

RECENT CHANGES IN HUNGARIAN TAX PROCEDURES DUE TO DIGITALISATION*

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Abstract

The digitalization has a great impact to the Hungarian tax procedures in the last years, so in this short article I will review these and present the major milestones. One of them was the Electronic Road Traffic Control System; and the other is the Online Account system, which can effectively help to ensure the highest possible level of tax revenues.

Keywords: digitalisation, tax procedure, Electronic Public Road Trade Control System, online account system

Introduction

In the past few years there were many changes in the taxation as an impact of the digitalisation. This article aims to overview about these innovations. One of them is the Hungarian Electronic Trade and Transport Control System - the so called "EKAER" System and the other is the online invoice system.

Because of the increased trade and the establishment of international chains the transporting of goods became more and more complex. That is the reason why the traceability of goods is emphasized nowadays. From 1 January 2015 the road transportation control system was introduced in order to prevent VAT fraud.¹

The reporting obligation applies to acquisitions of goods from another EU

Member State to the territory of Hungary or acquisitions for other purposes, supplies of goods from the territory of Hungary to another EU Member State or supplies for other purposes, and first supplies of goods subject to taxation in domestic trade, to other than end users, involving road transportation, if performed by using vehicles subject to road toll payment. The reasons of the introduction were the insurance of transparent goods"transportation, to filter foodstuffs containing ingredients unfit for humanconsumption and to reduce VAT fraud. Some products (sugar, oil) were succesfully filtered out by the road transportation system and as the results of the supervision it was obvious whether there was transportation between states or not. But it is important to mention that there are still remaining products like UHT milk and

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¹ Höflinger, Hajnalka: Az EKÁER mint egyedülálló megoldás [EKÁER as n unique solution] (Adó- és Pénzügyi Szaklap, XXIX. évfolyam, 2015/14. szám)

popular IT-tools, where the fraudsters have chance to try to avoid taxes. According to the scientific literature the road transportation control system is a success. Since the setting of the system together with roadside checks and permanent investigation 100 thousands of controls were carried out and an amount HUF 16 billion have been flown into the State budget. Good sign of success of the online cash register and EKÁER besides of the economic growth that last year an amount HUF 400 billion plus realised in the State budget. However there are some gaps in the system and the tax authority has to be up to date in order to prevent fraud. The scope of the notification has been increased. Not only does it have to announce the carriage of goods carrying a cargo of over 3.5 tons with a tolled vehicle, but the requirement for any vehicle, such as commercial vehicles, to reach 3.5 tons. This was necessary because the carriers shifted to the practice of overcharging the 3.5 tonnes of motor vehicles and thus delivering more goods, without the cargo would have been obligatory to EKÁER. It is also irregularity if they do not report a cargo and also reports more than they actually deliver.

Another problem is if the carrier carries a risky product with a weight of less than 500 kg or less than 1 million forints, it is not obliged to apply for an EKÁER number. A similar problem can be mentioned even among non-risky products that the vehicle does not cover vehicles up to 3.5 tons. So, whoever wants to avoid the system, it delivers the goods abroad by this method, because it does not count as illegal.

According to the opinion of the authors it would not be a good solution to wider the

scope of the notification because of the burden of administration, it would be better to increase the number of roadside checks in the near of border crossing points. Significant changes have taken place with regard to official closure, and we may already find concerns before the implementation of the regulation. If the carrier fails to comply with its reporting obligation or other risk factors justify the application of the fiscal lock. Authority abolition was abusive; therefore decision-makers placed responsibility on the carriers to retain the official lock in an unharmed state from attachment to lock. If the carrier removes an official seal without the permission of the authority, the tax authority may fine it. Another major innovation is that the vehicle can now be held back by the inspectors until the payment of the fines imposed if the punished carrier does not have a Hungarian tax identification number and has his seat, residence, habitual residence in Hungary and no guarantee of payment of the fine. It follows that, the lock down is not cover equally all cases. Transport vehicles of the Hungarian carriers can not be hold back, but the transport vehicles of foreign carriers can.

It appears that the regulation benefits the domestic carriers, so the regulation is contrary to the principles of the EU.²

The Hungarian electronic trade and transport control system - the “EKAER” system

Hungary introduced the EKAER³ system to fight against tax fraud. The aim of

² Zoltán Nagy-Beáta Gergely- Balázs Katona: *Problems relating to tax avoidance and possible solutions in the European Union”s and Hungarian Regulation*. Curentul Juridic, The Juridical Current, Le Courant Juridique, Petru Maior University, Faculty of Economics Law and Administrative Sciences and Pro Iure Foundation, vol. 74, page 64, September 2018.

³ Regulation No. 5/2015 (II. 27.) NGM of the minister of national economy on the operation of the electronic public road trade control system

the system is to track the actual route of goods and to ensure public revenues generated during the acquisition and sale of goods.

The objective of the system is to strengthen the market positions of compliant economic operators, to make circulation of goods more transparent, to eliminate fraud related to food products often endangering human health and; last but not least, to eliminate tax evaders.

The following taxpayers are required to register and report under EKAER⁴:

- who acquire or import goods from the European Union to Hungary by means of a vehicle that is subject to toll,
- who sell or export goods from Hungary to the European Union by means of a vehicle that is subject to toll,
- who is engaged in the first taxable sale of goods to an entity other than a consumer by means of a vehicle that is subject to toll.

Failure to register may lead to the seizure of the consignment and may give rise to a fine up to 40 percent of the value of the goods.

Firstly it is important to determine the definitions based on the Act CL of 2017 on the rules of taxation.⁵

EKAER shall mean the Electronic Public Road Transportation System operated by the state tax and customs authority, intended to monitor compliance with tax obligations arising in connection with the transportation of goods on public roads from any Member State of the European Union to

the territory of Hungary, or from the territory of Hungary to any Member State of the European Union, or within the framework of internal trade inside the territory of Hungary.⁶

EKAER number shall mean an identification number assigned following notification of the public road transportation of a product by automated process in the Electronic Public Road Transportation Control System (EKAER) intended to identify a unit of a given product.⁷

Motor vehicle shall mean a motor vehicle subject to toll charges and any means of transport with less weight, covering trucks, lorries - including semi-trailers - and combinations of vehicles comprised of trailers and semi-trailer.⁸

Goods of unverified origin shall mean any merchandise and material for which the taxpayer is unable, at the time of audit, to produce an authentic document of origin or an instrument to substantiate such document.⁹

Perishable foodstuff shall mean products that have a shelf life and expiration date specified in compliance with the Act on the food chain and its authority supervision.¹⁰

Motor vehicle subject to toll charges shall mean a motor vehicle that is subject to toll charges under the Act on the fees charged for the use of tolled motorways,

⁴ Act CL of 2017 on the rules of taxation (Art.) Article 7 [Definitions] 14. EKAER shall mean the Electronic Public Road Transportation System operated by the state tax and customs authority, intended to monitor compliance with tax obligations arising in connection with the transportation of goods on public roads from any Member State of the European Union to the territory of Hungary, or from the territory of Hungary to any Member State of the European Union, or within the framework of internal trade inside the territory of Hungary.

⁵ Act CL of 2017 on the rules of taxation, in the following in Hungarian abbreviation: Art.

⁶ Art. 7§ 14.

⁷ Art. 7§ 15.

⁸ Art. 7§ 21.

⁹ Art. 7§ 23.

¹⁰ Art. 7§ 41.

main highways and regular highways based on the distance travelled.¹¹

Obligations relating to the electronic public road transportation control system

For transporting goods on public roads via any motor vehicles subject to charge it will be required to apply for an EKAER number. Every number will be valid for 15 days and those organizing and executing the transit must have them as it must be presented during potential roadside checks by the authorities.

In Hungary only vehicles over 3,5 tons are subject to paying usage-proportional road toll when using highways and other and other roads and road sections defined by law. This toll is proportional to the distance travelled on tolled roads and is determined by the axle number and EURO class of the vehicle. Vehicles under 3,5 tons using tolled roads, e.g. highways have to pay toll in a vignette system, where the toll is not proportional to the distance travelled but a fixed price have to paid for a certain period of time.

Those who transport goods to Hungary using public roads from member states of the European Union, who transport goods from Hungary to member states of the European Union and everyone engaging in taxable product selling via public road transportation not targeting end users are obliged to apply for an EKAER number for every transport.¹²

By using EKAER the actual route of the goods can be tracked because transport related data (name and quantity of goods, consignee, consignor, registration number of vehicle, etc.) have to be registered in a central electronic system before starting the transport. Some of these data (product

weight, value, and registration number of vehicle) can be modified up until the arrival of the cargo and can be registered in the system on the first working day after the time of arrival to the address of receipt (unloading). Stating the registration number of the vehicle is not a precondition to determining the EKAER number but it has to be registered up until the start of transport.

The obligation for making data submissions mainly affects the domestic trading parties, the seller and the buyer.

A precondition for registration in EKAER is the access to the Client Gateway. Those already having access to the Client Gateway can create a right of access to the EKAER electronic surface in two steps:

- First the legal representative, permanent trustee of the taxpayer (primary user) applies for username and password then

- after log-in to the EKAER electronic surface they apply for access rights for those persons (secondary users) who may submit or modify data.

- The obligation to submit data applies for each and every road transport of goods performed by using vehicles subject to road toll payment (i.e. vehicles exceeding 3.5 tons of maximum gross weight).

It is obligatory to report:

- for the consignee/recipient: intra-Community buying and import for other purposes,

- for the seller/consignor: sales to another EU Member State and export for other purposes;

- for the seller: first taxable domestic sale if it is not for and end-user.

Domestic products subject to reverse taxation are not exempt from the obligation to submit data.

¹¹ Art. 7§ 50.

¹² Art. 113. §

However, certain goods are exempt from the data submission obligation, e.g. relief supplies or vehicles participating in disaster relief, or road transport in the context of collecting freight if the quantity/value of the given product does not exceed the limit specified in the law, and in the case of transporting certain excise goods specified in the law. Non-risky goods with a net value not exceeding 2 million HUF and with a weight not exceeding 2.5 tons are exempt from the data submission obligation.

In the case of certain goods (risky food products and other risky products) the rules for submitting data in EKAER cover also their transport by vehicles not subject to road toll payment (vehicles with lower than 3.5 tons of maximum gross weight), depending on the value and weight limits of those goods. This limit for risky food products is 200 kg or net 250000 HUF, for other types of risky products it is 500 kg or net 1 million HUF. The range of risky products can be found in the Annex to the Regulation of the minister of national economy.

All taxpayers engaged in activities involving transportation using public roads and transporting hazardous products has to pay a *security deposit*. Wage transport is exempt from this rule.

In the case of food products within the competence of the National Food Chain Safety Office a so-called FELIR identification number is also needed which requires the registration of the company and the first Hungarian place of storage.

In addition to submitting data, from 1 February 2015 a guarantee must be provided and maintained for risky food products and other risky products throughout the business operation. An exception from this is the export from Hungary to another EU Member State. The amount of security is 15 % of the net value of risky products registered in EKAER in the course of 60 days prior to the submission of data (including the day of the submission); this may be reduced in some cases. The following entities may be exempted from the provision of a guarantee:

- taxpayers included in the database of qualified taxpayers or

- taxpayers that have been in business for at least 2 years, are included in the database for taxpayers free of public debt and the tax number of whom has not been suspended at the time of the data submission. The system generates an EKAER number¹³ valid for 15 days when data is submitted which is connected to the transport. The transport operator or transport organizer has to be informed about the EKAER number.

Unreported goods shall be deemed of unconfirmed origin, upon which a default penalty amounting up to 40% of¹⁴ the value of the unreported goods may be imposed.¹⁵ The National Tax and Customs Administration may seize the goods to the extent of the amount of the default penalty or use an official seal.¹⁶

There are exemptions from submission of data.¹⁷

¹³ Act CL of 2017 on the rules of taxation (Art.) Article 7 [Definitions] 15. EKAER number shall mean an identification number assigned following notification of the public road transportation of a product by automated process in the Electronic Public Road Transportation Control System intended to identify a unit of a given product.

¹⁴ Article 226 [Supply of goods of unverified origin and the irregular fulfillment of the EKAER disclosure obligation](3)

¹⁵ See detailed: <http://ekaer.hu/en/> (30.09.2019.)

¹⁶ Decree 5/2015 (Feb 27) of the Ministry for the National Economy on the operation of the Electronic Public Road Transportation Control System

¹⁷ Exempt from the obligation to submit data:

Information disclosure by the tax authority

The state tax and customs authority shall disclose confidential tax information to the investigating arm of the state tax and customs authority in the interest of the prevention of criminal offences, and the investigation and detection of specific criminal offences, and for the prosecution of criminal cases.¹⁸

There are two types of the taxpayers in Hungary. These are the reliable taxpayers and the others are the risky taxpayers. The sanctions are different for these taxpayer groups, so I would like to introduce the rules that apply to them.

Since April of 2016 the classification of tax payers came into operation and it classifies the tax payers into 3 categories, like reliable, average and risky tax payers.

The system has several advantages: the authority can supervise the risky companies and can warn the companies about the risky companies. This warning has a huge meaning, because in case of a tax audit, the company can not submit good faith if the audit of the tax authority reveals problems. The companies have to check the tax number of their business partners before and during the transaction and have to weight the factors because it can be serious consequences in case of business with a risky company. The tax authority classifies the business undertakings in every quarter. The Companies with compliance behaviour will be benefited and the risky companies will be sanctioned. The reliable companies have to meet strict condition. The reliable tax payers will be benefitted, for example in case of a tax penalty they will get payment in

vehicles of the Hungarian Defence Forces and the Military National Security Service, vehicles of law enforcement agencies according to the act on national defence, Hungarian Defence Forces and on measures applicable in special law, and vehicles of the Parliamentary Guard;

official or service vehicles of foreign armed forces stationing in or passing through Hungary, and of international military headquarters set up in Hungary for service purposes, and vehicles of other organisations exempted on the basis of international treaties, agreements and reciprocity;

vehicles participating in preventing or averting damages caused by a disaster defined in the act on disaster relief;

vehicles covered by international treaties or agreements (NATO, Schengen Agreement) and reciprocity;

vehicles transporting non-commercial (free of charge) humanitarian relief supplies;

vehicles exclusively transporting goods covered by the law on excise taxes and special regulations on the distribution of excise goods: alcoholic products, beer, wine, sparkling wine, intermediate alcoholic products, tobacco products, dried tobacco, controlled mineral oil products, bioethanol, biodiesel, E85 or several from these;

the taxpayer, if the weight of non-risky goods sent by him or addressed to him in one transport with the same vehicle subject to road toll payment does not exceed 2500 kg or if the non-taxed value of those goods does not exceed 2 million HUF;

the taxpayer, if goods sent by him or addressed to him in one transport with the same vehicle subject to road toll payment:

the weight of risky food products does not exceed 200 kg or its non-taxed value 250 000 HUF,

the weight of other risky products does not exceed 500 kg or its non-taxed value 1 million HUF.

Exemption from the obligation to provide a risk security

Security must be provided only if the taxpayer

imports risky products from another EU Member State to Hungary or imports for other purposes, including bringing own products to Hungary from another EU Member State;

sells risky products as a first taxable domestic sale for not an end-user.

The taxpayer is exempt from the obligation to provide a risk security if

– they are included in the database of qualified taxpayers or

– if they meet all of the following conditions:

– have been in business for at least 2 years and

– are included in the database for taxpayers with no public debt and

– their tax number has not been suspended at the time of the data submission.

¹⁸ Article 131 (15) [Information disclosure by the tax authority]

installment. The average tax payers are regulated by the normal rules. From the regulation it is obvious that the risky companies have to expect continued audits in order to promote their legitimate operation.¹⁹

Sanctions for reliable taxpayers

The upper limit of the *default penalty* that can be imposed by the state tax and customs authority shall correspond to fifty percent of the upper limit of the default penalty that can be imposed pursuant to the general rules provided that at the time of occurrence of the violation of the relevant legal regulations or the exploration of the violation of the relevant legal regulations (preparation of the report) the taxpayer is deemed as a reliable taxpayer.²⁰

The upper limit of the default penalty that can be imposed by the state tax and customs authority shall correspond to fifty percent of the upper limit of the default penalty that can be imposed pursuant to Section (3)–(4) of Article 215 provided that throughout the tax assessment period under tax inspection or on the date of the report describing the findings of the tax inspection the taxpayer is deemed as a reliable taxpayer.²¹

These provisions shall not be applicable to defaults or cases of the assessment of any tax difference that result in the loss of the reliable taxpayer qualification.

Tax fines, default penalties for risky taxpayers

If at the time of occurrence of the violation of the relevant legal regulations or the exploration of the violation of the relevant legal regulations, or on the date of the report describing the findings of the follow-up tax inspection the taxpayer is deemed as a risky taxpayer, the state tax and customs authority may not decide to neglect the imposition of a tax fine and default penalty, and the minimum amount of the fine that can be imposed shall correspond to thirty percent of the upper limit of the default penalty that can be imposed pursuant to the general rules.²²

The upper limit of the default penalty that can be imposed by the state tax and customs authority shall correspond to one hundred and fifty percent of the upper limit of the default fine that can be imposed pursuant to the general rules provided that at the time of occurrence of the violation of the relevant legal regulations or the exploration of the default (preparation of the report) the taxpayer is deemed as a risky taxpayer.²³

It is important to overview the rules of the default penalty and the measures in connection with the EKÁÉR.

*DEFAULT PENALTY*²⁴

General rules of fines

Unless it is otherwise required by the relevant legal regulations, the tax authority may impose a default penalty in an amount of two hundred and fifty thousand Hungarian Forints on natural person taxpayers and five hundred thousand Hungarian Forints on non-natural person taxpayers in the event of any violation of the

¹⁹ Zoltán Nagy-Beáta Gergely- Balázs Katona: *Problems relating to tax avoidance and possible solutions in the European Union's and Hungarian Regulation*. Curentul Juridic, The Juridical Current, Le Courant Juridique, Petru Maior University, Faculty of Economics Law and Administrative Sciences and Pro Iure Foundation, vol. 74, page 65, September 2018.

²⁰ Article 155§ (1)

²¹ Article 155§ (2)

²² Article 161 § (1)

²³ Article 161 § (2)

²⁴ CHAPTER XXX

obligations stipulated in this Act, other legislations prescribing tax-related obligations and other legal regulations based on the authorizations granted in these legislations.²⁵

The fulfillment of the obligation with the provision of incorrect, incomplete or unreal information, as well as any delayed fulfillment or non-fulfillment of the obligation shall be deemed to be the violation of the obligation.²⁶

In the case of any delays, no default penalty may be imposed provided that in addition to the fulfillment of the obligation the taxpayer justifies the delay by evidencing that he has acted as it can be generally expected in the given situation.²⁷

Supply of goods of unverified origin and the irregular fulfillment of the EKAER disclosure obligation

Where the taxpayer supplies goods of unverified origin, the tax authority may impose a default penalty in the amount up to forty percent of the market value of the goods in question, or up to two hundred thousand Hungarian Forints in the case of natural person taxpayers and up to five hundred thousand Hungarian Forints for non-natural person taxpayers.²⁸

If the taxpayer

- a) failed to comply with the disclosure obligation with respect to the goods carried or a part thereof, or
- b) the information supplied under such notification requirement is incorrect, false or incomplete, the state tax and customs authority may

impose a default penalty on the taxpayer up to forty percent of the value of goods having remained undisclosed, or having been disclosed with incorrect, false or incomplete information.²⁹

If the state tax and customs authority finds during an inspection that the taxpayer fulfilled its EKAER disclosure obligation with the supply of false information so that the quantity of the undisclosed products exceeds the actually carried quantity of products, then it may impose a default penalty on the taxpayer up to 40 percent of the value of disclosed goods that were not in fact carried.³⁰

MEASURES³¹

Seizure upon the irregular fulfillment of the disclosure obligation relating to the carriage of products on public roads

If the state tax and customs authority imposed a default penalty for non-compliance with the EKAER disclosure obligation, or if the information supplied is incorrect, false or incomplete, it may seize the goods carried - with the exception of perishable goods and live animals - covering up to the amount of the penalty imposed, in security thereof, and shall so provide in the resolution imposing the penalty.³²

Common rules pertaining to seizure

The state tax and customs authority shall draw up a report on the seizure, seal off the property seized or remove it from the premises for safeguarding at the expense of the taxpayer affected.³³

²⁵ Article 220§ (1)

²⁶ Article 220§ (2)

²⁷ Article 220§ (3)

²⁸ Article 226§ (1)

²⁹ Article 226§ (2)

³⁰ Article 226§ (3)

³¹ CHAPTER XXXI

³² Article 240§

³³ Article 241 § (1)

The state tax and customs authority shall communicate the resolution it has adopted for imposing a default penalty to the attending taxpayer, his representative or proxy, or employee, whoever is available. The resolution shall be enforceable as of the date of communication notwithstanding any appeal.³⁴

Retention of the vehicle

If the state tax and customs authority imposes any default penalty for the violation of the obligation to keep the official seal, the vehicle of transport – with the exception of the vehicles of transport carrying perishable goods and livestock – until the payment of the fine imposed during the inspection conducted by the authority or the provision of guarantee for the financial liabilities without the issuance of any specific resolution.³⁵

The vehicle may not be retained in case

- a) the registered seat, address or usual place of residence of the obligor(s) of the payment of the fine are in the territory of Hungary, and the obligor is in possession of a tax number or tax identifier having been issued by the state tax and customs authority, or
- b) a financial institution assumes suretyship, guarantee for the fulfillment of the obligation to pay the fine, or the obligation is taken over by any domestically registered economic entity that has a tax number, and this fact is authentically evidenced by the obligor of the fine payment during the proceedings.³⁶

If a foreign transport operator impedes the removal of the official seal that has been attached by the state tax and customs authority, with respect to the vehicle of transport owned or used by the transport operator the state tax and customs authority may apply the actions described in Section (1).³⁷

For the purpose of this Article, the foreign transport operator shall be deemed as such a person involved in the movement of products in the territory of Hungary that

- a) is not settled and otherwise does not pursue economic (production, service, operating, business) activities in Hungary as a legal person or other organization,
- b) is a natural person driving the vehicle, but has no address or usual place of residence in Hungary, and
- c) is the natural person driver of the vehicle involved in the movement of products that are owned by the legal person or other organization defined in Paragraph a).³⁸

Practical questions in connection with the EKÁER System³⁹

Recapitulative (VIES) report

Taxpayers are required to file a consolidated statement regarding the products sold and the services rendered within the European Community and the products procured and services used from the European Community on a monthly or quarterly basis. The recapitulative report is to be filed with the same frequency as VAT returns.

Recapitulative report

From 1 July 2018, VAT-able persons will have to file a detailed declaration on the

³⁴ Article 241 § (2)

³⁵ Article 243 § (1)

³⁶ Article 243 § (2)

³⁷ Article 243 § (3)

³⁸ Article 243 § (4)

³⁹ <https://doingbusinessinhungary.com/taxation> (30.09. 2019.)

invoices accepted of acquisitions of goods and services in which the amount of VAT charged reaches or exceeds HUF 100,000. The taxpayer may fulfil the obligation of submitting recapitulative reports voluntarily, independently from a limit value.

Real time online supply of data on invoices

After 1 July 2018, all taxable persons registered in Hungary will have to supply data electronically on the invoices issued to domestic taxable persons on supplies of goods and services in which the amount of tax charged reaches or exceeds HUF 100,000.

Invoicing software notification

All taxpayers are obliged to notify the invoicing software used by them to the tax authority. The invoicing software is required to have an independent but integrated function titled “tax authority inspection data disclosure” that can export data concerning the invoices issued in the format prescribed by the tax authority (“NAV”).

Tax filing and payment deadlines

Depending on the amount of their tax liability, taxpayers are required to file tax returns and pay the tax on a monthly, quarterly or annual basis until the 20th day of the month following the return period and, for annual filers, until 25 February of the year following the tax year. A liability to file a recapitulative statement or recapitulative report may also arise in relation to the filing obligation. In other words, there is no “preliminary” and final tax return in the Hungarian system but rather all tax returns filed are considered a final statement.

VAT refund to foreign entities

As of 1 January 2010, taxable entities seated in another EU member state are entitled to reclaim the Hungarian VAT by electronically submitting an application to

the tax authority of the country where they are seated.

Taxpayers established in eligible third countries (Switzerland, Liechtenstein, Norway and Serbia) can submit their applications directly to the Hungarian tax authority either in paper format or electronically.

Taxpayers with a registered office or permanent site in Hungary have to apply to the National Tax and Customs Administration (NAV) for the reclaim of the value added tax paid in another member state of the European Community (foreign VAT). NAV only has a preliminary filtering role in the procedure if the applicants fulfil the requirements of the law. The office is required to forward applications to the foreign authorities within 15 days of their receipt. The deadline for receiving applications is 30 September of the year following the relevant year.⁴⁰

The system of online invoice

From the 1 January 2016. Every online billing programs had to have data service function. In case of an audit the billing program provides data about a defined period or defined invoices. It is important that in case of amount of 100.000. Ft VAT it was obligatory to report about the invoices to the tax authority. The system was under testing from 1 January 2017. The aim of the tax authority was to introduce the automatic data services. Similar systems are used in Turkish and Brazil with the exception that in those countries only the tax authority is entitled to issue online invoices. From 1 January 2017 the invoice shall contain the tax number of the buyer if the amount of VAT is or over 100.000 Ft. After the testing period the system entered into force.

⁴⁰ See detailed the experiences: KÖCSKY Rudolf: EKÁER tapasztalatok az utólagos ellenőrzési szakterület szemével. [EKÁER experience in the field of ex post control.] ADÓVILÁG XXII. évfolyam 04. szám. 40-43. p.

Advantage of the system that the data service is full and clear. Together with the EKÁER it could be a great tool to filter out fictional invoicing and of course it contributes to environmental protection because it can decrease the amount of the paper invoicing. The disadvantage of the system is that cause huge administrative burdens and costs to the companies. In order to reduce the costs the government enhance to issue free billing programmes to the companies.⁴¹

As of 1 July 2018 it is obligatory to provide date on the invoices containing charged value added tax at least of 100,000 HUF, issued of the transactions between domestic taxpayers.

As of 1 July 2018 the data disclosure regarding the data of the invoices issued (and documents to be regarded as equivalent to invoice) shall be fulfilled after the issuance, within a short period of time, by electronic means. In case of invoicing with the use of billing/accounting software the invoice data shall be transmitted to the NTCA without human intervention, via the public internet immediately, after the preparation of the invoice.

Data of the invoice shall be recorded on web interface in case of invoicing with the application of form, e.g. invoice pad (accordingly manual invoicing). The data report shall be fulfilled within five calendar days. This deadline is shortened if the invoice contains charged tax of 500,000 HUF or more than this amount. The data of the invoice containing of HUF 500,000 or more charged tax shall be recorded on web interface on the day after the day on which the invoice was issued.

The data disclosure liability in principle is covered by such an invoices issued on the transactions between domestic

taxpayers in which there is HUF 100,000 or more charged tax.

The objective of the introduction of the online data report and of the establishment of the data management system is to further whiten the economy by discouraging tax frauds. This is complemented by the free online invoicing function, as a service of the NTCA. With this development a large amount of invoice turnover become visible and traceable for the NTCA consequently the risk management can be more effective and the VAT revenues can be significantly increased.

Within the system of online invoice

- real-time data on the issued invoices arrive to the NTCA,
- issued invoices can be queried by recipients of invoices and issuers of invoices as well,
- large amount of the invoice data is rapidly available for the purpose of effective risk analysis and audit which is assisting the detection of tax frauds,
- with the automation of the data report, the administrative burdens are reducing for users of billing/invoicing software,
- the new system substitutes the consolidated data report of issuers of invoices.

The basis of the solution is such a combined IT system which is able

- to receive and to control the invoice data that were sent in an electronic standard message as well as to confirm the sending, with the application of a system-system connection provided to taxpayers,
- to support manual recording of invoice data on a web portal,
- to trace economic activities and processes via the immediately available invoice data.

⁴¹ Zoltán Nagy-Beáta Gergely- Balázs Katona: *Problems relating to tax avoidance and possible solutions in the European Union's and Hungarian Regulation*. Curentul Juridic, The Juridical Current, Le Courant Juridique, Petru Maior University, Faculty of Economics Law and Administrative Sciences and Pro Iure Foundation, vol. 74, page 65, September 2018.

The online invoice assists the tax audit work of the NTCA, it makes the economic processes more transparent and broadens the group of the compliant taxpayers.⁴²

The registration procedure in the online invoice system

Pursuant to point 9 of Schedule No. 10 of the Act CXXVII of 2007 on Value Added Tax⁴³ being in force as of 1st July 2018 the data disclosure within the meaning of points 5 to 8 of the Schedule referred to above shall be fulfilled on the electronic platform provided by our Administration (in the case of issued invoices containing input tax reaching the amount determined by the referred legal regulation, the taxpayer obliged to do so has to perform data disclosure in relation to the data of concerned invoice to the state tax and customs authority).

Registration is needed for the fulfilment of data disclosure obligation, which has to be accomplished either by the ones using invoicing program or by the ones using an invoice pad (invoice issued manually).⁴⁴

Taxpayer registration

The precondition for the fulfilment of data disclosure is an existing so-called "client gateway" access (KÜNY storage) of the taxpayer, the legal representative of the taxpayer or rather the appointed agent of the taxpayer.

30 minutes are available for carrying out the registration, however, because of security reasons, which are the re-identification at the client gate, 5 minutes are granted for tax identification code to be provided.

In the possession of the Client Gateway access the single registration of the taxpayer, the legal representative of the taxpayer or the appointed agent of the

taxpayer is necessary for the fulfilment of the data disclosure on the electronic platform of the Online Invoice System.

A person registered by the state tax and customs authority can be considered as *legal representative* of the taxpayer who is entitled to represent the taxpayer according to the legislation applicable to the taxpayer. In the case of legal representatives, the state tax and customs authority *ex officio* provides the procedural right of the legal representatives as of 2014 (the so-called automatic right creation).

Appointed agent of the taxpayer registered by the state tax and customs authority is entitled to perform the registration if

- s/he is entitled for full representation in all types of cases before the state tax and customs authority;
- s/he is entitled to administer all taxation cases;
- s/he is entitled to administer all declaration, data disclosures/-supplies related to taxation and all report, submission and application;
- s/he is entitled to administer all data disclosure;
- s/he is entitled to administer the data disclosures related to value added tax.

Process of the registration of taxpayer's representative, i.e. process of user's registration

As it was already mentioned before, the taxpayer liable to data disclosure must be registered in the *Online Invoice System* to secure the fulfilment of obligation a registration, which can be conducted by the legal representative or appointed agent entitled thereto on behalf of the taxpayer liable to data disclosure. The natural person

⁴² Act CXXVII of 2007 on the Value Added Tax Chapter X INVOICING Rules on the Issue of Invoices

⁴³ Hereinafter referred to as VAT Act

⁴⁴ Honosi Krisztina Elvira: Az Online Számla felület használata kapcsán felmerült kérdések és válaszok. [Questions and Answers related to using the Online Invoice interface]. ADÓVILÁG 2019. április, p. 29-32.

registering the taxpayer is a so-called “primary user”.

In order for the person liable to data disclosure to be able to perform his / her obligation according to legal provisions and without any human intervention in connection with data from his / her invoices produced by his / her invoicing programme, registration of a so-called “technical user” is also necessary. After registration of the technical user, those data will be available that are necessary for the communication between the taxpayer’s invoicing programme and NTCA’s server.

In order to perform data disclosure obligation, a so-called “secondary user” can also be created. The secondary user is created by the primary user with access rights defined by him / her.

In the course of client registration, technical user and secondary user can be created in one step as well; however, a user can also be created later on after the successful registration, after logging in the Online Invoice portal.

Conclusions

According to the opinion of the authors the Hungarian tax authority introduces more and more legal instruments in order to prevent tax fraud and in order to protect the sustainability of the highest VAT tax rate in Europe. The Hungarian tax authority is

trying to step up with the development of the digital technology and introduced numerous different instruments like EKÁER or online invoice system.⁴⁵

Otherwise there are another innovations. Hungary’s National Tax and Customs Authority (NAV) will become a paperless institution by 2021, Finance Minister Mihály Varga said last year.

NAV’s electronic services are becoming more and more widespread, indicating that taxpayers are on board with making the office completely paperless within a few years, the finance ministry quoted Varga as saying at a meeting.

The move to have NAV prepare all corporate tax returns by 2021 will halve the administrative burdens on businesses, the minister said, adding that the authority would offer a growing number of services over the coming years.

Finance minister noted that since 2017, NAV prepares personal income tax returns. Starting 2018, the authority also prepares corporate excise tax filings. The tax authority can have a key role in boosting the competitiveness of businesses.

The minister also said that over the next few weeks, NAV will be ready to assist companies in adapting to its new online invoicing system and with registering vending machines for mandatory electronic reporting.⁴⁶

I hope that it will become reality.

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⁴⁶ <https://www.xpatloop.com/channels/2018/06/finance-minister-tax-authority-to-go-paperless-by-2021.html> (2019-05-14)

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