



The Institute of Cost Accountants of India

(Statutory body under Act of Parliament)

CMA Bhavan, 12, Sudder Street, Kolkata-700 016

GUIDELINES FOR CONSTITUTION / RECONSTITUTION OF PARTNERSHIP FIRM

Only the members of the Institute i.e. ACMA or FCMA who have obtained Certificate of Practice and are engaged in full / part time practice are entitled to constitute/reconstitute a partnership firm of Cost Accountants under Regulation 113 of the Cost and Works Accountants Regulations, 1959. For this purpose, the following procedures have to be followed and the related conditions have to be complied with :-

1. Application has to be made to the Central Council of the Institute (hereinafter referred to as the Council) in Form 'M-5' which should be duly filled in and signed by all the partners, indicating the name and membership no. against each signature.
2. The application should be accompanied by a copy of Deed of Partnership duly executed on a non-judicial stamp paper of appropriate value by all the partners and attested by at least two witnesses indicating their full names and addresses. The date of execution of the Deed and submission of Form 'M-5' should pertain to a date on or after the date of purchase of the non-judicial stamp paper.
3. The date of application in Form 'M-5' and the date of the Deed of Partnership should pertain to a current date as far as practicable.
4. The name of the partnership firm to be indicated in sl. no. 1 of Form 'M-5' and Deed of Partnership should be in accordance with the provisions of Regulation 108 of the Cost and Works Accountants Regulations, 1959 and should not be similar to a name already approved by the Council. Such a firm name should have the suffix "& Associates" or "& Co."
5. The partnership firm shall be entitled to function with effect from the date of approval by the Council, and shall not have any retrospective effect.
6. Prior to the approval of the Council, the use of any stamp/visiting card/letter head or the like in any firm name is strictly prohibited.
7. When a partnership firm is reconstituted on account of admission, retirement, resignation, expulsion, death, etc. of partner(s) or change of terms and conditions, etc., a fresh Deed of Partnership has to be duly executed by the existing partners, and a copy of such Deed along with Form 'M-5' and evidence of grounds of reconstitution has to be submitted to the Council for reconstitution of the partnership firm.
8. No Constitution or Reconstitution of partnership firm is valid unless it is approved by the Council.
9. The partners of a firm have to strictly comply with terms and conditions of the Deed of Partnership as approved by the Council and there should be no deviation from it.
10. If there is any change in the constitution or terms and conditions, it has to be immediately intimated to the Council by executing a fresh Deed of Partnership and Form 'M-5'. Any change in the constitution and/or terms and conditions of partnership shall have no effect till it is approved by the Council.
11. If in the terms and conditions of Deed of Partnership as approved by the Council, there are certain conditions to be complied with by the remaining partners within a specified period of time upon death, retirement, resignation, etc. of partner(s) of a firm for the purpose of its reconstitution, the remaining partners must comply with such terms and conditions within the specified period for the purpose of its reconstitution, failing which the firm gets automatically dissolved after the expiry of the specified period.

If such terms and conditions are not complied by any partner(s), he automatically ceases to be a partner of the firm after the expiry of the specified period. However, the partners who comply with such terms and conditions within the specified period become eligible for reconstitution of the firm, and they can reconstitute the firm by submitting a fresh Deed of Partnership and Form 'M-5' to the Council in the prescribed manner.

If any remaining partner(s) has any difficulty or dispute in complying with the terms and conditions of Deed of Partnership as indicated above within the specified period of time for the purpose of reconstitution of the firm, he must communicate about such difficulty/dispute to the Secretary of the Institute within the period specified in the original Deed of Partnership as approved by the Council. However, if there is no communication in this regard, it shall be taken as granted that the partner(s) not complying with the terms and conditions are not interested in continuing with the firm, and upon application from the partners duly complying with the terms and conditions of original approved Deed, the Council shall reconstitute the firm without any reference to the defaulting partner.

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12. When a partnership firm is dissolved, a copy of Deed of Dissolution of Partnership duly executed by all the partners has to be submitted to the Council for its record.
13. Whenever there is a change in the address of the Head Office or Branch Office of the partnership firm, it is to be immediately intimated to the Council in Form 'M-5'.
14. The Head Office or any Branch Office, if any, of the firm should be headed by a person who is member of the Institute i.e. ACMA or FCMA.
15. If the partner of a firm does not renew his Certificate of Practice, he automatically ceases to be a partner and the partnership automatically stands dissolved. However, remaining partners who are valid holders of Certificate of Practice, can apply for reconstitution of the firm by furnishing a fresh Deed of Partnership and Form 'M-5' to the Council in the prescribed manner and the Council shall reconstitute the firm without any reference to the defaulting partner.
16. If on account of any circumstances, the number of partner of a firm is reduced to one only, the partnership is automatically dissolved. However, the single partner may reconstitute the firm with one or more eligible partners by furnishing a fresh Deed of Partnership and Form 'M-5' to the Council in the prescribed manner, if there is a provision in the Deed in this regard. However no such reconstitution is possible after the firm is dissolved.
17. The name of a firm once approved by the Council cannot be changed by the partners.
18. The name of a firm, which is dissolved or not reconstituted, cannot be allotted to any new applicant.

In connection with the above guidelines, the following conditions have been laid down for members in part-time practice who desire to become a partner/proprietor of firm of Cost Accountants :

- A. Any member engaged in any other business or occupation, in terms of general or specific Resolution passed by the Council under Regulation 111 given as per Appendix No. 6 of the Cost and Works Accountants Regulations, 1959, shall not be entitled to perform any attest/certification function except in the following cases.
 1. Maintaining books of accounts of any commercial, non-commercial, financial, non-financial organizations;
 2. Undertaking audit of any nature, not statutorily debarred, in any commercial, non-commercial, financial, non-financial organizations;
 3. Practicing as Management Consultant;
 4. Practicing as Tax Consultant;
 5. Private tutorship;
 6. Authorship of books and articles;
 7. Holding of Life Insurance Agency License for the limited purpose of getting renewal commission;
 8. Attending classes and appearing for any examination, academic or professional;
 9. Honorary office - bearership of charitable, educational or other non-commercial organizations;
 10. Acting as notary Public, Justice of the Peace, Special Executive Magistrate and the like;
 11. Tutorship for courses under the aegis of the Institute or of the Regional Councils;
 12. Valuation of papers, acting as paper-setter, head-examiner or a moderator for any examination;
 13. Acting as surveyor and Loss Assessor under the Insurance Act, 1938;
 14. Acting as Recovery Consultant in the banking sector; and
 15. Holding Public Elective office such as M.P., MLA & MLC.
 16. Editorship of journals other than professional journals;
- B. A member who is not entitled to perform attest/certification function shall not be entitled to train any registered student of the Institute.
- C. The Council in this connection also clarified that the attest/certification function for this purpose would cover services pertaining to cost audit, excise audit, other statutory matters.