

Reproduced with permission from Daily Tax Report, 146 DTR J-1, 7/30/15. Copyright © 2015 by The Bureau of National Affairs, Inc. (800-372-1033) <http://www.bna.com>

Tax Legislation

Lynda K. Walker and Robert Carroll write that The Tax Council/Ernst & Young LLP Tax Reform Business Barometer for June indicates business tax professionals continue to see an overhaul as likely within the next several years. The latest survey also included questions addressing the trade promotion authority agreements, the OECD's BEPS project and 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.

Additionally, the June 2015 Barometer included questions addressing the trade promotion authority agree-

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.

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.

ments, the Organization for Economic Cooperation and Development base erosion and profit shifting project and expiring business tax provisions. This was the ninth Barometer; it tracks the views reported between June 16 and June 25.²

Key Results

Key results from the June 2015 Barometer are:

- Respondents continued to say they believe that tax reform will occur within the next several years (67 percent likelihood that tax reform will happen in 2018 or earlier). Respondents gave a 41 percent likelihood that tax reform will happen in 2017 or earlier, and they said they believe 2017 is the most likely year for tax reform with a 31 percent likelihood. In the January 2015 Barometer, respondents gave a 52 percent likelihood that tax reform would happen in 2017 or earlier (26 DTR J-1, 2/9/15).

- Business tax professionals view business-only or international-only tax reform as more likely than a comprehensive reform affecting both individual and corporate taxation. Sixteen percent of respondents said they think tax reform will affect only corporations, all businesses including passthroughs (22 percent) or international (22 percent), while 40 percent said they think reform will be comprehensive. In the January

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

2015 Barometer, which didn't include the option for an international only reform, 12 percent and 47 percent of respondents said they thought tax reform would affect only corporations or all businesses including pass-throughs, respectively, while 40 percent said they thought reform would be comprehensive.

- Most respondents (61 percent) said they expect tax reform will be revenue neutral, rather than raise revenue, 30 percent said they believe it will raise revenue, and 9 percent said they think it will reduce revenue. While this finding is consistent with the January 2015 and October 2014 Barometers, 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 25 percent that the House Ways and Means Committee chairman will release a specific tax reform plan by the end of 2015, down from a 50 percent median likelihood in the January 2015 Barometer. Tax professionals provided medians of 10 percent and 1 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, and respondents gave a zero percent median likelihood that the House will pass tax reform legislation.

- Respondents said they thought it almost equally likely (20 percent median likelihood) that the Senate Finance Committee chairman will release a specific tax reform plan by the end of 2015. They also reported an equal expectation (zero percent median likelihood) that the full Senate will pass tax reform legislation by the end of 2015.

- Barometer participants generally said they thought (80 percent) that the passage of trade promotion authority (TPA) by Congress wouldn't make tax reform more likely. Respondents gave a 72 percent likelihood that the Trans-Pacific Partnership (TPP) trade agreement will happen in 2017 or earlier, and they said they believe 2015 and 2016 are the most likely years for the TPP to be enacted with a 28 percent likelihood.

- Respondents said they thought it less likely (60 percent likelihood) that the Transatlantic Trade and Investment Partnership (TTIP) will be enacted in 2017 or earlier, with most respondents reporting they believe 2017 to be the most likely year with a 24 percent likelihood.

- Respondents said they think the OECD base erosion and profit shifting (BEPS) project will result in the most significant change in global income taxation in the year 2017 (35 percent median response) as compared to 2015 (5 percent median expectation), 2016 (20 percent median expectation), 2018 (25 percent median expectation) or not at all (25 percent median expectation).

- Fifty-four percent of business professionals said they believe that tax revenues will be raised for the Highway Trust Fund and related infrastructure spending. Respondents indicated that funding is most likely thought to be provided by miscellaneous measures (50 percent) or an increase in gas tax (20 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 again; they said they found it more likely (69 percent average response) that the tax provisions will be extended in the second half of 2015 than in the first half of 2015 (9 percent average response). Others said they anticipate extensions occurring in 2016 or later, or not at all (average responses of 19 percent and 4 percent, respectively).

Prospects and Timing of Federal Tax Reform

The June 2015 Barometer assessed business tax professionals' views on the likelihood of tax reform, the TPA trade agreements, the OECD BEPS project and expiring business tax provisions. The median response was a 25 percent likelihood that the incoming Ways and Means Committee chairman will release a specific tax reform plan before the end of next year, down from a 50 percent median likelihood reported in the January 2015 Barometer.

The median expectation for a Ways and Means Committee markup of tax reform legislation is 10 percent, while the median expectation for the committee to pass this legislation is 1 percent. Respondents were even less optimistic regarding whether the full House would approve tax reform legislation (median zero percent expectation).

The median expectation for a Ways and Means Committee markup of tax reform legislation is 10 percent, while the median expectation for the committee to pass this legislation is 1 percent.

Barometer respondents said they believe that the Senate is almost equally likely to release a specific tax reform plan as the House. They gave a median expectation of 20 percent that the Senate Finance Committee chairman would release a tax reform plan, down from 50 percent reported in the January 2015 Barometer, and a median expectation of 9 percent that the committee would begin a markup. Responses indicated the perceived likelihood for passage through the committee and the full Senate is the same (median zero percent expectation).

Median Expectations for Action by End of 2015

	House	Senate
Tax-writing committee chairman releases tax reform plan	25%	20%
Tax-writing committee begins markup of tax reform legislation	10%	9%
Tax-writing committee approves tax reform legislation	1%	0%
Chamber passes tax reform legislation	0%	0%

Business tax professionals gave a 4 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 6 percent likelihood that tax reform will happen in 2016, a 31 percent likelihood in 2017, a 26 percent likelihood in 2018, and a 13 percent likelihood in 2019. The respondents have decreased their expectations of no federal tax reform in the foreseeable future from 26 percent for the October 2014 Barometer to 20 percent in the June 2015 Barometer.

Respondents were also asked about the passage of TPA. Eighty percent of respondents indicated that the passage of TPA by the Congress wouldn't make tax reform more likely. Respondents found it equally likely (28 percent average response) that the TPP trade agreement will be enacted in 2015 or 2016. Others said they anticipate the enactment in 2017 (16 percent average response), 2018 (9 percent average response), 2019 (6 percent average response) or not at all (11 percent average response).

Respondents gave similar responses when asked about the likelihood that the TTIP will be enacted in the next few years, with most reporting they believe 2017 to be the most likely year for enactment with a 24 percent average likelihood.

Average Expectations for Trade Agreement Timing

Expected year of enactment	TPP	TTIP
2015	28%	14%
2016	28%	22%
2017	16%	24%
2018	9%	16%
2019	6%	9%
Not in the next 5 years	11%	15%

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:

- Most respondents (61 percent) said they expect tax reform will be revenue neutral, rather than raise revenue, 30 percent said they believe it will raise revenue, and 9 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.

- Business tax professionals said they view business-only or international-only tax reform as more likely than a comprehensive reform affecting both individual and corporate taxation. Sixteen percent of respondents think tax reform will affect only corporations, all businesses including passthroughs (22 per-

cent) or international (22 percent), while 40 percent think reform will be comprehensive. In the January 2015 Barometer, which didn't include the option for an international-only reform, 12 percent and 47 percent of respondents thought tax reform would affect only corporations or all businesses including passthroughs, respectively, while 41 percent thought reform would be comprehensive.

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

The June 2015 Barometer included questions on the OECD BEPS project and expiring business tax provisions.

Respondents were asked about the likelihood that the 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 38 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 named.

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 49 percent said think the U.S. will adopt new rules to establish a patent box/intellectual property box, and 48 percent said they think Subpart F will be influenced.

Expectations BEPS Will Influence U.S. Rules

	Yes	No
Limiting the deductibility of interest	44%	56%
Patent box/IP box	49%	51%
Definition of permanent establishment/ threshold for taxable nexus in a country	36%	64%
Subpart F	48%	53%

At the end of last year, 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 again; they said they found it more likely (69 percent average response) that the tax provisions will be extended in the second half of 2015 than in the first half of 2015 (9 percent average response). Others said they anticipate extensions occurring in 2016 or later, or not at all (average responses of 19 percent and 4 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-four percent said they believe Congress will raise tax revenues, and 46 percent said they believe tax revenues won't be increased.

Those who answered that they expected an increase were asked a follow-up question regarding funding

Average Expectations for Timing of Tax Reform Enactment

Expected year of tax reform enactment	2014	2015	2016	2017	2018	No reform in 5 years
June 2015	NA	4%	6%	31%	26%	20%
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%

means; 20 percent said they think an increase in gas tax would be the most likely way to provide funding, 11 percent said they believe funding will come from a repatriation holiday, and 18 percent said they agree that international tax reform would provide funding. Fifty percent suggested other sources, such as miscellaneous compliance measures.

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.