Industry Trends

Current Trends in Mandatory Retirement: How Do You Know When It Is Time to Leave?

By Allan D. Koltin

Q: Recently, we've heard about more cases challenging the issue of mandatory retirement for older partners in the legal profession, and some discrimination lawsuits brought by the EEOC. Why hasn't the accounting profession been hit with the same type of lawsuits?

A: The biggest reason probably is that most CPA firms require equity partners to sign a formal partnership agreement, which then creates a contractual relationship between the partner and the firm. By signing the agreement, a partner agrees that in exchange for consideration (that is, deferred compensation/goodwill payments), they will retire at a certain age and turn in their equity. The legal profession is different. Most law firms don't pay deferred compensation/goodwill and, therefore, this becomes more of a policy or procedural issue, as opposed to a contractual issue.

Q: What currently is the standard retirement age at most CPA firms?

A: In the Big 4, the typical age is between 58 and 60, and in the vast majority of local and regional firms I work with the age is between 65 and 66. Most of these firms have partnership/shareholder agreements that allow early retirement under certain circumstances, but most have a vesting schedule that favors staying on until retirement age. With the movement toward multitiered partnerships (equity, income, contract, part-time, *etc.*), we are seeing some flexibility in terms of retiring partners who want to stay on with the firm, but any decisions should be made on a case-by-case basis. Clearly, it is more valuable to the firm to have certain partners (but not necessarily all) stay on in some capacity, provided they are no longer involved in leadership, can be productive and not "derail" the transition of their clients.

Q: Do first-generation firms handle this issue differently than second- or third-generation firms?

A: Great question! Often, in first-generation firms, one could argue that the founders not only founded the business, but also gave birth to it, and some level of entitlement should follow. Later-generation firms don't seem to have the same feelings. Having said that, I have seen wars take place between first- and second-, as well as second- and third-generation partners in which the older generation continues to work well past age 65, which puts a strain on the younger partners, who clearly want the baton to pass to them. These younger-generation partners often talk about a founder or two who overstayed their welcome and "took more compensation than they should have." They feel that this is their time for payback of dollars that they should have received many years ago. This argument has no merit, of course, but it touches an emotional chord and causes some anger among the partners.

Q: OK. So what happens when a partner is supposed to retire but refuses to leave?

A: Legally, it might be "black and white" (you retire at age 65), but occasionally a partner may hoard his or her clients and not transition them. When this happens, the should-be-retiring partner gains an unfair advantage and forces the firm to extend their stay, as they once again try to transition this partner's book of business. "Tough love" and "highly accountable" transition strategies can protect the firm from some of these abuses.

Q: With all the discussion of everyone living and working longer, should the 65 mandatory retirement age be extended?

A: That question can be approached from a couple of different perspectives. On the one hand, as you know, the biggest problem in firms today is succession planning, which revolves around firms' finding and developing the next generation of future leaders. There is a strong case for firms that haven't been able to grow their next generation of leaders and therefore want to extend their older partners' retirement date. On the other hand, where a strong leadership team is in place, the manda-

tory age should be enforced. If it isn't, firms run the risk of alienating the new leaders, who are bound to feel that they aren't getting their time to lead (and potentially their share of the pie). About a year ago, I worked with a firm that actually had a couple of younger partners who could have assumed the leadership role when the managing partner reached age 65. However, they were such great business getters and client handlers that the other partners thought it would be best to keep them in a client-service/business-originating position within the firm. In this particular instance, the partners decided to extend the managing partner's term for an additional three years. Even though the managing partner wouldn't retire until age 68, the other partners felt that this was the best decision for the firm. While this worked great for this particular firm, I would definitely call this the exception to the rule.

Q: Does this mean, at that particular firm, that all partners could now work until age 68 if they so chose?

A: No. This was simply a "one off." It was a calculated decision on the partners' part, and they were creating a win-win situation: the managing partner had the firm's best interests at heart, and the incoming leaders would have more time to build the firm. Firms need to be sure to have their partnership agreements reviewed annually just to make sure that the events of the preceding year in no way run counter to any decisions that are currently made by the partnership.

Q: Are there any negatives to partners maintaining their book of business and staying active until, say, age 70?

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A: The answer to this question really revolves around whether the firm has a deferred-compensation plan and, if they have such a plan, what it stipulates. If there is no deferred-compensation plan, retiring partners have no expectation of receiving future value. If, however, the firm is planning to pay goodwill (or deferred-compensation payments) to the retired partner starting at age 70, there is a high likelihood that the book of business will be much more difficult to transfer to younger partners. In large part, this is because the age of the client is likely to resemble the age of the partner—and we all know that the longer the book of business is wound around an individual partner, the tougher it is to transfer to a younger partner.

Q: Do you have any further thoughts or comments relative to mandatory retirement?

A: As someone who is now past the age of 50, I see the endgame for myself and know that at age 65 I won't be ready to retire either. If you're fair with your firm and do an excellent job of transitioning clients, I believe there are opportunities for productive partners to stay on with the firm, provided they give up equity and control. For those that abuse the system, they not only hurt the firm but, I believe, at some point they endanger the probability of seeing future retirement benefits for themselves.

Editor's note: If you have any questions about this article or any other issues facing your firm, please feel free to contact Allan D. Koltin, CPA, CEO of PDI Global, Inc. and a founding member of The Advisory Board at *AKoltin@pdiglobal.com* or 312-245-1930 and *Marsha.Leest@WoltersKluwer.com*. We welcome your input and ideas and we hope you will continue to look to CPA PRACTICE MANAGEMENT FORUM for guidance and best practices. ✦

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