

New York State Department of Taxation and Finance
Taxpayer Services Division
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RECORDS REQUIRED TO BE KEPT BY SALES TAX VENDORS

To properly administer and insure compliance with the Sales and Use Tax Law, every vendor required to collect sales tax must maintain adequate records to verify all transactions. Such records, under normal circumstances, must be preserved for at least three years. However, the Tax Commission may require records to be preserved for a period longer than three years or they may consent to the destruction of the records within the three year period.

This memorandum outlines in general terms the types and forms of records required to be maintained. There are four basic types of records which will be addressed in the next several pages; sales records, purchase records, miscellaneous records and informational records.

Sales Records

All persons who make sales which require the collection of tax (vendors, recipients of amusement charges or dues, operators of a hotel), and those persons who purchase or sell tangible personal property for resale or make sales or purchases otherwise exempt from tax, shall keep records of every transaction; the amounts paid, charged, or due thereon; and the tax payable thereon. These records should include exemption documents necessary to support a claim for exemption on any sale or purchase made without payment of tax, and must also contain an exact copy of each of the following:

1. sales slip, invoice, receipt, contract, statement, or other memorandum of sale;
2. guest check, hotel guest check, receipt from admissions such as ticket stubs, receipt from dues; and
3. cash register tape and any other original sales document. Where no written document is given to the customer, the seller must keep a daily record of all cash and credit sales in a daybook or similar book.

The sales record must provide sufficient detail to independently determine the taxable status of each sale and the amount of tax due and collected thereon.

1. Cash register tapes which identify the individual item(s) sold, the selling price and the tax due (if any) are sufficient to independently determine the taxable status of each sale and the amount of tax due and charged thereon.
2. Cash register tapes which indicate whether each sale is in a taxable or exempt category, but which do not identify the individual item(s) sold, are sufficient to prove gross sales but are not sufficient to independently determine the taxable status of each sale.

The seller must maintain records which substantiate points of delivery, if other than his place of business. Such records should include receipts from parcel delivery services, common carriers, unregulated truckers, the United States Postal Service, foreign freight forwarders, and logs from company vehicles. These documents must be referenced to specific sales transactions.

Since the burden of proving that a sale, occupancy, or amusement charge is not taxable falls upon the vendor, an exemption document from the customer is necessary to relieve the vendor of his liability for not collecting the sales tax.

Exemption certificates must be dated and retained in order to prove exempt sales. Once a properly completed certificate is obtained, it relieves the seller of liability to collect the tax on transactions to which the certificate applies. Each vendor accepting an exemption certificate must, for verification purposes, maintain a method of associating a sale made for which exemption is claimed with the certificate on file. Where a properly completed certificate is given to a vendor, the burden of proving the taxability of the sale, occupancy, or amusement charge shall be solely on the customer.

Exemption certificates received by show vendors who hold a "Certificate of Authority for Show Vendors" must be attached to the sales tax return for show vendors covering the period in which the sales were made.

In support of deductions, or claims for tax credit or refund for bad debts, returned merchandise, and cancelled sales, retailers must maintain adequate and complete records showing:

1. date of original sale;
2. name and address of purchaser;
3. amount purchaser contracted to pay;
4. amount on which retailer paid tax; and
5. all payments or other credits applied to the account of the purchaser and the date of such payments or credits.

Vending machine operators must keep records which indicate the number of machines and receipts within each taxing jurisdiction. Such records should include contracts with the owner or lessor of the premises where the various machines are located. Records should be maintained as to the number, price, and receipts from each item sold in the machines. Such receipts should be supported by detailed inventory withdrawal records or similar data.

Purchase Records

Documentation must be maintained to substantiate any exemption claimed on the purchase of any tangible personal property or service. The purchase records must provide sufficient detail to independently determine the taxable status of each purchase and the amount of tax due, paid, or remitted thereon.

Purchase documents should be categorized as follows:

1. purchases that are subject to all taxes;
2. purchases for resale (inventory and raw materials);
3. purchases that are subject to the New York City sales tax and state wide sales tax but exempt from all local sales taxes;
4. purchases that are subject to the New York City sales tax but exempt from the statewide tax and local taxes;
5. purchases that are exempt from statewide tax but subject to the local and New York City taxes;
6. purchases that are exempt from all taxes for reasons other than for resale.

Miscellaneous Records

Every vendor must maintain and make available upon request, records and supporting documents for all exemptions, exceptions and exclusions provided by law and claimed in filing sales and use tax returns.

Records or schedules relating to the sales tax return, such as tax worksheets, general journal, ledgers, sales and purchase journals, schedules accounting for the difference between gross sales and services and taxable sales and services must be maintained and made available upon request.

Documentation must be maintained for any refund or credit claimed.

Any vendor who must file any tax returns or schedules required by the Federal Government, the State of New York, or any municipality within New York State, must keep a copy of such returns or schedules and make them available to the Tax Commission upon request.

Informational Records

The following persons, including show promoters, shall maintain the names, addresses, and sales tax identification numbers (where applicable of their customers, lessees, occupants, co-vendors, or members and furnish such information to the Tax Commission upon request:

1. Every vendor who leases space on his premises to another vendor to operate a leased department must maintain the name, address, and sales tax identification number of the lessee.
2. Every vendor operating as a co-vendor shall maintain the name, address, and sales tax identification number (if any) of his co-vendor.

3. Every person operating a social or athletic club shall maintain a list of its active members, life members, and honorary members. This list must include the name and address of each member; dues and other charges accrued or received, including those claimed to be nontaxable; the nature, type, value, and the amount of all purchases, sales, and services rendered.
4. Every operator of a hotel or motel shall maintain records showing the name and address of each occupant, the length of the occupancy, and all charges incurred by the occupant.
5. Motor vehicle dealers must maintain records showing the names and addresses of their customers who purchased motor vehicles and the receipts from such sales.
6. Every vendor who sells a season ticket for the use of a box or seat, at a place of amusement shall maintain the name and address of each purchaser. In addition, every such vendor shall keep a record of names and addresses of persons having the permanent use, possession, lease of, or license to use a box or seat, other than a season ticket holder.
7. Every promoter of a show shall keep records of each show, setting forth the place and date, in addition to the name, address, and certificate of authority number of every person whom he permits to display for sale or to sell tangible personal property or services subject to tax.

Form of Records

All records, including sales memoranda, purchase memoranda, and records originated at the time of sale, and any other documents, books, or records pertaining to tax liability and tax collections shall be dated, legible, and maintained and preserved in such manner as to disclose in readily accessible and verifiable detail the basis for and accuracy of the entries reported on the sales and use tax return. Such records may be reproduced on any photograph, photostatic, microfilm, micro-card, miniature photograph, or other process which actually reproduces the original record.

Separate accounting records shall be kept for each business for which a vendor has filed a certificate of registration.

Vendors having an automatic data Processing system that includes the ability to produce records on microfilm directly on-line from the computer or off-line from magnetic tape, and taxpayers having records photographed on microfilm from original documents, hard copy, printouts, etc., wishing to retain general books of account solely on microfilm may do so provided they have obtained permission from the District Office Audit Bureau in Albany, New York and provided the following requirements are met:

1. a copy of the Internal Revenue Service's letter granting permission to keep such records on microfilm is filed with the District Office Audit Bureau; and

2. appropriate facilities are provided for preservation of the films for periods required; and
3. microfilm rolls are indexed, cross-referenced, and labelled to show beginning and ending numbers or beginning and ending alphabetical listing of documents included, and are systematically filed, and
4. the taxpayer agrees to provide transcriptions of any information contained on microfilm which may be required for purposes of verifications of tax liability; and
5. proper facilities are provided and available for the ready inspection and location of the particular records, including projectors for viewing and copying the records.

Records prepared by an automated data processing system include all punched cards, magnetic tapes, discs, and other machine-sensible data media used for recording, consolidating, and summarizing accounting transactions related to the taxpayer's automatic data processing system. Such records are within the meaning of section 1142(5) of the Tax Law and are required to be retained for as long as the contents may become material in determining the accuracy of any tax return required by any part of Articles 28 and 29. However, where punched cards are used merely as a means of input to the system and the information is duplicated on magnetic tapes, discs, or other machine-sensible records, such punched cards need not be retained.

An automated data processing system must contain the following required materials:

1. General and subsidiary books of accounts. A general ledger, with source reference, should be written or printed out to be reconcilable with sales tax reporting periods. In cases where subsidiary ledgers are used to support the general ledger accounts, the subsidiary ledgers should also be written or printed out to be reconcilable with sales tax reporting periods.
2. Supporting documents and audit trail. The audit trail should be designed so that the details underlying the summary accounting data, such as invoices and vouchers may be identified and made available to the Audit Division upon request.
3. Recorded or reconstructable data. The records must provide the opportunity to trace any transaction back to the original source or forward to a final total. If printouts are not made of transactions at the time they are processed, then the system must have the ability, to reconstruct these transactions.
4. Data storage media. Adequate record retention facilities must be available for storing applicable supporting documents.
5. Program documentation. A description of the automated data processing portion of the accounting system should be available. The statements and illustrations as to the scope of operation should be sufficiently detailed to indicate the application being performed, the procedures employed in each application, and controls used

to insure accurate and reliable processing, and any important changes together with their effective dates, in order to preserve an accurate and chronological record.

Insufficiency of Records

The records of a taxpayer may be deemed incorrect or insufficient if:

1. An evaluation of the accounting system discloses that the system does not provide adequate internal control procedures which assure the accuracy and completeness of the transactions recorded in the books and records.
2. The records are not maintained in accordance with the general outline of this memorandum.

If the records of a taxpayer are determined to be incorrect or insufficient, the return filed on the basis of information obtained from such records may be deemed to be incorrect or insufficient and the Tax Commission may determine the amount of tax due the State by using any information available, whether at the taxpayer's place of business or from any other source.