

Tips for Globalizing a **U.S.-Based Records Retention Schedule**

U.S.-based organizations that try to globalize their U.S.-focused records retention schedules by simply extending them to include international requirements will fall short in meeting their compliance obligations. Discover the problems this approach creates and how to avoid them.

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For years the processes of creating, implementing, and maintaining records retention schedules for organizations with an international footprint were U.S.-focused. The schedules addressed U.S. requirements and were designed to minimize the impact of the litigious U.S. business environment. Addressing the records created and maintained by international offices often was an afterthought or considered the responsibility of those offices.

But the increased use of electronic records manage-

ment systems that cross borders and the passage of stricter data privacy and recordkeeping laws are forcing organizations to address international recordkeeping requirements when creating and maintaining a single, unified retention schedule.

Organizations often begin by trying to implement their U.S. schedule for their international operations. While at first this might seem like a cost-effective approach, it leads to problems the organization must address. What follows are examples of these problems with their potential solutions.

Problem 1: Meeting Widely Varying Requirements

International retention requirements vary greatly, with both minimum and maximum requirements for certain records.

Factors to Consider

Though picking the maximum retention requirement as a default is a common practice in the United States, this doesn't work for a global schedule. Variations in retention requirements for similar records are within years in the United States, but may vary by decades in other countries.

For example, U.S. state wage and hour records retention requirements range from one year in Georgia, Kentucky, Louisiana, and New Mexico to – at the other end of the spectrum – six years in Hawaii, New Jersey, and New York; the U.S. federal requirement is three years. So, choosing six years as the retention period for U.S. employee payroll and time card data is not overly burdensome.

However, international retention requirements for payroll and personnel records range from a maximum of two years after termination in countries with strict privacy policies, such as the Netherlands, to as many as 50 years in Bulgaria, Lithuania, Poland, and Romania. Therefore, choosing a 50-year retention period would not only be far more burdensome, but would present a conflict for organizations that operate in both Eastern Europe and the Netherlands.

U.S. terms found on many U.S.-focused records retention schedules often have no meaning to international users and will only confuse them.

A Solution

Use a “base” retention period for each record category, specifying a *variance* for those categories where relevant countries require a different retention period.

1. Identify the records the organization creates.
2. Identify the jurisdictions to which the organization's retention schedule is subject.
3. Determine a reasonable base retention period for each record category that will meet the requirements of all or most relevant jurisdictions to minimize the need for variances.
4. Specify variances for those categories for which relevant jurisdictions have different requirements.

Avoid using U.S. retention requirements for base retention periods and then creating variances to comply with international requirements. Because U.S. requirements are comparatively low, especially as they relate to accounting and contract limitations, using them to establish base

requirements will necessitate more variances than if the relevant jurisdictions' requirements are used.

Problem 2: Using U.S.-Centric Terms

When organizations first develop schedules for their U.S. operations, they often rely on U.S. concepts and terms.

Factor to Consider

U.S. terms found on many U.S.-focused records retention schedules often have no meaning to international users and will only confuse them. For example, a records category called “I-9 Forms” to describe the form required in the United States to verify the employment eligibility of workers is meaningless to international offices.

A Solution

Name records categories for their *functions*, rather than for the forms that might be captured in these categories. So, instead of naming a records category “I-9 Forms,” call it “Employment Eligibility” with a description that includes “the citizenship and/or immigration status of an employee that demonstrates a legal right to work within the organization.”

Use this same approach for describing the purpose of certain tax forms, such as ERISA 5500, IRS 1099, and financial control records like those required under Sarbanes-Oxley. Other countries that have an impact on a retention schedule may have similar forms that can be listed as examples.

Problem 3: Recognizing Unique, Non-U.S. Requirements

Many countries have unique traditions that must be identified and addressed.

Factors to Consider

Because other countries' unique traditions may be unfamiliar to U.S.-based companies, a U.S.-based records retention schedule may not include a records category that will accommodate them. For example, stamp taxes, which are levied on documents used to demonstrate the validity of certain transactions, are common in many countries. (The term originates from the concept of affixing stamps on a document to demonstrate the tax was paid.) This concept is foreign to most U.S. organizations, so there may not be an appropriate category for it on a U.S.-based retention schedule.

As another example, each employee in Vietnam has his or her own labor book. The employer holds the book, updates it with employee information, and returns it to the employee upon termination. This book is a part of recordkeeping in Vietnam, but it is not acknowledged in

most U.S.-based retention schedules, so it may not fit well into any records category on the schedule.

A Solution

When globalizing a schedule, an organization should consider the culture and unique requirements of each jurisdiction that impacts its recordkeeping obligations. In some situations, the schedule must include specific record categories to address these foreign concepts. In others, a records category description might be broad enough to encompass them. For instance, stamp taxes may be included under a category referred to as “other taxes,” with stamp taxes listed as an example in the description.

Regarding the labor book example, an organization will need to maintain the physical employee labor book as required, but it could also maintain this information in its electronic recordkeeping system. However, while a requirement to retain information in a specific form does

not necessarily preclude its retention in other forms more useful for global operations, the organization must be aware of restrictions associated with records media, location, and transfer before deciding to take this approach.

Taking on the World

No longer should international records and international recordkeeping obligations be afterthoughts. Instead, organizations should make sure to research their recordkeeping obligations based on the records they actually create and the records they should create. They should then create schedules, along with supporting systems, that accommodate these international variations. With this type of retention schedule, any organization should be able to “take on the world.” **END**

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