

TITLE 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 101—Sales/Use Tax—Nature of Tax

PROPOSED RULE

12 CSR 10-101.800 Record Keeping and Record Retention

PURPOSE: Sections 144.320 and 144.330, RSMo, establish requirements for taxpayers' record keeping related to sales and use tax and the department's right to examine those records. This rule explains the taxpayer's responsibility for maintaining and retaining books, records, and other sources of information, including records maintained electronically through a computer or other imaging systems.

(1) In general, a taxpayer must maintain all records that are necessary to determine its sales and use tax liability under Missouri law. The taxpayer must provide all records requested by the department to make this determination.

(2) Definition of Terms.

(A) Electronic data interchange or EDI—the computer-to-computer exchange of business transactions in a standardized, structured, electronic format.

(B) Hard copy—any documents, records, reports, or other data printed on paper.

(C) Storage-only imaging system—a system of computer hardware and software that provides 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.

(3) Basic Application.

(A) A taxpayer must retain and provide to the department on request records including but not limited to: (i) financial statements; (ii) federal and state income tax returns, including schedules or working papers used in connection with their preparation; (iii) books of account; and (iv) bills, receipts, invoices, cash register tapes, contracts, purchase orders, exemption certificates or other documents of original entry that contain such information as vendor name, invoice date, product description, quantity purchased, price, amount of tax, indication of tax status, and shipping detail.

(B) If a taxpayer retains records in both electronic and hard copy formats, the taxpayer must make the electronic records available to the director upon request. A taxpayer who does not create electronic records in the ordinary course of business is not required to construct such records for tax purposes.

(C) A taxpayer must be able to demonstrate the relationship between its records and its tax returns and the process employed, including the internal controls used, to ensure the integrity and accuracy of its records.

(D) A taxpayer must provide hard copies of electronic, microfilm, microfiche or storage-only imaging records at the time of examination for the department's use upon request.

(E) A taxpayer must preserve its records for at least three (3) years from the date an original, additional or amended return has been filed. If a taxpayer does not file a required return, the department may request records for non-filed tax periods.

(F) Electronic records must contain transaction level detail to verify tax compliance. If the electronic records do not provide transaction level detail, the department may require additional documentation.

(G) A taxpayer relying on electronic records must maintain and provide to the department: (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 names); and (iv) a detailed chart of accounts and account descriptions.

(H) For electronic records maintenance, the department accepts the National Archives and Record Administration's (NARA) standards for guidance on the maintenance and storage of electronic records, including 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 (36 CFR 1234), Amended 2/2006, incorporated by reference and published by The National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. The document is available on the Internet at www.dor.mo.gov. This document does not include any amendments or additions to the publication date shown.

(I) A taxpayer relying on microfilm, microfiche, or other storage-only imaging systems instead of original hard copy records must maintain documentation establishing the procedures for converting the documents and for reliable identification, processing, storage, and preservation of the documents. All data stored on microfilm, microfiche, or other storage-only imaging systems must be maintained and arranged in a manner that permits the retrieval of any particular record.

(J) When a taxpayer uses the EDI 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. 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 department to interpret the coded information.

(K) Taxpayers that have a business location in Missouri and maintain records outside Missouri must make all records pertaining to the Missouri location available to the department at the Missouri location upon request.

(4) Example.

(A) A taxpayer using EDI 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. 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). Therefore, the taxpayer also retains other records such as its vendor master file and product code description lists and makes

them available to the department. The taxpayer's records sufficiently document the transactions.

AUTHORITY: sections 144.320 and 144.330, RSMo, 2000. Original rule filed ____, 2009.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.