RESOURCES

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Resources for partnerships

Here we provide you with information on the organisation of law firms based on partnership.

How is the entry/leaving of a partner to be assessed under tax law?

Source:

http://www.steuerrecht.org/pdf/DAT2009soeffing.pdf

Freelance work threatened by BFH jurisdiction?

Professionalism II: The lawyer as a professional: How great is the danger of "commercial infection" by salaried lawyers?

The danger of "commercial infection" by salaried lawyers?

For some time now, the tax authorities have been focusing on a new area of audit in tax

Resources

- Bookstore

Info Center

- What we do
- How we work
- Resources

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audits of law firms: the requalification of freelance activity within the meaning of § 18 EStG into commercial activity within the meaning of § 15 EStG. The requalification can be achieved by mixing originally legal activities with activities that are not typical for the profession (e.g. trusteeships, financial mediation, careers advisors) (see BRAKMagazin 2/2006, p. 13). In this respect, the case law recognises a (neatly implemented) separation of the individual lawyer into freelance and commercial activities. However, this does not apply to partnerships, so that all income of the partnership becomes commercial income if a partner is (partially) engaged in commercial activities, except to a very minor extent (see BFH, BStBl. II 1995, 171; BStBl. II 2000, 229).

A new topic

The tax authorities have now added another aspect to the problem area, namely the commercial infection of the employer's lawyer (individual lawyer or partnership) by employed lawyers. In the opinion of the tax authorities, this can occur if an employed lawyer is outwardly and in accordance with the internal structure of the law firm/partnership in the same way as his employer, i.e. if he predominantly works on the mandates independently and under his own responsibility. Example: The two partners are mainly active in commercial and company law as well as in inheritance law, the salaried lawyer handles the divorce and traffic matters.

The legal situation

Pursuant to § 18, Subsection 1, No. 1, Sentence 3, EStG, the employer's attorney remains a freelance attorney even if he is working with salaried attorneys, provided "that he is acting in a managerial and independent capacity on the basis of his own specialist knowledge". The problem here is usually not the proof of management (determination of the organisation and work processes), but the proof of personal responsibility. The activity of the employer's barrister is only responsible if his personal participation in the practical processing of the mandates is sufficiently guaranteed and the lack of cooperation in the individual mandate is limited to exceptions (BFH/NV 2000, 284). The so-called stamp theory of the Federal Court of Finance applies, according to which the service provided by the employed lawyer must bear the stamp of the employer's lawyer's personality (BFH, BStBl. II 1990, 507; BStBl. II 1995, 732). If it is not sufficient that the employer's lawyer bears responsibility for the work performed by the salaried lawyer, his cooperation is required.

In simple cases, a professional examination of the salaried employee is sufficient; in other cases, the activity of the salaried employee must be recognisable as that of the employer's attorney and thus personally attributable to him. A random check is not sufficient. Under the professional direction of the employer's attorney, the employee may be assigned work areas for independent processing. However, the limit to commercial work is exceeded if the employer's attorney only takes care of particularly important or particularly difficult tasks himself and leaves the simpler work entirely to his employed attorney.

What to do?

Before the tax audit, the employer's attorney should take precautions in two respects: in the organisation of the processing of the mandate and in the documentation of evidence. The organisation of work should ensure that the mandates do not bypass the employer's attorney (areas addressed: incoming mail, acceptance of mandates, client meetings, court appointments, monitoring of deadlines, accounting, etc.). However, this alone is not enough; the organisation of work and participation in the processing of the mandates must also be verifiable. It should be possible to prove the organisation of the processing of mandates by written instructions and organisational notes. The documentation of the practical processing should document the general professional instructions of the salaried lawyer (notes on postal briefings, professional meetings, internal training measures, etc.), on the other hand, the individual file should reflect the influence of the employer's lawyer on the client's work (placing of the mandate, internal meeting notes, signing of the pleadings, keeping of drafts, evidence of client contacts, professional instructions or advice to the salaried lawyer, etc.).

Source: RA Dr. Uwe Clausen, Munich, committee tax law of the BRAK, RAKMagazin 6/2007, p. 12)

Law firm and legal department: Antagonism or symbiosis?

The relationship between the law firm and the legal department is in motion. Due to strongly changing conditions for corporate lawyers (especially cost and efficiency pressure), their demands on cooperation with law firms are increasing. This discussion is quickly reduced to a discussion about the costs of external lawyers, as at the Bucerius conference on law firm management in Hamburg on 18.11.2011. Behind this, however, are expectations that go much further and call on both sides to do something to ensure that the symbiosis is not replaced by antagonism.

1. the challenge:

The performance requirements for in-house counsel have increased rapidly over the last 10 years and are expected to continue to increase. The reason for this is the company's inherent need for efficiency, which demands maximum results with the least possible resources. As a staff position, lawyers have become the focus of cost controllers and purchasers, and increasingly also of the management of business units and the overall organisation. They can no longer hide behind the sacrosanct claim of the legal department that they are virtually outside the organization and must ensure that everything is done properly within it.

In concrete terms, this has the effect that legal departments in corporate groups are increasingly being equipped with the classic monitoring and control mechanisms and have to account for the use of resources. Indicators are introduced, performance is evaluated regularly (usually also during the year) and compared with industry benchmarks, which are also becoming increasingly available (see for example our Global Survey on Law Departments, in cooperation with Rees Morrison). The legal department lawyers are positioned close to the line and must support the day-to-day business of the

corporate units. Instead of abstract examination of legal issues, the aim is to intervene in decision-making processes at an early stage and avoid possible mistakes at an early stage or to achieve optimal results.

Service Level Agreements" are concluded between legal departments and business units, covering such matters as availability, costs, etc.

An example: The development of goods on behalf of a customer should usually be sold without the associated intellectual property rights, so that the company can build on this development. This point will be less important to a seller of the deal (or even be accepted cheaply to do the deal), but may affect the existence of the business in certain markets. Here a close, trusting working relationship between the legal and line departments is essential to keep damage away from the company.

Central to this is the usability of the legal advice, which usually has to be more than risk avoidance. To achieve this, in-house lawyers, as the legal profession is increasingly called today, must learn to master holistic perspectives, have an appropriate appearance and communication skills, and be able to connect with the concrete concerns of their contacts. In this way, they become "value-added relationship managers" (Weber), a role model that represents a considerable extension of the role of the fully qualified lawyer qualified to hold the office of judge.

For the managing director of a medium-sized company, it is also a matter of the same competence on the side of the lawyers, be they internal or external, in law firms.

2. consequences for law firms

Lawyers have to get involved if they want to stay connected. They are expected to have a much better understanding of their client's specific requirements and network of relationships. For this it is necessary to learn to act appropriately, i.e. not to view the legal task as such and to work on it detached from its context, but to use suitable communication techniques, in particular enquiries, but also project management, which adheres to milestones, to work on the task in the interests of the company. This requires us to see the "iceberg" as a whole, i.e. to be aware of what is slumbering beneath the surface. Lawyers therefore inevitably have to get even closer to their clients, understand them better, make themselves understood and develop a different social competence, which not only allows the lawyer to be an expert (who advises laymen), but also that of the serving "business partner".

This also puts pressure on the traditional business models of law firms.

- Firstly, the Anglo-Saxon model of relatively high leverage, i.e. a small number of partners facing a large number of salaried lawyers. This results in the need for a high workload for partners who have little interest in working on the case themselves or who focus on important elements and contact with the client. Furthermore, most profit distribution systems do not encourage cooperation, so that the right contact persons are not always available to the client, despite the promise of full service. etc. At the same time, it makes economic sense, but is not

always helpful, to use the cheapest staff, i.e. the youngest employees.
- On the other hand, the more continental European business model, which has a relatively balanced number of partners and associates and where the partners themselves primarily process the files. The bottleneck here is the partner who does not devote enough time to other aspects of the case, such as project management or the organization of the firm as the institution that carries and supports the case. In this model, processing by partners is the rule and, due to a lack of sufficient capacity, often the "bottleneck".

Pricing is also a point where too many different interests dominate.

- On the one hand, billing on the basis of hours worked, which in two out of three cases does not represent a reasonable price (either too cheap from a lawyer's point of view because it is too fast or too expensive from a company's point of view because it is too much work; the third case, optimal balance, is therefore the exception). Moreover, in the "billable hours" billing model there is a tendency not to pay attention to efficiency. This stencil-like presentation is often not true, but it dominates the perception of corporate lawyers for a long time and is diametrically opposed to their need for leaner, faster, more cost-effective processing.
- On the other hand, there is the accounting lump sum, which leads to an undesirable cost risk on the part of the law firm.

In general, lawyers in law firms have to increasingly consider the requirements of their own firm in addition to the interests of their clients. If this gets out of hand, the quality of advice tends to suffer greatly - or, to put it in the words of a legal advisor at a Swiss bank whom we interviewed in 2010 on behalf of a leading law firm: "Then you only get one service, no more advice".

3. the role of trust in the relationship between legal department and law firm/lawyer

Lawyers as well as legal department lawyers always speak quickly of the necessary "trust" that must be present. However, the cooperation between law firm and company is already today much more strongly characterized by other elements than just the relationship of trust between lawyer and company lawyer or management. The term "trust" is understood to mean the assumption that developments will take a positive or expected course (Def. according to Wikipedia), but it is clear that this trust is only a poor substitute for a lack of organisational competence on both sides to introduce standardised processes of client handover and handling, which avoids improvisation (and thus also the frequency of errors).
Supplementing this relationship with a cooperation agreement between law firm and client would be one solution, but it would go far beyond the panels currently in use. The example of Dupont (http://www.dupontlegalmodel.com/psp-list) is still groundbreaking, but requires considerable efforts from the legal department in terms of implementation. However, both sides are reluctant to do so: it deprives the legal department of a certain amount of independence, which it has through the individual selection of the respective law firm, which is also a means of pressure. And it makes the lawyers a little more dependent.

4. evolution of the relationship between the legal department and law firms

Seen from a distance, the relationship between the legal department and the law firm is almost symbiotic: the legal department benefits from the fact that the law firms flexibly provide competence and capacity for those issues that they cannot or do not want to deal with themselves. De facto, however, it is seen more as an alliance in which both sides are careful to be independent. The price for this is a high degree of improvisation, which must be provided in order to be and remain capable of working.

The fee to be paid in each case is only an expression of the negotiating strength of the respective side at a particular point in time. We have observed that it varies by up to 50% for the same clerk at the same law firm, regardless of whether it is a small or large international law firm.

However, up close, there are considerable shortcomings in this respect. This perception of the deficient may only apply to 10-15% of cases, but in an environment that is trimmed for flawlessness, these are too many, and in some cases are critical to success.

The pressure that weighs on the legal department must be derived. To this end, the market is currently offering an increasing number of different solutions:

- LPO (Legal Process Outsourcing, i.e. the transfer of partial steps of the service to non-legal service providers)
- Project Lawyers („Temporary in-house lawyers“),
- Secondments (from law firms to companies, partly free of charge, since it also serves the purpose of training)
- Alternative dispute resolution procedures for which lawyers are no longer required
- technology (e.g: Sample provision of contracts via central server also for business lines, even by external providers including law firms, in some cases even free of charge) (approximately: www.businessintegrity.com)
- Alternative pricing models
- Higher standardization
- Differentiation of the purchase of external legal services (e.g: Focus on handling ongoing legal issues, cheaper lawyers and less partner involvement, specialist law firms, expansion of so-called MDPs (multi-disciplinary practices), law firms with purely niche offerings, such as product liability (www.reuschlaw.de) etc.
- …

All of this is changing the market and distributing the existing volume of advice in the legal market, which puts further pressure on the traditional providers, the "big law firms" (and all other economic advisory firms) to adapt. Medium-sized law firms in particular feel that they are getting less work and do not understand that this is due to market forces (competition, supply differentiation, demand behaviour). But instead of questioning their business model, they simply continue to do so, perhaps even simply reduce their hourly rate, without considering the consequences (falling profitability, loss of especially good employees, lack of attractiveness for career changers, etc.)

Law firms could respond by, for example:

- Standardize mandate processes more and place more emphasis on comprehensive information
- Seek an institutional relationship with companies in order to be better integrated into internal processes and to learn more about internal matters
- Have an internal culture of cooperation that makes it easy for clients to involve their lawyers
- Define a business model that is more stable, so that not every lawyer is always looking for the maximum turnover, but "win-win situations" are possible with companies without losing independence
- Expand the social competence of the lawyers in order to be better able to operate in the corporate environment (e.g. not acting as the "better" lawyers in relation to the corporate lawyers)

Legal departments could also develop further. Especially in critical mandates, they must pay more attention to this when awarding contracts:

1. that the external lawyers are not simply shunting yards for difficult cases to which one can pass the buck after processing
2. that much more information must be given to external parties than is needed to give internal parties
3. that work that has to be done quickly or over the weekend may also cost more
4. that they shape their position cooperatively, not confrontationally
5. ...

In an alliance, both sides benefit from living together, but are equally viable without each other. This ensures independence. A symbiosis also requires closer integration. This goes beyond mere panel formation. But both sides still shy away from this.

But maintaining antagonisms, which are then regularly complained about on the Internet or at conferences, does not help much. It is about concrete change. The legal department must be the initiator of this process, since as the client it is the one with the most leverage, but also because it has an inherent interest in change. Law firms profit from the uncertainty of the legal departments and exploit the resulting price margins. Although they could also address these strategic changes and would thereby gain strategic advantages, they need a push.

Distribution of profits without dispute

As examples from our consulting practice show, the distribution of profits is always a difficult issue, even in smaller law firms.

Partnership agreements and distribution of profits

Profit distribution systems are important in various situations:

1. When establishing a new law firm
2. When a previous cooperation is formalised, usually with the aim of being able to take on further partners
3. For change of legal form
4. When adapting the previous formula to the changed circumstances
5. In case of dissatisfaction with the previous rules, either to avoid the disadvantages of the previous system, or to change a rule considered unfair

The distribution of profits has a very deep impact on social interaction, as it reflects the "contract social" of a partnership. The intervention is therefore regularly very intensive, usually overlaid by perceptions and the need for recognition.

The general hypothesis is that partnerships that deal with it for reasons 4 and 5 are usually at the last escalation stage before breaking up. The discussions are correspondingly emotional because everyone knows what is at stake.

The following general statements can be made:

1. Profit distribution should be based on the actual business model. The more cooperation is necessary, the higher the degree of socialization of costs and profits.
2. The distribution of profits is intended to describe the future, as those affected by it are guided in a way by the principles inherent in it.
3. The distribution of profits must be perceived as "fair".
4. There are essentially only two systems with regard to the effect of profit distribution systems: those with an individual advantage, and those that favour the group as a whole (see our 2006 study).
5. The distribution of profits is also closely related to the question of shares in the company's assets.
6. Also the question of the weighting of votes is often connected with it.
7. Profit distribution must be implemented in accounting, controlling and reporting.
8. The distribution of profits requires careful wording in the partnership agreement.

We currently have 5 law firms that we advise in these matters, in all the above-mentioned cases.

Each case has its own pitfalls.

For example, it is not yet clear how the business will develop in a new law firm that is to be founded. The more difficult it is to determine, the more flexibility and strategic clarity is required.

The formalisation of existing agreements makes it necessary to make them explicit. In doing so, the shareholders often become aware for the first time of what they have agreed upon with each other and begin to shake these agreements. A helpful process because it lays the foundation for the future, and at the same time a difficult one because it questions the past.

Even a change of legal form sounds banal, but it is not easy, especially when calculating capital accounts, for example when converting to a GmbH (limited liability company), as the withdrawal of the last few years often has to be recalculated, which in itself is a tricky task for an experienced financial specialist. The resulting differences can stir up a lot of dust, which requires a high level of moderation skills.

In adjusting the distribution of profits to changing circumstances, it is not only a question of the possible existence of sustainable shifts in economic weight, but also of recognition for what has been achieved and a new understanding of how we will work together in the future. It is not uncommon for law firms to have destroyed the culture of cooperation and transformed it into a culture of counter-culture, to the detriment of everyone, including the clients.

If there is dissatisfaction with the distribution of profits, it is often attached to the system rather than the result. In reality, however, dissatisfaction is the apparent lack of appreciation of one's own contribution, or dissatisfaction with an apparently or obviously too small contribution by a partner in relation to his share of profits. This is often a mixed situation, which can be resolved by clarifying the actual situation. contributions. Changes to the system can be premature and lead to a major disadvantage for the firm.

Time for heroes? About the impossibility of "Chinese walls" in law firms

Chinese Walls is an invention of law firms that want to represent conflicting interests for reasons of turnover. But does that actually work?

For example, some law firms try to represent several bidders in a bidding process. As an instrument they try to create an organizational separation within the law firm, called Chinese Walls. As Emmanuel Lazega now presents in the Revue for Postheroic Management/issue 10, this view, as we have always suspected, is not sustainable. The main argument: since the conflict of interests exists within the organization, the individual participants would have to be heroes if they wanted to resist the inherent tendency of this organization not to use the power of knowledge hidden within.

This is another argument why we in Germany urgently need to worry about corporate governance in law firms and why good governance will be an increasingly relevant differentiating factor for law firms.

Law firm management in times of economic uncertainty

Commercial law firms are entrepreneurial entities that compete for clients and lawyers. The question of how successful a law firm is can be an indication of how well it is managed.

But what is office management. There is no valid definition. We regard management as a more or less structured organizational process. "Management" as a function can

therefore be presented as an unstructured perception of tasks as well as being carried out by committees and by separate bodies. In any case, the ability of a law firm to organise itself must be examined to see whether it takes sufficient account of the wishes of those involved in it (stakeholders).

The criteria for successful law firm management must therefore be defined according to the perspective of the individual stakeholder:

1. From the partners' point of view, economic success, measured by an increase in personal income and job satisfaction, is an important parameter.
2. From the point of view of salaried employees, it is job security, salary increases and possibly promotion opportunities.
3. From the point of view of a future employee, in particular a legal clerk, there are also issues such as reputation, location and premises.
4. From a client's point of view, the central issue is whether a law firm is able to provide him with appropriate legal advice for his legal matters (appropriate processing time, quality, price, etc.); as a rule, this does not concern the entire firm, but individual lawyers or their teams or practice groups.
5. From the external observer's point of view, the ability of a law firm to survive in competition is decisive, i.e. to understand the changes in the market environment and to provide appropriate answers. This ability is then reflected in key figures such as turnover per professional, profit per partner, staff growth, improvement of the client base, quality of legal advice, etc.

Business administration currently only has partial answers to the question of the "right" management. It does not yet have sufficient knowledge; therefore, most of the definitions and concepts with which business studies operates must always be critically examined to see whether they are relevant to law firms (as with all the so-called Professional Service Firms, to which law firms are counted in the terminology of economists). The mere fact that law firms are not exclusively focused on profitability does not justify the adoption of simple management doctrines. Moreover, the internal organisation as a partnership-based company does not allow for top-down management by a central owner or his representative, i.e. the management.

From a practitioner's point of view, the following elements are relevant for successful law firm management:

1. Administration
2. Management
3. Strategy and objectives
4. Structures

1. The office administration comprises the ordinary business administration of the office. This is a necessary function; the larger, the more differentiated the office administration should be, up to and including delegation to professionally experienced employees. This includes proper personnel administration, orderly financial management (in particular the annual budget including investment

planning, liquidity management, i.e. in particular withdrawal policy and accounting), the administration of IT equipment (use of hardware and software with high availability) and risk management (in particular ensuring the confidentiality of client-related information, monitoring deadlines, collisions, prevention of money laundering, process standardization, etc.). Finally, marketing is another area that requires its own administrative effort.
The greatest challenge in the management of a law firm is to make provisions to which all, in particular the partners, must adhere and to regulate clear responsibilities among the partners. Partners have a tendency either to propose other solutions (usually equally good, rarely really better) from a factual point of view, or to prefer those solutions which give them a personal advantage. Good firm management therefore consists of setting standards and maintaining them even against the resistance of individual partners.

2. Management of the firm means the ability of the firm as a whole to make market-valid decisions internally and externally. Our definition of law firm management in terms of leadership is rather a sociological one:

- Leadership is a function that is differentiated in every organisation in one form or another and that focuses attention on itself in a special way.
- Leadership lends prominence to its themes in order to provide decisions with general binding force in an oscillation between the No and the Yes of the organisation.
- Leadership is an achievement in the service of functional efficiency, i.e. the survivability of the respective social whole - measured against the challenges of the own environment and the chosen reason for existence (what are we there for and do we live up to it?)

Leadership in partnerships is reserved for the partners as a collective. They decide both on the question of what applies in case of doubt and on who, if any, may carry out leadership tasks on a temporary basis.
In the area of corporate management, the most important decisions are those concerning acceptance of mandates and the hiring or firing of employees. Here, too, the wishes of the individual partner often collide with the need of the entire organisation for standards applicable to all. Since the core area of the lawyers' entrepreneurial activity is affected, it is important here to jointly define limits and to negotiate in detail which deviations from the standards are just permissible and what is no longer permissible in terms of the whole. In this area, the civil courage of the partners is required; delegation to bodies can simplify these processes because there is then a "contact person" for these questions. However, the smaller the partnership, the easier it is to circumvent the person or persons responsible by presenting the questions to all partners. In addition, management in law firms is typically decentralized and is the responsibility of the partners, who alone have to make the decisions relevant to their area. This concerns, among other things, the management of the assigned personnel, i.e. the ongoing communication with those concerned with the aim of achieving uniform work results and joint success in the mandate work. The law firm culture determines whether this leadership work is carried

out in a common spirit and thus produces similar results internally and externally.

1. Strategy and objectives refers to the partnership's ability to understand the market in which the firm operates, the competitive conditions and possible development scenarios, and to make decisions that are valid for a longer period of time - at least until new information becomes available that would indicate a change of direction. To this end, routines should be introduced, such as regular meetings on specific topics. This is the area where the wishes and views of the partners diverge the most, depending on the particular business area they are working in. The less the firm has traditionally focused on certain business areas, the more difficult it is to balance the diverging interests. What characterizes law firms much more strategically, on the other hand, are structures and processes, the areas we describe below.
2. Structures: Decisions on the structures that form the framework for the firm's own activities are not part of the daily bread of the firm's management:
    1. This includes all decisions on fundamental issues such as profit distribution, the decision-making organisation, a merger etc: These issues are of a fundamental nature. Changes often also lead to a change in the composition of the partnership.
    2. The mandate basis is typically the result of years of market cultivation: it can only be changed slowly (see: Strategy): While change in this area is one of the areas in which economic improvements can be implemented, it also requires a sustainable process of market cultivation. Since the acceptance of mandates is always decentralised and based on the partners, it is crucial that common guidelines exist, which should be reviewed regularly (e.g. amount of h rates to be enforced, type of clients and mandates, etc.)
    3. The composition of the partnership: In organisations such as partnerships, the personal relationships of the parties involved play a decisive role. This distinguishes them from capital-based enterprises, in which each

employee fills only one position and is therefore replaceable. However, constantly questioning the composition of the partnership weakens a partnership more than accepting possible underperformance by one partner. The ability of a partnership to agree internally on common standards depends on its litigation culture: the more openly these issues can be discussed, the more likely it is to improve.

Successful activity in the market:

If we observe the market and ask ourselves why some partnerships are more successful than others, it becomes clear that it does not matter whether there is a managing partner in one firm and not in another. Nor does it matter whether one law firm has an international setup or only a national one. Rather, it is of central importance whether

- the partners have and cultivate a common consensus of values (which they themselves can usually see less than an outside observer can; usually, grown partnerships are very homogeneous in their views)
- the partners have a common basic understanding regarding the qualitative

requirements
- the partners cooperate well with each other, especially in the management of mandates
- the partners trust each other
- the partners have a certain nonchalance in dealing with difficult questions, and do not stylise everything into an "all or nothing question
- the partners have similar economic claims and can cope with the income they generate
- all partners take sufficient time to discuss important issues and try to reach a consensus.

Less successful (also: economically) are law firms where these conditions are not given. Because then decision-making is inhibited, and the forces act in too many different directions. Increasingly important is the economic result of the law firm, because it is relevant for the ability to invest (IT equipment, further education, rooms, etc.) and the salary (or profit) level.

Different challenges depending on market segment

Every law firm has to face different challenges in its market, so the answers to what is "right" law firm management can only ever be given specifically. One way of "standardizing" the answers is to see the firm in its immediate competitive environment, to typify it, so to speak. On the basis of the market analyses which we have carried out for various law firms in different markets, we roughly distinguish between the following market segments in Germany:

- The segment of the top 50 law firms that are regularly reviewed in Juve. These group consultancies are in turn divided into 7 sub-groups; only the law firms within these sub-groups are really in competition with each other. Thus, the need for further training opportunities for top lawyers from large law firms is currently an important distinguishing feature. Smaller, regionally active law firms mainly resort to seminars on the free market, whereas the top law firms rely on cooperation with universities and their own academies.
- The segment immediately following this is that of medium-sized, mostly regionally active law firms, which are active in commercial law with 10 to 40 lawyers. Here we distinguish between large city law firms, which are usually active in a special field, and those law firms dominating medium-sized centres, which provide long-term support for medium-sized groups of companies, often including the owner families. These law firms usually have only one office in which all lawyers work.
- Finally, we see the so-called SME (small and medium-sized enterprise) segment. Law firms between 2 and 7 lawyers work for smaller companies and private clients.
- Finally, there is the segment of small law firms and individual offices, which mostly provide generalist advice to private clients in their questions, from traffic law and labour law to family and inheritance law.

The law firms of the first and second segment were particularly examined in this study.

a) Challenges for large law firms

The law firms in the first segment range from globally active, centrally managed law firms with 300 lawyers to more regionally represented law firms with 50 lawyers. Their internal organization is correspondingly different; it is not possible to make a uniform denominator for questions of law firm management by way of some general remarks.

b) Challenges for medium-sized law firms

Most of the economic consulting firms in the 2nd segment, which I will focus on in the following, have between 5 and 15 partners. Their internal organisation is usually geared towards the individual partner: he or she has a client base that is served. The internal cooperation usually works quite well, so that clients can be served comprehensively. The "management" challenge in these law firms is

1. Regarding administration: A sufficiently comprehensive business management analysis is required. Since the key figures that most law firm software programs produce are not sufficient, law firms need to get a better overview. The profitability of the individual mandates gives important indications of the need for changes when accepting mandates and negotiating fees. This is important because the critical examination of economic issues has become much more important for this type of law firm. The partners must pay particular attention to this. Secondly, it is important that the law firms attract and develop qualified junior staff. The different expectations of the generations collide. "Law firm management", i.e. the discussion between a partner and the associates, must therefore be aimed at balancing the different expectations.
2. Regarding leadership: A group of 10 partners cannot be "led"; but each partner can do something to ensure that the partnership addresses important issues. And each partner can make a contribution in his or her own area (i.e. the firm management area for which he or she is responsible, or personnel), especially by setting an example, discussing with those concerned, and initiating processes that lead to change. Some partners are more interested in business issues, others more focused on internal processes or client work. In a functioning team, these different strengths of the individuals can be brought to bear and complement each other. It is therefore an important "management" task to coordinate and dovetail the contributions of the individuals.
3. Regarding strategy: The goal of a law firm is to provide high quality legal advice to clients and to receive an appropriate fee for this. It is not about making profit at any price. Nor can it be the aim to provide one's own legal advice below "production costs" (this is to be determined as a minimum hourly rate by dividing the costs of the business plus reasonable profit expectations by the number of available and saleable hours of all professionals). However, in case of doubt, the lawyer must choose the solution that is in accordance with professional law, even if it is to his own economic disadvantage. "Strategy" therefore requires here a discussion among the partners on how these goals can be achieved and which path the partners want to take to ensure both. This discussion should be resumed at

periodic intervals (approximately every 1-3 years).

Decision-making organization in law firms

We have already mentioned the decision-making structures in business law firms: Usually the collective of partners decides, sometimes they are committees, and only in large units are there formally specific bodies with clearly defined areas of responsibility. The group of partners functions according to group dynamic principles: basically, everything is always negotiated with each other. This "wholeness" of the decision-making processes, which allows for questions of personal well-being as well as professional ethics in addition to economic ones, is both the strength and the weakness of the law firms: Because groups decide slowly, and usually only one topic is dealt with in succession (in which, however, all other questions are reflected).

A management organization, for example by appointing a managing partner, is standard practice in large law firms. However, this does not automatically mean greater internal (but probably external) capacity to act: the Managing Partner derives his authority from the partners' "constituency" and, depending on the term of office (usually between 1 and 3 years), they are keen to proceed by consensus. They oscillate between the insight that "everything would be better if they were allowed to do it" and the need to build consensus. They are thus essentially a political body and not decision-makers, which management theory likes to stylize as such.

Ambivalences of the lawyer as entrepreneur

All lawyers in law firms, especially in business consulting firms, always act under the necessity to balance ambivalences:

1. Institution of justice versus entrepreneur
2. Individual goals versus community goals
3. Client requirements and own preferences
4. Client requirements and demands of the business model of a law firm on its clients

Dealing with these ambivalences determines success and failure.

See chapter 4 in the Marketing and Management Handbook for Lawyers, Hartung, Römermann, 1999 C.H. Beckverlag; for smaller law firms The successful organisation of law firms, Practical advice for the lawyer, Stefan Vogt, Peter Zimmermann, 2002; Bossle/Dudeck: Erfolgreiches Kanzleimanagement, Haufe Verlag Berlin 2001;

Our definition of law firm management in terms of leadership is more of a sociological one:

- Leadership is a function that is differentiated in every organisation in one form or another and that focuses attention on itself in a special way.
- Leadership lends prominence to its themes in order to provide decisions with general binding force in an oscillation between the No and the Yes of the organisation.
- Führung ist eine Leistung im Dienste der Funktionstüchtigkeit, d.h. der

Überlebensfähigkeit des jeweiligen sozialen Ganzen – gemessen an den Herausforderungen des eigenen Umfeldes und des gewählten Existenzgrundes (wofür sind wir da und werden wir dem auch gerecht?)

Leadership in partnerships is reserved for the partners as a collective. They decide both on the question of what applies in case of doubt and on who, if any, may carry out leadership tasks on a temporary basis.

There is little literature on this subject. e.g. Kanzleiführung für rechts- und wirtschaftsberatende Berufe, Mauer / Krämer / Becker, Beck Verlag 2000; Marketing Strategien für Rechtsanwälte, Mauer / Krämer, Beckverlag 2000; Formularhandbuch für die Anwaltskanzlei, published 2014 by C. H. Beck Verlag, where, among other things, the author provides templates for law firm strategy and management.
Unclear in contrast to the book of the same name by Claudia Schieblon, Kanzleimanagement, Gabler-Verlag 2011, in which various topics are subsumed under this term.

See our benchmark study published by the same author in 2011 by Verlag Recht und Wirtschaft with the title: "Successful strategies of commercial law firms

Here I refer to my above mentioned study

A good insight into the soul life is given by Stefan Rizor, in the book by Claudia Schieblon.

Is the English LLP a suitable legal form for German law firms?

In a very good, easy to read article in Anwaltsspiegel 10/2013, Roderich L'Anson Banks presents the English LLP. He shows how imperfect the respective law is, which came into force in the UK in 2000. German partnerships considering a change to the English LLP should be aware of the limitations of this legal form, which always presuppose a termination of the German GbR/partnership (and thus risk tax consequences due to the conversion).

RAK Celle: Theses on the future of the legal profession for private clients

A refreshing self-awareness:
The RAK Celle has published provocative theses, well-founded with data from their own district. We consultants have been warning about this for years, but nobody wanted to listen. How nice when now, the Chamber of Celle, which is considered progressive, critically examines the future of the profession.

How many lawyers work in the 60 largest law firms?