

# Know Your Ethics

**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 part-I of the First Schedule to the Chartered Accountants Act, 1949 regarding advertisement and publicity is complied with.

**Q. Whether a member in practice can respond to Tenders, Advertisements and Circulars?**

A. Yes, it is permitted as per proviso (ii) to clause (6) of part-I of the First Schedule to the Chartered Accountants Act, 1949.

**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 part-I of the First Schedule to the Chartered Accountants Act, 1949.

**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 sign boards, unless it be a degree of a University established by law in India or recognised by the Central Government or a title indicating membership of the Institute of Chartered Accountants or of any other institution that has been recognised by the Central Government or may be recognised by the Council.

However, a 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. 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 Chartered Accountants Act, 1949 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 Chartered Accountants Act, 1949 under the given circumstances.

**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 Chartered Accountants Act, 1949 provides that display of passport size photograph on the website of member is permitted.

**Q. Whether a Chartered Accountant in practice can accept audit in case the audit fee of the previous auditor remains unpaid.**

A. No, in case the undisputed audit fees for carrying out the statutory audit under the Companies Act or other statutes have not been paid, the incoming auditor should not accept the appointment unless such fees are paid. In respect of other dues, the incoming auditor should in appropriate circumstances use his influence in favour of his predecessor to have the dispute as regards the fees settled.

The Council has taken the view that the provisions of audit fee made in accounts signed by both the auditor and the auditee shall be

\* Contributed by the Ethical Standards Board of the ICAI

# Know Your Ethics

considered as 'undisputed' audit fees. In this connection, attention of members is invited to the Council General Guidelines, 2008 dated 08.08.2008

**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 Chartered Accountants Act, 1949 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. 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. 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 or a firm of Chartered Accountants can charge or offer to charge professional fees based on a percentage of turnovers?**

- A. No, in terms of Clause (10) of Part I of First Schedule to the Chartered Accountants Act, 1949, it is not permitted to a Chartered Accountant or a firm of Chartered Accountant

to charge fees on a percentage of turnover, except in the circumstances provided under Regulation 192 of the CA Regulations, 1988.

“192. Restriction on fees

No Chartered Accountant in practice shall charge or offer to charge, accept or offer to accept, in respect of any professional work, fees which are based on a percentage of profits, or which are contingent upon the findings, or results of such work:

Provided that:

- (a) in the case of a receiver or a liquidator, the fees may be based on a percentage of the realisation or disbursement of the assets;
- (b) in the case of an auditor or a co-operative society, the fees may be based on a percentage of the paid up capital or the working capital or the gross or net income or profits; and
- (c) in the case of a valuer for the purposes of direct taxes and duties, the fees may be based on a percentage of the value of the property valued.”
- (d) in the case of certain management consultancy services as may be decided by the resolution of the Council from time to time, the fees may be based on percentage basis which may be contingent upon the findings, or results of such work;
- (e) in the case of certain fund raising services, the fees may be based on a percentage of the fund raised;
- (f) in the case of debt recovery services, the fees may be based on a percentage of the debt recovered;
- (g) in the case of services related to cost optimisation, the fees may be based on a percentage of the benefit derived; and
- (h) any other service or audit as may be decided by the Council.

**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. ■