

# Know Your Ethics

*Ethical issues in Question/Answer form<sup>1</sup>*



- Q. What is the distinction between the two schedules to the Chartered Accountants Act, 1949?**
- A. The two schedules to the Chartered Accountants Act, 1949 are distinguished on the basis of gravity of misconduct and quantum of punishment for the misconduct, the second schedule pertaining to comparably more grave misconduct and higher punishment.
- Q. What will be the procedure where a member is guilty of charges both under the First Schedule and Second Schedule to the Chartered Accountants Act, 1949?**
- A. The procedure to be followed when a member is accused of misconduct under both schedules is the same which is followed for misconduct under the second schedule.
- Q. Can a member in practice render Management Consultancy and other services?**
- A. Yes, in the exercise of authority granted under section 2(2) (iv) of the Chartered Accountants Act, 1949, the Council has passed a resolution permitting Chartered Accountants in practice to render entire range of “Management Consultancy and other services “These are appearing at pages 103 -105 of the Code of Ethics, 2009(edition).
- Q. Whether a member in practice is permitted to undertake the management of NRI funds?**
- A. No, the member is not permitted to undertake such assignment because the same is not covered under “Management Consultancy and Other Services” permitted to be rendered by the practicing members of the Institute.
- Q. Can a Chartered Accountant provide ‘Portfolio Management Services’ (PMS) as part of CA practice?**
- A. No, the Explanation to Clause (xix) of the definition of ‘Management Consultancy and other Services’ expressly bars the activities of broking, underwriting and Portfolio Management. Hence, the same is not permissible.
- Q. Whether a Chartered Accountant in practice is required to obtain any trade license for practicing?**
- A. No, a Chartered Accountant in practice is not required to obtain any trade license for practicing as a professional. From the stand point of ICAI, the certificate of practice is the only requirement to practice as a Chartered Accountant. It may, however, be noted that a Government / specified Authority may require additional requirement like registration, and the members may need to comply with such requirements.
- 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.
- 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.

<sup>1</sup>Contributed by Ethical Standards Board of ICAI

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## 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 Chartered Accountants Act, 1949, 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. Is it permissible for Chartered Accountants in practice to collectively have joint training session for their clients on GST?

A. Yes, it is permissible for two or more Chartered Accountants in practice collectively to have joint training session for their clients on GST, and share the fees collected from the clients thereof. ■