

Why Trusts and Estates Must Be More Than 'Just a Service Practice'

By **David Gialanella** | July 25, 2019 at 01:00 PM

Editor's Note: This is the first article in a two-part series on trusts-and-estates practices at midsize law firms. The first part will discuss how practitioners in these areas are expanding and marketing their practices to be more profitable. The second part will look at how T&E practices stave off increasing competition for core service work.

Times have changed for trusts-and-estates practitioners, as competition with nonlawyer professionals such as financial advisors has increased, and as a number of Big Law firms have moved away from a practice that some of them view as only marginally lucrative.

But through the changes, midsize firms have shown they are still committed to T&E services, pushing to develop young lawyers, and moving to reload and rebuild practice groups when retirements or departures hit.

Firm leaders' commitment to the practice, however, can't be taken for granted, and can't be assumed to be unconditional, say those who head T&E practices at midsize firms.

"We're a business generator for the firm," said John Lueken, of the Louisville office of [Bingham Greenbaum Doll](#), an Indianapolis-based firm of about 190 lawyers. Lueken chairs the firm's 10-lawyer estate-planning department.

“A lot of trusts-and-estates practices we see are service providers to other departments within the firm,” he said. “Our practice—we bring in the clients, and we’re exporters of work.”

He added, “if you’re a T&E department, to be recognized within the firm and within the community, it can’t just be a service practice.”

Lueken has spent his whole career at Bingham Greenbaum and said several of his partners, like him, have 30 or more years of practice experience.

“I think we’re the beneficiaries of a many-decades-long practice of being very strong in T&E,” he said.

Reputation and legacy aside, T&E lawyers must respect the importance of active business generation, practitioners said. But that respect must go both ways—firm leaders must recognize that their T&E practices are, or at least have the potential to be, more than “just a service provider.”

“We’ve heard that before—that they call their T&E department their ‘loss-leader department,’” said Marian “Bo” Mehan, co-chair of the estate planning department and a member of the management committee at 150-lawyer [Lewis Rice](#) of St. Louis. “That’s not true at all at our firm.”

Lewis Rice’s estate planning department, with eight full-time lawyers and four staff, is profitable, billing up to \$680 an hour for senior partners, and sending referrals to the litigation and corporate practices, according to Mehan, who has been with the firm since 1982, and fellow co-chair Michael Mulligan, who joined in 1972.

Notwithstanding the head count and solid rates, the team is efficient, Mehan and Mulligan say—and that’s as much a reason they get the work as any other. Executives, and other sorts of “business-oriented clients,” as Mulligan described them, “don’t give their money away,” he said.

When those clients “use us and don’t complain about the bills ... I think we’re all just kind of honored by that,” he said, noting that the department doesn’t typically discount its rates.

Volume of work helps with efficiency. When a practice does a large number of charitable trusts, for example, an associate learns quickly how to handle those, Mehan said.

The Lewis Rice practice has clients nationwide, not just in St. Louis. And a geographically broad practice is an important trait for a T&E practice to achieve rainmaking status, practitioners said.

There’s also collegiality. It’s a quality that might seem at odds with the aggressive mindset that often accompanies business generation, but a T&E department must be the opposite of cutthroat if it is to succeed, the Lewis Rice attorneys said.

Mehan credited a “generosity of sharing” from Mulligan, who she said has always been willing to help younger attorneys at the firm. “None of us could be territorial,” she said. “If a bus hit me, my file is kept the same way as everybody else’s ... and that’s a little unusual.”

It takes time to build that sort of professional environment, and the solid reputation that T&E groups need to be successful. But a law firm might not have years to wait when it comes to rebuilding or revamping a trusts-and-estates practice.

In 2017, Portland, Oregon-based [Tonkon Torp](#), with succession planning and a fresh approach to the practice in mind, brought in Abby Wool Landon to head its T&E group. She was previously with Seattle-based midsize firm [Williams Kastner](#).

The firm’s push to develop the practice has been going on for some time, according to Landon. She said Tonkon Torp, currently with about 80 lawyers, has always had a

T&E practice, but until about a decade ago it was a purely a service practice—it had little public visibility and rarely interacted with other practices across the firm.

Tonkon Torp wanted a “more progressive” approach, to sell T&E services a bit more and to develop young talent. Those efforts are ongoing, but at present, “we have more work than the five lawyers in our group can do,” Landon said.

On rainmaking, Landon pointed to “having relationships outside of the Pacific Northwest” as key, noting that she recently spoke at an event hosted by the Connecticut Bar Association, as well as “having techniques that are more progressive,” such as those that might be learned in CLE programs.

“I have a pretty broad practice,” said Landon, who is licensed in Oregon and Washington. “I have had a lot of experience with other state laws.”

She added that transforming a T&E practice “requires sort of a shift in thinking.”

“Business development is important,” as is “Being out in the marketplace,” Landon said. “It’s the defense against it being just a service practice.”