

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

Document was reviewed October 2017

Contents

1	Introduction	3
2	Notes on Section	3
2.1	Definitions	3
3	Guidelines for Authorised Officers.....	4
3.1	Prior Approval Required	4
3.2	Prescribed Form	4
3.3	Assets covered.....	4
3.4	Declaration	4
3.5	Issue of a further Notice	4
3.6	Who can use the Form?	4
3.7	Time Limit.....	5
3.8	Method of issue of Form	5
3.8.1	Registered Post.....	5
3.8.3	Issue to Representative/Trustee	5
4	Penalty for failure to return Form.....	5
6	Assets acquired prior to 9 February 2002.....	6
6.1	Conversion rate	6

1 Introduction

Section 909 of the Taxes Consolidation Act 1997 provides that where a person is required to deliver a tax return, an Inspector may require that person and/or in some cases, his or her 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 his or her 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 at [Section 900](#).

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

2 Notes on Section

The section sets out that, in relation to each asset on the Statement of Affairs, there must be shown its description, location, cost and date of acquisition, together with 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. There must also be shown details of all liabilities for which the person is liable on the specified date.

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 Officer or Principal Officer.

3.2 Prescribed Form

The form on which the Statement of Affairs must be made is prescribed by the Revenue Commissioners. There are two types of form as follows:

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 type of asset which must be included, but also allows space for, and requires, the recipient to include on the form other assets (and liabilities) not specifically mentioned. The Form SA1 (Individual) also 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 Issue of a further Notice

The section also 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 in paragraph 3 below as to prior approval required, the 30 day time limit to be allowed and the method of issue of the form, apply to this additional notice also.

3.6 Who can use 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 of the TCA 1997 the meaning of 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.

3.7 Time Limit

A period of not less than 30 days, i.e. 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. A period of thirty days is generally adequate. Any reasonable request for an extension of this time limit should be allowed provided the request is in writing and the agreement to the extension is also in writing.

3.8 Method of issue of Form

3.8.1 Registered Post

In a case where the statement of affairs is being used as part of an audit, and cooperation 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.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

3.8.3 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.’”

4 Penalty for failure to return Form

Section 1052 of the TCA 1997 provides for a penalty for failure to comply with a section 909 notice.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

6 Assets acquired prior to 9 February 2002

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, it should be borne in mind that unless shown otherwise the currency used may be Irish pound.

6.1 Conversion rate

The conversion rate from Irish pound to euro was fixed at 1 Euro = 0.787564 Pound, as 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, so as to find its euro equivalent at the date of purchase or expenditure, is 0.787564 as above.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[...]

