

Matter for 'Know Your Ethics' – December, 2014 issue of the CA Journal

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 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. Whether public notice published in the newspaper by a Chartered Accountant individually or jointly with an Advocate in respect of acquisition of land by their client is permitted.

A. Yes, in terms of the Council Guidelines under Clause (7) of Part I of the First Schedule to the Chartered Accountants Act, 1949 the public notice published by a Chartered Accountant in the newspaper in respect of acquirement of land by his client is permissible.

Q. Whether a Chartered Accountant/Firm is permitted to use logo on letter-heads, stationery, etc.?

A. No, the use of logo/monogram of any kind/form/style/design/colour etc. whatsoever on any display material or media e.g. paper stationery, documents, visiting cards, magnetic devices, internet, signboard by the Chartered Accountant, firm of Chartered Accountants is prohibited. Use/printing of member/firm name in any other manner tantamounting to logo/monogram is also prohibited. However, a common CA logo has been allowed to the

members, provided it is used in the correct manner within terms of the Council guidelines.

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 Chartered Accountant in practice can engage in any business or occupation other than the profession of Chartered Accountancy?

A. No, in terms of Clause (11) of Part I of First Schedule to the Chartered Accountants Act, 1949 in general a Chartered Accountant in practice is not permitted to engage himself in any business or occupation other than the profession of Chartered Accountants.

However, there are following exceptions to it:-

(i) A Chartered Accountant can be a Director of a Company (not being a Managing Director or Whole-Time Director), unless he or any of his partners is interested in such company as an auditor. [Proviso to Clause (11)]

(ii) A Chartered Accountant in practice may engage in any business or occupation with the permission granted in accordance with a Resolution of the Council. Appendix-9 of the Chartered Accountants Regulations, 1988 contains the above resolutions under two heads (A) permission granted generally and (B) permission to be granted specifically.

Q. Whether a member who is carrying out statutory audit and also rendering management consultancy services to his auditee clients can receive fees for such other services, which are in excess of the audit fees.

A. Yes. However, in exercise of the powers conferred by clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 the Council of the Institute has issued Guidelines which specify that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he accepts the appointment as statutory auditor of Public Sector Undertaking(s)/Government Company(ies)/Listed Company(ies) and other Public Company(ies) having turnover of Rs. 50 crore or more in a year and accepts any other work(s) or assignment(s) or service(s) in regard to the same Undertaking(s)/Company(ies) on a remuneration which in aggregate exceeds the fee payable for carrying out the statutory audit of the same Undertaking/company.

Provided that in case appointing authority(ies)/regulatory body(ies) specify(ies) more stringent condition(s)/restriction(s), the same shall apply instead of conditions/restrictions specified under the Guidelines.

Explanation :

The above restrictions shall apply in respect of fees for other work(s) service(s) or assignment(s), payable to the statutory auditors and their associate concern(s) put together;

2. For the above purpose;

(I) The term "other work(s)" or "service(s)" or "assignment(s)" shall include Management Consultancy and all other professional services permitted by the Council pursuant to Section 2(2)(iv) of the Act, but shall not include :-

(i) audit under any other statute;

(ii) certification work required to be done by the statutory auditors; and

(iii) any representation before an authority.

(II) The term "associate concern" means any corporate body or partnership firm which renders the Management Consultancy and all other professional services permitted by the Council wherein the proprietor and/or partner(s) of the statutory auditor firm and/or their "relative(s)" is/are Director/s or partner/s and/or jointly or severally hold "substantial interest" in the said corporate body or partnership;

(III) The terms "relative" and "substantial interest" shall have the same meaning as are assigned under Appendix (10) to the CA Regulations;

3. In regard to taking up other work(s) or service(s) or assignment(s) of the undertaking/company referred to above, it shall be open to such associate concern or corporate body to render such work(s) or service(s) or assignment(s) so long as aggregate remuneration for such other work(s) or service(s) or assignment(s) payable to the statutory auditor(s) together with fees payable to its associate concern(s) or corporate body(ies) do/does not exceed the aggregate of fee payable for carrying out the statutory audit.

Q. Can a Chartered Accountant in practice use/fix a monogram of the Institute on any column/wall located inside the office or on professional documents?

A. No, in view of the Council directions under Clause (7) of Part I of the First Schedule to the Chartered Accountants Act, 1949 a Chartered Accountant in practice is not permitted to use/fix a monogram of the Institute on any column/wall located inside the office or on any professional documents.

Q. Whether a Chartered Accountant in practice can accept a position as auditor previously held by another Chartered Accountant without first communicating with him in writing?

A. No, a Chartered Accountant in practice cannot accept a position as auditor previously held by another Chartered Accountant without first communicating with him in writing. It will be in violation of Clause (8) of Part I of First Schedule to the Chartered Accountants Act, 1949.

Q. If a member is a partner in more than one firm, is it permissible to print the names of all the firms on visiting cards, letter-heads, stationery etc.?

A. Yes, there is no violation under Clause (7) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

Q. Whether posting of a letter under "Certificate of Posting" is sufficient to establish communication with retiring auditor?

A. No, a mere posting of a letter "Under Certificate of Posting" is not sufficient to establish effective communication with the retiring auditor unless there is some evidence to show that the letter has in fact reached the person communicated with. Members should therefore communicate with a retiring auditor in such a manner as to retain in their hands positive evidence of the delivery of the communication to the addressee. Communication by a letter sent "Registered Acknowledgement due" or by hand against a written acknowledgement would in the normal course provide such evidence.
