

Title 26. Taxation

Chapter I. Generally, Department of Finance and Administration

Subchapter A. General, Procedural, or Legal

Part 9. Model Record Keeping and Record Retention

Codification Notes. This part's title as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Model Record Keeping and Record Retention Regulation (July 2000)"

"Dated this 21 day of June, 2000."

Subpart 1. Generally

26 CAR § 9-101. Purpose.

(a) The purpose of this part is to define the requirements imposed on taxpayers for the maintenance and retention of books, records, and other sources of information under the Arkansas Tax Procedure Act (codified at Arkansas Code § 26-18-101 et seq.).

(b) It is also the purpose of this part to address these requirements where all or a part of the taxpayer's records are received, created, maintained, or generated through various computer, electronic, and imaging processes and systems.

Authority. Arkansas Code § 26-18-301.

26 CAR § 9-102. Definitions.

For purposes of this part, these terms shall be defined as follows:

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

(2) "Director" means the Secretary of the Department of Finance and Administration or the Administrative Assistant for Revenue, or his or her authorized agent;

(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)(A) "Machine-sensible record" means a collection of related information in an electronic format.

(B) 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:

- (i) Microfilm;
- (ii) Microfiche; or
- (iii) Storage-only imaging systems;

(6)(A) "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.

(B) 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" means any person:

- (A) Subject to or liable for any state tax;
- (B) Required to file a return or to pay or withhold and remit any tax required by the provisions of any state tax law; or
- (C) Required to obtain a license or a permit or to keep any records under the provisions of any state tax law.

Authority. Arkansas Code § 26-18-301.

26 CAR § 9-103. Recordkeeping requirements — General.

(a)(1) A taxpayer shall maintain all records that are necessary to a determination of the correct tax liability under the Arkansas Tax Procedure Act, Arkansas Code § 26-18-101 et seq.

(2) All required records must be made available on request by the Secretary of the Department of Finance and Administration or his or her authorized representatives as provided for in Arkansas Code § 26-18-506.

(3) Such records shall include, but not be necessarily limited to:

(A) Normal books of account ordinarily maintained by the average prudent businessperson engaged in such business;

(B) All bills, receipts, invoices, cash register tapes, or other documents of original entry supporting the entries in the books of account; and

(C) All schedules or working papers used in connection with the preparation of tax returns.

(b) If a taxpayer retains records required to be retained under this part in both machine-sensible and hard-copy formats, the taxpayer may make the records available to the secretary in machine-sensible format upon request of the secretary.

(c) Nothing in this part 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 part.

Authority. Arkansas Code § 26-18-301.

26 CAR § 9-104. Recordkeeping requirements — Machine-sensible records.

(a) **General requirements.**

(1)(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 Secretary of the Department of Finance and Administration upon request.

(B) A taxpayer has discretion to discard duplicated records and redundant information provided its responsibilities under this part are met.

(2) At the time of an examination, the retained records must be capable of being retrieved and converted to a standard record format.

(3)(A) Taxpayers are not required to construct machine-sensible records other than those created in the ordinary course of business.

(B) 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.

(b) Electronic data interchange requirements.

(1)(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, must be equivalent to that contained in an acceptable paper record.

(B) 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.

(C) Codes may be used to identify some or all of the data elements, provided that the taxpayer provides a method which allows the secretary to interpret the coded information.

(2) The taxpayer may capture the information necessary to satisfy subdivision (b)(1) of this section 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.

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 captures 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 secretary. In this example, the taxpayer need not retain its EDI transaction for tax purposes.

(c) **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 part.

(d) **Business process information.**

(1)(A) Upon the request of the secretary, the taxpayer shall provide a description of the business process that created the retained records.

(B) Such description shall include the:

(i) Relationship between the records and the tax documents prepared by the taxpayer; and

(ii) Measures employed to ensure the integrity of the records.

(2) The taxpayer shall be capable of demonstrating the:

(A) Functions being performed as they relate to the flow of data through the system;

(B) Internal controls used to ensure accurate and reliable processing; and

(C) Internal controls used to prevent unauthorized addition, alteration, or deletion of retained records.

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

(A) Record formats or layouts;

(B) Field definitions (including the meaning of all codes used to represent information);

- (C) File descriptions (e.g., data set name); and
- (D) Detailed charts of accounts and account descriptions.

Authority. Arkansas Code § 26-18-301.

26 CAR § 9-105. Records maintenance requirements.

(a)(1) The Secretary of the Department of Finance and Administration recommends but does not require that taxpayers refer to the National Archives and Records Administration's standards for guidance on the maintenance and storage of electronic records, such as the:

- (A) Labeling of records;
- (B) Location and security of the storage environment;
- (C) Creation of backup copies; and
- (D) Use of periodic testing to confirm the continued integrity of the

records.

(2) The National Archives and Records Administration's standards may be found at 36 C.F.R. § 1234, July 1, 1995, edition.

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

Authority. Arkansas Code § 26-18-301.

26 CAR § 9-106. Access to machine-sensible records.

(a) The manner in which the Secretary of the Department of Finance and Administration is provided access to machine-sensible records as required in 26 CAR § 9-103(b) of this part may be satisfied through a variety of means that shall take into account a taxpayer's facts and circumstances through consultation with the taxpayer.

(b) Such access will be provided in one (1) or more of the following manners:

(1) The taxpayer may arrange to provide the secretary 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 secretary, including copies of files, on a magnetic medium that is agreed to by the secretary; or

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

Authority. Arkansas Code § 26-18-301.

26 CAR § 9-107. Taxpayer responsibility and discretionary authority.

(a) In conjunction with meeting the requirements of 26 CAR § 9-104, a taxpayer may create files solely for the use of the Secretary of the Department of Finance and Administration.

Example: If a database management system is used, it is consistent with this part 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 26 CAR § 9-104. The taxpayer should document the process that created the separate file to show the relationship between that file and the original records.

(b)(1) A taxpayer may contract with a third party to provide custodial or management services of the records.

(2) Such a contract shall not relieve the taxpayer of its responsibilities under this part.

Authority. Arkansas Code § 26-18-301.

26 CAR § 9-108. Alternative storage media.

(a)(1) For purposes of storage and retention, taxpayers may convert hard-copy documents received or produced in the normal course of business and required to be retained under this part to microfilm, microfiche, or other storage-only imaging systems and may discard the original hard-copy documents, provided the conditions of this section are met.

(2) Documents which may be stored on these media include, but are not limited to:

- (A) General books of account;
- (B) Journals;
- (C) Voucher registers;
- (D) General and subsidiary ledgers; and
- (E) Supporting records of details, such as:
 - (i) Sales invoices;
 - (ii) Purchase invoices;
 - (iii) Exemption certificates; and
 - (iv) Credit memoranda.

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

(1)(A) Documentation establishing the procedures for converting the hard-copy documents to microfilm, microfiche, or other storage-only imaging system must be:

- (i) Maintained; and
- (ii) Made available on request.

(B) 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;

(2) Procedures must be established for:

(A) The effective identification, processing, storage, and preservation of the stored documents; and

(B) Making them available for the period they are required to be retained under 26 CAR § 9-110;

(3) Upon request by the Secretary of the Department of Finance and Administration, a taxpayer must provide facilities and equipment for reading, locating, and reproducing any documents maintained on:

(A) Microfilm;

(B) Microfiche; or

(C) Other storage-only imaging system;

(4)(A) When displayed on such equipment or reproduced on paper, the documents must exhibit a high degree of legibility and readability.

(B) 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.

(C) Readability is defined as the quality of a group of letters or numerals being recognizable as words or complete numbers;

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

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

Authority. Arkansas Code § 26-18-301.

26 CAR § 9-109. Effect on hard-copy recordkeeping requirements.

(a)(1) Except as otherwise provided in this section, the provisions of this part 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.

(2) Hard-copy records may be retained on a recordkeeping medium as provided in 26 CAR § 9-108 of this part.

(b) 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.

(c)(1) Hard-copy records generated at the time of a transaction using a credit or debit card must 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 part.

(2) Such details include those listed in 26 CAR § 9-104(b)(1).

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

(e) Nothing in this section shall prevent the Secretary of the Department of Finance and Administration from requesting hard-copy printouts in lieu of retained machine-sensible records at the time of examination.

Authority. Arkansas Code § 26-18-301.

26 CAR § 9-110. Records retention — Time period.

All records required to be retained under this part shall be preserved for six (6) years pursuant to Arkansas Code § 26-18-506(b) unless the Secretary of the Department of Finance and Administration has provided in writing that the records are no longer required.

Authority. Arkansas Code § 26-18-301.