

## [Part 38.03.17] Books and Records

### 1. Introduction

Persons who are registered for tax under any tax head must maintain proper books and records of sufficient comprehensiveness and quality to enable them to complete on time the appropriate returns for that relevant tax.

The legislative provisions regarding books and records are contained in sections 885, 886 and 887 of the Taxes Consolidation Act 1997. Section 84 of the VAT Act also imposes an obligation on persons, who are obliged under the VAT Act to operate VAT, to keep full and true records of all transactions which affect or may affect that person's VAT liability.

The specific type of records to be maintained by persons, in order to fulfil their Revenue obligations depends on the nature and size of the business.

The records to be maintained must include books of account in which –

- All purchases and sales of goods and services, and
- All amounts received and all amounts paid out,

are recorded in a manner that clearly shows the amounts involved and the matters to which each amount relates.

All documentation; e.g. invoices, bank and building society statements, cheque stubs, wages sheets, receipts, etc.; that gives support to the entries in the records should also be retained. These are known as linking documents.

With some exceptions, it is generally necessary to retain records for six years from the date of the transaction, act or operation to which they relate. Records can be maintained in either a manual or electronic; i.e. computer based; form.

However the 'books and records' maintained must be capable of showing the amounts and the sources for -

- All income, and
- All purchases and other outgoings.

Simply keeping the documentation; e.g. invoices, bank and building society statements, cheque stubs, receipts, etc.; for a business does not fulfil the requirements to maintain proper books and records.

### 2. Taxpayer's statutory obligations

Section 886 TCA 1997 imposes an obligation on taxpayers to keep certain records and retain linking documents.

The definition of “records” is broad and includes accounts, books of account, documents and other data maintained manually or by electronic, photographic or other processes, relating to:

- All sums of money spent and received in the course of carrying on a trade, profession or other activity, All sales and purchases of goods and services where the carrying on of a trade profession or other activity involves the purchase or sale of goods or services,
- The assets and liabilities of such trade, profession or other activity,
- The acquisition and disposal of assets, which would be chargeable assets for capital gains tax purposes.

The definition of linking documents includes documents drawn up in the making up of accounts that show the background and details of calculations.

Tax Briefing 22/1996 explained that Finance Act 1995 amended Section 6 Finance Act 1968 to include a definition of ‘linking documents’ and to require that they be retained by the taxpayer in the same way as other business records. At the same time the Finance Act amendment expanded the definition of records, which an authorised officer has power to inspect, to include linking documents.

These legislative amendments were followed in 1995 by a Supreme Court decision on the question of ownership of, and access to the nominal ledger. In 1987 a Judge of the Circuit Court had ruled that the nominal ledger was the property of the accountant and not the taxpayer. The High Court and later the Supreme Court reversed this decision in the case of *Quigley v Burke* (ITR Vol. IV, p.332). In his judgement delivered on 7 November 1995, Chief Justice Hamilton ruled that:

*“The Appellant herein was entitled to obtain this ledger from his agent.....and consequently this ledger was in his possession or power within the meaning of the Income Tax Act 1967.”*

The Supreme Court decision, coupled with the legislative amendments, makes it absolutely clear that the linking documents are the property of the taxpayer.

Records and linking documents must be kept:

- On a continuous and consistent basis, in other words they should not be created retrospectively and should be consistent from one year to the next.
- In a written form in either Irish or English and, if not in written form, then subject to the provisions of section 887 (see below) in an electronic format.
- In the case of a partnership by the precedent acting partner
- For a period of six years.
- For a period greater than six years where a person failed to make a return and the time expires 6 years after the end of the year in which the return should

have been made. (See [Part 41A-01-01](#) regarding the rules for the filing of returns under self-assessment)

- For a period of 6 years or greater where a transaction, act or operation is subject to an investigation, inquiry, claim, assessment, appeal or proceedings which has already commenced until such time as the investigation, inquiry, claim, assessment, appeal or proceedings have been concluded.
- By a person, either on their own behalf or on behalf of another person, for periods up to 5 years from the date of cessation of a trade, business or other activity.
- By a liquidator in the case where a company is wound up.
- By the directors in a situation where the company is dissolved and no liquidator was appointed.
- By an executor or administrator of a deceased person's estate.

A person who fails to keep any records or linking documents for any year of assessment or accounting period shall be liable to a penalty of €3,000 except if it is proved that no person was chargeable to tax for that year of assessment or accounting period.

### **3. Use of electronic data processing**

Section 887 provides that for the purposes of the Acts that records may be generated, stored, maintained, transmitted, reproduced or communicated by any electronic, photographic or other process that:

- Provides an assurance as to the integrity of the record from the time it is first generated as an electronic record,
- Allows the record to be displayed in an intelligible format or produced in an intelligible printed format,
- Allows ready access to the record either in electronic or printed format,
- Conforms to the information technology and procedural requirements set out by Revenue.

The procedural requirements set out by Revenue in relation to the use of electronic data processing is contained in [Part 38-03-14](#) of the Income Tax, Capital Gains Tax, Corporation Tax manual. These were published in [Iris Oifigiúil](#) on 27 Jan 2012.

Where records are retained in an electronic format and Revenue issue a notice in writing to a person requesting records for a certain period, a person is obligated to furnish all particulars relating to the format used by that person including full details relating to the software used. A person who fails or refuses to comply with such a notice is liable to a penalty of €3,000. A person is also liable to a penalty of €3,000 where the records kept do not comply with the requirements of the section as outlined above.

**It is important to note that the use of a third party service provider does not remove the onus on a person to satisfy these requirements.**

#### **4. Obligation to show tax reference number on receipts**

Under the provisions of section 885 where a specified person (either an individual or precedent partner) carries on a “business” (which is a profession or a trade which supplies a service including the supply of goods when supplying that service) that person must include a tax reference number on any receipt, invoice, credit note, debit note, account, statement of account, voucher or estimate issued during the course of that business, relating to an amount of €7 or more.

If the person has no tax reference number they must include their full name and address.

#### **5. Reference Material**

Tax Briefing 22 June 1996, Page 14: Linking Documents

Tax Briefing 46 December 2001, Page 24: Retention of records in electronic format

Tax Briefing 52 May 2003, page 19: Records to be retained by telecommunication service providers and certain taxpayers

eBrief 06/12 Retention of Tax Records in Electronic Format

Revenue Precedents

Query

Are personal bank statements "records" within the meaning of section 886?

Decision

Not if they relate solely to personal transactions and are not such as would be used so as to enable true returns to be made of the profits or gains or chargeable gains of the trade, profession or other activity carried on by the person.

**Statement of Practice [SP GEN/1/94](#)** Revenue Powers Exercised in places other than at a Revenue Office

#### **Legislation**

Section 18(c) Interpretation Act 2005: “Definition of Person”.

Section 886A TCA: Retention and inspection of records in relation to claims by individuals.

Section 903 TCA: Definition of “records” for PAYE purposes.

Section 912 TCA: Computer documents and records, includes definitions of data, data equipment and software.

Section 84 VAT Act: Duty to keep records

**A more recent version of this manual is available.**