

**Sec. 12-2-12. Recordkeeping and record retention**

**(a) Definitions.**

(1) “Affected tax law provisions” means the provisions in the following chapters of the general statutes: chapter 207, chapter 208, chapter 211, chapter 211a, chapter 211b, chapter 212, chapter 212a, chapter 214, chapter 214a, chapter 216, chapter 217, chapter 218, chapter 218a, chapter 219, chapter 220, chapter 221, chapter 222, chapter 223, chapter 225, chapter 227, chapter 228a, chapter 228b, chapter 228c, chapter 228d, chapter 228e, chapter 228f, chapter 228g, chapter 228h, and chapter 229. In addition, the term “affected tax law provisions” means the following sections of the general statutes: 22a-132, 22a-232, 22a-234a, 26-237c, 38a-277 and 51-81b;

(2) “Database management system” means a software system that controls, relates, retrieves and provides accessibility to data stored in a database;

(3) “Electronic data interchange” or “EDI technology” means the computer-to-computer exchange of business transactions in a standardized structured electronic format;

(4) “Hard copy” means any documents, records, reports or other data printed on paper;

(5) “Machine-sensible record” means a collection of related information in an electronic format. Machine-sensible records do not include hard copy records that are created or recorded on paper or stored in or by an imaging system such as microfilm, microfiche, or storage-only imaging systems;

(6) “Storage-only imaging system” means a system of computer hardware and software that provides for the storage, retention and retrieval of documents originally created on paper. It does not include any system, or part of a system, that manipulates or processes any information or data contained on the document in any manner other than to reproduce the document in hard copy or as an optical image; and

(7) “Taxpayer” as used in this section means any person that is required by law or regulation to maintain and preserve records in connection with the provisions of the general statutes listed in the definition of “affected tax law provisions” or any regulations thereunder.

**(b) Recordkeeping requirements.**

(1) A taxpayer shall maintain all records that are necessary to a determination of correct tax liability under the affected tax law provisions. All required records shall be made available upon request by the commissioner or his authorized representatives as provided for in the affected tax law provisions. Such records include, but are not limited to: books of account, invoices, sales receipts, cash register tapes, purchase orders, exemption certificates, returns, and schedules and working papers used in connection with the preparation of returns.

(2) Failure to maintain such records will be considered evidence of negligence or intentional disregard of law or regulation and may, without more, result in the imposition of appropriate penalties.

(3) If a taxpayer retains records required to be retained under this section in both machine-sensible and hard copy formats, the taxpayer shall make the records available to the commissioner in machine-sensible format upon request of the commissioner.

(4) Nothing in this section shall be construed to prohibit a taxpayer from demonstrating tax compliance with traditional hard copy documents or reproductions thereof, in whole or in part, whether or not such taxpayer also has retained or has the capability to retain records

on electronic or other storage media in accordance with this section. However, this subdivision shall not relieve the taxpayer of the obligation to comply with subdivision (3) of this subsection.

(5) Every taxpayer should make periodic checks on all records being retained for use by the commissioner. If any records required to be retained are subsequently lost, destroyed, damaged or found to be incomplete or materially inaccurate, the taxpayer shall recreate the files within a reasonable period of time.

**(c) Machine-sensible records.**

**(1) General requirements.**

(A) Machine-sensible records used to establish tax compliance shall contain sufficient transaction-level detail information so that the details underlying the machine-sensible records can be identified and made available to the commissioner upon request. A taxpayer has discretion to discard duplicated records and redundant information provided its responsibilities under this section are met.

(B) At the time of an examination, the retained records shall be capable of being retrieved and converted to a standard record format. The term “standard record format” does not mean that every taxpayer shall keep records in an identical manner. Instead, it means that if a taxpayer utilizes a code system to identify elements of information in each record when creating and maintaining records, the taxpayer is required to maintain a record of the meaning of each code and any code changes and provide these to the commissioner to enable an effective review of the taxpayer’s records.

(C) Any system for creating, maintaining and retrieving machine-sensible records shall be able to accept date information input, provide date output, and store and perform calculations on dates before, on and after January 1, 2000 correctly and without ambiguity.

(D) Taxpayers are not required to construct machine-sensible records other than those created in the ordinary course of business. A taxpayer that does not create the electronic equivalent of a traditional paper document in the ordinary course of business is not required to construct such a record for tax purposes.

**(2) Electronic data interchange requirements.**

(A) Where a taxpayer uses electronic data interchange processes and technology, the level of record detail, in combination with other records related to the transactions, shall be equivalent to that contained in an acceptable paper record. For example, the retained records should contain such information as vendor name, invoice date, product description, quantity purchased, price, amount of tax, indication of tax status, shipping detail, etc. Codes may be used to identify some or all of the data elements, provided that the taxpayer provides a method that allows the commissioner to interpret the coded information.

(B) The taxpayer may capture the information necessary to satisfy subparagraph (A) of this subdivision at any level within the accounting system and need not retain the original EDI transaction records provided the audit trail, authenticity, and integrity of the retained records can be established. For example, a taxpayer using electronic data interchange technology receives electronic invoices from its suppliers. The taxpayer decides to retain the invoice data from completed and verified EDI transactions in its accounts payable system rather than to retain the EDI transactions themselves. Since neither the EDI transaction nor the accounts payable system capture information from the invoice pertaining

to product description and vendor name (i.e., they contain only codes for that information), the taxpayer also retains other records, such as its vendor master file and product code description lists, and makes them available to the commissioner. In this example, the taxpayer need not retain its EDI transaction for tax purposes.

(3) **Electronic data processing systems requirements.** The requirements for an electronic data processing accounting system should be similar to that of a manual accounting system, in that an adequately designed accounting system should incorporate methods and records that will satisfy the requirements of this section. In addition, pursuant to the affected tax law provisions, the commissioner shall have access to the taxpayer's EDI processing, accounting or other systems for the purposes of verifying or evaluating the integrity and reliability of those systems to provide accurate and complete records.

(4) **Business process information.**

(A) Upon the request of the commissioner, the taxpayer shall provide a description of the business process that created the retained records. Such description shall include the relationship between the records and the tax documents prepared by the taxpayer and the measures employed to ensure the integrity of the records.

(B) The taxpayer shall be capable of demonstrating the following:

- (i) The functions being performed as they relate to the flow of data through the system;
- (ii) The internal controls used to ensure accurate and reliable processing; and
- (iii) The internal controls used to prevent unauthorized addition, alteration or deletion of retained records.

(C) The following specific documentation is required for machine-sensible records retained pursuant to this section:

- (i) Record formats or layouts;
- (ii) Field definitions (including the meaning of all codes used to represent information);
- (iii) File descriptions (e.g., data set name);
- (iv) Detailed charts of accounts and account descriptions;
- (v) Flowcharts for the system and its programs;
- (vi) Source listings of programs including those which provide formulas and account deviations from which the retained files were created; and
- (vii) Evidence that the retained records reconcile to the accounting records and to the tax returns.

(d) **Records maintenance requirements.**

(1) Taxpayers should refer to the National Archives and Record Administration's (NARA) standards for guidance on the maintenance and storage of electronic records, such as the labeling of records, the location and security of the storage environment, the creation of back-up copies, and the use of periodic testing to confirm the continued integrity of the records. The NARA standards may be found at 36 Code of Federal Regulations, Part 1234, July 1, 1995 edition.

(2) The taxpayer's computer hardware or software shall accommodate the extraction and conversion of retained machine-sensible records.

(e) **Access to machine-sensible records.**

The manner in which the commissioner is provided access to machine-sensible records as required in subdivision (c)(2) of this section may be satisfied through a variety of means

that take into account a taxpayer's facts and circumstances through consultation with the taxpayer. Such access shall be provided in one or more of the following manners:

(1) The taxpayer may arrange to provide the commissioner with the hardware, software and personnel resources to access the machine-sensible records;

(2) The taxpayer may arrange for a third party to provide the hardware, software and personnel resources necessary to access the machine-sensible records;

(3) The taxpayer may convert the machine-sensible records to a standard record format specified by the commissioner, including copies of files, on a magnetic medium that is agreed to by the commissioner; or

(4) The taxpayer and the commissioner may agree on other means of access to the machine-sensible records.

**(f) Taxpayer responsibility and discretionary authority.**

(1) In conjunction with meeting the requirements of subsection (d) of this section, a taxpayer may create files solely for the use of the commissioner. For example, if a database management system is used, it is consistent with this section for the taxpayer to create and retain a file that contains the transaction level detail from the database management system and that meets the requirements of subsection (d). The taxpayer should document the process that created the separate file to show the relationship between that file and the original records.

(2) A taxpayer may contract with a third party to provide custodial or management services of the records. Such a contract shall not relieve the taxpayer of its responsibilities under this section.

**(g) Alternative storage media.**

(1) For purposes of storage and retention, a taxpayer may convert hard copy documents received or produced in the normal course of business and required to be retained under this section to microfilm, microfiche or other storage-only imaging systems and may discard the original hard copy documents, provided the conditions of this subsection are met. Documents which may be stored on these media include, but are not limited to, general books of account, journals, voucher registers, general and subsidiary ledgers, and supporting records of details, such as sales invoices, purchase invoices, exemption certificates, and credit memoranda.

(2) Microfilm, microfiche and other storage-only imaging systems shall meet the following requirements:

(A) Documentation establishing the procedures for converting the hard copy documents to microfilm, microfiche or other storage-only imaging system shall be maintained and made available on request. Such documentation shall, at a minimum, contain a sufficient description to allow an original document to be followed through the conversion system as well as internal procedures established for inspection and quality assurance.

(B) Procedures shall be established for the effective identification, processing, storage and preservation of the stored documents and for making them available for the period they are required to be retained under subsection (j) of this section.

(C) Upon request by the commissioner, a taxpayer shall provide facilities and equipment for reading, locating and reproducing any documents maintained on microfilm, microfiche or other storage-only imaging system.

(D) When displayed on such equipment or reproduced on paper, the documents shall exhibit a high degree of legibility and readability. For this purpose, legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognizable as words or complete numbers.

(E) All data stored on microfilm, microfiche or other storage-only imaging systems shall be maintained and arranged in a manner that permits the location of any particular record.

(F) There is no substantial evidence that the microfilm, microfiche or other storage-only imaging system lacks authenticity or integrity.

**(h) Effect on hard copy recordkeeping requirements.**

(1) Except as otherwise provided in this subsection, the provisions of this section do not relieve taxpayers of the responsibility to retain hard copy records that are created or received in the ordinary course of business as required by existing law and regulations. Hard copy records may be retained on a recordkeeping medium as provided in subsection (h) of this section.

(2) If hard copy records are not produced or received in the ordinary course of transacting business (e.g., when the taxpayer uses electronic data interchange technology), such hard copy records need not be created.

(3) Hard copy records generated at the time of a transaction using a credit or debit card shall be retained unless all the details necessary to determine correct tax liability relating to the transaction are subsequently received and retained by the taxpayer in accordance with this section. Such details include those listed in subparagraph (d)(2)(A) of this section.

(4) Computer printouts that are created for validation, control or other temporary purposes need not be retained.

(5) Nothing in this subsection shall prevent the commissioner from requesting hard copy printouts in lieu of retained machine-sensible records at the time of examination.

**(i) Time period for record retention.**

All records required to be retained under this section shall be preserved for so long as the contents thereof may become material in the administration of the taxes under the affected tax law provisions, but in no event less than three years from the extended due date of the return, unless the commissioner has provided in writing that the records are no longer required.

(Adopted effective August 22, 2000)