

Europa und die Aufbewahrung - ein Dialog

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Records Management Fachtag 2013
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Records Management Fachtag 2013

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Dr. Ulrich Kampffmeyer

Offenbach, 26.11.2013



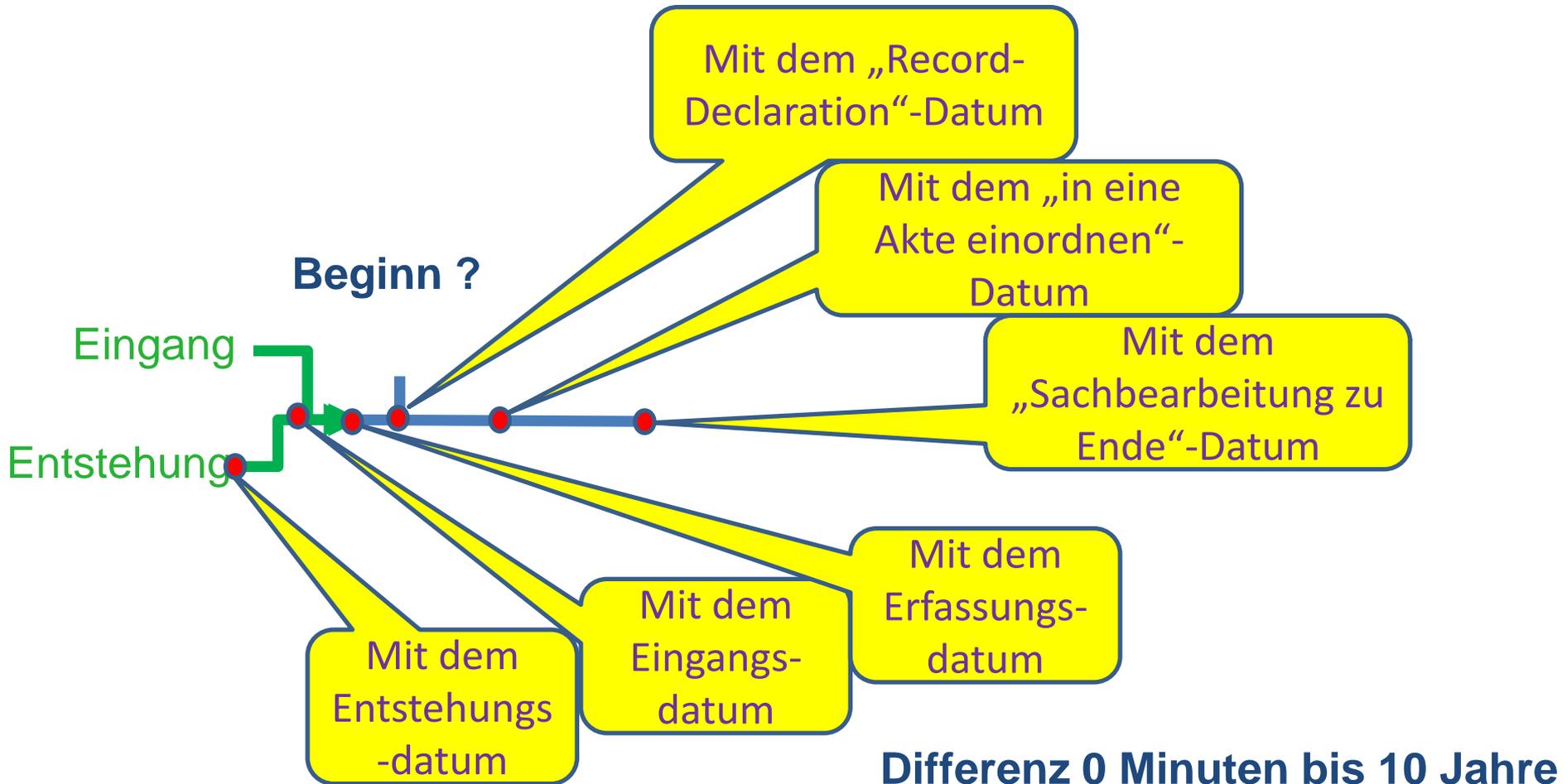
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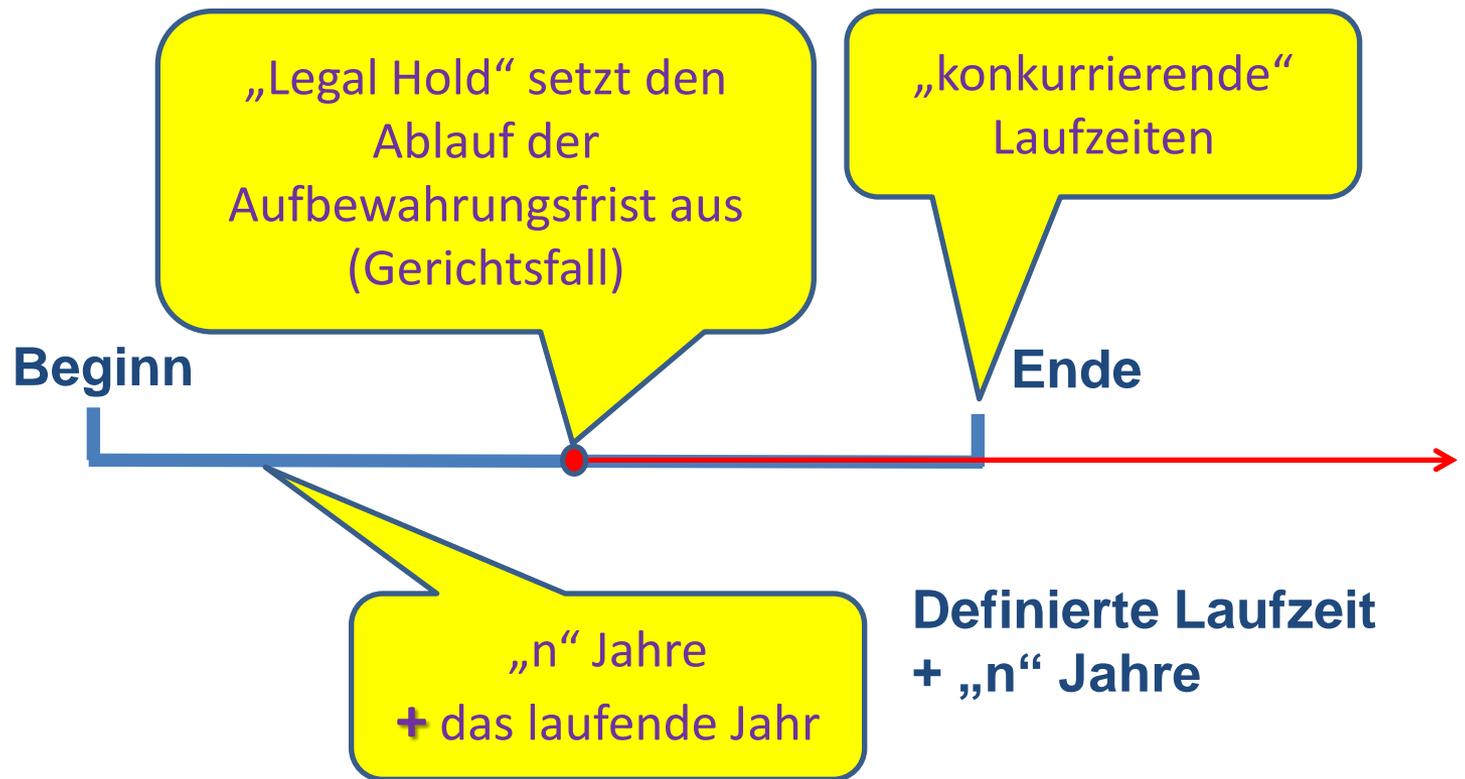
Aufbewahrungsfristen sind einfach ?



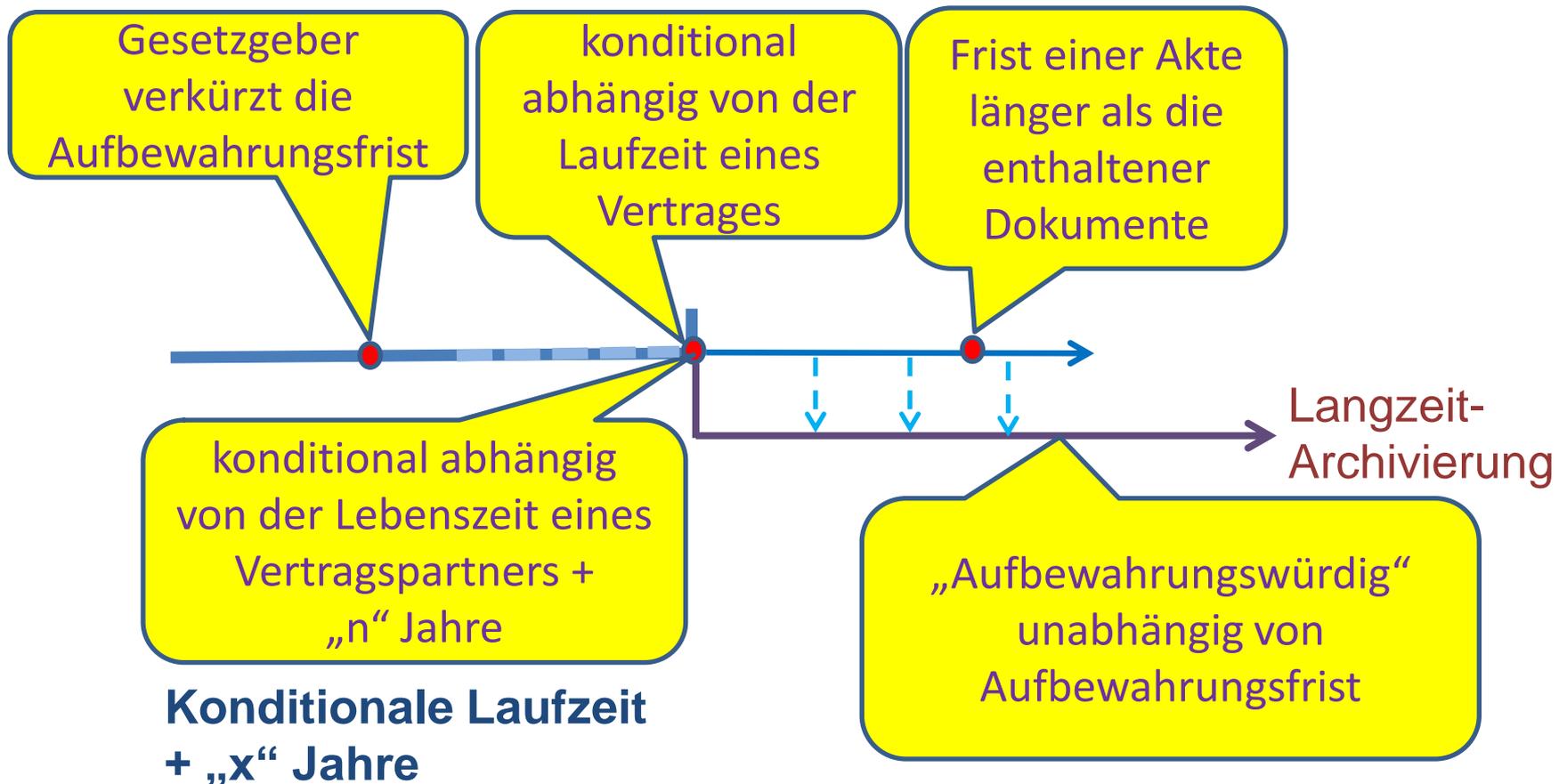
Wann beginnt eine Aufbewahrungsfrist?



Wie lange läuft eine Aufbewahrungsfrist?



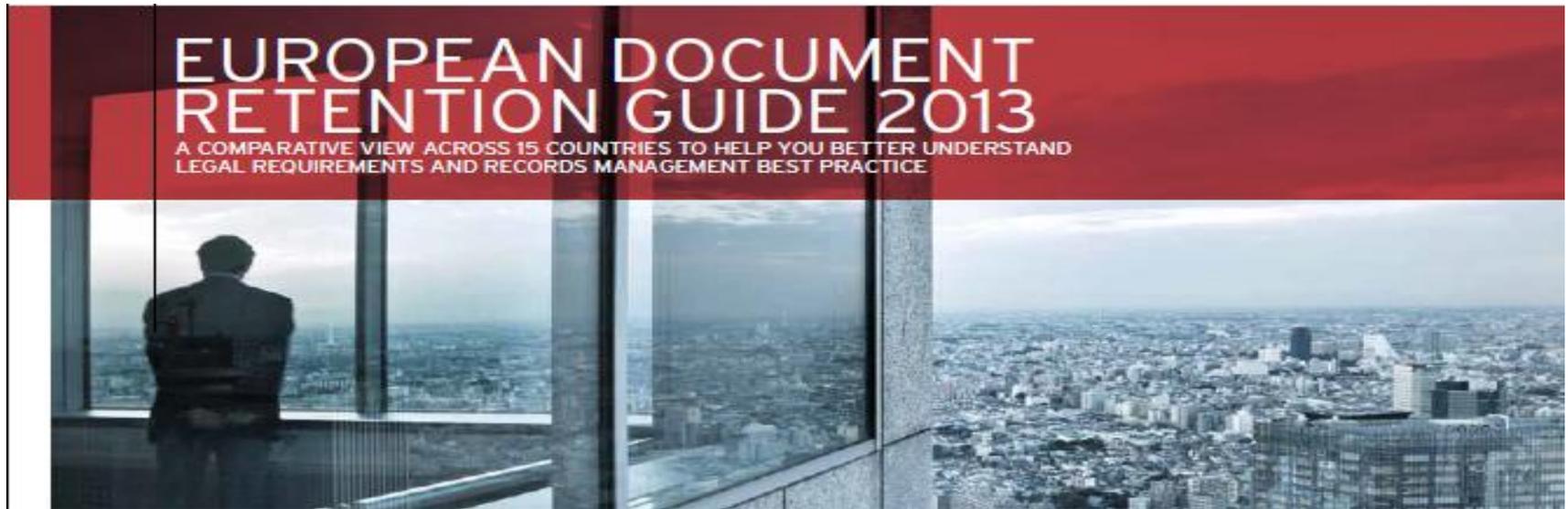
Wann endet eine Aufbewahrungsfrist?



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Studie zu Aufbewahrungsfristen



Iron Mountain in Zusammenarbeit mit

Österreich: Schoenherr

Belgien: Verhagen Walraven

Dänemark: Gorrissen Federspiel

Finnland: Roschier

Frankreich: Aramis

Ungarn: Szecskay

Irland: Arthur Cox

Italien: Trevisan & Cuonzo

Niederlande: De Brauw Blackstone Westbroek

Polen: Linklaters

Rumänien: Popovici Nitu & A societii

Spanien: Uría Menéndez

Schweden: Mannheimer Swartling

Großbritannien: Bristows

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Übersicht generelle & handelsrechtliche Unterlagen

DOCUMENT DESCRIPTION	COUNTRY															
GENERAL COMPANY RECORDS	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK	
General obligation for retention of company accounts, books of account and records	7 y	7-10 y	10 y	5 y	6 y	6-10 y	10 y	8 y	6 y	10 y	7 y	5 y	5-10 y	7 y	3-6 y	
Shareholders' resolution, Articles of incorporation, Shareholders' register, Board resolutions, Standing orders, Boards' and shareholders' meetings minutes, Supervisory Board's rules of procedure, Supervisory Council's Rules of procedure	7 y	5 y	6 y-P	-	P+6 y	10 y - P*	5 y*	P	13 y - P*	10 y	P+7 y	P+5 y	P	S	S	
Financial statements, audit reports, etc	7 y	7-10 y	10 y	5 y	6 y	10 y	10 y	8 y	-	10 y	7 y	P	P	7 y	3-6 y	
Profit and loss accounts	7 y	7-10 y	10 y	5 y	6 y	10 y	10 y	8 y	-	10 y	7 y	5 y	10 y	7 y	3-6 y	
Records and documents of the dissolved legal entity	7 y	5 y	10 y	10 y*	P+6 y	10 y	5 y*	8 y	7 y - P*	10 y	7 y	5 y	10 y	S	S	
Membership records in a cooperative association	7 y	P+5 y*	3 y	5 y	6 y R	P*	-	P	-	-	10 y	-	P	-	S	
Subsidy records and documents	7 y	D*	-	5 y	6 y	S	10 y	P	-	10 y	7 y	10 y	10 y	7 y	S	

DOCUMENT DESCRIPTION	COUNTRY															
TAX AND ACCOUNTING RECORDS	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK	
General obligation of taxpayers to provide (upon request of the tax inspector) all information that may be relevant to their tax position, including all books, records and other data carriers	7 y	7 y	6-10 y	10 y*	10 y	6-10 y	6 y	7 y	6 y	4-10 y	7 y	5 y	5-10 y	7 y	1-6 y	
A company is obliged to keep records of all delivery of goods or services, all intra-European Community acquisitions, all imports and exports, and all other information relevant for VAT purposes	7 y	7 y	10 y	5 y	10 y	6 y	3 y*	7 y	6 y	10 y	7 y	5 y	10 y	7 y	6 y	
General obligation to keep at least the following records: (i) VAT invoices sent and received; (ii) documentation relating to supplies and acquisitions within the EU; (iii) documentation relating to goods imported from, and exported to, outside the EU																
Obligation to keep records and other data carriers relating to the ownership of real estate and rights relating thereto	22 y	-	-	10 y	10-13 y	13 y	6 y	-	D+6 y	10 y	9 y	-	10 y	-	-	
Taxpayers are obliged to have available all information that deals with intra-group price setting, so that the Tax Authorities can check transfer prices and other conditions agreed upon in intra-group transactions	7 y	7 y	-	5 y	8-18 y	6-10 y	3 y*	7 y	6 y	4-5 y	7 y	5 y	5-10 y	7 y	-	
Obligation to have an administration showing the payment of dividends, and the obligation to issue dividend notes	7 y	7-10 y	-	-	10 y	6-10 y	3 y*	-	S	10 y	-	-	10 y	-	-	
Keep an administration as per the requirements set out in the General Customs Act, including books, records and other data carriers. General obligation of taxpayers to provide (upon request of the customs authority) all information which may be relevant to them, including making available all books, records and other data carriers.	3 y	-	-	-	3 y	S	3 y	7 y	3 y	4-5 y	7 y	5 y	10 y	5 y	3 y	
Regional and municipal taxes	7 y*	S	S	-	10 y	S	1-3 y*	7 y	-	4-5 y	S	5 y	10 y	-	-	

Übersicht Gehaltsabrechnungsunterlagen

DOCUMENT DESCRIPTION	COUNTRY														
PAYROLL AND SALARY RECORDS	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK
The withholding agent (generally the employer) must keep an administration of wages, including tax-exempt reimbursements. In addition, the employer needs to inform the employee on an annual basis of the total amount of wages earned, wage withholding tax, and social security withheld.	7 y	5 y	6-10 y	-	10 y	6-10 y	3-5 y*	7 y	6y	4-5 y	7 y	5 y	50 y	7 y	3-6 y
A company needs to include information about employees in its administration, including name, date of birth, tax registration number and address. In addition, requests from employees to apply a wage withholding tax discount must be retained in the company's administration.	7 y*	S	-	-	10 y	6-10 y	5 y	7 y	3 y - D+7 y	4-5 y	5 y	5 y	-	7 y	-
Payroll records (wages, tax and social security records, payslips, overtime compensation, bonuses, expenses, benefits in kind)	7 y*	5 y	10 y	5 y	D+4 y	6 y R	3-5 y 5 y	7 y	3 y - D+7 y	R	7 y	5 y R	50 y	7 y R	3-6 y
Severance pay records (e.g. notification to and consent of the competent authorities regarding dismissal, decisions of the court regarding dismissal, correspondence with the competent authorities regarding dismissal, outplacement records, calculations of termination payments)	7 y R	R	R	-	R	6 y R	- R	R	R		R	50 y R	-	7 y R	R

Übersicht HR-Unterlagen

DOCUMENT DESCRIPTION	COUNTRY															
	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK	
HR/EMPLOYMENT/PENSION RECORDS																
Employment contract	3-30 y	S	-	R	D+4 y	D+10 y*	5 y*	3-5 y*	D+7 y*	10 y*	7 y	50 y	10 y	7 y	D+6 y	
Identification documents of foreign nationals	3-30 y	D+1 y* R	1 y	R	D+4 y	4 y	-	-	D+7 y*	10 y*	5 y	-	-	-	2 y	
Business data and documents concerning pension schemes and related subjects Administration regarding pension scheme (by pension administrator and pension association)	7 y	D* 5 y	6 y	5 y	4 y	6-10 y	5 y*	5 y	P	10 y*	7 y	- 50 y	10 y	7 y	6 y	
Pension plans and schemes, career and talent development programmes, diversity programmes, other HR policies (e.g. alcohol and drugs policy, HIV/AIDS policy, personnel handbook), social plans	3-7 y	D*	-	5 y R	4 y	10 y / 10 y- P* R	5 y*	5 y	P	10 y*	-	-	-	-	6 y	
Data of rejected job applicants (e.g. application letters, CVs, references, certificates of good conduct, job interview notes, assessment and psychological test results)	R	R	R	R	3 y R	2 y - P* R	2 y*	X	12m	R	4 wks -1y	R	-	R	6 m*	
Data concerning a temporary worker	3-7 y R	5 y R	2 y R	R	D+4 y R	R	D*	5 y R	D+18 m R	R	2 y	50 y R	-	R	D+6 y	
Reports on employee performance review meetings and assessment interviews (e.g. evaluations, employment application forms of successful applicants, copies of academic and other training received, employment contracts and their amendments, correspondence concerning appointment, appraisals, promotions and demotions, agreements concerning activities in relation to the works council, references, and sick leave records)	3-7 y R	D+1 y* R	R	R	D+4 y R	2 y - P* R	- D*	5 y* R	D+7 y R	R	2 y	50 y R	-	R	D+6 y	
Employee stock purchase and options records	3-7 y R	5 y R	R	R	D+4 y R	P* R	-	5 y R	P R	R	2 y	-	-	7 y R	S	
Copies of identification document	3-30 y R	D+1 y* R	R	R	D+4 y R	R	5 y*	X	D+7 y R	R	5 y 2 y	5 y R	-	R	2 y D+6 y	
Expats records and other records relating to foreign employees (e.g. visa, work permit)	3-30 y R	D+1 y* R	R	R	D+4 y R	4 y R	5 y* 5 y*	D R	S R	R	2 y	5-50 y R	-	R	2 y D+6 y	
Data concerning pension and early retirement	7 y R	D+1-3 y* R	6 y R	5 y R	D+4 y R	10 y* R	5 y	5 y R	P R	R	7 y 2 y	50 y R	10 y	7 y R	6 y	

Übersicht Medizin & Transport Unterlagen

DOCUMENT DESCRIPTION	COUNTRY														
MEDICAL/SAFETY RECORDS	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK
Medical (occupational health & safety company doctor) files; medical documents in cases of a medical treatment contract	30 y	15-40 y	10 y	10 y	P+5y R	S S	X	30 y	D+7 y 40 y*	P	15 y	20-50 y	D	-	S R
Floor plans and directions	-	-	-	-	R+5 y R	R	5 y	R	P	10 y*	R	2 y	50 y	-	S
Work-related medical examinations related to hazardous substances	-	30-40 y	40 y	40 y	P+5 y R	-	X	30 y	40 y - P	D	40 y	50 y	40 y	10 y	40 y
List of employees who have worked under dangerous conditions or whose health has otherwise been under threat	-	-	-	-	P+5 y R	-	P*	50 y*	S	D+ 10 y*	40 y	40 y	40 y	40 y	5- 40 y
Register of employees who work with 3rd and 4th category biological agents	-	10-30 y	D D	10 y	10-40 y	40 y	10 y	-	10-40 y	D+ 10 y*	10 y	10 y	40 y	-	40 y
Lists/register of employees who have been exposed to asbestos dust	40 y	40 y	40 y	40 y	40 y	80 y	P*	50 y	40 y - P	40 y	40 y	40 y	40 y	40 y	40 y
Administration concerning measurements of radioactive substances	-	5 y	-	-	20 y	-	P*	5 y	S	D+ 10 y*	5 y	3-5 y	10 y	-	S
Records of radiation	-	30 y	30 y 100 y	-	30 y	5 y - R	P*	5 y	5 y - P	10 y*	5 y	30 y	10 y	10 y - P	S
Medical records of employees who have possibly been exposed to ionizing radiation	-	-	30 y 100 y	30 y	30 y	30 y	P*	50 y	S	30 y	30 y	30 y	40 y	30 y	5- 40 y
Registration of work and rest periods (in appropriate format)	R	R	2 y	1 y R	D+4 y R	2 y R	D*	R	3-7 y* R	R	1 y 2 y	3 y D	R	3 y R	2-3 y R
Necessary data for emergency medical care, individual reintegration plans, individual treatment agreements, degree of incapacity for work, required workplace adaptations	R	-	R	10 y R	D+4 y R	R	D*	R	D+7 y - PR	R	R	20-50 y	R	R	D+6 y

DOCUMENT DESCRIPTION	COUNTRY														
TRANSPORT RECORDS	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK
Administration regarding transport of biofuels and biofuels stock control	-	-	-	-	1-15 y	3 m - 4 y	30 y*	5 y	6y	-	7 y	5 y	5-10 y	-	S
Loading or unloading plan (by captain or terminal representative)	-	-	6 m	-	1-15 y	6 m	5 y*	6 m	7 y*	-	6 m	6 m	5-10 y	-	S
The captain of a ship on its way from an EU port, and the manager of the harbour it has just left, must both retain data passed onto the appropriate authorities as required by the Port Reception Facilities Directive (registration of quantity of waste and other materials on board) • Captain • Harbour manager	3 y	S	-	S 2 y	1-15 y	S	S 3 y	-	3 y	-	S 5 y	S 5 y	S 5-10 y	S 1 y	S

Übersicht Umweltschutz Unterlagen

DOCUMENT DESCRIPTION	COUNTRY														
	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK
ENVIRONMENTAL RECORDS															
Data regarding chemicals or environmentally dangerous substances, and preparations for these which a company has manufactured, imported or supplied	10 y	10 y	10 y	10 y	10 y	10 y	10 y	5 y	D	10 y	10 y	10 y	10 y	10 y	10 y
The names and addresses of the clients/buyers of the above mentioned substances and preparations	10 y	10 y	10 y	-	10 y	-	10 y	-	D	10 y	1 y	10 y	10 y	3 y	10 y
Documents related to an environmental permit	S	0-5 y	S	-	3-8 y	S	-	D+5y*	S	-	S	D	-	5-10 y	S
Registered data concerning the recycling or disposal of waste materials (waste bookkeeping)	7 y	3-5 y	3 y	5 y	3 y	6 y	3-5 y	5-10 y	S	5 y	5 y	-	3 y	3 y	S
Registered data concerning the transfer of industrial or hazardous waste to another party for collection or disposal		3-5 y	12 m	-	3 y	3 y	3-5 y	5-10 y	3 y		5 y	5 y	1 y	1 y	
Documents on results of inspections on the discharge of domestic waste water		S	3-10 y	-	3-8 y	-	30 y	-	S		-	-	-	-	
Documents containing audits on radioactivity and all results of measurements taken		30 y	-	-	20 y	D	10 y	5 y	S		5 y	3 y	-	-	
Relevant documents from the manufacturer concerning conformity assessment/statement of an energy-consuming product	10 y	S	10 y	-	10 y	10 y	10 y	-	10 y	5 y	10 y	10 y	-	10 y	10 y
Technical documentation and declaration of performance on construction products	10 y	S	10 y	10 y	10 y	10 y	10 y	10 y	6-12 y	-	5 y	10 y	10 y	10 y	10 y
The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies	-	-	-	-	4 y	-	10 y	-	P*	10 y*	7 y	5 y	10 y	-	S
Accident reports	7 y*	R	-	-	5 y	-	5 y	5 y	10 y	5 y	5 y	5 y	S	-	3 y
A copy of the documents concerning the transfer of waste materials sent by the competent authority	7 y*	S	3 y	3 y	3-20 y	3 y	3 y	5 y	S	5 y	5 y	3 y	1 y	3 y	2-3 y
Documents containing train number, date and time of checks, identified irregularities, and measures taken	7 y*	-	3 m	3 m	3 m - 10 y	3 m	3 m	-	S	-	3 m	5 y	1-3 y	3 m	3 m
The operator of a dumpsite must retain the description of the waste materials under certain circumstances	7 y*	S	R	3 y*	3-20 y	3 y	3-5 y	P	S	30 y	5 y	P	1-3 y	30 y	3-5 y
The operator of a dumpsite must retain the samples of analysis done on the collected waste materials	7 y*	S	R	3 y*	3-20 y	1 m	3-5 y	-	S	30 y	5 y	1 m	3 y	30 y	-
Written and electronic data from which information has been derived to describe the nature, quality and composition of the waste material	7 y*	3-5 y	3 y	3 y*	3-20 y	-	3-5 y	-	S	30 y	5 y	5 y	3 y	10 y	3 y
Transmission systems operators need to retain all records of quality indicators	7 y*	S	-	-	S	-	-	-	S	10 y*	10 y	45d	1 y	-	S
Technical documentation based on Directive 2000/14 of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC statement	10 y	S	10 y	10 y	10 y	10 y	10 y	-	10 y	10 y	10 y	10 y	10 y	10 y	10 y

Übersicht Versicherungen, Marketing & Einkauf/Steuer

DOCUMENT DESCRIPTION	COUNTRY														
INSURANCE RECORDS	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK
Insurance policies	3-7 y	D*	-	3 y	2-10 y	P*	2 y*	D+5 y*	6 y	10 y	7 y	3 y	10 y	-	S

LEGEND Black text: minimum retention period. Blue text: maximum retention period. *: Recommended retention period. X: Retention prohibited. D: Duration of the contract or permit. P: For the entire duration of the company and/or permanently. R: As long as required for the relevant purpose. S: Situation specific or too detailed for the scope of the summary and/or guide.

DOCUMENT DESCRIPTION	COUNTRY														
MARKETING RECORDS	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK
The use of automatic call systems without operator intervention and electronic messages for the sending of unrequested communications for commercial, non-commercial or charitable purposes is allowed, provided the sender can demonstrate that prior consent was given by the subscriber	7 y*	R	-	-	3 y R	R	3 y 3 y - D	R	R	-	-	-	R	-	-

LEGEND Black text: minimum retention period. Blue text: maximum retention period. *: Recommended retention period. X: Retention prohibited. D: Duration of the contract or permit. P: For the entire duration of the company and/or permanently. R: As long as required for the relevant purpose. S: Situation specific or too detailed for the scope of the summary and/or guide.

DOCUMENT DESCRIPTION	COUNTRY														
PURCHASING RECORDS	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK
An organisation is obliged to record all delivery of goods or services, all intra-European Community acquisitions, all import and export, and all other information relevant for VAT purposes	7 y	7 y	6-10 y	5 y	15 y	6-10 y	3 y	5 y	6 y	10 y	7 y	5 y	10 y	7 y	3-6 y
General ledger, accounts receivable department, accounts payable department, (procurement and) sales administration, inventory records	7 y	7-10 y	6-10 y	5 y	6 y	6-10 y	10 y	8 y	-	10 y	7 y	5 y	10 y	7 y	5-6 y
Procurement records	7 y	7-10 y	6-10 y	3 y	6 y	-	10 y	5 y	-	10 y	7 y	5 y	10 y	7 y	-
Debtors and creditors records	7 y R	R	6-10 y R	5 y 5 y	6 y R	6-10 y R	D	R	R	R	2 y	5 y R	5-10 y	R	R
Customers and suppliers records	7 y R	R	6-10 y R	5 y	6 y	R	D+3 y*	R	R	R	2 y	5 y R	5-10 y	R	R

Übersicht „Legal“ & andere Unterlagen

DOCUMENT DESCRIPTION	COUNTRY														
LEGAL FILES/CONTRACTS & AGREEMENTS	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK
Intellectual property records	7 y	D*	-	3 y*	P*	-	5 y	5 y	P*	-	-	3-10 y*	10 y	D*	D+6 y*
Contracts, agreements and other arrangements	7 y	D*+R	-	5 y	D+15	D+10 y-P*	5-30 y	D+5 y*	7-13 y	10 y	7 y	D+3-10 y*	10 y	D*	D+6 y*
Permits, licences, certificates	7 y	D*+R	-	3 y*	D+6 y	D+2 y*	5 y	D*	S	10 y	7 y	D+3-10 y*	10 y	D*	S
Confidentiality and non-competition agreements (if a penalty is attached to the non-competition or confidentiality clause)	-	D*+R	-	3 y*	D+15 y	D+10 y-P*	5 y	D+5 y*	7 y	10 y	20 y*	50 y	10 y	D*	D+6 y*
Legal files concerning provision of services (e.g. by lawyers, accountants, notaries, architects, brokers, veterinary surgeons, etc)	7 y	D*+R	5-10 y	3-5 y*	15 y	D+10 y-P*	-	-	6 y	10 y	5 y	2 y	10 y	D*	D+6 y*

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DOCUMENT DESCRIPTION	COUNTRY														
OTHER RECORDS	AUT	BEL	DEU	DNK	ESP	FIN	FRA	HUN	IRL	ITA	NLD	POL	ROU	SWE	UK
Correspondence	7 y	D*+R	6-10 y	3 y	6 y R	-	P*	-	-	10 y	7 y	-	10 y	-	R -
The processing of personal data, if this differs from the process as notified to the local DPA	-	7-10 y	-	-	3 y	-	D	-	-	R	3 y	-	-	-	-
Personal data of employees in network systems, computer systems, communication equipment used by employees, access controls and other internal management/administration	7-30 y R	R	R	S	D+5 y R	R	D	D	R	R	6 m	50 y R	2 y R	R	R
Login and logout data of visitors	R	R	R	R	1 m R	R	R	R	R	R	6 m	R	2 y R	R	R
Camera recordings	3 d	1m-R	R	S R	1m R	R	1m	3 d	R	R	4 w	R	2 y R	1m-R	R

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Worum handelt es sich bei der Vorgabe?	Gesetz, Verordnung, Code of Practice, ...?
Gilt dies auch im Land oder Tätigkeitsumfeld meines Unternehmens?	Unterschiedliche Rechtsräume: internationale, europäische oder national „importierte“ Gültigkeit, Gültigkeit im Land des Standortes oder nach Herkunftslandprinzip, ...
Betrifft dies abhängig von der Rechts- und Gesellschaftsform meines Unternehmens?	Form des Unternehmens, der Organisation oder der Verwaltung; Vorgabe nur für öffentliche Verwaltung, privatwirtschaftliche Unternehmen, Vereine, Einrichtungen, politische Gremien, Jurisprudenz oder aber Privatpersonen?
Wie ist mein Unternehmen betroffen?	Direkt betroffen = in jedem Fall umzusetzen Indirekt betroffen = gegebenenfalls umzusetzen Möglicherweise zutreffend = gegebenenfalls umzusetzen, ...
Wie sind die Anforderungen zu beurteilen?	Unbedingt vollständig zu erfüllen, abwägbar im Rahmen der Grundsätze der Verhältnismäßigkeit oder des Risikomanagements
Wie geht man mit widersprüchlichen Anforderungen um?	Datenschutz, konkurrierende Regelungen (man nimmt oft die umfassendste), Offenlegungsverpflichtungen, ...
In welchem Umfang sind die Regeln gültig?	Generelle, teilweise, branchenspezifische, ... Gültigkeit
Welche internen Regelungen sind zusätzlich zu berücksichtigen?	Corporate Governance, IT-Governance, Qualitätsmanagementsystem, Arbeitsanweisung, Betriebsvereinbarung, ...

Risikobewertung & Maßnahmen-Priorisierung

- nach zuständigem Bereich / Geschäft und betroffenem Rechtsraum
- nach Verbindlichkeit von
 - Gesetz
 - Verordnung
 - interner Vorgabe
- nach Geschäftstätigkeit (Lieferung von Produkten/Dienstleistungen)
 - national
 - international
- Nach Sitz / Standort / Produktionsort
 - national
 - international

Abstimmung mit		QSE	RA	RA	Revision, HR	RA, GF
Bereich		FDA GxP	Handelsrecht Steuerrecht	Zivilrecht	Datenschutz	Unternehmensrecht
International		21 CFR Part 11	OECD			
Lokale Regelungen	Europa	GxP	(e-Commerce) (elek. Signatur)	(elek. Signatur)	(Teledienste)	(Corporate Governance) (8. Direktive)
	USA	21 CFR Part 11 HIPAA	SEC 17 SOX	Tread Act Verbraucherschutz Produkthaftung		(Corporate Governance) Patriot Act
	Deutschland		HGB, AO, Änderungsgesetz Steuer 2000 GoBS, GDPdU, Verrechnungspreis, Umsatz-Steuer, (Signaturgesetz), (Signaturverordnung)	BGB, ZPO, Produkthaftung, Verbraucherschutz, Informationsfreiheitsgesetz	BDSG, Länder	KontraG, UMAC, Corporate Governance
	Schweiz		Obligationenrecht			

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Studie zu Aufbewahrungsfristen

DOCUMENT RETENTION GUIDE GERMANY 2013

A QUICK REFERENCE GUIDE TO HELP YOU BETTER UNDERSTAND LEGAL REQUIREMENTS
AND RECORDS MANAGEMENT BEST PRACTICE

PART OF THE EUROPEAN DOCUMENT RETENTION GUIDE 2013
CREATED BY DE BRAUW BLACKSTONE WESTBROEK AND IRON MOUNTAIN IN PARTNERSHIP WITH 14 LAW FIRMS

Iron Mountain in Zusammenarbeit mit Hengeler Mueller

Übersicht generelle Unternehmensunterlagen

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	GENERAL COMPANY RECORDS			
1	General obligation for retention of company accounts, books of account and records, including accounting documents, as well as operating instructions and other organisational documents necessary for interpreting these documents	Minimum 10 years	Close of calendar year in which the document was created	Sec. 257 (1) No 1 and 4, (4) Commercial Code (Handelsgesetzbuch, HGB)
2	Shareholders' resolution (copy), Articles of incorporation (copy), Shareholders' register (original), Standing orders (copy), Supervisory Board's rules of procedure (copy), Supervisory Council's Rules of procedure (copy)	No fixed period/ during the lifetime of the corporation		General considerations
	Board resolutions (copy), Boards' and shareholders' meetings minutes (copy)	Minimum 10 years (only if these documents are necessary to interpret documents listed in Sec. 257 (1) No 1 and 4 HGB)	Close of calendar year in which the document was created	Sec. 257 (1) No 1 and 4, (4) HGB
	Business correspondence (received correspondence and copies of sent correspondence)	Minimum 6 years	Close of calendar year in which the document was created	Sec. 257 (1) No 2 and 3, (4) HGB
3	Financial statements, audit reports, commercial books and records, inventories, opening balance sheets, annual financial statements, management reports, consolidated financial statements, consolidated management reports, profit-and-loss accounts etc	Minimum 10 years	Close of calendar year in which the document was created	Sec. 257 (1) No 1, (4) HGB
4	Profit and loss accounts	Minimum 10 years	Close of calendar year in which the document was created	Sec. 257 (1) No 1, (4) HGB
5	Records and documents of the dissolved legal entity	Minimum 10 years	Conclusion of the liquidation proceedings	Stock Companies (AG): Sec. 273 (2) Stock Corporation Act (Aktiengesetz, AktG) Limited Liability Companies (GmbH): Sec. 74 (2) Limited Liability Companies Act (GmbH-Gesetz, GmbHG) Limited partnerships (KG) and general partnerships (OHG): Sec. 157 (2) HGB
6	Membership records in a cooperative association (original)	Minimum 3 years	Close of calendar year in which the member left the cooperative association	Sec. 30 Act on Cooperative Associations (Genossenschaftsgesetz, GenG)
7	Subsidy records and documents			

Übersicht Buchhaltungs- und steuerrelevante Unterlagen

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	TAX AND ACCOUNTING RECORDS			
	GENERAL TAXES			
8	<p>General obligation of taxpayers to provide (upon request of the tax inspector) all information that may be relevant to their tax position, including all books, records and other data carriers, inventories, financial statements, management reports, opening balance sheets and related information, business correspondence, accounting records, certain customs documents as well as any other document relevant for the taxation</p> <p>Keeping an administration, including books, records and other data carriers from which the taxpayer can at all times show their rights and obligations in the interest of levying taxes</p> <p>Organisations are obliged to provide the tax inspector (only upon request) with information relevant to the tax liabilities of third parties</p> <p>In cases where an organisation is legally required to withhold tax payments to third parties (e.g. VAT), these organisations may also be required to provide, on their own initiative, the tax authorities with information about these third parties</p>	<p>Minimum 6 resp. 10 years - depending on the document (10 years for books, records and other data carriers, inventories, financial statements, management reports, opening balance sheets and related information, accounting records and certain customs documents; 6 years for all other documents relevant for the taxation)</p>	<p>Close of calendar year in which the document was created or last amended</p>	<p>Article 8 Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code</p> <p>Sec. 147 (1), (4) Fiscal Code (Abgabenordnung, AO)</p>
	VAT			
9	Information relevant for VAT purposes, specifically invoices for any delivery of goods or services sent and received	Minimum 10 years ¹	Close of calendar year in which the invoice was issued	Sec. 14b Act on Value Added Tax (Umsatzsteuergesetz, UStG)
10	Obligation to keep records and other data carriers relating to the ownership of real estate and rights relating thereto			
	CORPORATE INCOME TAX			
11	Taxpayers' obligation to have available all information that deals with intra-group price setting, so that the Tax Authorities can check transfer prices and other conditions agreed upon in intra-group transactions			

Übersicht Steuer- und Gehaltsunterlagen

DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
TAX AND ACCOUNTING RECORDS			
DIVIDEND WITHHOLDING TAX			
12	Obligation to have an administration showing the payment of dividends, and the obligation to issue dividend notes		
GENERAL CUSTOMS TAX			
13	Keep an administration as per the requirements set out in the General Customs Act, including books, records and other data carriers. General obligation of taxpayers to provide (upon request of the customs authority) all information which may be relevant to them, including making available all books, records and other data carriers		
LOCAL TAXES			
14	Regional and municipal taxes	Local taxes and related obligations vary from Federal State to Federal State and from municipality to municipality	
DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
PAYROLL AND SALARY RECORDS			
15	The withholding agent (generally the employer) must keep an administration of wages, including tax-exempt reimbursements as well as social security records, pay slips, overtime compensation, bonuses, expenses, benefits in kind and severance pay records	Minimum 10 years	Close of calendar year in which the document was created
	Salary account (Lohnkonto) including employee data relevant for the salary payment	Minimum 6 years	Last entry of salary payment
	Record of daily working hours of seconded/borrowed workers who benefit from minimum wages (Mindestlöhne)	Minimum 2 years	Creation of the records
16	A company needs to include information about employees in its administration, including name, date of birth, tax registration number and address. In addition, requests from employees to apply a wage withholding tax discount must be retained in the company's administration		
	A company needs to have included copies of valid IDs of employees in its administration before the employees start working for the employer		
TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
17	Payroll records (wages, tax and social security records, payslips, overtime compensation, bonuses, expenses, benefits in kind)	No specific maximum retention period, general rules apply	
	Severance pay records	Minimum retention period: see section 15	

Übersicht HR-Unterlagen

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
HR/EMPLOYMENT/PENSION RECORDS				
18	Employment contract Various information on employees relevant for payment of social security contributions	Minimum 1 year	Close of calendar year of audit by social security administration	Sec. 28f Social Security Code IV (Sozialgesetzbuch IV, SGB IV) Sec. 8 Regulation on Contribution Proceedings (Beitragsverfahrensverordnung, BVV)
19	Identification documents of foreign nationals (copy)	Minimum 1 year	Close of calendar year of audit by social security administration	Sec. 28f Social Security Code IV (Sozialgesetzbuch IV, SGB IV) Sec. 8 Regulation on Contribution Proceedings (Beitragsverfahrensverordnung, BVV)
20	Business data and documents concerning pension schemes and related subjects (data on the employer's business pension obligations relevant for the insolvency insurance)	Minimum 6 years		Sec. 11 Act on Business Pensions (Gesetz über die betriebliche Altersversorgung, BetrAVG)
21	Pension plans and schemes, career and talent development programmes, diversity programmes, other HR policies (e.g. alcohol and drugs policy, HIV/AIDS policy, personnel handbook), social plans			
TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES				
22	Data of rejected job applicants, (e.g. application letters, CVs, references, certificates of good conduct, job interview notes, assessment and psychological test results)	No specific maximum retention period, general rules apply		
23	Data concerning a temporary worker	No specific maximum retention period, general rules apply. Minimum retention period: see section 15.		
24	Reports on employee performance review meetings and assessment interviews (e.g. evaluations, employment application forms of successful applicants, copies of academic and other training received, employment contracts and their amendments, correspondence concerning appointment, appraisals, promotions and demotions, agreements concerning activities in relation to the works council, references and sick leave records)	No specific maximum retention period, general rules apply		
25	Employee stock purchase and options records	No specific maximum retention period, general rules apply		
26	Copy of identification documents	No specific maximum retention period, general rules apply. No specific minimum retention period. See section 19.		
27	Expats records and other records relating to foreign employees (e.g. visa, work permit)	No specific maximum retention period, general rules apply		
28	Data concerning pension and early retirement	No specific maximum retention period, general rules apply. Minimum retention period: see section 20.		

Übersicht Medizin & Sicherheit

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	MEDICAL/SAFETY RECORDS			
29	Medical files, medical documents in cases of a medical treatment contract Records on X-ray treatments X-rays	Minimum 10 years Minimum 30 years Minimum 10 years	After termination of the treatment The date of the last treatment	Various professional codes of conduct Sec. 28 (1), (3) Regulation on X-ray (Röntgenverordnung, RöV)
30	Floor plans and directions			
31	Work-related to hazardous substances	Minimum 40 years	End of exposure	Sec. 14 (3) No 3 and 4 Ordinance on Hazardous Substances (Gefahrstoffverordnung, GefStoffV)
32	List of employees who have worked under dangerous conditions or whose health has otherwise been under threat			
33	Register of employees who work with 3rd and 4th category biological agents	Minimum: at least until termination of employment. Maximum: after termination only a copy of the relevant excerpt be handed to the employee.	Creation of the records	Sec. 13 (4) Regulation on Biological Agents (Biostoffverordnung, BioStoffV)
34	Lists/register of employees who have been exposed to asbestos dust	Minimum 40 years	End of exposure	Sec. 14 (3) No 3 and 4 Ordinance on Hazardous Substances (Gefahrstoffverordnung, GefStoffV)
35	Administration concerning measurements of radioactive substances			
36	Records of radiation	Minimum 30 years. Maximum 100 years.	Termination of the employment. Birth.	Sec. 42 Radiological Protection Ordinance (Strahlenschutzverordnung StrlSchV)
37	Medical records of employees who have possibly been exposed to ionizing radiation	Minimum 30 years. Maximum 100 years.	Termination of the relevant activity. Birth.	Secs. 64 (3), 103 (aircrews) StrlSchV
	TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES			
38	Registration of work and rest periods (in appropriate format) for professional drivers	No specific maximum retention period, general rules apply. Minimum retention period: 2 years.	Creation of the records	Sec. 21a (7) Working Hours Act (Arbeitszeitgesetz, ArbZG)
39	Necessary data for emergency medical care, individual reintegration plans, individual treatment agreements, degree of incapacity for work, required workplace adaptations	No specific maximum retention period, general rules apply		

Übersicht Transport Unterlagen

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	TRANSPORT RECORDS			
40	Administration regarding transport of biofuels and biofuels stock control			
41	Loading or unloading plan (by captain or terminal representative)	Minimum 6 months	Creation of the records/date of loading or unloading	See the relevant provisions of the Federal States (Länder) Acts, such as Sec. 24 (4) Harbour Act of Lower Saxony (Niedersächsische Hafenordnung, NHafenO)
42	The captain of a ship on its way from an EU port, and the manager of the harbour it has just left, must both retain data passed onto the appropriate authorities as required by the Port Reception Facilities Directive (registration of quantity waste and other materials on board)		Creation of the records	See e.g. the Act on the Prevention of Pollution from Ships of Hamburg (Hamburgisches Gesetz über Schiffsabfälle und Ladungsrückstände, HmbSchEG)

Übersicht Umwelt (1)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	ENVIRONMENTAL RECORDS			
43	Data regarding chemicals or environmentally dangerous substances, and preparations for these which a company has manufactured, imported or supplied	Minimum 10 years	Last date of manufacture, import, supply or use of the substance or preparation	Art. 36 paragraph 1 of Regulation 1907/2006/EC (REACH) Article 49 Regulation 1272/2008/EC on classification, labelling and packaging of substances and mixtures
	Updated list of dangerous substances	No specific minimum retention period applies	Creation of the records	Sec. 9 (2), Annex II of 12th Regulation on Emission Control (12. Bundesimmissionsschutzverordnung, BImSchV)
	Data on transactions of energy suppliers on the purchase of energy	Minimum 5 years	Creation of the records / date of transaction	Sec. 5a (1) EnWG
44	The names and addresses of the clients/buyers of the above mentioned substances and preparations	Minimum 10 years	Last date of supply of the substance or mixture	Article 49 of the Regulation No 1272/2008 on classification, labelling and packaging of substances and mixtures
45	Documents related to an environmental permit	The permit may contain an obligation to retain the permit and the corresponding documents. However, a permit should be kept in order to preserve evidence of the rights granted under the permit.		
	Data regarding emissions, monitoring and repairs and documents necessary for interpreting the documents if the permit holder is operator of a plant which needs a permit according to the Federal Emission Control Act (Bundesimmissionsschutzgesetz, BImSchG)	Minimum 5 years Minimum 4 years Minimum 5 years	Once the data is obtained Once the data is obtained Once the data is obtained	Sec. 31 BImSchG (measurements on authority's request) Sec. 5 (2) 11th Regulation on Emission Control (11. Bundesimmissionsschutzverordnung, BImSchV) (emission declarations for certain categories of emissions) Sec. 12 (2) 12th BImSchV (documents on prevention of emergencies in highly dangerous facilities)

Übersicht Umwelt (2)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	ENVIRONMENTAL RECORDS			
46	Registered data concerning the recycling or disposal of waste materials (waste bookkeeping)	Minimum 3 years	Once the waste materials are registered pursuant to Sec. 49 Closed Substance Cycle Act (Kreislaufwirtschaftsgesetz, KrWG)	Sec. 49 (1),(3),(5) KrWG
	Registered data concerning the transfer of industrial or hazardous waste to another party for collection or disposal	Minimum 12 months		Sec. 49 (1),(3),(5) KrWG
	Documents on results of inspections on the discharge of domestic waste water	Depending on the Federal State: 3 years in North Rhine-Westphalia; 10 years in Brandenburg	Once the data is obtained	Since the Federal States have the legislative power on issue, see the Water Acts of the Federal States, e.g. Sec. 60 (4) Water Act of North Rhine-Westphalia (Landeswassergesetz, LWG); Sec. 75 Water Act of Brandenburg (Wassergesetz, BdbWG)
	Documents containing audits on radioactivity and all results of measurements taken			
47	Relevant documents from the manufacturer concerning conformity assessment/ statement of an energy-consuming product	Minimum 10 years	Termination of production of product	Sec. 4 (6) Act on energy related products (Energieverbrauchsrelevante-Produkte-Gesetz, EVPG)
	Manufacturers of electronic products need to keep information regarding the recycling of their products (materials) for recycling facilities. This obligation only exists if this information is necessary for the compliance with the provisions of the Electrical and Electronic Equipment Act	Minimum 1 year	Once the product is placed on the market	Sec. 13 (6) Electrical and Electronic Equipment Act (Elektro- und Elektronikgerätegesetz, ElektroG)
48	Technical documentation and declaration of performance on construction products	Minimum 10 years	Once the product is placed on the market	Article 11 paragraph 2 Regulation (EU) No 305/2011, laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (applicable from 1 July 2013)
49	The recipient of subsidies for clean-up operations must retain administration regarding the rights and obligations, and receipts and payments, related to those subsidies			
	Records on soil and water investigations by the owner on an authority's request if the site is potentially hazardous or contaminated	Minimum 5 years; longer if required in individual cases	Creation of the records	Sec. 15 (3) Federal Soil Protection Act (Bundesbodenschutzgesetz, BBodSchG)
	Copies of applications, notifications, examinations and testing pursuant to the provisions of the Act on Chemicals	Minimum 5 years	Following the last time the substance is produced or placed on the market	Sec. 20 (5) Act on Chemicals (Chemikaliengesetz, ChemG)
50	Accident reports			

Übersicht Umwelt (3)

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	ENVIRONMENTAL RECORDS			
51	A copy of the documents concerning the transfer of waste materials sent by the competent authority	Minimum 3 years	Once shipment starts	Article 20 of the Regulation (EC) No 1013/2006 on Shipments of Waste
52	Documents containing train number, date and time of checks, identified irregularities, and measures taken	Minimum 3 months	Once transport is accomplished	Section 5.4.4.1 European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) Section 5.4.4.1 Regulation concerning the International Carriage of Dangerous Goods by Rail (RID)
53	The operator of a dumpsite must retain the description of the waste materials under certain circumstances	Until the end of the maintenance period	Creation of the records	Sec. 13 (3) Dumpsite Regulation (Deponieverordnung, DepV)
54	The operator of a dumpsite must retain the samples of analysis done on the collected waste materials	Until the end of the maintenance period	Creation of the records	Sec. 13 (3) DepV
55	Written and electronic data from which information has been derived to describe the nature, quality and composition of the waste material	Minimum 3 years	Once the waste materials are registered pursuant to Sec. 49 (1) KrWG	Sec. 49 (1), (3), (5) KrWG
56	Transmission systems operators need to retain all records of quality indicators			
57	Technical documentation based on Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors and EC statement	Minimum 10 years	Date of manufacturing the last machine of one type	Sec. 5 of 32th BImSchV (Geräte- und Maschinenlärmschutzverordnung, 32. BImSchV)

Übersicht Versicherungen, Marketing & Einkauf/Steuer

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	INSURANCE RECORDS			
58	Insurance policies			

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	MARKETING RECORDS			
59	The use of automatic call systems without operator intervention and electronic messages for the sending of unrequested communications for commercial, non-commercial or charitable purposes is allowed, provided the sender can demonstrate that prior consent was given by the subscriber			

	DOCUMENT DESCRIPTION	RETENTION PERIOD	START OF THE RETENTION PERIOD	RELEVANT LEGAL PROVISION
	PURCHASING RECORDS			
60	An organisation is obliged to record all delivery of goods or services, all intra-European Community acquisitions, all import and export, and all other information relevant for VAT purposes	See General Company Records and Tax and Accounting Records above		
61	General ledger, accounts receivable department, accounts payable department, (procurement and) sales administration, inventory records	See General Company Records and Tax and Accounting Records above		
62	Procurement records	See General Company Records and Tax and Accounting Records above		
TYPE OF DOCUMENTS LIKELY TO BE ALSO SUBJECT TO A MAXIMUM RETENTION PERIOD BASED ON DATA PROTECTION RULES				
63	Debtors and creditors records	No specific maximum retention period, general rules apply. Minimum retention period: see General Company Records and Tax and Accounting Records above.		
64	Customers and suppliers records	No specific maximum retention period, general rules apply. Minimum retention period: see General Company Records and Tax and Accounting Records above.		

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Jahressteuergesetz 2013

- am 17.01.2013 **abgelehnt**
- Aufbewahrungsfristen
 - ab 2013 auf 8 Jahre
 - ab 2015 dauerhaft auf 7 Jahre
- Betrifft Rechnungen und Belege nach § 147 AO, § 257 HGB und § 14 b UStG
- **Ausnahmen**

Abweichend von der Aufbewahrungsfrist von 8 bzw. 7 Jahren macht das HGB Einschränkungen. Sofern bestimmte Unterlagen handels- und gesellschaftsrechtlich bedeutend sind, gilt für diese auch nach 2013 eine Aufbewahrungspflicht von 10 Jahren.

Die Verkürzung der Aufbewahrungsfrist auf 8 bzw. 7 Jahre betrifft folgende Unterlagen:

- Bücher und Aufzeichnungen, Inventare.
- Jahresabschlüsse, Lageberichte, die Eröffnungsbilanz.
- Arbeitsanweisungen und sonstige Organisationsunterlagen, die zum Verständnis der vorgenannten Unterlagen erforderlich sind.
- Buchungsbelege.
- Unterlagen, die einer mit Datenverarbeitungsmitteln abzugebenden Zollanmeldung beizufügen sind. Das gilt, sofern die Zollbehörden auf ihre Vorlage verzichtet oder sie die Belege nach erfolgter Vorlage zurückgegeben hatten.

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„Grundsätze zur ordnungsmäßigen Führung und Aufbewahrung von Büchern, Aufzeichnungen und Unterlagen in elektronischer Form sowie zum Datenzugriff“

- Zweiter Entwurf Juni 2013: <http://bit.ly/GoBD2>

Kritisiert von der Wirtschaft:

- BITKOM lehnt den Alleingang der Finanzverwaltung bei der elektronischen Buchführung ab und sieht zusätzliche Kosten und neue Bürokratie auf die Unternehmen zukommen
- Wirtschaftsprüfer sehen die Rechtslage deutlich verschärft und dies einseitig zu Lasten des Steuerpflichtigen
- Steuerberater fordern eine umfassende Überarbeitung des Entwurfs

- Löst GoBS und GDPdU ab und beseitigt dabei zugleich Divergenzen zwischen den beiden älteren Verordnungen
- Berücksichtigt den aktuellen Stand der Technik
- Soll Klarheit schaffen und Rechtssicherheit herstellen

1. Anwendungsbereich und Begrifflichkeiten
2. Verantwortlichkeit
3. Allgemeine Anforderungen
4. Belegwesen (Belegfunktion)
5. Aufzeichnung der Geschäftsvorfälle in zeitlicher Reihenfolge und in sachlicher Ordnung (Grundaufzeichnungen, Grundbuch-, Journal- und Kontenfunktion)
6. Internes Kontrollsystem (IKS)
7. Datensicherheit
8. Unveränderbarkeit, Protokollierung von Änderungen
9. Aufbewahrung
10. Nachvollziehbarkeit und Nachprüfbarkeit
11. Datenzugriff
12. Zertifizierung und Software-Testate
13. Anwendungsregelung

- Belegwesen (Belegfunktion)
- Aufzeichnung der Geschäftsvorfälle in zeitlicher Reihenfolge und in sachlicher Ordnung
- Internes Kontrollsystem (IKS)
- Datensicherheit
- Unveränderbarkeit, Protokollierung von Änderungen
- Aufbewahrung
- Nachvollziehbarkeit und Nachprüfbarkeit
- Datenzugriff
- Zertifizierung und Software-Testate

Belegwesen (Belegfunktion)

- Neu: Regelungen zur Belegsicherung gegen Verlust von Informationen, zur Zuordnung zwischen Belegen und Grundaufzeichnungen oder Buchungen und zur erfassungsgerechten Aufbereitung der Buchungsbelege.
- Zu jedem Geschäftsvorfall müssen eine eindeutige Belegnummer, der Buchungsbetrag oder Mengen- und Wertangaben, die Währungsangabe, der Buchungstext, das Buchungsdatum, die Buchungsperiode und der Verantwortliche angegeben werden.

Aufzeichnung der Geschäftsvorfälle in zeitlicher Reihenfolge und in sachlicher Ordnung

- Keine großen Änderungen gegenüber GoBS

Datensicherheit

- Regelungen sind kürzer als in GoBS und gehören zum Teil Verfahrensdokumentation

Unveränderbarkeit, Protokollierung von Änderungen

- Bessere Übersichtlichkeit als in GoBS, da zentral an einer Stelle (Tz. 8) aufgeführt

Aufbewahrung

- Regelungen aus GoB und GDPdU zusammengeführt in GoBD, Tz. 9
- Nach steuerlichen Vorschriften zu führenden Bücher und sonstigen erforderlichen Aufzeichnungen können nach § 146 Abs. 5 A0 auf Datenträgern geführt werden, soweit Form und Verfahren stimmen
- Daten der Finanz-, der Anlagen- und der Lohnbuchhaltung sowie andere, steuerlich relevante Daten für den Datenzugriff zur Verfügung zu halten

Nachvollziehbarkeit und Nachprüfbarkeit

- Eigener Abschnitt GoBD, Tz. 10 anstelle von verstreuten Regelungen in GoBS
- Kernabschnitt ist GoBD, Tz.10.1 Verfahrensdokumentation, der die Bestandteile dieser Dokumentation festlegt und Ordnungsmäßigkeitsvorschriften aufgibt. Zudem läuft die Aufbewahrungsfrist für die Verfahrensdokumentation nicht ab, soweit und solange die Aufbewahrungsfrist für die Unterlagen noch nicht abgelaufen ist, zu deren Verständnis sie erforderlich ist.

Datenzugriff

- Methoden des Datenzugriffs entsprechen denen der GDPdU
- Neu: *„Enthalten elektronisch gespeicherte Datenbestände, z.B. nicht aufzeichnungs- und aufbewahrungspflichtige, personenbezogene oder dem Berufsgeheimnis (§ 102 AO) unterliegende Daten, so obliegt es dem Steuerpflichtigen oder dem von ihm beauftragten Dritten, die Datenbestände so zu organisieren, dass der Prüfer nur auf die aufzeichnungs- und aufbewahrungspflichtigen Daten des Steuerpflichtigen zugreifen kann. Dies kann z.B. durch geeignete Zugriffsbeschränkungen erfolgen.“*

Zertifizierung und Software-Testate

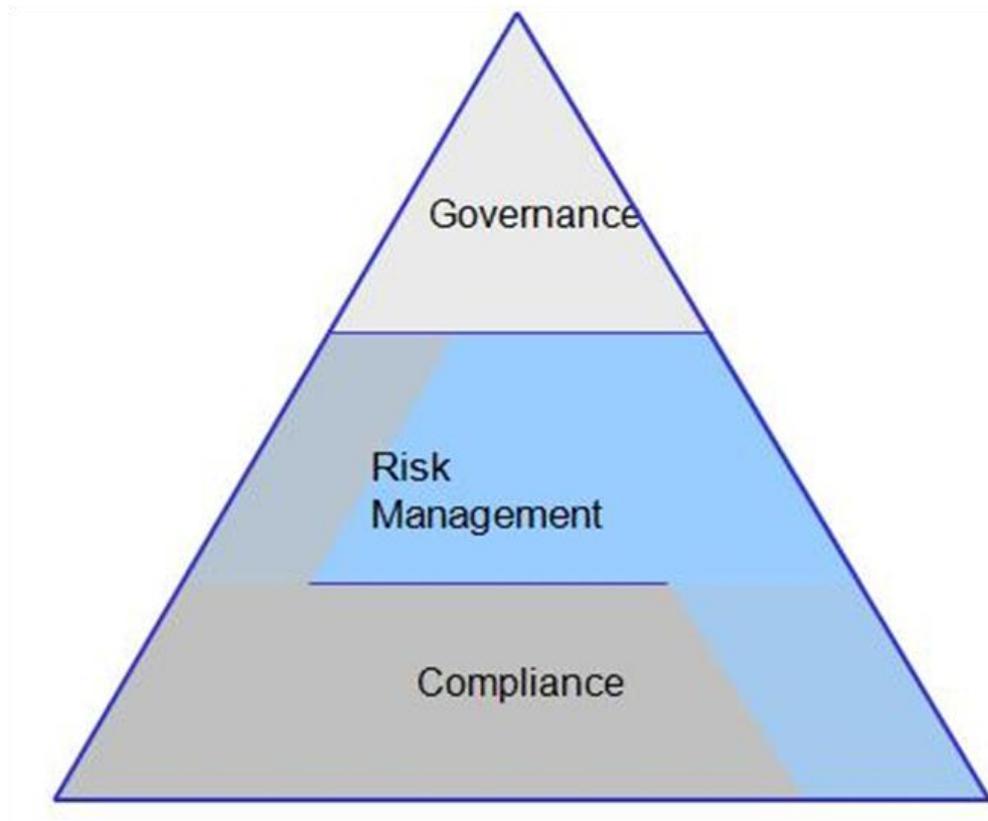
- Weder in GoBS noch in GDPdU geregelt
- Keine Erteilung von Positivtestate zur Ordnungsmäßigkeit der Buchführung im Rahmen einer steuerlichen Außenprüfung oder im Rahmen einer verbindlichen Auskunft
- Keine Bindungswirkung von „Zertifikaten“ oder „Testaten“ Dritter gegenüber der Finanzbehörde

	GoBS	GDPdU	GoBD
Geltungsbereich	HGB/AO	Steuergesetze	HGB/AO+ Steuergesetze
HGB-relevant	Ja	Nein	Ja
Steuer-relevant	Ja	Ja	Ja
Zoll-relevant	(Jein)	Ja	Ja
Aufbewahrungspflicht	Ja	Ja	Ja
Aufbewahrungsfrist	7+laufend/ 10+laufend	10+laufend	siehe Änderungen JStG2013
Aufbewahrungsform			
Daten	Ja	Ja	Ja
Dokumente	Ja	(Jein)	Ja
Auswertbar	Nein	Ja	Ja
Zugriff durch Prüfer	Ja	Ja	Ja
Verfahrensdokumentation	Ja	Nein	Ja

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GRC vereinigt die Disziplinen Corporate Governance, Risikomanagement und Compliance als durchgängiges Vorgehensmodell.



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Vielen Dank!

26.11.2013

Records Management Fachtag 2013

Hans-Günther Börgmann

Es hat uns Spaß gemacht!

Dr. Ulrich Kampffmeyer

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Präsentation, weitere Informationen...

www.PROJECT-CONSULT.com

PDF-Handout: <http://bit.ly/Kff-HGB>

Die Unterlagen sind ausschließlich zur persönlichen, privaten, nicht-kommerziellen Nutzung vorgesehen.

