?????? ????????.

13 ? P. w W. ??????? ?????? ?? ?????????????? ?????? ?????????? ?????????? ? ??????????
???????????????, ?? ?????? ?? ?????????? ??? ?????? ?????? ?????? ?? ?????????? ?? ?????? ??????
???????????????, ?? ?????????? ??? ?? ?????????????? ?? ?????????? ??? ?????????? ??????????????????
????????????? ??? ????????.

14 ??? ?? ?????? ??? ?????????? ???, ? P. w W. ?????????? ?? ??????? ?????? ??????.

15 ? P. w W. ?????? ??? ?? ?????????? ??? ?? ?????? ?????????? ?????????? ?????????? ?
????????? ?? ??? ?????? ?? ?????????? ??? ? ?????????? ?????????? ?????????? ?????????? ??
«????? ??????», ??? ?? ?????? ??? ?????? 8 ??? ?????? ??? ??.

16 ?? ?? ?????????? ?????????? ???, ? ?????????? ??? ?????? ?????? ??? ? ??????
????????? ?????????? ??? ?????? ?????????? ??? ?? ?????? ?????????? ?????????? ??????????
????? ?? ?????????? ?? ? ?????? ???, ??? ?? ?????? ?????????? ??? ?????????? ? P. w W.
????? ?? ?????????? ?? ?????????? ???, ??? ?? ?????? ?????????? ??? ?????????? ??????????
??????, ? ?????? ??? ?? P. w W. ?????????? ??? ?????? ?????? ??? ?????????? ??? ?? ??????????
????????????? ??? ?????????? ?????????? ??? ?????? ?? ?????????? ??? ?? ?????????? ??? ?? ??????????
??? ?????? ??? ?????? ??? ? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?? ?????????? ???.

17 ?????? ?????????? ?? P. w W., ?? Wojewódzki S?d Administracyjny w Warszawie
(???????????, ????????????, ????????????, ????????????, ???????), ?? ?????? ??? 6?? ??????
2018, ?????? ??? ?????????? ??????. ??? ?? ?? ??????????, ? ??? ?????? ?????? ???
????? ??? ?????? ?????????? ?????? ?? ?????????????? ?????????? ?????????? ? ?????? ???
????? ?? ?????????? ?? ?????????????? ?? ?????? ?????? ??? ?????? ?????? ?????? ???
????????????? ???, ??? ?? ?????? ?????? ??? ?????? ??????????, ? ??? ?????? ?????? ???
????????????? ??? ?????????? ?? ?????????? ?????????? ??? ?????? ?????? ?????? ??????
????????????? ??? ?????????? ?? ?????????? ?????????? ??? ?????? ?????? ?????? ??????
????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ?????? ?????? ?????? ??????
????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ?????? ?????? ?????? ??????
????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ???
????????? ???, ?? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ???
??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???.

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

19 ??? ? ? ?????? ??????????, ? ?????? ?????????? ?? ?????? ??? P. w W. ???
?????????? ??? ?????? ??? ?????????? ??? ?????????? ?????????????? ???????, ??????????
??? ??? ?????? ?????? ??? ?????? ???? ?????????? ??? ?????????, ?? ?????? ???
????????????? ?? ??? ????? ??????????, ??? ?????? ?????? ??? ??? ?????????????????? ???
?????????????, ? ??? ????? ?????????? ??? ?? ?????????????? ??? ?????????? ???
????????? ?????? ?????? ??????.

20 ? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ?????????? ???
????????? ??? Wojewódzki S?d Administracyjny w Warszawie (????????? ??????????)
????????? ?????), ? ??? ?????? ?????????? ??? ?????? 17 ??? ?????????? ??????????.
??? ?????? ??? ?????? ?????????? ??????????, ? ?????????? ??? ?????????? ???, ??? ?????? ???
?? ?????? ?????? ?????? ??? ?????? ?????? ?????????? ?????????? ?????????? ??????????, ?
????? ?????? ?????????? ?? ?????? ?????? ?????? ?????????? ?????????? ?????????? ??????.

21 ??? ? ? ?????? ??????????, ?? ?????? ?????? ??? ?????????? ??? ?????? 12 ???
????????? ?????? ?????????? ?????? ???, ?? ?????????? ?? ?????????? ??????
????????? ????. ??????????, ? ?????????? ?????? ?????????, ?????????? ? ??????????
?????????????, ?? ?????? ?? ?????? ??? ?????? ?????? ?????? ?? ?????????? ?? ?????? ??????
????????????? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????????? ??? ?????? ??????, ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

22 ?????????? ??? ? ?????? ??? ? ?????????? ??? ?????? ?????????? ?????????? ???
????????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??????????
????????? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????????? ??? ??????
????????? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????????? ??? ??????
????????? ??? ?????????? ??? ?????? 12 ??? 21 ??? ?????? ?????? ?????????? ??? ??????
????, ?? ?????? ?????????? ?????????? ???, ??? ??? P. w W., ? ?????? ??????
????????? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?? ??????
????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ?????, ?? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ??????.

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

24 ??????, ?????, ?? ?????? ??? ? ?????? ??? ?????? ?????? ?????????? ??????????
????? ?????? ?????????? ??? ?????? ???, ??????, ? ?????? ??? ?????? ??? ?????? ???
4, ?????? 8, ??? ?????? 2014/94 ??? «????????? ?????????? ?????? ??? ?????? ???
?????», ??? ?????? ?????? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ???, ?????? ??
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

?????? ?????? ??????? ??????? ?? ?????????????????? ?? «????????? ??????» ? ?? «????????? ??????????», ??? ???? ?????? ??? ??????? 2006/112.

25 ??? ??? ????????, ?? Naczelnego S?d Administracyjnego (???????, ????????,
???????, ??) ????????, ?? ????????, ?? ????????, ?? ????????, ?? ????????, ??
???????, ?? ????????, ?? ????????, ?? ????????, ?? ????????:

«????????? ? ??????? ??????? ??? ????? ?????? ?????????? ?? ?????? ?????????????????? ??????????????
?????????, ? ????? ??????????????:

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

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

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

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

“????????? ??????” ??? ???? ?????? ??? ?????? 14, ??????????? 1, ??? ?????? [2006/112] ?
“????? ??????????” ??? ???? ?????? ??? ?????? 24, ??????????? 1, ??? ????? ??????;»

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

26 ?? ?? ??????? ???, ?? ?????? ??????????? ??????, ???' ??????, ?? ??????????????? ?? ?
?????? 2006/112 ??? ?????? ?? ??????? «????????? ??????», ??? ?????? 14,
?????????? 1, ??? ??????? ???????, ? «?????? ??????????», ??? ?? ?????? 24, ??????????? 1,
?? ?????? ???????, ??? ?????? ?? ??????? ?????? ?????? ??????????:

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

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

— ????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????????? ??????????.

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

27 ?????????????? ???, ??? ???? ????? ?????????????? ??? ????? ?????? ?????????? ??? ??????,
?????? ?? ?????????? ????? ?? ?????? ?? ?????????? ??? ?????? ?????? ?????????? ? ??????
????, ?????????? ?? ??????, ??????, ??? ?????????? ??? ?????? ??? ? ?????????????? ??????
????????? ? ??? ?????????? ?????? ???, ???????, ???, ??? ?????????? ??????????, ? ??????
???? ?????? ?????? ?? ?????????????? ?? «????????? ??????» ? «????????? ??????????»
[????????? ??? 10?? ?????? 2011, Bog ?.?, C?497/09, C?499/09, C?501/09 ??? C?502/09,
EU:C:2011:135, ??? 52, ??? ??? 25?? ?????? 2021, Q-GmbH (????????? ??????)

?????????), C?907/19, EU:C:2021:237, ????? 19 ??? ??? ????? ?????????????? ??????????].

28 ??????????, ??????? ?? ???? 1, ?????????? 2, ??????? ??????, ??? ??????
2006/112 ?????????? ??? ??? ????? ?????? ?????????? ?? ?????????? ?????????? ???
?????????, ? ????, ??? ?????????? ??????, ?????????? ?? ?????????? ?? ??? ?????? ?????
????? ?? ?????????????? ??????, ??? ?? ??? ?????????? ? ?????????????? ???
????????? ??? ???.. ??????, ?????? ??? ?????? ?????? ?????? ?????????? ??? ????
????????? ?????? ? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? [????. ?????????? ???
10?? ?????? 2011, Bog ???., C?497/09, C?499/09, C?501/09 ??? C?502/09, EU:C:2011:135,
????? 53, ??? ?? 25?? ?????? 2021, Q-GmbH (????????? ?????? ??????), C?907/19,
EU:C:2021:237, ????? 20 ??? ??? ?????????? ??????????].

29 ???????, ?? ?????????? ???????????, ???????????, ?????? ?????????, ???????, ??
????? ??????? ?? ?????????? ???????, ?? ?? ??????, ?? ?????????? ???????????
????????? ?????????? ? ???????????, ?????? ?? ?????????? ?? ?????? ?????? ?? ???
????? ?????????? (?????? ?? 2?? ?????? 2010, Everything Everywhere, C?276/09,
EU:C:2010:730, ??? 23).

30 ????? ?????? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ??? ? ?????????? ?????
????? ?? ?????????? ??? ?????????? ??? ??????? ?????, ???, ??????????, ??? ??????????
????? ?? ?????????? ??? ?????????? ??? ? ?????????? ?????????? ???????, ?? ???????,
??? ?????? ?????????, ?????????? ??? ??????? ??? ?????? ??? ?????? ??????. ??????????, ???
????? ?????? ?? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ??? ??????
????????? ??? ??? ?????, ??? ?? ??? ?? ?????????? ??? ??? ?????? ?????? ?????? ??????
????????? ??? ?????? ?????????? ??? ?????? (????. ?????????? ??? 10?? ?????? 2011, Bog
??., C?497/09, C?499/09, C?501/09 ??? C?502/09, EU:C:2011:135, ????? 54, ??? ?? 4??
?????? 2021, Frenetikexit, C?581/19, EU:C:2021:167, ??? 41).

31 ??? ?????? ??? ?????????? ??? ?????????? ?? ??? 267 ???, ?????????? ???
????? ?????????? ?? ?????? ???, ??? ?? ?????????? ??? ?????????? ?????????? ???, ?
????? ?????? ?????? ?????? ?????? ??? ?? ?????????? ?????????? ??? ?????????? ???
????????? ??? ?????? ?? ?????????? ?????????? ??? ?????????? [????. ?????????? ???
10?? ?????? 2011, Bog ???., C?497/09, C?499/09, C?501/09 ??? C?502/09, EU:C:2011:135,
????? 55, ??? ?? 25?? ?????? 2021, Q-GmbH (????????? ?????? ??????), C?907/19,
EU:C:2021:237, ?????? 25 ??? 26 ??? ?????????? ??????????].

32 ? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ?????? ?????????? ?????? ??????????
????????? ?????????? ??? ??? ?????????? ?????? ?????????? ?????????? ??? ?????? ??????
????????? ???????, ??? ? ?????? ??? ?????????? ?? ?????? ?????????? ?????????? ??? ?
????????? ??? ?????? ???, ? ?????? ?????? ?????? ?????? ??? ?? ?????? ?????????? ??? ?
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?
????????? ??? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ? ?????? ??????????
??? ? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????. ??????????
????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ? ?????? ??????, ???
????????? ??? ? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ? ?????? ?????? ???
????????? ??? ?????? ?????? 27 ??? 30 ??? ?????? ?????? ??????.

33 ??? ?????? ??? ?????? ??? «????????? ??????», ??? ?? ?????? 2006/112, ?? ???
14, ?????????? 1, ??? ?????? ?????? ??? ?????????? ?? ?????????? ??? ?????????? ??
????????? ??????, ?? ??????, ?????? ??????. ? ?????? ??? ?????????? ??? ?????? ???
????????? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ???

????????????????? ??? ??? ??????? ?? ??????? ????? ?????? ?? ?? ???? ?????? ?? ?????
(????. ?????????? ??? 10?? ??????? 2011, Bog ?.??., C?497/09, C?499/09, C?501/09 ???
C?502/09, EU:C:2011:135, ????? 59, ??? ??? 23?? ?????????? 2020, Herst, C?401/18,
EU:C:2020:295, ????? 36 ??? ??? ?????????????? ??????????). ????????, ??????? ???
?????? 15, ?????????? 1, ??? ??? ????? ???????, ? ?????????? ?????????? ?????????????? ??
????????? ????.

34 ????? ???? ???? «?????? ????» ???? ???? ???? 2006/112, ??? ??
????? 24, ?????????? 1, ?????? ?????????? ??? ? ?????????? ?????? ?????? ?????
? ?????? ??? ?????? «?????? ????» ???? ???? 14 ??? ??????.

35 ??????????? ?? ?????? ?? ??? ????? ?????? ??????? ?????? ??? ? ??????? ?? ??????? ??
???? ?????? ?????? ?????? ?? ??????????????? ?? «????????? ??????» ? ?? «?????? ??????????»,
????? ??? ??????? ?? ??? ????? ???????, ??????? ?? ??????? ?????? ??? ?? ??????? ??
?????? ??????? ?? ?????? ?????, ??????????? ?? ?????????????? ?? ?????????????? ??
????????? ??? ??? ?? ??????????????? ?? ?????? ?????? ??????? ????. ?? ?? ??? ????? ???????
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?????????????? ?? ?????????????? ??, ??? ?????? ?????????? ???????????, ??? ???????
??? ??? ?????? ??? ??????? ?? ??????? ??? ?????????? ??? ?????????????? ?? ???????
????????? ?? ?????? ?? ?? ??????? ?? ?????????????? ??? ?????????? ??????? (????.
?????? ??? 10?? ??????? 2011, Bog ?.??., C?497/09, C?499/09, C?501/09 ??? C?502/09,
EU:C:2011:135, ??????? 61 ??? 62 ??? ?????????????? ??????????).

36 ???????, ??????, ? ?????????????? ??? ????? 4, ?????????? 8, ??? ??????
2014/94 ??????? ?? «????????? ?????????????? ?????????? ?????????» ??? ?????????? ???
????????????? ??? ?????????? ??? ????? ?????? ??? «????????? ??????» ? «?????????
?????????», ??? ??? ?????? ??? ?????? 2006/112. ???????, ??? ?? ????? 1 ??? ??????
2014/94, ??? ??? ?? ?????????? ??? ?????????? ?????????? ?????????? ??? ??
????????? ?????????? ?????????? ???????, ?????????????????? ??? ??????
????????????? ??? ?????????? ??????. ???????, ? ?????????????? ?????? ??? ???
?? ?????????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???.
????????????? ?????????? ?? ?????? ???.

37 ????????, ????????, ??? ? ??????? ?????? ??? ?????????? ?????????? ?????????? ??? ?????? ???
??? ????????, ?????? ????????, ??? ? ?????? ??? ?????????? ?? ?????? ? ? ???????
???????????, ??? ??? ????????????, ??? ?????? ??? ?????????? ?????? ? ?????? ?????????? ??? ???
?????? ??? ????????, ???, ? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ????????,
????? ?? ?????????? ??? ?????? ??? ? ?????????? ?? ?????? ?????????? ?????? ??? ????????,
????????? ???' ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? (????. ????????, ??? 10??
?????? 2011, Bog ??., C?497/09, C?499/09, C?501/09 ??? C?502/09, EU:C:2011:135, ???
63, ??? ??? 22?? ??????? 2021, Dyrektor Izby Administracji Skarbowej w Katowicach,
C?703/19, EU:C:2021:314, ??? 50).

38 ???????, ??????, ? ?????? ??? ?????????? ??? ?????????? ?????????? ?????????? ?
????? ?????????? ??? ?????? ?????? ?????????? ?????? ?????? ?????? ?????? ??????, ???
????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?? ?????? ??
??????????, ??? ??? ?????? ??? ?????? ???, ?? ?????????? ?????? ?????????? ?????? ?, ?
?????, ?????? ??? ?????? 15, ?????????? 1, ??? ?????? 2006/112, ?????????? ??
?????? ?????.

39 ????????, ?? ???? ?????????????? ??? ?????????????? ?????????????? ?????????????? ?? ?????????????
????????? ?????????????? ?? ?????? ?????????????? ?????????????? ?????????????? ?????????????? , ?? ??????
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? ????????. ???? ????????, ? ?????? ?????????? ???? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???? , ?? ?? ??????, ??? ?????? ?? ?????? ?????? ???? ??? ?????? ?????? ???? ?????? ???? ?????? ?????? ???? ?????????? ? ?????? ?????????? ???? ?????? ?????? ?????? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? .

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

41 ?? ???? ?????? ???? ???? ?????????? ???? ?????????? .

42 ????????, ????????, ? ??????? ?????????? ?????????? ?????????? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? .

43 ?? ?????????? ???? ???? ?????????? ???? ?? ?????? ???? ?????????? ???? ?????? .

44 ?? ?????????? ???? ?????????? ???? ?????? 42 ??? ?????? ?????? ?????? ???? ?????? .

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

46 ?????? ???? ?????? ?????? , ??? ?????? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???? ???? ???? ???? 2006/112 ???? ???? ?????? ?????? «????? ???? », ???? ?? ??? 14, ?????? 1, ??? ?????? ?????? , ??? ?????? ???? ?????? ?????? .

- ???? ?????? ???? ?????? ?????? ?????? ?????? ?????? .

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- ??? ?????????? ?????????????? ?????????? ?? ?????????????? ?????????????? ??? ??? ??? ??????????
- ??? ?????????? ?????????? ??? ?????????????? ?????????????? ??????????, ???
- ??? ?????????? ?????????? ?????????? ??? ?????????????? ??? ?????????????? ?????????? ??? ??
????? ?????????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??
????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??
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47 ??? ?????????? ??? ? ??????? ?????????????? ??? ?? ??? ?????? ??? ?????????? ??? ?????? ???
??? ?????????? ?????????????? ??? ??????? ?????????? ??? ?????????? ??? ?????????? ?????????? ???, ?? ???
????????? ??? ?????????? ??? ??????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????? ?????????? ?????????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???, ??? ??????????????.

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

? ?????? 2006/112/?? ??? ??????????, ??? 28? ?????????? 2006, ??????? ?? ?? ???
????? ?????? ?????????????? ????, ??? ?????????? ?? ??? ?????? ??? ?????? ??????????
2009/162/?E ??? ??????????, ??? 22? ?????????? 2009,

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

???????? «????????? ????, ??? ?? ??? 14, ?????????? 1, ??? ?????? 2006/112,
???? ??????????, ??? ?????? ??? ?????? ?????? ??????????????:

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

(?????????)

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