

Section 906A Taxes Consolidation Act 1997 Information to be furnished by Financial Institution

Powers Manual - Part 38-04-04c

This document should be read in conjunction with section 906A Taxes Consolidation Act 1997

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1 Introduction

Sections 906A, 907 and 908 TCA 1997 all confer Powers on an authorised officer to require a financial institution to provide information etc. or access to books, records or other documents in relation to a taxpayer, in certain circumstances.

The power may be exercised with the consent of a Revenue Commissioner by:

- (a) giving notice directly to the financial institution – 906A,
- (b) obtaining the consent of the Appeal Commissioners - 907, or
- (c) obtaining a High Court Order – 908,

depending on the nature of the case.

This manual deals with the Powers conferred by Section 906A only. Guidance on the use of Powers conferred by Section 907 and 908 are available at [Section 907 – TDM Part 38-04-04e](#) and [Section 908 TDM Part 38-04-04d](#)

The definition of Financial Institutions covers all deposit taking and credit institutions including Banks, Building Societies, Credit Unions, Savings Banks, Industrial and Provident Societies, Friendly Societies etc.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

2 Notes on Section

Section 906A Taxes Consolidation Act, 1997: Information to be furnished by Financial Institution.

2.1 Definitions

Definitions are provided for “the Acts”, “authorised officer”, “books, records or other documents”, “connected person”, “deposit”, “interest”, “financial institution”, “liability”, “taxpayer” in relation to a person and “tax”.

[subsection (1)]

2.2 Serving a notice on a financial institution

The main provision of the section is that:

- notwithstanding any obligation as to secrecy, or
- other restriction upon disclosure of information imposed by or under statute or otherwise,

an authorised officer may, for the purpose of enquiring into a liability in relation to a taxpayer, serve on a financial institution a notice in writing requiring it to do certain things within a specified time.[subsection (2)]

2.3 Preconditions/Consent

The authorised officer, before serving such a notice on a financial institution, must obtain the consent in writing of a Revenue Commissioner for so doing. The officer must also have reasonable grounds to believe the institution is likely to have information relevant to a liability in relation to the taxpayer. [subsection (4)]

[The authorised officer's submission requesting the consent will have to demonstrate these grounds to the satisfaction of the Revenue Commissioner]

2.4 Content of Notice

The notice may require the financial institution to do either or both of the following:

- (a) to make available for inspection by the authorised officer such books, records or other documents as are in the power, possession or procurement of the financial institution and as contain, or may in the authorised officer's reasonable opinion contain, information relevant to a liability in relation to the taxpayer,
- (b) to furnish to the authorised officer such information, explanations and particulars as the officer may reasonably require and as are relevant to any such liability, and which are specified in the notice [subsection (2)]

2.5 Reasonable Assistance

Where in compliance with a notice under this section, a financial institution makes available for inspection by an authorised officer, books, records, or other documents, it shall afford the officer reasonable assistance including providing information in relation to the use of all electronic or other means by which the books etc. in non-legible form are capable of being reproduced in legible form and any other data equipment etc. [subsection (3)]

2.6 Connected Person

The notice under subsection (2) may specify that the books, records etc., or the information which the financial institution is required to provide, relate to a person who is connected with the taxpayer. [subsection (5)]

"Connected Person" has the same meaning as in section 10 of the TCA 1997 but an individual, other than in the capacity of trustee of a settlement, shall be connected with another individual only if the other individual is the spouse, civil partner, minor child of the individual, or minor child of the civil partner of the first named individual.

2.7 Meaning of Taxpayer

The notice may relate to a person whose identity is not known or to a company which has been dissolved or an individual who has died. [subsection (1) and (6)]

2.8 Named Taxpayers

Where the name of the taxpayer is known, the notice must name the taxpayer in relation to whose liability the authorised officer is enquiring. A notice can still be issued where the name of the taxpayer is not known, and can include a group or class of persons whose individual identities are not known to the authorised officer. [subsection (7)]

2.9 Taxpayer to be given a copy of the Notice

Where a notice under subsection (2) is served on a financial institution, a copy must be given to the taxpayer concerned in a case where the identity of the taxpayer is known at the time of service of the notice or as soon as is practicable thereafter. Where the identity of the taxpayer is not known at the time of service of the notice then a copy of the notice is to be given to the taxpayer as soon as is practicable after the taxpayer's identity becomes known to the authorised officer. [subsection (8)]

2.10 Authorised officer may make extracts or copies

The authorised officer may make extracts from or copies of book, records or other documents made available for inspection by the officer. [subsection (9)]

2.11 Penalty

A penalty of €19,045 is provided for the failure or refusal by a financial institution to comply with a notice under this section or to afford reasonable assistance to an authorised officer as required by this section. A further penalty of €2,535 is provided for each day on which the failure or refusal continues after the expiry of the period specified in the notice. [subsection (10)]

3 Guidelines for Authorised Officers

3.1 Informing Taxpayer

The taxpayer should normal be given the opportunity either to supply the information or records required (this may be possible by the taxpayer obtaining the information or records from the financial institution) or, to provide a written mandate authorising the officer to obtain the information or records directly from the financial institution.

The taxpayer should be informed briefly, by reference to the facts of the case, why the information is sought.

The taxpayer should be advised of the authorised officer's power to serve a notice on the financial institution, subject to the consent of a Revenue Commissioner.

It the taxpayer fails, refuses, or is unable to supply the information or records required, or does not provide a mandate, her or she should, if the authorised officer considers it appropriate, be advised by letter of the intention to seek, 10 days after

the date of the letter, consent for the issue of a notice under section 906A and of the reasons for taking this action as already explained above.

If the taxpayer makes representations within that 10 day period as to why a section 906A notice should not issue, such representations should be considered fully on the merits of the case and the taxpayer advised accordingly.

3.2 Preconditions of Report

Where no representations are received from the taxpayer within the 10 day period, or where any representations made are not accepted, the authorised officer should forward a report of the case to his or her Principal Officer/District Manager provided he or she has reasonable grounds to believe:

- that the financial institution is likely to have information
- that the information is relevant to a liability in respect of the taxpayer and which the taxpayer or his or her agent has not disclosed to the officer's satisfaction.

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