

- **STATUTORY MINOR CORRECTION**

- REV 4-2018
- CHAPTER 150
- DEPARTMENT OF REVENUE

FILING CAPTION: 150-475-2050: Update Statute Implemented reference to recently codified ORS 475B.707.

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AGENCY ATTESTS THE FOLLOWING CHANGES HAVE BEEN MADE, ACCORDING TO ORS 183.335(7):

Correcting statutory or rule references

AMEND: 150-475-2050

RULE TITLE: Model Recordkeeping and Retention Regulation (Marijuana Tax)

RULE SUMMARY: Rule provides model recordkeeping provisions. This filing updates Statutes Implemented reference to recently codified ORS 475B.707..

RULE TEXT:

(1) Definitions. For purposes of this rule, these terms shall be defined as follows:

(a) "Database Management System" means a software system that controls, relates, retrieves, and provides accessibility to data stored in a database.

(b) "Electronic Data Interchange" or "EDI technology" means the computer-to-computer exchange of business transactions in a standardized structured electronic format.

(c) "Hard copy" means any documents, records, reports or other data printed on paper.

(d) "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.

(e) "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.

(f) "Marijuana retailer" has the meanings given under ORS 475B.015 and OAR 150-475-2010.

(g) "Marijuana items" includes all categories in ORS 475B.705.

(h) "Medical marijuana card" means a valid registry identification card under ORS 475B.415 or a valid identification card under ORS 475B.415(5)(b).

(i) "Seed-to-sale tracking system" is the system developed and maintained by the Oregon Liquor Control Commission under ORS 475B.150.

(2) Recordkeeping Requirement — General:

(a) A marijuana retailer must maintain all records and any information and data required to be entered into the seed-to-sale tracking system that are necessary to a determination of the correct tax liability under ORS 475B.700 to 475B.760. All required records shall be made available on request by the Department of Revenue or its authorized representatives as provided for in ORS 475B.720 and 475B.725.

(b) A marijuana retailer must maintain records of all tax-exempt sales of marijuana items to medical marijuana cardholders, in accordance with Section 2, Chapter 91, Oregon Laws 2016. These records shall include:

(A) The date of the sale;

(B) The medical marijuana card number;

(C) The taxed marijuana product category under ORS 475B.705, or the product category used in the seed-to-sale tracking system;

(D) The name of the marijuana product;

(E) The unit price of the marijuana product;

(F) The number of units sold; and

(G) The total amount of the sale.

(c) If a marijuana retailer retains records required to be retained under this rule in both machine-sensible and hard-copy formats, the marijuana retailer shall make the records available to the department in machine-sensible format upon request.

(d) Nothing in this rule shall be construed to prohibit a marijuana retailer from demonstrating tax compliance with traditional hard-copy documents or reproductions thereof, in whole or in part, whether or not such marijuana retailer also has retained or has the capability to retain records on electronic or other storage media in accordance with this rule. However, this section shall not relieve the marijuana retailer of the obligation to comply with section (2)(c) of this rule.

(3) Recordkeeping Requirements — Machine-Sensible Records:

(a) 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 department upon request. A marijuana retailer has discretion to discard duplicated records and redundant information provided its responsibilities under this rule are met.

(B) The retained records shall be capable of being retrieved and converted to a standard record format.

(C) Marijuana retailers are not required to construct machine-sensible records other than those created in the ordinary course of business. A marijuana retailer 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:

(A) Where a marijuana retailer 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. 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, and any other pertinent information required by the department. Codes may be used to identify some or all of the data elements, provided that the marijuana retailer provides a method which allows department to interpret the coded information.

(B) The marijuana retailer may capture the information necessary to satisfy section (3)(b)(A) of this rule 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 marijuana retailer using electronic data interchange technology receives electronic invoices from its suppliers. The marijuana retailer 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 (i.e., they contain only codes for that information), the marijuana retailer also retains other records, such as its vendor master file and product code description lists and makes them available to the department. In this example, the marijuana retailer need not retain its EDI transaction for tax purposes.

(c) 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 incorporate methods and records that will satisfy the requirements of this rule.

(d) Business Process Information:

(A) Upon the request of the department, the marijuana retailer 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 marijuana retailer and the measures employed to ensure the integrity of the records.

(B) The marijuana retailer 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.

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

(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); and

(iv) Detailed charts of accounts and account descriptions.

(4) Records Maintenance Requirements:

(a) The department recommends but does not require that marijuana retailers 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.

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

(5) Access To Machine-Sensible Records:

(a) The manner in which department is provided access to machine-sensible records as required in section (2)(c) of this rule may be satisfied through a variety of means that shall take into account a marijuana retailer's facts and circumstances through consultation with the marijuana retailer.

(b) Such access will be provided in one or more of the following ways:

(A) The marijuana retailer may arrange to provide the department with the hardware, software and personnel resources to access the machine-sensible records.

(B) The marijuana retailer may arrange for a third party to provide the hardware, software and personnel resources necessary to access the machine-sensible records.

(C) The marijuana retailer may convert the machine-sensible records to a standard record format specified by the department, including copies of files, on a magnetic medium that is agreed to by the department.

(D) The marijuana retailer and the department may agree on other means of providing access to the machine-sensible records.

(6) Marijuana retailer Responsibility and Discretionary Authority:

(a) In conjunction with meeting the requirements of section (3) of this rule, a marijuana retailer may create files solely for the use of the department. For example, if a data base management system is used, it is consistent with this rule for the marijuana retailer to create and retain a file that contains the transaction-level detail from the data base management system and that meets the requirements of section (3) of this rule. The marijuana retailer should document the process that created the separate file to show the relationship between that file and the original records.

(b) A marijuana retailer may contract with a third party to provide custodial or management services for the records. Such a contract shall not relieve the marijuana retailer of its responsibilities under this rule.

(7) Alternative Storage Media:

(a) For purposes of storage and retention, marijuana retailers may convert hard-copy documents received or produced in the normal course of business and required to be retained under this rule to microfilm, microfiche or other storage- only imaging systems and may discard the original hard-copy documents, provided the conditions of this section are met. Documents that 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.

(b) 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 section (9) of this rule.

(C) Upon request by the department, a marijuana retailer 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.

(8) Hard-Copy Recordkeeping Requirements:

(a) Except as otherwise provided in this section, the provisions of this rule do not relieve marijuana retailers 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 rules. Hard-copy records may be retained on a recordkeeping medium as provided in section (7) of this rule.

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

(c) 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 marijuana retailer in accordance with this rule. Such details include those listed in section (3)(b)(A) of this rule.

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

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

(9) Records Retention — Time Period — All records required to be retained under this rule shall be preserved pursuant to ORS 475B.700 to 475B.760 unless the department has provided in writing that the records are no longer required.

STATUTORY/OTHER AUTHORITY: ORS 305.100, 475B.750

STATUTES/OTHER IMPLEMENTED: ORS 475B.720, 475B.707