

Retention/Destruction of Books and Records

The Ontario Ministry of Finance is committed to making taxation rules and requirements easier to understand. In keeping with this idea, a general consent was established for the destruction of books and records held for Ontario tax purposes.

Records to be Kept

As a general rule, the Ministry does not specify the records to be kept; however, books and records must:

- indicate the taxes payable or how the taxes or other amounts to be collected are determined;
- substantiate any tax exempt status claimed;
- permit verification of all deductible charitable, athletic and political donations made; and
- be supported by vouchers or other source documents necessary to verify the information in the books and records kept.

Methods of Keeping Books and Records

Businesses may keep their records in a form that is made by any technological process that reproduces an exact copy of the original record.

Conditions for General Consent

General consent to destroy books and records is considered given when all the following eight conditions are met:

1. The books and records are held under the following statutes, or regulations made under the following statutes:

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| • Commercial Concentration Tax Act* | • <i>Mining Tax Act</i> |
| • <i>Corporations Tax Act</i> | • <i>Fuel Tax Act</i> |
| • <i>Gasoline Tax Act</i> | • <i>Land Transfer Tax Act</i> |
| • <i>Provincial Land Tax Act</i> | • <i>Income Tax Act (Ontario)</i> |
| • <i>Race Tracks Tax Act</i> | • <i>Ontario Home Ownership Savings Plan Act</i> |
| • <i>Retail Sales Tax Act</i> | • <i>Employer Health Tax Act</i> |
| • <i>Small Business Development Corporations Tax Act*</i> | • <i>The Succession Duty Supplementary Provisions Act, 1980</i> |
| • <i>Tobacco Tax Act</i> | • <i>Community Small Business Investment Funds Act</i> |
| | • <i>Electricity Act (specific provisions)</i> |

* being phased out

2. In general, the books and records to be destroyed must relate to the business' fiscal year that ended more than seven years before the beginning of the fiscal year in which you plan to destroy the books and records.

Exceptions

- (a) In the case of the ***Mining Tax Act***, the books and records to be destroyed must relate to a fiscal year that ended more than 10 years before the time of destruction;
 - (b) In the case of the ***Ontario Home Ownership Savings Plan Act***, the plan must have been closed or assets released more than seven years before the date you plan to destroy the books and records;
 - (c) It is important to note that for purposes of the ***Corporations Tax Act***, a corporation applying losses to prior or subsequent years, must keep the records needed to prove those losses as well as the income for the applicable year;
 - (d) In the case of the ***Labour Sponsored Venture Capital Corporations Act, 1992***, the books and records to be destroyed must relate to the business' fiscal year that ended more than eight years before the beginning of the fiscal year in which you plan to destroy the books and records.
3. The books and records to be destroyed must relate to a period for which any tax returns required by the statutes mentioned (or by regulations made under such statutes) have been filed and all taxes assessed for that period have been paid.

4. You must have no outstanding discrepancy with the Ontario Ministry of Finance or any other taxing jurisdiction with respect to the period covered by the books and records you wish to destroy.
5. The time limit for filing a Notice of Objection or a Notice of Appeal for the period must have expired without the filing of such notice of objection or appeal. If a Notice of Objection or Notice of Appeal has been filed, records must be maintained for the period under objection or appeal until the dispute is resolved.
6. You must have satisfied all demands by the Ministry to produce the books and records that are to be destroyed.
7. The books and records to be destroyed must not be ones that the Ministry has told you, in writing, to keep.
8. The books and records to be destroyed must not relate to the following:
 - (a) A fiscal year for which a corporation has filed a waiver under subclause 80(11)(a)(iv) of the **Corporations Tax Act** or in the form required by subsection 152(4) of the **Income Tax Act** (Canada);
 - (b) A fiscal year for which an operator has filed a waiver under subclause 9(1)(a)(iv) of the **Mining Tax Act**;
 - (c) A fiscal year for which a taxpayer has filed a waiver under subclause 8(1)(a)(ii) of the **Employer Health Tax Act** waiving the benefit of limitation on assessments contained under clauses 8(1)(b) and 8.1(3)(b) of that Act. Books and records may be destroyed if all the conditions in sections one to seven above have been met, and the audit or refund/rebate entitlement review to which the waiver relates has been conducted by the Ministry of Finance and any related notices of assessment were issued.

Waivers may be cancelled by filing a notice of revocation of waiver under subsection 80(12) of the **Corporations Tax Act** or under subsection 9(2) of the **Mining Tax Act**. A notice of revocation comes into effect one year after the notice is received by the Ministry.

When a notice of revocation has been filed, the books and records must be kept until the cancellation comes into effect. Once the waiver has been cancelled, books and records can be destroyed if all the conditions stated in sections one to eight of this bulletin have been met.

Special Circumstances

Books and records may be destroyed earlier than outlined under Conditions for General Consent in paragraph 2 of this bulletin if written permission for their disposal is given by the Minister. A written request, signed by an authorized representative, should be sent to the relevant branch or branches of the Ministry of Finance. The request should provide the following information:

- a clear indication of which books and records or other documents are to be destroyed;
- the taxation years for which the request applies; and
- details of any special circumstances which would justify their destruction at an earlier time.

Please be aware that other federal, provincial and municipal government offices may also have an interest in your books and records. We suggest that you contact these government offices before destroying any books and records.

Note: All major tax statutes in Ontario contain provisions which state that it is an offence to destroy or otherwise dispose of records or books of account for the purpose of evading payment of tax.

Additional copies of this bulletin may be obtained by calling the Ministry of Finance's Information Centre from anywhere in Canada and the United States:

• Publications	1-800-263-7965	Ministry of Finance Revenue Operations & Client Services Branch P.O. Box 627 33 King Street West Oshawa ON L1H 8H5
• Teletypewriter (TTY)	1-800-263-7776	
• Website	www.trd.fin.gov.on.ca	
• TAXFAX Service	1-877-482-9329	
(Many Ontario tax publications are also available via facsimile by phoning this number)		

For Ontario Tax related enquiries, please see "Taxes - Province of Ontario" for the local Ontario Tax office's phone number in the blue pages of your phone book.

