

**Department of Revenue****Proposed Permanent Rules Relating to Sales and Use Taxes; Returns and Records****8130.7501 RETURNS AND RECORDS.**

Subpart 1. **Definitions.** For purposes of this part, the following definitions apply.

A. "Accurate and complete records" means all records necessary to determine the correct tax liability under Minnesota Statutes, chapter 297A, and all records necessary for proper completion of the sales and use tax return.

B. "Electronic data processing" means any processing of data that uses an electronic format.

C. "Electronic record" means a collection of related information stored in any electronic format, and includes information stored in a point of sale system. For purposes of this item, "point of sale system" means a system that electronically records transaction data for the purpose of computing, compiling, or processing transaction data, and includes an electronic cash register as defined in Minnesota Statutes, section 289A.14, paragraph (c).

D. "Hardcopy record" means any document, record, report, or other data maintained in a tangible format.

E. "Taxpayer" means any person liable for any tax imposed by Minnesota Statutes, chapter 297A, or for the collection thereof.

Subp. 2. **Consolidated returns permitted.** Under Minnesota Statutes, section 289A.11, subdivision 1, if the person required to file a return has two or more places of business at which the person engages in transactions subject to tax, the person may elect to file a consolidated sales and use tax return, for all such places of business under the following conditions:

A. the taxpayer has been granted a sales and use tax account number by the commissioner;

B. the taxpayer furnishes to the commissioner the business name and address and reporting information for each separate place of business; and

C. the taxpayer makes available at the address used by the taxpayer on the consolidated return the information pertinent to each separate place of business in order that the commissioner may be able to perform a proper audit with respect to the return so filed.

Subp. 3. **Records; general.**

A. A taxpayer shall maintain accurate and complete records. A taxpayer shall make such records available to the department or its authorized representative upon request. Such records include but are not limited to:

(1) a general ledger, with source references, to coincide with financial reports for sales tax reporting periods. If subsidiary ledgers are used to support general ledger accounts, then subsidiary ledgers also must be maintained;

(2) normal books of account ordinarily maintained by the average prudent business person engaged in the activity in question;

(3) bills, receipts, vouchers, invoices, cash register tapes, or other records that support entries in the books of account or that support summary accounting data;

(4) schedules or working papers used in connection with preparation of tax returns; and

(5) records that show and substantiate:

(a) gross receipts, irrespective of whether the seller or lessor regards the receipts as taxable or nontaxable;

- (b) all deductions allowed by law and claimed in filed returns;
- (c) total sales price, as defined in Minnesota Statutes, section 297A.61, subdivision 7; and
- (d) any other information necessary to determine the correct tax liability, including but not limited to:
  - i. vendor name;
  - ii. invoice date;
  - iii. production description;
  - iv. quantity purchased;
  - v. amount of tax;
  - vi. indication of tax status (e.g., for resale); and
  - vii. shipping or sourcing detail.

B. A taxpayer may discard redundant information, including but not limited to duplicate records, provided the integrity of the audit trail is preserved and responsibilities under this part are met.

C. Upon department request, a taxpayer shall provide a description of the business process that created the retained records. Such description must include the relationship between the records and tax documents prepared by the taxpayer and measures employed to ensure integrity of the records. Upon department request, a taxpayer shall also demonstrate:

- (1) the functions being performed as data flows through the record keeping system;
- (2) internal controls used to ensure accurate and reliable processing; and

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

**Subp. 4. Electronic records and electronic data processing.**

A. Electronic records used to establish a taxpayer's compliance with this part must:

(1) contain sufficient source document and transaction-level information so that the details underlying the electronic records can be identified and made available to the department upon request; and

(2) in combination with other records related to the transaction, provide the ability to trace any transaction back to the original source or forward to a final total.

B. Requirements for the electronic data processing portion of a taxpayer's accounting system must be similar to that of a manual accounting system, in that an adequately designed accounting system must incorporate methods and records that satisfy the requirements of this part.

C. A taxpayer shall maintain records providing a general description of or documentation regarding the electronic data processing portion of the accounting system, including but not limited to the following:

(1) standard programming conventions and procedures, including but not limited to flowcharting conventions, decision table conventions, coding conventions, standard glossary and standard abbreviations, standard programming techniques, and debugging procedures and techniques;

(2) documentation of the system, including but not limited to a problem statement, systems flowcharts, operator instructions, record layouts, program flowcharts and sense switches, program listings, test data, and approval and changes log; and

(3) standard operating procedures and control procedures, including but not limited to reconciliation of electronic data processing controls to nonelectronic data processing controls, error listings and error logs, and any other controls, either electronic data processing or manual, used to ensure accurate and reliable processing.

D. A taxpayer's electronic data processing system must include a method of producing visible and legible records which provide information necessary to determine the correct tax liability. The department may require taxpayer to produce such visible and legible records in the form of hardcopy records if such records are necessary to determine the correct tax liability or provide a more efficient means of determining the correct tax liability.

Subp. 5. **Hardcopy records.**

A. Except as specifically provided in this subpart and in subpart 3, item B, taxpayers are not relieved of the responsibility to retain hardcopy records that are created or received in the ordinary course of business as required by existing law.

B. If hardcopy records are not created or received in the ordinary course of business, the department may require the taxpayer to generate hardcopy records if such records either:

- (1) are necessary to determine a taxpayer's correct tax liability; or
- (2) provide a more efficient means of determining the correct tax liability.

C. Hardcopy records generated at the time of a transaction must be retained unless all details necessary to determine the correct tax liability relating to the transaction are subsequently received and retained by the taxpayer in accordance with this part.

**Subp. 6. Record retention.**

A. Consistent with the generally applicable statute of limitations for department assessments of sales tax found in Minnesota Statutes, section 289A.38, subdivision 1, all records required to be retained under this part must be preserved for a period of not less than three and one-half years.

B. If a taxpayer acts in a manner that triggers an extension of the generally applicable statute of limitations for department assessments of sales tax under Minnesota Statutes, section 289A.38 (e.g., submitting a false or fraudulent return or omitting from a return an amount of taxes in excess of 25 percent of taxes reported in the return), records required to be retained under this part must be preserved for a period of not less than the applicable extension of the statute of limitations.

C. The required record retention time frames provided in this subpart apply unless the department:

(1) provides written authorization allowing destruction of the records in question within a shorter period of time; or

(2) requires, in a written communication, that the records in question be retained for a longer period.

**Subp. 7. Record-related services provided by third parties.** A taxpayer may contract with a third party to provide services related to sales tax record keeping requirements. Such a contract does not relieve a taxpayer of its compliance responsibilities under Minnesota law.

**Subp. 8. Failure to maintain records.** The department shall consider a taxpayer's failure to maintain accurate and complete records as evidence of the taxpayer's negligence or intent to evade tax.

A. Records are not accurate and complete records if they do not comply with this part, which includes failure of a taxpayer's records to:

- (1) verify sales receipts;
- (2) verify whether sales receipts are subject to sales tax;
- (3) provide details of each individual transaction sufficient to determine the correct tax liability;
- (4) verify the taxable status of purchases; or
- (5) show that taxpayer purchases correlate to taxpayer sales.

B. Records are also not accurate and complete records if the:

- (1) records provided by the taxpayer do not allow the department to determine the correct tax liability;
- (2) taxpayer does not make available to the department records required to be made available under this part; or
- (3) department's evaluation of the taxpayer's accounting system reveals the system does not provide adequate internal controls to reasonably ensure completeness and accuracy of transactions recorded in the taxpayer's books and records.

C. If a taxpayer fails to maintain accurate and complete records, the taxpayer may be subject to various consequences and penalties, including but not limited to the following:

- (1) an estimated audit methodology to determine any additional tax due;
- (2) an assessment of interest under Minnesota Statutes, section 289A.55, and assessment of civil penalties under Minnesota Statutes, section 289A.60, if the department finds that additional tax is due; or

(3) an imposition of criminal penalties under Minnesota Statutes, section 289A.63, if the taxpayer willfully failed to maintain proper records.

**REPEALER.** Minnesota Rules, part 8130.7500, subparts 3, 6, and 8, are repealed.