

Significant changes have been introduced to the new Trade Control System (EKAER)

The Ministerial decree introducing the changes to the EKAER rules were published on 27 February. The majority of the rules came into force on 1 March. These new rules aim to clarify several points of the system and to introduce numerous simplifications. Still, many questions remain unanswered. The purpose of our current newsletter is to summarize the major EKAER changes.

What are the key changes?

- Definitions such as 'sender' and 'receiver' help the interpretation of the EKAER rules. The definitions often refer to the VAT Act. Therefore, the EKAER rules are generally harmonized with the VAT Act.
- Thresholds for the volume of deliveries to be reported in the EKAER have been changed. In the case of non-high risk goods, deliveries above HUF 5 million net value or 2.5 tons gross weight should be reported. In the case of high risk goods, deliveries above HUF 1 million net value or 500 kg gross weight should be reported. The thresholds for high risk food products and other high risk goods have now been aligned.
- An option for simplified reporting has been introduced for companies and consolidated companies reaching or exceeding the thresholds of HUF 50 billion net sales revenue and HUF 40 billion net sales revenue originating from sales of goods produced by the company itself (the thresholds in the published draft regulations has decreased). The simplification will be applicable from 1 April 2015.
- Transportation of goods subject to excise duty or customs control is exempt from EKAER reporting. The new rules introduce further exemptions for goods subject to other regulations which currently govern deliveries (e.g. for the transport of waste material and certain metal products, also postal services).
- An EKAER exemption may be requested from the Tax Authority for deliveries over short non-border-crossing distances (up to 20 km) under certain conditions. The Hungarian Tax Authority decides on a case-by-case basis.
- Taxpayers may opt to report transports in the EKAER that are not subject to EKAER legislation
- The value of non-high risk goods is not required to be declared by taxpayers when arranging for an EKAER number. For high risk goods, providing information on the value is required but only a maximum of 10 percent difference between the reported and actual values would be acceptable. A 10 percent difference is acceptable for gross weight information as well.
- If the customer picks up non-high risk goods at the premises of the seller, the customer is obliged to report the transport in the EKAER (from 1 April 2015).
- The arrival of goods should be reported within 3 working days but at the latest within the validity of the EKAER number (15 days).
- The decree contains specific rules relating to chain transactions which partly change the EKAER obligation in connection with those transactions. If the middleman arranges for the transport, then, according to the decree, it is assumed that the middleman arranges for the transport with sender status.
- The regulation contains a simplification with respect to security deposits. The base period of deposit calculations is now reduced from 60 to 45 days. Security deposits should be provided as of 11 March 2015.

Questions

Besides the issues mentioned above, the following questions may also need clarification:

- Do security deposit obligations arise in the case of voluntary reporting?
- Will the Hungarian Tax Authority use EKAER information for tax audit purposes?
- What are the risks to an entity accepting deliveries not reported in the EKAER?
- How should certain chain transactions be treated?
- What are the risks that consolidated freights may include both goods subject to EKAER and goods not subject to EKAER?

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