

February, 2013

- Q. Whether a member in practice will be liable, if he fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary to make the financial statement not misleading?
- A. Yes, as per Clause (5) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary to make the financial statement not misleading.
- Q. Whether a member in practice will be liable if he fails to report a material mis-statement known to him to appear in a financial statement with which he is concerned in a professional capacity.
- A. Yes, as per Clause (6) of Part I of Second Schedule to the Chartered Accountants Act, 1949 a member in practice shall be deemed to be guilty of professional misconduct, if he fails to report a material mis-statement known to him to appear in a financial statement with which he is concerned in a professional capacity.
- Q. Whether a member in practice will be liable if he is grossly negligent in the conduct of his professional duties?
- A. Yes, as per Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he is grossly negligent in the conduct of his professional duties.
- Q. Whether a member in practice will be liable in a case where he was alleged to have signed two balance sheets on two different dates for the same financial year, the first one with a clean report and the second one with a qualified report.
- A. Yes, the action of the Chartered Accountant in signing two Balance Sheets on two different dates for the same financial year will constitute professional misconduct under Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949, which states that a member in practice shall be deemed to be guilty of

professional misconduct, if he is grossly negligent in the conduct of his professional duties.

Q. Whether a member in practice will be liable if he fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion?

A. Yes, as per Clause (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion.

Q. Whether a member in practice will be liable if he fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances?

A. Yes, as per Clause (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances.

Q. Whether a member in practice will be held liable for failing to keep moneys of his client in a separate banking account or to use such moneys for purposes other than they are intended for?

A. Yes, as per Clause (10) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to keep moneys of his client other than fees or remuneration or money meant to be expended in a separate banking account or uses such moneys for purposes other than they are intended within a reasonable time.

Q. Can a Chartered Accountant receive his professional fees in advance partly or in full?

A. Yes, as such there is no bar in the Chartered Accountants Act, 1949 or in the Chartered Accountants Regulations, 1988 as well as Code of Ethics in taking the fees in advance.

Q. Whether a member of the Institute will be liable, if he contravenes any of the provision of the Chartered Accountants Act, 1949 or the Regulations or the Guidelines issued by the Council?

A. Yes, as per Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he contravenes any of the provisions of Chartered Accountants Act, 1949 or the Regulations made there under or any Guidelines issued by the Council.

Q. Whether a member of the Institute shall be guilty of professional misconduct, if he accept appointment as auditor of company under section 224 of the Companies Act, 1956 while he is an employee of the cost auditor of the company appointed under section 233B of the Companies Act, 1956?

A. Yes, in exercise of the powers conferred by Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949, the Council of the Institute has issued Council General Guidelines, 2008, Chapter-III of which specifies that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he accepts the appointment as auditor of a company under Section 224 of the Companies Act, 1956, while he is an employee of the cost auditor of the Company appointed under Section 233B of the Companies Act, 1956.

Q. Whether a member of the Institute in practice is required to maintain books of accounts?

A. Yes, Chapter-V of the Council General Guidelines, 2008 specifies that a member of the Institute in practice or the firm of Chartered Accountants of which he is a partner, shall maintain and keep in respect of his / its professional practice, proper books of account including the following:-

- (i) a Cash Book;
- (ii) a Ledger.

Q. Is there any ceiling on the number of tax audit assignments that can be taken up by a member in practice?

A. Yes, the Chapter-VI of the Council General Guidelines, 2008 specifies that a member of the Institute in practice shall not accept, in a financial year, more than the "specified number of tax audit assignments" under Section 44AB of the Income-tax Act, 1961. The number specified for tax audit is 45.

Q. Whether the audits conducted under Section 44AD, 44AE and 44AF of the Income Tax Act, 1961 shall be taken into account for the purpose of reckoning the specified no. of tax audit assignments?

A. No, Chapter-VI of the Council General Guidelines, 2008 specifies that the audits conducted under Section 44AD, 44AE and 44AF of the Income Tax Act, 1961 shall not be taken into account for the purpose of reckoning the "specified number of tax audit assignments".

Q. Whether a Chartered Accountant is permitted to accept appointment as auditor of a concern while he is indebted to the firm or has given any guarantee or provided any security in connection with the indebtedness of any third person to the concern?

A. No, Chapter-X of the Council General Guidelines, 2008 specifies that a member of the Institute in practice or a partner of a firm in practice or a firm shall not accept appointment as auditor of a concern while indebted to the concern or given any guarantee or provided any security in connection with the indebtedness of any third person to the concern, for limits fixed in the statute and in other cases for amount exceeding Rs. 10,000/-
