

## **Section 909 Taxes Consolidation Act 1997**

### **Statement of Affairs in audit and investigation**

#### **Part 38-04-06**

This document should be read in conjunction with section 909 Taxes Consolidation Act 1997

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## 1 Introduction

Section 909 Taxes Consolidation Act 1997 (TCA) provides that, where a person is required to deliver a tax return, an Inspector may require that person and/or in some cases, her or his spouse or civil partner, to deliver to the Inspector a statement of affairs in a prescribed form as at a specified date, showing all of her/his assets and liabilities as at that date.

The section does not apply to a company except where it acts in a representative or trustee capacity.

This manual deals with the powers conferred by section 909 only. Guidance on the use of powers conferred by section 900 are available in Tax and Duty Manual [Part 38-04-04a](#).

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[...]

## 2 Information to be provided

Section 909 TCA provides that, for each asset on the statement of affairs, the following information must be provided:

- description,
- location,
- Cost,
- date of acquisition and
- details of all policies of insurance (if any) whereby the risk of any kind of damage or injury or loss or depreciation of the asset is insured.

Details of all liabilities for which the person is liable on the specified date must also be provided.

### 2.1 Definitions

Definitions are provided for “asset”; “limited interest”; “property” and “settlement”. “Tax” is defined as including income tax and capital gains tax.

### 3 Guidelines for authorised officers

#### 3.1 Prior approval required

The form should not be issued in any case without the prior approval of an Audit Manager or equivalent at the grade of Assistant Principal or Principal.

#### 3.2 Prescribed form

The form on which the statement of affairs must be made is prescribed by the Revenue Commissioners. There are two forms:

- Form SA1 (Individual); and
- Form SA1 (Representative/Trustee).

These forms (which also require details of insurance policies on assets) may be used for all years.

#### 3.3 Assets covered

The form lists the types of asset which must be included, but also requires the recipient to include other assets (and liabilities) not specifically mentioned.

Form SA1 (Individual) requires a person to show details of any assets which they have provided for their minor children or the minor children of their spouse or civil partner.

“Asset” includes any interest in an asset.

#### 3.4 Declaration

The forms contain a declaration to be signed by the person to whom it is issued. [There is also provision on the form for a sworn declaration should this be considered necessary after the receipt of the form by the Inspector (see paragraph 5.5)]

#### 3.5 Who can issue the form?

The form should be issued by, and in the name of, the officer who is dealing with the case.

The section uses the phrase “inspector of taxes” and “inspector”. By virtue of section 2 TCA “inspector” includes “an officer of the Revenue Commissioners who is employed or acts in the execution of the Tax Acts or the Capital Gains Tax Acts”, i.e. any Revenue Officer.

### 3.6 Time limit for submission of form

A period of not less than 30 days (that is, 30 days or more) from the date of service of the notice must be allowed for compliance with the notice. This must be shown on the notice. Any reasonable request for an extension of this time limit should be allowed provided the request is in writing; the agreement to the extension must also be given in writing.

### 3.7 Method of issue of form

#### 3.7.1 Registered Post

In a case where the statement of affairs is being used as part of an audit, and co-operation is anticipated, the form may be sent by registered post in the first instance, and proof of posting retained together with a contemporaneous note confirming the issue.

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#### 3.7.3 Issue to representative/trustee

The Form SA1 (Representative/Trustee) does not require a statement of personal assets of the person to whom it is issued. It should only be issued where it is known that the person acts or has acted as a trustee of a trust or as a representative for another person whose affairs are under investigation. In such a case the form should be addressed to the person "as Trustee of 'A.B.' Trust" or "as Representative of 'A.B.'"

### 3.8 Issue of a further notice

The section provides that the inspector may issue a further notice requiring the person to deliver to the Inspector a statement verifying the statement of affairs together with such evidence, statements or documents required by the Inspector in respect of any asset or liability shown on the statement of affairs or which the Inspector has reason to believe has been omitted from it.

The guidelines above as to prior approval required, the 30-day time limit for submission and the method of issue of the form, also apply to this further notice.

## 4 Penalty for failure to return form

Section 1052 TCA provides for a penalty for failure to comply with a notice under section 909 TCA.

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[...]

## 5 Prosecution under section 1078 TCA

Failure to comply with a request to deliver a statement of affairs, or knowingly or willingly delivering an incorrect statement of affairs, may be prosecuted under section 1078 TCA.

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[...]

## 6 Assets acquired prior to 9 February 2002: conversion from Irish pound to Euro values

When examining a statement of affairs, where the date of acquisition of an asset or the date on which expenditure was incurred is shown as prior to 9 February 2002, the figure for cost of acquisition may be shown in Irish pounds.

### 6.1 Conversion rate

The conversion rate from the Irish pound to the Euro was fixed at 1 Euro = 0.787564 Pound, from 1 January 1999. The conversion rate to be applied to the cost of any asset purchased prior to 9 February 2002 or expenditure incurred on any asset prior to that date, to find its euro equivalent at the date of purchase or expenditure, is 0.787564 as above.

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[...]

