How long do you keep a financial record?

There simply isn’t any single legal rule. Some records should be kept permanently. Some should be kept for as long as you own the asset to which they relate. Some can be destroyed after a fixed period. Some can be destroyed at the close of each fiscal period.

There are, though, some general guidelines on retaining records. There is also the first rule: if in doubt about what to save and for how long, call your attorney. He should be the first one consulted in setting up a records destruction policy.

Records Kept Permanently

Federal and state income tax returns are definitely documents which should be kept indefinitely because of their historical value.

Some companies retain other tax returns indefinitely. These would include payroll taxes, sales taxes and property tax returns.

Any application filed with a regulatory agency — whether federal, state, or local — should also be retained indefinitely. These documents would include such items as rezoning, building construction permits, licenses, etc.

Records Pertaining to Particular Assets

When a record pertains to a particular asset such as real estate or equipment it should be retained for at least as long as the assets are retained. It is a good idea to keep the document at least for the three year period during which income tax returns are subject to audit.

Under the provisions of the Tax Reform Act of 1976, which introduced the new carry over basis rules, it is especially important to retain cost records pertaining to all kinds of real and personal property for as long as the property is owned.

A person’s estate and heirs must have access to these records and thus be able to compute the original cost basis when the asset is eventually sold.

When an individual has elected to defer income tax on an individual residence by reinvesting the proceeds in a new residence, such non-business records should be kept as long as the taxpayer retains any residence.

Eventually, it will be necessary to determine the cost basis of a later residence by referring to the cost of all previous residences and improvements.

Income tax records will also be important if the property had been depreciated due to business use.

Personnel Records Should Be Kept

Particularly with the need to show documentation in the Affirmative

Continued on page 32
RECORDS
From page 17

Action area, personnel records on all employees should be kept for as long as an employee remains on the payroll. Thereafter, they should be kept for at least three years.

The three years represents the period for wage-hour audits. But a determination should be made on keeping the records after the three year period in case an employee decides to file a suit as a result of his or her termination.

Some Records Kept For Specific Period

For those records which support income tax returns, it’s generally a good idea to keep them for as long as the income tax return itself is subject to audit.

This is usually some three years after the due date for filing the return, or two years after the payment of the tax, whichever comes later. These documents include all payroll and other cost records, invoices, cancelled checks, sales and income records, and any other income and expense records.

A rule to remember, though, is: where ever there is a possibility of litigation, these records should be kept even longer.

As an example, leases of real or personal property should be kept for as long as they remain in force, and thereafter for as long as either party might sue. Obviously, this period will vary widely from state to state, from as little as two years (in Arizona) to as long as 15 years (in Kentucky and Ohio) for leases not under seal, and for as long as 20 years (in Georgia and Florida) for leases under seal.

In the case of most business, fortunately, there are relatively few leases, and their retention for up to 20 years would not present an especially serious space storage problem.

For contracts other than leases such as supplier and customer sales agreements, document retention is governed by similar rules. The periods may be shorter but they should be checked locally anyway because the time element may also vary from state to state.

Auditing requirements govern the length of time not only on wage-hour laws, but sales, too. Sales records should be kept at least as the applicable audit period under local sales tax rules.

Because there is ordinarily little risk of suit involved in general correspondence not related to contracts and leases, such documents need only be retained for as long as the contractor feels they are of current value or historical interest. A legal question is not involved here.

The volume of correspondence is generally the principal criteria here. Some businesses keep such paperwork for two-three years, while others retain it for much longer periods.

It is vital, though, that when general correspondence is earmarked for elimination after a short period safeguards be set up to assure that no correspondence involving contractual commitments be inadvertently destroyed. Such correspondence should be kept depending on the local statute of limitations.

Expired insurance policies — which have a habit of filling up a file drawer — aren’t all that important to keep much beyond the period of paid up insurability. Once they expire they are pretty much useless history unless there is a claim pending under which the insurance company is still liable.

Product liability policies based on liability arising during the policy period should be retained indefinitely, since such claims can easily arise after a lapse of many years.

Policies covering those claims that were made during the policy period can be retained for a relatively shorter period. Even then, they will be of considerable historical value for some time.

(Editor’s Note: Most of the information used for this story was obtained from an article which appeared in the April/May issue of American Landscaping’s magazine.)