

Records Retention Under Various Laws

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- CGST Act, 2017 & other Indirect Taxes**
- Companies Act, 2013**
- Limited Liability Partnership Act, 2008**
- Income Tax Act, 1961**
- Auditor's Responsibility**

CGST Act, 2017

MAINTENANCE OF RECORDS - CGST ACT

Sec 35

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Every Registered Person Shall Keep And Maintain at his Principal Place Of Business A True and Correct Account. Below are the Records to be maintained:

- Production or Manufacture of Goods
- Inward and Outward Supply of Goods or Services or Both
- Stock of Goods
- Input Tax Credit Availed
- Output Tax Payable and Paid

MAINTENANCE OF RECORDS

- CGST ACT

Rule 56 1/6

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Rule 56 Specifies to keep and maintain other details as well in addition to section 35(1).

- A true and correct account of the goods or services imported or exported
- Supplies attracting payment of tax on reverse charge along with the relevant documents, including—
 - Invoices
 - Bills of Supply
 - Delivery Challans
 - Credit Notes
 - Debit Notes
 - Receipt Vouchers
 - Payment Vouchers
 - Refund Vouchers
 - separate account of advances received, paid and adjustments made thereto

MAINTENANCE OF RECORDS - CGST ACT

Rule 56 2/6

6

Rule 56 Specifies to keep and maintain other details as well in addition to section 35(1).

- Account of advances received, paid and adjustments made thereto
- Details of tax payable, tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period
- Names and complete addresses of suppliers
- Names and complete addresses of the persons to whom he has supplied
- The complete address of the premises where goods are stored by him

MAINTENANCE OF RECORDS - CGST ACT

Rule 56 3/6

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Maintenance of Stock – Every registered person shall maintain the accounts of stocks as mentioned below:

- The accounts of stock in respect of goods received and supplied by him
- Particulars of the opening balance
- Receipt & supply of goods
- Goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample
- The balance of stock including raw materials, finished goods, scrap and wastage thereof
- Monthly production accounts showing quantitative details of raw materials or services used and quantitative details of the goods so manufactured
- Service Provided has to maintain the accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied

MAINTENANCE OF RECORDS - CGST ACT

Rule 56 4/6

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Every Agent shall maintain the accounts as mentioned below:

- Authorisation received by him from each principal to receive or supply goods or services
- Description, value and quantity of goods or services received
- Description, value and quantity (wherever applicable) of goods or services supplied
- Details of accounts furnished to every principal
- Tax paid on receipts or on supply of goods or services effected on behalf of every principal.

MAINTENANCE OF RECORDS - CGST ACT

Rule 56 5/6

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Every registered person executing works contract shall keep separate accounts for works contract showing –

- The names and addresses of the persons on whose behalf the works contract is executed;
- Description, value and quantity (wherever applicable) of goods or services received for the execution of works contract;
- Description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract;
- The details of payment received in respect of each works contract; and
- The names and addresses of suppliers from whom he received goods or services.

MAINTENANCE OF RECORDS

- CGST ACT

Section 35(2) / Rule 58 6/6

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Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter whether registered or not, has to maintain below records:

- Transporters** - Records of goods transported, delivered and goods stored in transit by him along with the GSTIN of registered consigner and consignee for each of his branches.
- Operator of Warehouse** - Books of accounts with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt and disposal of such goods

Generation and Maintenance of Electronic Records - CGST ACT

Rule 57

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- Proper electronic back-up of records shall be maintained and preserved
- In the event of destruction of such records due to accidents or natural causes, the information can be restored within a reasonable period of time
- The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format
- On demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access

Retention Period under CGST Act, 2017

Sec 36

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Registered Person

72 months from the due date of furnishing Annual Return

appeal or revision or any other proceedings or is under investigation for an offence

- Period of one year after final disposal or
- 72 months from the due date of furnishing Annual Return – whichever is later.

Retention Period under Erstwhile Law

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Central Excise & Service Tax - All required records shall be preserved for a period of **five years** immediately after the financial year to which such records pertain

MVAT Act - All required records shall be preserved for a period not less than **eight years** from the expiry of years to which it relates

Companies Act, 2013

RETENTION OF RECORDS AS PER COMPANIES ACT, 2013

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All Documents of the Company are required to be categorised in to Below mentioned two categorised:

- Documents whose preservation shall be permanent in nature
- Documents with preservation period of not less than eight consecutive calendar years after completion of the relevant transactions

Documents whose preservation shall be permanent in nature

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Sr. No.	Name of documents / Records
1	Register and Index of Members, debenture-holders, if any commencing from the date of the registration of the company
2	Certificate of incorporation
3	Certificate for Commencement of Business
4	Memorandum and Articles of Association
5	Agreements made by the Company with Stock Exchanges, Depositories, etc.
6	Minute Books of General Meetings, Board and Committee Meetings as per Companies Act, 2013

Documents whose preservation shall be permanent in nature

2/2

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Sr. No.	Name of documents
8	Register of Charges as per Companies Act, 2013
9	Register of Contract as per Companies Act, 2013
10	Register of Investment as per Companies Act, 2013
11	Policies of the Company framed under various regulations
12	Register of Preservation and disposal of records
13	Such other records as may be required under any law from time to time
14	Forms and returns filed with any statutory authority
15	Files relating to premises for instance Title Deeds/Lease Deeds of owned premises/land and building, etc. and related Ledger / Register

Documents/Records to be preserved for period of not less than 8 Years

1/3

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Sr. No.	Name of documents
1	Instrument creating charge or modification (from the date of satisfaction of charge) as per Companies Act, 2013
2	Annual Returns as per Companies Act, 2013
3	Register of Deposits as per Companies Act, 2013
4	Register of Allotment (from the date of each allotment) as per Companies Act, 2013
5	Books of accounts including Vouchers / Voucher register as defined under the Companies Act, 2013

Documents/Records to be preserved for period of not less than 8 Years

2/3

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Sr. No.	Name of documents
6	Annual financial statements including: <ul style="list-style-type: none">• Annual accounts• Directors report• Auditors report
7	All notices in form MBP – 1 received from Directors and KMPs along with any amendment thereto
8	Return of declaration in respect of beneficial interest in any share as per Companies Act, 2013
9	Copy of newspaper advertisement or publications

Documents/Records to be preserved for period of not less than 8 Years

3/3

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Sr. No.	Name of documents
10	Compliance Reports received from any statutory authority
11	The postal ballot and all other papers or registers relating to postal ballot including voting by electronic means
12	Disclosure/Return filled under SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015
13	Register of Debenture Holders and Foreign Debenture Holders

Limited Liability Partnership

Limited Liability Partnership Firm shall maintain such proper books of account as may be prescribed relating to its affairs for each year of its existence on cash basis or accrual basis and shall maintain the same at its registered office for such period as may be prescribed.

Books of Accounts Contains:

- All sums of money received and expended
- Record of the assets and liabilities
- statements of cost of goods purchased, inventories, WIP, FG and COGS
- any other particulars which the partners may decide

RETENTION PERIOD FOR LLP

Sec 34 / Rule 24

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Accounting records which a limited liability partnership is required to keep shall be preserved for **eight years** from the date on which they are made.

Income Tax Act

Maintenance of Accounts Under Income tax Act, 1961

Section 44AA(1) read with Rule 6F 1/4

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Section 44 AA

Sub section (1) : Applicable **only to** following professions

Legal

Medical

Engineering

Architectural

Accountancy

Technical Consultancy

Interior Decorators

Authorised Representative

Film Artists

Maintenance of Accounts Under Income tax Act, 1961

Section 44AA(1) read with Rule 6F 2/4

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Section 44 AA

Sub section (1) : Cont.....

- Not applicable to any Class of professional not strictly falling under specified categories

Maintenance of Accounts Under Income tax Act, 1961

Section 44AA(1) read with Rule 6F 3/4

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The books of account and other documents are required to be maintained :

- Cash Book
- Journal
- Ledger
- Carbon Copies of Bills
- Original Bills Issued to a person or Receipt in case of expenditure
- Daily Case Register having details of Patients, services rendered, fees receipt and date of receipt (persons carrying on medical profession)
- Details of Inventory of drugs, medicines and other consumable accessories (persons carrying on medical profession)

Maintenance of Accounts Under Income tax Act, 1961

Section 44AA(2) 1/3

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Sub section (2) of Section 44AA

Other than the professions specified in sub section (1), all other persons carrying business is required to maintain books of account in following circumstances :

1. Income from Business or Prof. >1.25Lacs or
Total Sales / TO/ Gross Receipt >10Lacs in any of 3 Yrs immediately preceding PY
2. Newly Setup in PY - Income likely to exceed 1.25 Lacs or
Total Sales / TO/ Gross Receipt - Likely to exceed 10Lacs during PY

Maintenance of Accounts Under Income tax Act, 1961

Section 44AA(2) 2/3

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Sub section (2) of Section 44AA

Cont.....

Kind of books of account and other documents Required to be maintained :

As may enable the Assessing Officer to compute his total income.

No specific books are prescribed

Maintenance of Accounts Under Income tax Act, 1961

Section 44AA(2) 3/3

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Sub section (2) of Section 44AA

Cont.....

Issues :

- Persons covered u/s 44 AD
- Persons covered u/s 44AE /44BB / 44 BBB

Maintenance of Accounts who are covered under Section 92D

Section 92D read with Rule 10D

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Every Person who has entered into International or Specified Domestic Transaction shall keep and maintain the following Information and Documents:

- Description of Ownership Structure or Ownership Interest
- A detailed profile of the multinational group
- A broad description of Assessee and the industry in which the assessee operates and the business of associated enterprises
- Nature and terms of International or specified domestic transactions
- A description of the functions performed, risk assumed and assets employed or to be employed by the Assessee and AE
- Record of economic & market analysis, forecasts, budgets or any other financials estimates.
- Records of uncontrolled transactions including a record of nature, terms and conditions

Maintenance of Accounts who are covered under Section 92D

Section 92D read with Rule 10D

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- Records of analysis performed to evaluate comparability of uncontrolled transactions
- Methods considered for determining arm's length price, Reason for selecting such method
- Record of actual working carried out for determining arm's length price including details of comparable data and financial information
- Assumptions, policies and price negotiation which have critically affected determination of arm's length price
- Details of adjustment, if any
- Any other information

Maintenance of Accounts who are covered under Section 92D

Section 92D read with Rule 10D

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Exception:

Where aggregate value of International transactions as recorded in books of account does not exceed 1 crore rupees.

However, Assessee has to substantiate the income arising from international transaction has been computed in accordance with section 92.

Case Law

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Important Decision

97 Taxmann 273(Magazine)/60T.T.J. 278 (1998 - Appellate Tribunal Delhi
Sujan Singh v. AO [2007] 110 TTJ (Asr.) 818 - Amritsar bench of Tribunal
Income Tax Officer vs Dinesh Paper Mart on 3 September, 1998

Outcomes:

- Held there is no rule made to the effect that which books of accounts are required to be made by the persons carrying on business covered u/s 44AA (2), therefore if the assessee has kept the details of Incomes and expenditures then no penalty shall be levied u/s 271A.

Maintenance of Accounts Under Income tax Act, 1961

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- ❑ **ISSUES :**
 - ❑ Books of account in electronic form
 - ❑ Invoices in electronic form

Retention Period

Section 44AA & 92D/ Rule 6F & 10D

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- The books of account and other specified documents shall be kept and maintained for a period of [six] years from the end of the relevant assessment year. {Rule 6F (5)}
- Where the assessment in relation to any assessment year has been reopened under section 147 of the Act, all the books of account and other documents which were kept and maintained at the time of reopening of the assessment shall continue to be so kept and maintained till the assessment so reopened has been completed.
- Transfer Pricing documents and information specified under Section 92D read with Rule 10D must be maintained for a period of 8 years from the end of the relevant assessment year.

Records Maintenance & Retention by Auditors

Record or Documents to be Maintained

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As per Standard on Quality Control, the firm has to retain Engagement documentation

What covers under Engagement Documentations?

The record of work performed, results obtained, and conclusions the practitioner reached (terms such as “working papers” or “workpapers” are also sometimes used). Such documents are assembled in an engagement file.

Retention Period

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- The firm should establish policies and procedures for the retention of engagement documentation for a **period sufficient to meet the needs of the firm** or as required by law or regulation.
- The period of such retention, will vary with the nature of the engagement and the firm's circumstances such as a record of matters of continuing significance to future engagements, local law or regulation prescribes specific retention periods for certain types of engagements.
- The retention period ordinarily is **no shorter than seven years** from the date of the auditor's report, or, if later, the date of the group auditor's report.

Questions ???



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THANK YOU !!

