

Firm Profitability Falters as Election Looms?

by Maggie Tamburro

There's nothing quite like the fireworks accompanying a divided election year, as the parties and candidates duke it out in the final weeks preceding election day.

While most are pondering how the economy will affect election results, we're turning that question on its head, examining the flip side. What toll is the looming election taking on the state of the economy, and the legal industry specifically?

The answer? A big one. With so much at stake, the election and key issues on the political horizon have the ability to abruptly and dramatically (think [fiscal cliff](#)) shape the U.S. economy, and as a result the legal industry.

The economy seems to be responding as if in an economic holding pattern. Consistent with historic trends, [sub-par economic growth](#) tends to occur in presidential cycles featuring divided government. So far the 2012 presidential election cycle is no exception.

Need convincing? Read on...

Biglaw Revenue Sagging

The 2012 election might be the culprit behind disappointing demand and sagging revenues reported by some Biglaw firms for the first half of 2012. Of firms surveyed, the first half of 2012 saw [expenses out-pacing revenue](#) growth, with overall revenues up only 3 percent as compared to general expenses, which grew by over 6 percent. According to the [Wells Fargo survey](#), which looked at 115 firms in July, the second half of 2012 isn't expected to show much improvement.

Perhaps fueled by a strangely morbid fascination with the demise of firms like Dewey & LeBoeuf, some firms are reportedly playing it safe, resorting to shoring up reserves and increasing liquidity in an ever-tightening legal economy.

Corporate Holding its Breath

On the corporate side, according to a [recent survey report](#) of U.S chief executives, the number of large companies planning to increase hiring is down sharply, from 52 percent in early 2011 to only 29 percent who intend to increase hiring over the next six months. In addition, only 30 percent of the CEOs surveyed plan to increase investment in capital goods, down from the 43 percent reported just three months ago. The result? Those surveyed show signs of a similar holding pattern, and seem focused on doing more with existing resources rather than expansion.

The Good News...

• Some Firms Rallying

The good news – some Biglaw firms seem to be rallying. Firms with partner profits at \$2 million or higher saw small net income increases (almost 1%) for the first half of 2012, as compared with the first half of 2011. (These firms were [reportedly](#) more successful in keeping costs down, among other things.)

• Stock Portfolios Up

Your stock portfolio may be showing positive returns as well, as [returns during an election year](#) are historically above average. That's because not much legislative activity takes place in a presidential election year, as few politicians are willing to risk ruffling feathers. Introducing legislation that can trigger hot-button issues makes folks queasy about investing and lowers consumer confidence. The result – risk aversion is often lower in the second half of a president's term.

• CBO Modestly Optimistic

While the [Congressional Budget Office](#) (CBO) still optimistically predicts some modest economic recovery for the second half of 2012 (with real GDP growing at an annual rate of approximately 2 ¼ percent in the second half of 2012, as compared to 1 ¾ percent for the first half), the CBO notes that the future outlook for the budget deficit, federal debt, and economy are “especially uncertain” due to substantial changes to tax and spending policies which are currently scheduled to take place in January 2013. (The CBO's list of policy changes which will have the greatest impact on the budget and economy together with the CBO's budget and economic outlook for 2013 can be viewed [here](#).)

Time to Make Hay...

Although transactional work (often more susceptible to market conditions) slows in an election year, as many become [hesitant to close big deals](#), the smartest move for attorneys and their clients may be to make hay while the sun shines, focusing efforts on litigation while waiting for the 2012 political dust to settle.

Of course, for risk-benefit savvy attorneys that comes as no surprise. With real GDP growth projected by the CBO to be modest for the second half of 2012, and many law firms and corporations in a holding pattern, there's no time like the present to find novel ways to stay fiscally productive or protect corporate assets, marketshare, and profitability. Amidst reports of sagging profits, some firms and companies may be wise to turn to other, less traditional venues for protecting business assets. One such example is enforcement of patents through patent litigation, which according to a [2012 PwC study](#) continues to rise, despite signs of a sluggish economy.

Firms are wise to keep an eye on growing areas of litigation, such as those involving increased government regulation, about which we [recently wrote](#). Many are watching to see what direction the LIBOR scandal will take as 2012 winds down. The volume and breadth of lawsuits based on allegations that LIBOR was fraudulently manipulated seems endless, ranging from shareholder derivative actions to antitrust cases. Securities actions continue to demand increased judicial attention, as the fallout from the financial crisis continues in the courts.

The remainder of 2012 may also be an opportune time to more closely examine controlling costs, a measure which reportedly helped bring in profits for those firms seeing revenue growth for the first half of 2012. Finding ways to stay abreast of current technology while keeping costs down presents a major challenge as the end-of-year fiscal books are balanced – firms face increased pressure to spend money upgrading computer systems in order to remain competitive and stay in step with technology.

Hurry Up & Wait

More good news: The wait won't be forever; in just a few short months the election will be recent history, a new president-elect will be sworn into office, and perhaps some definitive answers to looming economic question marks provided.

Do you see the election taking a toll on the legal industry? If so, how? We'd love to hear your thoughts.

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