



FINACONT TAX NEWSLETTER

Changes in the Electronic Road Transportation Control System (EKAER) from 1 August 2016



Gábor Kis

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Reporting obligation for vehicles above 3.5 tons gross weight

As per these changes – in accordance with the Act on Rules of Taxation and the relevant NGM Regulation (EKAER Regulation) – **the transportation will be subject to EKAER** if transportation is performed **with a vehicle not subject to road toll** in accordance with requirements set out in the EKAER Regulation and the gross weight of the transport vehicle **exceeds 3.5 tons**.

In this respect the EKAER Regulation **does not provide any exemption rule**, therefore, it is required to request an EKAER number for all the **transportations not subject to road toll which comply with the requirements of the EKAER Regulation**, regardless of their value, the weight of goods and

the number of buyers and sellers who are involved in the transport.

The contradiction in the new regulation is that **a mandatory liability** of electronic toll payment **applies to** freight vehicles exceeding 3.5 tons of gross weight, therefore, a carrier who requests EKAER number for a “vehicle not subject to road toll, gross vehicle weight above 3.5 tons” already violates the road traffic regulations.

Extending the scope of default penalty

If during its checking the Hungarian Tax and Customs Office finds that the taxpayer fulfilled **its reporting obligation with false data content** and the **amount of reported product exceeds** the actual amount of transported product, the authorities may impose a default penalty in an amount of **up to 40 per cent** of the value of the **reported, but actually not transported** goods.

Vehicle retention

If the Hungarian Tax and Customs Office imposes a default

penalty, **the transportation vehicle** – except for vehicles transporting perishable goods and live animals – **may be retained** by the authorities in the course of their checking process **until the imposed penalty or the money claim insurance is paid** without issuing any specific resolutions. The vehicle may not be retained, if

- the registered office, permanent or usual residence of person/entity required to pay penalty (debtors) is in Hungary, and the debtor has a tax number or tax identification number issued by Hungarian Tax and Customs Office, or
- the person specified by law stands as a guarantor for the payment of the penalty.

This means that vehicle retention **can be applied mainly to foreign carriers.**

Official seal

The carrier is required to preserve the official seal affixed by the Hungarian Tax and Customs Office in an undamaged condition until it is removed by the tax authority.

If the official seal is damaged in the course of road transport due to accident or other unavoidable reasons, or the product is damaged or destroyed, the carrier **is required to inform** the tax authorities immediately.

If the carrier does not comply with its new obligations related to the official seal, the authorities may impose **default penalty** on the carrier.

Changes applicable to foreign carriers

If a foreign carrier does not allow to remove the official seal with violating statutory provisions on official seals, the authorities may impose default penalty on any transport vehicle owned or used by the carrier, and may also retain the vehicle.

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Should you have any questions, please do not hesitate to contact us.

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