

## **Matter for 'Know Your Ethics' October, 2018 issue of the CA Journal**

**Q. Can a Chartered Accountant in practice work as a 'Collection Agent/Recovery Agent'?**

**A.** No, a Chartered Accountant in practice cannot work as a Collection Agent. However, he can act as a Recovery Consultant as provided in clause (xxv) of 'Management Consultancy and other Services', as appearing in the Appendix-3.

**Q. Whether a practicing Chartered Accountant can agree to select and recruit personnel, conduct training programmes and work-studies for and on behalf of a client?**

**A.** Yes, the expression "Management Consultancy and other Services" defined by the Council includes both personnel recruitment and selection and conducting training programmes and work-studies. Therefore, a Chartered Accountant in practice shall not commit any professional misconduct by rendering such services for and on behalf of the client.

**Q. Can a Management Consultancy Company advertise its services?**

**A.** No, the Guidelines for Corporate Form of Practice restrict a Management Consultancy Company from advertising or using logo.

**Q. Can a member in practice have a branch office/additional office/temporary office?**

**A.** Yes, a member can have a branch office. In terms of Section 27 of the Act, if a Chartered Accountant in practice or a firm of Chartered Accountants has more than one office in India, each one of such offices should be in the separate charge of a member of the Institute. Failure on the part of a member or a firm to have a member in charge of its branch and a separate member in case of each of the branches, where there are more than one, would constitute professional misconduct.

However, exemption has been given to members practicing in hill areas subject to certain conditions. The conditions are:

1. Such members/firm be allowed to open temporary offices in a city in the plains for a limited period not exceeding three months in a year.

2. The regular office need not be closed during this period and all correspondence can continue to be made at the regular office.

3. The name board of the firm in the temporary office should not be displayed at times other than the period such office is permitted to function as above.

4. The temporary office should not be mentioned in the letter-heads, visiting cards or any other documents as a place of business of the member/firm.

5. Before commencement of every winter it shall be obligatory on the member/firm to inform the Institute that he/it is opening the temporary office from a particular date and after the office is closed at the expiry of the period of permission, an intimation to that effect should also be sent to the office of the Institute by registered post.

The above conditions apply to any additional office situated at a place beyond 50 km from the municipal limits in which any office is situated.

It is to be noted that the requirement of Section 27 in regard to a member being in charge of an office of a Chartered Accountant in practice or a firm of such Chartered Accountants shall be satisfied only if the member is actively associated with such office. Such association shall be deemed to exist if the member resides in the place where the office is situated for a period of not less than 182 days in a year or if he attends the said office for a period of not less than 182 days in a year or in such other circumstances as, in the opinion of the Executive Committee, establish such active association.

It is necessary to mention that the Chartered Accountant in charge of the branch of another firm should be associated with him or with the firm either as a partner or as a paid assistant. If he is a paid assistant, he must be in whole time employment with him.

However, a member can be in charge of two offices if they are located in one and the same accommodation.

**Q. Whether a CA Firm can be registered with the Institute as a Limited Liability partnership?**

**A.** Yes, vide the Chartered Accountants (Amendment) Act, 2011, the definition of "Firm" has been amended to include the Limited Liability partnership as defined in Clause (n) of sub-section (1) of Section 2 of the Limited Liability Partnership Act, 2008.

**Q. Can a member in practice be part of Association of persons (AOP), with other members, or other professionals?**

**A.** No, it is not permissible for a member in practice to be part of Association of persons, whether or not comprising of other professionals, since as per the provisions of the Chartered Accountants Act 1949, only Firms and LLPs are the two modes of practice, apart from practicing in individual capacity.

**Q. Whether a member in practice can provide payroll services?**

**A.** Yes, a member in practice can provide payroll services since these fall under the purview of activities mentioned in the provisions of Section 2(2)(i) and (iii) of the Chartered Accountants Act, 1949 . However, it is not permissible to undertake this activity if the member is the statutory auditor of the same entity.

**Q. Whether a member in practice can provide equity research service, and publish retail research report?**

**A.** A member in practice may be an equity research adviser, but he cannot publish retail report as it would amount to other business or occupation, which is not permissible in view of the provisions of Clause (11) of Part-I of First schedule to the Chartered Accountants Act, 1949.

**Q. Whether a member holding Certificate of practice will be deemed to be in practice even if he is not serving any clients?**

**A.** Yes, a member is deemed to be in practice, not only when he is actually engaged in the practice of accountancy, but also when he offers to render accountancy services, whether or not he in fact does so.

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