

Revenue Information Powers – Introduction

Guidance notes and instructions on the use of the information powers contained in sections 900 to 902A, 906A to 908, and 909 Taxes Consolidation Act 1997

This document should be read in conjunction with the relevant sections of the Taxes Consolidation Act 1997

Document reviewed July 2021

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1. Introduction

This manual provides step-by-step guidance to authorised officers to ensure the appropriate use of Revenue's information powers.

Personal Income Tax Policy and Legislation Division will, if required, assist Revenue staff on the interpretation of the legislation. The Revenue Solicitor's Office will assist, where necessary, on points of law and procedure.

2. Background

Part 38, Chapter 4 of the Taxes Consolidation Act 1997 (TCA) deals with Revenue powers. These instructions explain the information powers contained in that chapter and set out the procedures for using them.

When the Revenue information powers were introduced by the then Minister for Finance in 1999, he gave an undertaking that the new powers would be used responsibly by Revenue and that their use would be focused on tackling tax evasion. The Revenue Commissioners are committed to ensure that that is the case and that appropriate guidelines, administrative checks and balances are in place.

Only Revenue officers who are formally authorised are entitled to use these powers. Several of the powers require the written consent of a Revenue Commissioner as a legal precondition for their use. For all the powers, administrative approval from a senior officer is required. The Schedule of Authorisations and Level of Approval/Consent at [Appendix 1](#) gives details of the level of approval/consent required for the use of each power.

Revenue's Statement of Practice, SP-Gen1/99, now contained in Tax and Duty Manual (TDM) [TDM Part 38-04-02](#), gives a comprehensive overview of the procedures to be adopted when using the powers. All staff authorised to use the powers should be familiar with the contents of that Manual. In particular, the more exceptional powers are not to be focused on smaller cases where the potential tax loss from evasion is unlikely to be significant.

The Table of Powers at [Appendix 2](#) contains a list of all the powers provisions outlined in Chapter 4 Part 38 TCA (Revenue Powers).

3. Summary of the Information Powers

The information powers introduced in the Finance Act 1999, may be divided into the following broad categories:

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| <p>Information, etc., from a taxpayer:</p> | <p>Power to call for production of books, records or other documents and information etc. from a taxpayer Section 900 - TDM Part 38-04-04a</p> <p>Power to seek a High Court Order for their production in certain situations. Section 901 – TDM Part 38-04-04b.</p> <p>Power to require a taxpayer to deliver a statement of affairs. Section 909 – TDM Part 38-04-06.</p> |
| <p>Information, etc., from a third party:</p> | <p>Power to require information etc. and books, records and other documents from a third party in relation to a taxpayer, Section 902 – TDM Part 38-04-04f,</p> <p>Power to apply to the Tax Appeals Commission for taxpayer information from a third party. Section 907A - TDM Part 38-04-04h,</p> <p>Power to seek a High Court Order for their production in certain situations. Section 902A – TDM Part 38-04-04g,</p> |
| <p>Information, etc., from financial institutions:</p> | <p>Power 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, with the consent of a Revenue Commissioner. Section 906A – TDM Part 38-04-04c</p> <p>Power to require a financial institution to provide information etc. or access to books, records or other documents in relation to a taxpayer, with the consent of a Revenue Commissioner and by obtaining the consent of the Tax Appeals Commission, Section 907 – TDM Part 38-04-04e, and</p> |

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| | <p>Power to require a financial institution to provide information etc. or access to books, records or other documents in relation to a taxpayer, with the consent of a Revenue Commissioner by obtaining a High Court Order: Section 908 – TDM Part 38-04-04d, (The appropriate power to use will depend on the nature of the case and whether the identity of the taxpayer(s) is known.)</p> |
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4. Certain powers of inspection: sections 904A to 904K TCA

The powers in sections 904A to 904K TCA relate to the audit of returns of Deposit Interest Retention Tax (DIRT) and the audit of certain aspects of the business of assurance companies, investment undertakings, authorised insurers, qualifying lenders and savings managers and to the operation of dividend withholding tax and professional services withholding tax. [Appendix 3](#) contains a list of these powers. Guidelines for these powers are not included in this manual.

5. Court applications for search warrants, evidence from financial institutions and third-party orders for documents and information

The powers in

- section 908A (obtaining evidence from financial institutions),
- section 908C (obtaining search warrants),
- section 908D (orders for evidential material) and
- section 908E (information from third parties)

are not covered in this manual, as they relate to criminal investigations and are used mainly by Investigations and Prosecutions Division.

6. Use of powers for exchange of information purposes

Section 912A TCA facilitates the exchange of information by the Revenue Commissioners with tax authorities of other countries or territories under double tax treaties or tax information exchange agreements. The section enables Revenue to obtain information under sections 900, 901, 902, 902A, 905, 906A, 907, 907A and 908 TCA where it is required for purposes of a tax liability in such countries or territories.

An authorised officer in the Exchange of Information Branch of International Division deals with the application of these sections for exchange of information purposes.

Contact should be made with the that branch in the first instance if information about a taxpayer is required from a non-resident financial institution.

7. Cases suitable for criminal prosecution

If a serious evasion is suspected in a case, before using any of the powers mentioned in this manual, the facts of the case should be considered in the light of the tax prosecution criteria in Chapter 7 of the Code of Practice for Revenue Audit and other Compliance Interventions. If the case seems likely to come within those criteria and is suitable for investigation with a view to prosecution, the officer dealing with the case should (in consultation with her/his Branch Manager) contact the liaison officer in Investigation and Prosecution Division.

8. Power to apply to the High Court to seek information from associated institutions.

Section 908B TCA allows Revenue to apply to the High Court to seek an order requiring a financial institution to supply documents and information held by a non-resident entity over which it has control. This power is for use by the Offshore Assets Group in the Investigations and Prosecutions Division in the first instance. Guidelines for that power are not included here.

9. Tax and Duty Manuals on Revenue powers

The Tax and Duty Manuals in the Powers folder set out for each section:

- an outline of the legislation;
- detailed guidance on the use of the power contained in the section; and
- draft notices/letters for use in the exercise of the powers.

They do not purport to give a legal interpretation of the statutory provisions. They complement the TDM [Part 38-04-02](#) and set out the way the powers are to be used.

The sections are considered in the order set out in the Contents.

Forms of Notice, Forms of Consent and sample letters to taxpayers are contained in each manual. The text of the notices and letters are indicative only and can be adjusted to suit the circumstances of a case, but care should be taken that the statutory requirements are included if any changes are made.

Appendix 1

Schedule of authorisations for information powers and level of approval/consent

| Section | Approval required for use | Statutory consent required for use |
|--|--|---|
| 900 – Production of books, etc. by taxpayer | Principal Officer | |
| 901 – Application to High Court for production of books, etc., by taxpayer | Assistant Secretary | |
| 902 – Information from third party | Principal Officer | |
| 902A – Application to High Court for information from third party | Assistant Secretary | Written consent of a Revenue Commissioner |
| 906A – Information from financial institutions | Assistant Secretary | Written consent of a Revenue Commissioner |
| 907 – Tax Appeals Commission: information from financial institutions | Assistant Secretary | Written consent of a Revenue Commissioner |
| 907A – Tax Appeals Commission: information from third party | Assistant Secretary | Written consent of a Revenue Commissioner |
| 908 – High Court: information from financial institutions | Assistant Secretary | Written consent of a Revenue Commissioner |
| 909 – Statement of Affairs in audit and investigation | Audit Manager / Assistant Principal or Principal | |
| 912A – Information for tax authorities in | As required by the section being used to | As required by the section being used to |

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| other jurisdictions (this section enables information to be obtained under sections 900, 901,902,902A,905, 906A, 907, 907A and 908 on behalf of another jurisdiction) | seek the information for the other jurisdiction | seek the information for the other jurisdiction |
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Appendix 2

Table of powers Taxes Consolidation Act 1997, Part 38, Chapter 4

| | |
|----------------------|--|
| Section 899 | Inspector's right to make enquiries. |
| Section 900 | Power to call for the production of books, information, etc. |
| Section 901 | Application to High Court: production of books, information, etc. |
| Section 902 | Information to be furnished by third party: request of an authorised officer |
| Section 902A | Application to High Court: information from third party |
| Section 902B | Power of inspection: life policies |
| Section 903 | Power of inspection: PAYE |
| Section 904 | Power of inspection: tax deduction from certain sub-contractors |
| Section 904A | Power of inspection: returns and collection of appropriate tax |
| Section 904B | Report to Committee of Public Accounts: publication, etc. |
| Section 904C to 904K | Other powers of inspection (see Appendix 3) |
| Section 905 | Inspection of documents and records |
| Section 905 (2A) | District Court search warrant (for civil proceedings only) |
| Section 906 | Authorised Officers and Garda Síochána |
| Section 906A | Information to be furnished by financial institutions |
| Section 907 | Application to Tax Appeals Commission: information from financial institutions |
| Section 907A | Application to Tax Appeals Commission: information from third party |
| Section 908 | Application to High Court seeking order requiring information from Financial Institutions |
| Section 908A | (Revenue offence) Power to obtain District Court order re information from financial institution |

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| Section 908B | Application to High Court seeking order requiring information from associated institutions |
| Section 908C | (Revenue offence) Power to obtain District Court search warrant |
| Section 908D | Order to produce evidential material (Revenue offence) Power to obtain District Court production order |
| Section 908E | Order to produce documents or provide information (Revenue offence) Power to obtain District Court information and witness order |
| Section 908F | Privileged legal material (re section 908E) |
| Section 909 | Power to require return of property |
| Section 910 | Power to obtain information from Minister of the Government |
| Section 911 | Valuation of assets |
| Section 912 | Computer documents and records |
| Section 912A | Information for tax authorities in other territories |
| Section 912B | Questioning suspects in Garda custody in certain circumstances |

Appendix 3

Table of powers of inspection
Section 904A to 904K Taxes Consolidation Act 1997

| | |
|--------------|---|
| Section 904A | Power of inspection: returns and collection of appropriate tax |
| Section 904B | Report to Committee of Public Accounts: publication, etc. |
| Section 904C | Power of inspection (returns and collection of appropriate tax) assurance companies |
| Section 904D | Power of inspection (returns and collection of appropriate tax) investment undertakings |
| Section 904E | Power of inspection: claims by authorised insurers |
| Section 904F | Power of inspection: claims by qualifying lenders |
| Section 904G | Power of inspection: claims by qualifying insurers |
| Section 904H | Power of inspection: qualifying savings managers |
| Section 904I | Power of inspection: returns and collection of dividend withholding tax |
| Section 904J | Power of inspection: tax deduction from payments in respect of professional services by certain persons |
| Section 904K | Power of inspection: notices of attachment |