

Section 901 Taxes Consolidation Act 1997

Application to the High Court: Production of books, information etc.

This document should be read in conjunction with section 901 Taxes Consolidation Act 1997

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1 Introduction

An application to the High Court under section 901 Taxes Consolidation Act 1997 (TCA) may be appropriate in a case where serious evasion is suspected or where the service of a formal notice under section 900 TCA has failed to obtain the books, information and other material required and the authorised officer has good grounds for believing that the non-compliance with section 900 TCA is intended 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 contact the liaison officer in Investigation, Prosecution and Frontier Management Division (IP&FMD).

This manual deals with the powers conferred by section 901 TCA only. Guidance on the use of powers conferred by sections 900 and 909 TCA are available at [Section 900 – Tax and Duty Manual Part 38-04-04a](#) and [Section 909 –TDM Part 38-04-06](#).

1.1 When section 901 TCA is used

Section 901 TCA 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 TCA in that it enables an authorised officer to obtain from a person, books, information, and other material which are relevant to a liability in relation to that person.

2 Outline of section 901 TCA

2.1 Definitions

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

2.2 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 authorised 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 authorised officer such information, explanations and particulars as the authorised officer may reasonably require and as are relevant to any such liability and which are specified in the application.

2.3 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 s/he may specify, make an order requiring the person:

- (a) to deliver to the authorised officer or make available for inspection by the authorised 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.

2.4 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 such advice given as part of a dishonest, fraudulent or criminal purpose).

2.5 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.

2.6 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.

3 Guidelines for authorised officers

3.1 Consultation phase

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

3.2 Report of an authorised officer

Where the authorised officer forms an opinion that an application under section 901 TCA is warranted the officer should prepare a detailed report to be forwarded through her/his Principal Officer/Branch Manager to the Assistant Secretary detailing on a step by step basis, the background to the proposed application and the key elements upon which the officer will be relying to satisfy the High Court that there are reasonable grounds for making the application.

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