

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

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-1 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 share his fees with Government in respect of Government Audit?

A. The institute came across certain Circulars/Orders issued by the Register of various State Co-operative Societies wherein it has been mentioned that certain amount of audit fee is payable to the concerned State Govt. and the auditor has to deposit a percentage of his audit fee in the State Treasury by a prescribed challan within a prescribed time of the receipt of Audit fee.

In view of the above, the Council considered the issue and while noting that the Government is asking auditors to deposit such percentage of their audit fee for recovering the administrative and other expenses incurred in the process, the Council decided that as such there is no bar in the Code Of Ethics to accept such assignment wherein a percentage of professional fees is deducted by the Government to meet the administrative and other expenditure.

Q Can a practicing Chartered Accountant Secure any professional business through the services of a person who is not his employee or partner?

A. No, Clause (5) of Part-1 of First Schedule to the Chartered Accountants Act , 1949 prohibits a practicing Chartered Accountant from securing any professional business, either through the services of a person who is not an employee of such Chartered Accountant or who is not his partner.

Q. Can goodwill of a Chartered Accountant firm be purchased?

A. Yes, the Council of the Institute considered the issue whether the goodwill of a proprietary firm of a 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 Resolution that the sale/ transfer of goodwill in the case of a proprietary firm of Chartered Accountant to another eligible member of the Institute, shall be permitted.

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-1 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.

Q. Can a Chartered Accountant in practice enter into partnership with a practicing Chartered Accountant of a recognised foreign professional body for sharing fee of their partnership within India?

A. Yes, Clause (4) of Part-1 of First Schedule to the Chartered Accountants Act, 1949 permits partnership between members of the Institute and the members of the recognized foreign professional bodies either by the Central Government of the Council of the Institute by virtue of either under section 29(2) of the Act or under Regulation 53B(2) Of the Chartered Accountant Regulations, 1988 provided they share fees of the partnership business both within India and outside India.

Q. Whether member in practice is permitted to respond to announcement for empanelment for allotment of audit and other professional work and quote fees on enquiries being received?

A. It has been clarified by the Council under proviso (ii) to clause (6) of the part-1 of the First schedule of the Chartered Accountants Act, 1949 that if announcements are made for empanelment by the Government, Corporations, Courts, Co-operative Societies, Banks and other similar institutions, the members may respond to such announcements provided the existence of a panel is within their knowledge. The Council has further clarified that the quotations of fees can be sent, if enquiries are received by the members in this regard.

Q. Can a member in practice indicate in a book or an article, authored/ contributed/ published by him, his association with any firm of Chartered Accountants?

A. No, as per Para (e) under Clause (6) of Part-1 of First Schedule to the Chartered Accountants Act, 1949 as appearing in the Code of Ethics, 2009 a member is not permitted to indicate in a book or an article, authored/ contributed/ published by him, the association with any firm of Chartered Accountants.

Q. Whether a member in practice is permitted to have his name published in Telephone Directory?

A. Yes, a member in practice is permitted to have his name published in the telephone directory subject to certain conditions. Para (c) under clause (6) of Part-1 of the First Schedule to the Chartered Accountants Act, 1949 appearing in the Code of Ethics, 2009 provides for publication of Name or Firm Name by Chartered Accountants in the Telephone or other Directories published by Telephone Authorities or Private Bodies.

The Council has held that it Would not be proper for a Chartered Accountant to have entries made in a Telephone Directory either by making a special request or by means of an additional payment. The Council has also considered the question of permitting entries in respect of Chartered Accountants and their firms under specified groups in telephone/ trade directories brought out by Government and non-Government agencies. It has decided to permit such entries subject to the following restrictions:

1. The entry should appear in the section/ category of "Chartered Accountants".
2. The member/ firm should belong to the town/ city in respect of which the directory is being published
3. The entry should be in normal type of letters. Entry in bolder type or abnormal type of letters or in a box is not permissible.
4. The order of the entries should be alphabetical and logical
5. The entry should not appear in a manner giving the impression of publicity/ advertisement. Entry should not be given in a manner which gives prominence to it as compared to other entries.

6. The payment, if any, for the entry should not be unreasonable.
7. The entries should not be restricted and should be open to all the Chartered Accountants/ firms of chartered accountants in the particular city/town in respect whereof the directory is published.
8. Subject to the above conditions, the members can also include their names in trade directories which are published and/ or otherwise available such as electronic media eg; internet, telephone services like "Ask Me Services" etc.

Q. Whether the Word "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-1 of the First Schedule to the Chartered Accountants Act, 1949 there is no restriction in the Code of Ethics for mentioning the word "Chartered Accountant" 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.