

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

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

??? 8?? ??? 2024 (*)

«????????????? ?????????? – ????? ?????? ????? ?????????????? ?????? (???) – ??????
2006/112/?? – ????? 73 – ?????????? ?????? ??? ?????? ?????????? – ??????? ?? ?????? ??
????????????? ?????? – ??? ?????? ??? – ?????????? – ?????? – ?????? – ??????????
???? – ??? ?????»

???? ?????? C241/23,

? ? ?????????? ?????? ?????????????? ?????????? ?????? ??? ?????? 267 ????, ???
?????? ?? Naczelnego S?d Administracyjny (?????? ?????????? ??????????, ???????) ??
?????? ?? 24?? ?????????? 2023, ? ????? ?????? ??? ?????????? ??? 18 ???????
2023, ??? ?????? ??? ????

P. sp. z o.o.

????

Dyrektor Izby Administracji Skarbowej w Warszawie,

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

Rzecznik Ma?ych i ?rednich Przedsi?biorców,

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

????????? ??? ??? F. Biltgen, ??????? ????????, A. Prechal (??????????), ??????? ???
????????? ????????, ??????? ?????????? ??????? ??? ??????? ????????, ??? M. L. Arastey
Sahún, ???????,

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

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

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

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

– ? P. sp. z o.o., ?????????????? ??? ??? J. Martini, doradca podatkowy,

– ? Dyrektor Izby Administracji Skarbowej w Warszawie, ?????????????? ??? ??? J.
Kazimierczak, radca prawny,

– ? Rzecznik Ma?ych i ?rednich Przedsi?biorców, ?????????????? ??? ??? P. Chrupek,
radca prawny,

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

– ?????????? ????????, ?????????????? ??? ??? M. Herold ??? ??? U. Ma?ecka,
?????? ??? ?????????? ??? ???, ??? ?????? ?? ?????? ??????????, ?? ?????????? ???
?????? ??? ?????? ?????????? ??????????,
?????? ??? ??????

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1 ? ?????? ?????????????? ?????????? ?????? ??? ?????????? ??? ?????? 73 ??? ??????
2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ?????? ?????? ??????
????????????? ??? (?? 2006, L 347, ?. 1), ??? ?????????????? ?? ??? ?????? ??? ??
??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
??? ?????????? ???, ??? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ??
????????? ??? ?????????? ??? ?????????? ?????????? ?????????? ?????????? (?? 2012, L 112,
?. 21) (?? ????: ?????? ???).

2 ? ?????? ??? ??????????? ??? ?????? ??????? ??????? ??????? ??? P. sp. z o.o. ???
??? Dyrektor Izby Administracji Skarbowej w Warszawie (?????????? ??? ??????????????)
?????????? ??? ????? ??????????, ???????) (??? ????: ?????????????? ????) ??????? ?? ???
?????? ??? ?? ??? ????? ?? ????? ?????? ??? ?????? ??? ?????? ??? ?? ??? ?????? ??? ??????
??? ????? ?????????????? ????) (???) ??? ?????????????? ??? ?????????? ??? ?????????? ?? W.
??? B. ??? ?????? ??? ?????? ?????? ?????? ??? ????? ?????????????? ??? ?????????? ??
????????? ??? ?????? ??? P.

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

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

3 ?? ?????? 73 ??? ??????? ??? ?????? ?? ????:

«???? ??? ??????????? ?????? ??? ??? ??????? ??????????, ?????? ?????? ??? ??????????? ???
????? 74 ??? 77, ? ??? ?????????? ??? ????? ?????????????? ?????????? ?????????? ???
??????????, ??? ?????? ?????? ?????????????? ?? ?????? ??? ??? ?????????? ?????? ? ?????????????? ?
? ???????? ??? ?????????? ??? ??? ??????????, ??? ?????? ??? ?????? ???????,
????????????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????? ??? ??? ?????? ??? ?????? ????.»

4 ????? ?? ?????? 74 ??? ??????? ??????:

«???? ??? ??????? ???????? ? ?????????? ??? ?????????????????? ??? ??? ?????????????? ??? ??? ?????????? ???
????????????? ??? ? ??? ??? ?????????? ?????? ??? ?????????????? ??? ?????????????? ??? ??? ? ???
????????? ???, ?? ?????????? ?????? ??? ?????????????? ?????????????? ??? ?????????????? ??? ??? ?????????????? ???,
??? ?????????? ??? ?????? 16 ??? 18, ? ??? ?????????? ??? ?????? ?????????? ??? ?????? ???
????? ??? ?????? ?????? ? ?????????? ?????? ?, ??? ??? ?????? ??? ?????? ???, ??? ??????
??? ??????, ??? ?????????????????? ??? ??? ?????? ?????????????? ??? ??? ? ??? ?????? »

5 ?? ?????? 80 ??? ?? ???? ??????? ?????????? ?? ????????:

?) ???? ? ?????????? ?????? ?????? ?????? ??? ?? ?????? ??? ???? ? ?????? ??? ?????? ?
?? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ??? ?????? 167 ??? 171 ???
?? ?????? 173 ??? 177,

?) ???? ? ?????????? ?????? ??????? ??? ??? ?????????? ??? ???? ? ?????????????? ???
?????? ? ? ??????? ??? ?????????? ??? ??? ?????? ?????? ?????????? ?????? ??? ??????
167 ??? 171 ??? ??? ?????? 173 ??? 177, ??? ? ?????????? ??????? ? ? ?????? ??????????
?????? ???? ?????? ??????? ?? ?? ?????? 132, 135, 136, 371, 375, 376 ??? 377, ?? ?????? 378,
????????? 2, ?? ??? 379, ?????????? 2, ? ?? ??? 380 ??? 390?,

?) ???? ? ?????????? ?????? ??????? ??? ?? ?????????? ??? ?? ? ?????????? ??? ?? ? ?????????? ???
?????? ? ? ??????? ??? ??????? ??? ?????? ??? ?????? ??????? ??????? ??? ?? ? ??????? ??? ?? ??
????? 167 ??? 171 ??? ?? ?????? 173 ??? 177.

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

[...]»

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

«?? ?? ?????????? ???. ???. ?????????? 2 ???. 5, ???. ?????? 30a ???. 30c, 32, 119 ???. 120,
????????? 4 ???. 5, ? ???. ?????? ?????? ???. ?????? ?????????????? ?????????? ?????????? ???.
????????? ???. ?????? ?????? ? ?????????? ???. ??????, ???. ?????? ???. ??????, ?
????????? ???. ? ???. ?????? ???. ?????????? ???. ?????? ???. ??????????, ???. ?????? ???. ??????
?????????, ?????????????????????? ???. ??????????????, ???. ?????????????? ???. ??????
????????? ???. ?????????????? ???. ?????? ???. ?????? ?????????????? ???. ??? ???. ?????????????? ???.
???. ?????????? ???. ?????????? ???. ?????? ???. ?????? ?????????? ???. ??? ???. ??? ?????? ???.
????????? ???. ??? ?????????? ???. ?????????????? ???. ??? ???. ?????????? ???. ??? ???.

7 ?? ?????? 86, ??????????? 1, ??? ?????? ?????? ?????? ?? ????:

«???? ?????? ??? ?????? ??? ?????????? ?????????????????????? ??? ??? ??????????????????
????????????? ???????, ?? ?????????????? ??? ??? ??? ?????? 15 ?????????????? ??????? ???
????? ??????? ??? ?? ??? ??? ?????????????? ????, ?? ??? ?????????????? ??? ?????????????? ???
?????? 114, ??? ?????? 119, ?????????? 4, ??? ?????? 120, ?????????? 17 ??? 19, ???
??? ??? ?????? 124.»

8 ????? ?? ?????? 88 ??? ?? ????? ??????:

«3a. ?????????????? ??? ???? ?????????????? ?????????????? ??? ?????????????????? ?????? ??? ?????????????? ?????? ??? ?????????? ?????? ??? ?????????? ?????? ??? ?????????? ?????? ??? ?????? ??? ? ?????????? ??? ?????? ???

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

[...]

4) ??? ?????????? ??????????, ?????????? ?????????? ? ?????????? ??????????:

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

[...]».

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

9 ? P. ?????? ?????? ?????????? ???, ?? ?????? ?????? ?????? ??? ??????
????????? ?? ??????.

10 ??? ???? 2014 ??? ??? ?????? ??? 2015 ? P. ?????? ?? ?????? ??? ??????????
??? ?? ?????? ?? ?????? ?????????? ??? ??? W. ??? B. ?????????? , ?? ??? ??????
????????? ?????? ?? ??? P. ?????? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ??
??? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ??? P. ?????? , ???
3 ????????, ??? 28 ?????????? ??? ??? 29 ?????????? 2014 ? P. ?????? ?? ??? W.
????????? ?????? ?? W. ?? ?????????? ??? P. 23 ?????? ??? ??????
????????? ??? ?? ?????????? , ?????????? , 4 767, 1 164 ??? 7 745 ?????? ??????????
??? ??? P. ?????? , ??? 3 ?????????? ??? ??? 28 ?????????? 2014 ? P. ?????? ?????????? ??
??? B. ?????? ?? ??? ?????? ? B. ?? ?????????? ??? P. ??? ?????? ??? ??????
????????? ??? ?? ?????????? , ?????????? , 2 100 ??? 133 ?????? ?????????? ??? ??? P.
?? ?????????? ??? ?????? ??? ?????? ??? ? ?????? ??? ??? ?????? ??? ?????? ??? ??????
??? P. ?????????? ?? ?????? ??? ., ?????? ??? ?? ??? ?????? ??? . ? ??? ??????
????????? ?? 35 287,19 ?????? ?????? (PLN) ??? ?????? , ??? ?????? 8 123 ????. ???
??? ?????????? ??? ?????? ?????? , ?? ?????????????? ?????????? ??? ?????? ???
????????? ??? ?????????? ?? ?????????? ??? ?????? , ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????.

11 ??? ?????? ??? 2014 ??? ??? ???? 2015, ? P. ?????????? ?? ??? ??? ??? ????
????????? ??? ?????? ??? W. ??? B. ??? ??? ?????? ?????? ??? ?????? ??? P.
?? ??? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? P. ??? ???
????????? ?? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

12 ?? ?????? ??? 28? ?????? 2017, ? Naczelnik Pierwszego Urz?du Skarbowego
Warszawa-?r?dmie?cie w Warszawie (????????????? ??? ?????????? ??? ?????????? ??
????????? - ?????? ?????????? , ??????), ? ?????? ?????? ??? ?????? ??? ?????????? ???,
????? ??? ? ??? ?????? ??? ??? ??? ??? ?????? ??? W. ??? B. ??? ?????? ???
????? ??? ?????? ??? P. ?????? ?? ?????????? ?????????? ??? ?????? ???
????????? ??? ?????? , ??? 50 PLN ??? ?????? , ??? ?????????? ?? 11,50 ???
????? , ??? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? , ??? 35 287,19 PLN ???
????? , ??? ?????????? ?? 8 123 ??? ?????? . ?????????? , ? ??? ??? ??? ??????????
?? ?????? ??? P. ?? ?????? ?? ?????? ??? ??? ??? ?????? ??? ?????????? ???
????? ??? ?????????? ?? ?????????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ???.

13 ?? ?????? ??? 30? ?????? 2017, ? ?????????? ??? ?????? ??? ?????? ???
????????? ??? , ?????? ??? ?????? ??? ??? ??? ?????? ??? ?????? ???

????? ??????? ?? W. ??? B. ??? ??? ??????? ??????? ??? ??????? ??? P. ?????? ???
????? ??? P. ??? ?????????????? ?????? ??? ?????????????? ???, ?? ???? ??????, ???
????? ??? P. ??????? ?????? ??? ???' ?????? ??? ?????? 86, ?????????? 1,
??? ??? ????. ??? ?????? ?????? ?????? ???, ? ?????? ??? W. ??? ??? B.
??? ??? ?????? ??? ?????? ??? ?????? ??? P. ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ??????.

14 ?? ?????? ??? 29?? ??? Wojewódzki S?d Administracyjny w Warszawie
(????????? ?????????? ?????????? ?????????, ??????) ?????? ??? ?????? ??? P.
???? ??? ?????? ??? ?????????? ????. ?????????? ?????? ??? ?????? ??? 29a,
????????? 1, ??? ??? 88, ?????? 3a, ?????? 4, ?????? b, ??? ??? ??? ??? ?,
?? ?????? ????. ??? ?????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ????. ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ????. ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? ????. ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

15 ??? ??? ?? ??? ?????? ? P. ?????? ?????? ?????? ??? Naczelny S?d
Administracyjny (????????? ?????????? ?????????, ?????), ?????? ?????????? . ?
P. ??????, ?????? ???, ??? ?? 29a, ?????? 1, ??? ??? ??? ??? ??????????
????????? ??? ?? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ????. ? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ????. ? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ??? ?????? ????. ? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ????. ? P. ??? ?????? ??? ?????? ??? ?????? ???.

16 ?? ?????? ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ?? ?????? ?? ??????????
?? ?????? ???, ???, ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ???, ???, ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

17 ??????, ??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ????. ? ?????? ??? ?????? ??? ?????? ???, ?????? ???, ? ??? ?????? ???
????? ????. ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

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

«????? ?? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? 73 ??? ?????? [??] ? ?????? ??? ???

? ?????????????? ??????? ? ? ??? ??????????, ?? ?? ??? ????? ?????? ?????? ??? ? ?????????????? ??
?????????? ??? ????? ?????? ?????? ??????;»

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

20 ?? ?? ?????????????? ???????, ?? ?????? ?????????????? ?????? ?? ?????????????? ?? ??
?????? 73 ??? ??????? ??? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ??? ???????
????????? ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?? ?????????? ??? ?????? ??? ??????
????? ?????????? ?????? ?? ?????????????? ?????????????? ?????? ??? ?????????? ?????? ??? ?????????? ??? ??????
??? ??????? ?????? ?????????? ??? ?? ?????? ?????? ?????? ?????? ?????????? ??? ? ?????????? ??? ??????
??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????.

21 ???????, ??? ?? ?????? ??? ?????? 73 ??? ?????? ??? ?????? ??? ?????????? ??? ? ???
????????? ??? ?????? ?????????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????
????????? ?? ?????? ? ?????????? ??? ? ?????? ??? ?????? ??? ?????????? ??? ??? ?????????? ??? ??????
??? ??? ?????? ??????.

22 ? ?????????? ??? ?????? ??? ?????????? ???' ?????? ?? ?????? ??????????. ??????????????,
?? ?????????? ??????????, ??? ?????? ? ?????????? ?????? ?????????? ?? ?????? ??? ??????
??? ?? ?????????? ??? ?????? ? ?????????? ?????? ?????? ?????????? ?????? ??? ??????
????????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ??????
?????????, ??? ?????? ?????? ? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??????
????????????? ??? ?? ?????? ?????????? ??? ?? ?????? ?????? ?????? ??? ?? ?????????? ?? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 73 ??? ?? ???
????? (????. ??????? ??? 10?? ?????????? 2019, A, C?410/17, EU:C:2019:12, ?????? 35
??? 36 ?????? ??? ?????? ?????????????? ??????????).

23 ??????????, ??????, ? ?????? ?????? ?????? ?? ?????? ?????????? ?? ?????????????? ??
?? ??????? ??????, ??? ?? ?????? ?????? ?????? ?????? ?????? ??? ?????? ? ?????? ???
?????????????, ??? ? ??? ?????? ??? ?????????????? ?????? ??? ?????? ??? ?????????????? ??????
?? ?????? ?? ?????????? ?? ?????? ?????? ?????? ?????? ?????? ?????????? ??????????????, ??
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?? ?????? ?????? ?????? ??? ??????
??? ?????? ?????????????? ?????? ?????? ??? ? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ?????? ?? ?????????? ?????????? ??? ?? ?????? ?????? ??? ?????????? ??? ?????? ???
(????. ??????? ??? 10?? ?????????? 2019, A, C?410/17, EU:C:2019:12, ?????? 31 ??? 35
????? ??? ??? ?????? ?????????? ??????????).

24 ?? ??????????, ? P. ?????????????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
??? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? W. ??? B. ? ?????????? ???
????? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? P. ??? ?????? ???
????? ?????????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???.

25 ???????, ?????????? ?????? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?? W.
??? B. ??? ??? ??????? ??? ??? ?????? ?????? ?????? ?????? ??? P. ???????, ? ??? ???
????????? ??? ??? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ???.

26 ??? ?????? ??? ?????????? ?? ?????? ??? ?????? ?????????????? ?????? ??? ??????, ??? ??
????????? ??? ??? ?????? ??? ?????? ??? ?? ?????????? ?????? ???, ??? ?? ??????
?????, ? ?????????? ??? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ???, ? ?? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

27 ??????????, ??? ?????? ?????????? ?????????? ??? ? ??? ?????? ?????? ??? ?????? ??? ??????
?? ?????? ?????? ?????? ?????????? ?????? ?????? ? ?????????? ??? ?????? ?????? ?????? ?
????????? ????. ? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???, ?????? ??????
??? ?????? ??????????, ??? ??? ??? ??? ?????????? ??? ?????? ?????????? ?????? ?????????? ??????
(????. ?????? ??? 19?? ?????????? 2012, Orfey, C?549/11, EU:C:2012:832, ??? 44 ???
????? ?????????? ?????? ??????????).

28 ? ??? ?????, ?????? ??? ?????????? ?? ?????????? ??? ?????? ??? ? ??? ?????? ??????????
????? ??? ??????????, ????, ??? ???? ?????? ??????????, ?????? ?? ?????? ???? ?????? ? ???
??? ?????? ?????????? ? ?????????? ??? ?????????? ??????, ? ?????? ?????? ??? ??????????
??? ?????? ??????, ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??
????????? ??? ? ??? ?????? ??? ?????? ?????????? ?? ?????????? ??? ?????? ??? ?????? ? ??? ??????
????? (????. ?????? ??? 19?? ?????????? 2012, Orfey, C?549/11, EU:C:2012:832, ??? 45
????? ?????? ?????????? ??????????).

29 ?? ??????????, ? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??????????
????????? ??? ???? ?? ?????? ??? ?????? ??? ?????????? ?? W. ??? B. ??? ?????? ??? P. ???
??? ?????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
?????????.

30 ??? ??? ?????????? ?????????? ?????????? ??? ? ??? ?????? ??????????, ??? ??
????????? ??? ?????????? ???, ????, ??? W. ??? B. ???, ???????, ??? P. ??????????
??? ? ?????????? ??? ??? ?????????? ??? ?????? ??? P. ??? ?????? ??? ?????? ???
????? ??? W. ??? B. ?????????? ??? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????? ??? ?????? ? ??? ??? ?????? ?????????? ?? ??? ??? ??? ?????? ??? ?????? ???
??????. ???????, ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ?? W. ??? B. ??? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????
??? ?? ??? ??????.

31 ??????, ? ?????????? ??? ?????? ???, ? ?????? ?????????? ?? 35 287,19 PLN, ???
?????? 8 123 ???, ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??
W. ??? B. ??? ?? ?????? ??? ?????? ??? ?????? ??? P.

32 ?? ?? ???????, ?????????? ???, ??????, ???' ?????????? ??? ?????? 73 ??? ??????? ???,
? ????? ??????? ?? ???? ?? ?????? ?? ?????? ?? ?????? ?????? ?????? P. ?????? ??
????????????? ?????????????? ?????? ?? ?????????????? ??? ?????????????? ??? ??????????
????????????? ?????? ?? W. ??? B. ???, ???????, ? P. ??? ?? ???? ?????? ??????
????????????? ??? ? ?? ??? ?????????? ?????????? ??? ?????????? ?????? ??? P. ?? ???
????????? 35 287,19 PLN ??? ??????, ??? ?????? 8 123 ???, ??????, ??? ??? ??????????????
?? ?????? ??????? ?? ???? ??? ?????????? ??? ?????? ??? ?????????, ?? ?????? ????
????????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????, ??? 50 PLN.

33 ? ??????? ?????????? ??? ?????????? ??? ?? ??????? ???, ?? ??????????, ? ???
????????? ??? ??????? ?????????? ??? ?? ??? ?????? ?????????? ??????????, ??? ?????? ???????,
??? ??????? ??? ?????? ?????????? ?????? ??????. ??????????, ??? ?????????? ????
????????????? ??? ? Rzecznik Ma?ych i ?rednic Przedsi?biorc?w (????????????? ??? ??
????? ??? ?????? ?????????? ???), ? ??????? ??? ?????????????? ??? ?? ??? ??
?? ??? ?????? ?????????? ??? ??? ?????????? ?????? ?????????? ??? ?? ?????? ??? ??????
????????? ?? ?????????? ??? ?????? ?????????? ??? ?? ?????? ??? ?????? ?????????? ??????
???? ?????. ? ?? ??? ?????? ??? ?????? ?????? ?? ??? ?? ?????? ??? ?????? ??? ?? ??????
?? ?????? ?????? ??? ?????? ??? ?? ??? ?? ?????? ?????? ?????? ?????? ?????? ??? ??
????? ????.

34 ???????, ?? ?????? ??? ? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ??? ??
????????? ??? ? ??? ?????? ??? ?? ?????? ?? ?????????? ?????????? ?????????? ??? ??
????????????? ??? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ?????????? ?????????? ??
????????????? ????. ??? ??????, ? ??????? ?????????? ?????????? ??? ?? ??? ??
??????, ? ?????? ??????, ???' ?????? ??? ?????? 73 ??? ?????? ???, ?? ???
????????? ??? ???, ?????? ?? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
?? P., ?? ??? ??? ??? ?????? ???, ??? ?????? ?????? ?? W. ??? B.

35 ? ??????? ??? ?????????? ??? ?????? 32 ??? ??????? ?????????? ??? ??????????
???? ??? ?? ?????????? ??? ?????? ? ??????? ?????????? ?? ??? ?????????? ??? ??
? ?????????? ???, ??? ?????????? ??? ?? ?????? ??? ?????? ?????? ??????????, ??? ?? ??? ??
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ??
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ?????? ??????????,
????? ??? ?? ??? ?????, ??? ?????? ?? ?????? ??? ?????????? ??? ?? ?????????? ??? ??
???? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ?????? ??? ?? ?????????? ??? ??
????? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ?????? ??? ?? ??? ??
????? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??
????? ??? ?????????? ??? ?????? ??? ?????? ???.

36 ???????, ? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
???? ?????? ? ?????? ?????? ??? ???????, ?? ?????? ?????????? ?? ???????????,
????????? ??? ?? ?????? ??? ?????? ?????? ??????????, ??? ? ??? ??? ?????????? ??
???? ?????? ?????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?? ??? ??
????????? ?????????? ?????? (???. ?????? ??? 10?? ?????????? 2019, A,
C?410/17, EU:C:2019:12, ??? 47 ??? ??? ?????????? ??? ??????).

37 ???????, ?? ?????? 80 ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???, ??? ??
????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????????
? ?????? ?????? ?????????? ???, ?????????? ???, ?????????? ???, ?????????? ??? ?
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????

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

38 ???????, ?????????? ??? ? ??????? ????? ?????????????? ??? ??? ?????? ??? ???? ???? ?
???? ??????? ??? ???? ?????????? ??? ????? ?????????? ??? ?????????????? ??? ??? ???? ??????????
???? ??? ???????????, ?????? ?? ?????????????? ????. ??????, ??????, ??? ?????? ??? ??
????????????? ?????????? ?????????????? ??? ?? ??????? ??? ??????????????, ?? ??????????
?? ??? ?????????? ?? ?????????? ???? ?????? ??????????, ?? ??????? ?? ??????????????
??????, ??? ???? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ??? ??????, ???
????????? ??? ??????????, ??? ???? ?????????????? ??? ?? ??? ??? ?????? (???????
??? 19?? ?????????? 2012, Orfey, C?549/11, EU:C:2012:832, ????? 47 ??? ???
????????????? ??????????).

39 ??????????, ?? ??????????, ??? ?????? ?????????? ??? ?????????? ??? ?????? ???
?????? ?? ???? ?????? ??? ?????????? ??? ???? ?????? ??? ???? ?????? ??? ?????? ???
????????? ?????????????? ?????????? ???? ???? ???? ?????????? ??? ?????????? ???
????? ?????? ??? ?????? 80 ??? ?????? ??? ??? ??? ???? ?????? ??? ?????? ?????? ??????????.

40 ?????????????? ?????? ??? ??????? ??? ??????? ????????, ??? ?????? ??????????
?????? ?? ????? ? ??????? ??? ?? ????? 73 ??? ?????? ??? ??? ?????? ??? ????
????????? ??? ?????? ??? ??????? ??????? ??? ??? ?????? ??? ??????? ?????? ?????
?? ?????????? ?????? ??? ?????? ????? ?????? ?????? ?? ??????????????
????????????? ??? ?????? ??? ?????? ??????? ??? ??????? ?????? ?????????? ??? ?? ??? ??????
????? ?????????? ??? ? ?????????? ??? ??? ?????? ?????? ??? ?????????? ?? ??????????
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41 ?????????? ??? ? ??????? ?????????? ??? ?? ??? ?????? ??? ?????????? ??? ?? ?????? ??? ?????????? ??? ?? ?????? ??? ?????
??? ?????????? ?????????????? ??? ?? ??????? ?????????? ??? ?? ?????????? ?????????? ??????????????, ?' ????
????????????? ?? ?????????? ??? ?? ?????????? ??????. ?? ?????? ??? ?????? ??????????????
????? ?????????? ?????????????? ??? ?? ?????????? ?, ??? ?? ??? ??????????, ??? ??????????.

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

?? ?????? 73 ??? ??????? 2006/112/?? ??? ????????????, ??? 28?? ?????????? 2006,
??????? ?? ?? ????? ??????? ??? ????? ?????????????? ????, ??? ?????????????? ??
??? ?????? ??? ?????? ??? ????? ?????????????? ??? ?????????????? ??? ?????????? ??? ??
?????????? ??? ?????????? ??? ????? ?????????? ????, ??? ?????????? ??? ??
?????????? ??? ?????????? ??? ?????? ??? ??? ?????????? ??? ????? ?????????? ???
?????????? ?????????? ?????????? ???????,

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

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