

Application to Appeal Commissioners seeking determination that authorised officer justified in requiring information to be furnished by financial institutions. WCTIPA93 s13 907.—(1) In this section—

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

“books” means—

(a) bankers' books within the meaning of the Bankers' Books Evidence Acts, 1879 and 1959, and

(b) records and documents of persons referred to in section 7 (4) of the Central Bank Act, 1971 ;

“financial institution” means—

(a) a person who holds or has held a licence under section 9 of the Central Bank Act, 1971 , and

(b) a person referred to in section 7(4) of that Act;

“person” (other than in the definition of “financial institution”) means an individual who is ordinarily resident in the State.

(2) Notwithstanding any other provision of the Tax Acts, where—

(a) a person who for the purposes of tax has been duly required by an inspector to deliver a statement of the profits or gains arising to that person from any trade or profession or to deliver to the inspector a return of income fails to deliver that statement or that return to the inspector, or

(b) the inspector is not satisfied with such a statement or return so delivered,

an authorised officer may—

(i) if the authorised officer has reasonable grounds to believe that that person maintains or maintained an account or accounts (being an account or accounts from which the person may withdraw moneys), the existence of which has not been disclosed to the Revenue Commissioners, with a financial institution or that there is likely to be information in the books of that institution indicating that that statement of profits or gains or that return of income is false to a material extent, and

(ii) on application by the authorised officer to the Appeal Commissioners, they determine that in all the circumstances the authorised officer is justified in requiring the financial institution to furnish him or her—

(I) with particulars of all accounts maintained by that person, either solely or jointly with any other person or persons, in that institution during a period not exceeding 10 years immediately preceding the date

of the application, and

(II) with such information as may be specified by the authorised officer with the consent of the Appeal Commissioners relating to the financial transactions of that person, being information recorded in the books of that institution which would be material in determining the correctness of the statement of profits or gains or the return of income delivered by that person or, in the event of failure to deliver such statement or return, would be material in determining the liability of that person to tax,

require that financial institution to furnish such particulars or information.

(3) An application by an authorised officer under subsection (2) shall with any necessary modifications be heard by the Appeal Commissioners as if it were an appeal against an assessment to income tax, and a copy of the application shall, as soon as is practicable, be furnished by the authorised officer to the financial institution concerned and the person concerned, and that financial institution and that person shall be entitled—

(a) to be present during all the time of the hearing of the application,

(b) to produce lawful evidence, and

(c) to be represented by—

(i) a barrister,

(ii) a solicitor,

(iii) an accountant (being any person who has been admitted and is a member of an incorporated society of accountants),

(iv) a person who has been admitted and is a member of the body incorporated under the Companies Act, 1963, on the 31st day of December, 1975, as “The Institute of Taxation in Ireland”, or

(v) such other person as the Appeal Commissioners permit,

to plead on their behalf before the Appeal Commissioners.

(4) Section 941 shall apply with any necessary modifications to a determination by the Appeal Commissioners under subsection (2) as it applies to the determination by those Commissioners of an appeal against an assessment to income tax.

(5) Where the Appeal Commissioners have made a determination in accordance with subsection (2), the authorised officer shall, as soon as practicable but not later than 14 days from the time at which such determination was made, give a notice in writing to the financial institution concerned and the person concerned stating that—

(a) such a determination has been made, and

(b) the financial institution should, within a period of 30 days from the time at which the financial institution received such notice, furnish the particulars or information as may be specified in the notice.

(6) A financial institution which fails to comply with a request issued to it by an authorised officer in accordance with subsection (2) shall be liable to a penalty of £15,000 and, if the failure continues after the expiry of the period specified in subsection (5) (a), a further penalty of £2,000 for each day on which the failure so continues.