

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

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Q. Whether the words "Chartered Accountants" and name of city after the name of the members of the Institute be mentioned in the articles contributed by such members and published in the Institute's Journal?

A. Yes, under Clause (6) of Part I of the First Schedule to the CA Act there is no restriction in the Code of Ethics for mentioning the words "Chartered Accountants" and also the name of city in an article contributed by a member in the Institute's Journal as well as in newspapers and other periodicals.

Q. Can a Chartered Accountant in practice solicit professional work by making roving enquiries?

A. No, it is not permissible for a member to address letters or circulars to persons who are likely to require services of a Chartered Accountant. It would tantamount to advertisement (as per para (g) under clause (6) of Part-I of the First Schedule to the CA Act, of Code of Ethics, 2009).

Q. Can a Chartered Accountant in practice seek professional work from his professional colleagues?

A. Yes, in terms of proviso (i) of Clause (6) of Part-I of the First Schedule to the CA Act, a member is permitted to apply or request for or to invite or to secure professional work from another Chartered Accountant in practice.

The issue of advertisement or a circular by a Chartered Accountant, seeking work from professional colleagues on any basis whatsoever is in violation of Clause (6) of Part I of the First Schedule to the CA Act.

However, classified advertisement in the Journal/Newsletter of the Institute is permissible in this regard. A member is permitted to issue a classified advertisement in the Journal/Newsletter of the Institute intended to give information for sharing professional work on assignment basis or for seeking professional work on partnership basis or salaried employment in the field of accounting profession provided it only contains the accountant's name, address, telephone, fax number and E-mail address.

Q. Whether sponsorship or prizes can be instituted in the name of Chartered Accountants or a firm of Chartered Accountants?

A. Yes, an individual Chartered Accountant or a firm of Chartered Accountants can institute or sponsor prizes, provided that the designation "Chartered Accountant", is not appended to the prize and the Clause (6) of the First Schedule regarding advertisement and publicity is complied with.

Q. A Chartered Accountants firm issued circulars to the non-clients that a Chartered Accountant who was the former partner in-charge of Taxation of one of the largest accounting firms of the world, had joined them as partner. Can they do it? (Case Study)

A. No, Clause (6) of Part I of the First Schedule to the CA Act prohibits solicitation of clients or performing work either directly or indirectly by circular, advertisement, personal communication or interview or by any "other means". The issuance of circular to persons who are not clients but may likely requires services of a chartered accountant would tantamount to advertisement since it is solicitation of professional work by making roving enquiries. As per Clause (7) of Part I of the First Schedule to the CA Act, the usage of the words "one of the largest accounting firms of the World" and the specification of specialization in "taxation" would also amount to advertisement and, thus, constitute professional misconduct.

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 CA 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 CA 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 CA 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. 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 CA 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 CA 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 CA 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.

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