

TAX POLICY FORECAST SURVEY

MARCH 2012

MILLER
CHEVALIER

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Miller & Chevalier Chartered

Executive Summary

To better assess how changing tax policy will impact the business community, **Miller & Chevalier's 2012 Tax Policy Forecast Survey** was designed to measure the current perspectives and attitudes of leading business tax executives on the direction of tax policy in 2012. This sixth annual study included respondents from a broad cross-section of large U.S.-based and foreign-based multinationals and major trade associations.

Respondents to the sixth annual survey anticipate a very modest tax legislative agenda for the remainder of 2012. In this regard, despite indications that both the Administration and Congress have an interest in pursuing fundamental tax reform, no respondents believe that such reform will be enacted in 2012.

The pending Presidential and Congressional elections are the most significant factor affecting the short-term tax legislative agenda. Further, respondents believe that the elections, coupled with the current split in Congressional control, mean a very real possibility for no additional tax legislation enacted this year, which, among other things, would result in the expiration of a number of important items, including the 2001/2003 individual tax cuts.

Highlights of Miller & Chevalier's 2012 Tax Policy Forecast Survey include:

- Respondents named the corporate tax rate (31 percent of those responding) and U.S. taxation of international operations (30 percent of the respondents) as their top two business tax concerns in 2012.
- Business tax executives prefer a Mitt Romney Administration for his favorable tax policy for business income, fundamental tax reform and international competitiveness, but believe President Obama will retain the White House. They predict the Republican Party will retain a majority in the House and gain a majority in the Senate.
- No respondents believe that fundamental tax reform is likely in 2012. However, they are hopeful for tax reform in 2013 or 2014.
- Survey respondents do not see a long-term agreement on the 2001/2003 individual tax cuts as likely in 2012.
- An increase in the U.S. taxation of international operations (62 percent), industry-specific taxes or fees (51 percent), and reductions in spending (33 percent) are named as the leading sources to be tapped to fund Congressional initiatives in 2012.
- Sixty-one percent of respondents think that the pending Presidential and Congressional elections will have the most significant impact on tax policy in 2012, followed by the split in Congressional control (17 percent). Only seven percent of respondents said Obama Administration priorities would be the biggest factor in tax policy changes.

Verbatims

Respondents were asked to share their thoughts on legislative tax issues in an open forum section of the survey designed to elicit comments and specific feedback. The following represent select verbatims received.

What tax issues are you most concerned about in 2012?

- *The continued short term fixes in the code.*
- *Expiration of most of the tax code at the end of the year with no certainty for 2013 and beyond.*
- *The taxation of U.S.-based multinational businesses.*
- *Tax reform.*
- *Corporate rate reduction is our top company priority. We would like this “paid for” with policy that does not provide incentives for multinationals to park profits overseas.*








Are there any specific changes you think should be made to the current tax structure for business income?

- *Move to a true territorial system for active foreign earnings.*
- *Reduce the corporate tax rate so we are competitive and bring jobs back to the U.S.*
- *Look at other revenue options that are less detrimental to international business decisions. Overall level of spending needs to come down closer to historic norms versus GDP.*
- *U.S.-based corporations should be able to repatriate earnings more efficiently without the constraints of residual U.S. tax and without the constraints of the so-called permanent reinvestment GAAP rules under APB 23. Both of these rules “conspire” to make U.S.-based multinationals less efficient economic entities than many similarly situated foreign-based multinationals.*
- *Reduction of the federal tax rate to 25 percent or lower.*
- *Broaden the base and lower the rates.*
- *Provide WTO-compliant incentives for creating and maintaining businesses and jobs in the U.S. The most effective means to achieve this goal would be to reduce the U.S. corporate income tax rate, reduce incentives to shift business/jobs offshore and provide targeted incentives for property (including intangibles) created and owned in the U.S.*

2012 Tax Policy Forecast Survey Results

Respondents were asked to complete a short questionnaire designed to measure their thoughts and perspectives on the direction of tax policy for business in 2012. The following charts represent the collective input of 180 respondents to the survey. A full overview of the survey methodology can be found at the end of this report.

1. What is your top business tax concern for 2012?

Responses	Count	%	Percentage of total respondents					
Financial statement disclosure issues (FIN 48/Schedule UTP)	19	10.56%						
Corporate tax rate	56	31.11%						
Taxation of international operations	53	29.44%						
Research and experimentation and other tax credits	4	2.22%						
Employee benefits and executive compensation	10	5.56%						
Expiration of the traditional "extenders" package	17	9.44%						
Pending expiration of the 2001/2003 reduced tax rates for individual income, capital gains and dividends	21	11.67%						
Total Responses	180		<table border="1"> <tr> <td>20%</td> <td>40%</td> <td>60%</td> <td>80%</td> <td>100%</td> </tr> </table>	20%	40%	60%	80%	100%
20%	40%	60%	80%	100%				

- In 2010 and 2011, the U.S. taxation of international operations topped the list of business tax concerns but has been trumped this year by concerns about the corporate tax rate. This shift may in part be a reaction to the upcoming April 1st reduction in Japan's corporate tax rate, at which point the United States will have the highest corporate tax rate among its major trading partners.

2. What will have the most significant impact on tax policy in 2012?

Responses	Count	%	Percentage of total respondents					
Obama Administration priorities	12	6.67%						
Split in Congressional control	30	16.67%						
Continued focus on the economic downturn	8	4.44%						
Global competitiveness issues	3	1.67%						
Federal budget deficit/PAYGO	17	9.44%						
Pending Presidential and Congressional elections	110	61.11%						
Total Responses	180		<table border="1"> <tr> <td>20%</td> <td>40%</td> <td>60%</td> <td>80%</td> <td>100%</td> </tr> </table>	20%	40%	60%	80%	100%
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- The number of respondents who believe the Obama Administration’s priorities are driving tax policy continued to decline, down to single digits from 40 percent two years ago, possibly demonstrating a drop in the perceived influence of the Administration.
- The pending Presidential and Congressional elections, coupled with the split in Congressional control, will likely put a significant damper on the tax legislative agenda for the remainder of 2012.

3. The Democratic Party controls the U.S. Senate while the Republican Party controls the U.S. House of Representatives. What impact will the split in Congressional control have in 2012?

Responses	Count	%	Percentage of total respondents
Bipartisan tax legislation	1	0.56%	
Little or no tax legislation as a result of Congressional "gridlock"	143	79.44%	
Modest tax legislation	32	17.78%	
Substantive fundamental tax reform discussions	4	2.22%	
Enactment of fundamental tax reform legislation	0	0%	
Total Responses	180		20% 40% 60% 80% 100%









- Echoing their sentiments from the previous question, respondents believe that we will see little to no tax legislation for the remainder of the year (79 percent).

**4. Which individuals will have the most significant impact on tax policy in 2012?
(Rank top three with number one being most influential)**


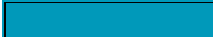




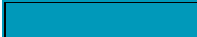

Responses	Rank 1	Rank 2	Rank 3	Weighted Rank (Score)
President Barack Obama	89	20	32	1 (339)
Representative Dave Camp	47	47	28	2 (263)
Senator Max Baucus	24	57	48	3 (234)
Treasury Secretary Timothy Geithner	6	26	22	4 (92)
IRS Commissioner Douglas Shulman	7	8	12	5 (49)
Senator Orrin Hatch	0	11	21	6 (43)
Assistant Secretary (Tax Policy) (Acting) Emily McMahon	2	3	4	7 (16)
Representative Sander Levin	0	2	5	8 (9)
Assistant Secretary (Tax Policy) (Nominee) Mark Mazur	0	1	3	9 (5)
Total Responses				175

- Although respondents in Question 2 said that they do not believe the Obama Administration's priorities will be as significant as other factors in influencing the tax agenda this year, the President was still clearly viewed as the most influential individual on tax policy.

5. What will be the Obama Administration's tax policy priorities in 2012? (Check all that apply)

Responses	Count	%	Percentage of total respondents
Economic stimulus legislation	106	58.89%	
Traditional "extenders" package	59	32.78%	
Energy and climate-related tax legislation	52	28.89%	
Fundamental reform of the tax code	27	15.00%	
Extension of the 2001/2003 tax cuts	32	17.78%	
Extension of the AMT patch	55	30.56%	
Extension of payroll tax relief legislation	114	63.33%	
Other (please specify)	23	12.78%	
Total Responses	468		20% 40% 60% 80% 100%









6. What will be Congress' tax policy priorities in 2012? (Check all that apply)

Responses	Count	%	Percentage of total respondents
Economic stimulus legislation	54	30.00%	
Traditional "extenders" package	104	57.78%	
Energy and climate-related tax legislation	7	3.89%	
Fundamental reform of the tax code	34	18.89%	
Extension of the 2001/2003 tax cuts	101	56.11%	
Extension of the AMT patch	91	50.56%	
Extension of payroll tax relief legislation	97	53.89%	
Other (please specify)	7	3.89%	
Total Responses	495		20% 40% 60% 80% 100%

- Though priorities are different than last year, questions five and six show a similar divide between the perceived tax legislative agendas of the Administration and Congress. This year, respondents believe that the Administration will continue to prioritize economic stimulus legislation, whereas Congress will focus on extension of expired or expiring tax provisions.
- Respondents this year see a significantly greater emphasis on the tax “extenders” package than they have in the past. Timely extension of this package has been an ongoing concern to the business community.







Note: Payroll tax relief legislation was signed into law after the 2012 Miller & Chevalier Tax Policy Forecast Survey was launched.

7. What tax legislation do you expect to be enacted into law in 2012? (Check all that apply)

Responses	Count	%	Percentage of total respondents					
Economic stimulus legislation	19	10.56%						
Traditional "extenders" package	88	48.89%						
Energy and climate-related tax legislation	5	2.78%						
Fundamental reform of the tax code	0	0%						
Extension of the 2001/2003 tax cuts	35	19.44%						
Extension of the AMT patch	71	39.44%						
Extension of payroll tax relief legislation	110	61.11%						
No significant tax legislation	54	30.00%						
Other (please specify)	6	3.33%						
Total Responses	388		<table border="1"> <tr> <td>20%</td> <td>40%</td> <td>60%</td> <td>80%</td> <td>100%</td> </tr> </table>	20%	40%	60%	80%	100%
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- Despite the fact that there have already been several attempts this year, to enact an “extenders” package, only 50 percent of the respondents believe that such a package will be enacted in 2012.
- No respondents see fundamental tax reform as likely this year. Rather, they believe the remaining 2012 tax agenda will be rather modest, potentially focusing on extension of various tax relief measures.
- Fewer respondents than last year believe economic stimulus legislation is likely in 2012 (97 percent in 2009; 55 percent in 2010; 34 percent in 2011; 11 percent in 2012).

8. The reduced individual income tax rates, as well as the reduced capital gains and dividend rates originally enacted as part of the 2001/2003 tax legislation, are scheduled to expire at the end of 2012. What do you expect to be enacted into law with respect to these reduced rates by the end of 2012?

Responses	Count	%	Percentage of total respondents
No legislation (rates expire at the end of 2012)	61	33.89%	
Short term (i.e., one or two year) extension of the rates for all taxpayers	65	36.11%	
Short term (i.e., one or two year) extension of the rates for lower and middle income taxpayers	46	25.56%	
Long term (greater than two years) extension of the rates for all taxpayers	1	0.56%	
Long term (greater than two years) extension of the rates for lower and middle income taxpayers	3	1.67%	
Other (please specify)	4	2.22%	
Total Responses	180		20% 40% 60% 80% 100%







- Respondents say no legislation on the 2001/2003 individual tax cuts (resulting in their expiration) is about as likely as a short-term extension. How Congress addresses the 2001/2003 tax legislation in 2012 will certainly impact the prospects for fundamental tax reform in 2013.

9. Which of the following revenue sources do you believe will be among the leading sources tapped to pay for Congressional tax initiatives in 2012? (Check all that apply)

Responses	Count	%	Percentage of total respondents					
Elimination or reduction of the domestic manufacturing deduction under Section 199	45	25.42%						
Increase in the taxation of international operations (e.g., reduction in foreign tax credits, elimination of deferral, or transfer pricing changes)	110	62.15%						
Limitations on executive compensation	23	12.99%						
Industry specific taxes or fees	90	50.85%						
Reductions in spending	58	32.77%						
Other (please specify)	16	9.04%						
Total Responses	342		<table border="1"> <tr> <td>20%</td> <td>40%</td> <td>60%</td> <td>80%</td> <td>100%</td> </tr> </table>	20%	40%	60%	80%	100%
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- For the third year in a row, respondents believe an increase in the U.S. taxation of international operations (62 percent) is likely to be a source to pay for any current year tax initiatives. Respondents are concerned about international revenue raisers, particularly given the introduction of new proposals in the Administration’s FY 2013 budget and its recently released “business tax reform framework.”
- One-third of respondents believe Congress may look at reductions in spending to pay for tax initiatives, down from 48 percent in 2011.

10. Which of the following revenue sources do you believe will have the most unfavorable impact on your business? (Check all that apply)

Responses	Count	%	Percentage of total respondents					
Elimination or reduction of the domestic manufacturing deduction under Section 199	42	23.46%						
Increase in the taxation of international operations (e.g., reduction in foreign tax credits, elimination of deferral, or transfer pricing changes)	86	48.04%						
Limitations on executive compensation	19	10.61%						
Industry specific taxes or fees	87	48.60%						
Reductions in spending	16	8.94%						
Other (please specify)	16	8.94%						
Total Responses	266		<table border="1"> <tr> <td>20%</td> <td>40%</td> <td>60%</td> <td>80%</td> <td>100%</td> </tr> </table>	20%	40%	60%	80%	100%
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- As in 2011, respondents continue to be very concerned about the U.S. taxation of international operations.
- Several respondents wrote that LIFO repeal would have a significant negative impact on their businesses.

11. Which new revenue proposal in the Administration's Fiscal Year 2013 budget proposal is of greatest concern to you?

Responses	Count	%	Percentage of total respondents					
Increased tax rates on income, capital gains and dividends for "upper-income taxpayers"	70	40.46%						
Disallowance of deductions for expenses paid or incurred in connection with the "outsourcing" of a U.S. trade or business	29	16.76%						
Limitation on the application of the domestic production deduction with respect to certain non-manufacturing activities	19	10.98%						
Preventing use of leveraged distributions from related foreign corporations to avoid dividend treatment	9	5.20%						
Removing foreign taxes paid from a Section 902 corporation's foreign tax pool when earnings and profits are eliminated	17	9.83%						
Other (please specify)	29	16.76%						
Total Responses	173		<table border="1"> <tr> <td>20%</td> <td>40%</td> <td>60%</td> <td>80%</td> <td>100%</td> </tr> </table>	20%	40%	60%	80%	100%
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- Interestingly, respondents are focused on the impact of the new individual tax increases proposed by the Administration in the FY 2013 budget. Although the budget proposed several foreign tax credit changes, these do not appear to be as significant of a concern.

12. Many believe that the U.S. tax code is in need of fundamental reform. If such reform does not occur in 2012, which of the following will be the contributing factors? (Check all that apply)

Responses	Count	%	Percentage of total respondents
Lack of Administration interest	46	25.56%	
Lack of Congressional interest	25	13.89%	
Competing legislative priorities	81	45.00%	
Budgetary constraints	44	24.44%	
Lack of public support	18	10.00%	
Lack of public agreement on the appropriate reforms	46	25.56%	
Pending Presidential and Congressional elections	158	87.78%	
Total Responses	418		20% 40% 60% 80% 100%







- Beyond the pending elections (88 percent), the fact that Congress has to focus its attention on competing legislative priorities such as the extension of expired or expiring tax provisions (45 percent), makes it less likely Congress will have time to address fundamental tax reform in 2012.

13. What study/proposal will have the most significant impact on advancing the tax reform debate?

Responses	Count	%	Percentage of total respondents					
The Bipartisan Tax Fairness and Simplification Act (Senators Wyden and Coats)	13	7.98%						
The Debt Reduction Task Force Report (Domenici/Rivlin)	4	2.45%						
The National Commission on Fiscal Responsibility and Reform (Bowles/Simpson)	48	29.45%						
The Committee on Ways and Means International Tax Reform Discussion Draft (Representative Camp)	45	27.61%						
The "Gang of Six" Proposal	19	11.66%						
The President's Economic Advisory Board Report on Tax Reform Options	12	7.36%						
Discussions of (and recommendations to) the Joint Select Committee on Deficit Reduction (the "Super Committee")	20	12.27%						
The United States Job Creation and International Tax Reform Act of 2012 (Senator Enzi)	2	1.23%						
Total Responses	163		<table border="1"> <tr> <td>20%</td> <td>40%</td> <td>60%</td> <td>80%</td> <td>100%</td> </tr> </table>	20%	40%	60%	80%	100%
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



- Although the Bowles/Simpson Commission report did not garner enough support to force a Congressional vote, it continues to attract significant interest among the tax community (29 percent), as does Chairman Camp's proposal (28 percent).

14. What study/proposal will have the most significant impact on advancing the tax reform debate?

Responses	Count	%	Percentage of total respondents					
Change in the White House	79	44.38%						
Change in control of the U.S. Senate	28	15.73%						
Change in control of the U.S. House of Representatives	20	11.24%						
Administration proposal on tax reform	4	2.25%						
Significant issue in pending Presidential/Congressional elections	24	13.48%						
Inclusion in deficit reduction efforts	23	12.92%						
Total Responses	178		<table border="1"> <tr> <td>20%</td> <td>40%</td> <td>60%</td> <td>80%</td> <td>100%</td> </tr> </table>	20%	40%	60%	80%	100%
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





- Respondents say a change in the White House would benefit the tax reform debate, which is likely due in part to the perceived lack of Administration prioritization of the issue. It should be noted that subsequent to the launch of the Miller & Chevalier Tax Policy Survey, the Administration did release its “business tax reform framework,” although the lack of detail in that proposal may not address respondents’ concerns regarding the priority the Obama Administration assigns to tax reform.

15. When do you expect fundamental tax reform to be enacted?







Responses	Count	%	Percentage of total respondents					
2012	0	0%						
2013	56	31.28%						
2014	59	32.96%						
2015	11	6.15%						
Beyond 2015	20	11.17%						
Never	15	8.38%						
Unsure	18	10.06%						
Total Responses	179		<table border="1"> <tr> <td>20%</td> <td>40%</td> <td>60%</td> <td>80%</td> <td>100%</td> </tr> </table>	20%	40%	60%	80%	100%
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- Even though the business community is calling for fundamental tax reform, zero respondents believe it will happen this year. However, there is reasonable optimism for tax reform in the next two years, depending on the next Administration and its priorities.







16. If elected (or re-elected) President, who do you think would have the most favorable tax policy for business income?

Responses	Count	%	Percentage of total respondents
Barack Obama	11	6.18%	
Mitt Romney	119	66.85%	
Newt Gingrich	24	13.48%	
Rick Santorum	14	7.87%	
Ron Paul	8	4.49%	
Other (please specify)	2	1.12%	
Total Responses	178		20% 40% 60% 80% 100%

17. If elected (or re-elected) President, who do you think would have the least favorable tax policy for business income?






Responses	Count	%	Percentage of total respondents
Barack Obama	153	85.00%	
Mitt Romney	3	1.67%	
Newt Gingrich	4	2.22%	
Rick Santorum	8	4.44%	
Ron Paul	11	6.11%	
Other (please specify)	1	0.56%	
Total Responses	180		20% 40% 60% 80% 100%

18.If elected (or re-elected) President, who do you think is more likely to make fundamental tax reform a priority of their Administration?






Responses	Count	%	Percentage of total respondents					
Barack Obama	37	20.56%						
Mitt Romney	80	44.44%						
Newt Gingrich	26	14.44%						
Rick Santorum	11	6.11%						
Ron Paul	20	11.11%						
Other (please specify)	6	3.33%						
Total Responses	180		<table border="1"> <tr> <td>20%</td> <td>40%</td> <td>60%</td> <td>80%</td> <td>100%</td> </tr> </table>	20%	40%	60%	80%	100%
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19. For each Presidential candidate, select the tax policies you believe would be a priority for his Administration.






a. Fundamental tax reform

Responses	Count	%	Percentage of total respondents
Barack Obama	62	38.27%	
Mitt Romney	109	67.28%	
Newt Gingrich	94	58.02%	
Rick Santorum	73	45.06%	
Ron Paul	89	54.94%	






b. Extension of the 2001/2003 tax cuts

Responses	Count	%	Percentage of total respondents
Barack Obama	11	7.01%	
Mitt Romney	136	86.62%	
Newt Gingrich	125	79.62%	
Rick Santorum	121	77.07%	
Ron Paul	69	43.95%	






c. Economic stimulus legislation

Responses	Count	%	Percentage of total respondents
Barack Obama	136	87.18%	
Mitt Romney	48	30.77%	
Newt Gingrich	28	17.95%	
Rick Santorum	28	17.95%	
Ron Paul	15	9.62%	

d. International competitiveness

Responses	Count	%	Percentage of total respondents
Barack Obama	38	25.68%	
Mitt Romney	130	87.84%	
Newt Gingrich	93	62.84%	
Rick Santorum	72	48.65%	
Ron Paul	48	32.43%	



e. Energy and climate-related tax legislation

Responses	Count	%	Percentage of total respondents
Barack Obama	140	93.33%	
Mitt Romney	16	10.67%	
Newt Gingrich	12	8.00%	
Rick Santorum	9	6.00%	
Ron Paul	11	7.33%	



- Respondents point to Mitt Romney as the candidate most likely to prioritize tax issues of interest to them, including favorable tax policy for business income, fundamental tax reform and international competitiveness.

20. What is your prediction as to the outcome of the 2012 Presidential and Congressional elections? Select one political party for each office/chamber.



a. White House

Responses	Count	%	Percentage of total respondents
Republican Control	57	32.20%	
Democratic Control	120	67.80%	
Total Responses	177		20% 40% 60% 80% 100%

b. U.S. Senate

Responses	Count	%	Percentage of total respondents
Republican Control	105	59.32%	
Democratic Control	72	40.68%	
Total Responses	177		20% 40% 60% 80% 100%

c. U.S. House of Representatives

Responses	Count	%	Percentage of total respondents
Republican Control	157	89.20%	
Democratic Control	19	10.80%	
Total Responses	176		20% 40% 60% 80% 100%

- While respondents say a change in White House control would benefit significant business tax reform, they do not anticipate new leadership in 2013. However, they believe the Republicans will hold majorities in both chambers of Congress coming out of the next elections.

Methodology

In early 2012, Miller & Chevalier distributed a survey via e-mail to leading business tax executives, including Vice Presidents, Managers and Directors of Tax at a broad cross-section of large U.S.-based and foreign-based multinationals and major trade associations.










The survey was completed by 180 respondents.

The survey was open from February 21 through March 9, 2012.

Due to rounding, all percentages used in all questions may not equal 100 percent. A few small edits were made to select verbatim responses to correct spelling and verb tense.

Percentages added may exceed 100 in questions 5-7, 9, 10, 12 and 19 since a participant could select more than one answer for those questions.

21. Which of the following best describes you?

Responses	Count	%	Percentage of total respondents					
CEO	2	1.11%						
CFO	2	1.11%						
COO	1	0.56%						
President	1	0.56%						
Vice President	59	32.78%						
Director or Manager of Tax	81	45.00%						
Government Affairs Professional	6	3.33%						
In-House Counsel	21	11.67%						
Other (please specify)	7	3.89%						
Total Responses	180		<table border="1"> <tr> <td>20%</td> <td>40%</td> <td>60%</td> <td>80%</td> <td>100%</td> </tr> </table>	20%	40%	60%	80%	100%
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For more information, please contact Marc J. Gerson at (202) 626-1475 or mgeron@milchev.com.