

Know Your Ethics

Ethical Issues in Question-Answer Form

Q. Whether a firm can obtain an assurance engagement at a significantly lower fee level than that charged by the predecessor firm, or quoted by other firms?

- A. When a firm obtains an assurance engagement at a significantly lower fee level than that charged by the predecessor firm, or quoted by other firms, the threat created will not be reduced to an acceptable level unless:
- The firm is able to demonstrate that appropriate time and qualified staff are assigned to the task; and
 - All applicable assurance standards, guidelines and quality control procedures are being complied with.

Q. When does the situation for Potential Conflict arises?

- A. When the responsibilities to an employing organisation and the professional obligations to comply with the fundamental principles are in conflict, the situation of potential conflict arises for the Professional Accountant in service.

Q. Whether a Professional Accountant in Service should undertake those tasks for which he does not have sufficient specific training or experience?

- A. The fundamental principle of professional competence and due care requires that a professional accountant in service should only undertake significant tasks for which the professional accountant in service has, or can obtain, sufficient specific training or experience. A professional accountant in service should not intentionally mislead an employer as to the level of expertise or experience possessed, nor should a professional accountant in service fail to seek appropriate expert advice and assistance when required.

Q. What is the distinction between the two schedules to the Chartered Accountants Act, 1949?

- A. The two schedules are distinguished on the basis of gravity of misconduct and quantum of punishment for the misconduct, the second schedule pertaining to comparably more graver misconduct and higher punishment.

Q. What will be the procedure where a member is guilty of charges both under the First Schedule and Second Schedule to the Chartered Accountants Act, 1949?

- A. The procedure to be followed when a member is accused of misconduct under both schedules is the same which is followed for misconduct under the second schedule.

Q. Can a member in practice render Management Consultancy and other services?

- A. Yes, however, the areas covered under the Management Consultancy and other services have been summarised by the Council, appearing in the Code of Ethics, 2009 Edition.

Q. Whether a member in practice is permitted to undertake the management of NRI funds?

- A. No, the member is not permitted to undertake such assignment because the same is not covered under "Management Consultancy and Other Services" permitted to be rendered by the practicing members of the Institute.

Q. Can a Chartered Accountant provide 'Portfolio Management Services' (PMS) as part of CA practice?

- A. No, the Explanation to Clause (xix) of the definition of 'Management Consultancy and other Services' expressly bars the activities of broking, underwriting and Portfolio Management.

Q. Whether a Chartered Accountant in practice is required to obtain any trade license for practicing?

- A. No, a Chartered Accountant in practice is not required to obtain any trade licence for practicing as a professional. The certificate of practice issued by the Institute is the only requirement to practice as a Chartered Accountant.

Q. Can a Chartered Accountant in practice work as a 'Collection Agent/Recovery Agent'?

- A. No, a Chartered Accountant in practice cannot work as a Collection Agent. However, he can act as a Recovery Consultant as provided in clause (xxv) of the "Management Consultancy and other Services".

Q. Whether a practicing Chartered Accountant can agree to select and recruit personnel,

* Contributed by the Ethical Standards Board of the ICAI

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conduct training programmes and workstudies for and on behalf of a client?

- A. Yes. The expression "Management Consultancy and other Services" defined by the Council includes both personnel recruitment and selection and conducting training programmes and work-studies. Therefore, a Chartered Accountant in practice shall not commit any professional misconduct by rendering such services for and on behalf of the client.

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 Chartered Accountants Act, 1949, 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 letterheads, 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 to be noted that the requirement of Section 27 in regard to a member being in charge of an office of a Chartered Accountant in practice or a firm of such Chartered Accountants shall be satisfied only if the member is actively associated with such office. Such association shall be deemed to exist if the member resides in the place where the office is situated for a period of not less than 182 days in a year or if he attends the said office for a period of not less than 182 days in a year or in such other circumstances as, in the opinion of the Executive Committee, establish such active association.

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.

Q. Can a Chartered Accountant in practice allow any person to practice in his name as a Chartered Accountant?

- A. No, Clause (1) of Part-I of the First Schedule to the Chartered Accountants, Act 1949 prohibits a Chartered Accountant in practice to allow any person to practice in his name as a Chartered Accountant unless such person is also a Chartered Accountant in practice and is in partnership with or employed by him.

Q. Can a Chartered Accountant in practice pay to any person any share, commission or brokerage in the fees or profits of his professional business?

- A. No, Clause (2) of Part-I of the First Schedule to the Chartered Accountants, Act 1949 prohibits a Chartered Accountant from paying or allowing any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of the deceased partner or a member of any other professional body or with such other persons having such qualifications as may be prescribed, for the purpose of rendering such professional services from time to time in or outside India. ■