



## A LOOK INSIDE THE ESTATE PLANNING INDUSTRY

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Section Two begins on page 9 and includes additional charts and data on the following:

- Average firm size
- Trust-based vs. Will-based practices
- Top revenue generators
- Practice areas attorneys want to add
- Changes observed over past 5 years

# The 4th Annual Industry Trends Survey

Release date:  
**January 10, 2011**

This report includes detailed findings from a nationwide survey of estate planning attorneys conducted between Sept. 2, 2010 and Oct. 25, 2010. Survey was conducted for WealthCounsel and *Trusts & Estates*.

Methodology conforms to accepted marketing research methods, practices and procedures. Margin of error is +/-3.4%.

The 831 respondents included *Trusts & Estates* subscribers, attorney members of WealthCounsel, and other attorneys located in nearly all 50 states. Forty-eight percent (48%) of respondents were WealthCounsel members, while fifty-two percent (52%) were not.



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*Key Findings from The 4th Annual Industry Trends Survey*

The drama surrounding the estate tax remains top of mind as we enter 2011. But regardless of any action or inaction by the lame-duck session of Congress, nearly two-thirds of attorneys who responded to the 4th Annual Industry Trends Survey during Q4 2010 indicated they oppose repeal of the tax.

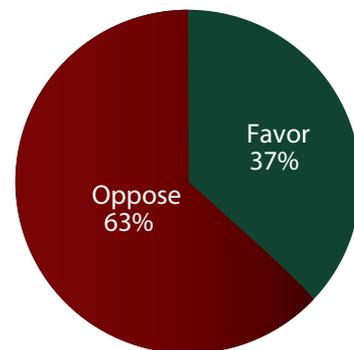
Of the 63% who opposed repeal, most (60%) cited the need to tackle budget deficits, followed by 35% who felt that letting the estate tax sunset would be an effective way for Congress to raise revenue without requiring them to act affirmatively.

Thirty-two percent of those who opposed repeal viewed the tax as a "windfall tax" imposed on wealthy beneficiaries who did not earn their wealth. Many felt that passing significant wealth to heirs tax-free could create generations of individuals who stand idly by without being productive members of society. Still others expressed concern that repeal would cause a reduction in charitable giving because an estate tax actually incentivizes careful planning and promotes thoughtful philanthropic behavior.

Another theme from opponents was the preservation of our country's meritocracy. "This nation was founded on principles of meritocracy, not aristocracy, and the estate tax helps provide resources to government and the intergenerational leveling of opportunity," one respondent noted.

Among the 37% of respondents who favor repeal of the estate tax, the largest percentage (70%) believes it unfairly burdens small business owners, farmers and ranchers. Slightly more than half (51%) felt repeal would help stimulate economic growth.

Figure 1  
Do you favor or oppose repeal of the federal estate tax?



Forty-nine percent of those favoring repeal believe the estate tax has not generated enough revenue to justify the onerous planning and reporting requirements necessary to administer the tax.

The most common sentiment among this group was the issue of "basic fairness." They noted that client assets and income had been taxed repeatedly prior death.

Others noted that the tax is a penalty for hard work and success; penalizes the virtues of saving; and impedes the creation of family legacies.

## Many Attorneys Experienced Business Growth in 2010

Despite the economic downturn, many respondents saw an increase in business during 2010. While most report some impact from the downturn, still others were able to broaden their business models to generate revenue. Per **Figure 2**, 46% experienced an increase in business, which is up from 40% in last year's survey.

Because some clients were unwilling to commit to larger strategies due to uncertainty over the estate tax, some attorneys made adjustments in the way they generate income. While their estate planning business may have slipped, their business picked up in other areas, such as bankruptcy, real estate, trust administration and Medicaid planning.

"The survey's findings are generally consistent with what we have observed in our practice, with a few slight differences," said attorney Julie K. Kwon of McDermott Will & Emery LLP in Menlo Park, CA. "The economic downturn actually did not depress our business very much, as our clients took advantage of the wealth transfer opportunities given unusually low asset valuations and interest rates that drive planning vehicles. As a result, we have added attorneys and expanded to an additional office," Kwon stated.

Figure 2: Which best describes your business over the past 12 months?

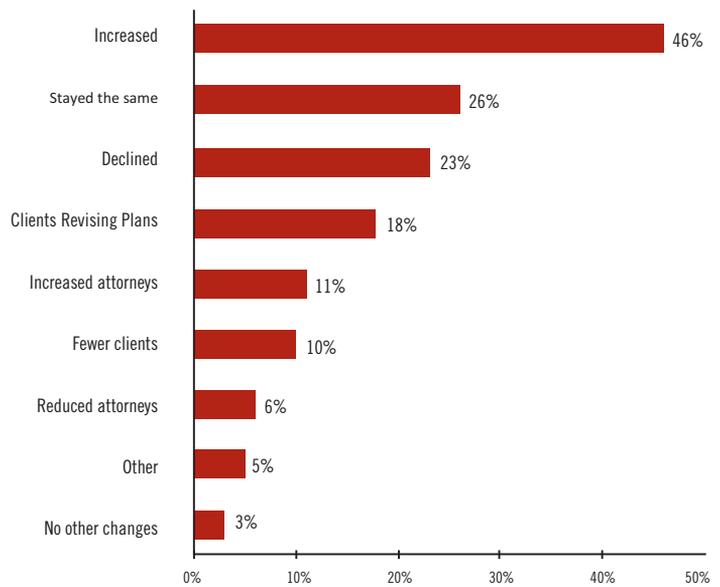


Figure 3: By what percentage do you expect your estate planning business to grow over the next five years?

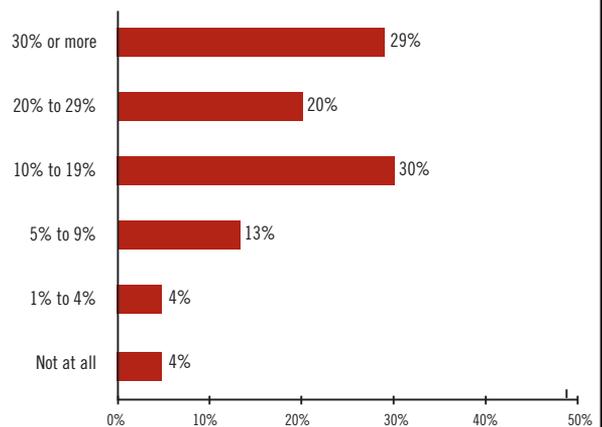
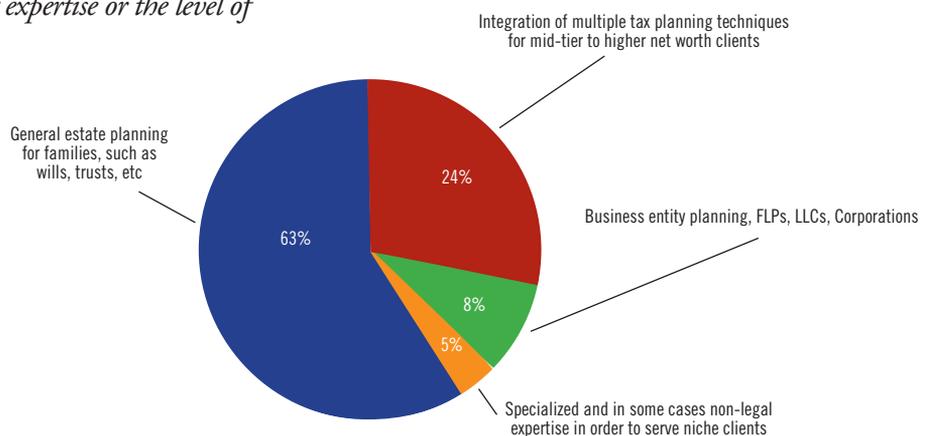


Figure 4: Which category best describes the primary focus of your estate planning expertise or the level of your practice?



**5-Year Outlook Optimistic: 49% Expect Growth of 20% or More**

As seen in **Figure 3**, nearly half (49%) expect business to increase 20% or more over the next five years. This is up from last year's survey when 43% expected their business to grow by 20%.

The aging population is most likely the cause of the positive outlook, but respondents also plan to strengthen their referral networks, increase marketing efforts and reap the benefits of changes to estate tax laws.

**Americans Fail to Plan Because They Lack Awareness as to Why They Should**

"I believe many people understand the need to plan, but lack the knowledge of the urgency to plan. Most folks think they can do it next quarter, or next year--when in many cases life doesn't wait for your plan," observed one survey respondent.

This statement captures the general sentiment of many attorneys as to why a majority of consumers do not have an estate plan or even a simple will. As seen in **Figure 5**, two thirds of respondents attribute the lack of estate planning among the general population to the absence of knowledge regarding the benefits to having an estate plan.

"No matter your age or net worth, not having a trust-oriented estate plan leads to the door of the probate court," said attorney Hugh Crossland of Dedham, MA. According to Crossland, "No greater need for estate planning awareness exists than with the 'Golden Boomers' whose era begins in 2011."

Crossland, a senior lecturer at Northeastern University, believes it will take "waging a war of awareness" to convert the non-planning majority into affirmative thinkers and pro-active planners.

"Isn't it time that we hold up to public scrutiny the fact that most Americans are failing to care for what should be their most prized possession -- their personal legal health and financial well being?" he asked.

Figure 5: A majority of Americans do not have an estate plan or will. Why do you believe this is the case?

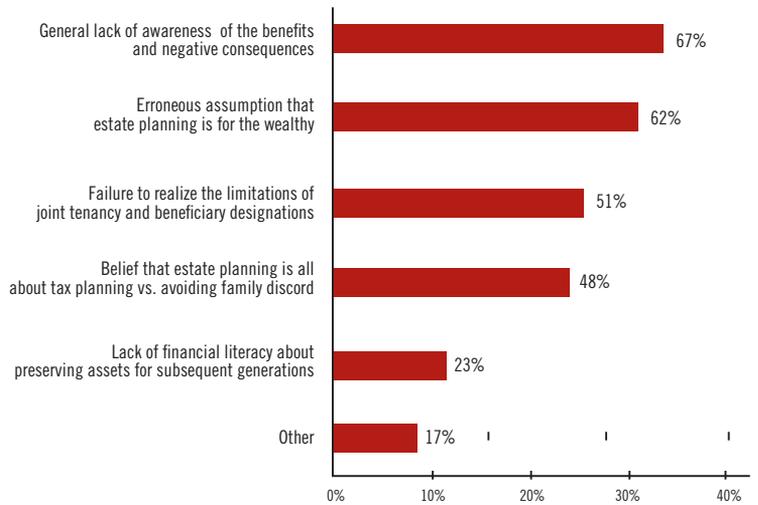


Figure 6: Client Age Demographics

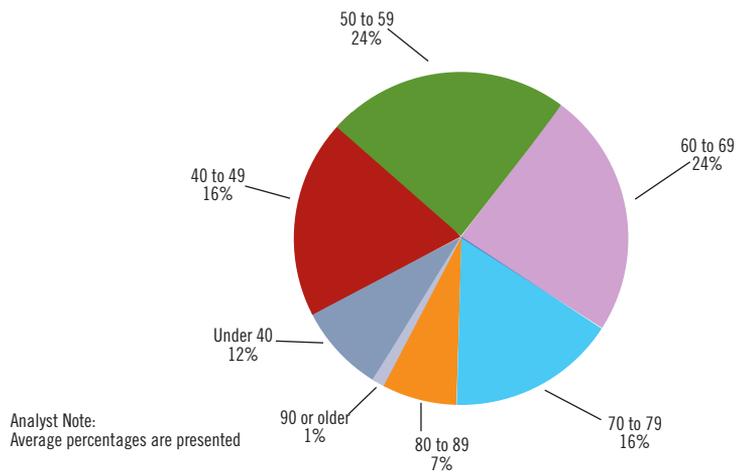
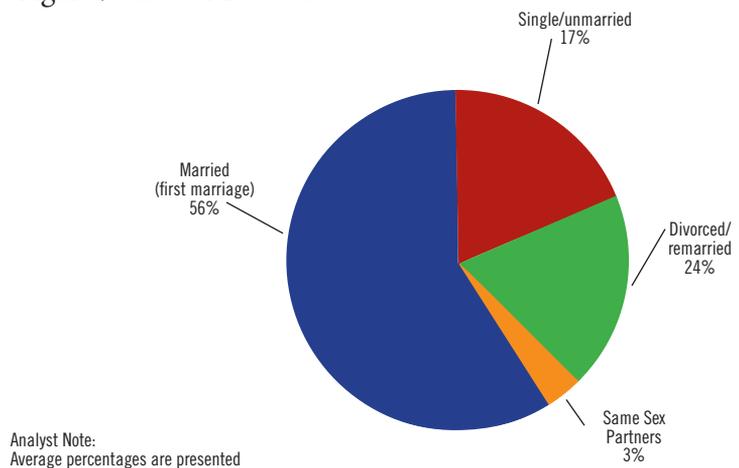


Figure 7: Client Marital Status



**Most Clients Easily Exceed the \$1 Million Threshold**

As illustrated in **Figure 8**, 58% of married clients have a net worth that meets or exceeds \$1 million, including 13% whose net worth meets or exceeds \$5 million.

**Figure 9** shows that among single clients, 42% have a net worth that meets or exceeds \$1 million, including 8% whose net worth meets or exceeds \$5 million.

**What Motivates Clients to Engage in Estate Planning?**

The top three reasons clients plan have remained the same over the past four years. Per **Figure 10**, they want to minimize estate taxes, prevent family discord after death and avoid having their estates tied up in probate.

“My biggest concern for estate planning lawyers is that fewer clients will be subject to federal estate taxes in the future and estate tax planning will become less significant for many clients,” said Dennis Belcher, partner at McGuireWoods LLP in Richmond, VA.

“Although there will be fewer clients needing to minimize estate taxes, all clients will still need to preserve and manage their wealth effectively and will want to make sure that their assets are distributed as they direct,” Belcher added.

One survey respondent commented that many clients in farming communities are motivated to maintain the family-owned ranch or farmland for future generations and to protect land from commercial development.

Figure 8: *Married Client - Net Worth*

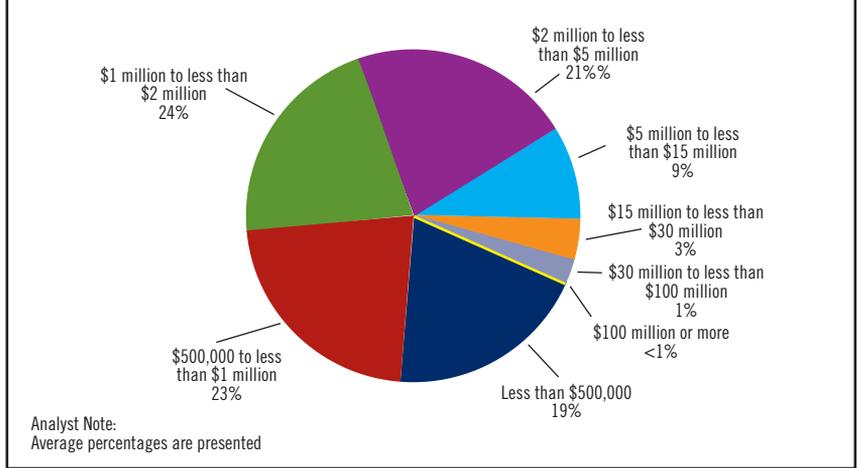


Figure 9: *Single Client - Net Worth*

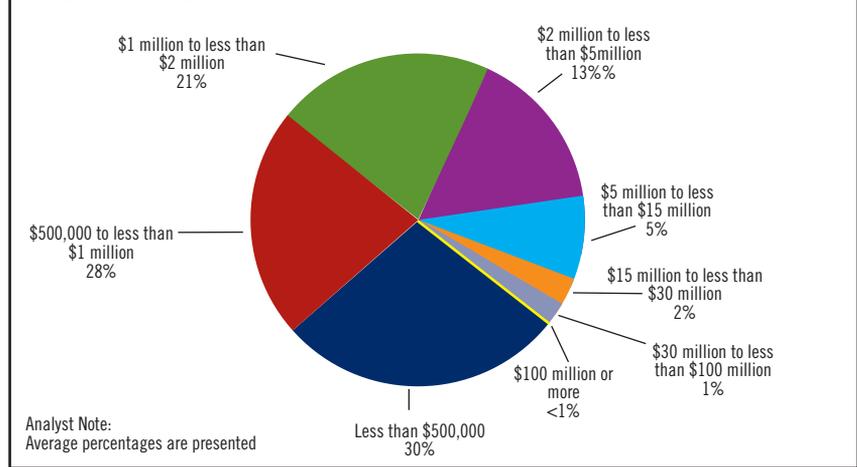
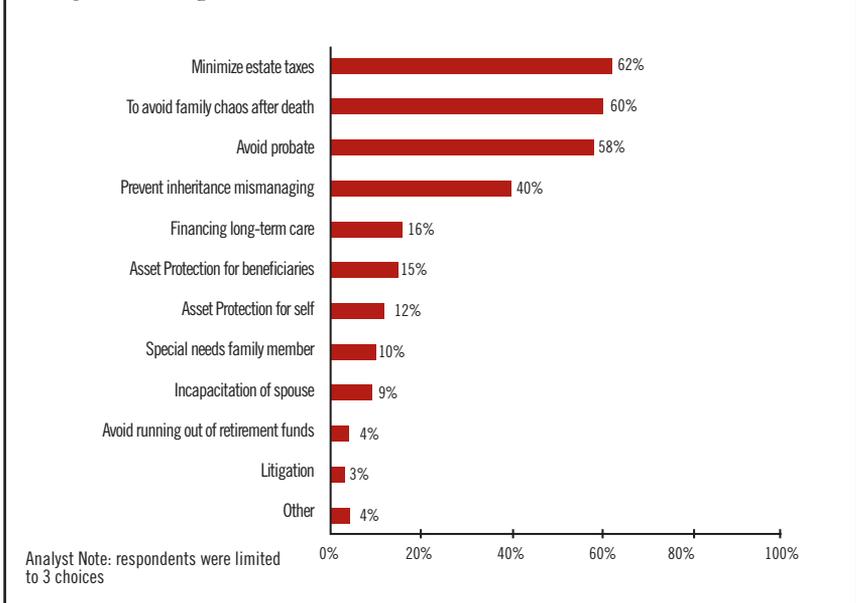


Figure 10: *Top Reasons Clients Plan*



**Practice Profile**

Respondents have practiced estate planning law for an average of 16.5 years, as shown in **Figure 11**.

Respondents have an average of 4.4 attorneys in their firm, including an average of 2.4 attorneys who are principally engaged in estate planning.

Per **Figure 12**, 78% indicate they have a trust-based practice.

Those who focus primarily on general estate planning indicate an average of 51% of revenue is from estate planning work.

The majority (63%) of attorneys indicates their practice involves general estate planning for families involving wills, trusts, etc. Less than a quarter (24%) have a practice that involves the integration of multiple tax planning techniques for mid-tier to higher net worth clients.

Only 8% indicated their practice involves business entity planning with FLPs, LLCs, etc., and 5% have a highly-specialized practice requiring expertise for niche clients.

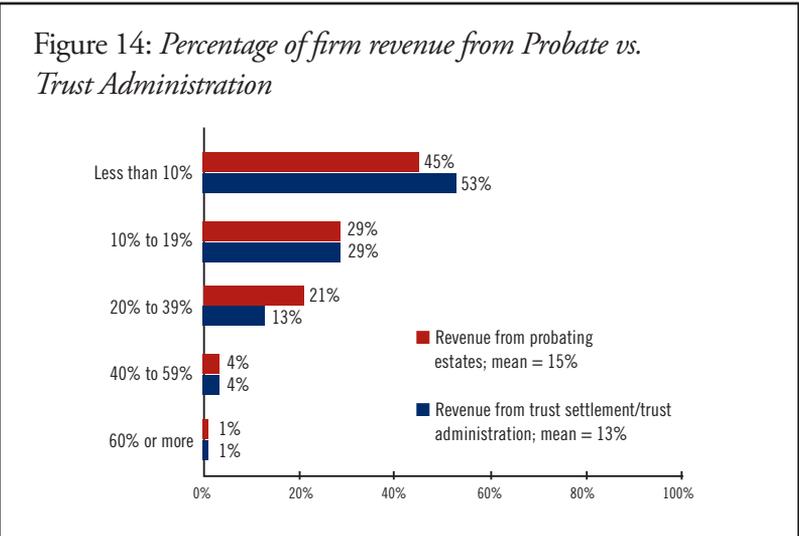
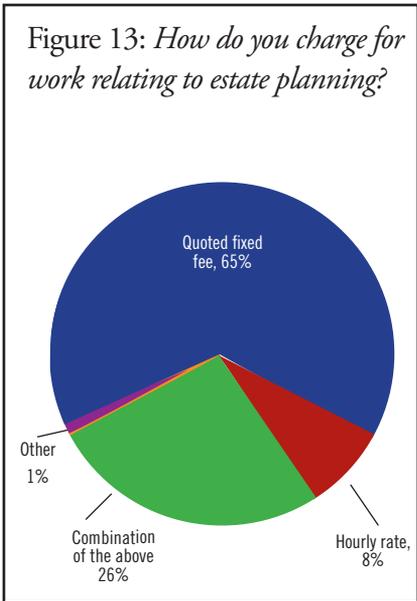
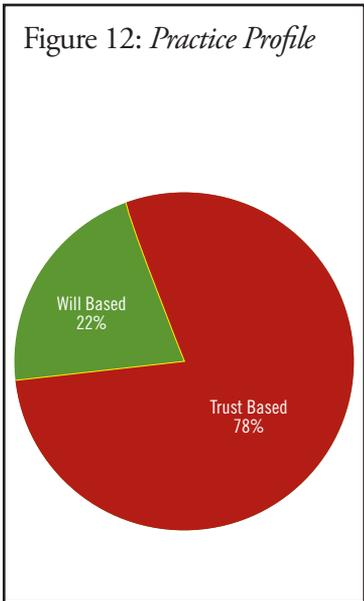
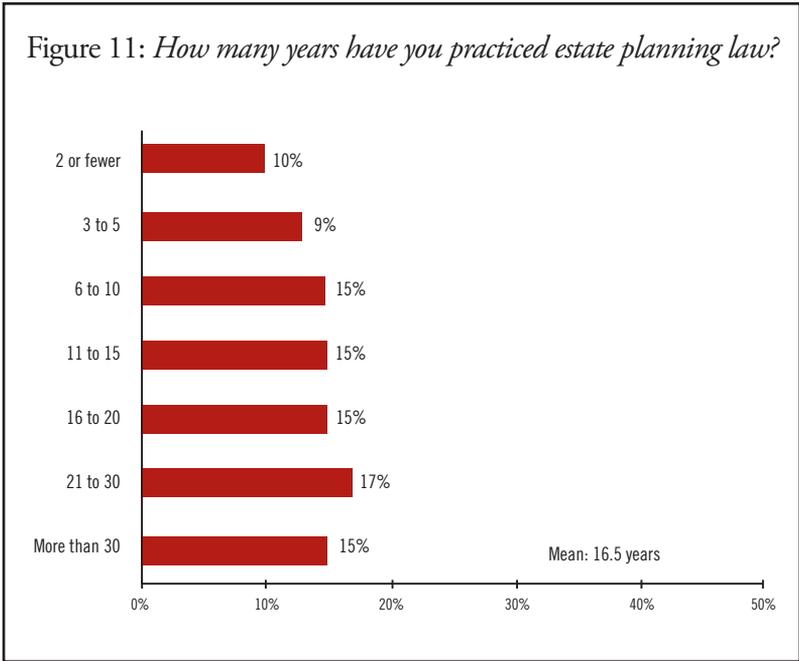
Among respondents who focus on business entity planning, an average 31% of revenue is from estate planning work.

In terms of billing practices (**Figure 13**), 65% charge a fixed fee. Estate administration and probate are more likely to be billed at an hourly rate. About one in four respondents use a combination of fixed fees and hourly rates for both estate planning as well as probate.

Per **Figure 14**, respondents indicate an average 15% of revenue is from probating estates and 13% comes from trust settlement/trust administration.

In addition to holding a juris doctorate in law, many attorneys (21%) hold the LL.M. advanced law degree, and 10% are CPAs. A variety of other credentials were cited, including MBA, PhD, CELA, CTFA, ChFC.

Those who indicate their level of estate planning expertise is an integration of multiple planning techniques are more likely to have an LL.M. than are respondents who practice general estate planning (33% vs. 17%).

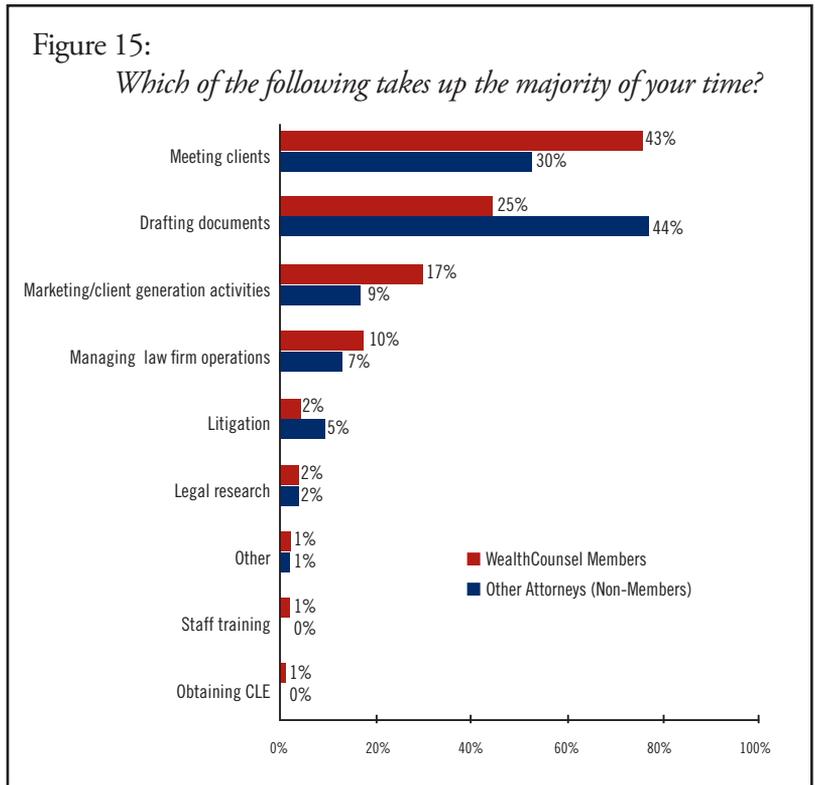


### How Do Attorneys Spend Their Time?

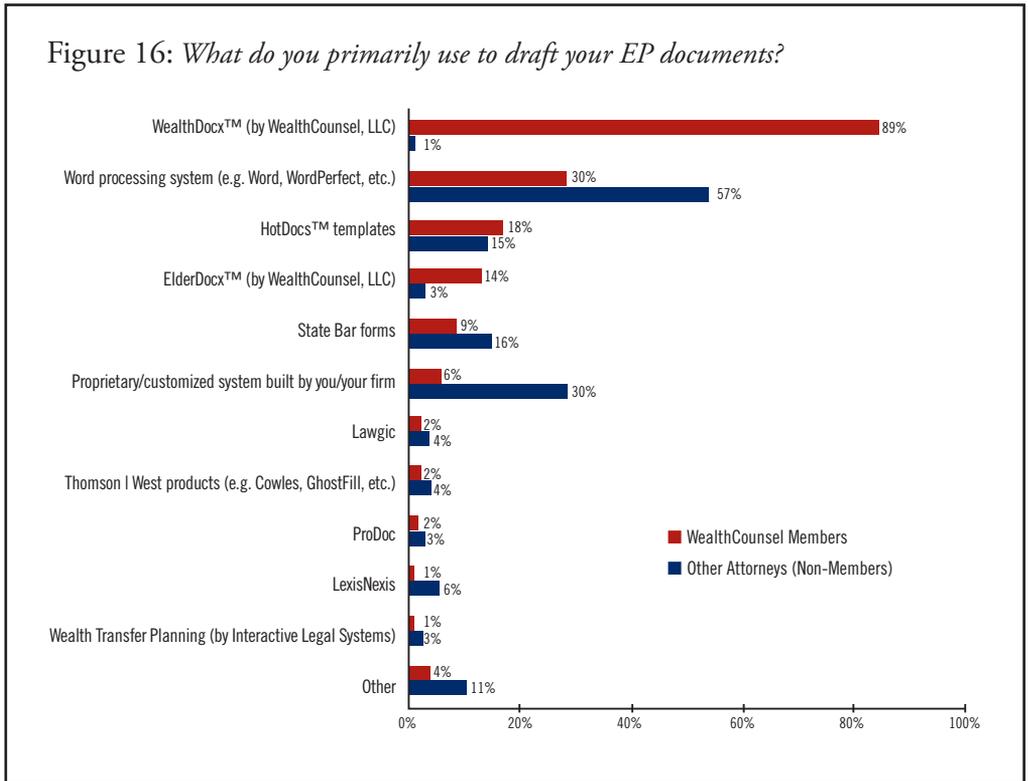
To determine how attorneys spend most of their time, we conducted a segmented analysis (**Figure 15**) of the 395 WealthCounsel members versus the 436 other respondents.

As illustrated in the chart at right, 43% of WealthCounsel members spend the majority of their time meeting clients and 25% of their time drafting documents.

However, non-members spend 44% (an increase of 9 percentage points from 2009) of their time drafting documents and 30% of their time meeting with clients.



As **Figure 16** below illustrates, 89% of WealthCounsel members use the WealthDocx automated drafting system, while 57% of non-members are drafting documents using word processing systems. As pointed out in the previous year's industry survey, the use of an automated drafting system often frees up an attorney to spend more time with clients or focus on building stronger relationships with professional referral sources.



## New Business is Generated Primarily from Referrals

Referrals from existing clients, financial professionals and attorney colleagues are the primary sources for new clients. In reviewing the data in **Figure 17**, Ms. Kwon (see pg. 2) noted: “I’m surprised that the percentage of referrals from attorney colleagues is so much lower than referrals from clients and other non-attorney professionals. Our firm supports our participation and leadership in various local/national professional organizations, and I estimate that our referrals from other attorneys equals those from the other two leading sources,” Kwon stated.

## Key Challenges Facing Attorneys

While referrals from colleagues are a primary source for generating new clients, the results do not come easily. Getting referrals from other professionals is among the top challenges for estate planning attorneys. Respondents are also likely to indicate that getting prospective clients to engage in planning is a challenge. Making the most effective use of technology to operate one’s practice and generate clients was also mentioned by respondents as one of their biggest challenges.

## Business Focus for the Future

Respondents vary in their primary focus for the next five years. Most (69%) plan to focus on estate planning for families. 29% will focus on trust administration, and 22% will focus on elder law planning. 11% chose niche clients as their focus and as shown in **Figure 19**, most will focus on high litigation-risk clients, such as physicians and dentists, followed by farmers, ranchers, and vintners.

Figure 17: *What are your primary resources for obtaining new clients?*

(Top 7 resources are listed)

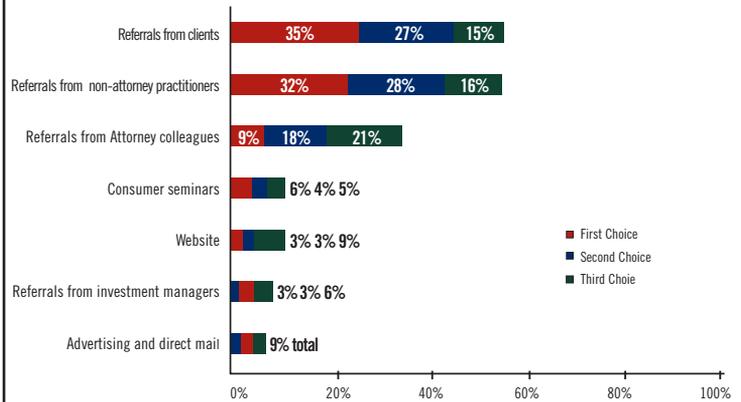
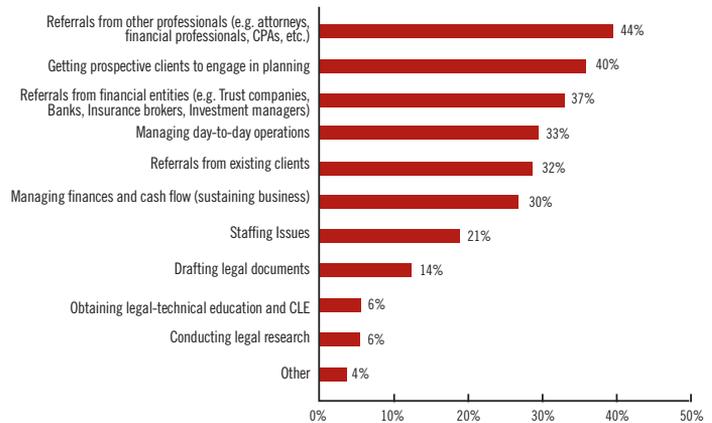
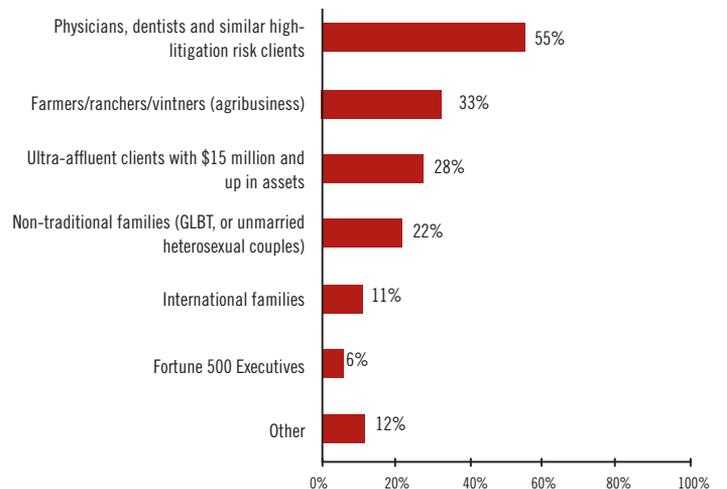


Figure 18: *What are the biggest challenges in your practice today?*



Analyst Note: respondents were limited to 3 answers.

Figure 19: *What niche clients do you plan to focus on?*



## Education Preferences

Attorneys prefer live, on-site instruction with practical application, as shown in **Figure 20**. Online live events are respondents' second choice. Recorded courses are least preferred.

When asked to cite their primary complaints about education events attended in the past 12 months, the top two concerns were: (1) courses were mostly theoretical, with little practical application; and (2) courses lacked relevant strategies that could be immediately applied in one's practice.

When asked which education topics they preferred in 2011, the top five choices ranked as follows:

1. Asset protection trusts
2. Business succession planning
3. Elder law planning
4. Irrevocable trusts
5. Marketing

## What Publications Do Estate Planning Attorneys Read?

As shown in **Figure 21**, the top three publications read by this year's respondents are state bar publications, the *WealthCounsel Quarterly* newsletter and *Trusts & Estates* magazine. A segmented analysis of *WealthCounsel* members indicates that 72% read the *WealthCounsel Quarterly* on a regular basis. *Trusts & Estates* is more likely read by those who offer integrated planning techniques than by those who focus on general estate planning (54% vs. 32%).

## Communication Preferences

Respondents overwhelmingly prefer e-mail communiqués for professional communications. These figures remain essentially unchanged since last year. As pointed out in the previous year's findings, social media has not yet gained traction among estate planning attorneys as it relates to professional communications.

Figure 20: Which method(s) of delivery do you most prefer for CLE?

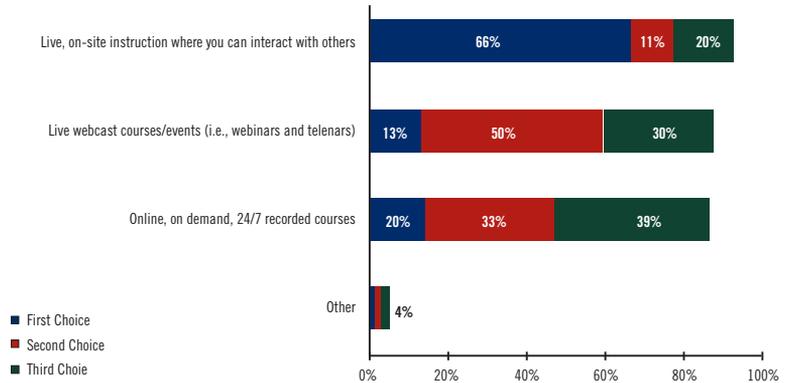


Figure 21: Which of the following publications do you read regularly?

(Respondents were asked to check all that apply)

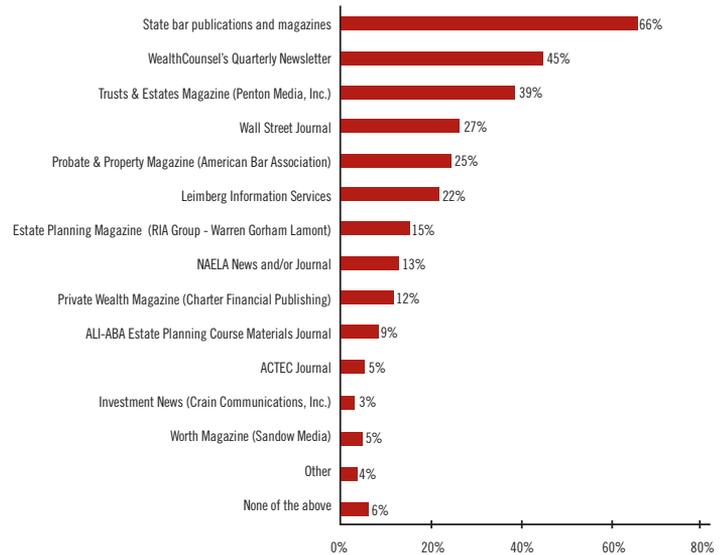
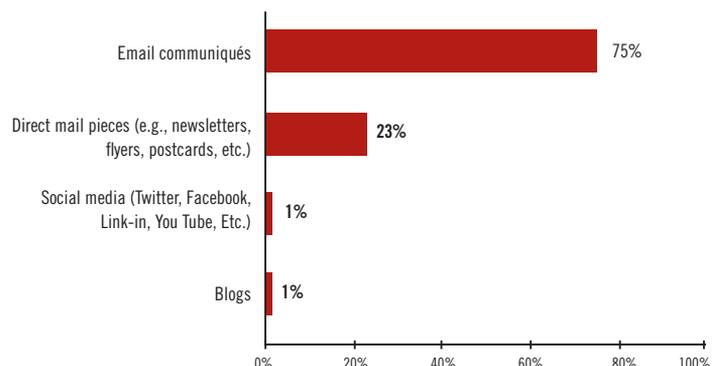
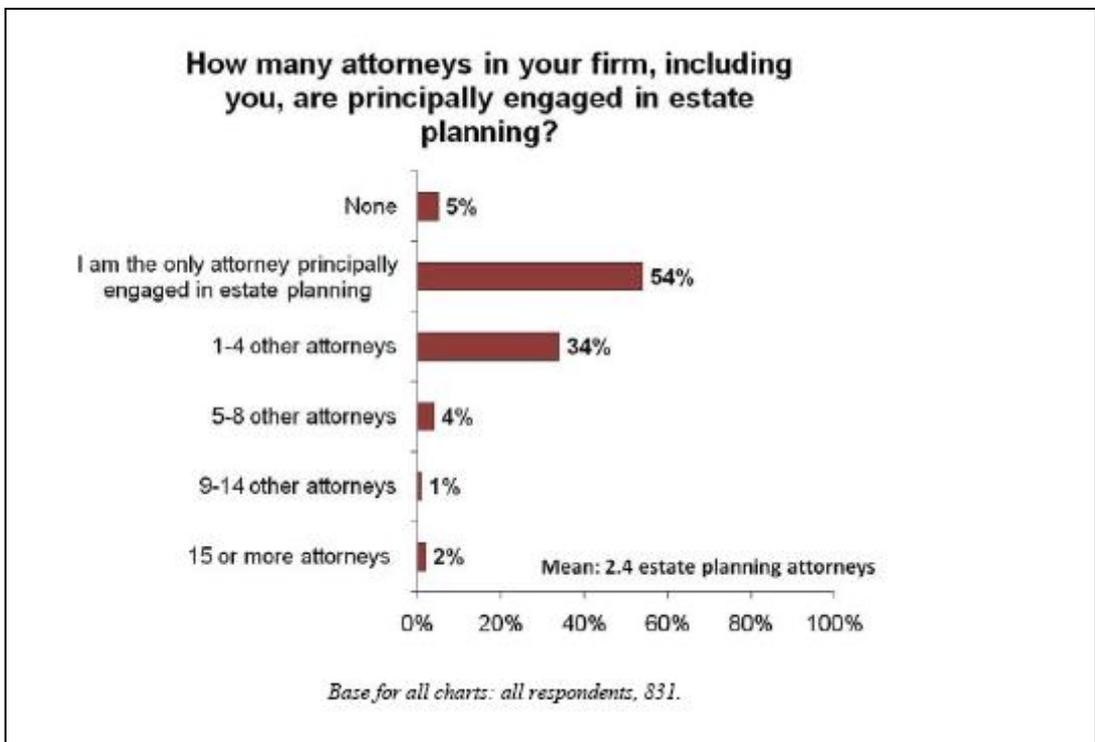
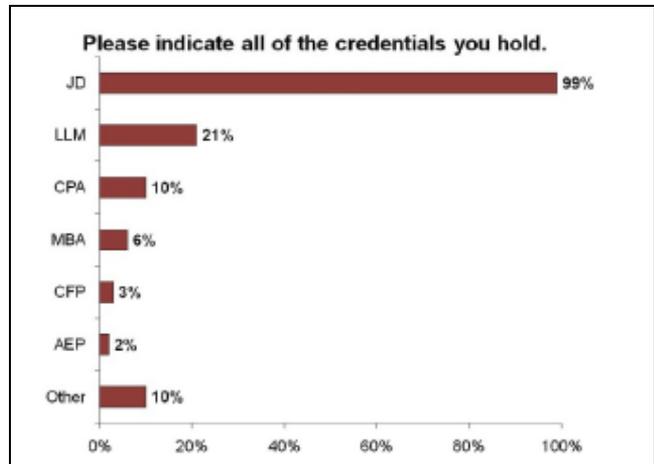


Figure 22: Which of the following is your preferred method for receiving professional communication?



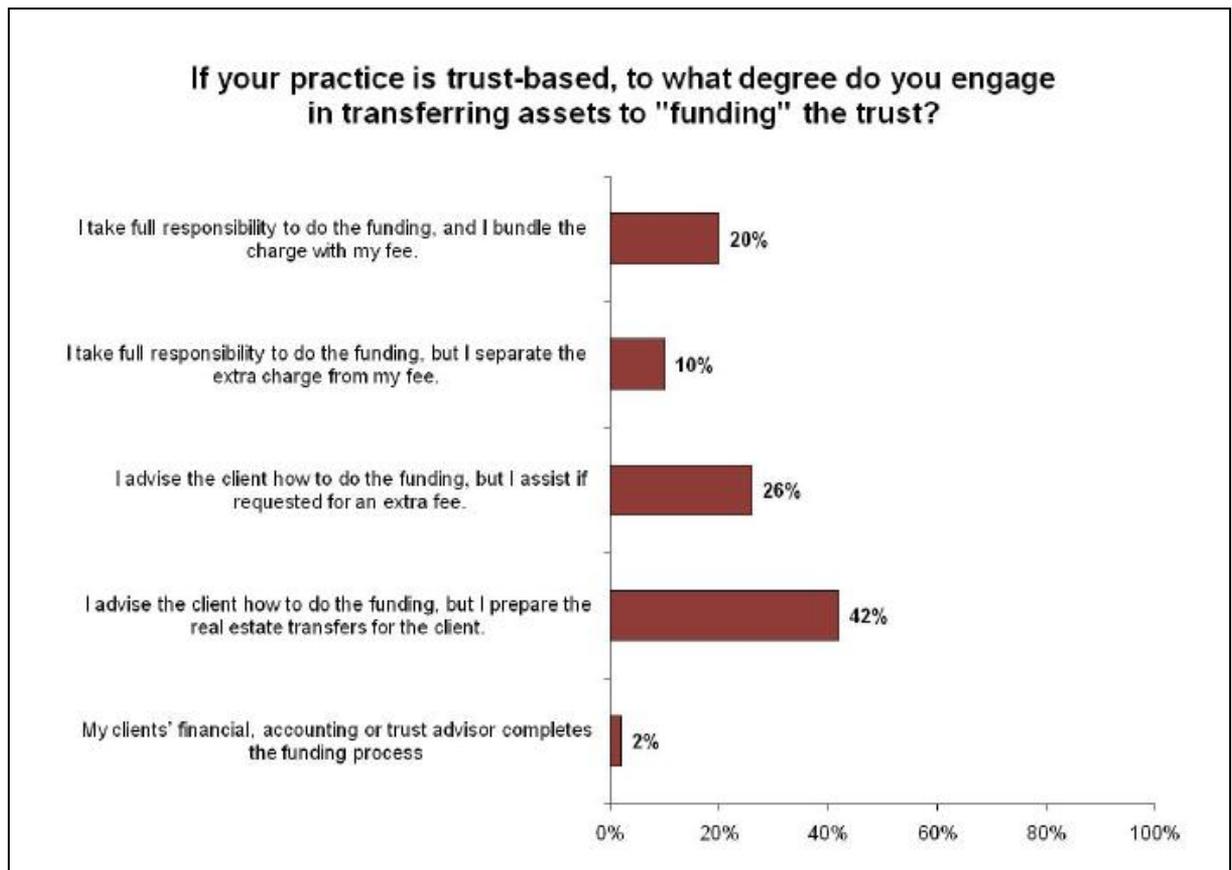
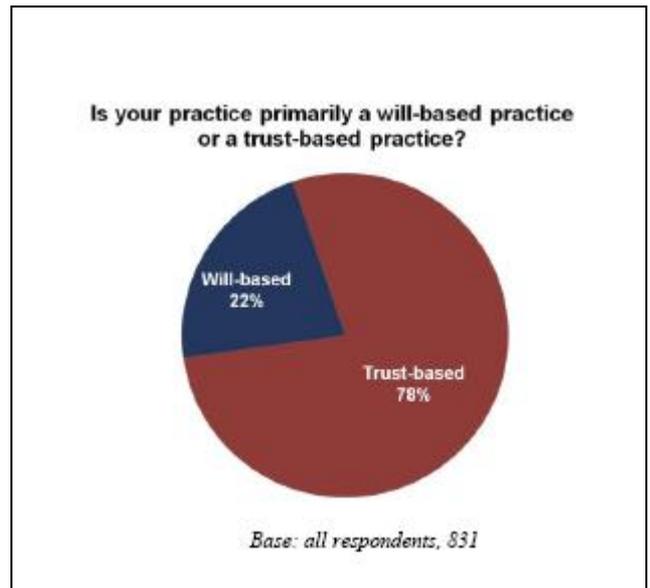
# Respondents' practices have an average 4.4 attorneys, including an average 2.4 in estate planning.

Nearly all respondents hold a JD. Those who indicate their level of estate planning expertise is an integration of multiple planning techniques are more likely to have an LLM than are respondents who practice general estate planning (33% vs. 17%).



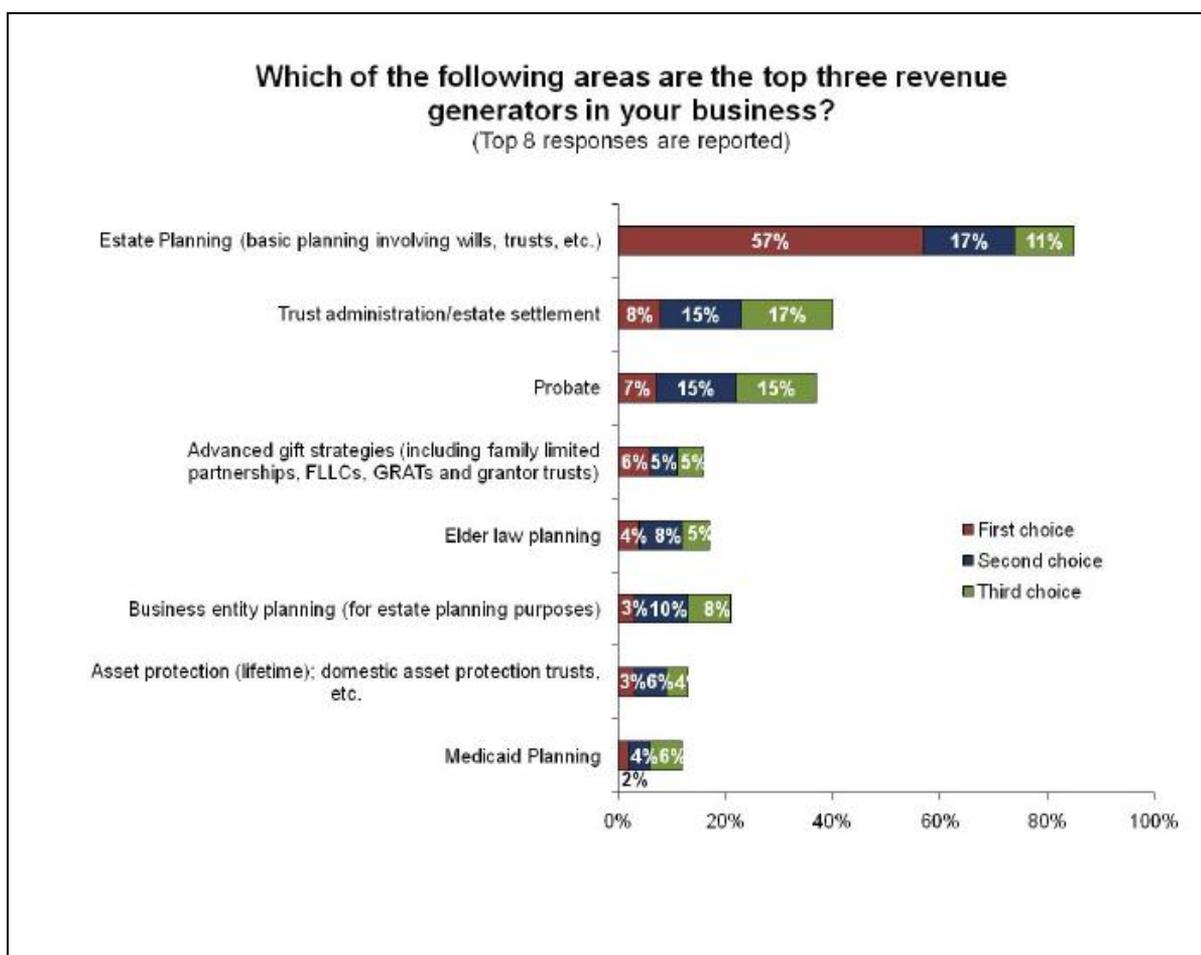
# Respondents' practices are primarily trust-based.

The largest percentage of respondents (42%) indicate they advise their clients how to do the funding, but prepare the real estate transfers. 30% take full responsibility to do the funding, with two thirds of these bundling the charge, and one-third charging separately from their fee.



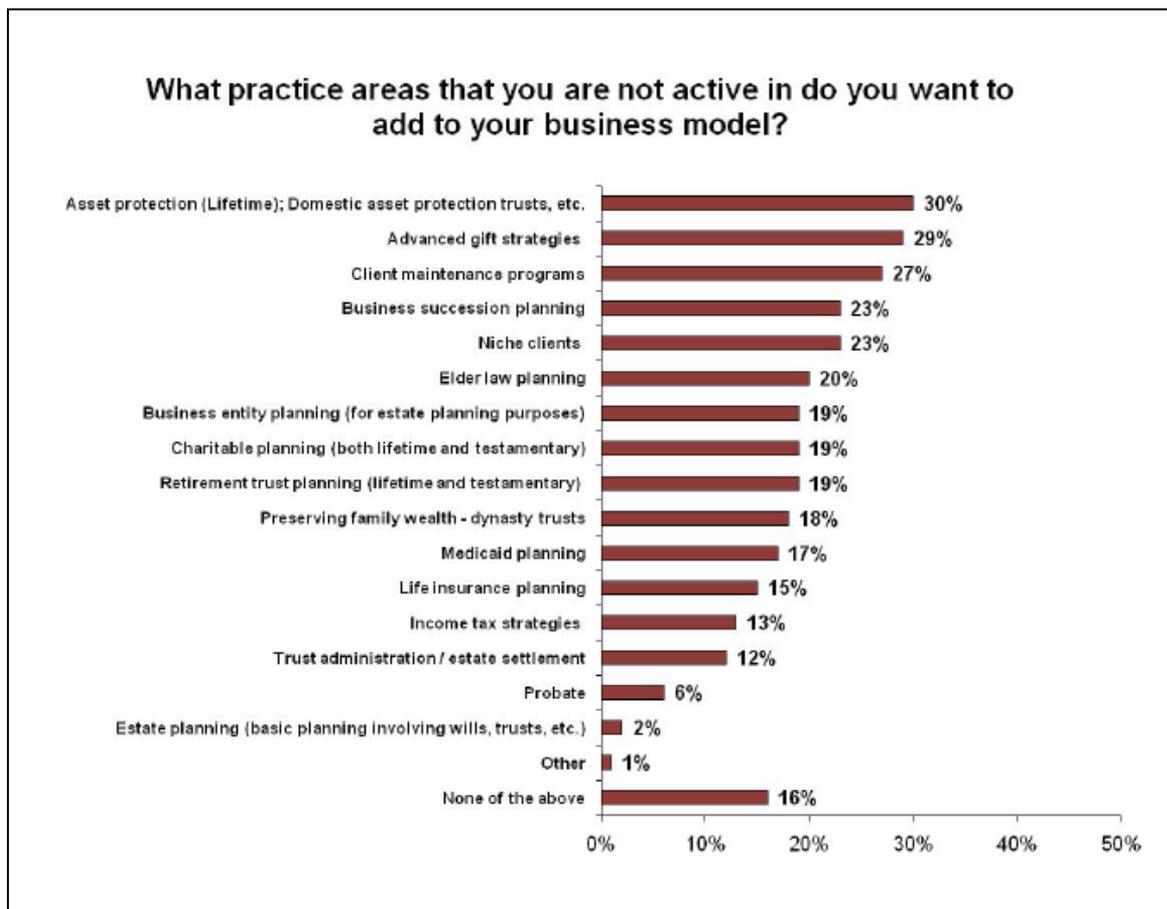
# Estate planning provides the largest percentage of revenue.

Estate planning is overwhelmingly chosen as the top revenue generator among respondents, regardless of the primary focus of their business.



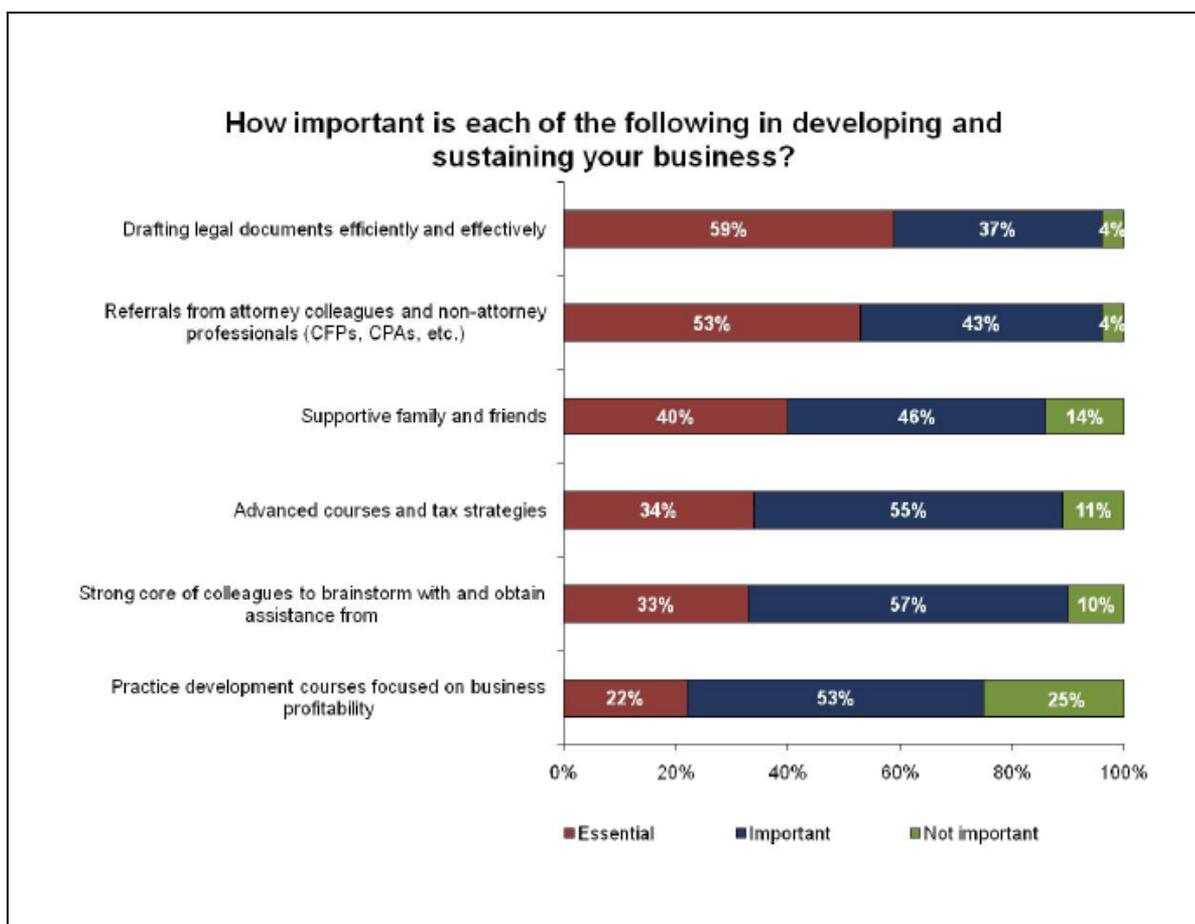
# Attorneys vary in the areas they want to add to their business model.

The largest percentage wants to add asset protection and advanced gift strategies to their business model. Those who want to add niche clients are most interested in high-litigation risk clients.



# Many factors play a role in developing and sustaining an estate planning business.

Drafting legal documents efficiently and effectively is considered most important, followed by referrals from attorney colleagues and other professionals.



# As attorneys grow their practices, they obtain more referrals and can be more selective with clients.

WealthCounsel members are more likely than non-members to indicate they have increased their marketing efforts (48% vs. 37%).

Fewer than one in ten have seen referrals for new clients decrease in the past five years, these respondents are most likely (76%) attribute the decrease to fewer referrals from other professionals, such as CFPs and CPAs.

