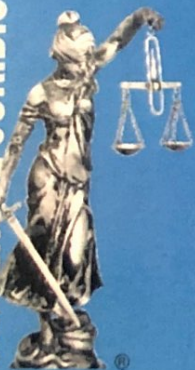


In honorem **VALENTIN MIRIȘAN**

gânduri, Studii și Instituții

UNIVERSUL JURIDIC



**C o l e c t i a
| N H O N O R E M**



In onorem VALENTIN MIRIȘAN

Gânduri, Studii și Instituții

Editor coordonator
Conf. univ. dr. Cristian Dumitru MIHEȘ

Universul Juridic
București
- 2020 -

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DIGITALISATION AND TAXATION IN HUNGARY*

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Abstract

Also as a result of electronic data disclosures – real-time invoice data reporting, EKAER, or online cash register data– the estimated VAT gap in Hungary has decreased considerably in the course of the past 5 years, to 9 per cent in 2018. In the meantime, the scope of tax information possible to be digitally queried from HUTA databases is extended significantly. Although the proportion of the VAT gap has decreased significantly – already below the EU average –still, nearly HUF 350 billion per year does not flow in the budget. All this continues to motivate the Tax Authority to introduce further changes, such as the preparation of e-VAT schemes as soon as possible. In addition to real-time invoice data, the VAT return scheme – intended to be introduced by 2021 – can also be based on data received from online cash registers (/en/tax-to-know/online-cash-registers) and ATMs. The plans of the HU TA include machine-aided processing of cash registerlog files, channelling them to accounting, and machine-aided electronic invoicing as well. The digitization of taxation, the automation of invoicing and VAT returns entail both opportunities and risks for taxpayers. As shown by tax inspections considerably altered in recent years, there is an increased emphasis on continuous risk analysis based on the analysis and verification of information received online. Both domestic and international regulations build on data requests and data analyses more and more extensively. As a result, it is required to develop more efficient control and data processing strategies at management levels as well, in order to enable taxpayers to keep pace with following the information expected by and available to the Tax Authority.¹

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

1. INTRODUCTION

Hungary is at the top regarding the VAT rate and the rate of the VAT-gap reduction. We may feel right in the middle of a digital tax revolution. Regarding taxation, we can witness changes of such scale and intensity that are unprecedented. A revolution is a staggering and rapidly approaching social phenomenon that completely overturns the system of social and political institutions or, perhaps, achieves a major cultural, economic breakthrough. In the last 2 years, or from July 2018 to be more precise, a digital revolution has started and was/is progressing at an incredible rate: Hungarian Tax Authority (NAV) is setting a blistering pace. NAV started thinking in such a data structure that has not existed before, whereby the manner of data transmission, and also the ability to audit taxpayers, has changed radically. Ever since it became necessary to provide the data in XML format, sheer economic, financial or advisory knowledge is no longer sufficient to meet tax authority expectations and, moreover, these data can also be used for carrying out analyses. The introduction of NAV online invoice data reporting system represented such a major breakthrough that, as we thought at that time, is unique and cannot be repeated. However, by now we can both see and be aware that regarding digital taxation we can expect to face even more enormous challenges.²

I will review these major milestones in connection with the Hungarian tax rules. Firstly I deal with the most important rules of the Electronic Road Traffic Control System; - the so called “EKAER” 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

* This research was supported by the project nr. EFOP-3.6.2-16-2017-00007, titled Aspects on the development of intelligent, sustainable and inclusive society: social, technological, innovation networks in employment and digital economy. The project has been supported by the European Union, co-financed by the European Social Fund and the budget of Hungary.

This article was made in the framework of the Research Centre of Public Law (University of Miskolc, Faculty of Law)
¹ NÉMETH, Lilla: Minden út a digitalizáció felé vezet az adózásban is. [All roads lead to digitization in taxation as well] <https://www.rsm.hu/blog/2019/11/minden-ut-a-digitalizacio-fele-vezet-az-adozasban-is> (20.02.2020.)

²NÉMETH, Lilla: NAV, adó, digitalizáció – Felkészültek? [Digital tax revolution in Hungary]. <https://www.rsm.hu/blog/2020/02/connectax-nav-ado-digitalizacio-felkeszules> (20.02.2020.)

the road transportation control system was introduced in order to prevent VAT fraud.³ In the second part I review the Online Account system, which can effectively help to ensure the highest possible level of tax revenues.

2. THE HUNGARIAN ELECTRONIC TRADE AND TRANSPORT CONTROL SYSTEM - THE “EKAER” SYSTEM

Hungary introduced the EKAER⁴ system to fight against tax fraud⁵. The aim of 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 EKAER⁶:

- 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.⁷

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.⁸

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.⁹

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.¹⁰

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.¹¹

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.¹²

³ HÖFLINGER, Hajnalka: Az EKAER mint egyedülálló megoldás [EKAER as an unique solution] (Adó- és Pénzügyi Szaklap, XXIX. évfolyam, 2015/14. szám)

⁴ Regulation No. 5/2015 (II. 27.) NGM of the minister of national economy on the operation of the electronic public road trade control system

⁵ About VAT fraude in Romania please MIRIȘAN Valentin, , MIRIȘAN Ligia Valentina: *The new anti-fraud policy in the field of the value added tax in Romania and the legal framework in matter (regulatory)*, in: Criminal Law Aspects of the Protection of the Financial Interests of the European Union-with particular emphasis on the national legislation on tax fraud, corruption, money laundering and criminal compliance with reference to cybercrime, Wolters Kluwer Publishing House, Budapest, 2019, pp. 188-200;

⁶ 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.

⁷ Act CL of 2017 on the rules of taxation, in the following in Hungarian abbreviation: Art.

⁸ Art. 7§ 14.

⁹ Art. 7§ 15.

¹⁰ Art. 7§ 21.

¹¹ Art. 7§ 23.

¹² Art. 7§ 41.

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, main highways and regular highways based on the distance travelled.¹³

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 human consumption and to reduce VAT fraud.

Some products (sugar, oil) were successfully 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 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 widen 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 covering equally all cases. Transport vehicles of the Hungarian carriers cannot 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.¹⁴

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

¹³ Art. 7§ 50.

¹⁴ 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.

product selling via public road transportation not targeting end users are obliged to apply for an EKAER number for every transport.¹⁵

By using EKÁER 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 EKÁER 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.

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 EKÁER 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 EKÁER 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 EKÁER number¹⁶ 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 EKÁER number.

¹⁵ Art. 113. §

¹⁶ 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.

Unreported goods shall be deemed of unconfirmed origin, upon which a default penalty amounting up to 40% of the value of the unreported goods may be imposed.¹⁷ 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.¹⁹

There are exemptions from submission of data.²⁰

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.²¹

2.1. The classification of taxpayers and the sanctions and measures

There are two types of the taxpayers²² 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 cannot 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 weigh 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 instalment. The average tax payers are regulated by the normal rules. From the

¹⁷ Article 226 [Supply of goods of unverified origin and the irregular fulfillment of the EKAER disclosure obligation](3)

¹⁸ See detailed: <http://ekaer.hu/en/> (30.09.2019.)

¹⁹ Decree 5/2015 (Feb 27) of the Ministry for the National Economy on the operation of the *Electronic Public Road Transportation Control System*

²⁰ Exempt from the obligation to submit data:

- 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, bio ethanol, 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.

²¹ Article 131 (15) [Information disclosure by the tax authority]

²² About Romanian taxpayers see CÎRMACIU Diana, *Dreptul finanțelor publice*, University of Oradea Publishing House, 2010, p. 112 and pp. 156-158;

regulation it is obvious that the risky companies have to expect continued audits in order to promote their legitimate operation.²³

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.²⁴

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.²⁵

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.

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.²⁶

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.²⁷

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

Unless it is otherwise required by the relevant legal regulations, the tax authority may impose a default penalty²⁸ 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 obligations stipulated in this Act, other legislations prescribing tax-related obligations and other legal regulations based on the authorizations granted in these legislations.²⁹

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.³⁰

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.³¹

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.³²

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,

²³ 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.

²⁴ Article 155§ (1)

²⁵ Article 155§ (2)

²⁶ Article 161 § (1)

²⁷ Article 161 § (2)

²⁸ CHAPTER XXX

²⁹ Article 220§ (1)

³⁰ Article 220§ (2)

³¹ Article 220§ (3)

³² Article 226§ (1)

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.³³

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.³⁴

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.³⁵

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.³⁶

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.³⁷

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.³⁸

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 surety ship, 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.³⁹

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).⁴⁰

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).⁴¹

3. THE ONLINE INVOICE SYSTEM

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. Advantage of

³³ Article 226§ (2)

³⁴ Article 226§ (3)

³⁵ Article 240§

³⁶ Article 241 § (1)

³⁷ Article 241 § (2)

³⁸ Article 243 § (1)

³⁹ Article 243 § (2)

⁴⁰ Article 243 § (3)

⁴¹ Article 243 § (4)

the system that the data service is full and clear. Together with the EKAÉR 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.⁴²

As of 1 July 2018 it is obligatory to provide data 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.⁴³

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.

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.⁴⁴

3.1. The registration of the taxpayer and the representative of the taxpayer

Pursuant to point 9 of Schedule No. 10 of the Act CXXVII of 2007 on Value Added Tax⁴⁵ 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).

⁴² 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.

⁴³ https://onlineszamla.nav.gov.hu/a_rendszerrol (14.11.2019.)

⁴⁴ Act CXXVII of 2007 on the Value Added Tax Chapter X INVOICING Rules on the Issue of Invoices

⁴⁵ Hereinafter referred to as VAT Act

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).⁴⁶

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.

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 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.

3.2. Rules on the Issue of Invoices

Subject to the exception set out in next subsection, as regards the obligations relating to invoicing, the rules of the Member State where the goods or services are supplied, in respect of which the invoice is made out, shall apply.⁴⁷

Subject to the exception set out in next subsection, invoicing shall be subject to the rules applying in the Member State in which the supplier of the goods or services has established his business or has a fixed establishment that is most directly involved in the transaction in question, or in the absence of such place of establishment or fixed establishment, the Member State where the supplier has his permanent address or usually resides, where:

- a) the supplier of the goods or services is not established in the Member State in which the supply of goods or services is deemed to be made, or the supplier’s fixed establishment situated in that Member State is not involved according to the Section 137/A in the supply of goods or services, and the person liable for the payment of the VAT is the person to whom the goods or services are supplied, or
- b) the supply of goods or services is deemed not to be made within the Community.⁴⁸

⁴⁶ 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.

⁴⁷ VAT Act 158 /A § (1)

⁴⁸ VAT Act 158/A § (2)

In the case provided for in previous Paragraph a), invoicing shall be subject to the rules applying in the Member State in which the supply of goods or services is deemed to be made where the invoice is issued by the customer to whom the goods and/or services are supplied.⁴⁹

The provisions of this Section shall not apply to the obligation for the storage of invoices.⁵⁰

For nearly a year, in Hungary taxpayers have been required to report their invoices issued to domestic taxpayers in real time, whenever the chargeable VAT exceeds HUF 100,000. Pitfalls of online invoice reporting

Experience shows that the internal audit practice related to online invoice reporting is not yet mature on the taxpayers' side, while the tax authority, following European trends, rapidly progresses towards the most comprehensive and extended reports possible.

It is the taxpayers' own responsibility to subsequently verify the data they submit via the online invoice reporting interface of National Tax and Customs Administration, Hungary (NAV), but not all taxpayers have taken steps to ensure this. However, it is highly recommended to detect and correct any errors. Partly because the ultimate and not very distant goal of the tax authority is to be able to prepare tax returns(s) based on invoices reported. On the other hand, given that it is the taxpayer's responsibility to correct both the invoice and its reporting for invoices not accepted by NAV, if they fail to perform this, they may face fines.

The most common online invoicing faults – HUF 500,000 per invoice

Failed invoice reporting: The experiences show that there are still taxpayers with failed real-time invoice reports. One year after the introduction of online invoices, this is no longer a matter of discretion. In such cases, the tax authority may use its powers set out by law, and impose a default penalty of HUF 500,000 after every invoice not reported. The tax authority's system technologically provides an opportunity for taxpayers to subsequently report any missing data, thereby avoiding the risk of future sanctions. However, as of 4 June 2019, subsequent data reporting for a former period is allowed using the new of XSD (1.1) version only; the use of the former XSD 1.0 version is excluded.

Failure to check NAV receipts returned: For each invoice XML submitted on the online invoicing interface, taxpayers are returned an NAV message. The receipt/notification tells whether the invoice reported has been accepted by the tax authority, and if so, certain details are checked by the tax authority and errors are reported back. Based on our experience, there are still companies that either fail to or cannot read the notifications returned by the tax authority. These messages are important because if they contain any error requiring correction, it must be addressed in all cases, in order to avoid fines.

Incorrect reporting of corrective invoices: We still find a lot of mistakes on the taxpayers' side for corrective invoices. These are attributable partly to incorrectly issued invoices (the issued corrective invoice itself fails to comply with the VAT Act), partly to correctly issued, but incorrectly reported invoices (where the structure or content of the submitted XML schema fails to comply with the regulatory requirements). For corrective invoices, particular attention must be paid to the details of the original transaction affected by the correction. These data must appear on both the invoice and the associated XML schema. It is a common mistake when a correction is posted as an ordinary transaction instead of a correction, while this results in an invoice and invoice reporting with incorrect content for the tax authority.

Incorrect tax numbers specified: As regards tax numbers, the tax authority defines which characters of the tax number should be included in the XML schema (country code, number of digits). It is important that there is a difference between the definitions of the Hungarian and Community tax numbers, which results in issues for many taxpayers when they include the incorrect format. The tax number is of particular importance as, amongst others, the tax authority uses these to associate an invoice report submitted by the issuer of the invoice with the M-sheet submitted by the invoiced party. It may result in unnecessary inspections by the tax authority if the authority's risk analysis team indicates the need for an inspection due to different or missing tax numbers.

Incorrect dates specified: For invoices reported by taxpayers, the reported date and the one actually specified on the invoice often fail to match. In such cases, the tax authority may suspect that the data was not reported in real time or via exclusively a machine-machine interface. The tax authority's system provides an opportunity to remedy the error, but this basically requires the detection of the error.

The Solution: recommended internal audit: The above errors can be controlled by monitoring the returned NAV online invoice report notifications, and a software solution is also available. As NAV checks the contents of invoice reports in an automated way, it is advised to run a test at least periodically, in order to detect and enable the addressing of risks and possible differences associated with online invoices before they are found by NAV. It is worth considering the above since a failure to report invoice data in real time can result in

⁴⁹ VAT Act 158 /A § (3)

⁵⁰ VAT Act 158 /A § (4)

a fine of half million forints per invoice, which may lead, in a given case, to the risk of a tax penalty exceeding the VAT content of the invoice. What is more, NAV is already working on version 2.0 of the XSD foreseen for 2020, which builds on version 1.1, whereby compliance with the latter cannot be avoided.⁵¹

3.3. Renewed rules

The Hungarian Tax Authority (NAV) published the missing, but most awaited component (the new XML template /XSD documentation/) of the real-time invoice reporting obligation, Online invoice version 2.0 for the last day of August. This template details the future structure in which automated invoicing applications, or ERPs must report data to the tax authority, including the type of data to be included in online invoice data reports.

The finalisation of online invoice reporting documentation was preceded by a multi-month period designed to make sure that both the developers and key Hungarian advisory firms can express their views about the draft published in May. It was a bit unconventional that in order to seek opinions a certain platform (called Git Hub) was also made available. Although this was unprecedented in Hungarian public administration, this not nothing new to software developers.

The new real-time invoice reporting version will surely represent some challenges for the developers of invoicing programs as the related template also offers or expects the provision of such data that, in the moment of closing and raising the invoice, are not always available. With these new data, the authority would like to receive such pieces of information that go beyond the original concept, which was the prompt reporting of the data of invoices raised. So far these data appeared neither in invoice images nor in the VAT Act, therefore (without enhancements) invoicing programs or ERPs will not be suitable for their reporting.⁵²

Following the outage, on the last day of July the interface of NAV Online invoice (real-time invoice) featured a new version. However, the long awaited “big score” - the description of the new 2.0 XSD version of online invoice - remains yet to be seen, but development on the side of HU TA continues undiminished. Now, real-time invoice moved forward by updating API, a feature facilitating data inquiry.

By taking a single step, HU TA managed to move forward by two versions, as versions 1.9 and 2.0 went live simultaneously. On top of this, these were made available not only in the test environment, but immediately appeared on the live interface of Online Invoice.

Reading the related technical pieces of information, it turns out that functions made available so far may mostly attract increased interest among developers. This present announcement has not yet outlined the changes that will need to be made in the invoicing and reporting modules, and the final details of new XSD version 2.0 have also not yet been revealed. In addition to minor corrections and enhancements, the most important feature is that the machine interface of Online Invoice was updated. This can be regarded as the second generation of the tax authority’s development that was launched a year ago. The interface was expanded by adding useful inquires and functions that both strengthen the digital service provider role of the tax authority and also assist in promoting the digitalisation of taxation and financial administration.

With the new version:

- it is possible to inquire into the detailed data of invoices where our company appears not as a supplier but as a buyer, in cases where the seller indicated our tax number,
- regarding invoices reported it is possible to filter them according to periods based on either the date or even the date of the data processing of the invoice,
- based on the serial number of the original invoice, the related adjustment invoice chain can also be inquired into,
- whenever we look up invoices, in addition to mandatory search parameters, it is now also possible to enter further new optional search parameters.

According to latest information provided by the Ministry of Finance, during the last 13 months the data of more than 50 million invoices were reported in the Online Invoice application. So currently this is the vast database in which corporate taxpayers can enter extended inquiries to obtain an increasing array of information about themselves.

⁵¹ Németh, Lilla: Online invoice reporting - the most common faults <https://www.rsm.hu/en/blog/2019/06/online-invoice-reporting-the-most-common-faults> (2019.11.14.)

⁵² Kóczé Péter: NAV Online invoice version 2.0 – more than just an invoice <https://www.rsm.hu/en/blog/2019/09/nav-online-invoice-version-2-0-more-than-just-an-invoice> (2019.11.14.)

For the time being, the new, version 2.0 machine interface can be used in parallel with version 1.x that is currently used to report data. So far, no information has yet been provided by the tax authority about the process of mandatory migration to the new version.

The opening of the new API is a small step for one man, but a significant (although not yet a giant) leap for companies in terms of the future of digital taxation. This may primarily promote the digitisation of financial processes, the further automation of control points and can take us one step closer to the practical application of eVAT, that has currently only been formulated as an objective.⁵³

4. HUNGARIAN TAX DIGITALISATION DEADLINES

Let us look at what taxpayers can expect in the coming period. *15 February 2020*– NAV online invoice, the XSD 2.0 template will become an accepted method of reporting *1 April 2020*– NAV online invoice, the XSD 2.0 template will become mandatory The requirement to track corrections may present a challenge as it will be necessary to mark in the online invoice's XML file the occasions on which a specific transaction was amended in the given correcting invoice The XML encryption algorithm of the online invoice will change. The XML data structure of the online invoice will also change. *1 July 2020*– NAV online invoice, the reporting threshold will be This pace of change is very fast for Hungarian economic players, as news regarding the 3.0 template, the draft tax return, and the so-called SAT-F files have already also emerged. *1 July 2020*– NAV online invoice, the reporting threshold will be eliminated and the scope of affected tax subjects broadened The VAT threshold of NAV online invoice reporting will be lowered to HUF 0 from HUF 100,000 earlier. It will be necessary to provide data about all transactions completed among domestic taxable persons/entities, including reverse VAT (/tax-to-know/reverse-vat) transactions and the transactions of taxpayers not registering for VAT. Regarding VAT return M-forms, the threshold will be eliminated. It will be mandatory to display the tax number of purchasers (accounts receivable - AR) in both the invoice and the XML files, regardless of the threshold. For this reason, it makes sense to review AR data in corporate systems and applications - ERP, accounting system, records - in due time. Regarding manual invoices, the reporting deadline will be shortened (from 5 to 4 days). (There will be no change regarding invoices raised with an invoicing application; the prompt reporting obligation will remain in place). *1 July 2020* - The deadline for issuing the invoice will decrease from 15 days to 8 days. *Summer 2020*– NAV online invoice, the XSD 3.0 template will be made public Effective from January 2021, Community transactions, export transactions and sale to private persons will also be covered by the online invoice reporting obligation. Due to the widening scope, we must be prepared for a new XSD template (that is for XML modification), it is planned that version 2.0 will be replaced by version 3.0 from January 2021. *1 January 2021* – NAV online invoice, the XSD 3.0 template will become mandatory. Simultaneously with the introduction of the new XSD 3.0 template, nearly all invoices raised will need to be reported. NAV must be prepared to manage many times more real-time online invoice reports, and taxpayers will need to fully report invoices issued to both companies and private persons. On the side of taxpayers, for taxpayers and small taxpayers that, until now, did not report online invoice data, the need to enter manual invoices manually into the on-line system will represent a considerable additional administrative burden. As an alternative, they may either purchase and operate a cash register, buy an invoicing application that is capable of sending online invoice reports or must make sure that their invoice data are linked to an external, closed system. *Q1 2021* – NAV will offer the first draft VAT returns Regarding the preparation of the first VAT returns, NAV has already announced the planned deadline. Similar to the e-personal income tax system, the first draft VAT returns are also expected to facilitate simpler corporate operation and processes. NAV may receive the data about incoming invoices via the online invoice reporting system, and although their accuracy may be questionable, they may still be used as a starting point for the preparation of NAV draft returns. (For the time being) the tax authority is not yet knowledgeable about specific situations, the contractual data in place between taxpayers, however, by monitoring the practice of individual companies, the system of NAV may also build up such capabilities. *2022 / 2023* – Introduction of the SAF-T data format NAV has started taking the steps that are necessary to introduce in Hungary the Standard Audit File for Tax (SAF-T),- which is a standard XML format file for taxation purposes. By developing the Hungarian version of the digital reporting obligation devised by OECD and introducing reporting, NAV will be able to oversee a wider scope of data that is provided by current reporting, using digital data transmission and data analysis. The scope of data and tax subjects affected is getting shape currently. However, it is already clear that this may require the corporate sector to take their digital NAV data reporting to an even higher level. The pieces of corporate financial

⁵³ Kóczé Péter: The first specific details about Online számla version 2.0 <https://www.rsm.hu/en/blog/2019/09/the-first-specific-details-about-online-szamla-version-2-0> (2019.11.14.)

administration - accounting, invoicing, ERP - software will need to be prepared (either directly or indirectly) for facing and meeting new challenges presented by digital data reporting. This will also require that employees working in these functions are developed and trained intensively. How may the companies prepare for NAV's tax digitalization agenda? According to experiences gained so far, on the one hand, it would be problematic for taxpayers to lag behind NAV and, on the other hand, it is a constant and justified expectation of corporate managers to minimize tax risks. It makes sense for economic players to focus on the following aspects so as to be able to at least keep pace with NAV: The transformation of taxation and accounting processes in a manner facilitating that control points regarded by NAV as expected for due diligence purposes can be incorporated into the processes, by considering the above timing schedule. The use of such software and application products that, by relying on a continuously available developer team, can promptly react to NAV expectations. The employment of such economic professionals to whom it is not foreign, but rather a need/desire to cooperate with developers. In case ERP and/or accounting applications are developed in-house, scheduling and maybe even upgrading IT developer capacities.⁵⁴

5. CLOSING THOUGHTS

Also as a result of electronic data disclosures – real-time invoice data reporting, EKAER, or online cash register data – the estimated VAT gap in Hungary has decreased considerably in the course of the past 5 years, to 9 per cent in 2018. In the meantime, the scope of tax information possible to be digitally queried from HU TA databases is extended significantly.

Although the proportion of the VAT gap has decreased significantly – already below the EU average – still, nearly HUF 350 billion per year does not flow in the budget. All this continues to motivate the Tax Authority to introduce further changes, such as the preparation of e-VAT schemes as soon as possible. In addition to real-time invoice data, the VAT return scheme – intended to be introduced by 2021 – can also be based on data received from online cash registers and ATMs. The plans of the HU TA include machine-aided processing of cash register log files, channelling them to accounting, and machine-aided electronic invoicing as well.

The digitization of taxation⁵⁵, the automation of invoicing and VAT returns entail both opportunities and risks for taxpayers. As shown by tax inspections considerably altered in recent years, there is an increased emphasis on continuous risk analysis based on the analysis and verification of information received online. Both domestic and international regulations build on data requests and data analyses more and more extensively. As a result, it is required to develop more efficient control and data processing strategies at management levels as well, in order to enable taxpayers to keep pace with following the information expected by and available to the Tax Authority.

For companies of rather complex operations, compilation of VAT analytics and VAT returns can be a challenge, tying up considerable capacities month by month. Where it is necessary to synchronize the work of several people and several systems, it is definitely worthwhile to take into consideration what means can be relied on for automation, even supported by databases made available by the HU TA.

As the first-round investigations by the HU TA are also conducted digitally, immediately, using risk analysis software products, those who do not want to fall behind the Tax Authority in terms of digitization are not offered the opportunity but are rather expected to compare information possible to be queried digitally with their own systems. Those who continue to perform manual checks only and still try to reconcile increasing data piles and to detect potential errors only manually, are required to make allowance for more and more potential errors and greater risks. The control process can be shortened and risks can be reduced by automation and software support.

All in all, by reason of the reporting obligations introduced by the tax authority, the lack of experts on the labour market and wage pressures, the solution for companies can be provided by investing into automation,

⁵⁴ NÉMETH, Lilla: NAV, adó, digitalizáció – Felkészültek? [Digital tax revolution in Hungary]. <https://www.rsm.hu/blog/2020/02/connectax-nav-ado-digitalizacio-felkeszules> (20.02.2020.)

⁵⁵ See, Cristian D. Miheş, *Tax fraud and cybercrime e-instruments in fraud detection. How artificial intelligence is changing taxation*, in: Criminal Law Aspects of the Protection of the Financial Interests of the European Union-with particular emphasis on the national legislation on tax fraud, corruption, money laundering and criminal compliance with reference to cybercrime, Wolters Kluwer Publishing House, Budapest, 2019, p.450-455;

perhaps by way of efficient risk management applications and software products developed by external service providers.

According to HU TA data, the number of taxpayers registered for the real-time invoicing system has exceeded 350 thousand, and real-time invoice data reports have been submitted by more than 260 thousand taxpayers. The number of invoices submitted is already around 60 million, associated with a total of 32 million successful data transmissions. Although the success rate is increasing, it is far from being perfect: on working days, the success rate is about 80% according to HU TA data. This is why on-going checks of real-time invoice data reports are required on the taxpayer side as well!

While major anomalies are eliminated by the system – for example, if data reporting of an invoice is attempted several thousand times by a system, even HU TA employees will become alerted and phone the taxpayer for reconciliation –, reports with errors must be dealt with by companies to find the root causes. To highlight some of the most frequent problems occurring in connection with real-time invoicing, it is important to establish a correct invoicing process and data content, to send them correctly to the HU TA, as well as to monitor – and correct, if necessary – certificates returned by the Tax Authority.

Real-time invoice data reporting will be extended by further data as from 01 April 2020; it is worthwhile to commence preparations for this as soon as possible, especially if the company uses its own individual ERP system or invoicing system. Reporting is feasible by external data disclosure modules, but XML files are required to contain the new data as well from April onwards. Such data include data that are not necessarily required to be indicated on the invoice itself pursuant to the VAT Act. Besides, there are data associated with relief or legal consequences by EU regulations in respect of displaying them on invoices, such as specifying the tax number of a (foreign) buyer. And companies need to start their switchover to the integration of new mandatory and recommended data content into their invoices in due time. The test interface of real-time invoice 2.0 is already available for preparations.⁵⁶

LITERATURE

[1] *Act CL of 2017 on the rules of taxation (in abbreviation Art.)*

[2] *CÎRMACIU, Diana: Dreptul finanțelor publice*, University of Oradea Publishing House, Oradea, 2010;

[3] *HÖFLINGER, Hajnalka: Az EKÁER mint egyedülálló megoldás [EKÁER as a unique solution] (Adó- és Pénzügyi Szaklap, XXIX. évfolyam, 2015/14. szám*

[4] *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.*

[5] Kóczé Péter: NAV Online invoice version 2.0 – more than just an invoice <https://www.rsm.hu/en/blog/2019/09/nav-online-invoice-version-2-0-more-than-just-an-invoice>

[6] Kóczé Péter: The first specific details about Online invoice version 2.0 <https://www.rsm.hu/en/blog/2019/09/the-first-specific-details-about-online-szamla-version-2-0>

[7] *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.*

[8] *MIHEȘ, Cristian: Tax fraud and cybercrime e-instruments in fraud detection. How artificial intelligence is changing taxation*, in: *Criminal Law Aspects of the Protection of the Financial Interests of the European Union-with particular emphasis on the national legislation on tax fraud, corruption, money laundering and criminal compliance with reference to cybercrime*, Wolters Kluwer Publishing House, Budapest, 2019;

[9] *MIRIȘAN Valentin, MIRIȘAN Ligia Valentina: The new anti-fraud policy in the field of the value added tax in Romania and the legal framework in matter (regulatory)*, in: *Criminal Law Aspects of the Protection of the Financial Interests of the European Union-with particular emphasis on the national legislation on tax fraud, corruption, money laundering and criminal compliance with reference to cybercrime*, Wolters Kluwer Publishing House, Budapest, 2019;

⁵⁶ Németh Lilla: All roads lead to digitization in taxation as well

<https://www.rsm.hu/en/blog/2019/11/all-roads-lead-to-digitization-in-taxation-as-well> (14.11.2019.)

- [10] Németh Lilla: Online invoice reporting - the most common faults
<https://www.rsm.hu/en/blog/2019/06/online-invoice-reporting-the-most-common-faults>
- [11] Németh Lilla: All roads lead to digitization in taxation as well
<https://www.rsm.hu/en/blog/2019/11/all-roads-lead-to-digitization-in-taxation-as-well>
(2019.11.14.)
- [12] Németh, Lilla: Minden út a digitalizáció felé vezet az adózásban is. [*All roads lead to digitization in taxation as well*] <https://www.rsm.hu/blog/2019/11/minden-ut-a-digitalizacio-fele-vezet-az-adozasban-is> (20.02.2020.)
- [13] Németh, Lilla: NAV, adó, digitalizáció – Felkészültek? [*Digital tax revolution in Hungary*]. <https://www.rsm.hu/blog/2020/02/connectax-nav-ado-digitalizacio-felkeszules> (
- [14] 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.
- [15] Act CXXVII of 2007 on the Value Added Tax Chapter X INVOICING Rules on the
- [16] *Decree 5/2015 (Feb 27) of the Ministry for the National Economy on the operation of the Electronic Public Road Transportation Control System.*