Fees for other Assignments

Q. Whether a member who is carrying out statutory audit and also rendering management consultancy services to his auditee clients can receive fees for such other services, which are in excess of the audit fees?

A. Yes. However, in exercise of the authority conferred by clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 the Council has issued Guidelines, Chapter IX of 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 statutory auditor of Public Sector Undertaking(s)/Government Company(ies)/Listed Company(ies) and other Public Company(ies) having turnover of `50 crore or more in a year and accepts any other work(s) or assignment(s) or service(s) in regard to the same Undertaking(s)/Company(ies) on a remuneration which in aggregate exceeds the fee payable for carrying out the statutory audit of the same Undertaking/Company.

Provided that in case appointing authority(ies)/regulatory body(ies) specify(ies) more stringent condition(s)/restriction(s), the same shall apply instead of the conditions/restrictions specified under these Guidelines.

Explanation:

1. The above restrictions shall apply in respect of fees for other work(s) or service(s) or assignment(s), payable to the statutory auditors and their associate concern(s) put together;
2. For the above purpose;
   (I) The term "other work(s)" or "service(s)" or "assignment(s)" shall include Management Consultancy and all other professional services permitted by the Council pursuant to Section 2(2)(iv) of the Chartered Accountants Act, 1949, but shall not include:
   (i) audit under any other statute;  
   (ii) certification work required to be done by ‘the statutory auditors’; and
   (iii) any representation before an authority.
   (II) The term "associate concern" means any corporate body or partnership firm which renders the Management Consultancy and all other professional services permitted by the Council wherein the proprietor and/or partner(s) of the statutory auditor firm and/or their "relative(s)" is/are Director/s or partner/s and/or jointly or severally hold "substantial interest" in the said corporate body or partnership;
   (III) The terms "relative" and "substantial interest" shall have the same meaning as are assigned under Appendix (10) to the Chartered Accountants Regulations, 1988;
3. In regard to taking up other work(s) or service(s) or assignment(s) of the undertaking/company referred to above, it shall be open to such associate concern or corporate body to render such work(s) or service(s) or assignment(s) so long as aggregate remuneration for such other work(s) or service(s) or corporate body(ies) do/does not exceed the aggregate of fee payable for carrying out the statutory audit assignment(s) payable to the statutory auditor(s) together with fees payable to its associate concern(s) or corporate body(ies) do/does not exceed the aggregate of fee payable for carrying out the statutory audit.

Q. Whether the fee received from limited review/quarterly audit of the same undertaking/company under the listing regulations should be included in the fee received for carrying out the “statutory audit of the same undertaking/company”, while comparing the same with the fee from permissible non-audit services?

A. The exemptions to the general rule contained in Chapter IX of Council General Guidelines mention “audit under any other statute”. The limited review/quarterly audit would not be included in the same, as these are done in the...
same statute (i.e.; The Companies Act, 2013). Hence, limited Review/ quarterly audit may be deemed to be included in Statutory Audit.

Q. Whether fee from the professional services rendered for the Issuance of Accountant’s Report under Income-tax Act, 1961, i.e. 3CEB report should be considered under exemption provided in para 9.2 (i), considering that such services are of the nature of assurance services?

A. Certification work required to be done by the statutory auditors is exempt from the general rule contained in Chapter IX of Council General Guidelines, 2008 (Accordingly, the provisions of this Chapter will not apply to a certification which can be done by any CA in practice).

Q. Whether the fee from the following audit related engagements are considered under exemption provided in 9.2 (i), considering such services are of the nature of audit services:
- Group reporting carried out to another firm under SA 600
- Certification other than that required by the statutory auditor

A. Group reporting/ Using the work of another Auditor as per SA 600 is part of professional standards of the Auditor (and not an “assignment”). Hence, it will not invoke the provision of Chapter –IX of Council General Guidelines.

As regards Certification - No, it will be not be exempt from the general rule of Chapter IX, as it is clearly prohibited under 9.2(i) of Chapter –IX of Council General Guidelines.

Situation of Conflict of Interest

Q. Whether a statutory auditor can accept the system audit of same entity?

A. Yes, the statutory auditor can accept the assignment of a system audit of the same entity, provided it did not involve any scrutiny/review of financial data and information.

Q. Whether a Chartered Accountant is qualified to be appointed as statutory auditor of one associate company when he is the internal auditor of another fellow associate company?

A. Yes, the statutory auditor of one associate company can accept internal audit of the fellow associate company, because there is no holding subsidiary relation between such companies, and therefore there is no violation of provisions of Companies Act, 2013.

Professional Misconduct under Second Schedule

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 misstatement 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 member 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.