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RETENTION AND PRESERVATION OF RECORDS

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As a result of the war effort, social security, increased expansion of business, and the increasing demands of governmental agencies, the volume of records kept by present day business has increased tremendously. Their retention and preservation have become a major problem.

Many factors need to be considered in determining what records should be preserved and the appropriate period of their retention. Chief among these are the requirements of the various federal and state laws, the statutes of limitations, the continuing value of records as a source of useful information, and their possible use in lawsuits or controversies. The period of retention of certain records is established by law, otherwise decisions relative to the retention of records should be based upon the special conditions existing in a given business, the personal attitude of the management, and the availability of proper storage space. Requirements of the various laws are considered first.

The Michigan statute of limitations, for example, operates after six years with respect to promissory notes, open accounts, ordinary contracts, and domestic and foreign judgements in courts not of record. It becomes effective after ten years in the case of instruments and contracts under seal, and domestic and foreign judgments in courts of record. The statutes are different in every state, however, and a firm operating in more than one state is obliged to consider the statutes in each state in which it operates. In some states judgments may be kept alive permanently by execution every five years.

In general the limitation period for the assessment and collection of federal income taxes is three years from the date of filing the tax return. However, where the taxpayer omits from gross income an amount which should have been included therein, which is in excess of 25% of the gross income stated in the tax return, the limitation period is six years from the date of filing the return. Where the taxpayer fails to file a return, or has filed a fraudulent return, the statute of limita-

tions never runs. It is advisable, therefore, to preserve permanently copies of tax returns, correspondence relating thereto, and revenue agents' reports. Records which establish gross income deductions, and other items affecting the correctness of the returns filed, should be retained for at least six years. The Bureau of Internal Revenue has required by past regulations that such records and books be retained by the taxpayer for as long a time as they may become material in the administration of any internal revenue law.

The Fair Labor Standards Act requires the retention of substantially all pay roll and employment records and agreements for four years. It also requires retention for two years of all basic time cards, pay roll deduction records, wage rate tables, work time schedules, customers' orders or invoices received, incoming and outgoing shipping or delivery records, and bills of lading and billings to customers. The Federal Insurance Contribution Act and the Federal Unemployment Tax Act require the retention of pay roll records for a period of four years.

The governing factor in the retention of pay roll records, however, is usually the requirements of the state laws. Thus, the Michigan Unemployment Tax Act requires that pay roll and pay roll tax records be preserved for a period of six years after the year in which the pay roll was earned. Another factor to be considered is the statute of limitations applicable to suits based on the time-and-a-half provisions of the Fair Labor Standards Act. It is suggested that legal counsel be consulted relative to the various labor laws before destruction schedules are made out with respect to pay roll records.

Other federal and state statutes requiring retention of records relate to the Walsh-Healey Act, the termination of war or defense contracts, and so forth. Regulations governing stock brokers, public utilities, common carriers, communications, and so forth, also contain provisions covering the preservation of records.

The foregoing should not be interpreted to mean that all records should be retained for long periods of time. They do emphasize

the fact, however, that the requirements of the various laws need to be considered in arriving at decisions as to the period of retention. Some companies are ruthless in the destruction of records; some, on the other hand, are overly conservative; and some go so far as to preserve all records permanently. Since records constitute a history of the business their preservation should be given the same serious consideration as other operating problems.

The proper time to plan for the preservation of records is when they are current. The first step in the process should be the appointment of a committee of possibly three members, two of whom should be the controller and the legal counsel. A list of all forms used should be compiled and from this list retention schedules should be drawn up and presented to top management for approval. Heads of departments responsible for the furnishing of information should be given a voice in the determination of the period of retention, but they should be required to furnish sound reasons to support a retention period longer than that contemplated by the committee. Once retention schedules are approved, consistent plans should be made for the systematic storage and indexing of records. A good system for storing and indexing considerably reduces the work involved in destroying records. Strict control should be maintained over withdrawal of records from storage.

One of the major problems involved in the consideration of the period of retention of records is the adequacy and cost of storage space. One large bank destroys records after retaining them only a short interval on the theory that it would take several law suits to cost as much as valuable storage space. Costs of storage can be reduced by storing records in a fire-proof location since records can then be filed in cardboard transfer files. Further savings in space occupied can be made by standardizing the size of forms. One firm with 3,000 forms, after studying its problems, reduced the number of sizes of forms by 90%.

The microfilming of records results in tremendous savings in storage space and helps considerably in the systematic storage and indexing of records. Films can usually be kept in or near the office where they are readily available for reference. They are less likely to become lost and the fire hazard is less since they are usually stored in metal boxes and metal cabinets. Most such films are treated to

resist fire. It is estimated that storage space is reduced by from 90 to 99%. Studies indicate that it is usually not advisable to microfilm records which will be retained less than six years, and that it usually costs less if a firm has its own equipment. Microfilming, however, has certain disadvantages. Reduction can be made at such a high rate that records cannot easily be read even with a projector. Records which cannot be filmed in some logical sequence, such as numerical, alphabetical, etc., should not be microfilmed since it may take much longer to locate such a record on film than it would in a regular file. While microfilmed records have been used in court their legality in certain instances, is still questionable. The Internal Revenue Service does not accept microfilmed books of original entry. It does accept supporting data on film, but such data must be readily accessible and easily read. Regulations of the Director of Contract Settlement require that no records shall be destroyed where film does not clearly indicate all of the features of the record, such as, whether it is an original or copy, red figures, etc.

Some types of records should be permanently retained. Such records are the general ledger, all books of original entry (cash receipts, cash disbursements, general, purchase and sales journals), all ledgers and capital stock records. Working papers, schedules, and financial statements pertaining to periodic closings should also be retained permanently. War bond records should be retained at least 10 years (the life of the bonds). Records which might be needed to establish the costs of capital gains or losses should also be kept permanently.

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ASWA

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