

BNA Insights

Tax Legislation

Lynda K. Walker and Robert Carroll write that The Tax Council/Ernst & Young LLP Tax Reform Business Barometer for January indicates that business tax professionals still see an overhaul as likely in the coming years and expectations that reform will focus on business or corporate taxation are growing. The latest survey also included questions addressing the OECD's BEPS project and prospects for expiring business tax provisions.

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

BY LYNDA K. WALKER AND ROBERT CARROLL

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

The Barometer measures the expected likelihood of the different stages and key elements of federal tax reform. It tracks trends in the views of business tax professionals as the U.S. Congress debates and develops tax reform.

In addition, the January 2015 Barometer included questions addressing the Obama administration's then-upcoming budget release, the Organization for Economic Cooperation and Development (OECD) base erosion and profit shifting (BEPS) project and expiring business tax provisions. It tracks views reported between Jan. 14 and Jan. 20.²

Key results from the January 2015 Barometer are:

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.

² One hundred thirteen leading U.S. tax executives and practitioners completed the January 2015 Barometer. Results

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.

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 Ernst & Young LLP.

- Respondents said they continue to believe that tax reform will occur within the next several years (73 percent likelihood that tax reform will happen in 2018 or earlier). Respondents gave a 52 percent likelihood that tax reform will happen in 2017 or earlier, and they gave a 33 percent likelihood that 2017 will be the most likely year for tax reform to occur.

- Business tax professionals said they increasingly view business or corporate-only tax reform as more likely than a comprehensive reform affecting both individual and corporate taxation. Fifty-nine percent of respondents said they think tax reform will affect only businesses or only corporations, while 41 percent said they think reform will be comprehensive. In most prior Barometers, between 50 percent and 70 percent of respondents said they thought tax reform would likely be comprehensive.

- Most respondents (61 percent) said they expect tax reform will be revenue-neutral (rather than raise revenue), 35 percent said they believe it will raise revenue, and less than 5 percent said they think it will reduce revenue. While this finding is consistent with the October 2014 Barometer, it represents a significant shift from most prior Barometers where 50 percent to 60 percent of respondents generally said they thought tax reform would raise revenue.

- Respondents gave a median expectation of 50 percent that the House Ways and Means Committee chairman will release a specific tax reform plan by the end of 2015. Tax professionals provided medians of 30 percent and 20 percent that the Ways and Means Committee will mark up tax reform legislation and that the Ways and Means Committee will pass this legislation, respectively. Respondents gave a 10 percent median likelihood that the House will pass tax reform legislation.

are based on an online survey conducted by Ernst & Young's Quantitative Economics and Statistics (QUEST) practice.

- Respondents said they thought it equally likely (50 percent median likelihood) that the Senate Finance Committee chairman will release a specific tax reform plan by the end of 2015. They also have a lower expectation (10 percent median likelihood) that the full Senate will pass tax reform legislation by the end of 2015.

- Barometer participants generally said they thought (43 percent) that a tax reform plan put forward by the Obama administration would be a positive step in moving the tax reform process forward.

- Respondents said they think the OECD BEPS project will result in the most significant change in global income taxation in the year 2017 (30 percent median response) as compared to 2015 (10 percent median expectation), 2016 (25 percent median expectation), 2018 (25 percent median expectation) or not at all (15 percent median expectation).

- Fifty-nine percent of business professionals said they believe that tax revenue will be raised for the Highway Trust Fund and related infrastructure spending. Respondents indicated that funding is most likely thought to be provided by an increase in gas tax.

- Barometer participants gave a 65 percent average likelihood that Congress will explicitly incorporate revenue from the macroeconomic impact of tax reform in its official scorekeeping.

Prospects and Timing of Federal Tax Reform

The January Barometer assessed business tax professionals' views on the administration's upcoming budget release, the OECD BEPS project and expiring business tax provisions.

The median response was a 50 percent likelihood that the incoming Ways and Means Committee chairman will release a specific tax reform plan before the end of next year. The median expectation for a Ways and Means Committee markup of tax reform legislation is 30 percent, while the expectation for the committee to pass this legislation is 20 percent. Respondents were more pessimistic regarding whether the full House would approve tax reform legislation (median 10 percent expectation).

Barometer respondents said they believe that the Senate is equally likely to release a specific tax reform plan as the House. They gave a median expectation of 50 percent that the Senate Finance Committee chairman would release a tax reform plan and a median expectation of 25 percent that the committee would begin a markup. Responses indicated that the likelihood for passage through the committee and the full Senate is lower.

Median Expectations for Action by End of 2015

	House	Senate
Tax-writing committee chairman releases tax reform proposal	50%	50%
Tax-writing committee begins markup of tax reform legislation	30%	25%
Tax-writing committee approves tax reform legislation	20%	20%
Chamber passes tax reform legislation	10%	10%

Business tax professionals gave a 9 percent average likelihood of tax reform occurring in 2015. Even without enactment within the next year or two, various foundational steps (e.g., hearings, debates, chairmen's drafts, committee legislation, additional proposals) can be expected to continue and will influence any future tax reform.

Barometer trends suggest that federal tax reform isn't generally expected prior to 2017, the first year of the next president's term. Respondents gave a 10 percent likelihood that tax reform will happen in 2016, a 33 percent likelihood in 2017, a 21 percent likelihood in 2018 and a 9 percent likelihood in 2019. The respondents have decreased their expectation of no federal tax reform in the foreseeable future, from 26 percent from the last Barometer in October 2014 to 17 percent in the January 2015 Barometer.

Respondents were also asked about the administration's then-upcoming budget release. Forty-three percent of respondents indicated that a detailed tax reform plan put forward by the Obama administration would be a positive step in moving the tax reform process forward; 23 percent said it would be a neutral step and 34 percent responded that a detailed tax reform plan would be a negative step.

Barometer participants gave a 65 percent average likelihood that Congress will explicitly incorporate revenue from the macroeconomic impact of tax reform in its official scorekeeping. Sixty-three percent of respondents indicated that their organizations are modeling the potential effects of federal tax reform on the organization's federal tax liability, while 39 percent and 28 percent claim the same for the organizations' industry and customers, and the U.S. economy, respectively.

Key Expectations For Federal Tax Reform Legislation

Respondents were asked what key features they expect will be included in any eventual final tax reform legislation. Those expectations could differ significantly

Average Expectations for Timing of Tax Reform Enactment

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

from their objectives for federal tax reform. Some of the key findings are:

- Most respondents (61 percent) said they expect tax reform will be revenue-neutral (rather than raise revenue), 35 percent said they believe it will raise revenue, and less than 5 percent said they think it will reduce revenue. While this finding is consistent with the October 2014 Barometer, it represents a significant shift from most prior Barometers where 50 percent to 60 percent of respondents said they generally thought tax reform would raise revenue.

- Business tax professionals increasingly view business or corporate-only tax reform as more likely than a comprehensive reform affecting both individual and corporate taxation. Fifty-nine percent of respondents said they think tax reform will affect only businesses, which would include both corporate income and income reported on individual tax returns from pass-through entities (e.g., partnerships and S corporations) (47 percent), or only corporations (12 percent), while 41 percent said they think reform will be comprehensive. In most prior Barometers, between 50 percent and 70 percent of respondents said they thought tax reform would likely be comprehensive.

Business Tax Professionals' Views On the BEPS Project, Expiring Tax Provisions

The January Barometer included questions on the OECD BEPS project and expiring business tax provisions.

Respondents were asked about the likelihood that the OECD BEPS project will result in significant change in the taxation of global income of multinational corporations in the U.S. and/or abroad in the next several years. Respondents gave an average likelihood of 39 percent that significant change will occur in 2017. Although most respondents interpreted this question as which year was most likely to see significant change, it is also possible respondents interpreted the question as whether the BEPS project would lead to significant change in each of the years indicated.

The professionals were then asked if the OECD BEPS recommendations at the end of 2015 will influence U.S.

tax policy through a commitment on the part of the U.S. to adopt new rules in certain areas. Respondents were generally undecided on their views, although 57 percent said they think the U.S. will adopt new rules in transfer pricing, and 44 percent said they think Subpart F will be influenced.

Expectations BEPS Will Influence U.S. Rules

	Yes	No
Limiting the deductibility of interest	47%	53%
Definition of permanent establishment/ threshold for taxable nexus in a country	49%	51%
Transfer pricing	57%	43%
Subpart F	44%	56%

At the end of 2014, Congress enacted a one-year extension of the expiring business tax provisions through the end of 2014. Respondents were asked about the likelihood that the major expiring tax provisions will be extended again; respondents found it more likely (61 percent average response) that the tax provisions will be extended in the second half of 2015 than in the first half of 2015 (6 percent average response). Others anticipate extensions occurring in 2016 or later or not at all (average responses of 23 percent and 6 percent, respectively).

Other Tax Policy Issues

Business tax professionals were also asked if Congress will raise tax revenue to provide additional funding for the Highway Trust Fund and related infrastructure spending. Fifty-nine percent said they believe Congress will raise tax revenue, and 41 percent said they believe tax revenue won't be increased.

Those who answered that they expected a raise were asked a follow-up question regarding funding means; 57 percent said they think an increase in gas tax would be the most likely way to provide funding, 9 percent said they believe funding will come from a repatriation holiday, and 14 percent agreed that an increase in the deficit would provide funding. Twenty percent suggested other sources, such as customs fees.