

**Section 901 Taxes Consolidation Act 1997
Application to the High Court: Production of books,
information etc.**

Part 38-04-04b

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Summary

Section 901 is used to apply to the High Court for an Order obliging an uncooperative taxpayer to produce to an officer, authorised in writing by the Revenue Commissioners to exercise the powers conferred by this section, records and information etc. relevant to the tax liability of that taxpayer.

The power in this section is similar to that in **section 900** in that it enables an authorised officer to obtain from a person, books, etc. and information, etc. which are relevant to a liability in relation to that person.

Generally speaking this section is more likely to be appropriate for use in a case where a taxpayer has failed to comply with a notice under Section 900 requiring the production of specified accounts, documents or information. However the use of Section 901 rather than Section 900 may be more appropriate from the outset where serious evasion is suspected.

The level of approval/consent is required is that of an Assistant Secretary.

1 Notes on Section

1.1 Definitions

The definition in section 900 of “authorised officer”, “books, records or other documents”, “judge”, “liability” and “tax” apply also to this section.

1.2 Nature of Order to be sought from High Court

An authorised officer may apply to a judge of the High Court for an order requiring a person to do either or both of the following:

- (a) to deliver to, or make available for inspection by, the officer such books, or other documents as are in the person’s power, possession or procurement and as contain or may contain information relevant to a liability in relation to the person, and/or
- (b) to furnish to the 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 application.

1.3 Making the order

Where the Judge is satisfied that there are reasonable grounds for making the application, the Judge may, subject to such conditions as he or she may specify, make an order requiring the person:

- (a) to deliver to the authorised officer or make available for inspection by the officer such books, records and other documents and
- (b) to furnish to the authorised officer such information, explanation and particulars as may be specified in the order.

1.4 Professional Privilege

No person is obliged to disclose information:

- a) with respect to which a claim to legal professional privilege could be maintained in legal proceedings;
- b) of a confidential medical nature;
- c) professional advice given to a client (other than advice given as part of a dishonest, fraudulent or criminal purpose).

1.5 Reasonable Assistance

When in compliance with an order under this section a person makes available for inspection by an authorised officer books, records, or other documents, the person must afford the officer reasonable assistance, including 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.

1.6 Making copies or extracts

The authorised officer can take copies or extract from the books, records or other documents made available by virtue of an order served under this section.

2 Guidelines for Authorised Officers

2.1 When to use this power

An application to the High Court under this section may be appropriate in a case where serious evasion is suspected or where the service of the formal notice under section 900 has failed to extract the books, etc. or information required and the authorised officer has good grounds for believing that this is done to frustrate the officer's efforts to establish the full extent of the taxpayer's liability. If serious evasion is suspected which might bring the case within the criteria for suitability for investigation with a view to prosecution the officer should in the first instance get in contact with the liaison officer in the Investigation and Prosecution Division.

2.2 Approval Level

Assistant Secretary approval is required for the use of this section in a case.