



Excise Taxes and Special Levies Series

6.1 Books and Records

August 1999

Overview

This memorandum explains the requirements for persons to retain and make available records, books of account, documents and other information, including business records that are computerized, to enable the determination of the amount of taxes paid or collected, or the amount, if any, of any drawback, payment or deduction that has been made or that may be made, as required under the *Excise Tax Act*. Departmental interpretations used in this memorandum are explained at the end of the publication. Specific record-keeping requirements for licensed air carriers are described in Chapter 5, *Air Transportation Tax*.

For ease of reference, this memorandum takes as its title the generally accepted expression "books and records". However, please note that this expression does not accurately reflect the definition assigned in section 2 of the Act to the word "record" which "includes an account, an agreement, a book, a chart or table, a diagram, a form, an image, an invoice, a letter, a map, a memorandum, a plan, a return, a statement, a telegram, a voucher, and any other thing containing information, whether in writing or in any other form". Furthermore, in this memorandum, reference is made to "document" and information. While information is undefined in the Act, the term "document" is defined in section 2 to include "money, a security and a record."

Note

This memorandum supersedes Excise Memorandum ET 102, *Books and Records*. Due to the number of revisions, the changes have not been side-barred.

Record-keeping requirements

Keeping books and records s 98

1. Persons who are required to pay or collect taxes or other sums, or who make an application under any of sections 68 to 70 (deductions, refunds and drawbacks) are required to maintain adequate books and records in English or French in Canada to enable the determination of their tax liabilities and obligations. Permission to store books and records elsewhere may be granted to persons whose accounting systems are centralized outside Canada.

2. The books and records are required to be in an appropriate form and to contain sufficient information to allow determination of the amount of taxes to be paid or collected, or the amount, if any, of any drawback, payment or deduction that has been made or that may be made.

Inadequate records or books of account ss 100(2)

3. If a person has failed to keep adequate records or books of account, the Minister may specify the records and books of account that the person is required to keep.

Methods of retaining records

4. Records and books of account may be in a number of forms, including:

Traditional

(a) the traditional books of account with supporting source documents, and

Electronic records

(b) records recorded in an electronically readable format that can be related back to the supporting source documents and that are supported by a system capable of producing accessible and readable copy. More information is available under the heading, "Computerized records", paragraphs 26 to 37.

5. Persons who are required to keep records and books are responsible for retaining the records and books in a manner that will ensure the trustworthiness and readability of the information recorded.

6. All records and books of account (including source documents) that originate in paper format must be retained in such format except where an acceptable imaging or microfilming program, as discussed in paragraphs 9 to 11, is in place. Paper format includes paper source documents that are data entered into an electronic record keeping system.

7. Every person required to keep records, who records them electronically, is required to retain the records in an electronically readable format. This means that a person who utilizes computerized systems to generate records and/or books of account, must retain the electronic records, even when hard copy is retained.

8. Every person should ensure that proper back-up records are maintained at all times. If any electronic records required to be maintained are lost, destroyed or damaged, the person must report this situation to the Department and recreate the files within a reasonable period of time.

Imaging

9. Source documents and records that are in an electronically readable format must be retained in addition to the microfilm and/or electronic image.

10. Imaging and microfilm (including microfiche) reproductions of books of original entry and source documents must be produced, controlled and maintained in accordance with the national standard of Canada as outlined in the publication entitled *Microfilm and Electronic Images as Documentary Evidence*. This publication, identified as CAN/CGSB-72.11-93, is available from:

Canadian General Standards Board
Sales Centre
222 Queen Street, 15th floor, Suite 1500
Ottawa ON K1A 1G6

Calls from the Ottawa area (613) 941-8703
Calls from anywhere in Canada 1-800-665-2472
Fax number (613) 941-8705

Managing retention and disposal

11. An acceptable imaging program requires that:

6.1 Books and Records (continued)

- (a) a person in authority in the organization has confirmed in writing that the program will be part of the usual and ordinary activity of the organization's business;
- (b) systems and procedures are established and documented; and
- (c) a log book is kept showing:
 - (i) the date of imaging;
 - (ii) the signatures of the persons authorizing and performing the imaging;
 - (iii) a description of the records imaged; and
 - (iv) whether source documents are destroyed or disposed of after imaging, and the date a source document was destroyed or disposed of;
- (d) the imaging software maintains an index to permit the immediate location of any record, and the software inscribes the imaging date and the name of the person who does the imaging;
- (e) the images are of commercial quality, and are legible and readable when displayed on a computer screen or reproduced on paper;
- (f) a system of inspection and quality control is established to ensure that (c), (d) and (e) above are maintained; and
- (g) after reasonable notification, equipment in good working order is available to view, or where feasible, to reproduce a hard copy of the image.

Access to records

Inspections
ss 98(3)

12. Persons required to keep books and records must, at all reasonable times, make their records, books of account and other supporting documents available for inspection by officers of the Department or a person authorized by the Minister, and must provide every facility necessary to inspect them.

Inspections
s 98.1

13. Persons who are authorized under a statute of the Province of Ontario, Québec, Nova Scotia, New Brunswick or Prince Edward Island to sell manufactured tobacco in the province to a purchaser authorized under a statute of the province to retail manufactured tobacco in the province must, at all reasonable times, make their records and books of account and other supporting documents available for inspection by officers of the Department or a person authorized by the Minister, and must provide every facility necessary to inspect them.

Inspections
s 98.2

14. Persons who have sold tax-paid manufactured tobacco (as defined in subsection 68.162(1)) or tax-paid cigarettes (as defined in subsection 68.163(1) or 68.164(1)) to a purchaser for resale must, at all reasonable times, make their records and books of account and other supporting documents available for inspection by officers of the Department or a person authorized by the Minister, and must provide every facility necessary to inspect them.

Provision of records

Requirement to provide documents or information
ss 99(1) and 102.1(1)

15. The Minister may require a person to provide any book, record, writing or other document or any information, for any purpose related to the administration or enforcement of the Act, within a reasonable time as stipulated in a registered or certified letter, or a notice served personally. The provision of information or documents relating to one or more unnamed persons may be required where the Minister first obtains the authorization of a judge.

Copies
ss 100(1.1)

16. Where any document is inspected or provided under sections 98 and 99, the person who inspects or is provided with the document, and any officer of the Department, is entitled to make a copy of the document. A copy of a document, certified as such by the Minister or an authorized person, has the same probative value as the original. In the case of electronic records, these persons can make a print-out of such electronic documents and the print-out as well as the original document will be considered evidence of the nature and content of the original document, and will have the same probative force as the original document. This applies to copies and print-outs made after June 18, 1998.

Retention of records

Period of retention
ss 98(2)

17. Subject to the rule contained in paragraph 18, persons who are required to pay or collect taxes or other sums, or who make an application under any of sections 68 to 70 (deductions, refunds and drawbacks) are required to keep their records and books of account, and other supporting documents necessary to verify the information contained therein for a period of **six years** from the end of the latest year to which they relate, or until written permission for their prior disposal is given by the Minister.

Objection or appeal
ss 98(2.1)

18. Every record, book of account and supporting document that pertains to the subject-matter of a notice of objection under section 81.15 (objection to an assessment) or 81.17 (objection to a determination) or an appeal under Part VII must be retained until the objection or appeal is disposed of.

Electronic records

19. Paragraphs 35 to 37 provide detailed information on the retention of electronic records.

Permission for prior disposal of records

ss 98(2)

20. A person required to keep records may dispose of these records before the end of the normal retention period, if written permission for their disposal is given by the Minister. To obtain such permission, a person must apply in writing to the Director of the nearest Revenue Canada tax services office. The request must be signed by the person or an authorized representative, and must contain the following information:

- (a) specific identification of the books, records or other documents to be destroyed;
- (b) type of documents (e.g., source documents that have been microfilmed or electronic imaged, or electronic records stored on tapes, disks, etc.);

6.1 Books and Records (continued)

- (c) the years for which the request applies;
- (d) indication of any outstanding appeal, objection or reference;
- (e) details of any special circumstances which would justify destruction of the books and records at an earlier time than is normally permitted; and
- (f) any other pertinent information.

21. Permission for prior disposal of books and records applies only to the excise tax records not to other laws and authorities which require the retention of books and records.

Offences and penalties

Records or books not kept as required ss 100(3)

22. Where the Minister, under subsection 100(2), has prescribed the form of, or the information to be contained in, records or books of account to be kept by a person, and where that person fails to keep those records and books of account as required, that person is guilty of an offence and liable on summary conviction to:

- (a) a fine of not less than \$25 and not more than \$1,000; and
- (b) in default of payment of the fine, to a term of imprisonment of not less than two months and not more than 12 months.

Failure to make records and books available ss 100(4)

23. Every person who fails to comply with an inspection under subsection 98(3) and every person who, in any way, prevents or attempts to prevent an officer of the Department or an authorized person from having access to, or from inspecting, records or books of account kept pursuant to subsection 98(1) is guilty of an offence and liable on summary conviction to:

- (a) a fine of not less than \$200 and not more than \$2000; or
- (b) imprisonment for a term of not more than six months; or
- (c) both fine and imprisonment.

Failure to make records and books available ss 100(5)

24. Every person who fails to comply with an inspection under section 98.1 or 98.2 is guilty of an offence and liable on summary conviction to:

- (a) a fine of not less than \$200 and not more than \$2,000; or
- (b) imprisonment for a term of not more than six months; or
- (c) both fine and imprisonment.

6.1 Books and Records (continued)

Destroying records and making false entries
s 102

25. Every person who destroys, alters or mutilates records or books of account kept in respect of any period pursuant to subsection 98(1) to evade paying tax or otherwise to evade compliance with the Act or to assist any other person to evade paying tax or otherwise to evade compliance with the Act, and every person who makes, assents to or acquiesces in the making of, false or deceptive entries or omits, assents to or acquiesces in the omission, to enter a material particular in records or books of account required to be kept in respect of any period by subsection 98(1) is guilty of an offence and liable on summary conviction to:

(a) a fine of

- (i) not less than the aggregate of \$100 and an amount equal to double the amount of taxes that should have been paid or collected in respect of that period; and
- (ii) not more than the aggregate of \$1000 and an amount equal to double the amount of the taxes referred to in subparagraph 25(a)(i); and

(b) in default of payment of the fine, to imprisonment for a term of not less than three months and not more than 12 months.

Computerized records

EDP records

Requirements

26. Business records include records maintained in an electronically readable format. For purposes of determining a person's liabilities and obligations under the Act, the data must be capable of relating back to the supporting source documents and be supported by a system capable of producing accessible and readable copy.

27. Users of EDI technology must retain electronic records that meet the above requirements. The retained electronic records must, in combination with any other records (e.g., the underlying contracts, price lists, and price changes), have an adequate level of detail to meet the requirements of section 98 of the Act. These records may be captured at any level of the accounting system, provided the audit trail, authenticity and integrity of the retained records can be established.

Record-keeping specifications

28. All business records in an electronically readable form must be retained by the licensees. The retained records must be in a readable and retrievable format, and provide the information necessary to determine the person's liabilities and obligations under the Act. Licensees are not relieved of this responsibility because of the utilization of a service bureau or time-sharing service.

6.1 Books and Records (continued)

29. The Department is prepared to offer advice concerning the keeping, maintenance, retention and storage of electronic records. Requests for such advice should be directed to the nearest Revenue Canada tax services office. This advice should not be construed or viewed as an audit, inspection or a ruling issued by the Department. The responsibility to keep, maintain, retain and safeguard records rests with the records keeper.

System documentation

30. System documentation that provides a complete description of the EDP operation of the accounting system, and files that feed into the accounting system, must be retained. Statements and illustrations pertaining to the scope of operations should be sufficiently detailed to indicate:

- the application being performed;
- the procedures employed in each application; and
- the controls used to ensure accurate and reliable processing.

File documentation

31. The following specific documentation for all files must also be retained:

- record formats (including the meaning of all codes used to represent information);
- flow charts (system and program);
- label descriptions;
- source program listings of programs that created the retained files; and
- detailed charts of accounts for specific periods.

Audit trails

32. Major changes to the EDP system, including effective dates, should be noted in order to preserve an accurate chronological record. This record should include any changes to software or systems and to the format of files. Audit trails should be designed to ensure that details underlying the summary accounting data, such as entries, invoices and vouchers, may be easily identified and made available to the Department on request.

Source documents

33. Licensees keeping electronic records must also retain source documents. These records may be retained in microfiche, microfilm or electronic image format in accordance with departmental policy.

Agreements

34. From time to time, the Department enters into agreements to keep specific files of electronic records to be used during subsequent audits. These agreements are referred to as Record Retention Agreements. The files retained under these agreements should be retained for the statutory period referred to in paragraph 35.

Retention of records

6.1 Books and Records (continued)

Electronic records
ss 98(2.01)

35. Persons who keep records in an electronic format are required to retain them in that format for a period of **six years** from the end of the calendar year to which they relate. This is effective June 18, 1998. This means that a person must retain the electronic records even when hard copy is available.

Commercial accounting
packages

36. Persons who use turnkey or packaged software to keep books and records electronically are not relieved of the responsibility to keep adequate electronic records because of deficiencies in the software. In cases where the software backup procedures are deficient, additional specific backup procedures may be required to retain adequate electronic records. Documentation must be retained at a level of detail which will describe the data entry procedures, reports produced, and any features that alter standard reports or create new reports.

Exemptions
ss 98(2.02)

37. The Minister may exempt a person or class of persons from the requirement to retain their electronic records under such terms and conditions as are acceptable to the Minister. This is effective June 18, 1998.

Place of retention

Location

38. All retained electronic records must be clearly labelled and stored in a secure environment in Canada. Permission to store retained electronic records elsewhere may be granted to persons whose accounting systems are centralized outside Canada. The authorization may be obtained by writing to your nearest Revenue Canada tax services office. It is highly recommended that back-up electronic records being retained for the Department be stored at an off-site location.

Evaluations

Periodic tests

39. The Department may periodically initiate tests to establish the readability and completeness of electronic records. The Department will conclude its evaluations by coming to an agreement with the licensee on the computerized records to be retained and the processing of these records. This will eliminate the necessity to retain all EDP records and ensure that computerized data will be available for use during subsequent audits. The evaluation may also be requested by the licensee.

Authority

40. These evaluations are inspections within the meaning of sections 98.1, 98.2 and subsection 98(3) of the Act, as they are directly related to the determination of a person's liabilities and obligations under the Act for a particular reporting period.

Effect on subsidiaries

41. Any agreement between the Department and a licensee on the electronic records to be retained and processed does not apply to subsidiary companies acquired, or accounting and tax systems added, subsequent to the completion of the record evaluation or re-evaluation. All electronic records added subsequent to such an agreement and all systems produced by these companies must be retained until such time as a re-evaluation is conducted by the Department. On disposition of a subsidiary, the files being retained for the Department by, or for, the disposed subsidiary should be retained until a new evaluation can be made by the Department. A re-evaluation can be requested by the licensee.

Inspections

6.1 Books and Records (continued)

s 98.1, 98.2 and
ss 98(3)

42. Officers of the Department or a person authorized by the Minister may inspect relevant documents, property or processes of any person required to keep records and books of account and require the person to provide reasonable assistance and answer all proper questions.

43. Such examinations include the audit of electronic records and, as a part of providing reasonable assistance, licensees must allow departmental auditors to access their electronic records.

44. Licensees must be capable of accessing and reading the retained records at the time of an audit. When the EDP system that created the records is being replaced by a system with which the records would not be compatible, the licensee must convert them to a compatible system and retain both sets of files. Any difficulties in meeting the foregoing requirements should be reported to the Department.

45. Any change that would impact on the licensee's ability to access and read the records must also be reported to the Department.

Agreement to modify or
waive

46. The Department may enter into an agreement with a licensee to modify or waive any, or all, of the requirements for conversion to a compatible system or to approve substitute procedures. The licensee remains subject to all requirements that the agreement does not specifically modify, waive or replace.

Lost, damaged or incomplete records

Maintain back-up

47. Licensees should ensure that proper back-up records are maintained at all times and if any electronic records required to be maintained are lost, destroyed or damaged, the licensees must report this situation to the Department and recreate the files within a reasonable period of time.

Database management systems

Retention of data

48. Licensees using database management systems (DBMS) should ensure the implementation of appropriate procedures to comply with the documentation requirements outlined in this memorandum. Licensees are in compliance if they create, for the use of the Department, a sequential file(s) containing all detailed transactions necessary to create an audit trail to trace back to the underlying source documents and entries. All necessary fields must be identified and file documentation must follow the rules outlined in this memorandum. This process should be reviewed by the Department prior to file creation. These sequential files must be able to be processed by conventional means. As a minimum, the following documentation must be available:

6.1 Books and Records (continued)

- database description;
- record layout of each segment with respect to segment field;
- systems control language; and
- any other information required to access the file.

49. Licensees can obtain more information concerning the retention of data when using a DBMS by contacting the nearest Revenue Canada tax services office.

Departmental interpretations used in this memorandum

EDI	EDI is the abbreviation for "electronic data interchange" which means a computer-to-computer exchange of electronic documents between trading partners.
EDP	EDP is the abbreviation for "electronic data processing" which means data processing performed by electronic machines and methods and techniques associated with such processing.
Electronic image	Electronic image means the representation of a source record that can be used to generate an intelligible reproduction of that record, or the reproduction itself, where: <ul style="list-style-type: none">(a) the reproduction is made with the intention of standing in place of the source record;(b) the interpretation of the reproduction, for the purposes for which it is being used, yields the same information as the source record; and(c) the limitations of the reproduction (e.g., resolution, tonal or hues) are well defined and do not obscure significant details.
Electronic record	Electronic records are records recorded in an electronically readable format.
Microfilm	Microfilm means the reproduction of records in a reduced form by any process such as microfiche, magnetic tapes and discs, thermo-plastic recording and facsimile transmissions, or the recording of microphotographs on film.
Source document	Source document includes sales invoices, purchase invoices, cash register receipts, formal written contracts, credit card receipts, delivery slips, deposit slips, work orders, dockets, cheques, bank statements, tax returns, general correspondence, etc. The source document may be subject to disposal for the purpose of constituting the image as the permanent record.

6.1 Books and Records (continued)

All Excise Taxes and Special Levies memoranda and other Revenue Canada publications are available on Internet at the Revenue Canada site <http://www.rc.gc.ca/> under the heading “Technical Information” in “General Information”.