

Income Tax

LMR. 34-1/R1 **Retention and Destruction of Registers and Supporting Documents**
Date of publication: **October 31, 2001**

Reference(s): *An Act respecting the Ministère du Revenu* (R.S.Q., c. M-31), sections 1.0.1, 34 to 36

This bulletin supersedes bulletin LMR. 34-1, dated May 31, 1996.

GENERAL CONSIDERATIONS

The purpose of this bulletin is to set forth the terms and conditions respecting the retention and destruction of registers and supporting documents that must be kept by a person carrying on a business, by a person required to deduct, withhold or collect an amount under a fiscal law, or by a registered charity or a registered Canadian amateur athletic association. The bulletin does not take into account evidence requirements imposed by other laws (whether federal, provincial or municipal) with regard to registers and supporting documents.

APPLICATION OF THE ACT

FORM OF REGISTERS AND SUPPORTING DOCUMENTS

1. Section 34 of the *Act respecting the Ministère du Revenu* (AMR) requires that registers and supporting documents be kept in the appropriate form and in the manner determined by the Minister.
2. Section 1.0.1 of the AMR defines the terms “supporting document” and “register” for fiscal purposes. A “supporting document” includes any document, whatever the medium used, or any other thing supporting information that is or should be in a register. A “register” includes any document, whatever the medium used, that is used to collate information, in particular for accounting, financial, fiscal or legal purposes, and includes the term “record” whenever that term is used in a fiscal law or in the regulations made under such a law to designate a register.
3. Thus, the Minister recognizes:
 - (a) traditional books of account on paper, or on a computer system or electronic device, accompanied by supporting documents and any other pertinent document;

- (b) registers that are maintained in a machine-sensible data medium and can easily be related back to source documents or any other pertinent document. Such a system must be capable of producing accessible, legible copy;
- (c) registers and supporting documents reproduced on microfilm (including microfiche);
- (d) electronic images of registers and supporting documents.

4. The technology referred to in 3(c) and 3(d) above may be used to the extent that the microfilms and electronic images are produced, controlled, and up-dated in accordance with the national standard of Canada CAN/CGSB-72.11-93, entitled "Microfilm and Electronic Images as Documentary Evidence." This publication is available from the following agency:

Canadian General Standards Board
Sales Centre
Place du portage
11, rue Laurier
Phase 3, 6B1
Hull (Québec) K1A 0S5

5. A microfilm reproduction program or imaging program is acceptable to the Minister provided the following conditions are met:

- (a) someone in the organization confirms in writing to the Minister that the program is part of the usual and ordinary business activities of the organization,
- (b) systems and procedures are established and documented,
- (c) a log book is kept, showing:
 - i. the date of microfilming or imaging,
 - ii. the signatures of the persons who authorized and performed the microfilming or imaging,
 - iii. a description of the documents microfilmed or imaged,
 - iv. details as to whether the source documents are destroyed or disposed of after microfilming or imaging and, if they are, the date of such destruction or disposal and the date of the Minister's authorization;
- (d) an index is maintained to permit the immediate location of any document. The index must indicate the microfilming or imaging date and the name of the person who performed it. In the case of an imaging program, the index must be included in the software used for the program;
- (e) the microfilmed or imaged documents are of commercial quality, that is, clear and legible when displayed on a microfilm reader or computer monitor, or when reproduced on paper;

- (f) a system of inspection and quality control is established to ensure that conditions (c), (d) and (e) above are met; and
 - (g) upon reasonable notification, equipment is made available to the Minister (or to one of his or her officers) with which to view or, where feasible, to reproduce hard copy of the microfilmed or imaged documents.
- 6.** The microfilming or electronic imaging of cheques and deposit slips is acceptable to the Minister if, in addition to the conditions described in point 5 above, the following conditions are met:
- (a) the microfilms or electronic images of these documents are such that stamps and endorsements can be readily identified;
 - (b) a log book for the microfilming or imaging is kept in such a manner as to satisfy the requirements of this bulletin, the requirements of the *Canada Evidence Act* (which determines the admissibility of a document in criminal courts of Canada as evidence), and the requirements of the *Civil Code of Québec*.
- 7.** The Minister's recognition of the use of a technological means described in point 3(b), 3(c) and 3(d) above does not nullify any other agreement a person may have with the Minister regarding the retention, by such means, of registers and supporting documents.

PLACE OF RETENTION

8. The registers and supporting documents must be kept at the person's place of business or residence or at such other place as may be designated by the Minister, and must be made available to the Minister for audit purposes at a reasonable time.

RETENTION PERIODS

9. Registers (including an annual inventory in the prescribed manner) and supporting documents must be kept for six years after the end of the last taxation year to which they apply, unless the authorization mentioned in section 35.6 of the AMR has been obtained. The taxation year is the fiscal period (in the case of corporations) or the calendar year (in all other cases).

10. The above-mentioned retention period for registers and supporting documents is determined on the basis of the last taxation year for which the documents may be useful for the purposes of a fiscal law, not on the basis of the year a given transaction took place or a given register was created. For instance, registers relating to the acquisition and capital cost of capital property held by a person who carries on a business must be kept for six years after the end of the taxation year for which those registers may be used to calculate amounts pursuant to the *Taxation Act* (R.Q.S., c. I-3).

11. An inventory must indicate the quantity and nature of the property it describes, in such a manner and with sufficient particulars to enable the property to be valued in accordance with sections 83 to 85.6 of the *Taxation Act* and the regulations enacted under section 83.

12. Any person who keeps registers or supporting documents on an electronic or computerized medium is required to preserve such documents on the same medium, in a form that is readily intelligible, for the retention period mentioned in point 9 above. The Minister may, subject to terms and conditions he or she determines, dispense a person or class of persons from this obligation.

13. A different retention period may be prescribed by regulation; however, no such period has been provided for to date.

14. Where a person required to keep registers fails to file a fiscal return for a taxation year within the time prescribed in section 1000 or 1159.8 of the *Taxation Act* (R.S.Q., c. I-3), that person must, for six years after the date the return was filed,

(a) preserve the registers and supporting documents relating to the year in question; and

(b) preserve any registers and supporting documents relating to the year in question and kept on an electronic or computerized medium. (Such registers and supporting documents must be kept on the same medium, in a form that is readily intelligible).¹

15. Where a person subject to the retention requirements has served a notice of objection with respect to an assessment or is party to an appeal before the courts, the law provides that the documents necessary for the examination of the objection or appeal must be preserved until the expiry of the appeal period or until final judgment is rendered on the appeal. Where such a person keeps registers and supporting documents on an electronic or computerized medium, that person must preserve, on the same medium and in a form that is readily intelligible, the registers and supporting documents necessary for the examination of the objection or appeal.²

16. Where a person is obliged to keep registers, the Minister may, at his or her discretion, require that person to preserve the documents specified by the Minister for a period determined by the Minister.

AUTHORIZATION TO DESTROY DOCUMENTS

17. A person required to preserve documents may be authorized by the Minister to dispose of such documents before the expiry of the periods determined in points 9 to 16 above.

18. An application for authorization to destroy registers and supporting documents kept in a form described in point 3 above must be submitted in writing and signed by the taxpayer or agent, or by his or her authorized representative. In the case of a business, the application must be signed by an officer in authority. Applications must be sent to the office of the Ministère in the taxpayer's region. For a list of regional offices, you may consult the Web site of the Ministère at www.revenu.gouv.qc.ca.

19. The application must contain the following information:

¹ This is in accordance with the proposed amendments to sections 35.3 and 35.4 of the AMR contained in Bill 10, "An Act to amend the Act respecting the Ministère du Revenu and other legislation," which was introduced on May 8, 2001.

² Idem.

- (a) a precise description of the documents to be destroyed;
- (b) the taxation years to which the application applies; and
- (c) any other pertinent information.

20. For audit purposes, every person who is authorized to act pursuant to section 38 of the AMR, and has received the appropriate training, can evaluate the technology used and enter into an agreement with a person concerning the retention of registers kept in the forms described in points 3(b), 3(c) and 3(d), so as to relieve that person of the necessity to preserve all these documents, or so as to ensure that the technology employed allows these documents to be available for use during subsequent audits.

INADEQUATE REGISTERS

21. If the registers kept by a person are inadequate, the Minister may, in a written demand, sent by registered or certified mail (or by personal service), direct the person to keep the registers of account specified by the Minister. Such written demand informs the person of the sanctions and legal consequences for failing to comply.

22. In certain exceptional situations, the Minister does not send the above-mentioned demand, but imposes sanctions immediately. This may occur, for example, where a business receives amounts and collects taxes respecting the goods it sells or the services it provides, but does not enter these operations in its accounting documents. In such cases, where there is a serious or flagrant absence of registers and supporting documents, subparagraph (j) of section 17.3 of the AMR may be applied, and security may be required immediately. If the security is not provided, the registration certificate or permit may be suspended and, if necessary, revoked under subparagraph (l) of section 17.5.

ELECTRONIC FILING

23. Persons referred to in section 34 of the AMR who use electronic filing technology must follow the rules given in this bulletin for the retention of registers and supporting documents.