

BFH: Emails are business letters subject to retention requirements

Emails with tax relevance must be disclosed, though there is no obligation regarding a complete journal



According to the ruling of the German Federal Fiscal Court (BFH) of 30 April 2025, emails with tax relevance are generally considered business documentation subject to retention requirements and must be submitted for purposes of tax audits.

The BFH states that, in a tax audit, the tax authorities are generally entitled to request from the taxpayer all emails with tax relevance.

The taxpayer has the right to initially classify the documents: they may decide themselves whether their emails are tax-relevant – for instance as commercial or business letters – or not.



No requirement for a complete journal of email correspondence

The tax authorities are not entitled to request a full journal of all email correspondence. Such a journal would first have to be prepared by the taxpayer and would inevitably include messages not relevant for tax. Accordingly, the requirement is limited to emails with actual tax relevance.



Retention requirements and readability

Another thing to be borne in mind is that certain emails are considered business correspondence and so must be retained. The same applies to documents on internal pricing within a group of companies, which must be prepared in a format that is readable and comprehensible.

The taxpayer bears the cost of any necessary aids as well as costs for printouts or copies.



What does the ruling mean for companies?

Companies should act early to address the requirements so that they are prepared for a future tax audit. Two key steps must be considered:

- Ensure that documents can be submitted: all emails relevant for tax must be available for inspection in an audit. This requires clear organisational processes and suitable technical solutions.
- Separate non-relevant emails: it is also important to filter out emails that are not tax-relevant. This avoids unnecessary disclosures and minimises potential legal risks.

The real challenge is to implement these requirements practically and cost-efficiently given the daily flood of emails. This requires well-thought-out strategies, automated workflows and modern technologies.



Challenges in handling sensitive communication

Alongside the organisational and technical measures, there is the question of how companies should deal with sensitive communication. This especially requires the following to be considered:

- **Defining tax-relevance:** When is an email considered tax-relevant? Often, there is not a clear-cut answer, and clear criteria are required to avoid unnecessary disclosures.
- **Dealing with professional advisor correspondence:** How should communication with auditors, lawyers or tax advisors be handled? Does this communication have to be disclosed – and what are the boundaries for protecting confidential content?

- **Data protection vs duty to cooperate:** How to resolve the difficulties in meeting the requirements under both the General Data Protection Regulation (GDPR) and the tax cooperation obligations? This is particularly sensitive for HR matters.

After these considerations comes the practical implementation: processes must be defined, training provided for affected functions such as Accounting, Finance and Tax, and the concept integrated into regular business. The aim is to establish a governance framework that creates clear responsibilities and binding rules, while ensuring ongoing compliance.

We provide support with

-  **Current process analysis:** Recording existing processes and analysing how tax-relevant emails are currently received, processed and stored.
-  **Target process definition:** Developing a target process with rules-based storage and (partial) automated flagging of tax-relevant emails.
-  **GAP analysis:** Identifying deficiencies in processes and potential technological disruptions.
-  **GAP closing:** Implementing targeted measures for process optimisation and technological support.

We assist you with the practical implementation of these measures. The first step is a workshop with experts from Tax Transformation that allows us to discuss the above matters in a structured way and with your company's individual processes in mind.

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