

TABLE OF CONTENTS

Description; Conferences and Hearings; Procedure for Requesting the Promulgation, Amendment or Repeal of a Regulation; Petition for Declaratory Ruling; Regulations and Forms

Repealed 12-2- 1

Description. 12-2- 1a

Repealed 12-2- 2

Conferences and hearings 12-2- 2a

Repealed 12-2- 3

Procedure for requesting the promulgation, amending or repeal of a regulation 12-2- 3a

Repealed 12-2- 4

Petition for declaratory ruling. 12-2- 4a

Repealed 12-2-5—12-2- 6

Reserved 12-2- 7

Procedures

Notice concerning dissolution. 12-2- 8

Request by a purchaser for a clearance certificate pertaining to taxes imposed by chapter 219 12-2- 9

Request for disclosure of confidential information. 12-2-10

Waiver of penalties not in excess of one hundred dollars 12-2-11

Recordkeeping and Retention

Recordkeeping and record retention 12-2-12

**Description; Conferences and Hearings; Procedure for Requesting the
Promulgation, Amendment or Repeal of a Regulation; Petition for
Declaratory Ruling; Regulations and Forms**

Sec. 12-2-1.

Repealed, December 18, 1980.

Sec. 12-2-1a. Description

(a) The department of revenue services has its headquarters at 92 Farmington Avenue, Hartford, Connecticut 06115. It operates under the direction of the commissioner of revenue services, who is appointed to a four-year term by the Governor, with the advice and consent of either house of the General Assembly. The commissioner appoints the deputy commissioner of revenue services to assist him. The director of protests and hearings reports directly to the commissioner.

(b) For the purpose of administering the enforcing the provisions of Title 12 of the Connecticut General Statutes, the commissioner, in addition to organizing his own immediate office, has divided the department into six divisions.

(1) The administration division is comprised of the business section, the personnel and payroll section, and the records section and is headed by the director of administrative and fiscal services. The division is responsible for preparing the budget of the department, supervising personnel matters, communicating with the Internal Revenue Service, and providing statistical data to the General Assembly.

(2) The audit division is comprised of the examination section, the administration section, the evaluation section and the personal taxes section and is headed by the director of audit division. The division is responsible for the audit of all tax returns.

(3) The collection and enforcement division is comprised of the delinquency section, the deficiency section, the abatements and bankruptcies section, the enforcement section, and the field unit and is headed by the director of collection and enforcement division. The division is responsible for the collection of delinquent and deficient taxes; for the settlement of tax claims against bankrupt taxpayers; and for the investigation of tax evaders.

(4) The inheritance division is comprised of the computation and collection section, the clerical section, and the legal section and is headed by the first assistant commissioner of revenue services. The division is responsible for the computation of the succession and estate taxes on all estates and for the billing and collection of these taxes. The first assistant commissioner of revenue services is assisted in the execution of his duties by the chief inheritance attorney, who is in charge of the legal section.

(5) The legal division is comprised of the taxpayer relations section and the technical support section and is headed by the director of legal division. The division is responsible for legal research concerning tax matters; for the formulation of regulations and proposed legislation; and for the dissemination of tax information to the public. Assistant attorneys general are assigned to the department and act as legal counsel to the commissioner in all litigation and other civil proceedings.

(6) The operations division is comprised of the registration section, the processing section, the data processing section, and the accounts receivable section and is headed by the director of operations division. This division initiates and maintains taxpayer files; receives, prepares, and processes all tax returns; and initiates and maintains the accounts receivable files.

(Effective December 18, 1980)

Sec. 12-2-2.

Repealed, December 18, 1980.

Sec. 12-2-2a. Conferences and hearings**(a) Succession and estate taxes**

(1) Informal conferences, although not expressly authorized by statute, are held at the headquarters of the department of revenue services.

(2) There are no statutory provisions for hearings before the commissioner or his authorized agent. If a taxpayer is aggrieved by a determination of the commissioner with respect to valuation of an estate, extent of taxability, domicile, or computation of tax, the taxpayer is entitled to a hearing before the probate court of the district in which the decedent resided with a right of appeal to the superior court.

(b) Other taxes

(1) (A) There are statutory provisions for hearings before the commissioner or his authorized agent. If a taxpayer is aggrieved by the action of the commissioner or his authorized agent in fixing the amount of any tax or in imposing any penalty, the taxpayer or its duly authorized representative may request, in writing, a formal hearing, within thirty days after the notice of such action is mailed pursuant to sections 12-207 (Insurance Companies, Hospital and Medical Services Corporations Tax), 12-236 (Corporation Business Tax), 12-248 (Air Carriers Tax), 12-268i (Express, Telegraph, Telephone, Cable, Car and Community Antenna Television System Companies Tax, Utility Companies Tax, and Public Service Companies Tax), 12-418 (2) and 12-421 (Sales and Use Tax), 12-473 (Gasoline and Special Fuel Taxes), 12-521 (Capital Gains and Dividends Tax), and 12-553 (Admissions, Cabaret and Dues Tax) of the Connecticut General Statutes and within ten days after the notice of such action is mailed pursuant to sections 12-252 (Railroad Companies Tax), 12-311 (Cigarette Taxes), and 12-447 (Alcoholic Beverages Tax) of the Connecticut General Statutes, setting forth the reasons why such a hearing should be granted and the amount in which such tax should be reduced. Any such request will be considered to have been made as of the time or date of the United States Postal Service postmark. A request for an informal conference may be made simultaneously with or subsequent to a request for a formal hearing.

(B) If the request for a formal hearing is granted, the commissioner shall notify the taxpayer or its duly authorized representative of the time and place fixed for such hearing not later than ten days prior to the date of such hearing.

(C) The commissioner may be represented by his authorized agent. The taxpayer may be represented by its duly authorized representative, whether it be its attorney, accountant or employee. Opportunity shall be afforded all parties to present evidence and argument, both orally and in writing, on all issues involved. A party may conduct cross-examinations required for a full and true disclosure of the facts.

(D) The commissioner may, by notice in writing at any time within three years after the date when any return of the taxpayer was due or within three years after the date when any return was filed, whichever is later, order a hearing on his own initiative and require the taxpayer or any other individual whom he believes to be in possession of relevant information concerning the taxpayer to appear before him or his authorized agent, with any specified books of account, papers or other documents, for examination under oath.

(E) In the discretion of the commissioner or his authorized agent, if the commissioner is represented by such agent, a hearing may be continued from time to

time, upon the request of either party. Informal conferences may be scheduled in the interim.

(F) A transcript shall be made of a hearing and a copy shall be mailed to the taxpayer or its duly authorized representative. The taxpayer or its duly authorized representative may then submit additional briefs, exhibits or proposed findings of fact, provided that the taxpayer or its duly authorized representative promptly notify the commissioner or his authorized agent of its intention to do so, and provided that the briefs, exhibits or proposed findings of fact are, in fact, submitted promptly thereafter.

(G) Any decision of the commissioner or his authorized agent resulting from a hearing shall be considered as such when made. Promptly thereafter, the taxpayer or its duly authorized representative shall be notified of such decision by mail.

(2) (A) Informal conferences, although not expressly authorized by statute, are held at the headquarters of the department of revenue services. Such conferences can be scheduled prior to or subsequent to formal hearings.

(B) A request for an informal conference will not constitute and will not be considered a request for a formal hearing.

(C) The commissioner may be represented by his authorized agent. The taxpayer may be represented by its duly authorized representative, whether it is its attorney, accountant or employee.

(D) A formal record is not made of any informal conference; however, either party may, if it wishes, make its own record of the proceedings.

(3) If the commissioner is of the opinion that a request for a conference or hearing will result in a delay which may in any way jeopardize the interests of the state of Connecticut, the commissioner shall require the posting of such security as he deems necessary to protect the interests of the state.

(Effective December 18, 1980)

Sec. 12-2-3.

Repealed, December 18, 1980.

Sec. 12-2-3a. Procedure for requesting the promulgation, amending or repeal of a regulation

(a) A petition requesting the promulgation, amendment or repeal of a departmental regulation shall be accepted by the commissioner if the petitioner proceeds as follows:

(1) The petition shall be in writing and submitted to the Commissioner of Revenue Services, 92 Farmington Avenue, Hartford, Connecticut 06115.

(2) The petition shall be signed by the petitioner or a duly authorized representative and shall include, for purposes of reply, the address of the petitioner or a duly authorized representative.

(3) A copy of the petition shall be served by the petitioner on any person whom the petitioner has reason to believe may not otherwise have knowledge thereof and may fairly be said to have an interest therein. Certification of such service shall be included in or attached to the petition.

(4) The petition shall clearly state the language to be promulgated, amended or repealed. The same petition may include matter to be promulgated as well as matter to be amended or repealed.

(5) The petition may include a statement of facts and arguments in support thereof.

(b) Within thirty days of receipt of the petition, the commissioner, in his discretion, either shall deny the petition in writing, stating reasons for his denial, or shall

initiate regulation-making proceedings in accordance with section 4-168 of the Connecticut General Statutes.

(Effective December 18, 1980)

Sec. 12-2-4.

Repealed, December 18, 1980.

Sec. 12-2-4a. Petition for declaratory ruling

(a) A petition for declaratory ruling as to the applicability of any statute or of any regulation or order of the department shall be accepted by the commissioner if the petitioner proceeds as follows:

(1) The petition shall be in writing and submitted to the Commissioner of Revenue Services, 92 Farmington Avenue, Hartford, Connecticut 06115.

(2) The petition shall be signed by the petitioner or a duly authorized representative and shall include, for purposes of reply, the address of the petitioner or a duly authorized representative.

(3) A copy of the petition shall be served by the petitioner on any person whom the petitioner has reason to believe may not otherwise have knowledge thereof and may fairly be said to have an interest therein. Certification of such service shall be included in or attached to the petition.

(4) The petition shall state clearly the question of applicability upon which a ruling is sought and the factual background of the issue.

(5) The petition shall state the position of the petitioner with respect to the question of applicability.

(6) The petition may include legal arguments in support of the position of the petitioner.

(b) Within thirty days of receipt of the petition, the commissioner, in his discretion, may dispose of the petition either by written refusal to issue the declaratory ruling sought, stating reasons for such refusal, or by issuance of the declaratory ruling sought.

(Effective December 18, 1980)

Sec. 12-2-5.

Repealed, December 18, 1980.

Sec. 12-2-5a.

Repealed, April 6, 2000.

Sec. 12-2-6.

Repealed, December 18, 1980.

Sec. 12-2-7. Reserved

Procedures

Sec. 12-2-8. Notice concerning dissolution

(a) **Preamble.** Each dissolved stock corporation organized under the laws of this state shall send the notice concerning dissolution which is described in subsection (b) of this section to the commissioner of revenue services, whether or not the corporation elects to proceed in respect of creditors as provided under section 33-379 (d). In the event that the corporation elects to proceed in respect of creditors as provided under section 33-379 (d), the notice required under that section shall

also be sent to the commissioner of revenue services, whether or not the department of revenue services is a known creditor of the corporation. In the event that the corporation elects not to proceed in respect of creditors as provided under section 33-379 (d), a current statement from the commissioner of revenue services showing that the corporation has paid all its taxes, that it was not liable for any taxes or that it has made adequate provisions for the future payment of any of its unpaid taxes shall also be obtained. Failure to send the notice required under section 33-379 (d), if the corporation elects to proceed thereunder, or failure to obtain the current statement required under section 33-380 (b), if the corporation elects not to proceed under section 33-379 (d), shall expose to suit (1) the corporation, by virtue of section 33-378 (e); (2) a shareholder in a derivative capacity, by virtue of section 33-378 (e) and (f) and section 33-359, if the shareholder has received a distribution of assets from the corporation, knowing the distribution to be improper under chapter 599; and (3) a director, by virtue of section 33-321 (b), if the director voted for a distribution of assets improper under chapter 599. Subsection (b) of this section describes the required content of the notice concerning dissolution which shall be sent to the commissioner of revenue services by each dissolved stock corporation organized under the laws of this state. Subsection (c) of this section describes the procedure which must be followed in sending the notice concerning dissolution which is described in subsection (b) of this section.

(b) **Required contents of notice.** The required contents of the notice concerning dissolution include—

(1) a copy of the notice required to be published under section 33-379 (a) plus a statement indicating the dates of publication of the notice in the Connecticut Law Journal plus a statement indicating the name of the newspaper having a general circulation in the town of the corporation's principal office in which the notice is published and the dates of publication.

(2) a statement indicating the name of the person to which, the place at which and the time within which claims against the corporation are to be presented.

(3) a statement indicating whether the corporation has elected to proceed in respect of creditors as provided in section 33-379 (d) or whether the corporation is seeking to obtain the current statement from the commissioner as provided in section 33-380 (b).

(4) if the corporation elects to proceed in respect of creditors as provided under section 33-379 (d), a copy of the notice required to be published under section 33-379 (d) plus a statement indicating the dates of publication of the notice in the Connecticut Law Journal plus the name of the newspaper having a general circulation in the town of the corporation's principal office in which the notice is published and the dates of publication.

(5) a statement indicating the tax registration number assigned by the commissioner of revenue services to the corporation.

(c) **Procedure.** The notice concerning dissolution shall be served by registered or certified mail in a plain cover, envelope or other appropriate wrapper, postage prepaid, to the following address: Department of Revenue Services, 92 Farmington Avenue, Hartford, Connecticut 06105, Att: Division Chief, Office Services Subdivision, Audit Division. The caption "NOTICE CONCERNING DISSOLUTION" must appear on the cover, envelope or wrapper.

(Effective December 19, 1984)

Sec. 12-2-9. Request by a purchaser for a clearance certificate pertaining to taxes imposed by chapter 219

(a) **In general.** Any person who purchases the business or stock of goods of a retailer is required under section 12-424 (1) to withhold a sufficient amount of the purchase price to cover the liability of such retailer for the taxes imposed under chapter 219 (the sales and use taxes). The purchaser shall turn over such amount if and only if such retailer furnishes either a receipt from the commissioner showing that such liability has been paid or a certificate (the clearance certificate) from the commissioner stating that no taxes imposed under chapter 219 are due. Section 12-424 (2) allows the purchaser to request a clearance certificate. A condition precedent to the issuance of a clearance certificate is the payment of the liability of such retailer for the taxes imposed under chapter 219. Subsection (b) of this section describes the required content of the request by such purchaser for a clearance certificate from the commissioner. Subsection (c) of this section describes the procedure which must be followed in making a request for a clearance certificate. Subsection (d) of this section describes the procedure which must be followed by the commissioner in dealing with a request for a clearance certificate.

(b) **Required contents of request.** The required contents of the request for a clearance certificate include –

- (1) the name and address of the purchaser;
- (2) the tax registration number, if any, assigned to the purchaser by the commissioner;
- (3) the name and address of the retailer;
- (4) the tax registration number assigned to the retailer by the commissioner;
- (5) the purchase price, including the fair market value of any consideration other than money, paid or transferred directly or indirectly to the retailer by the purchaser, including the amount of any liability to which property purchased by the purchaser from the retailer is subject, and the amount of any liability of the retailer to the purchaser offset against the purchase price;
- (6) a copy of the purchase agreement and any attachments thereto.

The notice of transfer required by section 42a-6-106 (Uniform Commercial Code —Bulk Transfers) shall not constitute a request for a clearance certificate, even if the commissioner is a creditor of the transferor and the transferee gives notice of the transfer to the commissioner in the manner provided in section 42a-6-106.

(c) **Procedure to be followed in making a request for a clearance certificate.** The request for a clearance certificate shall be served by registered or certified mail in a plain cover, envelope or other appropriate wrapper, postage prepaid, to the following address: Department of Revenue Services, 92 Farmington Avenue, Hartford, Connecticut 06105, Attn: Division Chief, Office Services Subdivision, Audit Division. The caption “REQUEST FOR CLEARANCE CERTIFICATE” must appear on the cover, envelope or wrapper.

(d) **Procedure to be followed by the commissioner in dealing with a request for a clearance certificate.** The officer who is specified in subsection (c) of this section shall determine whether the request meets the requirements of subsections (b) and (c) of this section. If the request fails to meet such requirements, such officer shall send notice of such failure to the person who made such request. In such event, such person will be deemed not to have made a request for a clearance certificate. If the request meets the requirements of subsections (b) and (c) of this section, such officer shall send notice of the amount which must be paid as a

condition precedent to the issuance of a clearance certificate or, if no amount must be paid, shall send a clearance certificate. If the notice of the amount which must be paid is not sent within sixty days of the receipt of the request for a clearance certificate, the purchaser shall not be liable for any unpaid taxes imposed under chapter 219 on the retailer. The notice of the amount which must be paid will be deemed to have been sent on the date shown by the post office cancellation mark stamped upon the cover, envelope or other wrapper.

(Effective December 19, 1984)

Sec. 12-2-10. Request for disclosure of confidential information

(a) **In general.** The disclosure of any information (1) obtained by an investigation of the records of any person examined by the commissioner or his authorized agent in the discharge of duties involved in the administration of revenue statutes or (2) contained in any return, statement or report required to be filed with or submitted to the commissioner is unlawful, except to the extent that such disclosure is permitted by section 12-15 (a). Section 12-15 (a) and subsections (b), (c) and (d) of this section describe the circumstances under, and persons to, which certain information will be disclosed. Subsection (b) of this section conditions the disclosure of information to other officers of the State of Connecticut on the submission of documents specified therein. Subsection (c) of this section conditions the disclosure of information to a taxpayer or its authorized representative on the submission of documents specified therein. Subsection (d) of this section conditions the disclosure of information to a successor, receiver, trustee, executor, administrator, assignee or guarantor of a taxpayer on the submission of documents specified therein. Subsection (e) of this section describes the procedure which must be followed in making a request for disclosure of information. Authority for the promulgation of this section is to be found in section 12.2.

(b) **Other officers of this state.** The information specified in subsection (a) of this section shall be disclosed to an officer of the State of Connecticut if and only if—

- (1) a written request is made by the agency head of the Connecticut state agency;
- (2) such request states with particularity the information which is sought;
- (3) such request states that such information is required in the course of duty of such state agency or that reasonable cause to believe that a state law with which such state agency is charged with enforcement is being violated exists; and
- (4) such request is acknowledged in the manner and form provided by chapter 6 of the Connecticut General Statutes.

(c) **Written requests by taxpayers and their authorized representatives; written documents authorizing disclosure to authorized representatives.**

(1) Upon written request by a taxpayer or by the taxpayer's authorized representative, the commissioner may disclose the taxpayer's returns, as defined in section 12-15 of the General Statutes, or the taxpayer's return information, as defined in section 12-15 of the General Statutes, to the taxpayer or to the taxpayer's authorized representative. The authorized representative may be an individual or an entity (e.g., a corporation, partnership, trust or organization).

(2) If the written request described in subdivision (1) of this subsection is made by the authorized representative, it shall be accompanied by a written document, authorizing the disclosure, that is signed by the taxpayer; provides the taxpayer's full name, address, social security number or federal employer identification number, and Connecticut tax registration number, and the authorized representative's full name, address, and telephone number; and identifies the specific tax and specific taxable period or periods to which the request pertains.

(3) (A) In the event that such taxpayer is a corporation, the written document authorizing disclosure to an authorized representative described in subdivision (2) of this subsection shall be signed by any corporate officer who has legal authority to bind such taxpayer; any person who is designated by the board of directors or other governing body of the corporation; any officer or employee of the corporation upon written request signed by a principal officer of the corporation and attested by the secretary or other officer of the corporation; or any other person who is authorized to receive or inspect the corporation's return or return information under section 6103(e)(1)(d) of the Internal Revenue Code. The written request described in subdivision (1) of this subsection shall be signed by the authorized representative or by any person authorized by this subparagraph to sign the written document authorizing disclosure to an authorized representative described in subdivision (2) of this subsection.

(B) In the event that such taxpayer is a trust or estate, the written document authorizing disclosure to an authorized representative described in subdivision (2) of this subsection shall be signed by the fiduciary of such taxpayer. The written request described in subdivision (1) of this subsection shall be signed by the authorized representative or by the fiduciary of the taxpayer.

(C) In the event that such taxpayer is a partnership, the written document authorizing disclosure to an authorized representative described in subdivision (2) of this subsection shall be signed by any person who was a member of such partnership during any part of the taxable period or periods to which such request pertains. The written request described in subdivision (1) of this subsection shall be signed by the authorized representative or by any person authorized by this subparagraph to sign the written request described in subdivision (1) of this subsection.

(d) **Successors, receivers, trustees, executors, administrators, assignees and guarantors.** The items included in the measure of the tax and the amount of unpaid taxes, penalties and interest due and owing from a taxpayer shall be disclosed to a successor, receiver, trustee, executor, administrator, assignee or guarantor of such taxpayer if and only if—

(1) a written request is made by such successor, receiver, trustee, executor, administrator, assignee or guarantor;

(2) such request demonstrates that status as a successor, receiver, trustee, executor, administrator, assignee or guarantor of such taxpayer is possessed and appropriate legal documents creating such status are submitted with such request; and

(3) such request demonstrates that such successor, receiver, trustee, executor, administrator, assignee or guarantor is directly interested in such disclosure.

(e) **Procedure.** The requests specified in subsections (b), (c) and (d) of this section shall be mailed in a plain cover, envelope or other appropriate wrapper, postage prepaid, to the following address: Department of Revenue Services, 92 Farmington Avenue, Hartford, Connecticut 06105, Attn: Director, Taxpayer Services Division. The caption "REQUEST FOR DISCLOSURE OF CONFIDENTIAL INFORMATION" must appear on the envelope.

(Effective January 7, 1992; amended November 3, 1999)

Sec. 12-2-11. Waiver of penalties not in excess of one hundred dollars

(a) **Scope.** Various provisions of title 12 of the Connecticut General Statutes provide that, subject to the provisions of section 12-3a, the commissioner of revenue services may waive penalties, in whole or in part, when it is proven to his satisfaction that the failure to pay any tax on time was due to reasonable cause and was not intentional or due to neglect. Section 12-3a pertains to the tax review committee

and to its waiver of penalties in excess of one hundred dollars. Section 12-3a-1 establishes guidelines for the waiver of such penalties by the tax review committee. This regulation establishes guidelines for the waiver of penalties not in excess of one hundred dollars by the commissioner of revenue services. Subsection (b) of this regulation provides examples of a failure to pay any tax on time due to reasonable cause, and subsection (c) of this regulation provides examples of an unintentional failure (and not a failure due to neglect) to pay any tax on time.

(b) **Failure to pay tax on time due to reasonable cause.** A penalty will be waived, if a taxpayer clearly establishes the facts alleged to be a reasonable cause for failure to pay tax on time in the form of a written statement. The following are examples of a failure to pay tax on time due to reasonable cause:

(1) loss of business records necessary to prepare a tax return as a result of fire or other casualty; however, if there is sufficient time before the due date to reconstruct lost records, the failure to pay tax on time will not be due to reasonable cause.

(2) death or serious illness of the tax return preparer (or a member of the immediate family of the preparer); however, if more than one person is responsible for preparing tax returns, the failure to pay tax on time will not be due to reasonable cause.

(3) unforeseeable absence or unavailability of the tax return preparer; however, a vacation trip will not constitute an unforeseeable absence or unavailability, and a business trip will not constitute an unforeseeable absence or unavailability unless it is of an emergency nature.

(4) No tax return was filed (or a tax return was filed but the tax was underreported) but the taxpayer contacted a competent tax advisor, to whom the taxpayer furnished all necessary information but who incorrectly advised the taxpayer that a tax return was not required (or that the tax was correctly reported), and the taxpayer exercised ordinary business care and prudence in determining whether to seek further advice.

(c) **Failure to pay tax on time not intentional or due to neglect.**

A penalty will be waived, if a taxpayer clearly establishes the facts alleged to be a cause of the taxpayer's unintentional failure (and not a failure due to neglect) to pay tax on time in the form of a written statement. The following are examples of a failure to pay tax on time which is unintentional (and not due to neglect):

(1) A mathematical error is made on a tax return resulting in an underpayment of tax, but the taxpayer exercised ordinary business care and prudence to avoid such an error.

(2) Figures are transposed on a check or money order resulting in an underpayment of tax, but the taxpayer exercised ordinary business care and prudence to avoid such an error.

(3) No tax return was filed (or a tax return was filed but the tax was underreported) and the taxpayer did not contact a competent tax advisor, but the taxpayer made a reasonable effort to comply with tax statutes and regulations and did not carelessly, recklessly or intentionally disregard tax statutes and regulations, and the taxpayer exercised ordinary business care and prudence in determining not to contact a competent tax advisor.

(Effective May 25, 1989)

Recordkeeping and Retention

Sec. 12-2-12. Recordkeeping and record retention

(a) **Definitions.**

(1) "Affected tax law provisions" means the provisions in the following chapters of the general statutes: chapter 207, chapter 208, chapter 211, chapter 211a, chapter

211b, chapter 212, chapter 212a, chapter 214, chapter 214a, chapter 216, chapter 217, chapter 218, chapter 218a, chapter 219, chapter 220, chapter 221, chapter 222, chapter 223, chapter 225, chapter 227, chapter 228a, chapter 228b, chapter 228c, chapter 228d, chapter 228e, chapter 228f, chapter 228g, chapter 228h, and chapter 229. In addition, the term “affected tax law provisions” means the following sections of the general statutes: 22a-132, 22a-232, 22a-234a, 26-237c, 38a-277 and 51-81b;

(2) “Database management system” means a software system that controls, relates, retrieves and provides accessibility to data stored in a database;

(3) “Electronic data interchange” or “EDI technology” means the computer-to-computer exchange of business transactions in a standardized structured electronic format;

(4) “Hard copy” means any documents, records, reports or other data printed on paper;

(5) “Machine-sensible record” means a collection of related information in an electronic format. Machine-sensible records do not include hard copy records that are created or recorded on paper or stored in or by an imaging system such as microfilm, microfiche, or storage-only imaging systems;

(6) “Storage-only imaging system” means a system of computer hardware and software that provides for 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; and

(7) “Taxpayer” as used in this section means any person that is required by law or regulation to maintain and preserve records in connection with the provisions of the general statutes listed in the definition of “affected tax law provisions” or any regulations thereunder.

(b) Recordkeeping requirements.

(1) A taxpayer shall maintain all records that are necessary to a determination of correct tax liability under the affected tax law provisions. All required records shall be made available upon request by the commissioner or his authorized representatives as provided for in the affected tax law provisions. Such records include, but are not limited to: books of account, invoices, sales receipts, cash register tapes, purchase orders, exemption certificates, returns, and schedules and working papers used in connection with the preparation of returns.

(2) Failure to maintain such records will be considered evidence of negligence or intentional disregard of law or regulation and may, without more, result in the imposition of appropriate penalties.

(3) If a taxpayer retains records required to be retained under this section in both machine-sensible and hard copy formats, the taxpayer shall make the records available to the commissioner in machine-sensible format upon request of the commissioner.

(4) Nothing in this section shall be construed to prohibit a taxpayer from demonstrating tax compliance with traditional hard copy documents or reproductions thereof, in whole or in part, whether or not such taxpayer also has retained or has the capability to retain records on electronic or other storage media in accordance with this section. However, this subdivision shall not relieve the taxpayer of the obligation to comply with subdivision (3) of this subsection.

(5) Every taxpayer should make periodic checks on all records being retained for use by the commissioner. If any records required to be retained are subsequently

lost, destroyed, damaged or found to be incomplete or materially inaccurate, the taxpayer shall recreate the files within a reasonable period of time.

(c) **Machine-sensible records.**

(1) **General requirements.**

(A) Machine-sensible records used to establish tax compliance shall contain sufficient transaction-level detail information so that the details underlying the machine-sensible records can be identified and made available to the commissioner upon request. A taxpayer has discretion to discard duplicated records and redundant information provided its responsibilities under this section are met.

(B) At the time of an examination, the retained records shall be capable of being retrieved and converted to a standard record format. The term “standard record format” does not mean that every taxpayer shall keep records in an identical manner. Instead, it means that if a taxpayer utilizes a code system to identify elements of information in each record when creating and maintaining records, the taxpayer is required to maintain a record of the meaning of each code and any code changes and provide these to the commissioner to enable an effective review of the taxpayer’s records.

(C) Any system for creating, maintaining and retrieving machine-sensible records shall be able to accept date information input, provide date output, and store and perform calculations on dates before, on and after January 1, 2000 correctly and without ambiguity.

(D) Taxpayers are not required to construct machine-sensible records other than those created in the ordinary course of business. A taxpayer that does not create the electronic equivalent of a traditional paper document in the ordinary course of business is not required to construct such a record for tax purposes.

(2) **Electronic data interchange requirements.**

(A) Where a taxpayer uses electronic data interchange processes and technology, the level of record detail, in combination with other records related to the transactions, shall 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 commissioner to interpret the coded information.

(B) The taxpayer may capture the information necessary to satisfy subparagraph (A) of this subdivision at any level within the accounting system and need not retain the original EDI transaction records provided the audit trail, authenticity, and integrity of the retained records can be established. For example, a taxpayer using electronic data interchange 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. Since neither the EDI transaction nor the accounts payable system capture information from the invoice pertaining to product description and vendor name (i.e., they contain only codes for that information), the taxpayer also retains other records, such as its vendor master file and product code description lists, and makes them available to the commissioner. In this example, the taxpayer need not retain its EDI transaction for tax purposes.

(3) **Electronic data processing systems requirements.** The requirements for an electronic data processing accounting system should be similar to that of a manual accounting system, in that an adequately designed accounting system should incorpo-

rate methods and records that will satisfy the requirements of this section. In addition, pursuant to the affected tax law provisions, the commissioner shall have access to the taxpayer's EDI processing, accounting or other systems for the purposes of verifying or evaluating the integrity and reliability of those systems to provide accurate and complete records.

(4) Business process information.

(A) Upon the request of the commissioner, the taxpayer shall provide a description of the business process that created the retained records. Such description shall include the relationship between the records and the tax documents prepared by the taxpayer and the measures employed to ensure the integrity of the records.

(B) The taxpayer shall be capable of demonstrating the following:

(i) The functions being performed as they relate to the flow of data through the system;

(ii) The internal controls used to ensure accurate and reliable processing; and

(iii) The internal controls used to prevent unauthorized addition, alteration or deletion of retained records.

(C) The following specific documentation is required for machine-sensible records retained pursuant to this section:

(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 name);

(iv) Detailed charts of accounts and account descriptions;

(v) Flowcharts for the system and its programs;

(vi) Source listings of programs including those which provide formulas and account deviations from which the retained files were created; and

(vii) Evidence that the retained records reconcile to the accounting records and to the tax returns.

(d) Records maintenance requirements.

(1) Taxpayers should refer to the National Archives and Record Administration's (NARA) standards for guidance on the maintenance and storage of electronic records, such as 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 may be found at 36 Code of Federal Regulations, Part 1234, July 1, 1995 edition.

(2) The taxpayer's computer hardware or software shall accommodate the extraction and conversion of retained machine-sensible records.

(e) Access to machine-sensible records.

The manner in which the commissioner is provided access to machine-sensible records as required in subdivision (c)(2) of this section may be satisfied through a variety of means that take into account a taxpayer's facts and circumstances through consultation with the taxpayer. Such access shall be provided in one or more of the following manners:

(1) The taxpayer may arrange to provide the commissioner with the hardware, software and personnel resources to access the machine-sensible records;

(2) The taxpayer may arrange for a third party to provide the hardware, software and personnel resources necessary to access the machine-sensible records;

(3) The taxpayer may convert the machine-sensible records to a standard record format specified by the commissioner, including copies of files, on a magnetic medium that is agreed to by the commissioner; or

(4) The taxpayer and the commissioner may agree on other means of access to the machine-sensible records.

(f) Taxpayer responsibility and discretionary authority.

(1) In conjunction with meeting the requirements of subsection (d) of this section, a taxpayer may create files solely for the use of the commissioner. For example, if a database management system is used, it is consistent with this section for the taxpayer to create and retain a file that contains the transaction level detail from the database management system and that meets the requirements of subsection (d). The taxpayer should document the process that created the separate file to show the relationship between that file and the original records.

(2) A taxpayer may contract with a third party to provide custodial or management services of the records. Such a contract shall not relieve the taxpayer of its responsibilities under this section.

(g) Alternative storage media.

(1) For purposes of storage and retention, a taxpayer may convert hard copy documents received or produced in the normal course of business and required to be retained under this section to microfilm, microfiche or other storage-only imaging systems and may discard the original hard copy documents, provided the conditions of this subsection are met. Documents which may be stored on these media include, but are not limited to, general books of account, journals, voucher registers, general and subsidiary ledgers, and supporting records of details, such as sales invoices, purchase invoices, exemption certificates, and credit memoranda.

(2) Microfilm, microfiche and other storage-only imaging systems shall meet the following requirements:

(A) Documentation establishing the procedures for converting the hard copy documents to microfilm, microfiche or other storage-only imaging system shall be maintained and made available on request. Such documentation shall, at a minimum, contain a sufficient description to allow an original document to be followed through the conversion system as well as internal procedures established for inspection and quality assurance.

(B) Procedures shall be established for the effective identification, processing, storage and preservation of the stored documents and for making them available for the period they are required to be retained under subsection (j) of this section.

(C) Upon request by the commissioner, a taxpayer shall provide facilities and equipment for reading, locating and reproducing any documents maintained on microfilm, microfiche or other storage-only imaging system.

(D) When displayed on such equipment or reproduced on paper, the documents shall exhibit a high degree of legibility and readability. For this purpose, legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognizable as words or complete numbers.

(E) All data stored on microfilm, microfiche or other storage-only imaging systems shall be maintained and arranged in a manner that permits the location of any particular record.

(F) There is no substantial evidence that the microfilm, microfiche or other storage-only imaging system lacks authenticity or integrity.

(h) Effect on hard copy recordkeeping requirements.

(1) Except as otherwise provided in this subsection, the provisions of this section do not relieve taxpayers of the responsibility to retain hard copy records that are

created or received in the ordinary course of business as required by existing law and regulations. Hard copy records may be retained on a recordkeeping medium as provided in subsection (h) of this section.

(2) If hard copy records are not produced or received in the ordinary course of transacting business (e.g., when the taxpayer uses electronic data interchange technology), such hard copy records need not be created.

(3) Hard copy records generated at the time of a transaction using a credit or debit card shall be retained unless all the details necessary to determine correct tax liability relating to the transaction are subsequently received and retained by the taxpayer in accordance with this section. Such details include those listed in subparagraph (d)(2)(A) of this section.

(4) Computer printouts that are created for validation, control or other temporary purposes need not be retained.

(5) Nothing in this subsection shall prevent the commissioner from requesting hard copy printouts in lieu of retained machine-sensible records at the time of examination.

(i) **Time period for record retention.**

All records required to be retained under this section shall be preserved for so long as the contents thereof may become material in the administration of the taxes under the affected tax law provisions, but in no event less than three years from the extended due date of the return, unless the commissioner has provided in writing that the records are no longer required.

(Adopted effective August 22, 2000)