

Application to High Court seeking order requiring information to be furnished by financial institutions.

FA83 s18; DCITPA96 s10 908.—(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”, “financial institution” and “person” have the same meanings respectively as in section 907;

“judge” means a judge of the High Court.

(2) 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, if he or she is of opinion that that person maintains or maintained an account or accounts, 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, apply to a judge for an order requiring that financial institution to furnish the authorised officer—

(i) with full 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 in the order 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.

(3) Where the judge to whom an application is made under subsection (2) is satisfied that there are reasonable grounds for making the application, that judge may, subject to such conditions as he or she may consider proper and specify in the order, make an order requiring the financial institution to furnish the authorised officer with such particulars and information as may be specified in the order.

(4) Where a judge makes an order under this section, he or she may also, on the application of the authorised officer concerned, make a further order prohibiting, for such period as the judge may consider proper and specify in the order, any transfer of, or any dealing with, without the consent of the judge, any assets or moneys of the person to whom the order relates that are in the custody of the financial institution

at the time the order is made.

(5) (a) Where—

(i) a copy of any affidavit and exhibits grounding an application under subsection (2) or (4) and any order made under subsection (3) or (4) are to be made available to any of the persons referred to in subsection (2) or any of those persons' solicitor, or to the financial institution, as the case may be, and

(ii) the judge is satisfied on the hearing of the application that there are reasonable grounds in the public interest that such copy of an affidavit, exhibits or order, as the case may be, should not include the name or address of the authorised officer,

such copy, copies or order shall not include the name or address of that authorised officer.

(b) Where, on any application to the judge to vary or discharge an order made under this section, it is desired to cross-examine the deponent of any affidavit filed by or on behalf of the authorised officer and the judge is satisfied that there are reasonable grounds in the public interest to so order, the judge shall order either or both of the following—

(i) that the name and address of the authorised officer shall not be disclosed in court, and

(ii) that such cross-examination shall only take place in the sight and hearing of the judge and in the hearing only of all other persons present at such cross-examination.

(6) Every hearing of an application for an order under this section and of any appeal in connection with that application shall be held in camera.