

# Private archives and emerging issues in the regulation of records management

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**Abstract:** *Vietnam is entering a new stage of development - the nation's rising era. These profound transformations are not only reflected in development indicators but are also sustainably preserved in archival records. These documents contain valuable practical, scientific, and historical information, contributing to a deeper understanding of contemporary social dynamics. However, the current legal framework and management mechanisms for private sector archives remain inadequate, failing to meet practical needs. This article focuses on the emerging issues in this field and proposes several solutions to concretize and improve the implementation of archival law. These measures aim to enhance the value and effectiveness of these important resources in support of the country's sustainable development.*

**Keywords:** *Private archives; issues in private archiving; regulatory improvement; records management; private organizations.*

## 1. Introduction

The existence and operations of private organizations - particularly private economic entities - play a crucial role in the functioning and development of society as a whole and the national economy in particular. In the current context, where the Government has identified the private economic sector as one of the key pillars of national development, the role of this sector is increasingly recognized and emphasized. Consequently, the development of a private archival system, serving to supplement and enrich the composition of the Vietnamese National Archives, has become an inevitable trend. More

importantly, private archival materials profoundly reflect the participation of organizations and individuals outside the network of mass organizations mandated by the Party and the State, thereby accompanying the nation's transformation and contributing to sustainable national development.

In any country, private archives are regarded as an essential component of the national archives, as they preserve crucial information related to socio-economic development and the contributions of private organizations, individuals, families, lineages, and communities to the nation. Among these, records from private organizations represent

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a significant portion and possess substantial value in promoting social development. Therefore, the management, preservation, and effective exploitation of this archival resource are of utmost importance in serving the country's present and future socio-economic advancement. This article addresses the issue of Private archives and the regulatory challenges associated with their management.

## **2. Overview of private archival records**

Although the Law on Archives of 2011 (and its preceding regulations) did not contain a specific chapter or explicit definition of "private archives" as the 2024 Law on Archives (effective from July 1, 2025) does, both versions of the law define archival records as documents generated in the activities of agencies, organizations, individuals, families, lineages, and communities under various socio-political regimes. These are valuable records produced during practical activities, regardless of their origin, period, or production technique.

The 2024 Law on Archives specifically regulates private archival records in Clause 4, Article 9, which includes (1) Records generated from the activities of individuals, families, lineages, and communities; (2) Records produced by social organizations and socio-professional organizations that are not subject to Point d, Clause 3, Article 9; (3) Records generated from the activities of non-governmental organizations and economic organizations that are not state-owned enterprises.

Private archives (or private archival records) refer to archival materials created and preserved by individuals, families, lineages, communities, and organizations that are not mass organizations assigned tasks by the Party or the State. Accordingly, private archival records refer to documents that originate from the operations of private organizations (which

do not utilize state budget funds), as well as from individuals, families, and lineages. These records are the legal property of the aforementioned entities and individuals. Based on the content of the Law on Archives, private archival records can be categorized into two main groups: (1) Records of private organizations and (2) Records of individuals, families, and lineages.

### *2.1. Quantity, content, composition, and value of private archival records*

Firstly, in terms of quantity, private archival records are undeniably abundant. Although no precise statistics are currently available, and the task of collecting such data faces numerous challenges, it is evident that the volume is substantial. According to the Ministry of Planning and Investment (2024), now under the Ministry of Finance, the number of non-state enterprises operating in 2022 alone reached 710,664. Additionally, statistics from the General Statistics Office indicate that, in the first six months of 2024, nearly 119,600 enterprises nationwide either registered as new entities or resumed operations (Ministry of Finance, 2024). Beyond enterprises, there exists a vast number of individuals and non-state-funded organizations and associations to which the Party or the State does not assign mandates. These include political and social associations, professional associations, humanitarian and social organizations, economic associations, and religious institutions, among others. These entities have generated, and continue to generate, a large volume of documents, many of which hold significant value and should be preserved for research and socio-economic development.

The chart below illustrates the number of private organizations likely to generate archival records, including non-state enterprises, newly established or reactivated businesses, and non-state-funded social

organizations, associations, and religious institutions. The chart underscores the large scale of the private sector - a significant source of potentially valuable archival material that requires practical preservation and management.

*Secondly*, regarding the composition of private archival records. Given the diverse scope of activities and the vast number of private organizations, as previously noted, the composition of archival records in the private sector is correspondingly diverse. These records can be categorized into several fundamental groups as follows:

(1) Records on organizational structure and human resources: These include documents such as establishment decisions, organizational charters, capital contribution agreements, business registration certificates (for economic organizations), seal registration forms, recruitment documents, labor contracts, hiring decisions, personal resumes, certified diplomas and certificates, and other personnel-related files.

(2) Administrative and accounting records: These reflect the organization's management, operations, and governance, including administrative documents, decisions, official letters, correspondence, financial accounting records, income and expenditure ledgers, invoices, audit reports, production and business data, payroll books, and staff classification records, among others.

(3) Professional and operational records: This group includes organizational development programs, plans, and strategies; project proposals and documents; product and service research files; production formulas; periodic and ad-hoc reports; technical correspondence; and documents reflecting business outcomes. These materials are often extensive and rich in content, clearly demonstrating the organization's professional activities.

*Thirdly*, regarding the content of private archival records: Given the quantity and composition of records as discussed, the content of archival materials generated by private organizations is highly diverse and multidimensional. Specifically:

(1) For economic organizations, the records contain comprehensive information related to organizational structure and personnel, planning and finance, investment and infrastructure development, cooperation, production and business operations, as well as industry-specific professional activities.

(2) For political-social and socio-professional associations, the records reflect their roles in unifying, mobilizing, and educating members to fulfill their responsibilities and obligations to the nation. They also document participation in policy-making and legal consultation processes related to social development and governance.

(3) For social and humanitarian associations, the records document their contributions to poverty alleviation, addressing social issues, promoting socio-economic development, strengthening national solidarity, and encouraging member participation in volunteer programs to support disadvantaged and vulnerable groups.

(4) For economic associations and trade organizations, the records offer valuable insights into coordination efforts aimed at resolving production and business challenges, establishing cooperative relationships, providing mutual support, managing commercial disputes, and overcoming technical barriers to economic integration.

*Fourthly*, the value of private archival records can be assessed from the following perspectives:

(1) Practical value: Generated directly from organizational activities, private archival records offer a direct reflection of internal

operations. They serve as a reliable resource for management and evaluation, helping organizations assess past performance, identify strengths and weaknesses, and promote sustainable development. These records also serve as the most trustworthy source of evidence in internal governance and external dealings, aiding government inspections and audits, as well as helping organizations protect their legal rights and interests in the face of disputes or unfavorable circumstances.

(2) Scientific value: Private archival records may contain inventions, innovations, and research works with significant practical utility, directly contributing to socio-economic development. These may include high-value scientific and technological products that foster innovation. From this perspective, private archives may yield immeasurable scientific and economic benefits.

(3) Historical value: Private archival records chronicle the establishment and evolution of private organizations over time. They reflect the operational context, policy implementation, economic development mechanisms, and contributions of the private sector to national progress. As a rich and diverse source of historical information, these records are vital for studying both the development of individual organizations and broader socio-economic trends in specific historical periods.

## *2.2. International experiences in managing private archival records*

In the context of globalization and digital information, many countries have prioritized the improvement of legal frameworks and support mechanisms for managing records created by private organizations and individuals. In the United States, although there is no unified law specifically governing private archives, nonprofit organizations, research institutions, and universities typically

adhere strictly to the standards set by the Society of American Archivists (SAA). The government encourages cooperation between the private sector and public archival institutions, primarily through donation programs or shared custody arrangements.

In France, the archival law allows state agencies to require the deposit of records created by private organizations if those organizations receive public funding or generate materials of public interest. Private records with significant historical or cultural value may be designated as “national archives” and are subject to special oversight for preservation purposes.

Japan is one of the leading countries in encouraging private enterprises to establish corporate archives to support governance, branding, and the preservation of corporate cultural value. Although the government does not interfere with the ownership of such records, it provides technical and financial assistance to private organizations when their records are deemed to have national value.

In South Korea, the National Archives Act contains specific provisions regarding the collection, digitization, and preservation of records from individuals, families, and non-governmental organizations. The government frequently organizes public campaigns to encourage the donation of valuable private records to public archives, combining awareness-raising initiatives with appropriate incentive policies (Linh, 2023).

From these examples, it is evident that a clear distinction between the role of state management and the autonomy of private organizations, accompanied by supportive legal and technical policies, is a key factor in enhancing the effective management of private archival records. These international practices offer important reference points for the ongoing revision and improvement of Vietnam’s archival legislation.

### **3. Issues arising in the regulation of private archival records management**

The 2024 Law on Archives (effective from July 1, 2025) introduces, for the first time, a clear definition of “private archives” and dedicates an entire chapter (Chapter V) to their regulation. This demonstrates the State’s recognition of and attention to the importance of private archival records within the Vietnamese National Archives. The law also specifically outlines the rights and obligations of private archive owners, affirms the supplementary role of private archives in enriching the Vietnamese National Archives, ensures the Fund comprehensively encompasses all archival materials of Vietnam and introduces state policies aimed at encouraging the participation of organizations and individuals in private archival activities. This marks a significant step forward in establishing a clear legal framework for private archives, officially acknowledging their role and value within the national archival system.

Previously, while legislation recognized ownership rights and contained some indirect provisions related to personal archival materials, these were not systematized or clearly articulated as they are in the 2024 Law. Moreover, given the exceptional value of private archival materials in general, and particularly those created by private organizations, for socio-economic development, the 2024 Law on Archives introduces several groundbreaking changes compared to the 2011 Law. In addition to clarifying the components of private archival records, it also incorporates important new provisions regarding their management to enhance the State’s role in overseeing private archives and clarify the rights and responsibilities of record owners.

However, the provisions in the 2024 Law remain general, applying broadly to all categories of private archival records, including those of private organizations,

communities, individuals, families, and lineages. As yet, no specific regulations exist for archival materials created by private organizations. In practice, private archival records consist of multiple groups with differing characteristics, content, and management methods. Therefore, to ensure effective management and maximize the value of records generated by private organizations, it is necessary to issue detailed subordinate regulations and guidelines. These would enable individuals, organizations, and competent authorities to implement the law consistently and by the law.

*First*, it is essential to clearly define the issue of ownership of archival records. Clause 2, Article 48 of the 2024 Law on Archives mentions the “protection of ownership rights to private archival records and the implementation of timely measures to prevent and handle acts of destruction, appropriation, or unauthorized use of private archival records.” However, the regulations regarding ownership of archival materials remain insufficiently detailed. Archival records are a unique type of asset, as their value lies in the recorded information they contain. Ownership of archival records is an inherent right recognized by the Constitution; therefore, legislation must clearly define the types of ownership as well as the rights and obligations of owners.

Currently, the 2015 Civil Code stipulates three forms of ownership: state ownership, collective ownership, and private ownership. Archival legislation should rely on these classifications to establish the ownership regime for archival records. Determining the form of ownership not only clarifies the legal status of the documents but also helps define the full scope of the owner’s rights and responsibilities, thereby enhancing the effectiveness of archival management and protection.



*Second*, it is necessary to ensure the State's right to manage archival records created by private organizations. In principle, private organizations are not legally obligated to transfer their records to state archival repositories. The owners retain complete discretion over the preservation, use, and transfer of their records and bear legal responsibility for them. However, archival records are a special type of asset, rich in informational value and potentially impacting the public interest. Thus, appropriate oversight and regulatory mechanisms by the State are essential.

Without explicit legal provisions regarding the State's management authority over private organizational records, there is a significant risk of loss or damage to these materials. Moreover, their informational value may not be effectively utilized for socio-economic development. Currently, Article 47 of the 2024 Law on Archives provides only a general framework for managing private archival records, which is insufficient for the substantive and effective implementation of this law.

To effectively manage archival records generated by private organizations, several specific provisions must be established:

(1) Define the responsibilities and authority of state archival management agencies in the operations of private organizations. During their operations, private organizations generate a large volume of records, many of which are valuable and should be preserved for future reference. Unlike public-sector entities, private organizations are not legally required to maintain archival practices and often lack professional guidance. Therefore, the involvement, inspection, supervision, and technical assistance of the state archival

management agency (i.e., the Department of State Records and Archives) is essential. Specifically, guidance is needed on file creation and current records transfer; collection, classification, appraisal, preservation, and use of records; development of records and archives regulations; incoming and outgoing correspondence procedures; file cataloging; record retention schedules; and the application of information technology in archival activities appropriate to each organization's characteristics.

(2) Define the State's authority over valuable archival records of private organizations. The 2024 Law on Archives references "private archival records of special value" in Clause 5, Article 52, but the provisions remain vague. The law should clarify the mechanisms by which the State may inspect and supervise records of historical or cultural significance within the private archival domain to prevent loss or deterioration. State archival authorities should have the right to inventory, classify, and provide preservation guidance for these materials without infringing on ownership rights. The relationship between state archival agencies and private record owners should be based on principles of mutual agreement, ensuring the legal right of private organizations to control their materials while safeguarding national heritage.

(3) Establish a system of penalties for violations of archival regulations. To ensure the enforceability of archival legislation, particularly in the private sector, where a regulatory gap remains, a clear system of penalties must be established. Currently, no specific provisions exist for administrative sanctions related to private archival practices; legal responses still primarily rely on general civil law provisions under the Civil Code.

Therefore, it is necessary to promulgate separate regulations on administrative sanctions in the archival field, clearly defining types of violations, levels of penalties, remedial measures, and competent enforcement authorities. This legal framework would empower relevant agencies to conduct inspections, impose sanctions, and enhance archival management across society, especially within private organizations.

#### 4. Conclusion

Private archival records, particularly those created by private organizations, are a vital component of the Vietnamese National Archives, providing a vivid reflection of the country's socio-economic development. This body of records is not only diverse in form and rich in content but also holds significant practical, scientific, and historical value. However, current practice reveals that the management of private archival records, especially those of private organizations, remains limited and faces several legal gaps.

In the context of Vietnam's strong emphasis on developing the private sector as a key pillar of the national economy, it is imperative to improve the legal framework, management policies, and coordination mechanisms between the State and private record owners. By clearly identifying the value and role of private archives, it is not only necessary but also urgent to develop specific and appropriate legal provisions to enhance the management, preservation, and effective utilization of these materials. Doing so will make a significant and indispensable contribution to the national cause of renovation, sustainable development, and the protection of the Fatherland in this new era.

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