

Know Your Ethics



Ethical Issues in Question-Answer Form

Q. Whether a statutory auditor is eligible for appointment under Section 217(6) of the Companies Act with the duty of seeing that the provisions of sub-sections (1) to (3) of Section 217 are complied with, particularly with regard to "Directors' Responsibility Statement"?

A. No, the Companies Act, 1956 requires the Directors to prepare the Directors' Responsibility statement regarding fulfillment of their responsibilities to prepare financial statements of the company in accordance with the applicable accounting standards and other generally accepted accounting policies and principles. The auditors' responsibility is to express opinion on financial statements, based on their audit. In view of the above, the question of asking the statutory auditor to certify the Directors' Responsibility Statement does not arise.

Q. Whether a member in practice will be liable, if he fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary to make the financial statement not misleading?

A. Yes, as per Clause (5) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary to make the financial statement not misleading.

Q. Whether a member in practice will be liable if he fails to report a material mis-statement known to him to appear in a financial statement with which he is concerned in a professional capacity?

A. Yes, as per Clause (6) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to report a material mis-statement known to him to appear in a financial statement with which he is concerned in a professional capacity.

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 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. Whether a member in practice will be liable in a case where he was alleged to have signed two balance sheets on two different dates for the same financial year, the first one with a clean report and the second one with a qualified report ?

A. Yes, the action of the Chartered Accountant in signing two Balance Sheets on two different dates for the same financial year will constitute professional misconduct under Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949, which states that 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. Whether a member in practice will be liable if he fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion?

A. Yes, as per Clause (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails

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to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion.

Q. Whether a member in practice will be liable if he fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances?

A. Yes, as per Clause (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances.

Q. Whether a member in practice will be held liable for failing to keep moneys of his client in a separate banking account or to use such moneys for purposes other than they are intended for?

A. Yes, as per Clause (10) of Part I of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to keep moneys of his client other than fees or remuneration or money meant to be expended in a separate banking account or uses such moneys for purposes other than they are intended for.

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 CA Regulations as well as Code of Ethics in taking the fees in advance.

Q. Whether a member of the Institute will be liable, if he contravenes any of the provision of the Act or the Regulations or the Guidelines issued by the Council?

A. Yes, as per Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he contravenes any of the provisions of Chartered Accountants Act or the Regulations made under or any Guidelines issued by the Council.

Q. Whether a member of the Institute shall be guilty of professional misconduct, if he accepts appointment as cost auditor of company under section 233B of the Companies Act, 1956 while he is an auditor of the company appointed under section 224 of the Companies Act, 1956?

A. Yes, please refer the Code of Ethics, 2009 (Chapter-3 of the Council General Guidelines, 2008 issued under Clause-1 of part-II of the Second Schedule).

Q. Whether a member of the Institute shall be guilty of professional misconduct, if he accept appointment as auditor of company under section 224 of the Companies Act, 1956 while he is an employee of the cost auditor of the company appointed under section 233B of the Companies Act, 1956?

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 specifies that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he accepts the appointment as auditor of a company under Section 224 of the Companies Act, 1956, while he is an employee of the cost auditor of the Company appointed under Section 233B of the Companies Act, 1956.

Q. Whether a member of the Institute in practice is required to maintain books of accounts?

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 a Council General Guidelines, 2008 which specified that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he or the firm of Chartered Accountants of which he is a partner fails to maintain and keep in respect of his/its professional practice, irrespective of the volume of transaction, proper books of account including the following:

- (i) a Cash Book;
- (ii) a Ledger. ■