

advertisement without any barriers to another site where all of the required content is clearly visible, then there is no violation of this section; provided that the primary internet site, which contains the link indicates the name and location of the employer, the job or title with the employer for which the individual may apply, and states that the link provided, if activated, will immediately take the potential applicant to another site, which will contain the required information regarding the pay and benefits associated with the advertised job or transfer opportunity.

[(f)] (e) Nothing in this subchapter shall be construed to prohibit an employer, at the time of making an offer of employment to an applicant, from increasing the wages, benefits, and compensation that were identified in the new job or transfer opportunity notification.

[(g)] (f) This subchapter shall not apply to examination announcements that are posted by the New Jersey Civil Service Commission, as these are not notifications of new job opportunities or transfer opportunities, but rather, are notifications of examinations.

TREASURY—TAXATION

(a)

DIVISION OF TAXATION

General Policies and Procedures

Proposed Amendments: N.J.A.C. 18:2-7.1 through 7.6, 7.8, 7.9 and 7.11

Proposed Repeals: N.J.A.C. 18:2-7.7 and 7.10

Authorized By: Marita Sciarrotta, Acting Director, Division of Taxation.

Authority: N.J.S.A. 54:32B-24, 54:50-1, and 54A:9-17.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2026-053.

Submit written comments by December 18, 2026, to:

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The agency proposal follows:

Summary

N.J.A.C. 18:2-7.1 is proposed for amendment to clarify the purpose of the subchapter. In addition, electronic cash registers and point-of-sale systems are added as examples of the manner in which a taxpayer's transactions are required to be recorded for the maintenance and retention of books, records, and other sources of information sufficient to verify filed returns and reports or otherwise determine a taxpayer's tax liabilities.

N.J.A.C. 18:2-7.2 is proposed for amendment to include new definitions of "audit," "audit trail," "books and records," "convert" or "conversion," "Director," "electronic cash register," "electronic record," "insufficient" or "inadequate," "internal controls," "logging function," "mark-on," "original format," "person," "point-of-sale system," "prove," "source documents," "summary record," "transaction data," "transaction report," and "Z tape." The term "electronic record" replaces "machine-sensible record" and examples are added. The term "electronic imaging system" is added to the definition of "storage-only imaging system" and examples are added. The definitions of "electronic data interchange," "EDI," "hard-copy," and "taxpayer" are revised in order to be modernized and to align with current terminology.

N.J.A.C. 18:2-7.3(a) is proposed for replacement to clarify that taxpayers must keep all source documents and other records and documents that are necessary to prove and verify the accuracy of their filed returns and support the determination of the correct tax, fee, or other liability. Explanations and examples of such documents have been added.

N.J.A.C. 18:2-7.3(b) is proposed for amendment to state that a taxpayer's computer hardware and software must support the extraction of electronic records. N.J.A.C. 18:2-7.3(c) is proposed for amendment to state that if a taxpayer's records are insufficient or inadequate, the Director of the Division of Taxation (Director) will use the documents presented or utilize an alternative methodology to determine the amount of the tax due. New N.J.A.C. 18:2-7.3(e) is added to provide explanations and examples of records that are insufficient or inadequate. New N.J.A.C. 18:2-7.3(f) is added to state that any additional reports and schedules relating to the preparation of the tax return must be maintained and be made available upon request. New N.J.A.C. 18:2-7.3(g) is added to clarify that a taxpayer's accounting systems must be maintained under adequate internal control procedures. New N.J.A.C. 18:2-7.3(h) is added to include a reference for records required for filing a sales and use tax refund.

N.J.A.C. 18:2-7.4 is proposed for amendment to replace the term "machine-sensible" with "electronic" in the heading and throughout the section. N.J.A.C. 18:2-7.4(a) has been amended to clarify the requirements pertaining to electronic records and what is considered insufficient or inadequate documentation. N.J.A.C. 18:2-7.4(b) has been amended to clarify electronic data interchange requirements and to make changes to the style and grammar. N.J.A.C. 18:2-7.4(c) has been amended to set forth the creation and preservation of electronic records. N.J.A.C. 18:2-7.4(d) is replaced to clarify that an audit trail must be established in order for the taxpayer's electronic records to be considered complete. New N.J.A.C. 18:2-7.4(e) has been added to provide further explanation regarding the details required for each point-of-sale transaction record. New N.J.A.C. 18:2-7.4(f) has been added to provide further detail for each point of sale purchase transaction. New N.J.A.C. 18:2-7.4(g) has been added to clarify that any related inventory system must also be maintained and made available upon request by the Director, and examples have been added. New N.J.A.C. 18:2-7.4(h) has been added to state that any additional purchase reports, schedules, or documentation that reconcile to other books and records, such as purchase journals or a general ledger, must be maintained and made available upon request by the Director.

New N.J.A.C. 18:2-7.5(a) has been added to state that a taxpayer must retain electronic records that accurately reflect the information required to be included in the records. New N.J.A.C. 18:2-7.5(b) has been added to clarify that a taxpayer's electronic records must be dated, legible, and maintained and preserved in such a manner as to disclose upon retrieval, the basis for, and accuracy of, the information reported to the Director. New N.J.A.C. 18:2-7.5(c) has been added to state that electronic records should be backed-up regularly and the backed-up records should be kept at an off-site location. New N.J.A.C. 18:2-7.5(d) has been added to state that the electronic records must be accessible to the Director for the entire periods for which the records are required to be retained.

N.J.A.C. 18:2-7.5(e) has been amended to state that the taxpayer's computer hardware or software must be able to accommodate the extraction and conversion of their electronic records. If the taxpayer's point-of-sale system, electronic cash register, or database management system lacks capacity, the taxpayer is required to transfer, maintain, store, and make available the records, by moving them to an electronic format auditable by the Director. If the taxpayer changes such system, the taxpayer must ensure that the data from the previous system is transferred, maintained, stored, and made available in an electronic format auditable by the Director. New N.J.A.C. 18:2-7.5(f) has been added to state that the Director will not impose specific technology or technical specifications on a taxpayer regarding the retaining of electronic records. However, a taxpayer must provide the Director with the means to ensure the accuracy and integrity of the taxpayer's electronic records. New N.J.A.C. 18:2-7.5(g) has been added to set forth the type of documentation to be maintained regarding the taxpayer's technologies, technical specifications, and procedures that are used by the taxpayer to retain and manage its electronic records. New N.J.A.C. 18:2-7.5(h) has been added to set forth additional information regarding the requirements of the documentation required pursuant to N.J.A.C. 18:2-7.5(g).

N.J.A.C. 18:2-7.6 is proposed for amendment to clarify requirements relating to the Director's access to a taxpayer's electronic records. In addition, the term "electronic" replaces "machine-sensible" in the heading. N.J.A.C. 18:2-7.6(b)2 is amended to state that if a taxpayer arranges for a third party to provide the hardware, software, and personnel

resources necessary to access the electronic records, that this will be at the taxpayer's own expense.

N.J.A.C. 18:2-7.7 is proposed for repeal because the section requirements have been incorporated into the proposed amendments at N.J.A.C. 18:2-7.4.

N.J.A.C. 18:2-7.8 is proposed for amendment to set forth the alternative storage media requirements for both hard-copy and electronic documents and for style and grammar. N.J.A.C. 18:2-7.8(a)2 has been added to state that electronic records required to be maintained must not be purged or deleted from a point-of-sale system, electronic cash register, or database management system, unless such documents are transferred, maintained, and stored in their original format. Throughout the section, outdated references to "microfilm" and "microfiche" were replaced with the term "electronic record" to reflect current technology. N.J.A.C. 18:2-7.8(b)2 is amended to state the procedures that must be established for the effective identification, processing, storage, and preservation of stored hard-copy documents and for making them available for the specific period they are required to be retained pursuant to applicable State laws. This refers to the applicable statute and/or regulations of specific tax laws for records retention requirements.

N.J.A.C. 18:2-7.9 is proposed for amendment to clarify that paper records should not be created if not produced or received in the ordinary course of business, unless specifically requested by the Director. In addition, the term "EDI" replaces "electronic data interchange" and "electronic" replaces "machine-sensible."

N.J.A.C. 18:2-7.10 is proposed for repeal because it does not serve a meaningful purpose, as it only makes general reference to the statute and/or regulations of specific tax laws for applicable record retention requirements.

N.J.A.C. 18:2-7.11 is proposed for amendment to include recordkeeping requirements for corporations that operate primarily on a cash basis.

As the Division has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The State Uniform Tax Procedure Law, N.J.S.A. 54:48-1 through 54:54-6, applies to any tax payable to, or collectible by, the Division of Taxation, unless the agency designated to administer a tax is otherwise designated by the law specifically imposing such tax. The proposed amendments and repeals of certain governing general policies and procedures administered by the Division should facilitate compliance with Division policies and assist taxpayers with navigating tax procedures.

Economic Impact

The State Uniform Tax Procedure Law applies to any tax payable to or collectible by the Division of Taxation, unless the agency designated to administer a tax is otherwise provided by the law specifically imposing such tax. The proposed amendments and repeals of certain governing general policies and procedures should facilitate compliance with Division policies and assist taxpayers with navigating tax procedures. The proposed amendments will protect the tax base because clarifying policy and procedure requirements will facilitate taxpayer compliance. The proposed amendments and repeals modernize, streamline, and clarify existing business recordkeeping requirements, therefore, the rulemaking is not expected to have a significant economic impact on businesses that are subject to these provisions.

Federal Standards Statement

A Federal standards analysis is not required because the authority for the proposed amendments and repeals is derived from the State Uniform Tax Procedure Law, N.J.S.A. 54:48-1 through 54:54-6. The proposed amendments and repeals are, therefore, independent from any Federal standards or requirements.

Jobs Impact

The proposed amendments and repeals relate to certain governing general State tax policies and procedures. The rulemaking should have no impact on the creation or loss of jobs in the State because the proposed amendments and repeals involve State tax administration.

Agriculture Industry Impact

The proposed amendments and repeals of certain governing general State tax policies and procedures will have no impact on the agriculture industry in this State because the proposed amendments and repeals involve State tax administration.

Regulatory Flexibility Analysis

The proposed amendments and repeals of certain governing general State tax policies and procedures will impact individual taxpayers, large businesses, and small businesses, as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. As required by law, the rules regarding State tax reporting and recordkeeping, as well as compliance, must be uniformly imposed regardless of business size. These proposed amendments and repeals are designed to reduce the need for professional services. However, in a complex case, the taxpayer may wish to employ professional services on a discretionary basis.

The Division reviews its rules with a view to minimizing their impact on small businesses to the extent permissible by law. The Division is required to administer the State's tax laws uniformly, equitably, and efficiently to maximize State revenues, to support public services, and to ensure voluntary compliance with tax statutes, without creating an impediment to economic growth.

The Division has reviewed the Regulatory Flexibility Act in relation to the proposed amendments and repeals of certain governing general policies and procedures, and because the tax rules must be applied uniformly and equitably, the Division cannot develop and apply special rules for small businesses differently from the rules applied to all taxpayers.

Housing Affordability Impact Analysis

The proposed amendments and repeals of certain governing general State tax policies and procedures will have no impact on any aspect of housing, thus, the proposed amendments and repeals will not result in a change in the average costs associated with housing or with the affordability of housing.

Smart Growth Development Impact Analysis

The proposed amendments and repeals of certain governing general State tax policies and procedures will not result in a change in housing production within Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan. The proposed rules do not involve housing production, either within Planning Area 1 or 2, within designated centers, or anywhere in the State of New Jersey. The proposed amendments and repeals are limited to State tax administration.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Division has evaluated this rulemaking and determined that the proposed amendments and repeals of certain governing general State tax policies and procedures, will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State, because the proposed amendments and repeals are limited to State tax administration. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 7. RECORDKEEPING AND RETENTION REQUIREMENTS

18:2-7.1 Purpose

The purpose of this subchapter is to [define] **set forth** the requirements imposed on taxpayers for the maintenance and retention of books, records, and other [sources of] **financial** information [where] **for audit purposes, including verification of filed returns and reports and review of internal controls. This includes the manner in which** all or a part of the taxpayer's records are received, created, maintained, or generated through various computer, electronic, and imaging processes and systems, **including, but not limited to, those occurring on electronic cash registers and point-of-sale systems.**

18:2-7.2 Definitions

For purposes of this subchapter, the following terms are defined as follows:

“Audit” means the inspection of a business or other organization’s accounting records and procedures for the purpose of verifying the accuracy and completeness of the books and records, as well as tax returns, forms, or reports required to be filed with the Director.

“Audit trail” means the documentation necessary to trace any transaction from the original source documents to the summary documents, if any, to the entry on any return, form, or report (return) required to be filed with the Director. Audit trail details include, but are not limited to:

1. Production of internal sequential transaction numbers;
2. Records of all point-of-sale terminal activity; and
3. Documentation to account for voids, cancellations, or other discrepancies in sequential numbering.

“Books and records” means all recorded information, regardless of format, that is essential to a system of accounts. Books and records include, but are not limited to: books of account, charts of account, ledgers, journals, invoices, vouchers, documents, cancelled checks, employee records information, correspondence, purchase records information, sales records information, reports relating to any or all of such records information, and other business records containing factual information on the operation, income, earnings, expenses, and deductions of a business. This includes both electronic and paper records.

“Convert” or “conversion” means the process of transforming data from one format or file type to another, while retaining the original information. This allows the data to be utilized by different applications, systems, or devices. For example, a Microsoft Word document may be converted to a PDF file or a text file may be converted into an Excel spreadsheet.

“Director” means the Director of the Division of Taxation in the New Jersey State Department of the Treasury, or any officer, employee, or agency of the Division of Taxation in the Department of the Treasury duly authorized by the Director (either expressly or indirectly by one or more general or specific delegations of authority) to perform the functions mentioned or described herein.

“Electronic cash register” means a device that maintains a sales register and/or supporting documents through electronic means; or other computer systems designed to record transaction data for the purpose of computing, calculating, compiling, or processing retail sales transaction data.

“Electronic data interchange” or “EDI [technology]” mean[s] the computer-to-computer exchange of [business transactions] data in a standardized structured electronic format. Examples of EDI include, but are not limited to: a purchase order, a purchase order acknowledgement, a bill of lading, a sales invoice, a payment confirmation, and a shipment notice.

“Electronic record” means information demonstrating any act, transaction, occurrence, event, or other activity that is produced or stored by electronic means and that is capable of being accurately reproduced. Examples include, but are not limited to: a scanned document or image, a database, a system-generated report, and a computer spreadsheet. Electronic records do not include hard-copy records that are created, recorded, or maintained on paper.

“Hard-copy” means any original or duplicate of a document[s], record[s], report[s], or other data [printed on] maintained in a paper format.

“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 hard-copy records that have been converted to an electronic storage medium such as microfilm, microfiche, or any other storage-only imaging systems.]

“Insufficient” or “inadequate” with respect to taxpayer books and records means that a taxpayer has failed to provide source documents and other books and records that support and verify the accuracy of information, calculations, and numbers reported on any return, form, or report, including support for the calculation of reported income,

sales, deductions, credits, etc., to the satisfaction of the Director, including the duly adopted rules codified at N.J.A.C. Title 18. If the taxpayer fails to provide source documents and other books and records to support and verify information reported to the Director, the Director may determine that the books and records are insufficient or inadequate.

“Internal controls” means the mechanisms, rules, and safeguard procedures implemented by a taxpayer to ensure the integrity of financial and accounting information, to promote accountability, preserve financial and accounting information, and to prevent fraud.

“Logging function” means features of an electronic recordkeeping system that track and document changes made to a point-of-sale system, electronic cash register, or database management system, including transaction record details, user access and permissions, and system settings.

“Mark-on” with respect to determining the retail sales price of an item or service, means the correlation between the selling price of an item or service and the cost of the item or service. Mark-on with respect to gross receipts means a comparison of reported amounts to audited amounts, namely, gross receipts to reported cost of goods or services sold, and audited gross receipts compared to audited cost of goods sold.

Example: A pizzeria purchases \$3.00 worth of ingredients (flour, cheese, sauce) to make a pizza. The pizzeria sells the pizza for \$15.00. The mark-on for the pizza is 5.0 (\$15.00 divided by \$3.00).

“Original format” means the unaltered version or initial representation of digital data. It contains all the information intended for storage, processing, or transmission.

“Person” means an individual, trust, partnership, society, limited partnership, limited liability company, association, firm, joint stock company, corporation, public corporation, or authority, and includes an estate, receiver, trustee, assignee, referee, or any other entity acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any other legal entity that is a combination of the entities identified herein.

“Point-of-sale system” means a system that creates, compiles, keeps, retains, computes, or maintains detailed electronic cash register tapes, guest checks, customer sales slips, or equivalent, and supporting documents, through means of an electronic device, electronic database, or computer system that is designed to record detailed sales transaction data for the purpose of computing, compiling, recording, retaining, or processing such data.

“Prove” means to establish the adequacy, accuracy, and sufficiency of information recorded on tax returns, tax forms, tax reports, sales journals, and other books and records maintained by the taxpayer by tests, documentation, comparison, or analysis.

“Source documents” means the document(s) or electronic record(s) on which transaction(s) are initially recorded and that serve as physical evidence that a transaction actually occurred. Source documents are critical to verify and support the information reported on a tax return, form, or report. Examples of source documents include, but are not limited to: individual purchase orders, sales and other contracts, bills of lading, invoices for purchases, sales, expenses, deductions, receipts, statements, memoranda of price, detailed cash register tapes or equivalent transactional documents, guest checks, purchase orders, payroll time cards, canceled checks, confirmation of electronic payments or transfers, e-payments, deposit slips, credit memos for customer refunds, exemption certificates, detailed supporting documentation for use tax reported and/or paid, etc. Source documents are often followed by the creation of various types of summary records such as journals. Although summary records do not qualify as source documents because they are not initial recordings, summary records are part of the audit trail to the financial statements and returns.

“Storage-only imaging system” or “electronic 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. Examples of electronic document formats produced by such imaging systems include, but are not limited to: computer image files in PDF, JPEG, or TIFF formats.

“Summary record” means any record or document that summarizes selected transaction data for a period of time. For sales transactions, summary records may include, but are not limited to: monthly purchases by customer, a weekly summary of cash deposits, daily sales by payment type or by end-of-day Z tape summary, with total sales, returns, and sales tax collected.

“Taxpayer” as used in the subchapter, means any person owing or liable to pay any State tax or any person deemed by the Director to be so owing or liable.]

“Taxpayer” means any person who filed a return or who paid tax to the State of New Jersey; or who is required to file a return or to report financial information to the State of New Jersey; or who is required to pay taxes or fees to the State of New Jersey; or whose income, in whole or in part, is subject to tax in the State of New Jersey.

“Transaction data” means all relevant data relating to a transaction, which includes, but is not limited to: data identifying items or services purchased by or transferred to a person; the price, quantity, and size of each item or service; a taxability determination for each item or service; a separately stated tax amount for each of the taxed items or services; the total amount due; the amount of cash or credit tendered; the net amount returned to the person in change on cash transactions; the date and time of the purchase; the name and address of the seller; and the receipt or invoice number of the transaction.

“Transaction report” means a report documenting transaction data, including but not limited to: sales, taxable sales, returns, sales discounts, voided sales, “no sales” methods of payment, and tax collected. The transaction data may be printed on cash register tape at the end of the day or shift or may be retained as an electronic record. A transaction report is also a document that details of every action performed on or by an electronic cash register or point-of-sale system for a specified period of time.

“Z tape” means a type of summary record that summarizes, in the aggregate, all transactions received through or recorded by or on an electronic cash register or point-of-sale system for a specified period of time. Although summary Z tapes do not qualify as source documents because they are not initial recordings, Z tapes are part of the audit trail to the financial statements and returns.

18:2-7.3 Recordkeeping requirements—general

[(a) A taxpayer shall maintain all records that are necessary to a determination of the correct tax liability. All required records are to be made available on request by the Director or his or her authorized representatives. Such records include, but not necessarily limited to, books of account, invoices, sales receipts, or other documents required to be maintained by any specific tax statute or regulation of this State.]

(a) Every taxpayer must keep all source documents and all other records and documents that are necessary to prove and verify the accuracy of their filed returns (and financial statements, if any) and support the determination of the correct tax, fee, or other liability for a period of four years from the due date of the return. This includes, but is not limited to, documents and records containing information, such as the amount of gross sales, nontaxable sales, exemption certificates, gross income/receipts, returns of sales, total income, cost of goods sold, taxable income, entire net income, operational and nonoperational income, deductions, expenses, depreciation, amortization, credits, exemptions, carryovers, inventory, tax base, tax or fees paid, and all other amounts or information that support the determination of the correct amount of tax, fee, or other liability, as well as the amount of all assets, adjusted basis of assets, liabilities, equity, related member information, and transactions, and any amounts or other information that is required to support any amounts or information reported on any tax return, form, or report.

1. All required source documents, books, records, and other documentation are to be made available upon request by the Director, or his or her authorized representative. This applies to both hard-copy records and electronic records.

i. All requested source documents, books, records, and other documentation are to be made available during reasonable business hours (depending on the type of business) and in an environment that is suitable for an examination to take place. If this environment cannot be provided, the taxpayer must bring the records to the Director’s offices during reasonable business hours (depending on the type of business). If the taxpayer wishes to leave the records with the Director, the taxpayer must provide a listing of each record that is being provided to the Director. The Director will verify the listing and provide the taxpayer with a signed receipt, detailing each record received. When the records are returned, the Director and the taxpayer will review the records against the signed receipt, to ensure all records have been returned. If the taxpayer does not wish to leave the records with the Director, the taxpayer must make arrangements with the Director to be present for the duration of the audit.

ii. All requested source documents, books, records, and other documentation are to be made available in a clear and complete manner. Each provided source document, book, record, and other documentation must be clearly identified and ordered in such fashion to comply with the requests of the Director.

iii. All provided source documents, books, records, and other documentation must be legible.

2. Consistent with N.J.A.C. 18:24-7.3(a), source documents may include, but are not limited to records and documents such as: books of account; supporting schedules; worksheets; purchase journal or equivalent, which record daily cash and non-cash purchases and disbursements; sales journal or equivalent, which record all daily cash and non-cash receipts; records or lists of inventories, fixed assets, pre-paid items or services, etc.; and any other documents required to be maintained by any specific statute or regulation.

3. If a tax return or other report was not filed, then, the taxpayer must provide all source documents, books, records, and other documentation that are necessary to support the determination of the correct income, deductions, exclusions, and exemption amounts, and tax or other liability applicable for periods under audit or other examination.

Example 1: All food sellers must maintain complete and accurate records of all taxable and non-taxable sales of meals and beverages, including alcoholic beverages. The records must include detailed cash register tapes, guest checks, or equivalent source documents.

Example 2: Taxpayer is a garden store that also provides landscaping services. A landscaper is a contractor and must pay sales or use tax on purchases of materials, while a garden store can typically purchase materials for resale without paying sales or use tax. Taxpayer must maintain detailed records of tangible personal property purchased for resale to be sold in its store, and tangible personal property purchased for use in its landscaping services.

(b) If a taxpayer retains records required [to be retained under] by this section in both [machine-sensible] electronic and hard-copy formats, the taxpayer must make the records available to the Director in [machine-sensible] electronic format upon request [of] by the Director. The taxpayer’s computer hardware or software must accommodate the extraction of electronic records. Extraction methods include, but are not limited to: the extraction of electronic records to a removable storage device, such as a USB-based flash drive. The removable storage device will remain in the possession or control of the Director until the audit or other examination has been completed (the Director reserves the right to select alternative extraction methods, based upon available technologies).

(c) If the [machine-sensible] electronic or hard-copy records [of] presented by the taxpayer are [determined to be incorrect or] insufficient or inadequate, or do not correctly verify information reported on the filed tax returns, forms, or reports, then, the filed return(s), form(s), or report(s) filed on the basis of the information obtained from such records may be or portions thereof, deemed to be incorrect or insufficient and the Director [may determine the amount of tax due the State by using any information available, whether from the taxpayer’s place of business or from any other source] will either use the documents presented, or utilize an alternative methodology to determine the amount of tax due. If the taxpayer failed to file a return, form, or report, the

Director will determine the amount of tax due to the State by using either the documents or records presented, or utilize an alternative methodology. Depending upon the circumstances, this methodology may include using a standard industry mark-on, or calculating one utilizing available external indices, or any other means at the Director's discretion, in order to determine the amount of sales, expenses, income, etc., and consequently, the amount of tax due, if any. If the taxpayer does not provide adequate information to justify using an alternative audit methodology, then, the Director may issue an estimated assessment pursuant to N.J.S.A. 54:49-5. The determination to use any particular methodology is solely at the discretion of the Director. Insufficient or inadequate records may also subject a taxpayer to penalties and interest if additional tax is found to be due.

(d) (No change.)

(e) Records that are insufficient or inadequate for verifying tax returns by proving the accuracy of figures and other information include, but are not limited to:

1. Records that do not verify sales receipts or other income calculations as reported in a tax return;

2. Records that do not verify whether sales receipts are subject to sales tax;

3. Records that do not provide details of each individual transaction to verify calculations on filed tax returns, due to the absence of individual transaction data or source records for individual transactions (for example, summary reports, daily summaries, or Z tapes, all of which lack sufficient detail regarding individual transactions);

4. Records that do not identify whether purchases are subject to sales tax, and whether such tax liability was collected or paid;

5. Records that do not show how purchases correlate with sales and ending inventory;

Example: A garden center/landscaping business purchases 1,000 bags of mulch. 400 bags are sold in the garden center. 100 bags are in inventory. 500 bags remain unaccounted for;

6. Records that do not document or account for the processes or procedures necessary to trace the acquisition of materials, from the initial transaction when the materials were placed in inventory to the final sale, disposition, or use of the materials;

7. Records that are incomplete due to the absence of relevant transaction details or not made available during the course of the audit;

8. Records that are not in a form that can be reviewed, translated, or deciphered;

Example: Records kept in a proprietary format that cannot be opened and inspected without access and permission to use proprietary software;

9. Records that include codes or other symbols that are undefined or not decoded by any other current, independent documentation of the taxpayer's systems in use by the taxpayer in the course of its regular business;

10. Records that are unreliable or cannot be confirmed to be accurate and/or complete due to inadequate internal control procedures;

Example: Transactions in the taxpayer's books and records show sequentially numbered invoices or guest checks recorded out of order, sequentially numbered invoices or guest checks that are not recorded or are missing, or undated receipts; or

11. Records that are not legible, whether hard-copy records or electronic records (for example, if records are scanned).

(f) Any additional reports and schedules relating to the preparation of the tax return must be maintained and be made available upon request.

(g) The taxpayer's accounting systems must be maintained under adequate internal control procedures. Books and records may be deemed inadequate or incorrect if the Director determines, upon examination, that the taxpayer's accounting system does not provide adequate internal control procedures to confirm the accuracy and completeness of the transactions recorded in the taxpayer's books

and records, or which reveal substantial discrepancies in transaction data during the audit period.

(h) For records required for sales and use tax refund claims, see N.J.A.C. 18:2-5.8.

18:2-7.4 Recordkeeping [requirements—machine-sensible] requirements—electronic records required so that tax returns are not considered inadequate

(a) General requirements pertaining to [machine-sensible] electronic records are as follows:

1. [Machine-sensible] **Summary electronic** records used to [establish] **prove** tax compliance must contain [sufficient transaction-level detail information] **all transaction data** so that the **records that detail[s] the** underlying [the machine-sensible records] **supporting transaction** can be identified and made available to the Director upon request. [A taxpayer has discretion to discard duplicate records and redundant information provided its responsibilities under this section are met.] **Summary reports and daily summaries alone (such as Z tapes), without complete underlying source documents that correspond in detail to the summaries, do not contain adequate transaction data and are considered insufficient or inadequate documentation, even if a point-of-sale system or electronic cash register is used to generate the summary report.**

2. At the time of an examination, the retained records must be capable of being retrieved and converted to a [standard] record format **that can be examined by the Director.**

[3. Taxpayers are not required to construct machine-sensible records other than those created in the ordinary course of business. A taxpayer who 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.]

(b) Electronic data interchange requirements are as follows[:

1.]. Where a taxpayer uses electronic data interchange processes and technology, the level of record detail, in combination with other records related to the transactions[, must be equivalent to that contained in an acceptable paper record. For example, the retained records] must contain such information as vendor name, **invoice number or sequence number**, 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] **as long as** the taxpayer provides a method [which] **to allow[s]** the Director to interpret the coded information.

[2. The taxpayer may capture the information necessary to satisfy (b)1 above 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.

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 captures information from the invoice pertaining to product description and vendor name (that is, they contain only codes for that information), the taxpayer shall also retain other records, such as its vendor master file and product code description lists, and make them available to the Director. In this example, the taxpayer need not retain its EDI transaction for tax purposes.]

(c) Electronic data processing accounting systems requirements are as follows:

1. [The requirements for an electronic] **Electronic** data processing accounting systems must [be similar to that of a manual accounting system, in that an adequately designed accounting system] incorporates methods and records that will satisfy the requirements of this subchapter.

2. **A point-of-sale system, electronic cash register, or database management system that stores electronic records must have adequate internal controls to ensure accuracy, completeness, and timeliness of the transactions recorded.**

i. **The records in such systems must establish an audit trail as defined at N.J.A.C. 18:2-7.2.**

ii. **Process information requirements are as follows:**

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

(2) The taxpayer shall be capable of demonstrating:

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

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

(C) The internal controls used to prevent unauthorized addition, alteration, or deletion of retained records; and

(3) The following specific documentation is required for electronic records retained pursuant to this subchapter:

(A) Record formats or layouts;

(B) Field definitions (including the meaning of all codes used to represent information);

(C) File descriptions (for example, data set name); and

(D) Detailed charts of accounts and account descriptions.

iii. The point-of-sale systems, electronic cash registers, or database management systems must be operational at all times. They must record and preserve any and all activity related to all operating modes, including working and non-working modes (for example, demonstration, testing, or training mode or other modes that do not record live transactions), and any and all alterations to the setup of the system by the manufacturer or developer.

iv. Failure to activate or maintain an active audit trail or logging functionality at any time on a point-of-sale system, electronic cash register, or database management system will create a rebuttable presumption that the system or register is not recording all transactions. Under this presumption, the Director will determine the amount of tax due by using either the documents or records presented, or utilize an alternative methodology. Depending upon the circumstances, this methodology may include calculating a mark-on, utilizing available external indices, or any other means at the Director's discretion, in order to determine the amount of sales, expenses, income, etc., and consequently, the amount of tax due, if any. If the taxpayer does not provide adequate information to justify using an alternative audit methodology, then, the Director will issue an estimated assessment pursuant to N.J.S.A. 54:49-5. The determination to use any particular methodology is solely at the discretion of the Director. Insufficient or inadequate records may also subject a taxpayer to penalties and interest pursuant to N.J.S.A. 54:49-5 if additional tax is found to be due.

v. The Director recommends that taxpayers establish recordkeeping procedures to be utilized in the event of power loss or other events that interrupt the use of the point-of-sale system, electronic cash register, or database management system.

[(d) Business process information requirements are as follows:

1. Upon the request of the Director, the taxpayer shall provide a description of the business process that created the retained electronic records. Such description must include the relationship between the electronic records and the tax documents prepared by the taxpayer and the measures employed to ensure the integrity of the records.

2. The taxpayer shall be capable of demonstrating:

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.

3. The following specific documentation is required for machine-sensible records retained pursuant to this subchapter:

i. Record formats or layouts;

ii. Field definitions (including the meaning of all codes used to represent information);

iii. File descriptions (for example, data set name); and

iv. Detailed charts of accounts and account descriptions.]

(d) In order to be considered complete, the electronic records must provide a complete audit trail from the taxpayer's receipts, invoices,

and other source documents to the corresponding entries in its books and records and, then to the returns of the taxpayer. If this reconciliation is not possible, the Director will deem the records inadequate.

(e) Each point-of-sale transaction record must provide sufficient detail to independently determine the taxability of each sales transaction and the amount of tax due and collected. Detailed information required for each point-of-sale sales transaction includes, but is not limited to:

1. Individual item(s) sold;

2. Selling price;

3. Tax due;

4. Invoice number;

5. Date of sale;

6. Tips, gratuities, or service fees;

7. Method of payment;

8. Voids and traceable voids;

9. "No sales"; and

10. Point-of-sale system terminal and transaction numbers.

(f) Detailed information required for each point-of-sale purchase transaction includes, but is not limited to:

1. Individual item(s) purchased;

2. Date of purchase;

3. Purchase price;

4. Seller name;

5. Invoice number;

6. Total invoice amount;

7. Tax charged;

8. Purchase order number; and

9. Method of payment.

(g) Any related inventory system must also be maintained and made available upon request by the Director. Such inventory includes, but is not limited to:

1. Monthly inventories; and

2. Beginning and ending year inventories.

(h) Any additional purchase reports, schedules, or documentation that reconcile to other books and records, such as purchase journals or a general ledger, must be maintained and made available upon request by the Director.

18:2-7.5 Records maintenance requirements

(a) A taxpayer must retain electronic records that accurately reflect the information that is required to be set forth in the records. The electronic records, either alone or in conjunction with the taxpayer's other records, must contain sufficient information in order to support and verify all of the entries that are made on the returns, forms, or reports required to be filed with the Director, and to determine the proper taxes or other amounts that may be due. These records, either alone or together, must be reconcilable to the taxpayer's reporting periods and must create an audit trail designed so that the details underlying each of the entries made on the taxpayer's returns or reports can be identified and made available to the Director upon request.

(b) Electronic records must be dated, legible (for example, if the record is scanned), and maintained and preserved in a manner so as to disclose upon retrieval, in readily accessible and verifiable detail, the basis for and accuracy of the information reported (or required to be reported) to the Director. The electronic records should also be maintained in a secure storage environment. Failure to maintain adequate records, or make them available to the Director for review, does not relieve a taxpayer of its obligations pursuant to New Jersey statutes, any other matter under the jurisdiction of the Director. The taxpayer is not relieved of the obligations in this section if it uses a third party to maintain its records, such as a records management service.

(c) The Division recommends that electronic records should be backed up regularly, and the backup records should be kept, if possible, at an off-site storage location.

(d) Electronic records must be accessible to the Director for the entire periods for which the records are required to be retained pursuant to applicable State laws.

(e) The taxpayer's computer hardware or software must be able to accommodate the extraction and conversion of retained [machine-sensible] electronic records. If the taxpayer's point-of-sale system, electronic cash register, or database management system lacks capacity to maintain all records for the requisite statute of limitations period pursuant to applicable New Jersey law, the taxpayer is required to transfer, maintain, store, and make available the records, by moving them to an electronic format auditable by the Director. If the taxpayer changes such system, the taxpayer must ensure that the data from the previous system is transferred, maintained, stored, and made available in an electronic format auditable by the Director.

(f) The Director does not prescribe the specific technology or technical specifications applicable to retaining or otherwise managing electronic records. Nor does the Director require the use of a particular type of hardware or software. However, a taxpayer must provide the Director, upon request, with the opportunity and, if necessary, the means to ensure the accuracy and integrity of the taxpayer's electronic records. Such means include, but are not limited to, suitable facilities and computer resources (for example, appropriate hardware and software, terminal access, computer time, personnel, etc.) as may be necessary for the Director to carry out audit procedures.

(g) A taxpayer must maintain, and make available to the Director, if requested, documentation that explains:

1. The specific technologies, technical specifications, and procedures that are used by the taxpayer to retain and otherwise manage its electronic records; and

2. How these technologies, specifications, and procedures ensure the accuracy and integrity of the taxpayer's electronic records, as well as satisfy the requirements of this section that the electronic records contain sufficient information to support and verify the entries made on the taxpayer's returns and to determine the correct tax liabilities, if any. Provided, however, that the Director will not request a taxpayer to furnish information pertaining to the specifications or functions of any hardware or software unless such hardware or software was designed and developed by the taxpayer, or to the requirements of the taxpayer, or unless the Director is not otherwise familiar with the taxpayer's hardware or software. For example, a taxpayer who purchases a personal computer and who uses a commercially available software package to manage his or her financial records, in support of personal income tax returns, would not be required to maintain documentation concerning the specifications or functions of such hardware or software.

(h) Except as provided at (g) above, the documentation must indicate:

1. The functions being performed as they relate to retaining and otherwise managing the taxpayer's electronic records (for example, creating, storing, classifying, modifying, encrypting, authenticating, tracking, generating, communicating, disposing, etc.);

2. The procedures employed during each of these functions;

3. The internal controls used to ensure the accuracy and reliability of each of these functions;

4. The internal controls used to prevent the unauthorized access to the taxpayer's electronic records, including unauthorized additions to, alterations of, and deletions of, such records;

5. The internal controls (or other plans) used to protect against the loss of retained records, such as in the case of hardware failures, power interruptions, or natural disasters;

6. The taxpayer's chart of accounts (for all periods requested by the Division), including detailed account descriptions and file formats; and

7. Any other taxpayer records that are retained electronically, including detailed descriptions of the contents and file formats of such records. The documentation must also include the nature of and reasons for any changes to the taxpayer's electronic recordkeeping technology, technical specifications, or procedures; the dates that

such changes were implemented; and, if applicable, the steps taken to ensure that the records were accurately duplicated.

18:2-7.6 Access to [machine-sensible] electronic records

[(a) The manner in which the Director is provided access to machine-sensible records as required in N.J.A.C. 18:2-7.3(b) may be satisfied through a variety of means that take into account a taxpayer's facts and circumstances through consultation with the taxpayer.]

(a) The taxpayer shall provide the Director access to electronic records as required at N.J.A.C. 18:2-7.3(b). Access to electronic records must be in the presence of the Director. Such access may be satisfied through a variety of means that consider the taxpayer's individual facts and circumstances.

(b) [Access] Examples of access pursuant to (a) above [shall be provided in one or more of the following manners] include, but are not limited to, the following facts and circumstances:

1. The taxpayer may arrange to provide the Director with the hardware, software, and personnel resources to access the [machine-sensible] electronic records in the presence of the Director;

2. The taxpayer may arrange, at taxpayer's expense, for a third party to provide the hardware, software, and personnel resources necessary to access the [machine-sensible] electronic records;

3. The taxpayer may convert the [machine-sensible] electronic records to a standard record format specified by the Director, including copies of files, [on] in a [magnetic medium] form that is agreed to by the Director and converted in the presence of the Director; and/or

4. The taxpayer and the Director may agree on other means of providing access to the [machine-sensible] electronic records, so long as the access occurs in the presence of the Director.

[18:2-7.7 Taxpayer responsibility and discretionary authority

(a) In conjunction with meeting the requirements of N.J.A.C. 18:2-7.4, a taxpayer may create files solely for the use of the Director. For example, if a data base 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 data base management system and that meets the requirements of N.J.A.C. 18:2-7.4. The taxpayer shall document the process that created the separate file to show the relationship between that file and the original records as required by N.J.A.C. 18:2-7.6(d).

(b) A taxpayer may contract with a third party to provide custodial or management services of the records. Such a contract does not relieve the taxpayer of its responsibilities under this subchapter.]

18:2-7.7 (Reserved)

18:2-7.8 Alternative storage media

(a) For purposes of storage and retention, taxpayer may convert hard-copy documents received or produced in the [normal] ordinary course of business and required to be retained [under] pursuant to this subchapter to [microfilm, microfiche or other storage-only imaging systems] electronic records and may discard the original hard-copy documents, provided the conditions of this section are met.

1. [Documents] Hard-copy documents which may be stored [on these media] as electronic records include, but are not limited to, general books of account, journals, voucher registers, general and subsidiary ledgers, and supporting records of details, such as sale invoices, purchase invoices, exemption certificates, and credit memoranda.

2. Electronic records required to be maintained must not be purged or deleted from a point-of-sale system, electronic cash register, or database management system, unless such documents are transferred, maintained, and stored in their original format.

(b) [Microfilm, microfiche, and other storage-only imaging systems] Conversion to and storage of electronic records to an alternate format must meet the following requirements:

1. Documentation [establishing the] of procedures for converting the hard-copy documents to [microfilm, microfiche, or other storage-only imaging system] electronic records must be maintained and made available [on] upon request. [Such documentation must, at a minimum, contain a sufficient description to allow an original document to be followed through the conversion system as well as] Documentation of internal control procedures [established for] must be sufficient to permit inspection and quality assurance. Such documentation must, at a

minimum, contain a sufficient information to trace an original hard-copy document through conversion to an electronic record.

2. Procedures must be established for the effective identification, processing, storage, and preservation of [the] stored **hard-copy** documents and for making them available for the **specific** period they are required to be retained [under N.J.A.C. 18:2-7.10] **pursuant to applicable State laws.**

3. Upon request by the Director, a taxpayer shall provide facilities and equipment [for] **to** [reading, locating, and reproducing] **read, locate, and reproduce** any [documents maintained] **electronic records that it maintains** on microfilm, microfiche, or other storage-only imaging system.

[4. When displayed on such equipment or reproduced on paper, the documents must exhibit a high degree of durability and legibility.]

4. Electronic records must be clear, complete, and legible, whether viewed on a screen or reproduced as a hard-copy document.

5. All [data stored on microfilm, microfiche, or other storage-only imaging systems] **electronic records** must be [maintained] **stored** and [arranged] **organized** in a manner that permits the [location of any particular record.] **documents to be searchable and located.**

18:2-7.9 Effect on hard-copy recordkeeping requirements

(a) Except as otherwise provided in this section, the provisions of this subchapter 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] **at** N.J.A.C. 18:2-7.8.

(b) If hard-copy records are not produced or received in the ordinary course of transacting business, (for example, when the taxpayer uses [electronic data interchange technology]) **EDI**, [such] **then** hard-copy records need not be created **unless specifically requested by the Director.**

(c) Hard-copy records generated at the time of a credit or debit card transaction must be retained, unless all the details necessary to determine correct tax liability relating to [this] **the** transaction are subsequently received and retained by the taxpayer in accordance with this subchapter. Such details include those listed [in] **at** N.J.A.C. 18:2-7.4(b)1.

(d) Nothing in this section prevents the Director from requesting hard-copy printouts [in lieu] of retained [machine-sensible] **electronic** records, at the time of examination.

[18:2-7.10 Records retention time period

See the statute and/or regulations of specific tax laws for applicable records retention requirements.]

18:2-7.10 (Reserved)

18:2-7.11 Corporations

[(a)] Corporations are required to maintain all records used to determine their tax liabilities and such other records as the Director [of the Division of Taxation] may require, pursuant to N.J.S.A. 54:10A-14.1. Corporations that are required to collect [Sales and Use Tax] **sales and use tax** shall keep records of every purchase, purchase for lease, sale, [or] amusement charge, or occupancy of all amounts paid, charged, or due thereon pursuant to N.J.S.A. 54:32B-16, including contemporaneous sales records, such as cash register tapes and journals, sales slips, invoices, receipts, or memoranda of price (see N.J.A.C. 18:24-2.1 to 2.16). Corporations that operate primarily on a cash basis and that deal primarily in cash purchases and sales, including, but not limited to family-owned restaurant corporations, **package liquor stores, bars/restaurants that have on-site service liquor licenses, landscaping and other service-oriented businesses,** must maintain sufficient records for the determination of the corporation's [Corporation Business Tax] **corporation business tax** and [Sales and Use Tax] **sales and use tax** liabilities.

(b) If a corporation has not maintained records adequate to classify the corporation's income for purposes of establishing tax liabilities, the [Division] **Director** may make an audit determination that certain amounts of unreported income have been distributed to shareholders of the corporation, in the form of salary or dividends. Amounts that cannot be identified as arising from some aspect of the operations of the business will first be deemed to have been distributed to the shareholders as reasonable salary, and includable in the income of the shareholders for purposes of the gross income tax pursuant to N.J.S.A. 54A:5-1.a. Amounts beyond salary will be deemed to have been distributed to the shareholders as a dividend, and includable in the income of the shareholders for purposes of the gross income tax pursuant to N.J.S.A. 54A:5-1.f. The [Division] **Director** will utilize commonly accepted auditing practices to make these determinations. Examples of commonly accepted auditing practices are comparisons with other similarly situated businesses and analyses of information provided by vendors to the business.