

CA FINAL

NOV 18

**ADVANCED AUDITING AND
PROFESSIONAL ETHICS**

**AMENDMENT
NOTES**

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AMENDMENTS IN COMPANIES ACT, 2013

AMENDMENT IN	PREVIOUSLY	AFTER AMENDMENT
SEC 130 REOPENING OF BOOKS OF ACCOUNT	Tribunal upon receiving the application for reopening of account was required to give notice to CG, Income Tax Authorities, SEBI or any other statutory regulatory body or authorities concerned.	Now after authorities concerned, the words any other persons concerned shall also be inserted. It has also been newly inserted Reopening order cannot be made in respect to Books of Accounts relating to a period earlier than eight financial years immediately preceding the current financial year unless CG has given the direction under <u>Section 128(5)</u> to keep books of accounts for more than 8 years.
SEC, 132 NFRA	Power of NFRA to impose penalty on CA/CA firm for professional or other misconduct - earlier it was Rs. 10 Lakh	<p style="text-align: center;">INDIVIDUALS</p> <p style="text-align: center;">Minimum Rs. 1 lakh rupees and Maximum Rs. 5 times of fees received</p> <p style="text-align: center;">FIRMS</p> <p style="text-align: center;">Minimum Rs. 5 lakh rupees and Maximum Rs. 10 times of fees received.</p> <p>Any person aggrieved by the order of NFRA may prefer an appeal before the Appellate Tribunal in such manner and on payment of such fee as may be prescribed.</p> <p>132(6) to (9) have been omitted.</p>
SEC, 136(1) RIGHT OF MEMBERS TO COPIES OF AUDITED FINANCIAL STATEMENTS	<p>Following Proviso shall be added:</p> <p>Provided that if the copies of the date of meeting, they shall, notwithstanding that fact, be deemed to have been duly sent if it is so agreed by members –</p> <p>(a) Holding majority in number entitled to vote & who represent ≥ 95% of such part of PUSC of company as gives a right to vote at meeting (if company has no share capital)</p> <p>(b) Having ≥ 95% of total voting power exercisable at the meeting (if company has no share capital)</p> <p>Provided also that every listed company having a subsidiary shall place parts audited accounts in respects subsidiary on its website, if any.</p> <p>Provided also that a listed company which has a subsidiary incorporated outside India (known as foreign subsidiary)-</p> <p>i. Where such foreign subsidiary is statutorily required to prepare CFS under any law of the country of its incorporation, the requirement of</p>	

	<p>this proviso shall be met if CFS of such foreign subsidiary is placed in website of listed company,</p> <p>ii. Where such foreign subsidiary is not required to get its FS audited under any law of the country of its incorporation & which does not get such FS audited, the holding Indian listed co. may place such unaudited FS on its websites & where such FS is in a language other than English shall also be placed on website.</p>	
<p align="center">SEC. 136(2) RIGHT OF MEMBERS OR DEBENTURE TRUSTEES TO INSPECT FINANCIAL STATEMENTS ETC,</p>	<p>A company shall allow every member or trustee of holder of debentures to inspect documents started under section 136(1) at its registered office during business hours</p>	<p>New proviso inserted: “provided that every company having a subsidiary or subsidiaries shall provide a copy of separate audited or unaudited FS, as the case may be, as prepared in respect of each of its subsidiary to any member of the company who asks for it.</p>
<p align="center">SEC. 139 APPOINTMENT OF STATUTORY AUDITOR</p>	<p>Earlier, the appointment of auditor was to be ratified every year at the AGM.</p>	<p>Now the requirement of ratification has been removed.</p>
<p align="center">SEC. 140 REMOVAL OF STATUTORY AUDITOR</p>	<p>If the auditor does not comply</p> <ul style="list-style-type: none"> • Minimum fine Rs. 50,000 or • Maximum fine Rs. 5,00,000. 	<p>If the auditor does not comply</p> <ul style="list-style-type: none"> • Minimum fine Rs. 50,000 or Audit fees whichever is lower. • Maximum fine Rs. 5,00,000.
<p align="center">SEC. 141 QUALIFICATION AND DISQUALIFICATION OF AN AUDITOR</p>	<p>In <u>sub-section (3)</u>, for clause (i), Person whose Subsidiary or Associate Company or any other form of Entity, is engaged as on the date of appointment, in consulting and specialised services as provided in Sec 144.</p>	<p>the following clause shall be substituted, namely: (i) a person who, directly or indirectly, renders any service referred to in <u>Section 144</u> to the company or its holding company or its subsidiary company.</p>
<p align="center">SEC. 143 POWERS AND DUTIES OF AN AUDITOR</p>	<p>Sub-section (1) – The auditor of the holding company shall also have the right of access to the records of all its subsidiaries in so far as it relates to the consolidation of its financial statements with that of its subsidiaries.</p> <p>Sub Section (3) - Whether the Company has adequate Internal Financial Controls system in place and the operating effectiveness of such controls,</p>	<p>Sub-section (1) – The auditor of the holding company shall also have the right of access to the records of all its subsidiaries and associate companies in so far as it relates to the consolidation of its financial statements with that of its subsidiaries. {The word associate company has been newly inserted}.</p> <p>Sub-section (3) - in clause (i), for the words "internal financial controls system", the words "internal financial controls with reference to financial statements" shall be substituted.</p>

	<p>Sub Section (14) - Sec. 143 (in entirety) shall be applicable for— (a) A Cost Accountant in Practice, conducting Cost Audit u/s 148,</p>	<p>In sub-section (14), in clause (a), for the words "cost accountant in practice", the words "cost accountant" shall be substituted.</p>
<p>SEC. 147 PENALTY SECTION</p>	<p>REFER TABLE AT THE END</p>	
<p>SEC. 148 COST AUDITOR</p>	<p>Cost Audit shall be conducted by a Cost Accountant in practice (either Individual or Firm)</p>	<p>In various places the words "Cost Accountant" in practice has been substituted by Cost Accountant.</p>

PUNISHMENT FOR CONTRAVENTION [SEC. 147]

SEC.	NATURE OF ACT/OMISSION	PERSON PUNISHABLE	PUNISHMENT
147 (1)	Contravention of Sec. 139 to Sec. 146	Company	Find of Minimum Rs. 25,000 Maximum Rs. 5,00,000
		Every Officer in Default	Imprisonment of Maximum 1 Year, or Find of Minimum Rs. 10,000 Maximum ₹ 1,00,000, or Both of the above.
147(2)	Contravention of Sec. 139, 143, 144, 145	Auditor	<p>Normal: Fine of Minimum Rs. 25,000 which can extend upto Maximum Rs. 5,00,000 or 4 times amount of remuneration whichever is less</p> <p>If done knowingly or willfully, with intention to deceive the Company or its Shareholders or Creditors or Tax Authorities:</p> <p>Imprisonment of Maximum 1 Year, or Fine of Minimum Rs. 1,00,000 which can extent upto Maximum Rs. 25,00,000/- or 8 times amount of Remuneration whichever is less; or</p> <p>Both of the above</p>
Situation	<p>Where it is proved that the Partner or Partners of the Audit Firm has or have —</p> <ul style="list-style-type: none"> acted in a fraudulent manner, or abetted or colluded in any fraud by, or in relation to or by, the Company or its Directors or Officers 		

Liability	The civil or criminal liability, as provided in this Act or in any other law, for such act shall be of the Partner or Partners concerned of the Audit Firm and of the Firm jointly and severally. Who acted in fraudulent manner or abetted or colluded will be held liable
<u>NEW INSERTION</u>	
<i>The Central Government shall, by notification, specify any statutory body or authority or an officer for ensuring prompt payment of damages to the company.</i>	
<i>Such body, authority or officer shall pay damages to such company or persons.</i>	
<i>File a report with the Central Government in respect of making such damages in such manner as may be specified in the said notification.</i>	

AMENDMENTS IN STANDARDS ON AUDITING (SA)

SA – 299
RESPONSIBILITIES OF JOINT AUDITOR

ADVANTAGES OF JOINT AUDIT:

- + Pooling and sharing of resources.
- + Everyone has expertise in different area.
- + Advantage of mutual discussion.
- + Better quality of work performance.
- + Improved services to Client Company.
- + Lower costs to carry out the audit work.

DISADVANTAGES OF JOINT AUDIT:

- + Sharing of fees.
- + Lack of clear definition in case of joint responsibility.
- + Co-ordination problems in conduct of work.
- + Areas of common concern being neglected.
- + Problems when firms of different standing are associated.

REQUIREMENTS OF SA 299

- + The engagement partner and other key members of the engagement team from each of the joint auditors shall be involved in planning the audit.
- + The joint auditors shall jointly establish an overall audit strategy that sets the scope, timing and direction of the audit.
- + Development of Audit Plan (**Principles of SA 300 will be applicable**).
- + Identification of **Risk of Material Mis-statements**.
- + Allocation of work.

JOINTLY & SEVERALLY RESP.	INDIVIDUALLY RESP.
1) Discussion of work, overall audit plan and decision taken regarding audit procedure. 2) Matters raised by one of the joint auditor but solved mutually by all joint auditors. 3) Unallocated and undivided work 4) Verification of compliance of statutes relating to Financial Statement, accounting policies and format of FS 5) Disclosure requirements regarding FS 6) For obtaining an evaluation written representation of mgmt.	1) Individually divided working area. 2) Audit procedure decide by him. 3) Use of other’s work. 4) Conclusion of his procedure. 5) Reviewing the reports of the branches allocated to him 6) Written representation by management for a particular area. .

JOINT AUDITORS ARE NOT REQUIRED TO REVIEW THE WORK OF OTHER JOINT AUDITORS. HE CAN DEEM THAT THE WORK DONE BY OTHER JOINT AUDITORS IS IN ACCORDANCE WITH GENERALLY ACCEPTED AUDITING PROCEDURES.

JOINT AUDIT REPORT:

Usually Joint auditor are of unanimous opinion but if one or more joint auditor is not in agreement over the opinion, each disagreed joint auditor may submit his report on the disagreed point separately

SA 720 (Revised)
THE AUDITOR’S RESPONSIBILITY IN RELATION TO OTHER INFORMATION IN DOCUMENTS CONTAINING AUDITED FINANCIAL STATEMENTS

PURPOSE

Auditor is not required to express an opinion on other information in documents containing audited Financial Statements (Eg. Annual Report), however, auditor reads the other information because credibility of Financial Statements may be undetermined by Material inconsistencies between the audited financial statements and other information.

AUDITOR’S PROCEDURES

Make appropriate arrangements with Management & TCWG to obtain the other information prior to the date of auditor report & read the information so obtained. If information is not available prior to date of auditors report, read the other information as soon as practicable.

MATERIAL INCONSISTENCIES IDENTIFIED IN OTHER INFORMATION:

- 1. Prior to the date of auditor’s report:**
 - a. Revision of audited Financial Statements becomes necessary but Management Refuses,**
→ Auditor shall modify the opinion in accordance with relevant SA.
 - b. Revision of information is necessary but Management Refuses,**
→ Auditor shall communicate this matter to TCWG; and
→ Include in the auditor’s report describing the inconsistencies; or
→ Withdraw from the engagement.

- 2. Subsequent to the date of auditor’s report**
 - a. Revision of audited financial statements becomes necessary**

→ The auditor shall follow the relevant requirements of SA 560

b. Revision of other information is necessary but management refuses

→ Auditor shall notify his concern to TCWG and take the appropriate action.

MATERIAL MISSTATEMENT OF FACTS FOUND OUT

Misstatement of Facts: Other information that is unrelated to matters appearing in audited Financial Statements that is correctly stated.

Auditor shall request management to consult with a qualified third party and he shall consider the advice received.

If he concludes existence of material misstatement of facts, but management refuses to correct

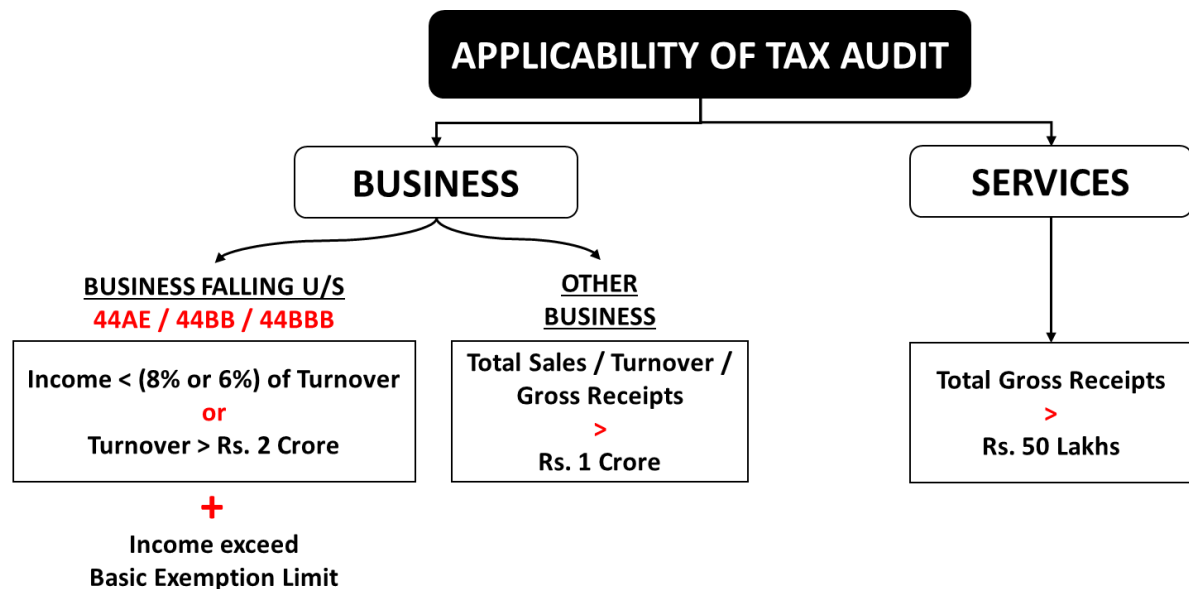
→ Auditor shall notify his concern to TCWG and take the appropriate action.

OTHER INFORMATION SECTION

- + Statement that management is responsible for other information.
- + Identification of other information obtained prior to the date of auditor’s report.
- + In case of listed entity, identification of other information expected to be obtained after date of auditor’s report.
- + A statement that auditor’s opinion on the financial statements does not cover the other information and accordingly auditor does not express any opinion or conclusion

AMENDMENTS IN FISCAL AUDIT

+ APPLICABILITY OF TAX AUDIT U/S 44AD



+ AMENDMENTS W.R.T. REVISED FORM 3CD

CLAUSE 31 (A)*: Particulars of each loan or deposit in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year:-

- (i) name, address and permanent account number (if available with the assessee) of the lender or depositor;
- (ii) amount of loan or deposit taken or accepted;
- (iii) whether the loan or deposit was squared up during the previous year;
- (iv) maximum amount outstanding in the account at any time during the previous year;

- (v) whether the loan or deposit was taken or accepted by cheque or bank draft or use of electronic clearing system through a bank account;
- (vi) in case the loan or deposit was taken or accepted by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft.

***(These particulars need not be given in the case of a Government company, a banking company or a corporation established by a Central, State or Provincial Act.)**

Section 269SS prescribes the mode of taking or accepting certain loans and deposits. As per this section, no person shall take or accept from any other person any loan or deposit otherwise than by an account payee cheque or account payee bank draft if,-

- a) the amount of such loan or deposit or the aggregate amount of such loan and deposit; or
- b) on the date of taking or accepting such loan or deposit, any loan or deposit taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not), the amount or the aggregate amount remaining unpaid; or
- c) the amount or the aggregate amount referred to in clause (a) together with the amount or the aggregate amount referred to in clause (b),

is twenty thousand rupees or more.

For the purposes of section 269SS "loan or deposit" means loan or deposit of money.

If the total of all loans/deposits from a person exceed Rs. 20,000 but each individual item is less than Rs. 20,000, the information will still be required to be given in respect of all such entries starting from the entry when the balance reaches Rs. 20,000 or more and until the balance goes down below Rs. 20,000. As such the tax auditor should verify all loans/deposits taken or accepted where balance has reached Rs. 20,000 or more during the year for the purpose of reporting under this clause.

CLAUSE 31 (B): Particulars of each specified sum in an amount exceeding the limit specified in section 269SS taken or accepted during the previous year:-

- (i) name, address and Permanent Account Number (if available with the assessee) of the person from whom specified sum is received;
- (ii) amount of specified sum taken or accepted;
- (iii) whether the specified sum was taken or accepted by cheque or bank draft or use of electronic clearing system through a bank account;
- (iv) in case the specified sum was taken or accepted by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft.

(Particulars at (a) and (b) need not be given in the case of a Government company, a banking company or a corporation established by the Central, State or Provincial Act.)

CLAUSE 31 (C): Particulars of each repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T made during the previous year:-

- (i) name, address and Permanent Account Number (if available with the assessee) of the payee;
- (ii) amount of the repayment;
- (iii) maximum amount outstanding in the account at any time during the previous year;
- (iv) whether the repayment was made by cheque or bank draft or use of electronic clearing system through a bank account;
- (v) in case the repayment was made by cheque or bank draft, whether the same was taken or accepted by an account payee cheque or an account payee bank draft.

This sub-clause requires particulars of each repayment of loan or deposit in an amount exceeding the limits specified in section 269T made during the previous year. Section 269T is attracted where repayment of the loan or deposit is made to a person, where the aggregate amount of loans or deposits held by such person either in his own name or jointly with any other person on the date of such

repayment together with interest, if any, payable on such deposit is ` 20,000 or more. The tax auditor should verify such repayments and report accordingly.

CLAUSE 31 (D): Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year:-

- (i) name, address and Permanent Account Number (if available with the assessee) of payer;
- (ii) amount of loan or deposit or any specified advance received otherwise than by a cheque or bank draft or use of electronic clearing system through a bank account during the previous year.

CLAUSE 31 (E): Particulars of repayment of loan or deposit or any specified advance in an amount exceeding the limit specified in section 269T received by a cheque or bank draft which is not an account payee cheque or account payee bank draft during the previous year:

- (i) name, address and Permanent Account Number (if available with the assessee) of the payer;
- (ii) amount of loan or deposit or any specified advance received by a cheque or a bank draft which is not an account payee cheque or account payee bank draft during the previous year.

(Particulars at (c), (d) and (e) need not be given in the case of a repayment of any loan or deposit or any specified advance taken or accepted from the Government, Government company, banking company or a corporation established by the Central, State or Provincial Act).

AMENDMENTS IN PROFESSIONAL ETHICS

RECENT DECISIONS OF ETHICAL STANDARDS BOARD

1. A Chartered Accountant in practice may be an equity research adviser, but he cannot publish retail report, as it would amount to other business or occupation.
2. A Chartered Accountant, who is a member of a Trust, cannot be the auditor of the said trust.
3. A Chartered Accountant in practice may engage himself as Registration Authority (RA) for obtaining digital signatures for clients.
4. A Chartered accountant can hold the credit card of a bank when he is also the auditor of the bank, provided the outstanding balance on the said card does not exceed Rs. 10000 beyond the prescribed credit period limit on credit card given to him.
5. A Chartered Accountant in practice can act as mediator in Court, since acting as a “mediator” would be deemed to be covered within the meaning of “arbitrator”; which is inter-alia permitted to members in practice as per Regulation 191 of the Chartered Accountants Regulations, 1988.
6. A Chartered Accountant in practice is not permitted to accept audit assignment of a bank in case he has taken loan against a Fixed Deposit held by him in that bank.
7. The Ethical Standards Board in 2013 generally apply the stipulations contained in the then amended Rule 11U of Income Tax generally, wherein statutory auditor /tax auditor cannot be the valuer of unquoted equity shares of the same entity. The Board has at its recent Meeting (January, 2017) has reviewed the above, and decided that where law prohibits for instance in the Income Tax Act and the rules framed thereunder, such prohibition on statutory auditor/tax auditor to be the valuer will continue, but where there is no specific restriction under any law, the said eventuality will be permissible, subject to compliance with the provisions, as contained in the Code of Ethics relating to independence.
8. The Ethical Standards Board had in 2011 decided that it is not permissible for a member who has been Director of a Company, upon resignation from the Company to be appointed as an auditor of the said Company, and the cooling period for the same may be 2 years. The Board has at its recent Meeting (January, 2017) has reviewed the above, and noted that the Section 141 of Companies Act, 2013 on

disqualification of auditors does not mention such prohibition; though threats pertaining to the said eventuality have been mentioned in Code of Ethics. Further, the Board was of the view that a member may take decision in such situation based on the provisions of Companies Act, 2013 and provisions of Code of Ethics.

9. A chartered accountant in practice cannot become Financial Advisors and receive fees/commission from Financial Institutions such as Mutual Funds, Insurance Companies, NBFCs etc.
10. A chartered accountant cannot exercise lien over the client documents/records for non - payment of his fees.
11. It is not permissible for CA Firm to print its vision and values behind the visiting cards, as it would result in solicitation and therefore would be violative of the provisions of Clause (6) of Part-I of First Schedule to the Chartered Accountants Act, 1949.
12. It is not permissible for chartered accountants in practice to take agencies of UTI, GIC or NSDL.
13. It is permissible for a member in practice to be a settlor of a trust.
14. A member in practice cannot hold Customs Brokers Licence under section 146 of the Customs Act, 1962 read with Customs Brokers Licensing Regulations, 2013 in terms of the provisions of Code of Ethics.
15. A Chartered accountant in service may appear as tax representative before tax authorities on behalf of his employer, but not on behalf of other employees of the employer.
16. A chartered accountant who is the statutory auditor of a bank cannot for the same financial year accept stock audit of the same branch of the bank or any of the branches of the same bank or sister concern of the bank, for the same financial year.
17. A CA Firm which has been appointed as the internal auditor of a PF Trust by a Government Company cannot be appointed as its Statutory Auditor.
18. A concurrent auditor of a bank 'X' cannot be appointed as statutory auditor of bank 'Y', which is sponsored by 'X'.
19. A CA/CA Firm can act as the internal auditor of a company & statutory auditor of its employees PF Fund under the new Companies Act (2013).
20. The Ethical Standards Board while noting that there is requirement for a Director u/s 149(3) of the Companies Act, 2013 to reside in India for a minimum period of 182 days in the previous calendar year, decided that such a Director would be within the scope of Director Simplicitor (which is generally permitted as per ICAI norms), if he is non –executive director, required in the Board Meetings only, and not paid any remuneration except for attending such Board Meetings.

LECTURE ON
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