



The Institute of
Chartered Accountants
of Pakistan

PRESIDENT

July 13, 2009

PRESIDENT'S COMMUNICATION - 8

Dear Member

NOTICES UNDER SECTION 176 OF INCOME TAX ORDINANCE, 2001

Recently, the Federal Board of Revenue (FBR) has issued notices to some of the audit firms under Section 176 of the Income Tax Ordinance, 2001 (the Ordinance) requiring them to submit working paper files and other information relating to their clients presumably with respect to tax audit of such entities.

In this regard, we would like to draw your attention towards Schedule II, Part 1 of the Chartered Accountants Ordinance, 1961 (the Accountants Ordinance) which reads as follows:

*"A chartered Accountant in practice shall be deemed to be guilty of Professional misconduct, if he –
(1) discloses information acquired in the course of his professional engagement to any person other than his client, without the consent of his client or otherwise than as required by any law for the time being in force;"*

Further, the Lahore High Court in its judgment W.P. 8987/2001 (Ch Nazir Ahmed Asad vs ICAP) restricted ICAP to review the audit working papers under its Quality Control Review Program without client consent and made the following remarks:

"..... The aforesaid requirement of the SECP and of the newly added clause in the listing regulations cannot, by any stretch of reasoning, be construed as requiring the petitioner to disclose client information to the Respondent Institute without the consent of his client."

Besides the above requirement of the Ordinance and the High Court Judgment, the working papers are the property of the audit firms, and we are not aware of any jurisdiction, where the audit work papers are used by tax authorities for the purpose of the tax assessment or tax audit. We consider that if tax authorities are provided access to audit working papers, this will create significant legal and other complications.

We are currently engaged with the tax authorities to address this matter on priority basis, and expect to have a high level meeting with the Chairman and other senior officials of FBR shortly. In this context, all members are requested to inform us, if they receive any communication from tax authorities. The Institute considers that it will not be appropriate to provide audit working papers to tax authorities.

Regards

Syed Asad Ali Shah
President