

Matter for 'Know Your Ethics' – April, 2015 issue of the CA Journal

Q. Can a member share profits with the widow of his deceased partner?

A. Yes, when there are two or more partners and one of them dies, the widow of the deceased partner can continue to receive a share of the profit of the firm. A legal representative, say widow of a deceased partner, would be entitled to share the profits only where the partnership agreement contains a provision that on the death of the partner his widow or legal representative would be entitled to such payment by way of sharing of fees or otherwise for the specified period.

Q. Can the goodwill of a proprietary firm of Chartered Accountant, after his death be sold/transferred to another eligible member of the Institute?

A. Yes, the Council of the Institute considered the issue whether the goodwill of a proprietary firm of Chartered Accountant can be sold/ transferred to another eligible member of the Institute, after the death of the proprietor concerned and came to the view that the same is permissible. Accordingly, the Council passed the following resolution with a view to mitigate the hardship generally faced by the families after the death of such proprietors, subject to following conditions :

(a) in respect of cases where the death of the proprietor concerned occurred on or after 30.8.1998.

Provided such a sale is completed/ effected in all respects and the Institute's permission to practice in deceased's proprietary firm name is sought within a year of the death of such proprietor concerned. In respect of these cases, the name of the proprietary firm concerned would be kept in abeyance (i.e. not removed on receipt of information about the death of the proprietor as is being done at present) only up to a period of one year from the death of proprietor concerned as aforesaid.

(b) in respect of cases where the death of the proprietor concerned occurred on or after 30.8.1998 and there existed a dispute as to the legal heir of the deceased proprietor.

Provided the information as to the existence of the dispute is received by the Institute within a year of the death of the proprietor concerned. In respect of these cases, the name of proprietary firm concerned shall be kept in abeyance till one year from the date of settlement of dispute.

(c) in respect of cases where the death of the proprietor concerned had occurred on or before 29th August, 1998 (irrespective of the time lag between the date of death of the proprietor concerned and the date of sale/transfer of

goodwill completed/to be completed). Provided such a sale/transfer is completed/ effected and the Institute's permission to practice in the deceased's proprietary firm name is sought for by 28th August, 1999 and also further provided that the firm name concerned is still available with the Institute.”

Q. Can a member who is in part-time/full time employment apply for Certificate of Practice and do attest functions?

A. Yes, he can apply for Certificate of Practice but cannot do attest function. Please refer Regulation 190A of the Chartered Accountants Regulations, 1988.

Q. Can a member act as a Tax Auditor and Internal Auditor of an entity?

A. No, the Council has decided that Tax Auditor of an entity cannot act as an Internal Auditor of the same entity, or vice-versa for the same financial year.

Q. Whether the members are required to intimate his website address to the Institute?

A. No, members are not required to intimate the Website address to the Institute. However, the member has to comply with the Website Guidelines issued by the Institute in this regard.

Q. Can a member or firm advertise his/its services?

A. Yes, a member or firm may advertise his/its services in a restricted manner in compliance with the Advertisement Guidelines issued by the Council on 14th May, 2008.

Q. What are the Fundamental Principles which a Professional Accountant is required to comply?

A. A professional accountant is required to comply with the following fundamental principles:

(a) Integrity: A professional accountant should be straightforward and honest in all professional and business relationships.

(b) Objectivity: A professional accountant should not allow bias, conflict of interest or undue influence of others to override professional judgments.

(c) Professional Competence and Due Care: A professional accountant should act diligently and in accordance with applicable technical and professional standards while providing professional services.

(d) Confidentiality: A professional accountant should not disclose information acquired in the course of his professional and employment relationships to any person without proper and specific authority unless there is a legal or professional right or duty to disclose.

(e) Professional Behaviour: A professional accountant should comply with relevant laws and regulations and should avoid any action that discredits the profession.

Q. What is a Client Acceptance, Engagement Acceptance and Changes in Professional Appointment?

A. Section 210 of Part - A of Code of Ethics, 2009 deals with Professional Appointment:

(a) Client Acceptance – Under this head, a professional accountant in public practice should consider, before accepting a new client relationship, whether acceptance would create any threats to compliance with the fundamental principles.

(b) Engagement Acceptance - A professional accountant in public practice should agree to provide only those services that the professional accountant in public practice is competent to perform.

(c) Changes in Professional Appointment - A professional accountant in public practice who is asked to replace another professional accountant should determine whether there are any reasons, professional or other, for not accepting the engagement, such as circumstances that threaten compliance with the fundamental principles. It shall require direct communication with the existing accountant to establish the facts and circumstances behind the proposed change so that the professional accountant in public practice can decide whether it would be appropriate to accept the engagement.

Under all the three circumstances, the significance of any threats should be evaluated. If identified threats are other than clearly insignificant, safeguards should be considered and applied as necessary to eliminate them or reduce them to an acceptable level. Where it is not possible to reduce the threats to an acceptable level, a professional accountant in public practice should decline to enter into the client relationship.

Q. What are the threats involved while complying with the fundamental principles?

- A.** Compliance with the fundamental principles may potentially be threatened by a broad range of circumstances. Many threats fall into the following categories:
- (a) Self-interest threats, which may occur as a result of the financial or other interests of a professional accountant or of a relative;
 - (b) Self-review threats, which may occur when a previous judgment needs to be re- evaluated by the professional accountant responsible for that judgment;
 - (c) Advocacy threats, which may occur when a professional accountant promotes a position or opinion to the point that subsequent objectivity may be compromised;
 - (d) Familiarity threats, which may occur when, because of a relationship, a professional accountant becomes too sympathetic to the interests of others; and
 - (e) Intimidation threats, which may occur when a professional accountant may be deterred from acting objectively by threats, actual or perceived.

Q. What is the Conceptual Framework Approach?

- A.** It is a framework that requires a professional accountant to identify, evaluate and address threats to compliance with the fundamental principles, rather than merely comply with a set of specific rules. Professional accountants are required to apply this conceptual framework to identify threats to compliance with the fundamental principles, to evaluate their significance and, if such threats are other than clearly insignificant than to apply safeguards to eliminate them or reduce them to an acceptable level such that compliance with the fundamental principles is not compromised.
