

Ethics Circular 1

Guidance for Small and Medium Practitioners on the Code of Ethics for Professional Accountants

This Ethics Circular is developed by the Special Task Force on Adoption of Revised Code of Ethics by Small and Medium Practitioners and is endorsed by the Institute's Ethics Committee. This Ethics Circular does not constitute an ethics standard and is issued with the intent to provide guidance in order to assist small and medium practitioners including sole proprietors, on their adoption of the Code on the provision of non-assurance services and other topical issues to an audit client without modifying the requirements as set out in the Code. Professional judgment should be used by members in its application. No responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this Ethics Circular can be accepted by the Institute.



Hong Kong Institute of
Certified Public Accountants
香港會計師公會

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HONG KONG INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

ETHICS CIRCULAR 1

APPLICATION OF REVISED CODE OF ETHICS BY SMALL AND MEDIUM PRACTITIONERS

This Ethics Circular is developed by the Special Task Force on Adoption of Revised Code of Ethics by Small and Medium Practitioners and is endorsed by the Institute's Ethics Committee.

This Ethics Circular does not constitute an ethics standard and is issued with the intent to provide guidance in order to assist small and medium practitioners ("SMPs") including sole proprietors, on their adoption of the Code on certain non-assurance services and other topical issues without modifying the requirements as set out in the Code. This Ethics Circular is not intended to cover all types of non-assurance services as listed in the full Code and does not cover personal financial relationship. Practitioners are to note that there are no exemptions from the requirements of the Code for SMPs. Apparent failures by members of the Institute to comply with the Code are liable to be enquired into by the appropriate committee established under the authority of the Institute, and disciplinary action may result.

Professional judgment should be used by members in application of this Ethics Circular. No responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this Ethics Circular can be accepted by the Institute. Members should read the full Code, which can be accessed at the Institute's Members Handbook.

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BACKGROUND

1. The Institute's Code of Ethics for Professional Accountants (the Code) was revised to maintain convergence with the revised Code of Ethics for Professional Accountants issued by the International Ethics Standards Board for Accountants in July 2009. The revised Code clarifies ethical requirements for all professional accountants and strengthens the independence requirements that apply to auditors. The Code was issued in June 2010 and has been effective from 1 January 2011.
2. The Institute has set up a Special Task Force on Adoption of Revised Code of Ethics by Small and Medium Practitioners (Task Force), which is the joint effort of the Institute's Small and Medium Practitioners Leadership Panel and Ethics Committee, to look into implementation issues faced by Small and Medium Practitioners (SMPs) and to develop guidance to help SMPs.
3. This Ethics Circular is developed by the Task Force and is endorsed by the Institute's Ethics Committee. This Ethics Circular does not constitute an ethics standard and is issued with the intent to provide guidance in order to assist SMPs including sole proprietors, on their adoption of the Code on the following areas of non-assurance services and other topical issues without modifying the requirements as set out in the Code:
 - guidance on public interest entities (Part 1)
 - provision of company secretarial services to audit clients (Part 2)
 - provision of accounting services – preparing accounting records and financial statements for audit clients (Part 3)
 - provision of taxation services for audit clients (Part 4)

Members should read the full Code, which is the Institute's authoritative ethics requirements, as contained in the Institute's Members Handbook.
4. It is also important for practitioners to perform "threats and safeguards" evaluation, which inevitably involves professional judgment. Practitioners are expected to document the relevant facts and circumstances and the determination on the "threats and safeguards" evaluation and to provide further explanations when required.

CONSIDERATION FOR PROVIDING NON-ASSURANCE SERVICES

Threats and safeguards

5. Paragraph 100.5 of the Code states that a professional accountant shall comply with the following fundamental principles:

- integrity
- objectivity
- professional competence and due care
- confidentiality
- professional behavior

Each of these fundamental principles is discussed in more detail in Section 110 – 150 of the Code.

6. Compliance with the fundamental principles may potentially be threatened by a broad range of circumstances and relationships. The nature and significance of the threats may differ depending on whether they arise in relation to the provision of services to an audit client and whether the audit client is a public interest entity, to an assurance client that is not an audit client, or to a non-assurance client.

Threats fall into one or more of the following categories:

- self-interest;
- self-review;
- advocacy;
- familiarity; and
- intimidation.

These threats are discussed further in Part A of the Code. Paragraphs 200.4 – 200.8 of the Code contain examples of circumstances that create such threats for a professional accountant in public practice.

7. Members are reminded that under paragraph 290.158 of the Code a determination shall be made as to whether providing a non-assurance service would create a threat to independence before the firm accepts an engagement to provide such service to an audit client. In evaluating the significance of any threat created by a particular non-assurance service, consideration shall be given to any threat that the audit team has reason to believe is created by providing other related non-assurance services. If a threat is created that cannot be reduced to an acceptable level by the application of safeguards, the non-assurance service shall not be provided. In evaluating the significance of a threat, qualitative as well as quantitative factors shall be taken into account. Acceptable level is defined in the Code as a level at which a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances available to the professional accountant at that time, that compliance with the fundamental principles is not compromised.

8. Notwithstanding the provisions in the Code which allow practitioners to provide certain non-assurance services to audit clients, practitioners may consider requesting approval from those charged with governance on such non-assurance services for professional risk management purpose. This procedure is not explicitly required by the Code or the Hong Kong Standard on Quality Control 1 *Quality Control for Firms that Perform Audits and Reviews of Financial Statements, and Other Assurance and Related Services*

Engagements and is at the discretion by the practitioners depending on specific entity's facts and circumstances.

9. Based on the above, firms should evaluate the significance of the threats created by the particular non-assurance service in order to evaluate whether safeguards need to be applied or what safeguards are to be applied. It is possible to have circumstances where safeguards are not required given the relevant threats created by the particular non-assurance service are not significant.
10. Practitioners are expected to document and to explain the relevant facts and circumstances and the determination on the "threats and safeguards" evaluation.
11. Practitioner's documentation and explanation must be sufficient to enable a reasonable and informed third party to likely conclude, weighing all the specific facts and circumstances available to the practitioner at that time, that compliance with the fundamental principles is not compromised.
12. Firms are required to establish policies and procedures as required under Hong Kong Standard on Quality Control 1 to maintain independence with reference to the Code.
13. As is the case whenever professional judgment is exercised auditors must be prepared to explain the basis for their decision or conclusion and be prepared to defend it against challenges from third parties including regulators.

Management responsibilities

14. Paragraph 290.162 of the Code states that management responsibilities involve leading and directing an entity, including making significant decisions regarding the acquisition, deployment and control of human, financial, physical and intangible resources.
15. Paragraph 290.163 of the Code explains that determining whether an activity is a management responsibility depends on the circumstances and requires the exercise of judgment. Examples of activities that would generally be considered a management responsibility include:
 - setting policies and strategic direction;
 - directing and taking responsibility for the actions of the entity's employees;
 - authorizing transactions;
 - deciding which recommendations of the firm or other third parties to implement;
 - taking responsibilities for the preparation and fair presentation of the financial statements in accordance with the applicable financial reporting framework; and
 - taking responsibility for designing, implementing and maintaining internal control.

16. Paragraph 290.164 of the Code clarifies that activities that are routine and administrative, or involve matters that are insignificant, generally are deemed not to be a management responsibility. For example, executing an insignificant transaction that has been authorized by management or monitoring the dates for filing statutory returns and advising an audit client of those dates is deemed not to be a management responsibility. Further, providing advice and recommendations to assist management in discharging its responsibilities is not assuming a management responsibility.
17. Paragraph 290.165 of the Code states that if a firm were to assume a management responsibility for an audit client, the threats created would be so significant that no safeguards could reduce the threats to an acceptable level. For example, deciding which recommendations of the firm to implement will create self-review and self-interest threats. Further, assuming a management responsibility creates a familiarity threat because the firm becomes too closely aligned with the views and interests of management. Therefore, the firm shall not assume a management responsibility for an audit client.
18. Paragraph 290.166 of the Code further clarifies that to avoid the risk of assuming a management responsibility when providing non-assurance services to an audit client, the firm shall be satisfied that a member of management is responsible for making the significant judgments and decisions that are the proper responsibility of management, evaluating the results of the service and accepting responsibility for the actions to be taken arising from the results of the service. This reduces the risk of the firm inadvertently making any significant judgments or decisions on behalf of management. The risk is further reduced when the firm gives the client the opportunity to make judgments and decisions based on an objective and transparent analysis and presentation of the issues.

Networks and network firms

19. A network firm is defined under the Code as a firm or entity that belongs to a network, which is a larger structure:
 - That is aimed at co-operation; and
 - That is clearly aimed at profit or cost sharing or shares common ownership, control or management, common quality control policies and procedures, common business strategy, the use of a common brand-name, or a significant part of professional resources.

Under paragraph 290.13 of the Code, the firm shall be independent of the audit clients of the other firms within the network (unless otherwise stated in the Code) if a firm is deemed to be a network firm. The independence requirements that apply to a network firm apply to any entity, such as a consulting practice or professional law practice, that meets the definition of a network firm. Please refer to paragraphs 290.13-24 of the Code for further guidance on networks and network firms.

PART 1 - GUIDANCE ON PUBLIC INTEREST ENTITIES

20. Public interest entities, for the purpose of auditor independence, is defined in paragraph 290.25 of the Code to include:
- all listed entities; and
 - any entity (a) defined by regulation or legislation as a public interest entity or (b) for which the audit is required by regulation or legislation to be conducted in compliance with the same independence requirements that apply to the audit of listed entities. Such regulation may be promulgated by any relevant regulator, including an audit regulator.
21. Paragraph 290.26 of the Code further requires the firms to determine whether to treat additional entities, or certain categories of entities, as public interest entities because they have a large number and wide range of stakeholders. Factors to be considered include:
- the nature of the business, such as the holding of assets in a fiduciary capacity for a large number of stakeholders. Examples may include financial institutions, such as banks and insurance companies, and pension funds;
 - size; and
 - number of employees.
22. It is also stated in footnote 1b of the Code that currently under the legislation of Hong Kong, there is no definition of public interest entity or requirement for audit of an entity to be conducted with the same independence requirements applicable to the audit of listed entities. Therefore auditors have to review their own client base and determine whether any clients, other than listed entities, should be treated as public interest entities.
23. Some practitioners have expressed their concerns on the practical application of paragraph 290.26 of the Code. While there are some broad guiding principles within paragraph 290.26 there are no mandated criteria for identification of public interest entities. It is possible for different practitioners to make different determinations based on different facts and circumstances. However, it is important for practitioners to document and to be able to explain the thought process that they have gone through and judgments involved in considering whether any of their clients are public interest entities.

Common questions on public interest entities

24. **Question 1**

Does the Code require any non-listed companies to be public interest entities?

Response

A non-listed company is not a public interest entity unless the firm considers it to be a public interest entity based on professional judgment in accordance with paragraph 290.26 of the Code. Please see paragraph 21 above for further details. As explained in paragraph 23 above, it is possible for different practice units to make different

determinations based on different facts and circumstances. However, it is important for practice units to document conclusions and to be able to explain the thought process that they have gone through and judgments involved in considering whether any of their clients are public interest entities.

25. Question 2

Is it a must for practice units to establish their in-house criteria to determine public interest entities under paragraph 290.26 of the Code?

Response

Paragraph 290.26 of the Code requires the firms to determine whether to treat additional entities, or categories of entities, as public interest entities on the basis that they have a large number and wide range of stakeholders. Whilst each case should be considered based on its own merits, practice units should consider establishing appropriate in-house criteria in order to ensure consistency in the determination of public interest entities under paragraph 290.26 of the Code.

26. Question 3

Are securities firms considered as public interest entities?

Response

Both the Code and the legislation of Hong Kong do not contain requirement to include securities firms to be public interest entities. Under the same rationale as explained in the response to Question 1, a securities firm is not a public interest entities unless the firm considers it to be a public interest entity based on professional judgment in accordance with paragraph 290.26 of the Code. Please see the response to Question 1 for details.

27. Question 4

Is a subsidiary of a listed entity considered to be a public interest entity?

Response

This is a practical issue for many SMPs as there are many private company subsidiaries of listed companies in Hong Kong that engage SMPs as their auditors but the listed companies do not engage the SMPs as their group auditors. The concern is whether auditors of subsidiaries of listed companies, who are not the group auditors, are required to comply with the more stringent requirements of the Code that apply to public interest entities.

Paragraph 290.25(b) of the Code does not contain an explicit requirement for a subsidiary of a listed entity to itself be regarded as a public interest entity. Auditors should therefore exercise their professional judgment in considering whether to treat subsidiaries of listed companies as public interest entities as they would do with any of their clients under paragraph 290.26 of the Code.

If a subsidiary of a listed entity is not a public interest entity, the requirements in the Code relating to public interest entities (including the mandatory key audit partner rotation requirement under paragraphs 290.151-155) are not applicable to the auditor in relation to the audit of that subsidiary, subject to any specific requirements imposed

by the group or group auditor. The group auditor would of course need to observe the requirements specific to public interest entities for the purpose of auditing the group's consolidated financial statements and may impose specific requirements on the auditors of individual subsidiaries for the purposes of compliance with the Code.

PART 2 - PROVISION OF COMPANY SECRETARIAL SERVICES TO AUDIT CLIENTS

For all audit clients, including public interest entities and non-public interest entities

28. Paragraph 290.146 of the Code states that if a partner or employee of the firm serves as a director or officer of an audit client, the self review threats created would be so significant that no safeguards could reduce the threats to an acceptable level. Accordingly, no partner or employee shall serve as director or officer of an audit client.
29. Paragraphs 290.147 and 291.136 of the Code explain that the position of company secretary has different implications in different jurisdictions. Duties may range from administrative duties, such as personnel management and the maintenance of company records and registers, to duties as diverse as ensuring that the company complies with regulations or providing advice on corporate governance matters. Generally, this position is seen to imply a close association with the entity.
30. Paragraph 290.148 of the Code states that if a partner or employee of the firm or a network firm serves as company secretary for a financial statement audit client the self-review and advocacy threats created would generally be so significant that no safeguards could reduce the threats to an acceptable level unless the duties and functions undertaken are limited to those of a routine and formal administrative nature such as the preparation of minutes and maintenance of statutory returns, and are permitted by law.
31. Paragraphs 290.149 and 291.138 of the Code further clarify that performing routine administrative services to support a company secretarial function or providing advice in relation to company secretarial administration matters does not generally create threats to independence, as long as client management makes all relevant decisions.
32. Furthermore, partners and staff cannot act as officers of an audit client under the requirements of the Companies Ordinance, which is set out in Statement 1.303 "General Guidance – Restrictions on Appointments as Secretaries and Directors of Audit Clients". Statement 1.303 can be accessed at Volume I of the Institute's Members Handbook (http://app1.hkicpa.org.hk/ebook/HKSA_Members_Handbook_Master/volumel/1_303.pdf).

Common questions on provision of company secretarial services to audit clients

33. Question 5

Is provision of company secretarial services to audit clients permissible?

Response

When providing company secretarial services to audit clients, the firms or practitioners should:

- ensure that the partners and staff do not act as officers of an audit client as this is not allowed under the Companies Ordinance;
- ensure that client management makes all relevant decisions and the practitioners do not assume any management responsibilities or make any management decisions;
- ensure that the company secretarial services provided are limited to those of a routine and formal administrative nature such as the preparation of minutes and maintenance of statutory returns. As highlighted in paragraph 31 above, performing routine administrative services to support a company secretarial function or providing advice in relation to company secretarial administration matters does not generally create threats to independence, as long as client management makes all relevant decisions; and
- go through the "threats and safeguards" process and ensure threats (including but not limited to self-review and advocacy threats) are reduced to an acceptable level by the safeguards.

It is possible to have circumstances that relevant threat is at an acceptable level and hence employment of safeguards is not required. The practitioners are expected to document and to be able explain the relevant facts and circumstances and the determination on the "threats and safeguards" evaluation.

34. Question 6

A sole proprietor practicing member owns a separate company secretarial company and that company secretarial company is appointed as the company secretary of an entity. Is it permissible for that sole proprietor practicing member be appointed as the auditor of the concerned entity?

Response

Such a structure is not disallowed under the Companies Ordinance, which only disallows an individual to concurrently hold the posts of auditor and secretary to a company. However, practitioners should still follow the other criteria as highlighted in response to Question 5.

Practitioners would also need to be mindful that the separate company secretarial company may qualify to be a network firm of the sole proprietor practicing member due to the common ownership arrangement and therefore the independence requirements

under the Code applies to the sole proprietor practicing member also applies to the company secretarial company.

PART 3 - PROVISION OF ACCOUNTING SERVICES – PREPARING ACCOUNTING RECORDS AND FINANCIAL STATEMENTS FOR AUDIT CLIENTS

35. Paragraph 290.168 of the Code states that providing an audit client with accounting and bookkeeping services, such as preparing accounting records or financial statements, creates a self-review threat when the firm subsequently audits the financial statements.

For audit clients who are not public interest entities

36. Paragraph 290.171 of the Code states that firms may provide services related to the preparation of accounting records and financial statements to an audit client that is not a public interest entity where the services are of a routine or mechanical nature, so long as any self-review threat created is reduced to an acceptable level. Examples of such services include:

- providing payroll services based on client-originated data;
- recording transactions for which the client has determined or approved the appropriate account classification;
- posting transactions coded by the client to the general ledger;
- posting client-approved entries to the trial balance; and
- preparing financial statements based on information in the trial balance.

In all cases, the significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- arranging for such services to be performed by an individual who is not a member of the audit team; or
 - if such services are performed by a member of the audit team, using a partner or senior staff member with appropriate expertise who is not a member of the audit team to review the work performed.
37. It is possible to have circumstances that relevant threat is at an acceptable level and hence employment of safeguards is not required. The practitioners are expected to document and to be able to explain the relevant facts and circumstances and the determination on the "threats and safeguards" evaluation.

Common question on provision of accounting services to audit clients who are not public interest entities

38. Question 7

Is it permissible for firms or practitioners to provide accounting services to their audit clients which are not public interest entities?

Response

Providing an audit client with accounting and bookkeeping services, such as preparing accounting records or financial statements, creates a self-review threat when the firm subsequently audits the financial statements. When providing the services of preparing accounting records and financial statements for audit clients who are not public interest entities, the firms or practitioners should:

- ensure that client management makes all relevant decisions and the practitioners do not assume any management responsibilities or make any management decisions;
- go through the "threats and safeguards" process and ensure threats (including but not limited to self-review threat) are reduced to an acceptable level by the safeguards; and
- consider examples of safeguards including:
 - arranging for such services to be performed by an individual who is not a member of the audit team; or
 - if such services are performed by a member of the audit team, using a partner or senior staff member with appropriate expertise who is not a member of the audit team to review the work performed.

It is possible to have circumstances that relevant threat is at an acceptable level and hence employment of safeguards is not required. The practitioners are expected to document and to be able explain the relevant facts and circumstances and the determination on the "threats and safeguards" evaluation.

For audit clients who are public interest entities

39. The Code recognises that more stringent requirements are necessary in the event that an audit client is a public interest entity. Under paragraph 290.172 of the Code, a firm shall not provide accounting and bookkeeping services, including payroll services, or prepare financial statements on which the firm will express an opinion or financial information which forms the basis of the financial statements for an audit client that is a public interest entity except in emergency situations (to be explained further below in paragraph 41).

40. Despite paragraph 290.172 of the Code, a firm under paragraph 290.173 of the Code may provide accounting and bookkeeping services, including payroll services and the preparation of financial statements or other financial information, of a routine or mechanical nature for divisions or related entities of an audit client that is a public interest entity if the personnel providing the services are not members of the audit team and:
- the divisions or related entities for which the service is provided are collectively immaterial to the financial statements on which the firm will express an opinion; or
 - the services relate to matters that are collectively immaterial to the financial statements of the division or related entity.
41. The emergency situation as described in paragraph 39 above is further explained in paragraph 290.174, which refers to the situation where it is impractical for audit client to make other arrangements. This may be the case when (a) only the firm has the resources and necessary knowledge of the client's system and procedures to assist the client in the timely preparation of its accounting records and financial statements, and (b) a restriction on the firm's ability to provide the services would result in significant difficulties for client (for example, as might result from a failure to meet regulatory reporting requirements). In such situations, the following conditions shall be met:
- those who provide the services are not members of the audit team;
 - the services are provided for only a short period of time and are not expected to recur; and
 - the situation is discussed with those charged with governance.
42. Additional guidance is provided in the financial reporting and auditing alert issue 14 and 15 which can be accessed at <http://www.hkicpa.org.hk/en/standards-and-regulations/technical-resources/financial-and-auditing-alert/>

PART 4 - PROVISION OF TAXATION SERVICES FOR AUDIT CLIENTS

43. Taxation services comprise a broad range of services, including:
- tax return preparation;
 - tax calculations for the purpose of preparing the accounting entries;
 - tax planning and other tax advisory services; and
 - assistance in the resolution of tax disputes.

Tax return preparation

For all audit clients, including public interest entities and non-public interest entities

44. Under paragraph 290.183 of the Code, tax return preparation services involve assisting clients with their tax reporting obligations by drafting and completing information, including the amount of tax due (usually on standardized forms) required to be submitted to the applicable tax authorities. Such services also include advising on the tax return treatment of past transactions and responding on behalf of the audit client to the tax authorities' requests for additional information and analysis (including providing explanations of and technical support for the approach being taken). Tax return preparation services are generally based on historical information and principally involve analysis and presentation of such historical information under existing tax law, including precedents and established practice. Further, the tax returns are subject to whatever review or approval process the tax authority deems appropriate.
45. Based on the above, providing tax return preparation services does not generally create a threat to independence if management takes responsibility for the returns including any significant judgments made.

Common question on provision of tax return preparation service to audit clients (including public interest entities and non-public interest entities)

46. **Question 8**

Is it permissible for firms or practitioners to provide tax return preparation services to their audit clients (including public interest entities and non-public interest entities)?

Response

It is generally permissible for firms or practitioners to provide tax return preparation services to audit clients (including public interest entities and non-public interest entities). Providing such tax return preparation services do not generally create a threat to independence if management takes responsibility for the returns including any significant judgments made.

Tax calculations for the purpose of preparing the accounting entries

Audit clients that are not public interest entity

47. Under paragraph 290.184 of the Code, preparing calculations of current and deferred tax liabilities (or assets) for an audit client for the purpose of preparing accounting entries that will be subsequently audited by the firm creates a self-review threat. The significant of the threat will depend on (a) the complexity of the relevant tax law and regulation and the degree of judgment necessary in applying them, (b) the level of tax expertise of the client's personnel, and (c) the materiality of the amounts to the financial statements.
48. In relation to the complexity of the relevant tax law and regulation and the degree of judgment necessary in applying them, practitioners may consider whether the tax calculations are clearly supported by tax authority or other precedent, by established practice or has a basis in tax law that is likely to prevail.

49. If such services are to be provided to audit clients who are not public interest entities, safeguards shall be applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:
- using professionals who are not members of the audit team to perform the service;
 - if the service is performed by a member of the audit team, using a partner or senior staff member with appropriate expertise who is not a member of the audit team to review the tax calculations; or
 - obtaining advice on the service from an external tax professional.

It is possible to have circumstances that relevant threat is at an acceptable level and hence employment of safeguards is not required. The practitioners are expected to document and be able to explain the relevant facts and circumstances and the determination on the "threats and safeguards" evaluation.

Common question on provision services on tax calculations for the purpose of preparing the accounting entries to audit clients who are not public interest entities

50. **Question 9**

Is it permissible for firms or practitioners to provide the services on tax calculations for the purpose of preparing the accounting entries (for example, computation of deferred taxation) to their audit clients who are not public interest entities?

Response

When providing the service of tax calculations for the purpose of preparing accounting entries to audit clients who are not public interest entities, the firms or practitioners should:

- ensure that client management makes all relevant decisions and the practitioners do not assume any management responsibilities or make any management decisions;
- go through the "threats and safeguards" process and ensure threats (including but not limited to self-review threat) are reduced to an acceptable level by the safeguards; and
- consider examples of safeguards including:
 - using professionals who are not members of the audit team to perform the services;
 - if the service is performed by a member of the audit team, using a partner or senior staff member with appropriate expertise who is not a member of the audit team to review the tax calculation; or
 - obtaining advice on the service from an external tax professional.

It is possible to have circumstances that relevant threat is at an acceptable level and hence employment of safeguards is not required. The practitioners are expected to document and to be able explain the relevant facts and circumstances and the determination on the "threats and safeguards" evaluation.

Audit clients that are public interest entities

51. Except in emergency situations, in the case of an audit client that is a public interest entity, a firm shall not prepare tax calculations of current and deferred tax liabilities (or assets) for the purpose of preparing accounting entries that are material to the financial statements on which the firm will express an opinion.
52. The emergency situations as highlighted in the paragraph 51 above refers to emergency or other unusual situations when it is impractical for audit client to make other arrangements. This maybe the case when (a) only the firm has the resources and necessary knowledge of the client's business to assist the client in the timely preparation of its calculations of current and deferred tax liabilities (or assets), and (b) a restriction on the firm's ability to provide the services would result in significant difficulties for the client (for example, as might result from a failure to meet regulatory reporting requirements). In such situations, the following conditions shall be met:
 - those who provide the services are not members of the audit team;
 - the services are provided only a short period of time and are not expected to recur; and
 - the situation is discussed with those charged with governance.

The practitioners who provide such service on the above emergency situation basis are expected to be able to document and explain the relevant facts and circumstances which warrant to be emergency situation.

Tax planning and other tax advisory services

For all audit clients, including public interest entities and non-public interest entities

53. Tax planning or other tax advisory services comprise a broad range of services, such as advising the client how to structure its affairs in a tax effective manner or advising on the application of a new tax law or regulation. A self-review threat may be created where the advice will affect matters to be reflected in the financial statements. The existence and significance of any threat will depend on factors such as:
 - the degree of subjectivity involved in determining the appropriate treatment for the tax advice in the financial statements;
 - the extent to which the outcome of the tax advice will have a material effect on the financial statements;
 - whether the effectiveness of the tax advice depends on the accounting treatment or presentation in the financial statements and there is doubt as to the appropriateness of the accounting treatment or presentation under the relevant financial reporting framework;

- the level of tax expertise of the client's employees;
 - the extent to which the advice is supported by tax law or regulation, other precedent or established practice; and
 - whether the tax treatment is supported by a private ruling or has otherwise been cleared by the tax authority before the preparation of the financial statements.
54. Paragraph 290.188 of the Code states that providing tax planning and other tax advisory services where the advice is clearly supported by tax authority or other precedent, by established practice or has a basis in tax law that is likely to prevail does not generally create a threat to independence.
55. If such services are to be provided to audit client, the significance of any threat shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:
- using professionals who are not members of the audit team to perform the service;
 - having a tax professional, who was not involved in providing the tax service, advise the audit team on the service and review the financial statement treatment;
 - obtaining advice on the service from an external tax professional; or
 - obtaining pre-clearance or advice from the tax authority.

It is possible to have circumstances that relevant threat is at an acceptable level and hence employment of safeguards is not required. The practitioners are expected to document and be able to explain the relevant facts and circumstances and the determination on the "threats and safeguards" evaluation.

56. Where the effectiveness of the tax advice depends on a particular accounting treatment or presentation in the financial statements and:
- the audit team has reasonable doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework; and
 - the outcome or consequences of the tax advice will have a material effect on the financial statements on which the firm will express an opinion,

the self-review threat would be so significant that no safeguards could reduce the threat to an acceptable level. Accordingly, a firm shall not provide such tax advice to an audit client.

Common question on provision services on tax planning and other tax advisory services to audit clients (including public interest entities and non-public interest entities)

57. Question 10

Is it permissible for firms or practitioners to provide tax planning and other tax advisory services to their audit clients?

Response

When providing the service of tax planning and other tax advisory services to audit clients, the firms or practitioners should:

- ensure that client management makes all relevant decisions and the practitioners do not assume any management responsibilities or make any management decisions;
- go through the "threats and safeguards" process and ensure threats (including but not limited to self-review threat) are reduced to an acceptable level by the safeguards;
- consider examples of safeguards including:
 - using professionals who are not members of the audit team to perform the service;
 - having a tax professional, who was not involved in providing the tax service, advise the audit team on the service and review the financial statement treatment;
 - obtaining advice on the service from an external tax professional; or
 - obtaining pre-clearance or advice from the tax authority; and
- Where the effectiveness of the tax advice depends on a particular accounting treatment or presentation in the financial statements:
 - ensure the audit team has no reasonable doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework; and
 - ensure the outcome or consequence of the tax advice will not have a material effect on the financial statements on which the firm will express an opinion.

It is possible to have circumstances that relevant threat is at an acceptable level and hence employment of safeguards is not required. For example, providing tax planning and other tax advisory services where the advice is clearly supported by tax authority or other precedent, by established practice or has a basis in tax law that is likely to prevail does not generally create a threat to independence. The practitioners are expected to document and to be able explain the relevant facts and circumstances and the determination on the "threats and safeguards" evaluation.

Assistance in the resolution of tax disputes

For all audit clients, including public interest entities and non-public interest entities

58. Paragraph 290.192 of the Code states that an advocacy or self-review threat may be created when the firm represents an audit client in the resolution of a tax dispute once the tax authorities have notified the client that they have rejected the client's arguments on a particular issue and either the tax authority or the client is referring the matter for determination in a formal proceeding, for example before a tribunal or court. The existence and significance of any threat will depend on factors such as:
- whether the firm has provided the advice which is the subject of the tax dispute;
 - the extent to which the outcome of the dispute will have a material effect on the financial statements on which the firm will express an opinion;
 - the extent to which the matter is supported by tax law or regulation, other precedent, or established practice;
 - whether the proceedings are conducted in public; and
 - the role management plays in the resolution of the dispute.

The significance of any threat created shall be evaluated and safeguards applied when necessary to eliminate the threat or reduce it to an acceptable level. Examples of such safeguards include:

- using professionals who are not members of the audit team to perform the service;
- having a tax professional, who was not involved in providing the tax service, advise the audit team on the services and review the financial statement treatment; or
- obtaining advice on the service from an external tax professional.

It is possible to have circumstances that relevant threat is at an acceptable level and hence employment of safeguards is not required. The practitioners are expected to document and be able to explain the relevant facts and circumstances and the determination on the "threats and safeguards" evaluation.

59. Paragraph 290.193 of the Code explains that where the taxation services involve acting as an advocate for an audit client before a public tribunal or court in the resolution of a tax matter and the amounts involved are material to the financial statements on which the firm will express an opinion, the advocacy threat created would be so significant that no safeguards could eliminate or reduce the threat to an acceptable level. Therefore, the firm shall not perform this type of service for an audit client.
60. Paragraph 290.194 of the Code further clarifies that the firm is not, however, precluded from having a continuing advisory role (for example, responding to specific requests for information, providing factual accounts or testimony about the work performed or assisting the client in analyzing the tax issues) for the audit client in relation to the matter that is being heard before a public tribunal or court.

Common question on provision services on assistance in the resolution of tax disputes to audit clients (including public interest entities and non-public interest entities)

61. Question 11

Is it permissible for firms or practitioners to provide assistance in the resolution of tax disputes to their audit clients?

Response

When providing assistance in the resolution of tax disputes, the firms or practitioners should:

- ensure that client management makes all relevant decisions and the practitioners do not assume any management responsibilities or make any management decisions;
- ensure the amounts involved are not material to the financial statements on which the firm will express an opinion if the service involves acting as an advocate for an audit client before a public tribunal or court in the resolution of a tax matter;
- go through the "threats and safeguards" process and ensure threats (including but not limited to advocacy or self-review threat) are reduced to an acceptable level by the safeguards; and
- consider examples of safeguards including:
 - using professionals who are not members of the audit team to perform the service;
 - having a tax professional, who was not involved in providing the tax service, advise the audit team on the services and review the financial statement treatment; or
 - obtaining advice on the service from an external tax professional.

It is possible to have circumstances that relevant threat is at an acceptable level and hence employment of safeguards is not required. The practitioners are expected to document and to be able explain the relevant facts and circumstances and the determination on the "threats and safeguards" evaluation.

Having said that, it is permissible for a firm to have a continuing advisory role for the audit client in relation to the matter that is being heard before a public tribunal as described in paragraph 290.194, for example, responding to specific requests for information, providing factual accounts or testimony about the work performed or assisting the client in analysing the tax issues for the audit client in relation to the matter that is being heard before a public tribunal or court.