Guideline for issue of a Statement of Affairs

Document reviewed May 2023

Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

The information in this document is provided as a guide only and is not professional advice, including legal advice. It should not be assumed that the guidance is comprehensive or that it provides a definitive answer in every case.

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1. Introduction

Legislation: Section 960R Taxes Consolidation Act (TCA) 1997

Section 960R TCA 1997 enables the Collector-General or a nominated officer to request a Statement of Affairs where a person has failed to discharge tax that is due and outstanding.

Section 80 Finance (No. 2) Act 2013 amended Section 960R, to include additional information that can be requested.

Where a couple is jointly assessed, the form should issue to the assessable spouse or civil partner and all the information provided should relate to both parties.

However, a Statement of Affairs can be requested from the spouse or civil partner of an individual, where they are jointly assessed to Income Tax under Section 1017 or Section 1031C of the TCA 1997.

1.1. Type of Statement of Affairs

There are two types of Statement of Affairs:

- A short Statement of Affairs that the caseworker can issue. (CGSOA1)
- A statutory Statement of Affairs that must be issued by an authorised Principal Officer (PO) or Assistant Principal (AP). (CGSOA2)

1.2. When to issue the Statement of Affairs

A Statement of Affairs can be requested from any taxpayer to assist Revenue make an informed decision on recoverability of debt.

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2. The Statement of Affairs

2.1. Short Statement of Affairs

The Short Statement of Affairs form (CGSOA1) can be issued by the caseworker. The letter at Appendix 1 should accompany each form.

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2.2. Prescribed Statutory Statement of Affairs

A statutory Statement of Affairs form (CGSOA2) must be issued by an authorised Principal Officer (PO) or Assistant Principal (AP).

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The Statement of Affairs CGSOA2 must contain details of all assets and liabilities of the person concerned, including property of spouse/civil partner, minor children (unmarried children under the age of 18) and trustees. "Asset" also includes any interest in an asset. The form must be issued by a nominated officer and be accompanied by the letter at Appendix 2.

As the CGSOA2 has a statutory basis, the taxpayer can be prosecuted if the form is not submitted.

2.3. Nominated Officer

A nominated Principal Officer (PO) or Assistant Principal (AP) must issue the CGSOA2. The PO or AP will have been authorised to require in writing that a person deliver a Statement of Affairs to them within 30 days. If a person does not deliver the Statement of Affairs within 30 days, they can be prosecuted under Section 1078 TCA 1997.

2.4. Declaration

Once completed, the individual to whom the form has issued must sign a declaration that the information provided is complete and is correct to the best of their knowledge, belief and information.

The CGSOA2 must be sworn before a Commissioner for Oaths, a Peace Commissioner, a Notary Public or a practising solicitor.

2.5. Requesting Clarification

Under Subsection (4) of 960R TCA 1997, if a request in writing by the Collector-General or nominated officer to clarify any matter in the Statement of Affairs is not provided then the individual can be prosecuted under Section 1078 of the TCA 1997.

3. Guidelines for issuing the Statutory Statement of Affairs

3.1. Who can issue the Statement of Affairs?

The CGSOA2 should be issued by the Nominated PO or AP of the Debt Management Unit dealing with the individual. The CGSOA2 may be issued by a Nominated PO or AP other than the PO or AP of the relevant Debt Management Unit, however this should only be requested in exceptional cases.

3.2. How to Issue the Statement of Affairs

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3.3. Time Limit

The legislation specifies that the Statement of Affairs must be completed and returned within 30 days.

If the CGSOA2 has not been returned within 21 days, Caseworkers should make a follow-up phone call to the Customer to remind them of the requirement to return the CGSOA2. Where the CGSOA2 remains outstanding after 25 days, Caseworkers should send a written reminder by Registered post to the Customer.

In exceptional circumstances, a written request for an extension of the time limit may be allowed. The Customer must be notified of the granting of any extension in writing.

Upon receipt of the extension request, the caseworker must input details into CRS/ITP and DMS notes.

4. Prosecution

4.1. Prosecution under Section 1078 TCA 1997

Where the taxpayer fails to complete and return the Statement of Affairs, the case can be considered for prosecution under Section 1078(2)(g) TCA 1997, for failure to provide the Statement of Affairs.

4.2. Records to be kept by caseworker

Caseworkers should keep a record outlining that: -

- The CGSOA2 was handed to the taxpayer/sent by registered post
- The CGSOA2 was signed by the nominated PO or AP (via the HEO)
- The taxpayer was given not less than 30 days to return the Statement of Affairs
- Note that a telephone call reminder was made to the taxpayer (21 days)
- Copy of the reminder letter (Registered Post) that issued to the taxpayer if CGSOA2 has not been returned after 25 days

- Caseworkers should ensure
  - A copy of page 1 of the CGSOA2 has been retained by the caseworker
  - A copy of the covering letter issued with the CGSOA2 is kept.

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If **registered post** is the mode of delivery, a copy of the registering of the envelope should be retained as an exhibit and inserted in the file.

4.3. Referral of case for prosecution.

If the CGSOA2 is not received after 30 days and no extension was granted, then the case may be considered for prosecution.

The decision to prosecute must be approved by the Principal Officer. If approved for prosecution by the Principal Officer, the HEO must contact the National Prosecutions & Seizures Office**.**

Once accepted for prosecution, the file should be forwarded to Summary Taxes Prosecutions, National Prosecutions & Seizures Office, Áras Ailigh, Bridgend, Co. Donegal.

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Appendix 1: Covering Letter for Short Statement of Affairs

Date:

Name:

Address:

PPSN:

Re: Statement of Affairs

Dear Sir/Madam,

I refer to our previous correspondence in relation to your outstanding tax liabilities.

In order to obtain a clear view of your current financial circumstances and your ability to pay your outstanding Revenue debt I am enclosing a Statement of Affairs.

Please complete and return the Statement of Affairs to me at the above address within 30 days of the date on this letter.

Please ensure you have signed the Statement of Affairs.

Yours faithfully,

_____

Caseworker

Phone Number

Appendix 2: Covering Letter for Statutory Statement of Affairs

Date:

Name:

Address:

PPSN:

Re: Statement of Affairs

Dear Sir/Madam,

I refer to our previous correspondence in relation to your outstanding tax liabilities.

In order to assess your ability to pay the outstanding debts you are required to complete the attached Statement of Affairs and return it to this office within 30 days of the above date.

This Statement of Affairs should include details of all assets including those of your spouse/civil partner and minor children.

The Statement of Affairs must be sworn in the presence of a Commissioner for Oaths, a Peace Commissioner, a Notary Public or a practising solicitor.

Failure to complete and return this Statement of Affairs can lead to prosecution under Section 1078 of the TCA 1997.

Once convicted you may be liable to a fine of €5,000 and/or up to 12 months imprisonment.

Please return this Statement of Affairs to the Nominated Officer at the above address.

Yours faithfully,

_____

Nominated Officer

Phone Number

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