

Power to obtain from certain persons particulars of transactions with and documents concerning tax liability of taxpayer. FA79 s31; FA92 s238 902.—(1) (a) In this section—

“authorised officer” means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this section;

“business” means any trade, profession or business );

“documents” means those records required to be kept or retained under section 886;

“tax” means income tax or corporation tax.

(b) The persons who may be treated as the taxpayer under this section include a company which has ceased to exist and an individual who has died and, in relation to such an individual, the reference in subsection (2) to the spouse shall be construed as a reference to the widow or widower (the circumstance that she or he may have remarried being immaterial for the purposes of that subsection).

(c) The persons who in relation to a taxpayer are subject to this section shall be any person who is carrying on a business or was doing so at a material time, and any company whether carrying on a business or not.

(2) (a) For the purposes of this subsection, every director of a company shall be taken as being concerned with the management of any business carried on by the company, and a material time shall be any time which in the authorised officer's opinion is or may have been material in the ascertainment of any past or present tax liability of the taxpayer.

(b) Where a person (in this section referred to as “the taxpayer”)—

(i) delivers to an inspector a return or statement of the income, profits or gains arising to the taxpayer from—

(I) any business (past or present) carried on by the taxpayer or his or her spouse, or

(II) any business (past or present) with whose management either of them was concerned at a material time,

and the inspector is not satisfied with the return or statement, or

(ii) fails to deliver such a return or statement which the taxpayer is required to deliver under any provision of the Tax Acts,

the inspector may serve on the taxpayer a notice in writing stating—

(A) that the inspector is not satisfied with the return or statement delivered to him or her or, as the case may be, that such return or statement has not been delivered to the inspector, and

(B) that the inspector has requested an authorised officer to serve notice under this section on persons who in relation to the taxpayer are subject to this section.

(3) Where a notice under subsection (2) has been served on the taxpayer, an authorised officer may, for the purpose of enquiring into the tax liability of the taxpayer, by notice in writing served on any person who in relation to the taxpayer is subject to this section, require that person, within the period stated in the notice or such further period as the authorised officer may allow—

(a) to furnish the authorised officer with particulars of any business transactions which that person had with the taxpayer during a stated period, and

(b) to deliver to the authorised officer or, if the person to whom the notice is given so elects, to make available for inspection by an authorised officer such documents specified or described in the notice as are in that person's possession or power and as, in the first-mentioned officer's opinion, contain or may contain information relevant to any tax liability to which the taxpayer is, may be or may have been subject, or to the amount of any such tax liability.

(4) Nothing in this section shall be construed as requiring a person who is carrying on a profession and on whom a notice under subsection (3) has been served to furnish any particulars relating to a client to an authorised officer, or to deliver to, or make available for inspection by, an authorised officer any documents relating to a client, other than such particulars or documents—

(a) as pertain to the payment of fees or to other financial transactions, or

(b) as are otherwise material to the tax liability of the client,

and in particular such person shall not be required to disclose any information or professional advice of a confidential nature given to a client.

(5) Where a person fails to comply with a requirement duly made on the person under subsection (3) within the period stated in the notice containing the requirement or within such further period as may be allowed by the authorised officer concerned, the person shall be liable to a penalty of £1,000.

(6) Where documents are to be delivered to an authorised officer pursuant to a requirement duly made under subsection (3), copies of such documents may be delivered instead of the originals; but—

(a) the copies shall be photographic or otherwise by means of facsimile, and

(b) if so required by the authorised officer, the originals shall be made available for inspection by an authorised officer, failure to comply with this provision being treated as failure to comply with the requirement.

(7) An authorised officer may examine any documents furnished or made available for inspection under this section and may take copies of or extracts from them or retain them for the purposes of any legal proceedings instituted by an officer of the Revenue Commissioners or for the purposes of any criminal proceedings.

(8) When exercising any powers conferred by this section, an authorised officer shall if so requested by any person affected produce to that person a certificate of the Revenue Commissioners authorising him or her to exercise the powers conferred by this section.