

## September, 2012

Q. In a representation submitted to a company under Section 225(3) of the companies Act, 1956, the auditors of the company included the contribution made by the firm in strengthening the control procedures of the company during their association with the company. Is it misconduct (Case Study)?

A. Para (i) under Clause (6) of Part I of the First Schedule to the Act, provides for scope of such representation, which an Auditor is entitled to make under Section 225 (3) of the Companies Act, 1956. Section 225(3) of the Companies Act, 1956 permits a retiring auditor to make a representation in writing (not exceeding a reasonable length) to the company. The proposition of the partner to highlight contributions made by the firm in strengthening the control procedures in the representation should not be included in such representation because the representation letter should not be prepared in a manner so as to seek publicity. The Code of Ethics issued by the Institute makes it amply clear that the right to make representation does not mean that an auditor has any prescriptive right or a lien on an audit. The wording of his representation should be such that, apart from the opportunity not being abused to secure needless publicity, it does not tantamount directly or indirectly to canvassing or soliciting for his continuance as an auditor. The letter should merely set out in a dignified manner how he has been acting independently and conscientiously through the term of office and may, in addition, indicate if he so chooses his willingness to continue as auditor if re-appointed by the shareholders. Thus, such action proposed by a firm could not be approved since, it may lead to his being held guilty of professional misconduct under Clause (6) of Part I of the First Schedule to the Act.

Q. Can a Chartered Accountant in practice accept original professional work emanating from the client introduced to him by another member?

A. No, Para (j) under Clause (6) of Part I of the First Schedule to the Act prescribes that a member should not accept the original professional work emanating from

a client introduced to him by another member. If any professional work of such client comes to him directly, it should be his duty to ask the client that he should come through the other member dealing generally with his original work.

Q. Whether a Chartered Accountant in practice can give public interviews and also whether he can furnish details about himself or his firm in such interviews?

A. A Chartered Accountant in practice can give public interviews. While doing so, due care should be taken to ensure that such interviews or details about the members or their firms are not given in a manner highlighting their professional attainments, which may hit clauses (6) & (7) of the First Schedule of the Act.

Q. A Chartered Accountant in practice during a TV interview, handed over a bio-data of his firm to the Chairperson. Such bio-data detailed the standing of the international firm with which the firm was associated. It also detailed the achievements of the concerned partner and his recognition as an expert in the field of taxation in the country. The chairperson read out the said bio-data during the interview. Is it a professional misconduct? (Case Study)

A. Yes, Clause (6) of Part I of the First Schedule to the Act prohibits solicitation of client or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means since it shall constitute professional misconduct. The Member would be held guilty of professional misconduct under Clause (6) of Part I of the First Schedule to the Act under the given circumstances.

Q. Can a Chartered Accountant in practice/firm of Chartered Accountants post the particulars of himself/itself on a website?

A. Yes, the Council has approved the detailed guidelines for posting the particulars on Website by Chartered Accountants in practice and firm(s) of Chartered Accountants in practice.

Q. Whether website of any Chartered Accountant can provide a link to the website of ICAI, its Regional Councils and Branches and also to the websites of Govt./Govt. Departments/Regulatory authorities?

A. Yes, please refer the relevant pages of the Code of Ethics, 2009.

Q. Whether the information contained in the website of the Chartered Accountants and/or Chartered Accountants' firms can be circulated on their own or through e-mail or by any other mode or technique?

A. Sub-para (3) & (4) of Para (m) under Clause (6) of Part I of the First Schedule to the Act prescribes that the Chartered Accountants and/or Chartered Accountants' firms should ensure that none of the information contained in the website be circulated on their own or through e-mail or by any other mode or technique except on a specific "pull" request. The Chartered Accountants and/or Chartered Accountants' Firms would ensure that their Websites are run on a "pull" model and not a "push" model of the technology to ensure that any person who wishes to locate the Chartered Accountants or Chartered Accountants' firms would only have access to the information and the information should be provided only on the basis of specific "pull" request.

Q. Can a member put up his photograph on the website?

A. Yes, revised Sub-Para (8) of Para (m) under Clause (6) of Part I of the first schedule to the Act provides that display of passport size photograph is permitted.

Q. Can a Chartered Accountant advertise his professional attainments or services, or can he use any designation or expression other than Chartered Accountants on professional documents, visiting cards, letter heads or sign boards, etc.?

A. No, as per Clause (7) of Part I of the First Schedule to the Act, a Chartered Accountant shall be deemed to be guilty of professional misconduct, if he advertises his professional attainments or services, or uses any designation or expressions other than chartered accountant on professional documents, visiting cards, letter heads or sign boards, unless it be a degree of a University

established by law in India or recognized by the Central Government or a title indicating membership of the Institute of Chartered Accountants or of any other institution that has been recognized by the Central Government or may be recognized by the Council.

However, the member in practice may advertise through a write-up setting out the services provided by him or his firm and particulars of his firm subject to such guidelines issued by the Council.

Q. Whether a Chartered Accountant in practice can use expression like Income Tax Consultant, Cost Accountant, Company Secretary, Cost Consultant or a Management Consultant?

A. No, Council direction under Clause (7) of Part I of the First Schedule to the Act which prescribes that it is improper for a Chartered Accountant to state on his professional documents that he is an Income-tax Consultant, Cost Accountant, Company Secretary, Cost Consultant or a Management Consultant, whereas it is permitted to mention his degrees.

Q. Can a Chartered Accountant in practice give the date of setting up the practice or date of establishment on the letterheads and other professional documents, etc.?

A. No, Council direction under Clause (7) of Part I of the First Schedule to the Act prescribes that the date of setting up of the firm on the letterheads and the professional documents, etc. should not be mentioned. However, in the Website, the year of establishment can be given on a specific "pull" request.

\*\*\*\*\*