

Know Your Ethics*

Ethical Issues in Question-Answer Form

Q. Can the goodwill of a proprietary firm of Chartered Accountant, after his death, be sold/transferred to another eligible member of the Institute?

A. Yes, the Council of the Institute considered the issue whether the goodwill of a proprietary firm of Chartered Accountant can be sold/transferred to another eligible member of the Institute, after the death of the proprietor concerned and came to the view that the same is permissible. Accordingly, the Council passed the resolution with a view to mitigate the hardship generally faced by the families after the death of such proprietors, subject to following conditions:

- (a) in respect of cases where the death of the proprietor concerned occurred on or after 30-8-1998.

Provided such a sale is completed/effectuated in all respects and the Institute's permission to practice in deceased's proprietary firm name is sought within a year of the death of such proprietor concerned. In respect of these cases, the name of the proprietary firm concerned would be kept in abeyance (i.e. not removed on receipt of information about the death of the proprietor as is being done at present) only up to a period of one year from the death of proprietor concerned as aforesaid.

- (b) in respect of cases where the death of the proprietor concerned occurred on or after 30-8-1998 and there existed a dispute as to the legal heir of the deceased proprietor.

Provided the information as to the existence of the dispute is received by the Institute within a year of the death of the proprietor concerned. In respect of these cases, the name of proprietary firm concerned shall be kept in abeyance till one year from the date of settlement of dispute.

- (c) in respect of cases where the death of the proprietor concerned had occurred on or before 29-8-1998 (irrespective of the time lag between the date of death of the proprietor concerned and the date of sale/transfer of goodwill completed/to be completed)

Provided such a sale/transfer is completed/effectuated and the Institute's permission to practice in the deceased's proprietary firm name is sought for by 28-8-1999 and also further provided that the firm name concerned is still available with the Institute."

Q. Can a member publish a change in partnership or change in the address of practice and telephone numbers?

A. Yes, a member can publish a change in partnership or change in the address of practice and telephone numbers. Such announcements should be limited to a bare statement of facts and consideration given to the appropriateness of the area of distribution of the newspaper or magazine and number of insertions.

Q. What is the meaning of communicating with the retiring auditor?

A. Where a new auditor is appointed, the incoming auditor has an obligation to communicate the fact of his appointment to the retiring auditor and make enquiry as to whether there are any professional or other reasons why he should not accept the appointment. This is intended not only as a mark of professional courtesy, but also to know the reasons for the change in order to be able to safeguard member's own interest, the legitimate interest of the public and the independence of the existing accountant. The provision is not intended, in any way, to prevent or obstruct the change. The incoming auditor may not accept the audit in following cases:

- (i) Non-compliance of the provisions of Sections 224 and 225 of the Companies Act as mentioned in Clause (9)
- (ii) Non-payment of undisputed audit fees by auditees other than in case of sick units for carrying out the statutory audit under the Companies Act, 1956 or various other statutes; and
- (iii) Issuance of a qualified report.

Q. Can the details of a student passing examination be published in local press?

A. It is usual for local papers to publish details of the examination success of local candidates. Some biographical information is often included. The candidate's name and address, school and local background, examination passed with details of any prize or place gained, the name of the principal, firm and town in which the principal practices may be published.

Q. Can a member act as an Insurance Surveyor?

A. As per Appendix (9) of CA Regulations, a member of the Institute in practice is generally permitted to act as a Surveyor and Loss Assessor under the Insurance Act, 1938 provided they are otherwise eligible and can perform attest functions.

Q. Can a member act both as Tax Auditor and Internal Auditor of an entity?

A. No, the Council has decided that the tax auditor cannot act as an internal auditor or vice versa for the same financial year.

Q. Can a concurrent auditor of a bank also undertake the assignment of quarterly review of the same bank?

A. No, the concurrent audit and the assignment of quarterly review of the same entity cannot be taken simultaneously as the concurrent audit is a kind of internal audit and the quarterly review is a kind of statutory audit. It is prohibited in terms of the 'Guidance Note of Independence of Auditors.'

* Contributed by the Ethical Standards Board of the ICAI

Q. Can a member act as insurance agent and arrange business for Insurance Company?

A. No, members are permitted to render Insurance Financial Advisory Services. It is not permissible to the members to do any kind of marketing and business procurement for any insurance company. Their services should remain limited to professional services in the form of advisory and consultancy services.

Q. Can a member or firm advertise his/it's services?"

A. Yes, in a restricted manner within the provisions of advertisement guidelines issued by the Council on 14th May, 2008. For advertisement guidelines, please refer pages 309-312 of Code of Ethics, 2009 (issued under Clause -7 of the First Schedule)

Q. Is a member holding certificate of practice entitled to own agricultural land and continue agricultural activity?

A. Yes, member holding certificate of practice can own and hold agricultural land and continue agricultural activity through hired labour.

Q. What will be the procedure where a member is guilty of charges both under the First Schedule and Second Schedule to the Act?

A. The procedure to be followed when a member is accused of misconduct under both Schedules is the procedure which is followed for misconduct under the Second Schedule.

Q. Can a member in practice have a branch office/additional, office/ temporary office?

A. Yes, a member can have a branch office. In terms of Section 27 of the CA Act, if a Chartered Accountant in practice or a firm of Chartered Accountants has more than one office in India, each one of such offices should be in the separate charge of a member of the Institute. Failure on the part of a member or a firm to have a member in charge of its branch and a separate member in case of each of the branches, where there are more than one, would constitute professional misconduct.

However, exemption has been given to members practicing in hill areas subject to certain conditions. The conditions are:

1. Such members/firm be allowed to open temporary offices in a city in the plains for a limited period not exceeding three months in a year.
2. The regular office need not be closed during this period and all correspondence can continue to be made at the regular office.
3. The name board of the firm in the temporary office should not be displayed at times other than the period such office is permitted to function as above.
4. The temporary office should not be mentioned in the letter-heads, visiting cards or any other documents as a place of business of the member/firm.

5. Before commencement of every winter it shall be obligatory on the member/firm to inform the Institute that he/it is opening the temporary office from a particular date and after the office is closed at the expiry of the period of permission, an intimation to that effect should also be sent to the office of the Institute by registered post.

The above conditions apply to any additional office situated at a place beyond 50 km from the municipal limits in which any office is situated.

It is necessary to mention that the Chartered Accountant in charge of the branch of another firm should be associated with him or with the firm either as a partner or as a paid assistant. If he is a paid assistant, he must be in whole time employment with him. However, a member can be in charge of two offices if they are located in one and the same accommodation. ■