

## **Matter for 'Know Your Ethics' - June, 2016 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-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.

**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 Accountants to another eligible member of the Institute, shall be permitted.

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

**A.** Yes, Clause (4) of Part-I 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 or the Council of the Institute, by virtue of Section 29(2) of the Act read with Regulation 53B(2) of the Chartered Accountants Regulations, 1988 wherein they share fees of the partnership business within India or outside India.

**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-I 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 Accountants or who is not his partner.

**Q. Can a practicing Chartered Accountant solicit clients or professional work by, advertisement?**

**A.** No, Clause (6) of Part-I of the First Schedule to the Chartered Accountants Act, 1949 prohibits a practicing Chartered Accountant from soliciting clients or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means. However, there are following exceptions to it :-

(i) A member may request another Chartered Accountant in practice for professional work.

(ii) A member can respond to tenders or enquiries issued by various users of professional services or organizations from time to time and securing professional work as a consequence.

(iii) A member may advertise changes in partnerships or dissolution of a firm, or of any change in the address of practice and telephone numbers, the advertisement being limited to a bare statement of facts and consideration given to the appropriateness of the area of distribution of newspaper or magazine and number of insertions.

(iv) A member is permitted to issue a classified advertisement in the Journal/Newspaper of the Institute intended to give information for sharing professional work on assignment basis or for seeking professional work on partnership basis or salaried employment in the field of accounting profession provided it only contains the accountant's name, address, telephone, fax number and e-mail address.

**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-I of the first schedule to the Chartered Accountants Act, 1949 that if announcements are made for empanelment by the Government, Corporations, Courts, Cooperative Societies, Banks and other similar institutions, the members may respond to such announcements provided the existence of 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. 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 I 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 e.g. Internet, telephone services like "Ask Me Services" etc.

**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 I 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 it is permissible for a Chartered Accountant firm to circulate a questionnaire among the clients seeking views of the clients for review of the services of the firm?**

**A.** No, it is not ethically proper to issue such questionnaire.

**Q. Can a Chartered Accountant in practice solicit professional work by making roving enquiries?**

**A.** No, it is not permissible for a member to address letters or circulars to persons who are likely to require services of a Chartered Accountants. It would tantamount to advertisement (as per para (g) under clause (6) of Part-I of the First Schedule to the Chartered Accountants Act, 1949 of Code of Ethics, 2009 ).

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