

## Revenue Information Powers – Introduction

### **Guidance notes and instructions on the use of the information powers contained in sections 900 to 902A, 906A to 908, and 909 Taxes Consolidation Act 1997**

This document should be read in conjunction with the relevant sections of the Taxes Consolidation Act 1997

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## 1. Introduction

This manual provides step-by-step guidance to authorised officers to ensure the appropriate use of Revenue's information powers.

Personal Income Tax Policy and Legislation Division will, if required, assist Revenue staff on the interpretation of the legislation. The Revenue Solicitor's Division will assist, where necessary, on points of law and procedure.

## 2. Background

Part 38, Chapter 4 of the Taxes Consolidation Act 1997 (TCA) deals with Revenue powers. These instructions explain the information powers contained in that chapter and set out the procedures for using them.

When the Revenue information powers were introduced by the then Minister for Finance in 1999, he gave an undertaking that the new powers would be used responsibly by Revenue and that their use would be focused on tackling tax evasion. The Revenue Commissioners are committed to ensure that that is the case and that appropriate guidelines, administrative checks and balances are in place.

Only Revenue officers who are formally authorised are entitled to use these powers. Several of the powers require the written consent of a Revenue Commissioner as a legal precondition for their use. For all the powers, administrative approval from a senior officer is required. The Schedule of Authorisations and Level of Approval/Consent at [Appendix 1](#) gives details of the level of approval/consent required for the use of each power.

Revenue's Statement of Practice, SP-Gen1/99, now contained in Tax and Duty Manual (TDM) [TDM Part 38-04-02](#), gives a comprehensive overview of the procedures to be adopted when using the powers. All staff authorised to use the powers should be familiar with the contents of that Manual. In particular, the more exceptional powers are not to be focused on smaller cases where the potential tax loss from evasion is unlikely to be significant.

The Table of Powers at [Appendix 2](#) contains a list of all the powers provisions outlined in Chapter 4 Part 38 TCA (Revenue Powers).

## 3. Summary of the Information Powers

The information powers introduced in the Finance Act 1999, may be divided into the following broad categories:

<p><b>Information, etc., from a taxpayer:</b></p>	<p>Power to call for production of books, records or other documents and information etc. from a taxpayer Section 900 - TDM <a href="#">Part 38-04-04a</a></p> <p>Power to seek a High Court Order for their production in certain situations. Section 901 – TDM <a href="#">Part 38-04-04b</a>.</p> <p>Power to require a taxpayer to deliver a statement of affairs. Section 909 – TDM <a href="#">Part 38-04-06</a>.</p>
<p><b>Information, etc., from a third party:</b></p>	<p>Power to require information etc. and books, records and other documents from a third party in relation to a taxpayer, Section 902 – TDM <a href="#">Part 38-04-04f</a>,</p> <p>Power to apply to the Tax Appeals Commission for taxpayer information from a third party. Section 907A - TDM <a href="#">Part 38-04-04h</a>,</p> <p>Power to seek a High Court Order for their production in certain situations. Section 902A – TDM <a href="#">Part 38-04-04g</a>,</p>
<p><b>Information, etc., from financial institutions:</b></p>	<p>Power to require a financial institution to provide information etc. or access to books, records or other documents in relation to a taxpayer, in certain circumstances, with the consent of a Revenue Commissioner. Section 906A – TDM <a href="#">Part 38-04-04c</a></p> <p>Power to require a financial institution to provide information etc. or access to books, records or other documents in relation to a taxpayer, with the consent of a Revenue Commissioner and by obtaining the consent of the Tax Appeals Commission, Section 907 – TDM <a href="#">Part 38-</a></p>

	<p><a href="#">04-04e</a>, and</p> <p>Power to require a financial institution to provide information etc. or access to books, records or other documents in relation to a taxpayer, with the consent of a Revenue Commissioner by obtaining a High Court Order: Section 908 – TDM <a href="#">Part 38-04-04d</a>,</p> <p>(The appropriate power to use will depend on the nature of the case and whether the identity of the taxpayer(s) is known.)</p>
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#### 4. Certain powers of inspection: sections 904A to 904K TCA

The powers in sections 904A to 904K TCA relate to the audit of returns of Deposit Interest Retention Tax (DIRT) and the audit of certain aspects of the business of assurance companies, investment undertakings, authorised insurers, qualifying lenders and savings managers and to the operation of dividend withholding tax and professional services withholding tax. [Appendix 3](#) contains a list of these powers. Guidelines for these powers are not included in this manual.

#### 5. Court applications for search warrants, evidence from financial institutions and third-party orders for documents and information

The powers in

- section 908A (obtaining evidence from financial institutions),
- section 908C (obtaining search warrants),
- section 908D (orders for evidential material) and
- section 908E (information from third parties)

are not covered in this manual, as they relate to criminal investigations and are used mainly by Investigation, Prosecution and Frontier Management Division (IPFMD).

#### 6. Use of powers for exchange of information purposes

Section 912A TCA facilitates the exchange of information by the Revenue Commissioners with tax authorities of other countries or territories under double tax treaties or tax information exchange agreements. The section enables Revenue to

obtain information under sections 900, 901, 902, 902A, 905, 906A, 907, 907A and 908 TCA where it is required for purposes of a tax liability in such countries or territories.

An authorised officer in the Exchange of Information Branch of International Division deals with the application of these sections for exchange of information purposes. Contact should be made with the that branch in the first instance if information about a taxpayer is required from a non-resident financial institution.

## 7. Cases suitable for criminal prosecution

If a serious evasion is suspected in a case, before using any of the powers mentioned in this manual, the facts of the case should be considered in the light of the tax prosecution criteria in Chapter 7 of the Code of Practice for Revenue Audit and other Compliance Interventions. If the case seems likely to come within those criteria and is suitable for investigation with a view to prosecution, the officer dealing with the case should (in consultation with her/his Branch Manager) contact the liaison officer in IPFMD.

## 8. Power to apply to the High Court to seek information from associated institutions.

Section 908B TCA allows Revenue to apply to the High Court to seek an order requiring a financial institution to supply documents and information held by a non-resident entity over which it has control. This power is for use by the Offshore Assets Group in the IPFMD in the first instance. Guidelines for that power are not included here.

## 9. Tax and Duty Manuals on Revenue powers

The Tax and Duty Manuals in the Powers folder set out for each section:

- an outline of the legislation;
- detailed guidance on the use of the power contained in the section; and
- draft notices/letters for use in the exercise of the powers.

They do not purport to give a legal interpretation of the statutory provisions. They complement the TDM [Part 38-04-02](#) and set out the way the powers are to be used.

The sections are considered in the order set out in the Contents.

Forms of Notice, Forms of Consent and sample letters to taxpayers are contained in each manual. The text of the notices and letters are indicative only and can be adjusted to suit the circumstances of a case, but care should be taken that the statutory requirements are included if any changes are made.

## Appendix 1

### Schedule of authorisations for information powers and level of approval/consent

Section	Approval required for use	Statutory consent required for use
900 – Production of books, etc. by taxpayer	Principal Officer	
901 – Application to High Court for production of books, etc., by taxpayer	Assistant Secretary	
902 – Information from third party	Principal Officer	
902A – Application to High Court for information from third party	Assistant Secretary	Written consent of a Revenue Commissioner
906A – Information from financial institutions	Assistant Secretary	Written consent of a Revenue Commissioner
907 – Tax Appeals Commission: information from financial institutions	Assistant Secretary	Written consent of a Revenue Commissioner
907A – Tax Appeals Commission: information from third party	Assistant Secretary	Written consent of a Revenue Commissioner

908 – High Court: information from financial institutions	Assistant Secretary	Written consent of a Revenue Commissioner
909 – Statement of Affairs in audit and investigation	Audit Manager / Assistant Principal or Principal	
912A – Information for tax authorities in other jurisdictions (this section enables information to be obtained under sections 900, 901,902,902A,905, 906A, 907, 907A and 908 on behalf of another jurisdiction)	As required by the section being used to seek the information for the other jurisdiction	As required by the section being used to seek the information for the other jurisdiction

## Appendix 2

### Table of powers

#### Taxes Consolidation Act 1997, Part 38, Chapter 4

Section 899	Inspector's right to make enquiries.
Section 900	Power to call for the production of books, information, etc.
Section 901	Application to High Court: production of books, information, etc.
Section 902	Information to be furnished by third party: request of an authorised officer
Section 902A	Application to High Court: information from third party
Section 902B	Power of inspection: life policies
Section 903	Power of inspection: PAYE
Section 904	Power of inspection: tax deduction from certain sub-contractors
Section 904A	Power of inspection: returns and collection of appropriate tax
Section 904B	Report to Committee of Public Accounts: publication, etc.
Section 904C to 904K	Other powers of inspection (see Appendix 3)
Section 905	Inspection of documents and records
Section 905 (2A)	District Court search warrant (for civil proceedings only)

Section 906	Authorised Officers and Garda Síochána
Section 906A	Information to be furnished by financial institutions
Section 907	Application to Tax Appeals Commission: information from financial institutions
Section 907A	Application to Tax Appeals Commission: information from third party
Section 908	Application to High Court seeking order requiring information from Financial Institutions
Section 908A	(Revenue offence) Power to obtain District Court order re information from financial institution
Section 908B	Application to High Court seeking order requiring information from associated institutions
Section 908C	(Revenue offence) Power to obtain District Court search warrant
Section 908D	Order to produce evidential material (Revenue offence) Power to obtain District Court production order
Section 908E	Order to produce documents or provide information (Revenue offence) Power to obtain District Court information and witness order
Section 908F	Privileged legal material (re section 908E)
Section 909	Power to require return of property
Section 910	Power to obtain information from Minister of the Government
Section 911	Valuation of assets
Section 912	Computer documents and records
Section	Information for tax authorities in other territories

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912A	
Section 912B	Questioning suspects in Garda custody in certain circumstances

## Appendix 3

### Table of powers of inspection Section 904A to 904K Taxes Consolidation Act 1997

Section 904A	Power of inspection: returns and collection of appropriate tax
Section 904B	Report to Committee of Public Accounts: publication, etc.
Section 904C	Power of inspection (returns and collection of appropriate tax) assurance companies
Section 904D	Power of inspection (returns and collection of appropriate tax) investment undertakings
Section 904E	Power of inspection: claims by authorised insurers
Section 904F	Power of inspection: claims by qualifying lenders
Section 904G	Power of inspection: claims by qualifying insurers
Section 904H	Power of inspection: qualifying savings managers
Section 904I	Power of inspection: returns and collection of dividend withholding tax
Section 904J	Power of inspection: tax deduction from payments in respect of professional services by certain persons
Section 904K	Power of inspection: notices of attachment