

MONITORING SYSTEM FOR THE ROAD CARRIAGE OF GOODS

The Act of 9 March 2017 on the monitoring system for the road carriage of goods is designed to implement the next tool intended to eliminate loopholes in the tax collection system.

The proposed solutions provide for the establishment of a register to which three types of entities will be required to submit notifications: the sending entity, the receiving entity and the carrier.

In the Act **the sending entity (consignor)** is defined as a natural person, a legal person or an organizational unit without legal personality, conducting a business activity, and carrying out:

- 1) the supply of goods within the meaning of the Act of 11 March 2004 on the Goods and Services Tax:
 - the last one before the start of the carriage of goods - in the case where they are the supplier of the goods, and after the release of the goods they are transported to the receiving entity,
 - authorized to dispose of the goods as the owner at the start of carriage - in the case where they supply goods to the receiving entity for the purpose of the supply of goods after the completion of the carriage of goods,
- 2) intra-Community supply of goods within the meaning of the Act referred to in point 1)
- 3) exportation of goods within the meaning of the Act referred to in point 1)

The second of the obliged entities has been named **the receiving entity (consignee)**, and is understood as a natural person, a legal person or an organizational unit without legal personality, conducting a business activity, and carrying out intra-Community acquisition of goods, importation of goods or acquisition of goods in the case of supply of goods within the meaning of the Act of 11 March 2004 on the Goods and Services Tax

The third obliged entity is the **carrier**, understood as a natural person, a legal person or an organizational unit without legal personality, conducting a business activity, and carrying out the transportation of goods.

Specific obligations have been imposed on each of these entities. Under Article 5 section 1 of the Act, in the case of carriage of goods starting in the territory of the country (intra-Community supply of goods, export) the sending entity is obliged before the start of the transport of goods:

- a) to submit a notification to the register;
- b) to obtain a reference number for this notification, and
- c) to provide this number to the carrier.

In the case of the supply of goods within the meaning of the Act on the Goods and Services Tax (e.g. domestic sales), the sending entity is obliged to also provide the reference number to the receiving entity. In the case of a supply of goods the declaration submitted by the sending entity should contain the following information:

- 1) the planned date of commencement of carriage;
- 2) the details of the sending entity, including the name and surname or the name, the address of residence or registered office and the tax identification number or the number by which the entity is identified for the purposes of the tax on goods and services or the value added tax;
- 3) the details of the receiving entity, including the name and surname or the name, the address of residence or registered office and the tax identification number of the receiving entity or the number by which the receiving entity is identified for the purposes of the tax on goods and services or the value added tax;
- 4) the address data for the loading of the goods;
- 5) the data on the goods that are transported, and in particular the type of goods, the CN code or the subcategory of the Polish Classification of Goods and Services, the amount, the gross weight or the volume of the goods.

For intra-Community supply of goods or the exports of goods within the meaning of the Act on the Goods and Services Tax, the notification submitted by the sending entity should contain the following information:

- 1) the planned date of commencement of carriage;
- 2) the details of the sending entity, including the name and surname or the name, the address of residence or registered office and the tax identification number or the number by which the entity is identified for the purposes of the tax on goods and services or the value added tax;
- 3) the details of the recipient of the goods including the name and surname or the name, the address of residence or registered office, in the case of intra-Community supply of goods the number by which the entity is identified for the purposes of the tax on goods and services or the value added tax;
- 4) the address data for the loading of the goods;
- 5) the data on the goods that are transported, and in particular the type of goods, the CN code or the subcategory of the Polish Classification of Goods and Services, the amount, the gross weight or the volume of the goods.

Before the start of the transport of goods the carrier is required to supplement such a notification with:

- 1) the details of the carrier, including the name and surname or the name, the address of residence or registered office and the tax identification number or the number by which the carrier is identified for the purposes of the tax on goods and services or the value added tax;
- 2) the registration numbers of the means of transport;
- 3) the date of the actual commencement of the carriage of goods;
- 4) the planned date of completion of the carriage of goods;
- 5) the number of the permit, certificate or license within the meaning of the provisions of the Act of 6 September 2001 on road transport, if they are required;
- 6) the address of the place of delivery of the goods or the place of completion of the carriage in the territory of the country (for intra-Community supplies of goods);
- 7) the number of the transport document accompanying the transported goods.

It should be emphasized, that in the case of supply of goods the receiving entity shall supplement the notification with information about the receipt of the goods, no later than on the next working day after the day of delivery of the goods. As we can see, this obligation does not apply to any entity in the case of an intra-Community supply of goods and in the case of export.

The second case refers to the transport of goods from the territory of a Member State (intra-Community acquisition of goods) or from the territory of a third country into the territory of the country (import). In this case the receiving entity is obliged to submit a notification to the register before the start of the carriage in the territory of the country, to obtain a reference number for that notification, and to pass this number to the carrier.

As in the previous case, the notification should contain the following information:

- 1) the details of the receiving entity, including the name and surname or the name, the address of residence or registered office and the tax identification number or the number by which the receiving entity is identified for the purposes of the tax on goods and services or the value added tax;
- 2) the details of the sender of the goods including the name and surname, the name, the address of residence or registered office, and in the case of intra-Community acquisition of goods within the meaning of the Act on the Goods and Services Tax the number by which the sender of the goods is identified for the purposes of the value added tax;
- 3) the address data for the place of delivery of the goods;
- 4) the data on the goods that are transported, and in particular the type of goods, the CN code or the subcategory of the Polish Classification of Goods and Services, the amount, the gross weight or the volume of the goods.

Before the start of the transport of goods in the territory of the country the carrier is required to supplement such a notification with the following information:

- 1) the details of the carrier, including the name and surname or the name, the address of residence or registered office and the tax identification number or the number by which it is identified for the purposes of the tax on goods and services or the value added tax;
- 2) the registration numbers of the means of transport;
- 3) the place and date of commencement of the carriage in the territory of the country;
- 4) the planned date of completion of the carriage of goods;
- 5) the number of the permit, certificate or license within the meaning of the provisions of the Act on road transport, if they are required;
- 6) the number of the transport document accompanying the transported goods.

Following the completion of the carriage, the receiving entity is required to supplement the notification with information about the receipt of the goods, no later than on the next working day after the day of delivery of the goods.

The third case concerns the transport of goods through the territory of Poland, for example from France to Estonia. In this situation, all the responsibilities lie with the carrier. The carrier has to submit a notification in the following way. The carrier is obliged to submit a notification to the register before the start of the carriage in the territory of the country, and to obtain a reference number for that notification.

When submitting the notification the carrier must provide the following information:

- 1) the details of the carrier, including the name and surname or the name, the address of residence or registered office and the tax identification number or the number by which it is identified for the purposes of the tax on goods and services or the value added tax, if it is required to have such a number;
- 2) the details of the sender of the goods including the name and surname or the name, and the address of residence or registered office;
- 3) the details of the recipient of the goods including the name and surname or the name, and the address of residence or registered office;
- 4) the place and date of commencement of the carriage of the goods in the territory of the country;
- 5) the place of completion of the carriage of goods in the territory of the country;
- 6) the planned date of completion of the carriage of goods in the territory of the country;
- 7) the data on the goods that are transported, and in particular the type of goods, the CN code or the subcategory of the Polish Classification of Goods and Services, the amount, the gross weight or the volume of the goods.
- 8) the number of the transport document accompanying the transported goods.
- 9) the number of the permit, certificate or license within the meaning of the provisions of the Act on road transport, if they are required;
- 10) the registration numbers of the means of transport;

It is important that all entities obliged to submit and supplement notifications comply with the requirement to update the data provided in the notification or its supplementation. Therefore any change of the factual state in the scope of the above data needs to be updated, e.g. the date of commencement of carriage. The updating of data does not apply to the goods that are transported.

In the case the carriage of the goods is not started, the sending entity, the receiving entity or the carrier, respectively, shall update the notification, providing information on the cancellation of the carriage of goods.

The carrier is obliged to refuse the carriage of goods subject to notification in the event it does not receive the reference number, the document replacing the notification and the confirmation of receipt of the document replacing the notification or the document indicating an inter-warehouse transfer.

The notification is submitted, supplemented and updated via the Electronic Tax and Customs Services Platform - <https://puesc.gov.pl/>.

The final, previously unmentioned participant of the monitoring system is the **driver**.

The carrier who received a reference number is obliged to pass it to the driver before the start of the carriage of goods. The same applies to the document replacing the notification and the confirmation of receipt of that document or the document indicating an inter-warehouse transfer.

Therefore at the moment of the start of the carriage of the goods, the driver is obliged to possess the reference number and, in the case of a system failure on the part of the National Fiscal Administration, the document replacing the notification and the confirmation of receipt of that document or the document indicating an inter-warehouse transfer.

In the event the driver does not receive the reference number or one of the above mentioned documents, he is obliged to refuse to start the transport of goods.

The entry of the provisions of the Act into force is also associated with penalties. Under Article 22 section 1 of the Act in the event:

1) the carrier fails to submit a notification,

2) it is determined that the transported goods are inconsistent with the type, quantity, weight or volume indicated by the carrier in the notification

- a penalty in the amount of 20 000 PLN will be imposed on the carrier.

In addition, if the carrier fails to supplement the notification with the data referred to in Article 5 section 4 and Article 6 section 3, a penalty in the amount of 5000 PLN will also be imposed on the carrier.

Moreover, in cases where the carrier:

1) fails to fulfill the obligation referred to in Article 8 section 1 (updating of the data in the notification),

2) submits data inconsistent with the factual state, other than those relating to the goods

- a penalty in the amount of 10 000 PLN will be imposed on the carrier.

An important element of the entire system will be the driver's possession of the reference number, which - as already indicated - he should receive before the start of the carriage.

Any carriage performed without this reference number will be fined. Pursuant to Article 32 section 1, in the event it is determined in the course of an inspection that the carriage of goods was started without the reference number, without the document replacing the notification and the confirmation of receipt of the document replacing the notification the driver will be subjected to a fine in the amount of 5000 to 7500 PLN.

The Act provides that the penalties will not be imposed during the period from its entry into force until 1 May 2017, which is supposed to allow the entities participating in the carriage of goods to become acquainted with the new regulations and to implement them.