

Know Your Ethics

Ethical Issues in Question-Answer Form*

- 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 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-I of First Schedule to the Chartered Accountants Act, 1949 permits partnership between members of the Institute and the members of the recognised 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. Whether a client may use the name of CA firm mentioning it as a knowledge partner / in the “thanking you” message?**
- A. The use of the name of CA firm by a client, mentioning it as a knowledge partner, would tantamount to indirect advertisement and solicitation by the CA firm, therefore, it is not permitted in view of Clause (6) and (7) of Part I of the First Schedule to the Chartered Accountants Act, 1949. However, the mention of name of an individual member with prefix/suffix “CA” as a “knowledge partner” is permissible.
- 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. 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. 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 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).
- Q. Whether the information contained in the website of the Chartered Accountants and/or Chartered Accountants' firms can be circulated on their own or through e-mail or by any other mode or technique?**
- A. Sub-para (3) & (4) of Para (m) under Clause (6) of Part I of the First Schedule to the Chartered Accountants Act, 1949 as appearing in the Code of Ethics, 2009 prescribe that the Chartered Accountants and/or Chartered Accountants' firms should ensure that none of the information contained in the website be circulated on their own or through e-mail or by any other mode or technique except on a specific “pull” request. The Chartered Accountants and/or Chartered Accountants' Firms would ensure that their Websites are run on a “pull” model and not a “push” model of the technology to ensure that any person who wishes to locate the Chartered Accountants or Chartered Accountants' firms would only have access to the information and the information should be provided only on the basis of specific “pull” request.
- Q. Whether a member in practice hold Customs Brokers Licence under section 146 of the Customs Act,1962?**
- A. It is not permissible for member in practice to hold Customs Brokers License under Section 146 of the Customs Act, 1962 read with Customs Brokers Licensing Regulations, 2013. ■

* Contributed by the Ethical Standards Board of the ICAI