

DEPARTMENT OF TREASURY

BUREAU OF REVENUE

RECORDKEEPING AND RETENTION RULES

(By authority conferred upon the department by section 3(b) of 1941 PA 122, MCL 205.3(b))

PART 1. GENERAL PROVISIONS

R 205.4101 Scope

Rule 1. These rules set forth the requirements imposed on taxpayers for the maintenance and retention of books, records, and other sources of information under the revenue act, MCL 205.1 et seq, and each of the tax statutes that are administered by the department in accordance with the revenue act. These rules also address the requirements where all or part of the taxpayer's records are received, created, maintained or generated through various computer, electronic, and imaging processes and systems.

History: 1998 - 2000 AACCS.

R 205.4102 Definitions

Rule 2. As used in these rules:

(a) "Commissioner" means the commissioner of the bureau of revenue of the Michigan department of treasury.

(b) "Database management system" means a software system that controls, relates, retrieves, and provides access to data stored in a database.

(c) "Department" means the Michigan department of treasury.

(d) "Electronic data interchange" or "EDI" or "EDI technology" means the computer-to-computer exchange of business transactions in a standardized structured electronic format.

(e) "Hardcopy" means any documents, records, reports or other data printed on paper.

(f) "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.

(g) "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.

(h) "Taxpayer" means a person subject to a tax administered in accordance with the revenue act.

(i) "The revenue act" means 1941 PA 122, MCL 205.1 et seq.

History: 1998 - 2000 AACCS.

R 205.4103 General recordkeeping requirements

Rule 3. (1) Pursuant to section 28(3) of the revenue act, MCL 205.28(3), a taxpayer shall maintain all records that are necessary for the proper determination of the taxpayer's tax liability. In addition, a taxpayer shall maintain the records required by each of the tax statutes that are administered by the department in accordance with the revenue act. All required records shall be made available to the commissioner at the request of the commissioner or the commissioner's authorized representatives as provided for in section 3(a) of the revenue act, MCL 205.3(a).

(2) If a taxpayer retains in both machine-sensible and hardcopy formats records required to be retained under the revenue act, the tax statutes administered through the revenue act, and these rules, the taxpayer shall make the records available to the department in machine-sensible format upon request of the commissioner or the commissioner's authorized representatives as provided for in MCL 205.3(a).

(3) Nothing in these rules shall be construed to prohibit a taxpayer from demonstrating tax compliance with traditional hardcopy documents or reproductions of those documents, in whole or in part, whether or not the taxpayer also has retained or has the capability to retain records on electronic or other storage media in accordance with these rules. However, this subrule does not relieve the taxpayer of the obligation to comply with subrule (2) of this rule.

History: 1998 - 2000 AACS.

## PART 2. RECORDKEEPING REQUIREMENTS FOR MACHINE-SENSIBLE RECORDS

### R 205.4104 General requirements

Rule 4. (1) 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 department upon request. A taxpayer may discard duplicated records and redundant information if the taxpayer's responsibilities under these rules are otherwise met.

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

(3) Taxpayers are not required to construct machine-sensible records other than those created in the ordinary course of business. A taxpayer who does not create the electronic equivalent of a traditional paper record in the ordinary course of business is not required to construct such a record for tax purposes. However, in the absence of the electronic equivalent, the taxpayer shall maintain traditional paper records.

History: 1998 - 2000 AACS.

### R 205.4105 Electronic data interchange requirements

Rule 5. (1) 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 the level of record detail contained in an acceptable hardcopy record. For example, the retained records should contain information including, but not limited to, the vendor name, invoice date, product description, quantity purchased, price, amount of tax, indication of tax status, and shipping detail. The taxpayer may use codes to identify some or all of the data elements, provided that the taxpayer provides a method that allows the department to interpret the coded information.

(2) The taxpayer may capture the information necessary to satisfy subrule

(1) of this rule at any level within the accounting system and need not retain the original EDI transaction records provided that 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 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 department. In this example, the taxpayer need not retain its EDI transaction for tax purposes.

History: 1998 - 2000 AACS.

### R 205.4106 Electronic data processing systems requirements

Rule 6. The requirements for an electronic data processing accounting system shall be similar to the requirements of a manual accounting system. An adequately designed electronic data processing accounting system shall incorporate methods and include records sufficient to satisfy the requirements of these rules.

History: 1998 - 2000 AACS.

R 205.4107 Business process information

Rule 7. (1) At the department's request, a taxpayer shall provide a description of the business process that created the retained records. The 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.

(2) The description of the business process shall include all of the following information:

- (a) The functions being performed as they relate to the flow of data through the system.
- (b) The internal controls used to ensure accurate and reliable processing.
- (c) The 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 under these rules:
  - (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).
  - (d) Detailed charts of accounts and account descriptions.

History: 1998 - 2000 AACS.

### PART 3. RECORDS MAINTENANCE

R 205.4108 Records maintenance requirements

Rule 8. The taxpayer's computer hardware or software shall accommodate the extraction and conversion of retained, machine-sensible records.

History: 1998 - 2000 AACS.

### PART 4. ACCESS TO MACHINE-SENSIBLE RECORDS

R 205.4109 Access to machine-sensible records

Rule 9. (1) The taxpayer may provide access to machine-sensible records by one or more of the following methods:

- (a) The taxpayer may arrange to provide the department with the hardware, software and personnel resources necessary to access the machine-sensible records.
- (b) The taxpayer may arrange for a third party to provide the hardware, software and personnel resources necessary to access the machine-sensible records.
- (c) The taxpayer may convert the machine-sensible records to a standard record format specified by the department, including copies of files, on a magnetic medium that is approved by the department.
- (d) The taxpayer and the department may agree on other means of providing access to the machine-sensible records.

(2) In implementing subrule (1) of this rule, the department shall take into account a taxpayer's particular facts and circumstances through consultation with the taxpayer.

History: 1998 - 2000 AACS.

### PART 5. TAXPAYER RESPONSIBILITY AND DISCRETIONARY AUTHORITY

R 205.4110 Taxpayer responsibility and discretionary authority

Rule 10. (1) To meet the requirements of part 2 of these rules, a taxpayer may create files solely for the use of the department. For example, if a data base management system is used, the taxpayer may create and retain a file that contains the transaction-level detail from the data base management system and that meets the requirements of part 2 of these rules. The taxpayer shall 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. The contract shall not relieve the taxpayer of its responsibilities under these rules.

History: 1998 - 2000 AACS.

PART 6. ALTERNATIVE STORAGE MEDIA

R 205.4111 Alternative storage media

Rule 11. (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 these rules to microfilm, microfiche or other storage-only imaging systems and may discard the original hard-copy documents, provided that all other requirements of these rules 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 to the department at the department's request. The 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 R 205.4113.

(c) At the department's request, 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.

History: 1998 - 2000 AACS.

R 205.4112 Effect of rules on hard-copy recordkeeping requirements

Rule 12. (1) Except as otherwise provided in this rule, these rules 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. Hard-copy records may be retained on a recordkeeping medium as provided in R 205.4111.

(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), then 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 of the details necessary to determine correct tax liability relating to the transaction are later received and retained by the taxpayer in accordance with these rules. The details include those listed in R 205.4115(1).

(4) A taxpayer is not required to retain computer printouts that are created for validation, control, or other temporary purposes.

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

History: 1998 - 2000 AACCS.

#### R 205.4113 Records retention-time period

Rule 13. All records required to be retained under these rules shall be preserved while the statute of limitations period described in MCL 205.27a(2) or in any of the tax statutes administered under the revenue act is open by operation of law, agreement of the parties, or otherwise, unless the department has stated in writing that the records are no longer required.

History: 1998 - 2000 AACCS.

#### R 205.4114 Confidential nature of taxpayer records

Rule 14. A person who discloses confidential information in violation of MCL 205.28(1)(e) or 205.28(1)(f), is guilty of a felony punishable by a fine of not more than \$5,000, imprisonment for not more than 5 years, or both, together with the costs of prosecution. In addition, if the offense is committed by an employee of the state, the employee shall be dismissed from office or discharged from employment upon conviction.

History: 1998 - 2000 AACCS.