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Tax Legislation

Lynda K. Walker, Robert Carroll and Elizabeth Larimore write that The Tax Council/EY Tax Reform Business Barometer for January indicates that business tax professionals continue to believe that tax reform will occur within the next several years. The latest survey also included questions on a possible international-only tax reform, integration of the individual and corporate income taxes, the OECD's BEPS project and the impact of the recently enacted extenders legislation on tax reform.

TTC/EY Tax Reform Business Barometer: Views on the Prospects for, and Key Aspects of, Federal Tax Reform

BY LYNDA K. WALKER, ROBERT CARROLL
AND ELIZABETH LARIMORE

The Tax Council (TTC)/Ernst & Young LLP Tax Reform Business Barometer assesses business tax professionals' views on the outlook for and key aspects of federal tax reform.¹

The Barometer tracks the views of business tax professionals as the U.S. Congress debates and considers reform of the U.S. tax system.

¹ The TTC/EY Tax Reform Business Barometer defines tax reform as legislation that substantially broadens the tax base or changes the tax rate for either corporate or individual taxpayers.

Lynda K. Walker, Esq. is the executive director and general counsel for The Tax Council and Tax Council Policy Institute. Robert Carroll is national director of EY's Quantitative Economics and Statistics (QUEST) practice and a member of the EY Center for Tax Policy. Elizabeth Larimore is a staff analyst at EY.

The views expressed herein are intended to represent the results from TTC/EY Tax Reform Business Barometer and do not necessarily reflect the views of The Tax Council or EY.

In addition to questions on tax reform, the January 2016 Barometer included questions on: a possible international-only tax reform; integration of the individual and corporate income taxes; the Organization for Economic Cooperation and Development's Base Erosion and Profit Shifting (OECD BEPS) project; and the impact of the recently enacted Protecting Americans from Tax Hikes (PATH) Act (Division Q of Pub. L. No. 114-113)—the extenders legislation—on tax reform.

This 11th Barometer tracked the views reported from Jan. 13 through Jan. 20.²

Key Results

Prospects for Federal Tax Reform

Respondents continued to say they believe that tax reform will occur within the next several years (61 percent cited a likelihood that tax reform will happen in 2018 or earlier). Consistent with the September 2015 Barometer results, respondents still said they believe 2017 is the most likely year for tax reform (31 percent).

Approximately 45 percent of respondents said they think reform will be comprehensive, 23 percent said they think it will include all businesses including both C corporations and passthrough businesses, 17 percent

² Eighty-six leading U.S. tax executives and practitioners completed the January 2016 Barometer. Results are based on an online survey conducted by Ernst & Young LLP's Quantitative Economics and Statistics (QUEST) practice.

Business tax professionals' average expectations for year of tax reform enactment

Expected year of tax reform enactment	2014	2015	2016	2017	2018	2019	2020	No reform in 5 years
January 2016	NA	NA	4%	31%	26%	15%	6%	18%
September 2015	NA	3%	6%	28%	26%	16%	NA	21%
June 2015	NA	4%	6%	31%	26%	13%	NA	20%
January 2015	NA	9%	10%	33%	21%	9%	NA	17%
October 2014	1%	14%	14%	27%	19%	NA	NA	26%
March 2014	1%	17%	14%	28%	16%	NA	NA	24%
February 2014	5%	18%	15%	24%	15%	NA	NA	23%
December 2013	9%	24%	15%	21%	11%	NA	NA	20%
November 2013	20%	23%	13%	18%	11%	NA	NA	15%

Note: Percentages may not sum to 100 due to rounding.

said they think it will affect only C corporations and 13 percent said they think it will be international only.³ These results are very similar to those reported in the September 2015 Barometer.

Respondents were asked about their expectations regarding the likelihood of the House taking specific actions toward tax reform. Half of respondents said they believe there is at least a 50 percent probability that the House Ways and Means Committee chairman will release a specific tax reform plan by the end of 2016.

Additionally, half of the business tax professionals surveyed said they think it is at most 20 percent likely that the House Ways and Means Committee will mark up, and at most 10 percent likely it will report out of committee, tax reform legislation in 2016. Half of respondents said they think it is at most 5 percent likely that the House will pass tax reform legislation in 2016.

Respondents generally said they think it less likely that the Senate Finance Committee chairman will release a specific tax reform plan by the end of 2016. Half of respondents said they think the probability is less than 25 percent and half said they didn't believe there is any chance the Senate will pass tax reform legislation by the end of 2016.

Other Topics

International-Only Tax Reform. With regard to interest in an international-only reform, 21 percent said they think its enactment will increase the likelihood of enactment of a more comprehensive tax reform at a later date, while 51 percent said they believe it will hinder comprehensive reform and 27 percent said they expect it to have no effect.

Integration of Individual, Corporate Income Taxes. Half of respondents said they think there is at most a 10 percent probability that the Senate Finance Committee chairman will release a discussion draft or proposal to

integrate the individual and corporate income taxes to address the double tax on corporate earnings within the first quarter of 2016. Half said they think the chances of release in the second, third and fourth quarters of 2016 are at most 20 percent, 10 percent and 5 percent, respectively. Fifty percent of the respondents said they think the chances for release in a later year is greater than 25 percent.

Moreover, 74 percent of respondents said they think it is very or somewhat likely that the integration discussion draft or proposal will change the tax treatment of interest, while 26 percent said they think it is somewhat or very unlikely.

OECD BEPS Project. Forty-three percent of respondents said they think that the OECD BEPS project will result in greater similarity of how countries tax the income of global companies, while 28 percent said they think harmonization will decrease and 29 percent said they think it will be unchanged.

PATH Act and Tax Reform. Fifty-six percent of business tax professionals said they believe enactment of the PATH Act makes U.S. tax reform more likely, while 12 percent indicated it makes tax reform less likely and 32 percent said they think it has no impact.

Prospects for Federal Tax Reform

The January 2016 Barometer included the standard set of questions on the expectations for federal tax reform also included in prior Barometers. Although respondents' view of what constitutes tax reform may vary, business tax professionals generally are optimistic tax reform will be enacted within the next several years and said they believe that both the House Ways and Means and Senate Finance committees will make progress toward tax reform even without enactment in 2016.

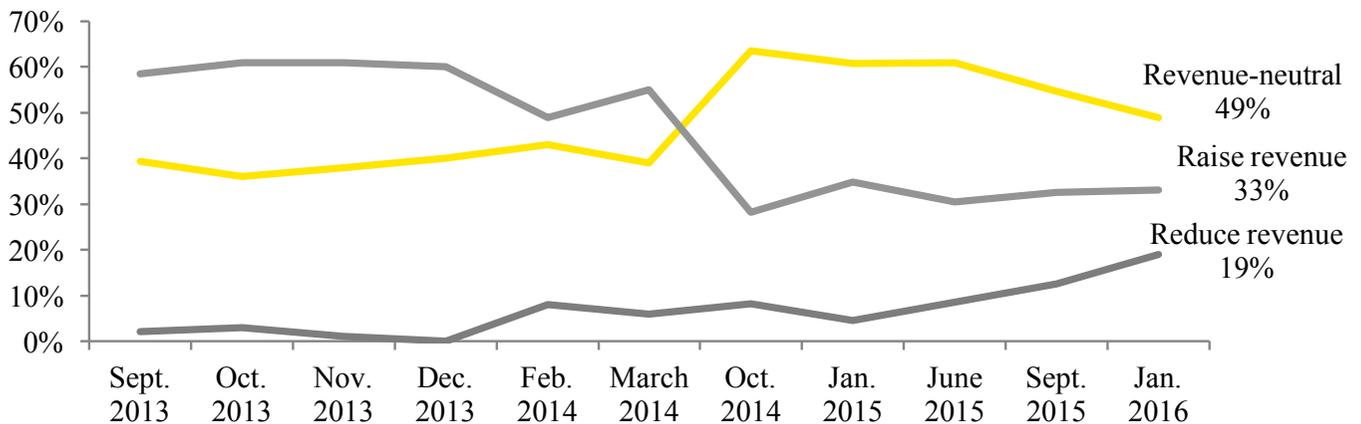
Progress could include various foundational steps (e.g., hearings, debates, chairmen's drafts, committee legislation and additional proposals), and these steps

³ Note that certain percentages presented in the Barometer may not total 100 due to rounding.

Business tax professionals' median expectations for tax reform action by the end of 2016

	House	Senate
Tax-writing committee chairman releases tax reform plan	50%	25%
Tax-writing committee begins mark-up of tax reform legislation	20%	10%
Tax-writing committee approves tax reform legislation	10%	5%
Chamber passes tax reform legislation	5%	0%

Trend of business tax professionals' beliefs on tax reform features, Sept. 2013 to Jan. 2016



Note: Percentages may not sum to 100 due to rounding.

are expected to influence and help shape any future tax reform.

Expectations for Year of Enactment

In the January 2016 Barometer and every Barometer since February 2014, respondents have consistently said they viewed 2017, the first year of the next president's term, as the most likely year for federal tax reform. In the January 2016 Barometer, respondents gave a 2017 tax reform a 31 percent likelihood. They gave a 26 percent likelihood for reform in 2018, a 15 percent likelihood in 2019 and a 5 percent likelihood in 2020.

The average of respondents' expectations of no tax reform over the next five years is 18 percent. The January 2016 Barometer results are generally consistent with the results from past barometers.

Expectations for Action in the House and Senate

Expectations for the House and Senate to release specific tax plans have varied across Barometers. In January 2016, half of respondents said they think it is at least 50 percent likely that the House Ways and Means Committee chairman will release a specific tax reform plan before the end of 2016.

Half of respondents said they think the probability that the committee will begin a markup of tax reform legislation is at most 20 percent. Moreover, half of respondents said they think there is a 10 percent or less probability for committee passage and a 5 percent or less likelihood for passage by the full House during 2016.

Barometer respondents generally said they believe that the Senate is less likely to release a specific tax reform plan than the House in 2016; half said they believe it is at most 25 percent likely. Half also said they think there is a 5 percent or less probability for committee passage and a zero percent probability for passage by the full Senate in 2016.

Expectations for the Comprehensiveness Of Tax Reform

Respondents were asked whether tax reform would be comprehensive or more narrowly focused on a particular type of business or sector (e.g., international, corporate, all businesses).

Approximately 45 percent of respondents said they think reform will be comprehensive, 23 percent said they think it will include all businesses including pass-throughs, 17 percent said they think tax reform will affect only corporations, 13 percent said they think it will be international only and 1 percent said they think reform will only affect individuals. These results are consistent with the September 2015 Barometer, where respondents generally said they thought tax reform would affect business only (21 percent) or international only (19 percent), and 45 percent said they thought tax reform would be comprehensive.

Additionally, tax professionals continue to indicate that they believe tax reform is most likely to be revenue neutral (49 percent), while one-third said they think tax reform will raise revenue and 19 percent said they think reform will reduce revenue, a higher percentage than

past Barometers. Over the 11 Barometers, respondents have gradually been lowering their expectations that tax reform will raise revenue and increasing their expectations that it will reduce revenue.

The prospects for federal tax reform and the expectations of leading U.S. tax executives and practitioners will probably continue to change throughout 2016. The Barometer will continue to gauge changes in the expectations for tax reform.

International-Only Tax Reform

The January 2016 Barometer included questions on a possible international-only tax reform. House Ways and Means Committee Chairman Kevin Brady (R-Texas) has indicated that international tax reform will be a priority for the committee in 2016.

Such a reform might include proposals to move the U.S. toward a territorial tax system combined with some type of minimum tax on foreign earnings, additional anti-base erosion provisions and a one-time tax on accumulated unrepatriated earnings. There has also been interest in an innovation/patent box.

International Reform May Affect Prospects For a More Comprehensive Reform

When asked about how enactment of an international-only reform might affect the prospects for a more comprehensive tax reform at a later date, 21 percent of respondents said they think the likelihood would increase, 51 percent said they think it would decrease and 27 percent said they think it would stay the same.

Importance of an Innovation/Patent Box To International Reform And How It Should Be Funded

About one-third of respondents said they think an innovation/patent box, or some similar incentive, is a necessary part of international tax reform, while 69 percent said they don't. Additionally, 87 percent of respondents said they think that a general reduction in the corporate tax rate is preferable to an intellectual property (IP) incentive that would have the same revenue cost, while 13 percent said they prefer some kind of innovation incentive.

Barometer participants generally said they think an innovation/patent box proposal should be funded with:

- more stringent anti-base-erosion provisions (58 percent),
- scaling back existing research-and-development-related provisions (44 percent),

- a higher minimum tax on foreign earnings (41 percent),
- a greater one-time tax on accumulated unrepatriated foreign earnings (35 percent), and/or
- not paid for (i.e. deficit funded) (30 percent).

About half of respondents (44 percent) indicated their organization is modeling or has modeled the potential effect of an innovation/patent box proposal on the organization's (or members' or clients') federal tax liability, while 25 percent reported that their organization is modeling the potential impact on their industry.

Integration of Individual And Corporate Income Taxes

Respondents were also asked about a possible discussion draft/proposal to integrate the individual and corporate income taxes to address the double tax on corporate earnings.

In December 2014, the Senate Finance Committee's majority staff released a report, "Comprehensive Tax Reform for 2015 and Beyond," providing background on a wide range of issues related to tax reform.

The report included a detailed discussion of the problems that arise in the U.S. income tax from the double tax on corporate earnings whereby corporate earnings are subject to tax at the corporate level and again when distributed to taxable investors. The report outlined various approaches to address the double tax through integration of the individual and corporate income taxes.

Expectation for Timing of Integration Discussion Draft or Proposal By Senate Finance Committee Chairman

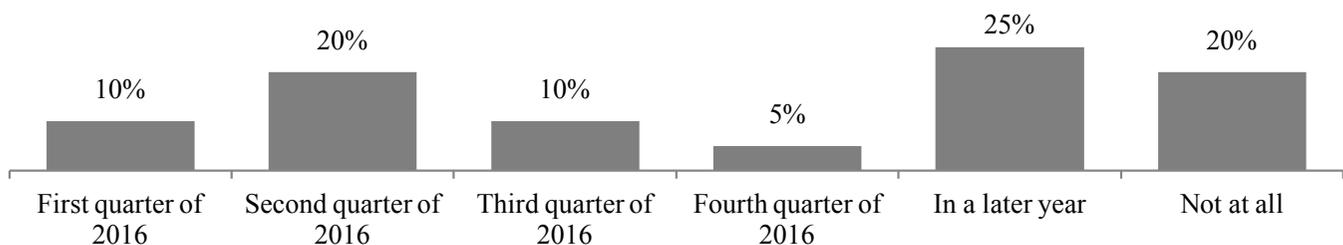
When asked for their expectation for when the Senate Finance Committee chairman would release an integration discussion draft or proposal, half of respondents said they believe it is at most 10 percent and 20 percent likely for the first and second quarter of 2016, respectively.

Comparatively, half of respondents said they think it is at most 10 percent likely in the third quarter, 5 percent likely in the fourth quarter, 25 percent likely after 2016 and 20 percent likely that there is no release.

Expectation That Integration Discussion Draft Or Proposal Will Alter Tax Treatment of Interest

Respondents who expect the chairman to release an integration discussion draft or proposal in 2016 or in a later year were asked for their expectation it will suggest a change in the tax treatment of interest.

Median expectations for the timing of the release of an integration discussion draft or proposal



Respondents expecting the BEPS project to influence the US to adopt new rules in certain areas

	Yes	No
Limiting the deductibility of interest	53%	47%
Patent box/intellectual property box	60%	40%
Treatment of hybrids	63%	37%
Subpart F	49%	51%

Note: Percentages may not sum to 100 due to rounding.

Seventy-four percent of respondents said they think that such a change is either very likely (17 percent) or somewhat likely (57 percent). Conversely, 26 percent said they think it is either somewhat unlikely (17 percent) or very unlikely (9 percent). No respondents indicated that it isn't likely.

More than one-third of respondents reported that their organization has taken steps to better understand or model different approaches for integrating the individual and corporate income taxes.

Views on the BEPS Project and the PATH Act

Expectation That BEPS Project Will Impact U.S. Tax Rules

When asked if the 2015 OECD BEPS recommendations will influence U.S. tax policy through a commitment on the part of the U.S. to adopt new rules in certain areas, 63 percent of respondents said they think the treatment of hybrids will be affected and 60 percent

said they think the U.S. will adopt new rules related to a patent box/IP box.

Expectation That BEPS Project Will Result in Greater Harmonization Across Countries in Taxing Global Income

Forty-three percent of respondents said they expect the OECD BEPS project will result in greater similarity or harmonization for how countries tax the income of global companies, while 28 percent said they think the project will result in less harmonization and 29 percent said they think there would be no change.

Expectation That Tax Extenders Legislation (PATH Act) Makes Tax Reform More Likely

Respondents were asked about their expectations surrounding the recently enacted PATH Act.

Fifty-six percent of respondents said they think the PATH Act makes U.S. tax reform more likely, while only 12 percent said they think the act makes tax reform less likely and 32 percent said they think it has no impact.