

Are accountants disrupting the legal services market?

14 January 2016

[Comments \(0\)](#)

There is much hype surrounding the significance of accountancy firms entering the legal market. Of course, the idea is not new. Fifteen years ago, Anderson Legal was said to be the ninth largest global law firm by fee income. It had an associated English law firm, Garretts, which grew to around 200 lawyers. Then the Enron scandal and the Sarbanes-Oxley Act put an end for a time to Big Four ambitions of dominating the legal market. The advent of alternative business structures (“ABSs”) (enabling non-lawyer ownership and management) may be a catalyst for further expansion

Regulatory environment

Regulatory changes over the last 18 months have undoubtedly created new opportunities.

ICAEW has begun regulating probate activities, which were previously reserved to lawyers.

Solicitors employed by accountancy firms, which are authorised to offer probate services, can also offer any non-reserved legal services directly to the public. Reserved activities are litigation, advocacy, reserved instrument activities (conveyancing) and notarial activities. Previously solicitors working in accountancy firms were bound by the rules for in-house solicitors and could only advise their employer.

The solicitors regulation authority (SRA) has amended its rules to facilitate multi-disciplinary practices. The SRA will not regulate non-reserved “legal work” (such as tax advice) led by accountants, which it considers is already adequately regulated by ICAEW.

The SRA has also relaxed the “separate business rule” enabling solicitors and authorised SRA firms to own and manage separate businesses providing non-reserved legal services. This enables solicitors to own businesses offering accountancy services.

Over 100 practices have been authorised by ICAEW to undertake probate work. A number of accountancy firms are authorised by the SRA as ABSs. These include Ernst & Young and KPMG. PricewaterhouseCoopers Legal LLP also has an ABS licence, although it existed previously as an SRA authorised firm.

So, where will it all lead?

A statement of intent by the Big Four?

A recent report by James Tsolakis of RBS suggested that the Big Four are gaining market share from mid-tier law firms and predicted that “the smart money...is on accountants going head-to-head with the established legal order over lucrative capital markets and transactional activity once they have taken sufficient market share from the mid-tier.”

It remains to be seen whether predictions of seismic change are more about marketing hype than imminent reality for the existing legal market order. Law firms would, however, be well advised to pay attention to the pace and extent of change.

Large accountancy firms may be able to market some attractive sounding propositions:

- A client might prefer to purchase legal services from their existing provider of non-legal services.
- Accountants may have a more continuous relationship with clients and therefore be better placed than law firms when opportunities to provide legal services arise.
- For some corporate or commercial transactions, a single provider of both legal and non-legal services might lead to better integration.
- The ability to provide tax advice through a lawyer entity would engage the legal professional privilege which has not been otherwise available to accountants.
- Providing more services under an existing powerful brand levers more profit from that brand.
- An existing global reach and infrastructure would allow competition in other markets without the start-up costs involved for an expanding law firm.

But what about opportunities below the level of the global firm?

It has long been possible for accountants to provide non-reserved legal services such as commercial or employment law advice or inheritance tax planning without any regulatory constraint. They can now employ a solicitor to assist. In relation to reserved activity, probate can be undertaken without becoming involved with the lawyer's regulator. For smaller practices particularly, probate work may look attractive.

In relation to the accounting and administrative aspects of probate, accountants are increasingly likely to be competing with their own clients rather than lawyers. The trend is very much towards clients undertaking simple probates themselves. Other potentially more lucrative aspects of winding-up estates, such as conveyancing, will still need a lawyer. Complex estates or those involving cross border issues may represent a significant risk for the inexperienced.

More generally a note of caution is required in relation to managing conflicts of interest appropriately and in accordance with the relevant professional rules. This is particularly acute in light of past concerns in relation to independence, which the changes introduced as a result of Sarbanes-Oxley were designed to fix.

Lawyers have not to date shown much inclination to offer accountancy services although (with the exception of audit) there is no equivalent to reserved legal activity, which prevents them from doing so. Established firms of both accountants and lawyers will for the foreseeable future have the advantages of both experience and critical mass in providing their respective services. Many firms are frequent referrers of work to each other as non-competitors. It may well be that the medium-term future will be more about collaboration than competition.

*John Gould is senior partner and Michael Stacey is an associate at Russell-Cooke LLP. John is the author of *The Law of Legal Services*, published by Jordan Publishing (to which Michael also contributed) (www.legalserviceslaw.co.uk)*

John Gould
Senior Partner
+44 (0)20 8394 6543
John.Gould@russell-cooke.co.uk

Michael Stacey
Associate
+44 (0)20 8394 6448
Michael.Stacey@russell-cooke.co.uk