

Matter for 'Know Your Ethics' – November, 2013 issue of the CA Journal

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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-paras (3) & (4) of Para (m) in the Code of Ethics under commentary to Clause (6) of Part I of the First Schedule to the Chartered Accountants Act, 1949 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) in the Code of Ethics under commentary to Clause (6) of Part I of the First schedule to the Chartered Accountants Act, 1949 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 Chartered Accountants Act, 1949 , 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 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 as may be 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 Chartered Accountants Act, 1949 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 Chartered Accountants Act, 1949 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.

Q. Can a Chartered Accountant in practice also practice as an Advocate?

A. Yes, Council direction under Clause (7) of Part I of the First Schedule to the Chartered Accountants Act, 1949 prescribes that a Chartered Accountant in practice who is otherwise eligible may practice as an Advocate subject to the permission of the Bar Council but in such cases, he should not use designation 'Chartered Accountant' in respect of the matters involving the practice as an Advocate. In respect of other matters he should use the designation 'Chartered Accountant' but he should not use the designation 'Chartered Accountant' and 'Advocate' simultaneously.

Q. Whether a Chartered Accountant in practice can use the designation 'Corporate Lawyer'?

A. No, a Chartered Accountant in practice is not permitted to use the designation 'Corporate Lawyer'.

Q. Can a Chartered Accountant in practice/firm give advertisement in press?

- A. No, However, the members in practice may advertise the services setting out the services provided by him or his firm, and particulars of his firm, through a 'Write-Up', subject to such guidelines as may be issued by the Council.
- Q. Whether a member can appear on television/Radio or give lectures at forums?
- A. Yes, Council direction under Clause (7) of Part I of the First Schedule to the Chartered Accountants Act, 1949 prescribes that a member may appear on television/Radio or give lectures at forums and may give his name and describe himself as chartered accountant. Special qualifications or specialized knowledge directly relevant to the subject matter of the programme may also be given. But no reference should be made, in the case of practicing member to the name and address or services of his firm. What he may say or write must not be promotional of him or his firm but must be an objective professional view of the topic under consideration.
- Q. Whether Companies in which Chartered Accountants have been appointed as directors on their Board can publish description about the Chartered Accountant's expertise, specialization and knowledge in any particular field or add appellations or adjectives to their names in the prospectus or public announcements issued by these companies?
- A. The Council's attention has been drawn to the fact that more and more companies are appointing Chartered Accountants' as directors on their Boards. The prospectus or public announcements issued by these companies often publish descriptions about the Chartered Accountants' expertise, specialization and knowledge in any particular field or add appellations or adjectives to their names. Attention of the members in this context is invited to the provisions of Clause (6) and (7) of Part I of the First Schedule to the Chartered Accountants Act, 1949.  
In order that the inclusion of the name of a member of the Institute in the prospectus or public announcements or other public communications issued by the companies in which the member is a director does not contravene the above noted provisions, it is necessary that the members should take necessary steps to ensure that such prospectus or public announcements or public communications do not advertise his professional attainments and also that such prospectus or public announcements or public communications do not directly or indirectly amount to solicitation of clients for professional work by the member. While it may be difficult to lay down a rigid rule in this respect, the members must use their good judgement, depending upon the facts and circumstances of each case to ensure that the above noted provisions are complied with both in letter and spirit.

It is advisable for a member that as soon as he is appointed as a director on the Board of a company, he should specifically invite the attention of the management of the company to the aforesaid provisions and should request that before any such prospectus or public announcements or public communication mentioning the name of the member concerned, is issued, the material pertaining to the member concerned should, as far as practicable be got approved by him.

### Announcement

All the members of Institute of Chartered Accountants of India (ICAI) are hereby informed that in terms of the authority granted under Clause (j) of sub-section (1) of Section 30 of the Chartered Accountants Act, 1949 , the Council of ICAI has prescribed Regulation 47 of the Chartered Accountants Regulations, 1988, which reads as "*No amount shall be charged from, or be payable by, an articled assistant or any other person on his behalf, directly or indirectly, whether by way of premium or as loan or deposit or in any other form in connection with his engagement as an articled assistant.*"

In view of the above, charging of premium from articled assistants is misconduct under the provisions of Clause (1) of Part-II of the Second Schedule to the Chartered Accountants Act, 1949, and punishable under sub-section (3) of Section 21B of the Chartered Accountants Act, 1949.

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