

## REG-1-008, Records

**008.01 Retailers are Required to Keep Records.** Every retailer is required to keep records necessary to determine the amount of tax due. These records must include the normal books of account ordinarily maintained by the average prudent businessperson engaged in a similar activity, together with all documents supporting entries in the books of account. Schedules and working papers used in preparing tax returns must also be retained.

008.01A Every retailer must keep exempt sale certificates, resale certificates, energy source exemption certificates, or other adequate proof to support a tax exemption for any sales. The retailer must keep all documentation necessary to support deductions from gross receipts on the tax return.

008.01B Model 1, 2, and 3 sellers may maintain records in accordance with the Streamlined Sales and Use Tax Agreement.

**008.02** The records created at the time of sale may be sales slips, sales invoices, guest checks, tally sheets, itemized lists, or other memoranda. A cash register tape may be acceptable if it preserves sufficient information.

008.02A Property may be described by a symbol if the symbol is representative of a class of merchandise or services which are always taxable or tax exempt. If a retailer sells only tax exempt merchandise in a "Department P," a description of this merchandise as "Department P" is sufficient if the retailer uses that symbol consistently to describe the same merchandise.

008.02B However, if a retailer sells several types of merchandise, both taxable and tax exempt, in a single department, his or her records must individually identify the types of merchandise which are tax exempt.

**008.03 When Tax is Commingled with Receipts.** A retailer who maintains records where the amount of tax collected is commingled with the receipts from the sale may determine taxable receipts in the following manner:

008.03A The receipts from any sales which are specifically exempt or otherwise excluded from sales tax are subtracted from total receipts. The remainder represents the receipts from the taxable sales plus the tax collected, and

008.03B The remainder is divided by one plus the rate of tax in effect.

**008.04 Records Required to Determine Use Tax.** Every person storing, using, or otherwise consuming property in Nebraska must keep receipts, invoices, and other pertinent records necessary to establish the amount of tax for which the person is liable. Any person having information relating to taxable sales of property in the person's possession or custody, may be required at any time to submit the names and addresses of the purchasers, the sales price of the property, and the date of the sale.

**008.05 Right to Examine Records.** The Tax Commissioner or any person authorized in writing by the Tax Commissioner may examine the books, papers, records, electronic media, or equipment of any person to ascertain or verify the accuracy of any return filed; or, if no return is filed by the person, to ascertain and determine the amount required to be paid. The right to examine books, papers, records, electronic media, and equipment of any person includes, but is not limited to, the right to request and retain paper or electronic copies of the books, papers, records, and media.

**008.06 Administrative Subpoenas.** The Tax Commissioner may require persons undergoing an audit, examination, or review to provide records that are necessary to make a proper determination of the person's compliance with, or the amount due under, the laws of this state. If warranted, the Tax Commissioner may issue an administrative subpoena.

008.06A An administrative subpoena must clearly state the scope of the demand for records and any other requirements and state when, where, and how to comply with the administrative subpoena.

008.06B An administrative subpoena may be enforced by the Attorney General, acting on behalf of the Tax Commissioner, in an action filed in the District Court of Lancaster County.

008.07 Records must be retained for a minimum of three years after the return is filed, or while any refund claim or petition for redetermination of a deficiency determination is pending, unless the Nebraska Department of Revenue (Department) authorizes their destruction in writing at an earlier date. However, the Department may issue a deficiency determination within six years after any amount of tax is determined due and payable when a properly completed return has not been filed or the amount of the deficiency exceeds 25% of the amount stated on the return.

008.08 When records are missing, all gross receipts are presumed to be taxable, or the Department may estimate a person's liability for tax based on the best available records. The person required to keep the records has the burden to show that the gross receipts are not taxable or that the estimate is incorrect.

*(Neb. Rev. Stat. §§ 77-366, 77-375, 77-376, 77-377, 77-2705(7), 77-2709, and 77-2711. June 24, 2017.)*