

Section 907A Taxes Consolidation Act 1997

Information from a third party: Application to the Tax Appeals Commission:

Powers Manual - Part 38-04-04h

This document should be read in conjunction with section 907A Taxes Consolidation Act 1997

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1 Introduction

Sections 902, 902A and 907A Taxes Consolidation Act 1997 all confer Powers on an authorised officer to require a third party other than a financial institution to provide information etc. book, records and documents in relation to a taxpayer in certain circumstances.

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

- (a) obtaining a High Court Order – section 902A
- (b) obtaining the consent of the Tax Appeals Commission – section 907A
- (c) giving notice directly to a third party – section 902 (consent of a Principal Officer only required)

depending on the nature of the case.

This manual deals with the Powers conferred by Section 907A only. Guidance on the use of Powers conferred by Section 902 and 902A are available at [. Section 902 – TDM Part 38-04-04f](#) and [Section 902A – TDM Part 38-04-04g](#)

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2 Notes on Section

Section 907A Taxes Consolidation Act 1997: Application to Tax Appeals Commission Information from third party.

Section 907A provides that in certain circumstances, an authorised officer may make an application to the Tax Appeals Commission for their consent to serve a notice on a third party 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 third party's power, possession or procurement as contain or may (in the authorised officer's reasonable opinion) contain information relevant to a liability in relation to a taxpayer; or
- (b) to furnish to the authorised officer such information explanations and particulars as the authorised officer may reasonably require as being relevant to any such liability;

And which are specified in the application.[subsection (5)]

2.1 Definitions

The term “taxpayer” includes a person or group of persons whose identity is not known to the authorised officer. It also covers a company which has been dissolved or and individual who has died.

The term “third party” is defined as a person whose identity has been furnished to an authorised officer by a financial institution in compliance with a notice issued under section 907 or and order made under section 908. [subsections (1) and (6)]

2.2 Connected Person

The application to the Tax Appeals Commission can relate to information in respect of a person connected with the taxpayer whose tax affairs are under enquiry [subsection (4)]

2.3 Preconditions

Before making an application to the Tax Appeals Commission the authorised officer must be satisfied:

- (a) That there are reasonable grounds for suspecting that the taxpayer or as the case may be all the taxpayers, may have failed or may fail to comply with any provision of the Acts
- (b) That any such failure is likely to lead or have led to serious prejudice to the proper assessment or collection of tax and
- (c) That the information which is likely to be contained in the books etc. or which is likely to arise from the books etc. is relevant to the proper assessment or collection of tax.[subsection (3)]

2.4 Consent

An application may not be made without first obtaining the consent in writing of a Revenue Commissioner who will have to be satisfied that the above preconditions have been met. [subsection(3)]

2.5 Time Limit

The notice must be served on the third party within 14 days of receiving the consent of the Tax Appeals Commission and must allow the third party up to 30 days to comply with the requirements of the notice.[subsection (8)]

2.6 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; or
- c) professional advice give to client (other than such advice given as par of a dishonest, fraudulent or criminal purpose).[subsection (7)]

2.7 Penalty

A penalty of €19,045 is provided for failure or refusal by a person to comply with a notice under this section. A further penalty of €2,535 is provided for each day on which a failure or refusal continues after the expiry of the period specified in the notice.[subsection (10)].

3 Guidelines for Authorised Officers.

3.1 Consultation Phase

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

3.2 Informing Taxpayer

If the taxpayer's identity is known, he or she should be given the opportunity either to supply the information or records required (this may be possible by the taxpayer obtaining the information or records from the third party) or, to provide a written mandate authorising the officer to obtain the information or records directly from the third party.

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 apply to the Tax Appeals Commission for consent to serve a notice on the third party.

If the taxpayer fails, refuses, or is unable to supply the information or records required, or does not provide a mandate, he or she should, if the authorised officer considers it appropriate, be advised by letter of the intention to seek, 10 days after the date of the letter, consent for the issue of a notice under section 907A and of the reasons for taking this action as already explained above.

If the taxpayer makes representations within that 10 period as to why a section 907A notice should not issue, such representations should be considered fully on the merits of the case and the taxpayer advised accordingly.

3.3 Report of the authorised officer

Where an authorised officer forms an opinion that a notice under Section 907A should be served, and the conditions set out in paragraph 2.3 above have been complied with, the officer should prepare a detailed report to be forwarded through his or her Principal Officer/District Manager to the Assistant Secretary setting out how the preconditions are satisfied and 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 Tax Appeals Commission that there are reasonable grounds for making the application.

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