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# T&E Practices Still Kicking at Midsized New Jersey Firms

David Gialanella, New Jersey Law Journal

July 6, 2016

Celebrity deaths and estate tax repeal efforts have a way of raising the profile of trusts and estate practices. Both of those have been in the news this year, and both highlight the fact that many top law firms turned away from those practices.

But at midsized firms in New Jersey—whose firmwide head counts might be equal to a large department elsewhere—T&E was never dead and buried, practitioners say.

"In New York, you need to have a \$5 million book of business to be considered for partnership," said Michael Backer, chair of the tax, trusts and estates department at Greenbaum Rowe Smith & Davis in Woodbridge. "For a T&E lawyer, a million-dollar-a-year practice is a good practice."

"Once you know that, you know why the big firms shot down those departments," Backer said.

Indeed, such firms as Weil, Gotshal & Manges; Debevoise & Plimpton; Wilmer Cutler Pickering Hale and Dorr; and Wilson Sonsini Goodrich & Rosati have jettisoned T&E practices, [according to sibling publication The American Lawyer](#).

Several factors contributed, including downward client rate pressure and the low-leverage nature of T&E work, according to the report—meaning such engagements usually don't require more than one partner and one associate.

There also was the increase in the federal estate tax exemption threshold, to \$5 million as of 2012. That has led to a fraction of the federal estate tax filings in recent years as there were decades earlier, Am Law reported.

States have taken their own measures. In New Jersey there was discussion of repealing the estate tax as a condition of raising the gas tax 23 cents in order to replenish the Transportation Trust Fund. But a different proposal, proposed by Gov. Chris Christie and passed by the Assembly late last month, made no mention of the estate tax. The Senate did not take up the measure.

"The number of people who need sophisticated help is going down," but "there are a lot of wealthy people in New Jersey who have more than \$5 million," Backer said.

Also, New Jersey's estate tax threshold, is far lower than its federal counterpart: \$675,000 per individual.

For Greenbaum Rowe, these tax implications result in a T&E practice that consists of eight lawyers

"generating a significant amount of revenue per lawyer," according to Backer, citing one partner whose 250 referrals per year allow him to do solely estate planning.

At Sills Cummis & Gross in Newark, the tax group handles corporate work, so the T&E group is separate, according to Allan Bell, who chairs it.

"We've always been not just a service group, but our own profit center," said Bell, noting that the group has benefitted from the family practice launched a year ago when Jan Bernstein came over from Riker Danzig Scherer Hyland & Perretti.

Bell recalled an occasion years ago where a corporate partner questioned the necessity of a T&E practice.

"Most of the people who make those comments don't even know" the value of a T&E practice to existing clients, Bell said.

"The executives are going to need those services," Bell said, "even at the Am Law 50."

Estate planning trends still arise. For example, aging clients of late are moving back to New Jersey from Florida and other points south, he said.

"They want to die up here—to be, in the end, closer to the family," Bell said.

Samuel Weiner, co-managing partner and co-chair of the 15-lawyer tax, trusts and estates department at Cole Schotz in Hackensack, said T&E will remain "a very significant practice for tax reasons as well as non-tax reasons."

"This year is probably going to be the biggest revenue year ever," Weiner said.

At New York firms commanding higher rates, jettisoning T&E is understandable, Weiner acknowledged, but "for us, it would be catastrophic not to have this practice."

Client relocations led the firm to open an office in Florida, he said. "Every other client has a Florida residence, has moved to Florida, or is at least contemplating it."

Then there's estate litigation, which—according to the Am Law report, as well as the New Jersey lawyers—is more and more the real profit center for T&E practices.

"It's always how I made my bones," Backer said. "You have to not be afraid to go to court. There are a lot of probate lawyers who have never been in a courtroom."

Billing policies appear to vary firm to firm.

Weiner's standard hourly rate is \$645, and Cole Schotz's more experienced T&E lawyers bill in that range—on the high side in New Jersey, Weiner acknowledged, though he said the practice does a fair amount of work on fixed fees.

Flat and fixed fees can be dangerous in T&E practice, because often documents will require several rounds of revisions at the client's request, the lawyers said.

"It's a very legitimate concern," Weiner said. "Different strokes for different folks. I'm willing to take my lumps."

Bell said his group is "very efficient," but alternative fee arrangements are disfavored.

"The flat rates always concern me, because the clients can go through seven rounds of revisions,"

Bell said.

Budding lawyers are well aware of the decreased demand for T&E services, and so the up-and-coming ranks are thin, according to Backer, who said Greenbaum Rowe has picked up T&E lawyers from New York firms without books of business.

Weiner said Cole Schotz is "always struggling to find good people to come in on the younger side."

"I think there's less people doing it than when I was coming up," he said.

As a result, firms might meet sporadic T&E needs by having a handful of practitioners who merely dabble in the practice—a strategy that may be fraught with pitfalls, the lawyers said.

"Frankly, that makes my life easier, because I get called in to fix all the mistakes they made," Backer said.

Bell added: "Even [with] some of the alleged non-dabblers ... I've seen a lot of dangerous documents out there."

Larger firms might not view T&E as a cash cow, but the New Jersey lawyers all claimed to be successful rainmakers.

"You have to be lucky, but you have to earn the right to be lucky," Bell said.

He also raised a point that's likely a common comfort among T&E practitioners.

"Everyone needs a will," he said.

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