

## **Section 907 Taxes Consolidation Act 1997**

### **Information etc. from a Financial Institution**

### **Application to Tax Appeals Commission**

### **Powers Manual - Part 38-04-04e**

This document should be read in conjunction with section 907 Taxes Consolidation Act

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## 1 Introduction

Sections 906A, 907 and 908 TCA 1997 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 Tax Appeals Commission – 907, or
- (c) obtaining a High Court Order – 908

depending on the nature of the case and whether the identity of the taxpayer(s) is known.

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

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[...]

## 2 Notes on Section

### **Section 907 Taxes Consolidation Act 1997: Application to Tax Appeals Commission: Information to be furnished to Financial Institution.**

Section 907 provides that, in certain circumstances, an authorised officer may make an application to the Tax Appeals Commission for their consent to the service of a notice on a financial institution requiring it to do either or both of the following:

- (a) to make available for inspection by the officer books, records, or other documents of the financial institution as contain or may contain information relevant to a liability in relation to a taxpayer;
- (b) to furnish to the officer such information, explanations or particulars as the officer may reasonably require and which are relevant to any such liability;

and which are specified in the application.[subsection (2)]

### **2.1 Definitions: Meaning of Taxpayer**

The term “taxpayer” includes a person or a group of persons whose identity is not known to the authorised officer as well as a person who has made a non-resident

declaration for DIRT. It also covers a company which has been dissolved or an individual who has died. [subsections(1) and (6)]

## 2.2 Connected Person

The authorised officer may make such an application in respect of matters in relation to a person who is connected with the taxpayer whose liability is under enquiry. [subsection(4)]

“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. [Definition in section 906A(1)]

## 2.3 Preconditions/Consent

Before making the application the officer must be satisfied:

- (a) that there are reasonable grounds for suspecting that the taxpayer(s) may have failed or may fail to comply with any provision of the Tax Acts:
- (b) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax having regard to the liability that arises or might arise from such failure;
- (c) That the information sought is likely to be contained in the books, records or other documents of the financial institution and is relevant to the proper assessment of collection of tax.[subsection (3)]

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

## 2.4 Consent

An application may not be made without first obtaining the consent in writing of a Revenue Commissioner who will have to be satisfied that the above preconditions have been met. [subsection (3)]

## 2.5 Time Limit

The notice must be served on the Financial Institution within 14 days of receiving the consent of the Tax Appeal Commission and must allow the Financial Institution up to 30 days to comply with the requirements of the notice. [subsection (7)]

## 2.6 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 must afford the officer reasonable assistance including providing information in relation to the use of all electronic or automatic means by which the books, etc. in non-legible form and any other data equipment etc. [subsection (7A)]

## **2.7 Authorised officer may make extracts or copies**

The authorised officer may make extracts from or copies of books, records or other documents made available for inspection by the officer. [subsection (7B)]

## **2.8 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 a failure or refusal continues after the expiry of the period specified in the notice. [subsection(9)]

# **3 Guidelines for Authorised Officers**

## **3.1 Consultation Phase**

Before consideration is given to using this power the authorised officer should consult with his/her Principal Officer/District Manager.

## **3.2 Informing Taxpayer**

If the taxpayer's identity is known, similar action regarding: informing the taxpayer as in 3.1 of the guidelines for the use of section 906A should normally be followed before seeking the consent of a Revenue Commissioner under this section.

## **3.3 Report of the Authorised Officer**

Where an authorised officer forms an opinion that a notice under Section 907 should be served and the conditions set out in paragraph 3.3 above have been satisfied with, the officer should prepare a detailed report to be forwarded through his or her Principal Officer/District Manager to the Assistant Secretary setting out how the preconditions are satisfied and detailing on a step by step basis the background to the proposed application and the key elements upon which the officer will be relying so as to satisfy the Tax Appeals Commission that there are reasonable grounds for making the application.

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