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Tax Legislation

Lynda K. Walker and Robert Carroll write that The Tax Council/EY Tax Reform Business Barometer for September indicates that most business tax professionals continue to believe an overhaul will occur within the next several years, with 63 percent indicating that reform will happen by 2018. The respondents also continue to view 2017 as the most likely year for tax reform. The latest survey also included questions on expiring business tax provisions, the funding of the Highway Trust Fund, the OECD BEPS project and the possibility of international-only tax reform.

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)/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 tracks trends in the views of business tax professionals as the U.S. Congress debates and develops tax reform. It reflects the views of the tax community on the outlook for tax reform.

In addition to questions on tax reform, the September 2015 Barometer also included questions on expiring business tax provisions, the funding of the Highway Trust Fund, the Organization for Economic Cooperation and Development's Base Erosion and Profit Shifting (OECD BEPS) project and the possibility of international-only tax reform.

This 10th Barometer tracked the views reported from Sept. 3 through Sept. 11.[2]

Key Results

Respondents said they continue to believe that tax reform will occur within the next several years (63 percent likelihood that tax reform will happen in 2018 or earlier). Moreover, respondents again view 2017 as the year with the greatest likelihood (28 percent) for the enactment of reform.

The September Barometer indicates that 2017 remains the most likely year for tax reform, with respondents assigning a 28 percent likelihood—consistent with responses of a 31 percent likelihood in June and a 33 percent likelihood in January.

[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] Ninety-seven leading U.S. tax executives and practitioners completed the September 2015 Barometer. Results are based on an online survey conducted by EY's Quantitative Economics and Statistics (QUEST) practice.

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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.

Approximately 16 percent of respondents said they think tax reform will affect only corporations, 21 percent said they think it will include all businesses including passthroughs, 19 percent said they think it will be international only and 45 percent said they think reform will be comprehensive.[3] This is almost unchanged from the June Barometer, which reported that 16 percent of respondents said they thought tax reform would affect only corporations, 22 percent predicted that reform would involve all businesses including passthroughs and 40 percent said they thought reform would be comprehensive. No respondents said they expected tax reform to affect only individuals in the September, June or January Barometers.

With regard to the recent interest in an international-only reform, 35 percent said they think the enactment of such reform will increase the likelihood of enactment of a more comprehensive tax reform at a later date, while 65 percent said they believe it will hinder eventual enactment of comprehensive tax reform.

Most respondents (55 percent) said they expect tax reform will be revenue neutral rather than raise revenue (33 percent), and 13 percent said they think it will reduce revenue. While this finding is consistent with the June and January Barometers, it represents a significant shift from earlier Barometers, in which 50 percent to 60 percent of respondents generally said they thought tax reform would raise revenue.

The median expectation of respondents that the House Ways and Means Committee chairman will release a specific tax reform plan by the end of 2015 was 25 percent (i.e., the median response across the range of expectations given by respondents), the same result given in the June 2015 Barometer, but down from the roughly 50 percent median expectation reported in the January 2015 and most earlier Barometers. Business tax professionals provided median expectations of 10 percent and 5 percent that the House Ways and Means Committee will mark up and pass tax reform legislation in 2015. Respondents gave a zero percent median likelihood that the House will pass tax reform legislation in 2015.

Respondents said they thought it less likely (5 percent median likelihood) that the Senate Finance Committee chairman will release a specific tax reform plan by the end of 2015. They also said they didn't expect that the full Senate will pass tax reform legislation by the end of 2015 (zero percent median likelihood).

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

- more stringent anti-base-erosion provisions (61 percent);
- scaling back existing research and development-related provisions (49 percent);
- a greater one-time tax on accumulated unrepatriated foreign earnings (42 percent);
- a higher minimum tax on foreign earnings (36 percent); or
- not paid for (i.e., deficit funded) (23 percent).

About half of respondents (47 percent) indicated their organizations are modeling the potential effect of an innovation/patent box proposal on the organization's (or members' or clients') federal tax liability, while about one-third (31 percent) reported that their organizations are modeling the potential impact on their industry.

Thirty percent of respondents said they think that the U.S. will make significant changes stemming from the OECD BEPS project in 2017. No respondents said they believe these changes will occur in 2015, 20 percent said they believe changes will happen in 2016, 28 percent said they believe the U.S. will implement BEPS changes in 2018 and 10 percent said they believe the U.S. won't implement BEPS-related changes.

When asked if the OECD BEPS project will result in significant changes in other countries during the same years, respondents pointed to 2016 and 2017 as the most likely years (30 percent median response for both years), compared to 2015 (10 percent median response), 2018 (25 percent) or not at all (5 percent median response).

Forty-seven percent of business tax professionals said they believe that tax revenues will be raised to help fund the Highway Trust Fund and related infrastructure spending. Respondents indicated that funding is most likely to be provided by miscellaneous measures (40 percent) or international tax reform with a transitional repatriation provision (35 percent).

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 the likelihood that the major expiring tax provisions will be extended by the end of 2015; 91 percent of respondents said they believe Congress will extend the expiring provisions by the end of 2015. Most (67 percent) found it likely that the tax provisions will be extended for 2015 and 2016, while 29 percent said they believe the extension will cover 2015 only and 4 percent said they believe at least some of the expiring provisions will be permanently extended.

Prospects and Timing of Federal Tax Reform

The September Barometer focused on expectations for federal tax reform. The median response was a 25

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

Median Expectations for Tax Reform Action by End of 2015

	House	Senate
Tax-writing committee chairman releases tax reform plan	25%	5%
Tax-writing committee begins markup of tax reform legislation	10%	2%
Tax-writing committee approves tax reform legislation	5%	0%
Chamber passes tax reform legislation	0%	0%

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Average Expectations for Timing of Tax Reform Enactment

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

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

percent likelihood that the House Ways and Means Committee chairman will release a specific tax reform plan before the end of 2015, which is the same percentage reported in the June Barometer but down from the 50 percent median likelihood reported in the January Barometer.

The median expectation for the House Ways and Means Committee to begin a markup of tax reform legislation is 10 percent, while the median expectation for the committee to pass this legislation is 5 percent. Respondents were even less optimistic regarding whether the full House would approve tax reform legislation (median zero percent expectation) during the remainder of 2015.

Barometer respondents said they believe that the Senate is less likely to release a specific tax reform plan than the House in 2015. They gave a median expectation of 5 percent that the Senate Finance Committee chairman would release a tax reform plan, which is down from the 50 percent reported in the January Barometer and the 20 percent reported in the June Barometer, and a median expectation of 2 percent that the committee would begin a markup. Respondents gave a median zero percent expectation for passage through either the committee or the full Senate in 2015.

Business tax professionals gave a 3 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 and additional proposals) can be expected to continue and influence any future tax reform.

Barometer trends suggest that federal tax reform isn't generally expected prior to 2017, which is the first year of the next president's term. Respondents gave a 28 percent likelihood that tax reform will happen in 2017, a 6 percent likelihood of reform in 2016, a 26 percent likelihood in 2018 and a 16 percent likelihood in 2019. Respondents gave an average expectation of 21 percent that tax reform won't occur in the foreseeable future (i.e., the next five years) in the September 2015 Barometer, which is near the middle of the range from Barometers since November 2013 (15 percent to 26 percent).

Respondents were also asked about how an innovation/patent box proposal should be funded, if at all. Barometer participants generally said they thought an innovation/patent box proposal should be funded with:

- more stringent anti-base-erosion provisions (61 percent);
- scaling back existing R&D-related provisions (49 percent);
- a greater one-time tax on accumulated unrepatriated foreign earnings (42 percent);
- a higher minimum tax on foreign earnings (36 percent); or
- not paid for (i.e., deficit funded) (23 percent).

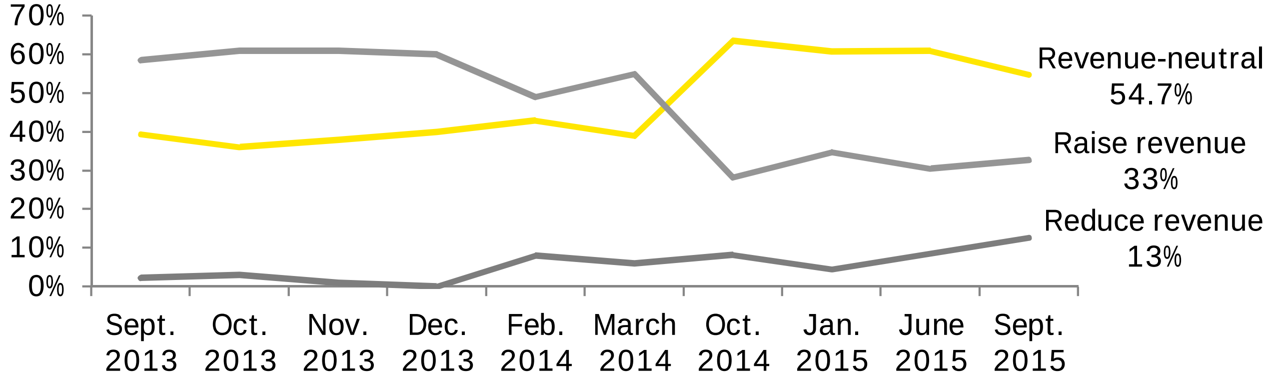
When asked if their organizations are modeling any aspects of the innovation/patent box proposal's potential effect on federal tax liability, about half indicated that their organizations are doing so (47 percent), while about a third (31 percent) reported their organizations are modeling the potential impact of the innovation/patent box proposals on their industry.

Responses on How an Innovation/Patent Box Proposal Should Be Funded

	Yes	No
By scaling back existing R&D-related provisions, such as the R&E tax credit and R&E expensing	49%	51%
With more stringent anti-base-erosion provisions	61%	39%
With a higher minimum tax on foreign earnings	36%	64%
With a greater one-time tax on accumulated unrepatriated foreign earnings	42%	58%
Not paid for (e.g., deficit financed)	23%	77%

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

Trend of business tax professionals' beliefs on tax reform features, from September 2013 to September 2015



Key Expectations For Federal Tax Reform Legislation

Respondents were asked what key features they expect to be in any eventual final tax reform legislation. Those expectations could differ significantly from their objectives for federal tax reform. Some of the key findings are outlined below:

■ Most respondents (55 percent) said they expect tax reform will be revenue-neutral, while 33 percent said they think it will raise revenue and 13 percent said they think it will reduce revenue. While this finding is consistent with Barometers since October 2014, it represents a significant shift from most of our earlier Barometers, in which 50 percent to 60 percent of respondents generally said they thought tax reform would raise revenue.

■ Approximately 16 percent of respondents said they think tax reform will affect only corporations, 21 percent said they think it will include all businesses including passthroughs, 19 percent said they think it will be international only and 45 percent said they think reform will be comprehensive. These results are consistent with the June 2015 Barometer, where respondents generally said they thought tax reform would affect business only (22 percent) or international only (22 percent), and 40 percent said they thought tax reform would be comprehensive. In the January 2015 Barometer, which didn't include an option for international-only reform, 12 percent and 47 percent of respondents said they thought tax reform would affect only corporations or all businesses including passthroughs, respectively, while 41 percent said they thought reform would be comprehensive.

Views on the BEPS Project And Expiring Tax Provisions

The September 2015 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 U.S. changes to how multinational corporations' global income is taxed in the next several years. Respondents gave the highest average likelihood that significant change will occur in 2017 (37 percent), and they assigned the lowest average likelihood (7 percent) to 2015. Although most respondents interpreted this question as asking which year was most likely to see significant change, it is also possible that respondents interpreted the question to be whether the BEPS project would lead to significant change in each of the years named.

The professionals were then asked about the likelihood that the OECD BEPS project will result in significant changes in other countries to how multinational corporations' global income is taxed in the next several years. The results were similar to the U.S. expectation responses—respondents said they thought that 2017 was the most likely year for significant changes (average likelihood of 38 percent) and that the lowest likely year was 2015 (15 percent average likelihood).

Respondents were 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 70 percent said they think the U.S. will adopt new rules related to a patent/intellectual property box and 64 percent said they think treatment of hybrids will be affected.

Expectation BEPS Project Will Influence U.S. Rulemaking

	Yes	No
Limiting the deductibility of interest	43%	57%
Patent box/intellectual property box	70%	30%
Treatment of hybrids	64%	36%
Subpart F	56%	44%

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

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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 the likelihood that the major expiring tax provisions will be extended by the end of 2015; they found it likely (91 percent average response) that the tax provisions will be extended by the end of 2015. Additionally, respondents found it most likely that 2015 and 2016 would be covered by the extension (67 percent).

Others said they anticipate the extension covering only 2015 (29 percent) or a permanent extension of some or all of the expiring provision (4 percent), while zero percent of respondents said they expect the extension to cover the period from 2015 through 2020.

Other Tax Policy Issues

Business tax professionals were also asked if Congress will raise tax revenues to provide additional funding for the Highway Trust Fund and related infrastructure spending. Forty-seven percent said they believe Congress will raise tax revenues and 53 percent said they believe tax revenues won't be increased.

Those who answered that they expected higher taxes were asked a follow-up question regarding funding means; 14 percent said they think an increase in the gas tax would be the most likely way to provide funding, while 12 percent said they believe funding will come from a stand-alone repatriation provision and 35 percent think that international tax reform with a transitional repatriation provision would provide funding. Forty percent suggested other sources, such as miscellaneous compliance measures. Additionally, 17 percent of respondents expect that an international-only tax reform and Highway Trust Fund package will be enacted in 2015.

With regard to the recent interest in international-only reform, 35 percent said they think the enactment of such reform will increase the likelihood of enactment of a more comprehensive tax reform at a later date, while 65 percent said they believe it will hinder eventual enactment of comprehensive tax reform.

The prospects for federal tax reform and the expectations of leading U.S. tax executives and practitioners will probably continue to change throughout 2015. The Barometer will continue to gauge changes in the expectations for tax reform.