June, 2012

Q. Can a Chartered Accountant in practice allow any person to practice in his name as a Chartered Accountant?

A. No, Clause (1) of Part-I of the First Schedule to the Act prohibits a Chartered Accountant in practice to allow any person to practice in his name as a Chartered Accountant unless such person is also a Chartered Accountant in practice and is in partnership with or employed by him.

Q. Can a Chartered Accountant in practice pay to any person any share, commission or brokerage in the fees or profits of his professional business?

A. No, Clause (2) of Part-I of the First Schedule to the Act prohibits a Chartered Accountant from paying or allowing any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of the deceased partner or a member of any other professional body or with such other persons having such qualifications as may be prescribed, for the purpose of rendering such professional services from time to time in or outside India;

Q. Can a Chartered Accountant in practice share his fees with the Government in respect of Government Audit?

A. The Institute came across certain Circulars/Orders issued by the Registrar of various State Co-operative Societies wherein it has been mentioned that certain amount of audit fee is payable to the concerned State Govt. and the auditor has to deposit a percentage of his audit fee in the State Treasury by a prescribed challan within a prescribed time of the receipt of Audit fee.

In view of the above, The Council considered the issue and while noting that the Government is asking auditors to deposit such percentage of their audit fee for recovering the administrative and other expenses incurred in the process, the Council decided that as such there is no bar in the Code of Ethics to accept such
assignment wherein a percentage of professional fees is deducted by the Government to meet the administrative and other expenditure.

Q. Can goodwill of a Chartered Accountant firm be purchased?

A. Yes. The Council of the Institute considered the issue whether the goodwill of a proprietary firm of Chartered Accountant can be sold / transferred to another eligible member of the Institute, after the death of the proprietor concerned and came to the view that the same is permissible. Accordingly, the Council passed the Resolution that the sale/transfer of goodwill in the case of a proprietary firm of Chartered Accountants to another eligible member of the Institute, shall be permitted, subject to the provisions appearing at pages 129 -130 of the Code of Ethics, 2009 edition.

Q. Can a Chartered Accountant in practice enter into partnership with a practising Chartered Accountant of a recognized foreign professional body for sharing fee of their partnership within India?

A. Yes, Clause (4) of Part-I of First Schedule to the Act permits partnership between members of the Institute and the members of the professional bodies and qualifications recognized by the Council of the Institute under Regulation 53B (1) & (2) of the CA Regulations.

Q. Can a practicing Chartered Accountant secure any professional business through the services of a person who is not his employee or partner?

A. No, Clause (5) of Part-I of First Schedule to the Act prohibits a ‘practicing Chartered Accountant from securing any professional business, either through the services of a person who is not an employee of such Chartered Accountants or who is not his partner.

Q. Can a practicing Chartered Accountant solicit clients or professional work by, advertisement?
A. No, Clause (6) of Part-I of the First Schedule to the Act prohibits a practicing Chartered Accountant from soliciting clients or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means.

However, there are following exceptions to it:

(i) A member can respond to tenders or enquiries issued by various users of professional services or organizations from time to time and securing professional work as a consequence.

(ii) A member may advertise changes in partnerships or dissolution of a firm, or of any change in the address of practice and telephone numbers, the advertisement being limited to a bare statement of facts and consideration given to the appropriateness of the area of distribution of newspaper or magazine and number of insertions.

(iii) A member is permitted to issue a classified advertisement in the Journal/Newspaper of the Institute intended to give information for sharing professional work on assignment basis or for seeking professional work on partnership basis or salaried employment in the field of accounting profession provided it only contains the accountant’s name, address, telephone, fax number and e-mail address.

Q. Whether member in practice is permitted to respond to announcement for empanelment for allotment of audit and other professional work and quote fees on enquiries being received?

A. It has been clarified by the Council under proviso (ii) to clause (vi) of the part-I of the first schedule to the Act that if announcements are made for empanelment by the Government, Corporations, Courts, Co-operative Societies, Banks and other similar institutions, the members may respond to such announcements provided the existence of panel is within their knowledge. The Council has further clarified that the quotations of fees can be sent, if enquiries are received by the members in this regard.

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