

Ethical Issues in Question-Answer Form\*

**Q. What are the safeguards available to a Professional Accountant in Public Practice in respect of Custody of Client Assets?**

- A. A professional accountant in public practice entrusted with client assets should:
- Keep such assets separately from personal or firm assets;
  - Use such assets only for the purpose for which they are intended;
  - At all times, be ready to account for those assets, and any income, dividends or gains generated, to any persons entitled to such accounting;
  - Comply with all relevant laws and regulations relevant to the holding of and accounting for such assets.

**Q. Whether a member of the Institute in practice is liable for professional misconduct, if he does not follow the direction given, by the Council or an appropriate Committee or on behalf of any of them, to the incoming auditors not to accept the appointment as auditors, in the case of unjustified removal of the earlier auditors?**

- A. Yes, 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 Council General Guidelines, 2008 which specify that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he does not follow the direction given, by the Council or an appropriate Committee or on behalf of any of them, to the incoming auditors not to accept the appointment as auditors, in the case of unjustified removal of the earlier auditors.

**Q. Whether a member of the Institute shall be deemed to be guilty of professional misconduct, if he includes in any statement, return or form to be submitted to the Council or any of its committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority any particulars knowing to be false?**

- A. Yes, as per Clause (3) of Part-II of the Second Schedule to the Chartered Accountants Act,

1949 a member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct if he includes in any statement, return or form to be submitted to the above authorities any particulars knowing them to be false.

**Q. Is there any ceiling on the number of tax audit assignments that can be taken up by a member in practice?**

- A. Yes, in exercise of the authority conferred by Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949, the Council of the Institute has issued Council General Guidelines, 2008 which specify that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he accepts, in a financial year, more than the specified number of tax audit assignments under Section 44AB of the Income Tax Act, 1961 (The limit has been raised from 45 to 60 w.e.f. 2014-15)

**Q. Whether a member in practice will be liable if he is grossly negligent in the conduct of his professional duties?**

- A. Yes, as per Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he is grossly negligent in the conduct of his professional duties.

**Q. Can a Chartered Accountant receive his professional fees in advance partly or in full?**

- A. Yes, as such there is no bar in the Chartered Accountants Act, 1949 or in the Chartered Accountants Regulations, 1988 as well as Code of Ethics, 2009 for taking the Professional fees in advance.

**Q. Can a member in practice be a sleeping partner in family business concern?**

- A. Yes, a member in practice can be a sleeping partner in a family business concern provided he takes specific and prior permission from the Council in terms of Regulation 190A of Chartered Accountants Regulations, 1988. However, he will not be entitled to engage in attest functions. ■

\* Contributed by the Ethical Standards Board of ICAI