

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

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

??? 11?? ??????? 2024 (\*)

«????????????? ?????????? – ?????????? – ????? ?????? ?????? ?????????????????? ?????? (???) –  
?????? 2006/112/?? – ????? 2, ??????????? 1, ?????????? ?? – ????? 9, ??????????? 1 – ?????  
14, ??????????? 2, ?????????? ?? – ?????????????? ?????????? ?????? – ???????????, ??????  
????????? ???????????, ??? ?????????? ?????????? ?????????? ?????? ?????? ?????????? ??????????  
????? – ???????????»

???? ??????? C?182/23 [Makowit] (i),

?? ??????????? ?????? ?????????????? ?????????? ??????? ??? ?????? 267 ????, ???  
?????? ?? Naczelnego S?d Administracyjny (?????? ?????????? ???????????, ???????) ??  
?????? ?? 18?? ?????????? 2023, ? ????? ??????? ??? ?????????? ??? 22 ???????  
2023, ??? ??????? ??? ????

### **Dyrektor Krajowej Informacji Skarbowej**

????

J.S.,

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

?????????? ??? ??? N. Pi?arra, ??????? ???????, N. Jääskinen (???????) ??? M. Gavalec,  
???????,

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

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

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

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

– ? Dyrektor Krajowej Informacji Skarbowej, ?????????????? ??? ??? B. Ko?odziej ??? T.  
Wojciechowski,

– ? ??????? ???????, ?????????????? ??? ??? B. Majczyna,

– ? ??????? ???????, ?????????????? ??? ??? M. Herold ??? ?? M. Owsiany?Hornung,

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

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

??????

1 ?? ??????? ?????????????? ?????????? ?????? ??? ??????? ??? ?????? 9, ??????????? 1,  
??? ??? ?????? 14, ?????????? 2, ??????? ??, ??? ?????? 2006/112/?? ??? ??????????,  
??? 28?? ?????????? 2006, ??????? ?? ???? ?????? ?????? ?????? ?????????????? ??? (??  
2006, L 347, ?. 1, ??? ????: ?????? ??? ??).

2 ?? ??????? ??? ?????????? ??? ??????? ?????????? ??????? ??? J.S. ??? ???  
Dyrektor Krajowej Informacji Skarbowej (????????? ??? ??????? ?????????? ??????????  
?????????????, ??????) (?? ????: ?????????? ???), ??????? ?? ?????? ??????????  
????????????? ?????????? ??? 31?? ?????????? 2017 (?? ????: ??????????  
????????????? ??????).

**?? ??????? ???????**

**?? ??????? ??? ??????**

3 ?? ??? ?? ??? 2, ?????????? 1, ??????? ??, ??? ??????? ??? ??, ??? ???  
?????????? ?? ?????????? ?????? ??? ?????????????? ?? ??????? ?????? ??? ??????  
????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ?? ??? ?????????? ???.

4 ?? ?????? 9, ?????????? 1, ??? ??????? ?????? ?????? ?? ????:

«?????? ?? “????????????? ????” ?????????????? ????, ??? ?????? ?????????? ??? ??  
????????????? ????, ?????????? ?????, ?????????????? ????, ?????????? ??? ?? ?????????????? ????  
?? ?? ?????????????? ??? ?????????????? ????.

?? “????????? ??????????????” ?????????? ??? ?????????????? ??? ??????????, ???  
?????? ? ??? ?????????? ???????, ?????????????? ??? ?????? ??? ??????????????  
????????, ??? ?????????? ?????????????? ??? ?????? ??? ?????????????? ??? ??????????  
?????????????. ?? ?????????? ?????????????? ???????, ??????, ? ??????????????  
????????? ? ??? ?????? ????, ?? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ????.»

5 ?? ?????? 14 ?? ?????? ??? ?????? ?? ????:

«1. ?? “????????? ??????” ?????????? ? ?????????? ??? ?????????? ?? ?????????? ????,  
?? ??????, ??????? ????.

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

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

[...].».

6 ?? ?????? 167 ??? ?????? ?????? ????:

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

**?? ??????? ??????**

7 ?? ?????? 7, ?????????? 1, ??? ustanawia o podatku od towarów i usług (????? ???? ???  
????? ??? ?????? ??? ???????), ??? 11?? ?????? 2004 (Dz. U. 2022, ??? 931), ???  
????? ??? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? (?? ????: ???? ????

???, ?????????? ?? ????:

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

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

[...]».

8 ??? ?? ????? 15, ?????????? 1 ??? 2, ??? ????? ??????:

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

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

**? ??????? ??? ?????? ??? ?? ?????????????? ???????**

9 ? J.S. ??????? ?????? ?????????? ?????????? ??? ?????? ??? ?? ??? 2001 ???????  
????????? ?????????????? ??? ?????? ????. ?????? ?????????? ??? ?? ?????? ??  
????????? ??? ?????? ?????????? ?????? (???) ??? ?? ?????????? ??? 2013. ?? 2003  
??? ?? ??????? ?? 2015 ?????? ?????????? ?? ?????? ??? ?????? ??? ?? ??? ??  
????????? ??????????????. ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?? ??? ?????? ??????  
??? ???.

10 ?? ?????? ??? wojewoda (?????????????), ??????? ??????, ??? 6?? ?????? 2017, ?  
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????????? ??? J.S.  
????????? ??? Skarb Pa?stwa (?????? ??????, ??????) ?? ?????? ??? ??????????????  
????????? ??? ?????? ??????. ??????????, ? ?????????????? ?????? ?????????? ??? ??  
????????? ??? ?????????? ??? J.S. ?????????? ??? ?? ?????????? ??? ?????????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ???.

11 ??? ?????? ???, ? J.S. ?????? ??? ?????????? ??? ?????? ??? ?? ??? ??????  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????, ?? ?????? ??  
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??  
????????? ??? ?????? ?? ?????? ??? ?????????????? ?????????? ??? ?????? ?????? ???, ???????,  
?? ? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????? ????. ??? ?? ??? ?????? ???,  
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ???.

12 ?? ?? ?????????? ?????????? ???????, ? ?????????? ?????? ??? ? ??????????,  
???? ??????????????, ??? ?????????? ?????????? ??? ?????? ??? ??????, ?? ?????? ???  
????????????? ?????? ??? ?????? ???, ?????? ?? ?????????? ?? ?????? ??? ?????? ??  
????????? ??? ?????? ?? ?????? ??? J.S., ? ?????? ?????? ?? ?????? ?? ?????? ??  
????????? ??????????????, ??? ??? ?????? ??? ?????? 15, ?????????? 2, ??? ?????? ???  
???, ??? ?? ?????????? ????.

13 ? J.S. ?????????? ??? ??????? ??? ?????????? ??? ?????? ?????? ??? Wojewódzki S?d  
Administracyjny w Warszawie (????????? ?????????? ??? ?????????? ??? ?????????? ???  
?????), ?? ?????? ??????? ?? ?????????? ?????????? ??? ?????? ?? ?????? ??? 15?  
????????? 2018. ??? ??????? ???, ?? ?????????? ??? ?????????????? ??? ? J.S. ??? ???  
????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??? ? ?????????? ???  
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ? ?????????? ???  
????????? , ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ? ?????????? ?????????? ???  
J.S. ???, ??? ?????? , ? J.S. ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???.

14 ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? Naczelnego  
S?du Administracyjnego (????????? ?????????? ??? ?????????? , ??????), ??? ??? ??????????  
????????? , ?????????? , ?????? ???, ??? ? ??? ?????????? ??? ?????? ???  
????????? ?????????? ?????????? ?? ??? ???' ?????????? ???, ?? ?????? ??? J.S.,  
????????? ?????????? ?????????? ?????? ??? ?????????? ??? ?? ??? ?????? ??????????  
??? ?????? ??? ?????? ??? ?????????? ??? . ?????? , ? ?????? ??? ?????? ???, ???  
??? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? , ? ?????? ?????? ??  
????????? ???.

15 ?? ?????? ?????????? ??? ?????? ??? ? ?????? ??? ?????????? ??? ?????? ???  
????????? ?????????? ??? ?? ??? ?????? ??? ? ?????????? ??? ?????????? ??? ?????? ???  
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????? ?????????? , ??? ??? ?????? ??? ? ?????????? ??? ?????? ??? ?????? ???  
????????? ?????????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ???.

16 ?????? , ?? ?????? ?????????? ??? ?????? ???, ?? ?????????? , ??? ??? ?????????? ???  
????????? ?????????? ??? ?? ??? ?????? ??? ? ?????? ???, ??? ?????? ??? ?????? ???  
????????? ???, ??? ?????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? J.S. ??? ??? ?????? ??? ?? ??? ?????? ??? ?????? ???  
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ???.

17 ?????? , ?? ?????? ?????????? ??? ?????? ??? ?? ??? ?????? ??? 15?  
????????? 2011, S?aby ??. (C?180/10 ??? C?181/10, EU:C:2011:589), ?????????? ???  
???, ??? ??? ?????? ?????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?????? ??? ?? ?????? ??? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?? ??? ?????? ??? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?? ??? ?????? ??? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ???, ??? ???, ??? ??? ?????? ???, ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

?? ???????????, ? J.S. ??? ?????????????????? ??? ????? ?????? ??? ?????????? ?????????????? ???????????  
???????, ?????? ????, ??? ??? ?????? ??? ?????????? ?????????????? ??? ??? ?????? ?????? ??????  
????? ?????????? ?????????????? ?????? ??? ?????????? ?????????????? ??? ??? ?????? ????  
????????? ????.

18    ??????, ?? ?????? ?????????? ?????????????? ??? ??? ??? ?????? ??? ?????? ??? ?? ???  
????????? ??? J.S. ??? ?????????? ??? ??? ???, ?? ?? ??????, ??? ?????? ?????? ??????  
??? ??? ??? ?????? ?????? ???.

19    ??? ??? ?????? ??????, ?? Naczelnny S?d Administracyjny (????????? ??????????  
?????????) ?????????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ???  
????????? ?? ?????????? ?????????????? ??????:

«????? ?? ????? 9, ?????????? 1, ?? ?????????? ?? ?? ?????? 14, ?????????? 2, ?????????? ?,  
??? [????????? ???] ??? ?????? ??? ??? ?????????? ??? ?? ?????????? ??? ?????? ???????,  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ???  
????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ?????????? ???  
????? ??? ?????? ??? ??? ?? ?????????? ??????, ?????? ?????????? ??? ?????? ??? ?????? ???  
????????? ?????? ??? ??? ?? ?????????? ??????, ??? ??? ??? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?????? ??? ??? ?? ?????????? ??????, ??? ??? ??? ??? ?????? ??? ?????? ??? ?????? ???;  
????????? ?????? ??? ??? ?? ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???;

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

20    ??? ?????? ??????, ?????????????? ???, ??? ?????? ??????????, ??? ?????? ???  
????????? ?????? ??? ?????? 267 ???, ??? ?????????? ?????????? ?? ?????? ??? ?????? ???  
????????? ??? ?????? ?????? ??? ?? ??? ?????? ?? ?????????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??????, ?? ?????????? ?????? ?????????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
??? (????????? ??? 7?? ?????????? 2023, Groenland Poultry, C?169/22, EU:C:2023:638, ????  
47 ??? ??? ?????????? ?????? ???).

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

22    ?? ????? 2, ?????????? 1, ??????? ??, ??? ?????? ??? ?????? ??? ?????? ? ?????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ???.

23    ??????, ?? ?????? ?????????? ?????????? ??????, ??? ?????? ???, ?? ?????? 9,  
????????? 1, ??? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????? ??? ??? ?????????? ?????????? ??? ??????, ??? ??? ?????? ??? ?????? ??? ??????????  
????????? ??? ??? ?????????? ??? ?? ? J.S. ?????????? ??? ??? ??? ?? ???  
????????? ??? ??????????.

24    ??????, ?????? ?? ?????? ???, ?? ?? ?????????? ??????, ?? ??????  
????????? ???' ?????? ?? ?????????? ?? ?? ?????? 2, ?????????? 1, ?????????? ??,  
?? ?????????? ?? ?? ?????? 14, ?????????? 2, ?????????? ??, ??? ?????? ??? ???, ?????? ???  
????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???.

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

25 ????, ???????, ?????????????? ??? ? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ? ?? ???  
??????????, ?????? ???, ?? ?????? ?????? ??? ?????????? ?????? ?????? (??????? ??? 13??  
?????? 2018, Gmina Wroclaw, C?665/16, EU:C:2018:431, ??? 30 ??? ??? ??????????????)  
?????????).

26 ??? ???? 2, ?????????? 1, ?????????? ?, ??? ?????? ??????, ?????????? ??? ? ??  
?? ?????????? ??? ?????? ??? ?????????????? ?? ?????????? ?????? ??? ?????? ??????  
????? ??? ?????????? ??? ?????? ??? ?????? ?? ??? ?????? ????. ?????? ?????????? ??  
????????? ?? ?? ?????????????? ??? ?????? 24 ??? ?????????? ?????????? ??????????????  
?????????????, ??????, ??? ?????? «????????? ?????? ?? ?????? ??? ??????» ???,  
?????????, ??? ?????? «????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???».

27 ???, ?????, ??? ?????? ??? «????????? ??????», ?? ??? 14, ?????????? 1,  
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????????? ??  
????????? ??????, ?? ??????, ?????? ??????. ?? ??? 14, ?????????? 2, ?????????? ??, ??  
????? ?????? ?????? ????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? 1 ??? ?? ???  
?????, ?? ?????? ?????? ????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???,  
????????? ??????, ???' ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
?????.

28 ? ?????????? 2 ??? ?????? ?????? ??????, ?? ?????? ?? ??? ?????? ?????? ???  
????????? 1, lex specialis, ??? ?????? ?????? ??? ?????? ?? ?????????? ??????????  
????? ?????????? ?? ?????? ?? ?????? ??? ?????? ??? 1 [???. ?????????? ?? 13??  
?????? 2018, Gmina Wroclaw, C?665/16, EU:C:2018:431, ??? 36, ?? ?? 25??  
????????? 2021, Gmina Wroclaw (????????? ??? ?????????? ??????????), C?604/19,  
EU:C:2021:132, ??? 55].

29 ????, ??? ??? ?????????? ??? ?????? ??? «????????? ??????», ??? ????  
?? ?????? 14, ?????????? 2, ?????????? ?, ??? ?????? ????, ??? ?????? ?? ??????????  
????????? ??? ?????? ???????????. ???' ????, ??? ?????? ?? ?????? ?????????? ???  
????????? ???????. ??? ??????, ?? ??? ?????? ?????? ??? ?????? ?? ??????????????  
???' ?????? ??? ?????? ??? ? ?? ?????? ??? ? ?? ?????? ????. ????, ??? ?????? ??  
????????? ?????? [????????? ?? 13?? ??????? 2018, Gmina Wroclaw, C?665/16,  
EU:C:2018:431, ??? 37, ?? ?? 25?? ?????????? 2021, Gmina Wroclaw (????????? ???  
????????? ?????? ?????????? ??????????), C?604/19, EU:C:2021:132, ??? 56].

30 ?? ??????????, ??? ?????? ??? ?????? ?????? ?????????????? ??????????????, ?? ??  
????????? ??? ?????? ?? ?????? ?????????? ?????????? ??? ?????? ?? ?????????????? ???,  
?????, ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??????????  
????????? ??? ?????? ???, ??????, ?? ??? ?????? ?????? ?????? ??? ?????? ??????????  
????????? ??? 6 ?????? 2017 ?????????? ?????????? ??? ?????????? ??? ??????????  
?????.

31 ??? ?????? ??? ?????? ?????????? ??? ?????? ?? ?????? 14, ?????????? 2, ?????????? ??,  
??? ?????? ???, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???,  
????????? ??? ?????? ???, ??? ?? ?????? ?? ?????? ?????? ? ?????????? ???, ???,  
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?? ??  
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? [??????? ?? 25??

????????????? 2021, Gmina Wrocław (?????????? ??? ?????????????? ??????? ??????????????  
?????????????), C?604/19, EU:C:2021:132, ???? 61 ??? ??? ?????????????? ??????????].

33      ????? ?????? ??? ??????????? ??? ? ?????????? ????? ?????? ?? ?????????????????? «??  
????????? ??????», ???? ?? ?????? 2, ??????????? 1, ?????????? ??, ??? ?????? ????? ??, ?  
????????? ??? ??????, ??? ?? ?????????????? ??? ?????, ?????????????? ??? ????? ?? ?????? ???  
?????? 14, ?????????? 2, ??????? ??, ??? ??????? ?????? ?????? ??? ?? ?????????? ?  
?????????? ??? ??????? ?? ??????? ?????? ??? ?????? ??? ?? ?????????? ??? ?????????? ???  
????????? (????. ??????? ??? 13?? ??????? 2018, Gmina Wroclaw, C?665/16,  
EU:C:2018:431, ??? 44).

36 ???????????, ? ??????????? ????? ??? ????? ????? ?????????????? ??? ?????? ?? ?????? ??? ?????? ???  
????????? ?? ??? ?????????? ??? ?????????????? ??? ?????? ????. ????. ????? ?????????, ?????? ? ??????  
????????????????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????????????? ??????? ??? ?????????? ???  
????? ?????????? ??? ??? (?????????? ??? 4?? ?????????? 1995, Armbrecht, C?291/92,  
EU:C:1995:304, ??????? 17 ??? 18, ??? ??? 8?? ??????? 2001, Bakcsi, C?415/98,  
EU:C:2001:136, ????? 24).

38      ????????, ? J.S., ? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ??????????????

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41 ??????? ?? ????????????????, ??? ?????????????? ??????? ??????? ?? ?????? ? ???????  
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(???????????)

\*      ??????? ?????????????; ? ?????????.

i ?????????? ??? ??? ????? ?????? ????? ?????? ?????? ?????? ??????????. ??? ????????????