

Know Your Ethics

Ethical Issues in Question-Answer Form



Q. Whether the audits conducted under Section 44AD, 44AE and 44AF of the Income Tax Act, 1961 shall be taken into account for the purpose of reckoning the specified no. of tax audit assignments?

A. No. Please refer the Code of Ethics, 2009 (Chapter-6 of the Council General Guidelines, 2008 issued under clause (1) of Part II of the Second Schedule) to the Chartered Accountants Act, 1949.

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. What should be the size of signboard for the office?

A. With regard to the size of the signboard for his office that a member can put up, it is a matter in which the members should exercise their own discretion and good taste. The size of the signboard should be reasonable. Use of glow signs or lights on large-sized boards as is used by traders or shopkeepers would not be proper. A member can have a name board at the place of his residence with the designation of a Chartered Accountant, provided it is a name plate or name board of an individual member and not of the firm.

Q. Can a member share profits with the widow of his deceased partner?

A. Yes, when there are two or more partners and one of them dies, the widow of the deceased partner can continue to receive a share of the profit of the firm. A legal representative, say widow of a deceased partner, would be entitled to share the profits only where the partnership agreement contains a provision that on the death of the partner his widow or legal representative would be entitled to such payment by way of sharing of fees or otherwise for the specified period.

Q. Can a member publish a change in partnership or change in the address of practice and telephone numbers?

A. Yes, a member can publish a change in partnership or change in the address of practice and telephone numbers. Such announcements should be limited to a bare statement of facts and consideration given to the appropriateness of the area of distribution of the newspaper or magazine and number of insertions.

Q. Can a Concurrent Auditor of a Bank also undertake the assignment of quarterly review of the same bank?

A. No, the Concurrent audit and the Assignment of quarterly review of the same

* Contributed by the Ethical Standards Board of the ICAI

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entity cannot be taken simultaneously as the concurrent audit is a kind of internal audit and the quarterly review is a kind of statutory audit. It is prohibited in terms of the 'Guidance Note of Independence of Auditors'.

Q. Whether the members are required to intimate his website address to the Institute?

- A. No, members are not required to intimate the Website address to the Institute. However, the Website has to comply with the Guidelines issued by the Institute in this regard.

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 Act or in the Chartered Accountants Regulations as well as Code of Ethics in taking the fees in advance.

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 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 Chapter VI of 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 audits w.e.f. 2014-15)

Q. Can a member act as an Insurance Surveyor?

- A. As per Appendix (9) of the Chartered Accountants Regulations, 1988, a member of the Institute in practice is generally permitted to act as a Surveyor and Loss Assessor under the Insurance Act, 1938 provided he is otherwise eligible. While doing

so he can also simultaneously perform attest functions.

Q. Can a member in practice be Promoter/Promoter Director of the Company?

- A. Yes, there is no bar for a member to be a promoter/signatory to the Memorandum and Articles of Association of any company. There is also no bar for such a promoter/signatory to be a Director Simplicitor of that company irrespective of whether the objects of the company include areas, which fall within the scope of the profession of chartered accountants. Therefore members are not required to obtain specific permission of the Council in such cases. There is also no bar on holding any number/percentage of shares in the company

Q. Can there be any sharing of fees between the widow or the legal representative of the proprietor of a single member firm and the purchaser of the goodwill of the firm on the death of the sole proprietor of the firm?

- A. No, there could not be any sharing of fees between the widow or the legal representative of the proprietor of a single member firm and the purchaser of the goodwill of the firm on the death of the Sole proprietor of the firm. Payment of goodwill to the widow is permissible in such cases only for the goodwill of the firm and to enable such payments to be made in installments provided the agreement of the sale of goodwill contains such a provision. These payments even if they are spread over the specified period should not be linked up with participation in the earnings of the firm.

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. ■