

## **Section 906A Taxes Consolidation Act 1997 Information to be furnished by Financial Institution**

### **Powers Manual - Part 38-04-04c**

This document should be read in conjunction with section 906A Taxes Consolidation Act 1997

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## 1 Introduction

Sections 906A, 907 and 908 Taxes Consolidation Act 1997 (TCA) all confer powers on an authorised officer to require a financial institution to provide information or access to books, records or other documents in relation to a taxpayer, in certain circumstances.

The power may be exercised with the consent of a Revenue Commissioner by:

- (a) giving notice directly to the financial institution – section 906A,
- (b) obtaining the consent of the Tax Appeal Commissioners – section 907, or
- (c) obtaining a High Court Order – section 908,

depending on the nature of the case.

This manual deals with the powers conferred by section 906A TCA. Guidance on the use of Powers conferred by Sections 907 and 908 are available at [Section 907 – TDM Part 38-04-04e](#) and [Section 908 TDM Part 38-04-04d](#)

The definition of financial institutions covers all deposit taking and credit institutions including banks, building societies, credit unions, savings banks, industrial and provident societies, friendly societies, etc.

## 2 Outline of section 906A

Section 906A TCA deals with information to be furnished by a financial institution.

### 2.1 Definitions

Section 906A(1) TCA defines “the Acts”, “authorised officer”, “books, records or other documents”, “connected person”, “deposit”, “interest”, “financial institution”, “liability”, “taxpayer” in relation to a person and “tax”. The definitions are for the purposes of sections 906A, 907, 907A and 908 TCA.

### 2.2 Serving a notice on a financial institution

Section 906A(2), the main provision of the section, states that

- notwithstanding any obligation as to secrecy, or
- other restriction upon disclosure of information imposed by or under statute or otherwise,

an authorised officer may, for the purpose of enquiring into a liability in relation to a taxpayer, serve on a financial institution a notice in writing requiring it to take certain actions within a specified time.

### 2.3 Preconditions – consent of a Revenue Commissioner

Section 906(4) TCA provides that the authorised officer must obtain the consent in writing of a Revenue Commissioner before serving such a notice on a financial

institution. The officer must also have reasonable grounds to believe the institution is likely to have information relevant to a liability in relation to the taxpayer.

The authorised officer's submission requesting the consent will have to demonstrate these grounds to the satisfaction of the Revenue Commissioner.

## 2.4 Content of notice

Section 906A(5) TCA provides that the notice should contain the name of the person whose information the bank is being asked to provide which may be a person connected with the taxpayer. Care should be taken that the notice only contains sufficient information to enable the bank to comply with the notice and no unnecessary additional information.

The notice may require the financial institution to do either or both of the following:

- (a) to make available for inspection by the authorised officer such books, records or other documents as are in the power, possession or procurement of the financial institution and as contain, or may in the authorised officer's reasonable opinion contain, information relevant to a liability in relation to the taxpayer,
- (b) to furnish to the authorised 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 notice [section 906A(2)].

Under the definition of "taxpayer" section 906A(1) TCA, a notice can be issued where the name of the taxpayer is not known, and can include a group or class of persons whose individual identities are not known to the authorised officer.

## 2.5 Reasonable assistance

Section 906A(3) TCA provides that where, in compliance with a notice under this section, a financial institution makes available for inspection by an authorised officer, books, records, or other documents, it shall afford the officer reasonable assistance, including providing information on the use of all electronic or other means by which the books, records or other documents in non-legible form are capable of being reproduced in legible form, and providing any other data equipment, associated apparatus or material.

## 2.6 Connected person

The notice served under section 906A(2) TCA may specify that the books, records or other documents, or the information which the financial institution is required to provide, relate to a person who is connected with the taxpayer [section 906A(5)].

"Connected person" has the same meaning as in section 10 TCA but for the purpose of this section, an individual, other than in the capacity of trustee of a settlement, shall be connected with another individual only if the other individual is the spouse, civil partner, minor child of the individual, or minor child of the civil partner of the first named individual.

## 2.7 Meaning of “taxpayer”

Section 906A(1) TCA provides that the notice may relate to a person whose identity is not known; section 906A(6) states that “taxpayer” may include a company which has been dissolved or an individual who has died.

## 2.8 Taxpayer to be advised of the service of the notice

Where a notice under section 906A(2) TCA is served on a financial institution, the taxpayer shall be advised of the service of the notice and upon whom it is served in a case where the identity of the taxpayer is known at the time of service of the notice or as soon as is practicable thereafter. Where the identity of the taxpayer is not known at the time of service of the notice then the taxpayer should be advised of the service of the notice and upon whom it is served as soon as is practicable after the taxpayer’s identity becomes known to the authorised officer [section 906A(8) TCA].

## 2.9 Authorised officer may make extracts or copies

Section 906A(9) TCA provides that the authorised officer may make extracts from or copies of book, records or other documents made available for inspection by the officer.

## 2.10 Penalty

A penalty of €19,045 is provided in section for the failure or refusal by a financial institution to comply with a notice under this section or to afford reasonable assistance to an authorised officer as required by this section. A further penalty of €2,535 is provided for each day on which the failure of refusal continues after the expiry of the period specified in the notice.

# 3 Guidelines for authorised officers

## 3.1 Informing a taxpayer

The taxpayer should normally be given the opportunity either to supply the information or records required (possibly by the taxpayer obtaining the information or records from the financial institution) or to provide a written mandate authorising the officer to obtain the information or records directly from the financial institution.

The taxpayer should be informed briefly, by reference to the facts of the case, why the information is sought.

The taxpayer should be advised of the authorised officer’s power to serve a notice on the financial institution, subject to the consent of a Revenue Commissioner.

If the taxpayer fails, refuses, or is unable to supply the information or records required, or does not provide a mandate, the authorised officer should (if s/he considers it appropriate) advise the taxpayer by letter of the officer’s intention to seek, ten days after the date of the letter, consent from a Revenue Commissioner for

the issue of a notice under section 906A TCA and of the reasons for taking this action as already explained above.

If the taxpayer makes representations within that ten-day period as to why a section 906A notice should not issue, such representations should be considered fully on the merits of the case and the taxpayer advised accordingly.

### 3.2 Preconditions of Report

Where no representations are received from the taxpayer within the ten-day period, or where any representations made are not accepted, the authorised officer should forward a report of the case to her/his Principal Officer/Branch or District Manager provided s/he has reasonable grounds to believe:

- that the financial institution is likely to have information
- that the information is relevant to a liability in respect of the taxpayer and which the taxpayer or her/his agent has not disclosed to the officer's satisfaction.

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