

Revenue Information Powers – Introduction

Guidance Notes and Instructions on the use of the information powers contained in Section 900-902A, Sections 906A to 908 and Section 909 Taxes Consolidation Act 1997.

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

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Contents

1	Introduction	3
2	Background	3
3	Summary of the Information Powers	4
4	Certain Powers of Inspection: Section 904A to 904K TCA 1997.	5
5	Court Applications for Search Warrants, Evidence from Financial Institutions and third party orders in relation to documents and information.	5
6	Use of Powers for Exchange of Information Purposes	5
7	Cases Suitable for Criminal Prosecution	6
8	Power to apply to the High Court to seek information from associated institutions.....	6
9	Guidance Notes and Instructions Layout.....	6
10	Appendix 1	7
11	Appendix 2	9
12	Appendix 3	11

1 Introduction

The intention of this manual is to give up to date instructions on the use of Revenue Information Powers and give clear step-by-step guidance to authorised officers in order to ensure the appropriate use of the information powers.

Assistance to Revenue staff in relation to the interpretation of the legislation, if required, can be obtained from Personal Income Tax Policy and Legislation Division. The Revenue Solicitor's Office will assist, where necessary, in relation to points of law and procedure.

2 Background

The Revenue Powers Chapter of the Taxes Consolidation Act, 1997 is Chapter 4 of Part 38. These Guidance Notes and Instructions (updated to July 2017) explain the Information Powers contained in that chapter and set out the procedures for using them.

The background to the introduction of Revenue Information powers by the then Minister for Finance in 1999 was an undertaking given by him that the new powers would be used responsibly by Revenue and that their use would be focused on tackling tax evasion. The Revenue Commissioners have committed to ensure that that is the case and that appropriate guidelines, administrative checks and balances are in place to ensure it.

Only Revenue officers who are formally authorised for that purpose are entitled to use these powers. For several of the powers, the written consent of a Revenue Commissioner is a legal precondition for their use. For all the powers, administrative approval from a senior officer is required for their use. 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 Commissioners Statement of Practice, SP-Gen1/99 contained in [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 Statement of Practice. In particular, it should be noted that 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 of the Taxes Consolidation Act, 1997 (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:

<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 and power to seek a High Court Order for their production in certain situations. Sections 900-TDM Part 38-04-04a and Section 901- TDM Part 38-04-04b. Power to require a taxpayer to deliver a statement of affairs. Section 909 – TDM Part 38-04-06.</p>
<p>Information etc. from third party:</p>	<p>Power to require information etc. and books, records and other documents from a third party in relation to a taxpayer, power to seek a High Court Order for their production in certain situations. Power to apply to the Tax Appeals Commission for taxpayer information from a third party. Section 902- TDM Part 38-04-04f, Section 902A-TDM Part 38-04-04g and Section 907A-TDM Part 38-04-04h,</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. The power may be exercised by giving notice (with the consent of a Revenue Commissioner) directly to the financial institution, by obtaining the consent of the Tax Appeals Commission, or by obtaining a High Court Order, depending on the nature of the case and whether the identity of the taxpayer(s) is known. Section 906A-TDM Part 38-04-04c Section 907-TDM Part 38-04-04e, and Section 908-TDM Part 38-04-04d,</p>
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4 Certain Powers of Inspection: Section 904A to 904K TCA 1997.

These powers relate to the DIRT audit function and to 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 in relation to documents and information.

Sections 908A re: obtaining evidence from Financial Institutions, section 908C re: obtaining search warrants and section 908D and 908E re: orders in relation to evidential material and information from third parties are not covered in this manual, as they relate to criminal type investigations and are used mainly by Investigations and Prosecutions Division.

6 Use of Powers for Exchange of Information Purposes

Section 912A facilitates the exchange of information by the Revenue Commissioners with tax authorities of other countries under double tax treaties or tax information exchange agreements. The section enables Revenue to obtain information under section 900, 901, 902, 902A, 905, 906A, 907, 907A and 908 of the Taxes Consolidation Act 1997 where it is required for purposes of a tax liability in another tax treaty country.

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

Contact should be made with the Exchange of Information Branch of International Division in the first instance if information is required from a non-resident financial institution in relation to a taxpayer.

7 Cases Suitable for Criminal Prosecution

If a serious evasion is suspected in a case, then before using any of these powers, the facts of the case should be considered in the light of the tax prosecution criteria at Appendix 1 of the Code of Practice for Revenue Auditors. If the case seems likely to come within those criteria, and be suitable for investigation with a view to prosecution, contact should first be made with the liaison officer in Investigation and Prosecution Division

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

Section 908B 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 in that regard are not included here.

9 Guidance Notes and Instructions Layout

These Guidance Notes and Instructions set out in relation to 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 Statement of Practice SP-Gen/1/99 and set out the manner in which the powers are to be used.

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

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

10 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 3 rd party	Principal Officer	
902A – Application to High Court for information from 3 rd 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 3 rd party	Assistant Secretary	Written consent of a Revenue Commissioner
908 – High Court:	Assistant Secretary	Written consent of a

Information from Financial Institutions		Revenue Commissioner
909 – Statement of Affairs in Audit and Investigation	Audit Manager Assistant Principal or Principal Officer	
912A – Information for tax authorities in other jurisdictions	Enables obtaining information under 900, 901,902,902A,905, 906A, 907, 907A & 908 for the purposes of another jurisdiction	As required by the section being applied for the information for the other jurisdiction.

11 Appendix 2

Table of Powers Chapter 4 of Part 38 Taxes Consolidation Act 1997

Section 899	Inspectors right to make enquiries in relation to certain returns
Section 900	Power to call for the production of books, information etc. from the taxpayer
Section 901	Application to High Court: production of books, information etc. from the taxpayer
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 may be accompanied by member/s of an Garda Siochana when entering premises
Section 906A	Information to be furnished by Financial Institution
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 re: information from Financial Institutions
Section 908A	Revenue Offence Investigation only: power to obtain District Court order re information from Financial Institution

Section 908B	Application to High Court seeking order requiring information from associated institutions not resident in the State
Section 908C	Revenue offence investigation only: power to obtain District Court search warrant
Section 908D	Revenue offence investigation only: power to obtain District Court production order
Section 908E	Revenue offence investigation only: 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 a Minister of Government or Public Body
Section 911	Valuation of Assets: power to inspect
Section 912	Computer documents, records and equipment: power to inspect and to require reasonable assistance
Section 912A	Information for other tax authorities
Section 912B	Questioning suspects in Garda custody in certain circumstances.

12 Appendix 3

Table of Powers
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