



GERMANY: E-INVOICING OBLIGATION FOR FOREIGN REAL ESTATE COMPANIES

DOES THE GERMAN E-INVOICING OBLIGATION ALSO APPLY TO NON GERMAN LANDLORDS?

Foreign companies owning real estate located in Germany and leasing it to German established businesses are facing increasing uncertainty regarding their VAT obligations. While recent European Court of Justice (ECJ) case law suggested relief, the German Federal Ministry of Finance (BMF) has now clarified its current administrative position - with significant practical consequences.

WHAT SHOULD YOU BE AWARE OF?

The German tax authorities currently take the view that foreign real estate companies leasing German immovable property are considered established in Germany for VAT purposes. As a result, such companies are subject to the German e-invoicing obligation for VAT taxable leasing transactions.

BACKGROUND

- According to German administrative practice, foreign landlords are deemed to have a German establishment in relation to the leasing of immovable property located in Germany.
- The BMF decrees on e-invoicing do not expressly address this situation. While earlier drafts referred to guidance on fixed establishments, this reference was removed in the final decree of 15 October 2025.
- In contrast, the European Court of Justice (ECJ) ruled in the Titanium case (C 931/19, 3 June 2021) that the mere letting of immovable property does not create a fixed establishment for VAT purposes.

Given the practical relevance and legal uncertainty, formal clarification from the BMF was requested.

CURRENT POSITION OF THE FEDERAL MINISTRY OF FINANCE

The **BMF has confirmed** that, **under its current administrative view, foreign companies owning real estate in Germany and leasing it with VAT to German established businesses must comply with the German e-invoicing obligation.**

However, this confirmation explicitly refers to **pending proceedings before the German Federal Fiscal Court (Bundesfinanzhof - BFH)** concerning the existence of a domestic fixed establishment (case **V R 12/24**).

If the BFH were to deny the existence of a German fixed establishment, the tax authorities **may reconsider their position**, including the applicability of the e-invoicing obligation. We will closely monitor developments and keep you informed.

WHAT DOES THIS MEAN FOR YOU?

- Foreign real estate companies are currently required to issue and receive e invoices for VAT taxable leasing transactions subject to German VAT.
- Non compliance may lead to significant risks, including the denial of input VAT deduction - either at the level of the landlord or the tenant.
- For VAT exempt leasing of immovable property, foreign landlords are generally also considered established in Germany. However, as VAT exempt transactions are excluded from the e-invoicing obligation, the practical impact is limited (e.g. relevance mainly for incoming invoices).

NEXT STEPS

If no preparations for the German e-invoicing obligation have been made so far, prompt action is strongly recommended, including:

- assessment of the scope of affected transactions,
- review of invoicing and IT processes,
- alignment with tenants and service providers.

HOW CAN EY HELP?

We, together with our German and international VAT experts can support you with:

- Analysis of your German VAT and establishment position,
- Assessment of e-invoicing obligations for outgoing and incoming invoices,
- Implementation of compliant e-invoicing processes,
- Mitigation of VAT risks and protection of input VAT recovery.



Olivier Lambert
Partner, Indirect Tax
+352 42 124 7361
Olivier.Lambert@lu.ey.com



Jacques Verschaffel
Partner, Indirect Tax
+352 42 124 7219
Jacques.Verschaffel@lu.ey.com



Rebecca Obermahr
Partner, Indirect Tax
+352 661 995 107
Rebecca.Obermahr@lu.ey.com



Benjamin Drai
Partner, Indirect Tax
+352 621 838 262
Benjamin.Drai@lu.ey.com