

News Release

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Executives Brace for Tax Increases Amid Historic Turmoil, According to 15th Annual Tax Policy Forecast Survey by Miller & Chevalier and the National Foreign Trade Council

Washington, DC, March 1, 2021 – In the early days of the Biden Administration – and in the wake of the unprecedented political turmoil of recent months – business leaders are bracing for tax increases, especially regarding the corporate tax rate, according to the 2021 Tax Policy Forecast Survey, published today by Miller & Chevalier Chartered and the National Foreign Trade Council (NFTC).

The survey, fielded from the day after the historic events at the U.S. Capitol through the second week of the Biden Administration, found that two-thirds of respondents expect new legislation to be funded by tax increases, whether solo or coupled with spending cuts. Just over half said Congress is most likely to target the corporate tax rate, which President Biden proposed increasing from 21 percent to 28 percent.

"There will be heavy debate and substantial uncertainty for businesses as 2021 moves forward, and the corporate tax rate is clearly the big elephant in the room," said Miller & Chevalier Tax Department Member Loren Ponds, former majority tax counsel to the House of Representatives' Committee on Ways and Means. "As President Biden seeks funding sources for his new policy objectives, increasing the corporate rate would raise substantial revenue."

The survey found a partisan split as 57 percent of Republican and 30 percent of Democrat respondents said legislation unrelated to COVID-19 or economic stimulus will likely be funded by tax increases. Just six percent of Republicans and 21 percent of Democrats surveyed expect spending cuts.

"If there is to be bipartisan cooperation, Democrats may need to make some spending concessions, which would be welcomed by Republicans and the tax community, potentially taking pressure off a corporate tax rate increase and other business tax increases," said Cathy Schultz, National Foreign Trade Council Vice President for Tax Policy. "Thus, policy objectives funded through a combination of tax increases and spending cuts may be the best path forward on any bipartisan legislation enacted this year."

Additional COVID-19 relief (83 percent) and economic stimulus legislation (58 percent) are viewed as the most likely tax relief legislation to be enacted, especially considering that Democrats do not need Republican support under budget reconciliation to pass the President's American Rescue Plan. But with thin congressional margins, even that depends on Democrats maintaining consensus within their entire caucus or on securing Republican votes. Respondents' opinions vary on what factors will have the most substantial impacts on tax policy. Just over 25 percent said that President Biden's election win will have the most positive effect on tax policy, followed by Democratic Senate control. But regarding what could

most negatively impact tax policy, the Democratic Senate (29 percent) and President Biden's win (16 percent) trailed only ongoing COVID-19 challenges (30 percent).

Just 14 percent of respondents said the Treasury Department would actively reevaluate regulations and other administrative guidance issued under the Trump Administration. "Despite significant attention paid to the Biden Administration potentially revisiting regulations issued under the Trump Administration, the survey shows less confidence that this will occur in the tax arena," said Miller & Chevalier Tax Department Member Jorge Castro, former Counselor to the IRS Commissioner. "Respondents believe legislative changes are more likely or they might view the Trump-era tax regulations as neither pro-taxpayer nor pro-government and, therefore, inappropriate targets for reevaluation by the Biden Administration."

Overall, the survey results reflect the respondents' increased concern regarding how the tax legislative agenda unfolds over the course of the year. "The dynamic and ever-changing political environment, combined with the threat of significant business tax increases, has given taxpayers a heightened sense of awareness of tax policy developments," said Miller & Chevalier Tax Department Member Marc Gerson. "Taxpayers are monitoring and reacting to developments on a daily basis. There has never been a more important time to be engaged with policymakers."

Additional survey highlights:

- President Biden's campaign proposals impacting business taxes are on respondents' minds: a proposed increase in the corporate tax rate from 21 percent to 28 percent; 15 percent minimum tax on global book income for companies with net income of more than \$100 million; changes to the GILTI regime; a 10 percent surtax for certain offshoring activities coupled with a 10 percent tax credit for certain onshoring activities; and unspecified financial fees on certain liabilities of financial institutions with over \$50 billion in assets.
- With several TCJA provisions subject to change in the short term, nearly half of respondents believe Congress will address the repeal of a provision mandating amortization of research and development expenses, which historically enjoys bipartisan support and is also a potential fit with President Biden's emphasis on promoting U.S. innovation and job growth. More Democrat (64 percent) than Republican (35 percent) respondents were confident that this provision would be addressed this year.
- Surprisingly, more respondents (46 percent) said Congress is more likely to address the pending bonus depreciation phaseout in the coming year than a pending change in the interest expense deduction limitation (35 percent), despite the latter provision being more imminent.
- Regarding the 2022 midterm elections, 35 percent of respondents believe that Democrats will retain control of both the Senate and the House of Representatives, which would be a historical outlier. Twenty-five percent expect Republicans to take one or both chambers, and 28 percent – perhaps reflecting the uncertainty of the moment – said it is too soon to tell.

A full copy of the survey results and analysis is [available here](#).

About Miller & Chevalier

Founded in 1920, Miller & Chevalier is a Washington, DC law firm with a global perspective and leading practices in Tax, Litigation, International Law, Employee Benefits (including ERISA), White Collar Defense and Internal Investigations, and Government Affairs. Miller & Chevalier is a top-ranked firm sharply focused on targeted areas that interact with the federal government. Over the past three years, the firm's lawyers have represented more than 40 percent of the Fortune 100, one-quarter of the Fortune 500, and approximately 30 percent of the Global 100. A significant number of firm lawyers have held senior positions in the U.S. government and have written many of the regulations they currently help clients navigate. For more information on the firm, visit www.millerchevalier.com.

About the National Foreign Trade Council

The National Foreign Trade Council (www.nftc.org) is a leading business organization advocating an open, rules-based global trading system. Founded in 1914 by a broad-based group of American companies, the NFTC now serves its member companies through its office in Washington, DC.

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