

Electronic road transportation control system (EKAER)

1. EKAER number and the EKAER system

EKAER, which is designed to minimize the possibility of VAT fraud will be implemented from January 1st, 2015 in Hungarian public road transit.

As of 1 January 2015, the transport in the case of intra-community acquisitions of goods, intra-community supplies of goods and first taxable domestic supplies of goods to non-final customers can only be performed by taxpayers which have an identification number (EKAER number) issued by the Electronic Control System of Circulation of Commodities on Public Roads (EKAER).

For the purpose of receiving an EKAER number, the taxpayer (which may be the sender or the consignee depending on the type of transport) will have to report online the data of the transport to the EKAER system operated by the VAT Authority. The EKAER number is connected to one transport and valid for 15 days from the issuing date. Those organizing and executing the transit must have them as it must be presented during potential roadside checks by the authorities.

An EKAER number is necessary in the case of transports where the vehicle is subject to the road toll i.e. when the total weight of vehicle is more than 3.5 tons, except for the following cases:

- there is no need to request an EKAER number and report the data of the transport in the case of transports of „non hazardous” products if their weight does not access 2,5 tons or the 2 million HUF net value;
- in case of the so called „hazardous” foods if the weight of it does not access 200 kilograms or a value 250 000 HUF without taxes for one recipient. In the case of other hazardous products for one recipient the limit is a minimum of 500 kilograms or a value of 1 million HUF without taxes.

Hazardous foodstuffs and other hazardous products will be listed in a separate regulation later this year, but you can find the draft of the NGM regulation about the hazardous products attached.

Every vehicle which transports international aid and every military vehicle are exempt from the obligation of applying for an EKAER number.

2. How to apply for an EKAER number?

The basic condition of signup into the EKAER system is a customer portal access (registration in the so called „Ügyfélkapu”). Those who already have an access to the „Ügyfélkapu”, can create the right to access to EKAER surface in two steps:

- at first the legal representative of the tax payer or his permanent representative (primary user) requires a user name and password, and then
- entering the electronic interface of EKAER the primary user requires access to persons who may fix or alter applications in the system (secondary users).

The registration can be started as from the 20th of December 2014. on the ekaer.nav.gov.hu website.

3. Data to be reported to the EKAER system

The following data of the transport will have to be reported online to the EKAER system in order to have the EKAER number of the transport:

1. Name and VAT number of the sender
2. Address where the carrier takes over the goods
3. Name and VAT number of the consignee
4. Delivery address of goods
5. In the case of intra-community acquisitions of so-called 'hazardous goods': the name and VAT number of the recipient if not the consignee takes over the goods from the carrier
6. In case of intra-community acquisitions of goods: phone number and e-mail address of the person who is authorized to report the date of arrival of the goods
7. In case of intra-community supplies of goods: phone number and e-mail address of the person who is authorized to report the date of dispatching of the goods
8. Description, commodity code and gross weight of goods
9. Reason of the transport e.g. supply of goods, acquisitions of goods, moving of own goods, etc.
10. Net value of goods
11. Registration number of the transport vehicle
12. Date of arrival to the delivery address in case of intra-community acquisitions of goods and first taxable domestic supplies of goods to non-final customers
13. Date when the carrier takes over the goods in case of intra-community supplies of goods

4. Persons to be obliged to obtain an EKAER No. and report data

4.1. The following rules will be applicable in the case of *intra-community acquisitions of goods, including moving of own goods to Hungary*.

- The consignee is required to obtain an EKAER number and report the 1-11 data of the transport before starting the transport.
- The consignee is required to provide the carrier with the EKAER number before starting the transport.
- The date of arrival to the delivery address (point 12.) is required to be reported on the following working day from the delivery by the consignee or by the person who receives the goods from the carrier.

4.2. The following rules will be applicable in the case of *intra-community supplies of goods, including moving of own goods out of Hungary*.

- The sender is required to obtain an EKAER number and report the 1-11 data of the transport before starting the transport.
- The sender is required to provide the carrier with the EKAER number before starting the transport.
- The date when the carrier takes over the goods (point 13.) is required to be reported within 15 days from the issuing date of the EKAER number by the sender or by that person which gives the goods to the carrier.

4.3. The following rules will be applicable in case of *first taxable domestic supplies of goods to non-final customers* (B2B transports within Hungary).

- The sender is required to obtain an EKAER number and report the 1-11 data of the transport before starting the transport.
- The sender is required to provide the carrier with the EKAER number before starting the transport.
- The date of arrival to the delivery address (point 12.) is required to be reported within 15 days from the issuing date of the EKAER number by the consignee.

4.4. The following rules will be applicable in case of *hazardous foodstuffs and other hazardous products*.

- In case of hazardous foodstuffs, the EKAER number will only be issued to taxable persons who are registered for the relevant list and deposited the required amount to secure the tax obligations.
- In case of other hazardous products, the EKAER number will only be issued to taxable persons who deposited the required amount to secure the tax obligations.
- Deposit is not required from the taxable persons listed on the qualified taxpayers' lists.
- EKAER number and report the data of the transport is required even if the vehicle is not subject to road toll i.e. when the total weight of vehicle is less than 3.5 tons in case of transports of hazardous foodstuffs of over 200 kg or net value of HUF 250,000.
- EKAER number and report the data of the transport is required even if the vehicle is not subject to road toll i.e. when the total weight of vehicle is less than 3.5 tons in case of transports of other hazardous products of over 500 kg or net value of HUF 1,000,000.

5. Tasks of the carrier

It is very important that the carrier does not have to declare anything! The carrier has three important duties:

- he has to know exactly whether the consignment belongs under the EKAER or not. The loading can not begin until there is no EKAER number.
- the date of departure and arrival has to be reported. In case of an inspection, the driver has to know whether there is no EKAER number because it is not necessary or because it was forgotten.

Therefore the carriers should seriously draw to what is included and what is not covered by the EKAER. It will not be easy to make that decision since several things must be observed at the same time:

- What kind of car we deliver with?
- What is the product? (non-hazardous product is not to be reported below 2.5 tonnes; hazardous food over 250 kg has to be reported).
- What is the purpose of transport, and which part of the sales process it is? (Only the first market release has to be reported, the following is not reportable.)

According to the above the carrier has to know everything about the cargo. In case of an inspection the carrier has to make a declaration about the owner of the cargo and the delivery place. The procurer can face a heavy penalty if the declaration of the carrier alters from the data registered in the EKAER.

It is very important that all the changes (for example in case the goods are to be put in another car) have to be announced towards the EKAER so the carrier has to inform the procurer about all these changes.

6. Security deposit

All taxpayers engaged in activities involving transportation using public roads and transporting hazardous products has to pay a security deposit except for taxpayers, who are registered in the system of the national tax authority as qualified taxpayers; and all taxpayers who are registered in the database for public debt-free taxpayers for at least two years and their tax number is not under suspension at the time of statement.

Regulation gives a detailed description about how the security deposit should be calculated. If a transporter starts multiple shipments at the same time or has multiple shipments on the way, they only have to pay a security deposit for the one with the most value.

Obligation to provide a security deposit can be fulfilled either by paying the required amount of money to the account created by the national tax authority or via guarantee. The authority provides an opportunity for query and monitoring on an electronic interface for taxpayers who are obliged to pay a deposit.

7. Consequences of an offense concerning the EKAER number

If the taxpayer did not comply with the reporting obligations concerning road transportation, the transported products could be deemed as goods of unverified origin and as such would trigger **a default penalty at a rate capped at 40% based on its value**, and a proportion of those goods could be seized up to the amount of the default penalty due.

Besides the imposed penalty the authority can lock down products meeting in value the amount of the penalty, except if the cargo comprises live animals or highly perishable products. Imposer of the fine shall issue a decree, make a report and seize the products or transport them for preservation on the expense of the taxpayer.

Regulations of the EKAER must be applied in the case of all transports which the taxpayer starts after 1st January, 2015. but there will be no penalty until the 1st of February 2015. It is important that the legal rules have already be amended on the 16th of December and it can be expected that after issuing the system other changes will be made as well.

