



NO.: IC78-10R5

DATE: June 2010

SUBJECT: Books and Records Retention/Destruction

This version is only available electronically.

This circular cancels and replaces Information Circular 78-10R4 dated June 2005.

Introduction

1. This circular gives information and guidance to persons who are required by law to keep books and records according to sections 230 and 230.1 of the *Income Tax Act*, section 87 of the *Employment Insurance Act*, and section 24 of the *Canada Pension Plan*. It does not reflect the requirements imposed by other statutes, whether federal, provincial/territorial, or municipal, to maintain adequate books and records. Information Circular 05-1R, *Electronic Record Keeping* contains information related to keeping electronic books and records.

2. The sections and subsections referred to in this circular are from the *Income Tax Act*. Parallel provisions for most of these matters exist in the *Employment Insurance Act* and the *Canada Pension Plan*. Where significant differences do exist, they are indicated. The *Excise Tax Act* has similar requirements and information concerning Books and Records in a GST/HST environment can be found in the GST/HST Memoranda Series 15.1 and 15.2. The *Excise Act, 2001*, also has similar requirements and can be found in Excise Duty Memoranda Series 9.1.1.

Who has to keep books and records?

3. For the purpose of this circular, **person** has the meaning assigned by subsection 248(1) of the *Income Tax Act* (the Act). Therefore, in addition to individuals, a “person” in this context includes a corporation, a trust, and any exempt entity listed in subsection 149(1) of the Act such as a registered charity, a registered Canadian amateur athletic association, and a non-profit organization.

4. Books and records must be kept by every:

- person carrying on a business;
- person who is required to pay or collect taxes or other amounts according to the acts mentioned in paragraph 1 above;
- registered charity or registered Canadian amateur athletic association; and
- registered agent of a registered political party or an official agent for a candidate in a federal election.

Records to be kept

5. For the purpose of this circular, a **record** has the meaning assigned by subsection 248(1) of the Act. A “record” 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 written or in any other form.”

6. As a general rule, the Canada Revenue Agency (CRA) does not specify the books and records to be kept. However, books and records have to:

- permit the taxes payable or the taxes or other amounts to be collected, withheld, or deducted by a person to be determined;
- substantiate the qualification of registered charities or registered Canadian amateur athletic association for registration under the Act;
- permit the verification of all charitable, athletic, and political donations received for which a deduction or tax credit is available; and
- be supported by source documents that verify the information in the books and records.

7. A **source document** includes items such as sales invoices, purchase invoices, cash register receipts, formal contracts, credit card receipts, delivery slips, deposit slips, work orders, dockets, cheques, bank statements, tax returns, and general correspondence whether written or in any other form.

8. In addition, other documents, whether written or any other form, including supporting documents such as accountants working papers that were used to determine the obligations and entitlements with respect to taxes payable, collectible or to be remitted are considered part of the books and records of the taxpayer and must be made available to the CRA.

Location of records

9. The books and records must be kept at the person’s place of business or residence in Canada or another place designated by the Minister and must, upon request, be made available to officers of the CRA for audit purposes at all

reasonable times. Books and records kept outside Canada and accessed electronically from Canada are not books and records in Canada. Access to electronic records means that the taxpayer must provide an acceptable copy of the electronic records in an electronically readable and useable format to CRA auditors so that they can process the electronic records on CRA equipment.

Keeping records

10. Keeping **books and records** pertains to a system of recording financial and other information. Records are considered to be kept electronically when information is created, processed, maintained and stored electronically.

11. The Canada Revenue Agency recognizes:

- traditional books and records (including supporting source documents) produced and retained in paper format; and
- books and records produced and retained in an electronically readable format that can be related back to the supporting source documents and which are supported by a system capable of producing an accessible and useable copy. **More information is available in Information Circular 05-1R, *Electronic Record Keeping*.**

12. A person who is required to keep books and records is responsible for keeping the books and records in a way that will ensure the reliability and readability of the information recorded.

13. All books and records (including source documents) that originate in paper format must be kept except where an acceptable imaging or microfilming program, as explained in the following section, is in place. Paper format also includes paper source documents that are entered into an electronic record-keeping system.

14. A person who is required to keep records and who records them electronically must retain those records in an electronically readable format. This means that a person who uses computerized systems to generate books and records must retain the electronic records, even when a hard copy is kept. Electronically readable format means information that is supported by a system capable of producing an accessible and useable copy.

- Accessible copy means that the taxpayer must provide an acceptable copy of the electronic records in an electronically readable and useable format to CRA auditors to allow them to process the electronic records on CRA equipment.
- A copy is useable if the electronic records can be processed and analysed with CRA software.
- The useable copy must be in a common data interchange format that is compatible with CRA software.
- Electronic files retained in an encrypted or back-up format must be able to be restored at a later date to an accessible and useable state to meet CRA requirements.

The CRA is prepared to offer advice on electronic record-keeping issues and to respond to questions concerning the types of formats that are compatible with the CRA's software. All questions and concerns should be directed to the attention of the Electronic Commerce Audit Specialist (ECAS) at the nearest CRA tax services office. Advice provided by the ECAS must not be construed or viewed as an audit, inspection or a ruling issued by the CRA. It is the person's responsibility to keep, maintain, retain and safeguard its records.

15. A 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 Director of the local tax services office and recreate the files within a reasonable period of time.

16. A person who keeps records whether in writing or any other form, is not relieved of any of the record keeping, readability, retention, and access responsibilities because he or she contracts out the record keeping function to a third party such as a bookkeeper, accountant, an electronic commerce transaction manager, an application service provider, an Internet service provider, through a time share, service bureau, or other such arrangements. The person must ensure that these requirements are met in the event of third party changes such as, software and/or hardware conversions and upgrades, bankruptcy, or migration to/from a third party. The person is responsible for keeping the records and for providing access to authorized CRA officials.

Electronic records management and imaging

17. When original source documents and records are in an electronic format, they must be kept in an electronically readable format even if they have been transferred to another medium such as microfilm.

18. To ensure the reliability, integrity and authenticity of electronic records, the pending national standard publication entitled *Electronic Records as Documentary Evidence* (CAN/CGSB-72.34 2005) will outline electronic record management policies, procedures, practices and documentation that will assist in establishing the legal validity of an electronic record.

19. **Electronic image** means the representation of a source document that can be used to generate an intelligible reproduction of that document, or the reproduction itself.

In the case of paper source document an intelligible reproduction means that:

- the reproduction is made with the intention of standing in place of the source document;
- the interpretation of the reproduction, for the purposes for which it is being used, gives the same information as the source document; and

- the limitations of the reproduction (e.g., resolution, tone, or hues) are well defined and do not obscure significant details.

20. Imaging and microfilm (including microfiche) reproductions of books of original entry and source documents have to be produced, controlled, and maintained according to the latest national standard of Canada, as outlined in the publication called *Microfilm and Electronic Images as Documentary Evidence* (CAN/CGSB-72.11-93).

These standards are available from:

Canadian General Standards Board

Mailing address:

Sales Centre

Canadian General Standards Board

Gatineau, QC K1A 1G6

Street address:

Place du Portage Phase 3, 6B1

11 Laurier Street

Gatineau, Quebec

Telephone number:

Ottawa Area (819) 956-0425 or

Toll free from the rest of Canada: 1-800-665-2472

Fax number:

(819) 956-5644

E-mail:

ncr.cgsb-ongc@pwgsc.gc.ca

21. An acceptable imaging program as explained in the Canadian General Standards publications mentioned in paragraph 20 requires that:

- a person in authority within the organization has confirmed in writing that the program will be part of the usual and ordinary activity of the organization's business;
- systems and procedures are established and documented;
- a logbook is kept showing:
 - the date of the imaging;
 - the signatures of the persons authorizing and performing the imaging;
 - a description of the records imaged; and
 - whether source documents are destroyed or disposed of after imaging, and the date a source document was destroyed or disposed of;
- 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;
- the images are of commercial quality and are legible and readable when displayed on a computer screen or reproduced on paper;
- a system of inspection and quality control is established to ensure that c), d), and e) above are maintained; and

- after reasonable notification, equipment in good working order is available to view, or where feasible, to reproduce a hard copy of the image.

22. Paper source documents that have been imaged in accordance with the latest national standard of Canada (see paragraph 20), may be disposed of and their images kept as permanent records.

23. The taxpayer is responsible for ensuring that the imaging is done in an acceptable manner when the imaging has been done by a third party.

Retention period

24. Books and records have to be kept for the period or periods provided by subsections 230(4) to (7) and section 5800 of the *Income Tax Regulations* or until the Minister gives written permission for their disposal. Failure to comply with this requirement could result in prosecution by the CRA.

25. Subsection 230(4.1) of the Act requires every person who keeps records electronically to retain them in an electronically readable format for the retention period outlined in subsection 230(4).

26. Under the Act, books, records, and their related accounts and source documents, other than those referred to in paragraphs 27 and 28 below, have to be kept for a minimum of six years from the end of the last tax year to which they relate. The tax year is the fiscal period for corporations and the calendar year for all other taxpayers. Under the *Employment Insurance Act* and *Canada Pension Plan*, the retention period begins at the end of the calendar year to which the books and records relate.

27. The prescribed retention periods for certain books, records, and their related accounts and source documents are specified in section 5800 (see Appendix). The required retention periods can be summarized as follows:

- for a corporation, two years from the date of the dissolution of the corporation (in the case of corporations that amalgamate or merge, books and records have to be retained on the basis that the new corporation is a continuation of each amalgamating corporation);
- for any non-incorporated business, six years from the end of the tax year in which the business ceased;
- for the duplicate donation receipts of a registered charity or registered Canadian amateur athletic association, other than receipts for donations of property which are to be held for a period of not less than ten years, two years from the end of the calendar year in which the donations were made;
- for other specified records of registered charities and registered Canadian amateur athletic associations, two years from the date the registration is revoked; and

- for records relating to political contributions, two years from the end of the calendar year to which they relate.

There are no similar provisions in the *Employment Insurance Act* or *Canada Pension Plan*.

28. Exceptions to the rules outlined in paragraphs **24** and **25** above are:

- The Minister may exempt a person or class of persons from the requirement to keep records electronically according to subsection 230(4.2) of the Act.
- Books and records may be destroyed at an earlier time than outlined elsewhere in this circular if the Minister gives written permission for their disposal. To get such permission, a person can use Form T137, *Request for Destruction of Records*, or can apply in writing to the director of his or her tax services office. A written request, signed by the person or an authorized representative, should provide the following information:
 - (a) a clear identification of books, records, or other documents to be destroyed;
 - (b) the tax years for which the request applies;
 - (c) details of any special circumstances which would justify destroying the books and records at an earlier time than that normally permitted; and
 - (d) any other pertinent information.
- The Minister may, by registered letter or by a demand, served personally by a representative of the CRA, require specific records to be kept for an additional period of time that will be stipulated in the letter or demand.
- If a return required by section 150 of the Act is filed late, the books and records referred to in paragraph **26** above must be kept for six years from the day the return is filed.
- Every book and record necessary for dealing with a notice of objection or appeal must be kept until the notice of objection or appeal is disposed of and the time for filing any further appeal has expired.
- In the case of paragraph **27** above, only the books and records of a deceased taxpayer or a trust can be destroyed upon receipt of a clearance certificate issued according to subsection 159(2) concerning the distribution of all property.

When the CRA gives permission to destroy books and records, this permission applies only to information required to be kept under the legislation administered by the CRA, and does not imply permission to destroy any books and records required to be kept under any other legislation, or by any other department or government agency.

29. The minimum retention period for the records referred to in paragraph **26** above is generally determined by the last tax year when a record may be required for purposes of the Act, and not the year when the transaction occurred and the record was created. For example, documentation relating to long-term transactions such as records supporting the acquisition and capital cost of investments and other capital property held by a person (including registered charities and registered Canadian amateur athletic associations), should be maintained until the day that is six years from the end of the last tax year in which such a transaction could enter into any calculation for income tax purposes.

Inspections, audits and examinations

30. A person authorized by the Minister under section 231.1 may inspect, audit or examine relevant documents, property or processes of any person and of any other person that relates or may relate to the information that is or should be in the books or records of the taxpayer. This person may, at reasonable times, enter any premises or place of business and require persons therein to provide reasonable assistance and answer all proper questions.

Foreign-based information or documents

31. “Foreign-based information or documents” refers to any information or document that is available or located outside Canada and that may be relevant to the administration and enforcement of the Act.

32. The Minister may, by notice served personally or by registered or certified mail, require a person resident in Canada or a non-resident person who carries on business in Canada, to provide any foreign-based information and/or documents. It is an offence not to produce any foreign-based information, as and when required.

Inadequate records

33. If a person has failed to keep adequate books and records, subsection 230(3) of the Act provides that the Minister can specify what books and records shall be kept.

34. If the CRA finds that the books and records are inadequate, the CRA will ordinarily request a written agreement that books and records be maintained as required. The CRA will follow up the request by letter or visit within a reasonable period of time (usually not less than a month) to ensure compliance.

35. If there has been no compliance within the time allowed, the CRA will issue a formal requirement letter. The letter describes the information to be recorded in the books and describes the legal consequences and penalties for failing to comply.

36. A person who destroys or otherwise disposes of books and records to evade the payment of tax is subject to prosecution according to section 239 of the Act. Information Circular 73-10R, *Tax evasion*, discusses CRA policies on tax evasion.

Offences and penalties

Inadequate records and failure to provide information

37. If a person fails to provide any information or documents including books and records, section 231.2 specifies that the Minister can require the person to provide the information or documents requested.

38. If the person fails to maintain adequate books and records or provide the information or documents under section 231.2 such action may result in prosecution by the CRA. On a summary conviction, and in addition to any penalty otherwise payable, a taxpayer is subject to imprisonment and/or a fine not less than \$1,000.

39. Alternatively under section 231.7 the Minister may apply to the court for a Compliance Order in which a judge would order the person to provide any access, assistance, information or document sought by the Minister under section 231.1 or 231.2.

40. If a person fails or refuses to comply with an order, a judge may find the person in contempt of court, and the person is subject to the processes and the punishments of the court to which the judge is appointed.

APPENDIX

Income Tax Regulations

Part LVIII – Keeping books and records

5800. (1) For the purposes of paragraph 230(4)(a) of the Act, the required retention periods for records and books of account of a person are prescribed as follows:

(a) in respect of

- (i) any record of the minutes of meetings of the directors of a corporation,
- (ii) any record of the minutes of meetings of the shareholders of a corporation;
- (iii) any record of a corporation containing details with respect to the ownership of the shares of the capital stock of the corporation and any transfers thereof;
- (iv) the general ledger or other book of final entry containing the summaries of the year-to-year transactions of a corporation; and
- (v) any special contracts or agreements necessary to an understanding of the entries in the general ledger or other book of final entry referred to in subparagraph (iv),

the period ending on the day that is two years after the day that the corporation is dissolved;

(b) in respect of all records and books of account that are not described in paragraph (a) of a corporation that is dissolved and in respect of the vouchers and accounts necessary to verify the information in such records and books of account, the period ending on the day that is two years after the day that the corporation is dissolved;

(c) in respect of

- (i) the general ledger or other book of final entry containing the summaries of the year-to-year transactions of a business of a person (other than a corporation); and
- (ii) any special contracts or agreements necessary to an understanding of the entries in the general ledger or other book of final entry referred to in subparagraph (i);

the period ending on the day that is six years after the last day of the taxation year of the person in which the business ceased;

d) in respect of

- (i) any record of the minutes of meetings of the executive of a registered charity or registered Canadian amateur athletic association,

- (ii) any record of the minutes of meetings of the members of a registered charity or registered Canadian amateur athletic association,
- (iii) all documents and by-laws governing a registered charity or registered Canadian amateur athletic association, and
- (iv) all records of any donations received by a registered charity that were subject to a direction by the donor that the property given be held by the charity for a period of not less than 10 years,

the period ending on the day that is two years after the date on which the registration of the registered charity or the registered Canadian amateur athletic association under the Act is revoked;

- (e) in respect of all records and books of account that are not described in paragraph (d) and that relate to a registered charity or registered Canadian amateur athletic association whose registration under the Act is revoked, and in respect of the vouchers and accounts necessary to verify the information in such records and books of account, the period ending on the day that is two years after the date on which the registration of the registered charity or the registered Canadian amateur athletic association under the Act is revoked;
- (f) in respect of duplicates of receipts for donations (other than donations referred to in subparagraph (d)(iv)) that are received by a registered charity or registered Canadian amateur athletic association and are required to be kept by that charity or association pursuant to subsection 230(2) of the Act, the period ending on the day that is two years from the end of the last calendar year to which the receipts relate; and
- (g) notwithstanding paragraphs (c) to (f), in respect of all records, books of account, vouchers and accounts of a deceased taxpayer or a trust in respect of which a clearance certificate is issued pursuant to subsection 159(2) of the Act with respect to the distribution of all the property of such deceased taxpayer or trust, the period ending on the day that the clearance certificate is issued.

(2) For the purposes of subsection 230.1(3) of the Act, with respect to the application of paragraph 230(4)(a) of the Act, the required retention period for records and books of account that are required to be kept pursuant to section 230.1 of the Act is prescribed to be the period ending on the day that is two years after the end of the last calendar year to which the records or books of account relate.

Most of Canada Revenue Agency publications are available on the CRA Web site www.cra.gc.ca under the heading "Forms and Publications."