

2016 TAX POLICY FORECAST SURVEY

Miller & Chevalier



Miller & Chevalier Chartered
The National Foreign Trade Council

What keeps tax executives up at night?

"Global taxation of U.S. corporations and the urgent need to pivot to a territorial system."

"Congress will continue to focus on piecemeal legislation rather than build momentum toward tax reform that can occur in 2017 or 2018."

"Continued instability of tax rules, which makes tax planning difficult at best."

"'International-only' tax reform without a decrease in the U.S. corporate rate."

"We'll elect a president who is not committed to advancing tax reform, or worse, derails the effort, as our current president has done."

"Removing credits and deductions without reducing marginal rates enough would be of great concern."

"'Rifle shot' revenue raisers such as arbitrary interest limits or earning stripping proposals that are poorly thought through. More anti-inversion rules that don't address the root cause: an anti-competitive U.S. tax system."

EXECUTIVE SUMMARY

2016: A Year of Discussion, Elections and Extenders

As both the 114th Congress and President Barack Obama's second term come to a close, respondents to the 10th Annual Miller & Chevalier/National Foreign Trade Council (NFTC) Tax Policy Forecast Survey expect 2016 to bring more conversation but little legislative action on tax policy.

In February, House Committee on Ways and Means Chairman Kevin Brady said fresh thinking is needed on how business income is taxed and on how to achieve a more competitive business tax rate — which he suggested may need to be 20 percent or lower. To that end, Chairman Brady intends to release an international tax reform proposal this year. And at some point in the next few months Senate Committee on Finance Chairman Orrin Hatch plans to present a corporate integration plan to eliminate the double taxation of corporate income.

Survey respondents say that the presidential and congressional elections will lead to substantive discussions of comprehensive tax reform. Similarly, recent changes in congressional leadership are perceived as positives for tax policy. Nearly four of 10 respondents identify Representative Paul Ryan's ascension to Speaker of the House as having the single most significant positive impact on tax policy in 2016, followed by the individual actions of Chairman Brady and President Barack Obama.

Despite the increasing rhetoric, none of this year's survey respondents believe tax reform will happen in 2016. An overwhelming number of respondents (82 percent) believe there will be no tax legislation at all this year. And, while believing that changes in government leadership should positively impact the likelihood of tax reform, respondents remain unsure whether tax reform will happen in the near future. Respondents are evenly divided as to whether tax reform will be enacted in 2017 or 2018, and almost 11 percent believe it will never happen.

Tax executives say divided government is one of the major impediments to enacting tax reform legislation. Nearly 90 percent believe that tax reform is most likely if Republicans control both the House and the Senate; just 7 percent think Democratic control of both houses of Congress would yield progress. Just over half the respondents predict that Republicans are likely to keep control of the House and Senate, and that former Secretary of State Hillary Clinton will win the presidency.

Notably, and within the tax reform debate, there is a deep concern that the statutory rate will not be sufficiently reduced. If tax reform progresses, respondents identify the top statutory corporate rate most likely to result as either 25 percent or 28 percent and the top statutory individual rate as 35 percent.

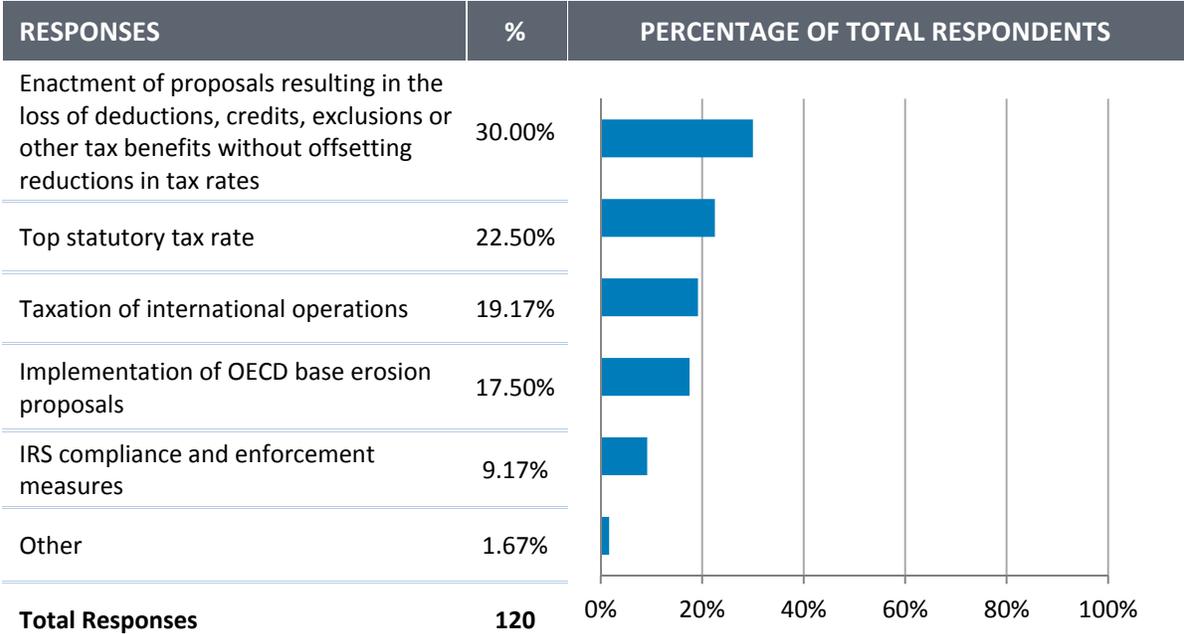
Tax executives believe that Congress will again extend the temporary tax provisions that weren't made permanent by the year-end Protecting Americans From Tax Hikes (PATH) Act of 2015. But most respondents (55 percent) believe that Congress will do so only when or after those provisions expire, suggesting that the provisions may lapse before being extended on a retroactive basis. Respondents also believe that Congress will continue to delay the effective dates of tax provisions from the Patient Protection and Affordable Care Act that were temporarily delayed by the PATH Act of 2015. Respondents overwhelmingly (61 percent) believe that Congress will continue to delay the effective date of these provisions before ultimately repealing them.

In sum, respondents see potential in new congressional leadership that has demonstrated an ongoing interest in tax reform. But respondents recognize that the 2016 election may ultimately decide whether tax reform happens in the next Congress and — if it does — what that reform will look like.

2016 Tax Policy Forecast Survey Results

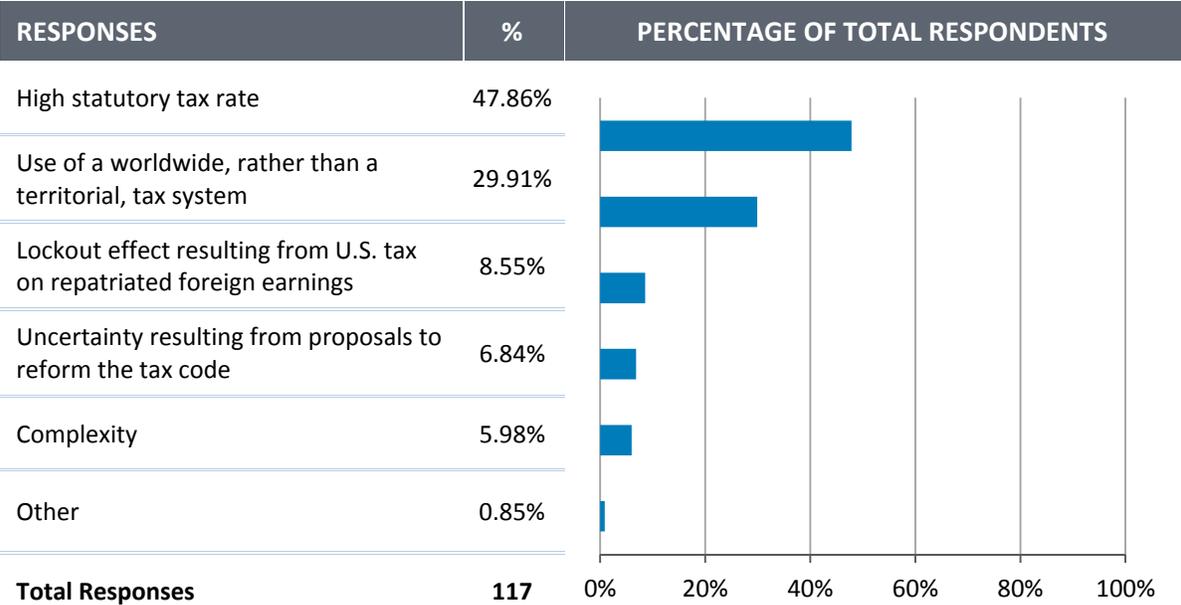
Respondents were asked to complete a questionnaire designed to measure their thoughts and perspectives on the direction of business tax policy in 2016. The following charts represent their collective input. The survey methodology can be found at the end of this report.

Q1. What is your top business tax concern in 2016?



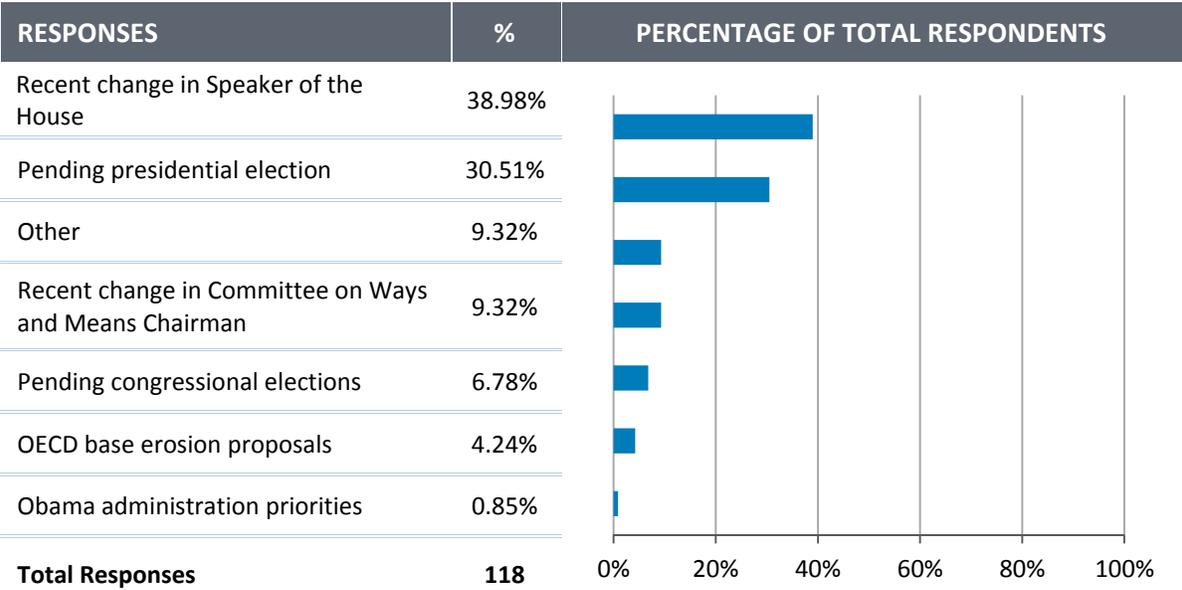
- As in prior years, the enactment of revenue-raising provisions without offsetting tax rate reductions is the top concern for businesses — a potentially well-founded worry given the large number of revenue-raising proposals contained in former House Committee on Ways and Means Chairman Dave Camp’s Tax Reform Act of 2014 and President Obama’s fiscal year 2017 budget proposal.
- Additionally, respondents clearly continue to worry about remaining competitive internationally. Over the last three years, an average of 21 percent of respondents said taxation of international operations was their highest concern.

Q2. What aspect of the current U.S. tax system do you believe has the greatest impact on the global competitiveness of U.S. businesses?

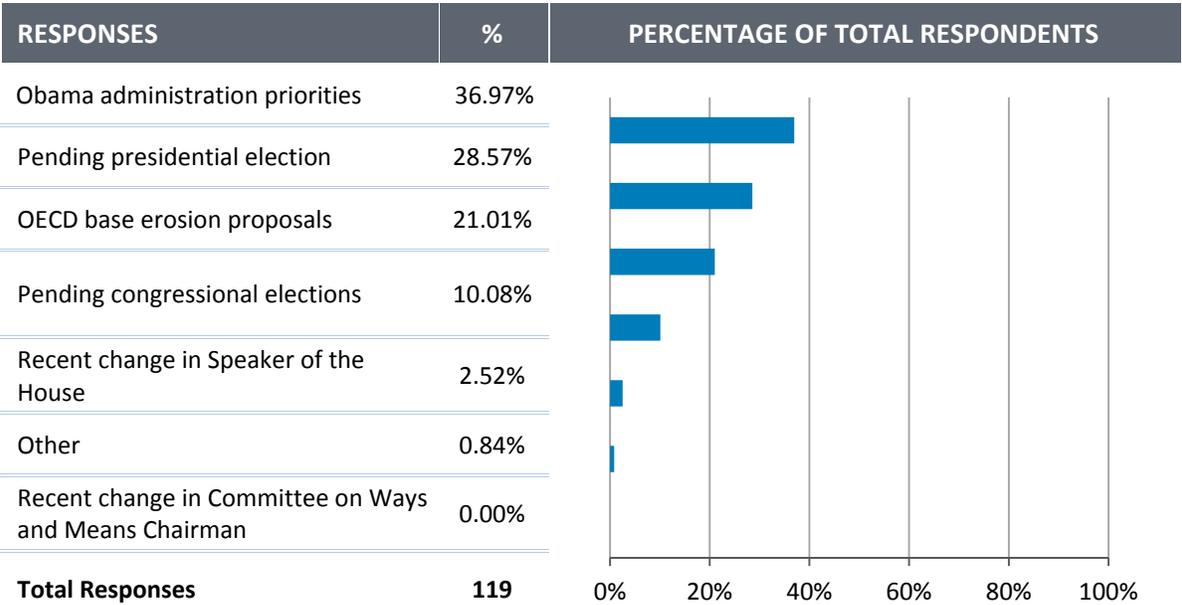


- There is obvious concern that the U.S. tax rate reduces the global competitiveness of domestic businesses. And even if the current 35 percent statutory corporate rate were cut to the 25 percent corporate rate proposed in the Tax Reform Act of 2014, the U.S. would still be at a competitive disadvantage in comparison to its major trading partners.
- In light of the growing recognition that a 25 percent corporate tax rate may not be sufficient, Chairman Brady recently said that he “wants to go a lot lower,” suggesting a target rate of 20 percent or less.

Q3. What single factor will have the most significant positive impact on tax policy in 2016?



Q4. What single factor will have the most significant negative impact on tax policy in 2016?



- When named Chairman of the House Committee on Ways and Means in late 2014, current Speaker of the House Ryan planned to make tax reform a top priority. He has continued to articulate an interest in tax reform, especially in international reform. Not surprisingly, Speaker Ryan’s ascension to his current leadership role is viewed by respondents as the most significant positive factor affecting tax policy this year — even more than the presidential election.

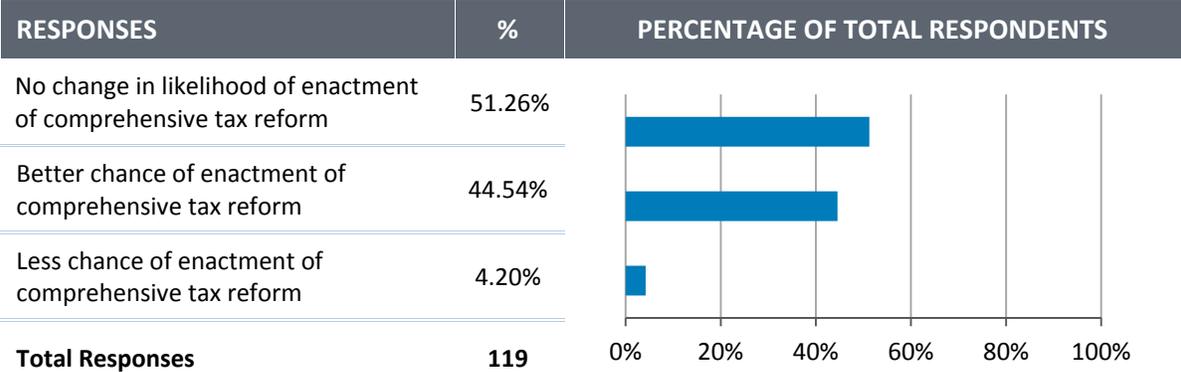
- Also not surprisingly, the Obama administration again tops the list of negative influencers, though only 37 percent of respondents say so this year — down from 71 percent in 2015. Tax reform — and tax policy generally — has not been a top priority for the Obama administration. Unlike his 2015 State of the Union address, wherein President Obama did mention his business-centered tax reform plan, he omitted tax reform altogether in his final address.

Q5. Who will have the most significant impact on tax policy in 2016? (Rank top three with number one being most influential)

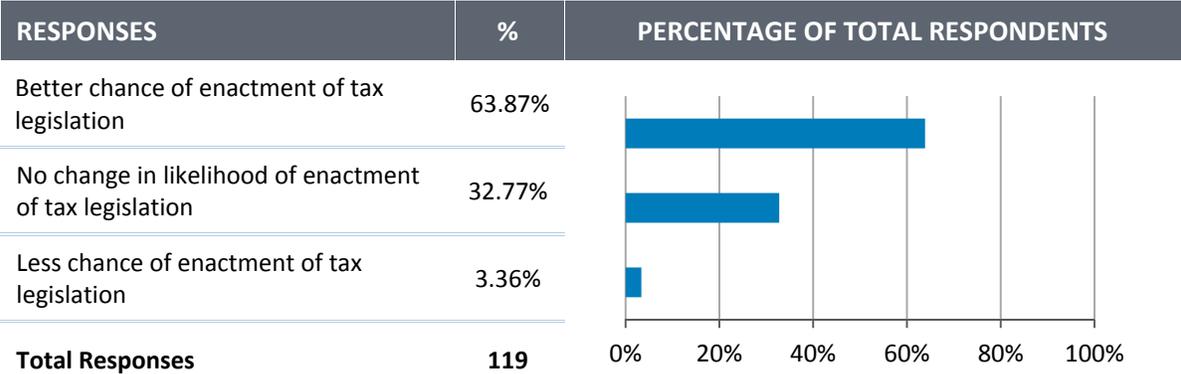
RESPONSES	RANK 1	RANK 2	RANK 3	WEIGHTED RANK (SCORE)
Speaker of the House Paul Ryan	71	23	13	1 (272)
House Committee on Ways and Means Chairman Kevin Brady	15	50	17	2 (162)
President Barack Obama	20	16	19	3 (111)
Senate Committee on Finance Chairman Orrin Hatch	4	20	38	4 (90)
Treasury Department Secretary Jack Lew	3	4	6	5 (23)
Assistant Treasury Department Secretary (Tax Policy) Mark Mazur	3	0	9	6 (18)
Senate Committee on Finance Ranking Member Ron Wyden	0	2	10	7 (14)
House Committee on Ways and Means Ranking Member Sander Levin	2	2	3	8 (13)
Other	2	3	1	8 (13)
Minority Leader Nancy Pelosi	0	0	4	9 (4)
Total Responses				120

- For the second year in a row, respondents believe Speaker Ryan is the person to watch on tax policy in the coming year. Chairman Brady jumps into the second spot, having recently told *Politico*, “I intend to have a vote on international tax reform this year in the Ways and Means Committee — then we’re going to lay the foundation for what I call a tax code built for growth.”
- President Obama, seen as the third most significant influence on tax policy in 2016, held the second-place ranking on this list the previous two years.

Q6. In the fall of 2015, Representative Paul Ryan replaced Representative John Boehner as Speaker of the House. What impact do you believe this will have on comprehensive tax reform in 2016?

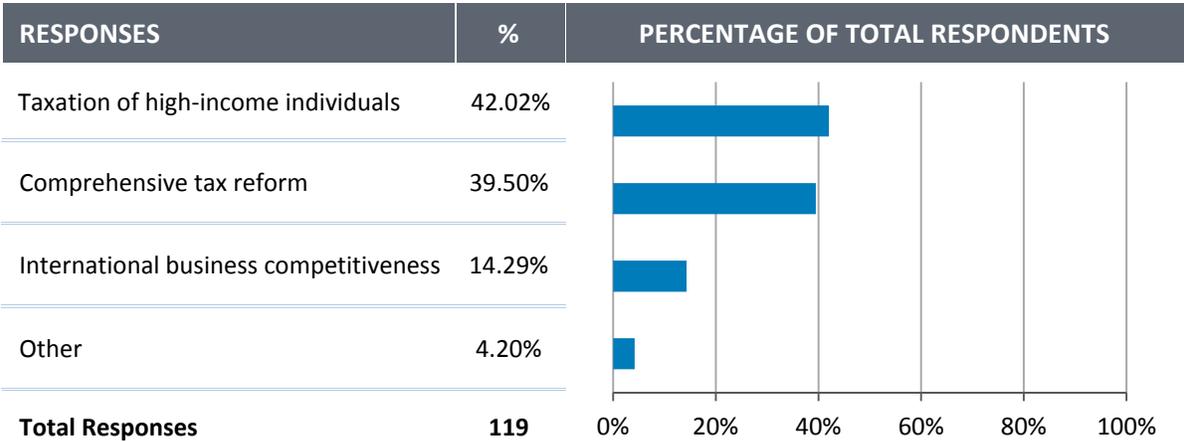


Q7. What impact do you believe this leadership change will have on tax legislation, other than comprehensive tax reform, in 2016?



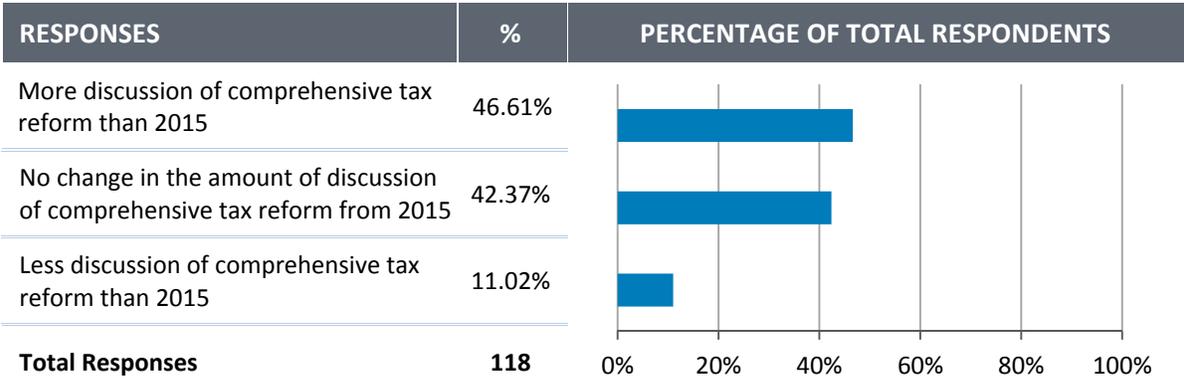
- Respondents have mixed feelings when it comes to assessing the impact of the new Speaker of the House on comprehensive tax reform, but are slightly more bullish on the outlook for other tax legislation. However, given that Speaker Ryan’s ascension was identified as the most positive influence on tax policy (Question 3), the outlook on the enactment of tax reform is likely tempered by recognition of election-year political dynamics, rather than Speaker Ryan’s interest in the topic.

Q8. Americans elect a new president and a new Congress in November of 2016. What area of tax policy do you believe the presidential candidates will most focus on in their campaigns?

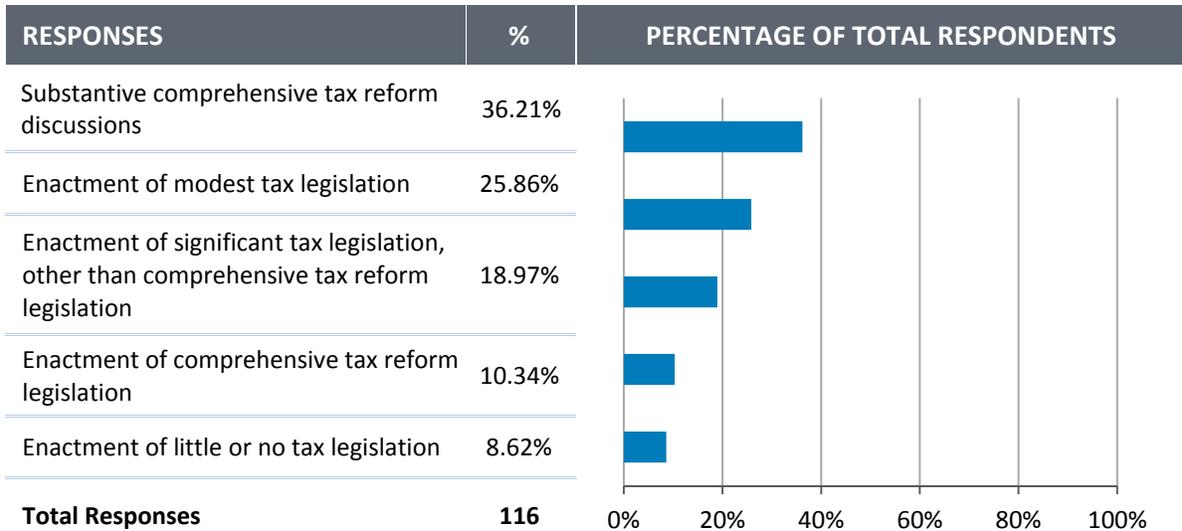


- With presidential campaigns in full swing, we continue to see a more active dialogue on tax policy than in prior elections, with the Republican candidates prioritizing tax reform, and Democratic candidates focusing on income inequality.

Q9. What impact do you believe the campaign season will have on the congressional and public discourse surrounding comprehensive tax reform in 2016?

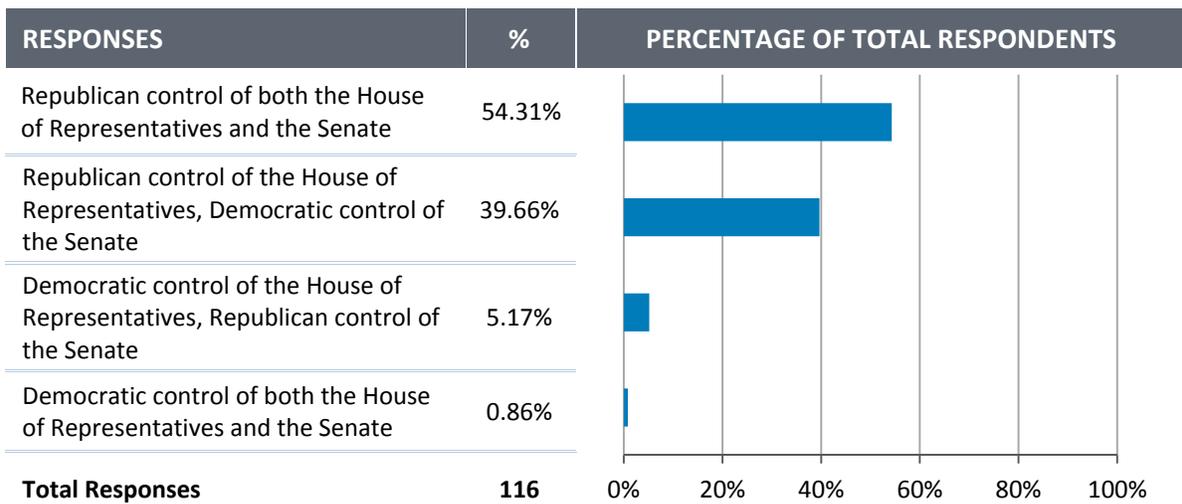


Q10. What impact do you believe the election of a new president and Congress will have on tax issues in 2017?

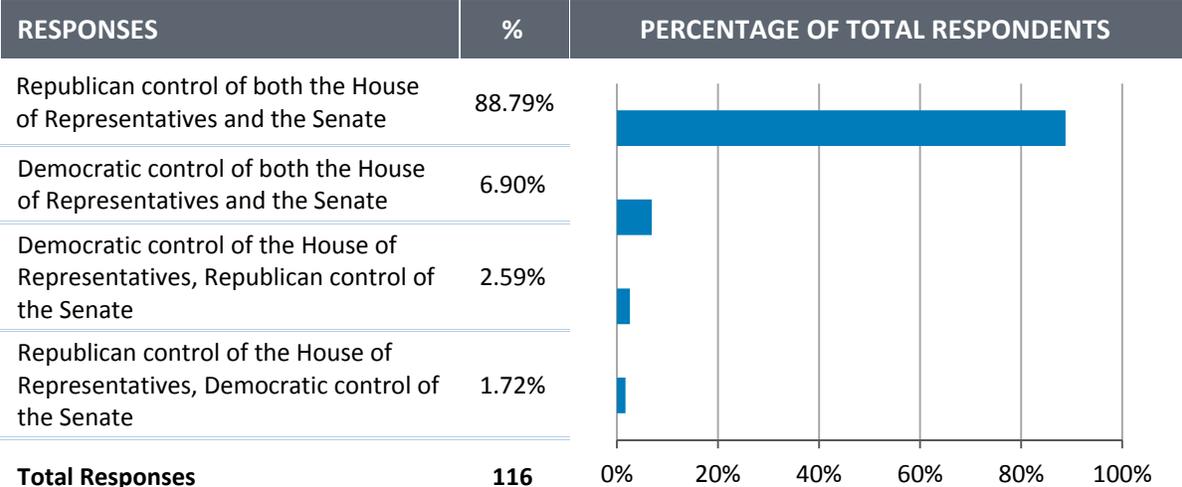


- While about half of respondents (47 percent) believe the campaign season will lead to more discourse on comprehensive tax reform, others may think it will be pushed out by hot-button topics like immigration and national security.
- Whether or not those 2016 conversations will result in the enactment of tax reform in 2017 is unclear, perhaps driven by individual respondents’ uncertainty about the results of the 2016 elections. The success of tax reform will ultimately be determined by the priorities of the House, Senate and new administration.

Q11. What do you believe will be the results of the 2016 congressional elections?

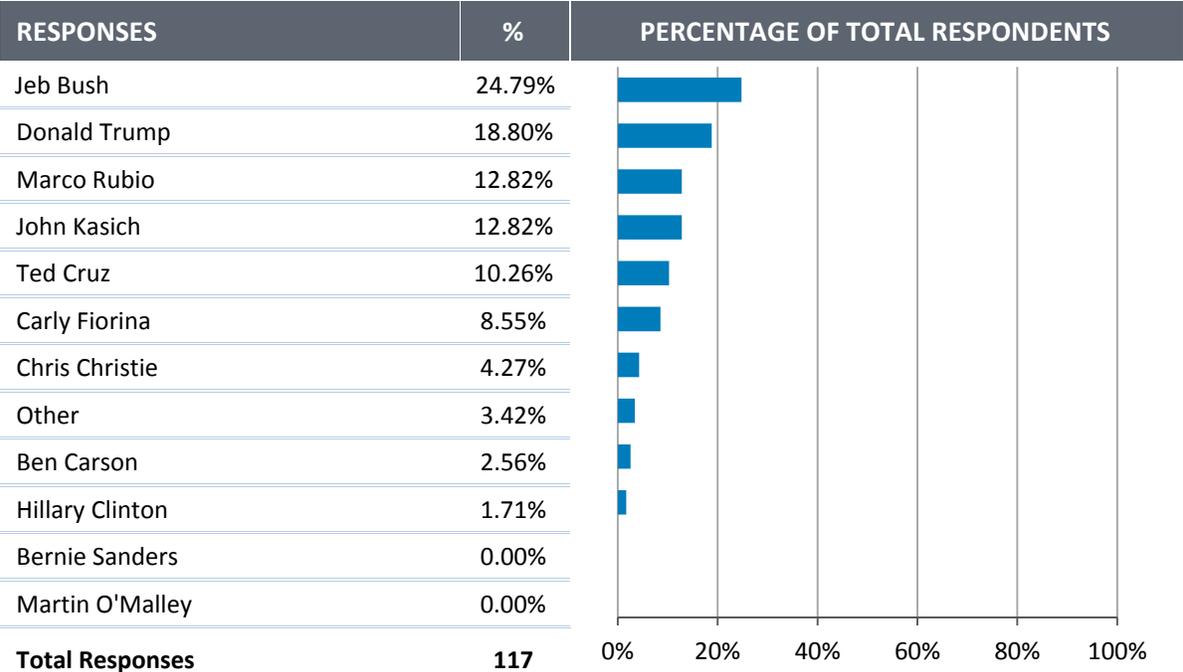


Q12. If comprehensive tax reform is not enacted in 2016, which results of the 2016 congressional elections do you believe will give comprehensive tax reform the greatest likelihood of enactment in the 115th Congress (2017-2018)?

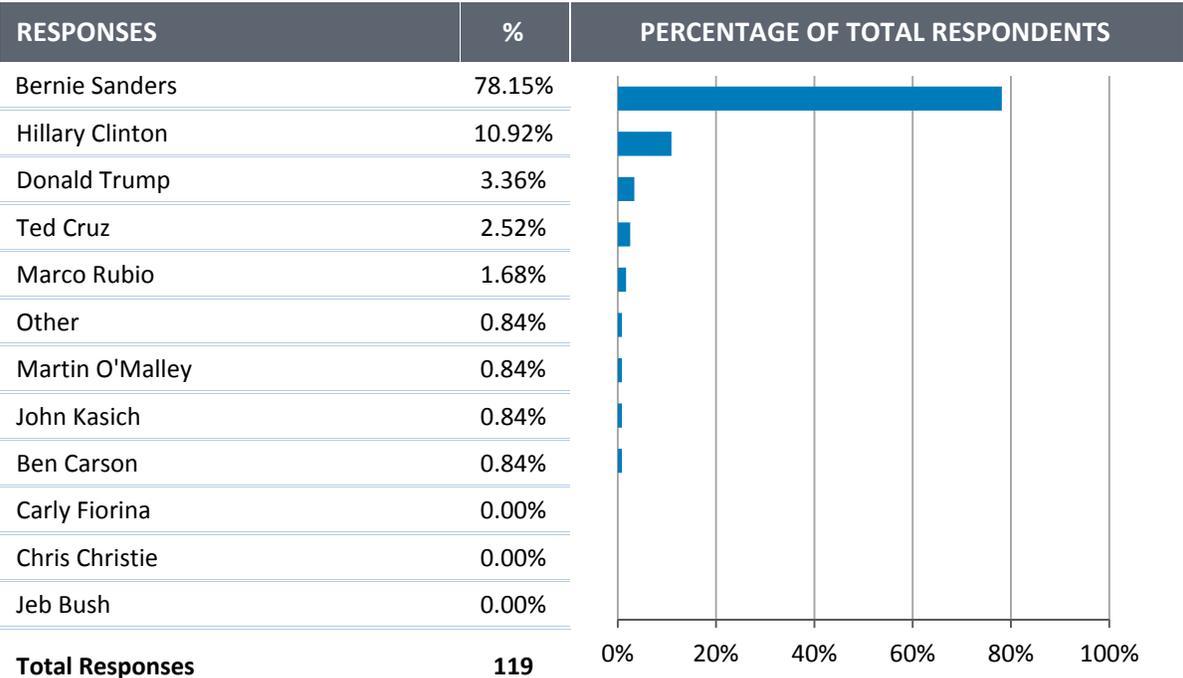


- Most respondents believe Republicans will retain control of the House, but respondents are less confident who will hold the Senate majority next year. There are 34 Senate seats up for election in 2016. Of these, 24 are currently held by Republicans and only 10 seats — all in states won by President Obama in the 2012 election — are held by Democrats.
- Respondents’ uncertainty regarding the Senate elections may also be in part due to the so-called “coattail” effect, which describes the influence of presidential candidates on down-ballot elections. The odds that the Republicans retain a majority in the Senate may depend on who wins the nomination for each party and who ultimately wins the presidency.
- The vast majority of respondents say that Republican control of both the House and Senate would create the best odds for enactment of tax reform over the next two years. This suggests that this year’s Senate elections may have significant consequences for tax reform.

Q13. Which presidential candidate do you think would have the most favorable tax policy for business income?

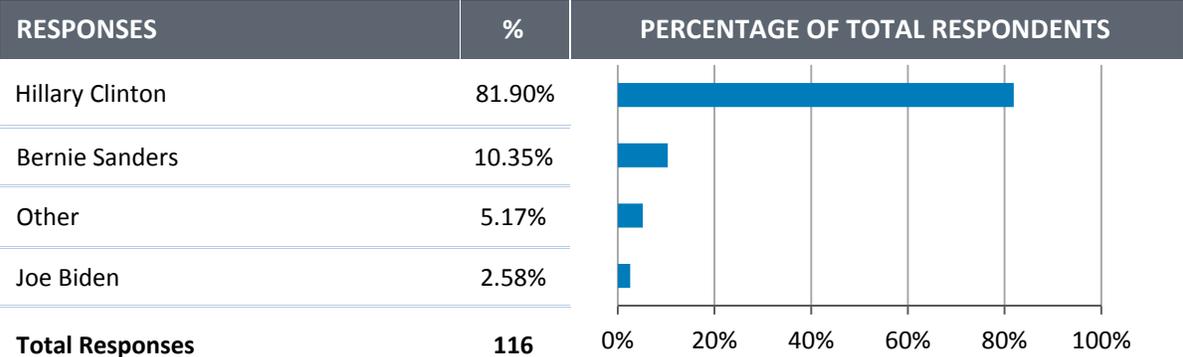


Q14. Which presidential candidate do you think would have the least favorable tax policy for business income?

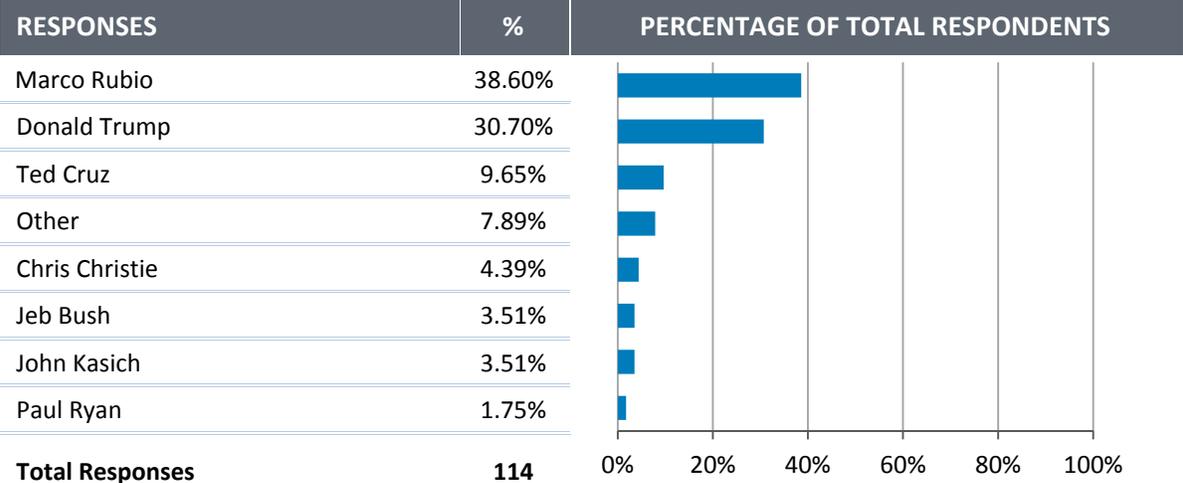


- As in 2012, respondents believe Republican candidates support more favorable tax policy for businesses as president. However, unlike 2012, when respondents felt that Mitt Romney offered the best tax policy for businesses, respondents this year did not identify presidential candidates with a business background (Donald Trump and Carly Fiorina) as having the most favorable tax policy for businesses. Before dropping out of the race, Governor Jeb Bush was believed to have the most favorable business tax policy.
- By a wide margin, Senator Bernie Sanders was determined to have the least favorable tax policy for business income. In 2008, more respondents thought Secretary Clinton would have the least favorable tax policy for business income than President Obama (30 percent and 20 percent, respectively). That same year, Senator John Edwards was tagged with the least favorable business tax policy (40 percent).

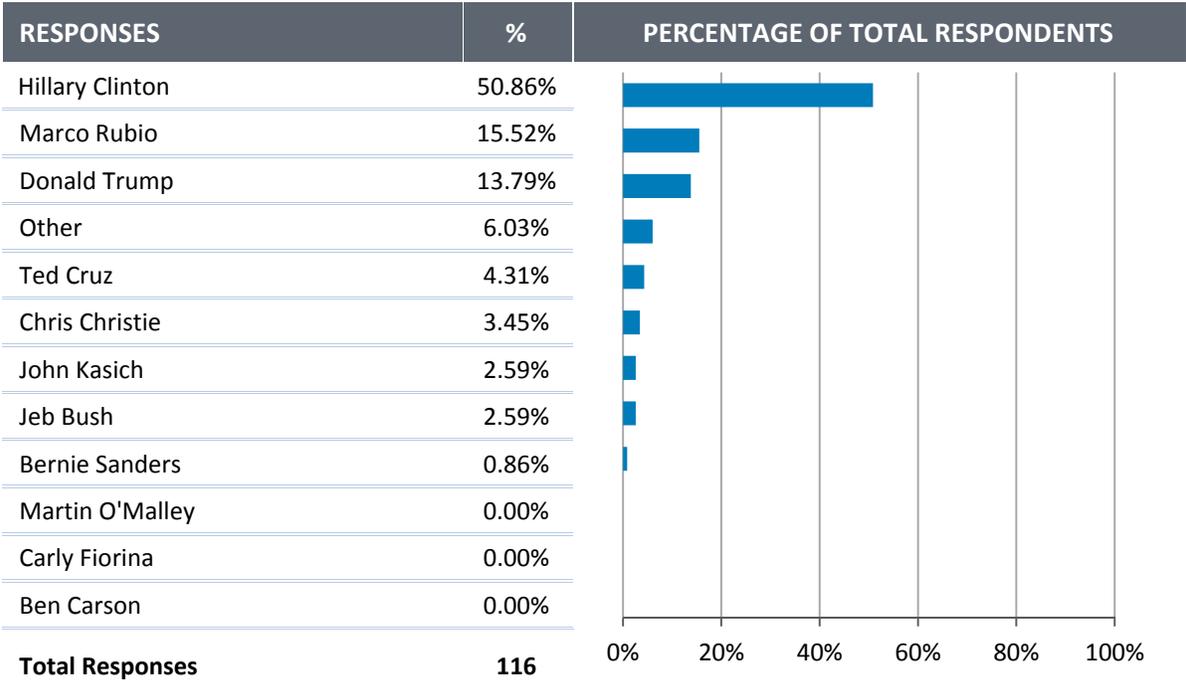
Q15. Who do you think will be the presidential nominee for the Democratic Party?



Q16. Who do you think will be the presidential nominee for the Republican Party?

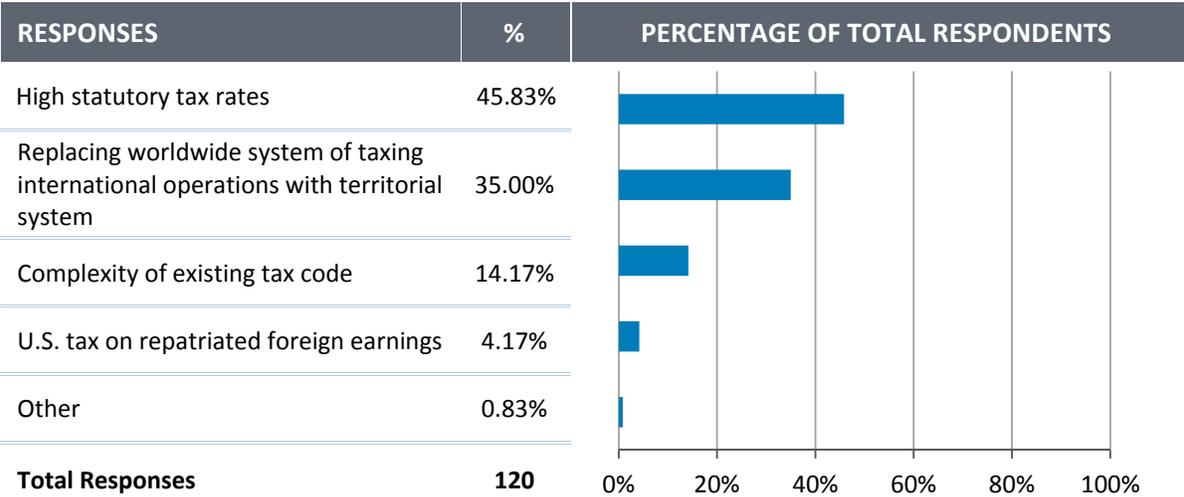


Q17. Who do you believe will win the 2016 presidential election?



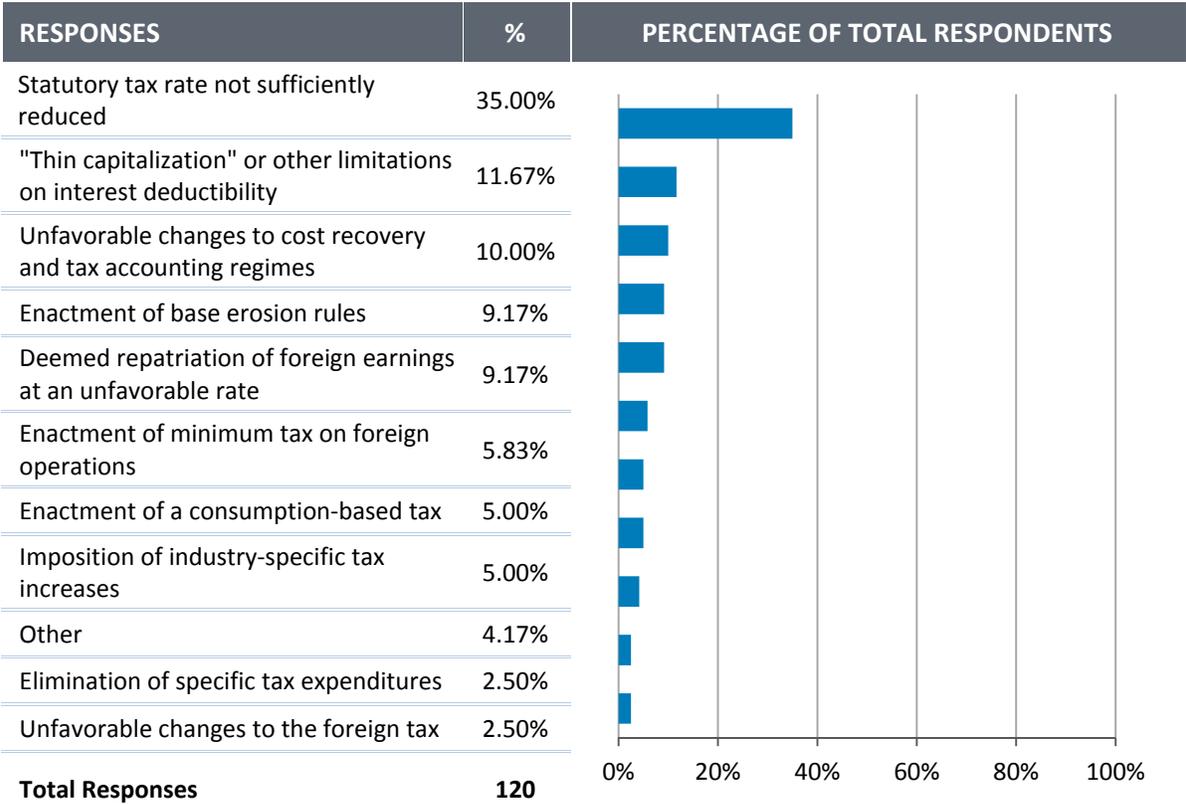
- Respondents believed that Secretary Clinton would be challenged by Senator Marco Rubio for the Presidency. Given that Senator Rubio has subsequently dropped out of the race, the respondents' second choice, Donald Trump, may secure the Republican Party nomination.
- While Secretary Clinton is overwhelmingly seen as the most likely winner of the 2016 presidential election, 11 percent of respondents said she would have the least favorable tax policy for business income, behind only Senator Bernie Sanders.

Q18. What is the most significant issue to address through comprehensive tax reform?



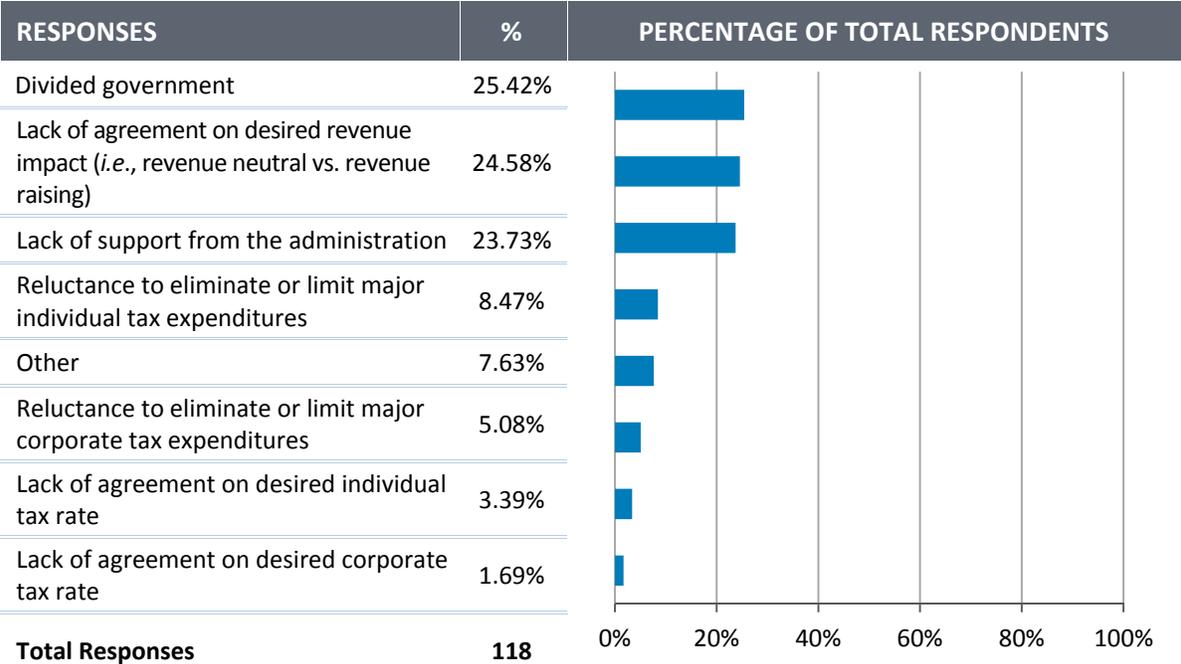
- As in Questions 1 and 2, where respondents identified high statutory rates and the use of a worldwide rather than a territorial tax system as their top concerns, respondents also saw these as the most significant issues to address through tax reform.

Q19. What is your greatest concern with respect to comprehensive tax reform?



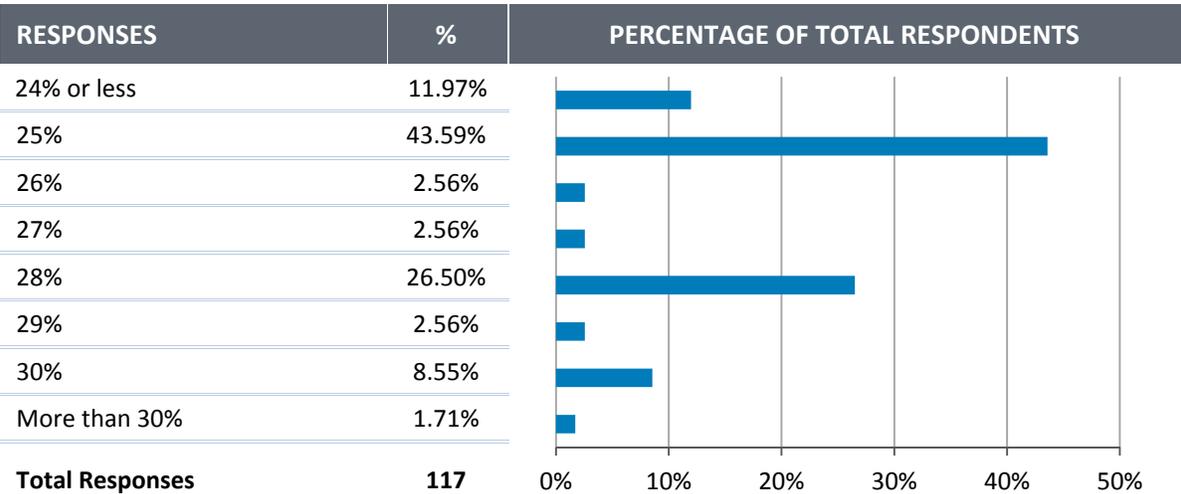
- Again, the top concern is the high statutory tax rate for businesses. While the Obama administration proposed a 28 percent corporate tax rate, and former Chairman Camp’s Tax Reform Act of 2014 called for a 25 percent corporate tax rate, Chairman Brady told the *National Review*, “I want to go a lot lower than that. ... American companies can’t compete on a global scale with our rates so high.”

Q20. What do you believe is the greatest impediment to the enactment of comprehensive tax reform?

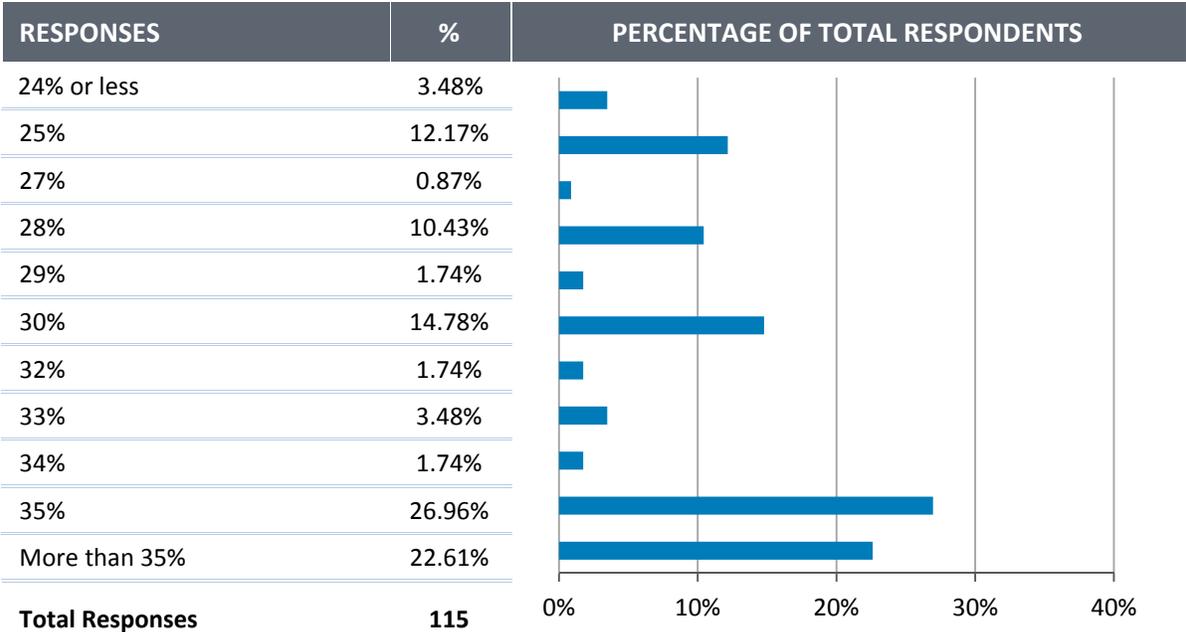


- Respondents were nearly evenly split among three factors — divided government (25 percent), lack of agreement on desired revenue impact (25 percent) and lack of administration support (24 percent) — in identifying the greatest impediment to comprehensive tax reform. The November elections could provide more clarity and resolve one or more of these outstanding questions.

Q21a. If comprehensive tax reform is enacted, what do you think the top corporate statutory tax rates will be?

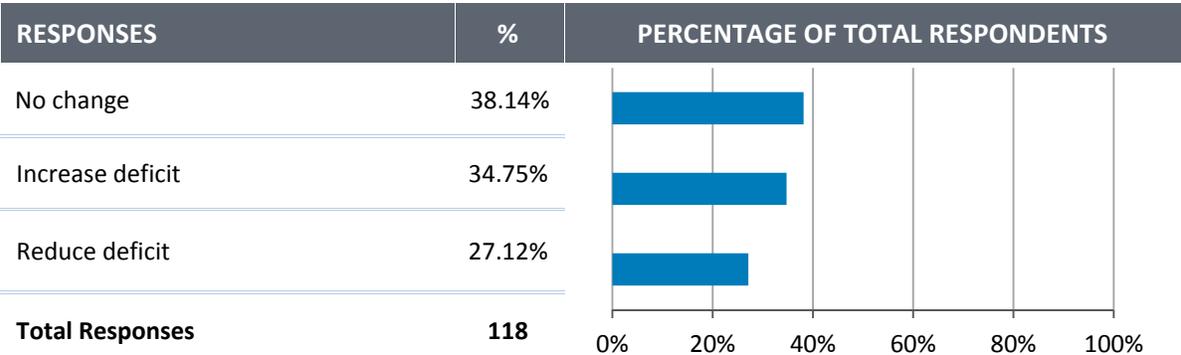


Q21b. If comprehensive tax reform is enacted, what do you think the top individual statutory tax rates will be?



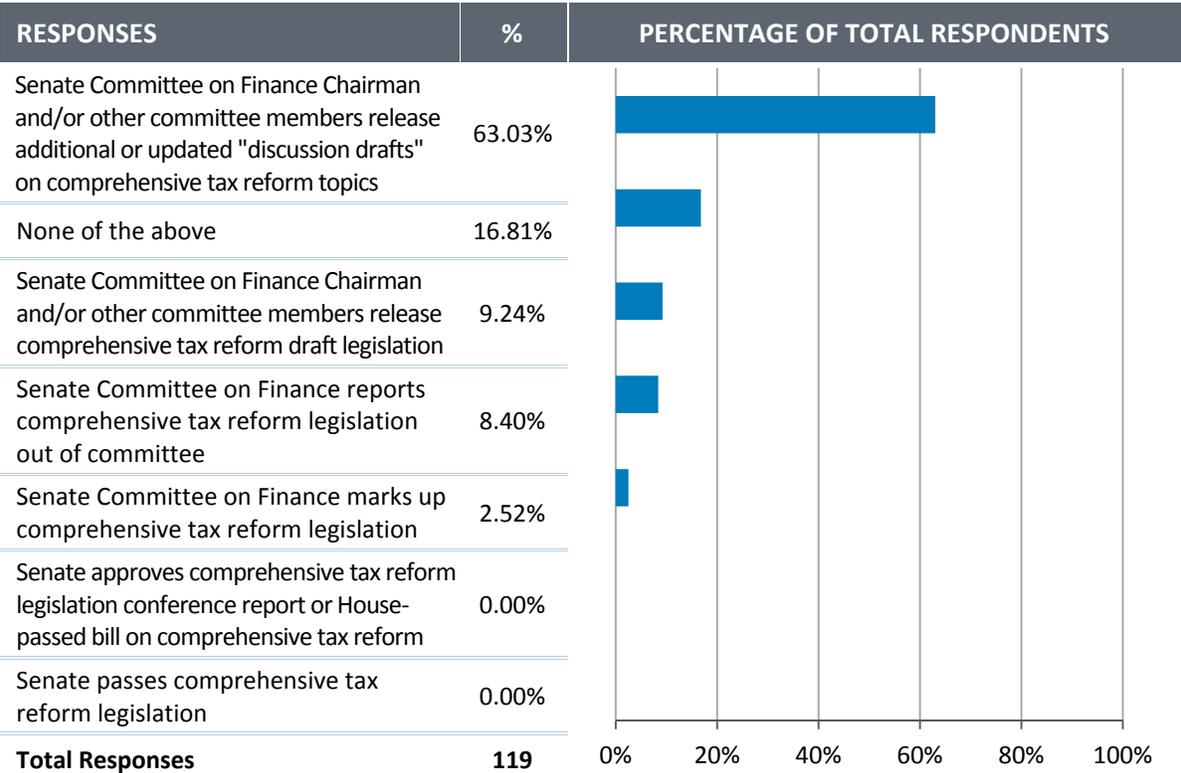
- President Obama has proposed a top statutory corporate tax rate of 28 percent, but in a swap from last year, respondents now see a 25 percent rate as more likely. Respondents have long seen these targets as still too high to keep America competitive. In 2011, respondents said a rate between 20 and 24 percent “would allow U.S. multinationals to remain globally competitive,” compared to 23 percent who thought 25 to 29 percent would keep U.S. multinationals globally competitive. As noted, Chairman Brady recently said that his goal is a corporate tax rate of 20 percent or lower in tax reform.
- Over the past two years, respondents have shifted from 28 percent to 25 percent as the most likely top statutory corporate tax rate achieved by tax reform. In 2014, 44 percent of respondents identified 28 percent as the most likely rate, while only 20 percent identified 25 percent as the most likely rate. This year, 27 percent identified 28 percent as the likely top statutory rate, while 44 percent picked 25 percent.

Q22. If comprehensive tax reform is enacted, how do you believe it will affect the national deficit in the 10-year budget window?

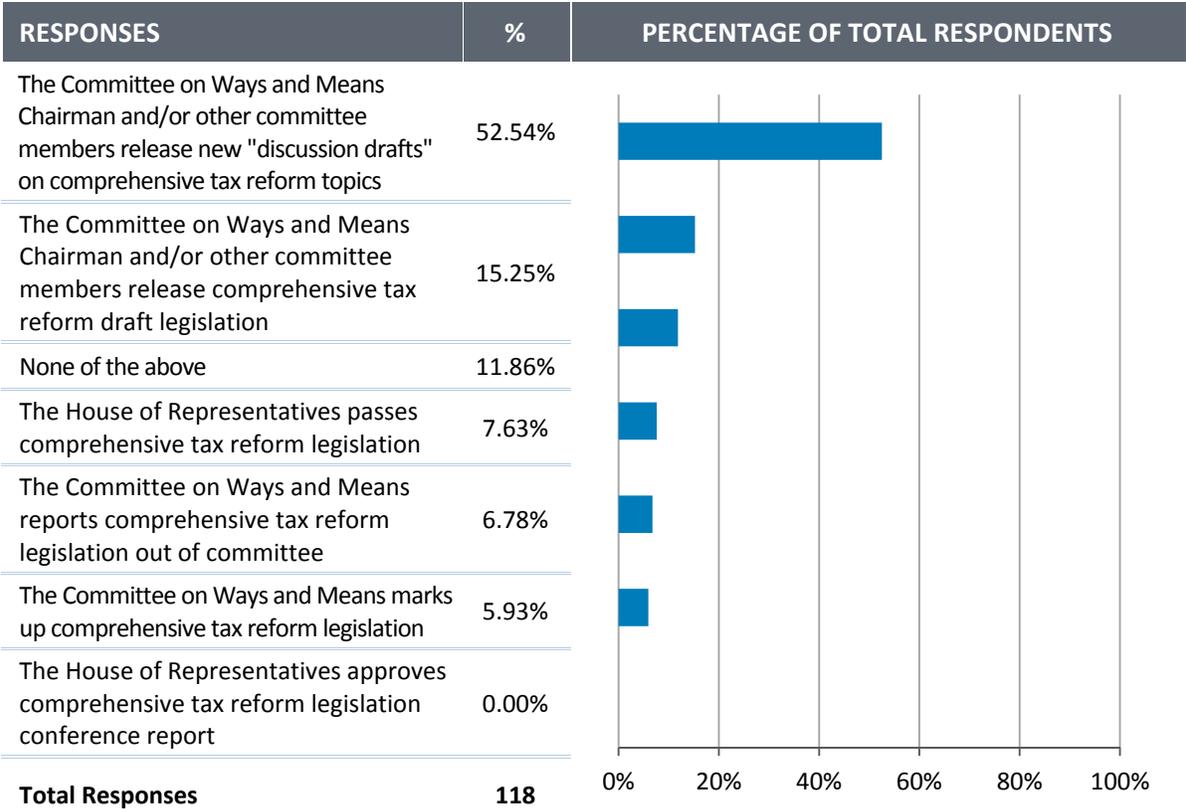


- Respondents are split fairly evenly in their opinions of how comprehensive tax reform could affect the national deficit.
- Republicans generally favor revenue-neutral tax reform that will neither increase nor decrease the deficit. Some Democrats, including President Obama, have sought to raise revenue through tax reform to reduce the deficit (or as a source of revenue for infrastructure investments or other spending initiatives).

Q23. How far do you expect comprehensive tax reform to advance in the Senate in 2016?

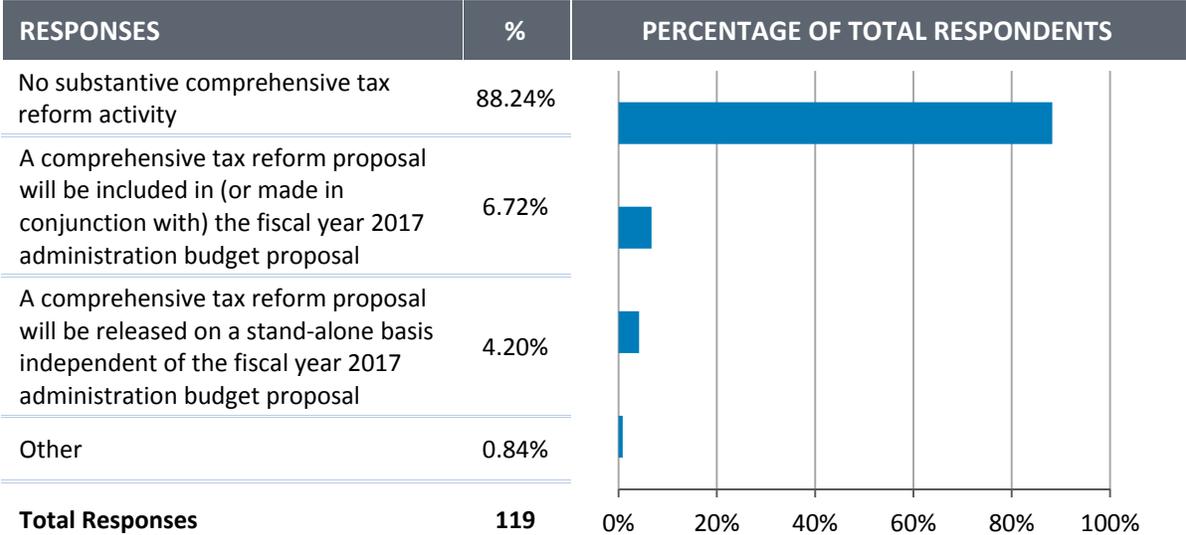


Q24. How far do you expect comprehensive tax reform to advance in the House of Representatives in 2016?



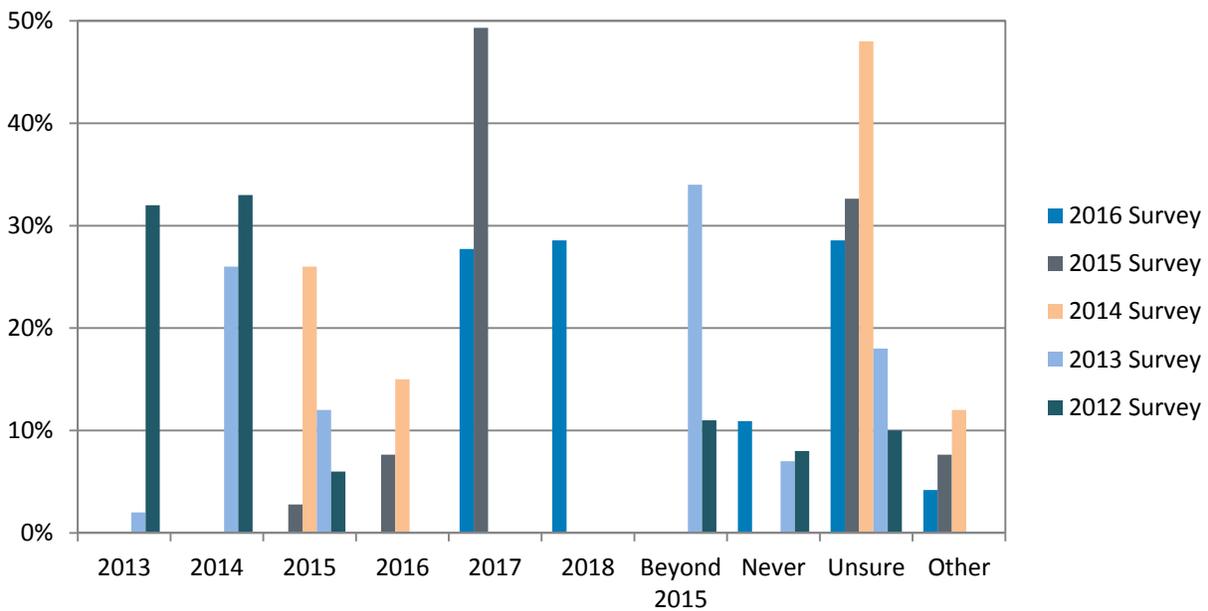
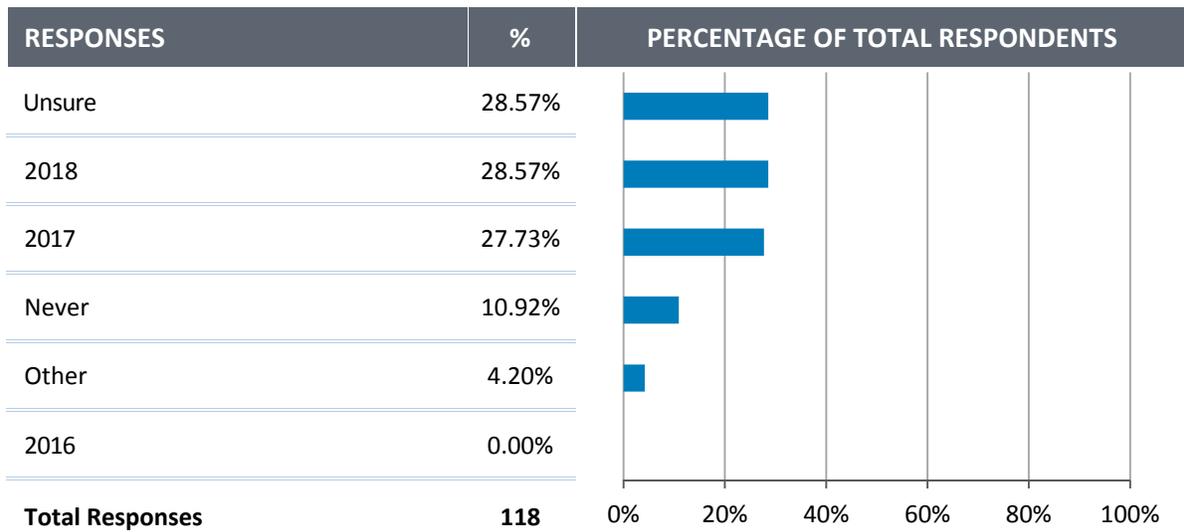
- Mirroring last year, expectations are low that anything beyond tax reform “discussion drafts” will emerge from either the Senate Committee on Finance or the House Committee on Ways and Means this year.

Q25. How far do you expect the administration to advance comprehensive tax reform in 2016?



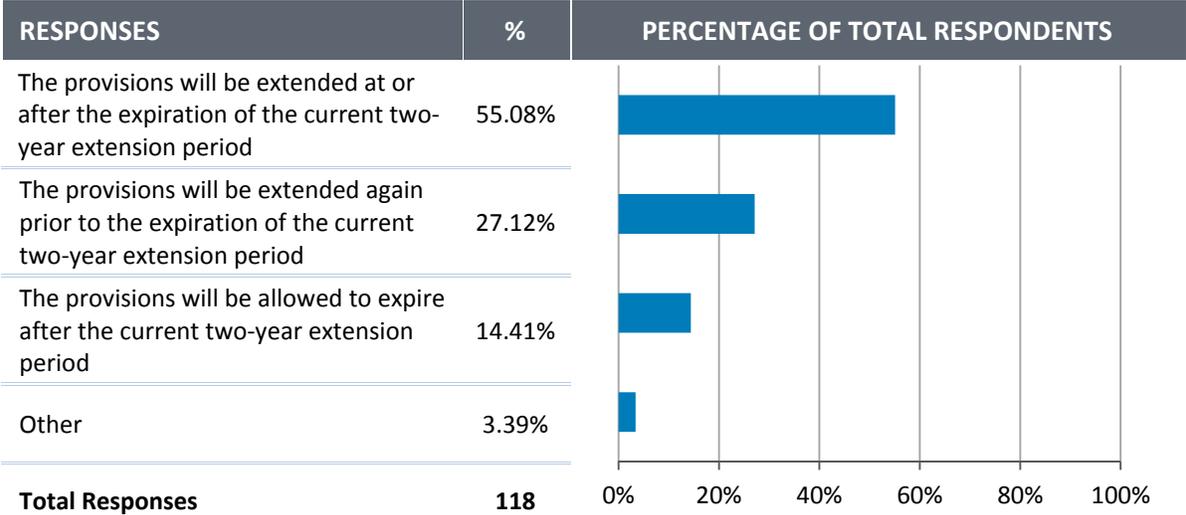
- Nearly nine of 10 respondents believe the current administration will not conduct any substantive tax reform activity, which is not surprising given that this is the last year of President Obama’s term in office and that the issue did not merit a mention in his last State of the Union address.

Q26. When do you believe comprehensive tax reform will be enacted?



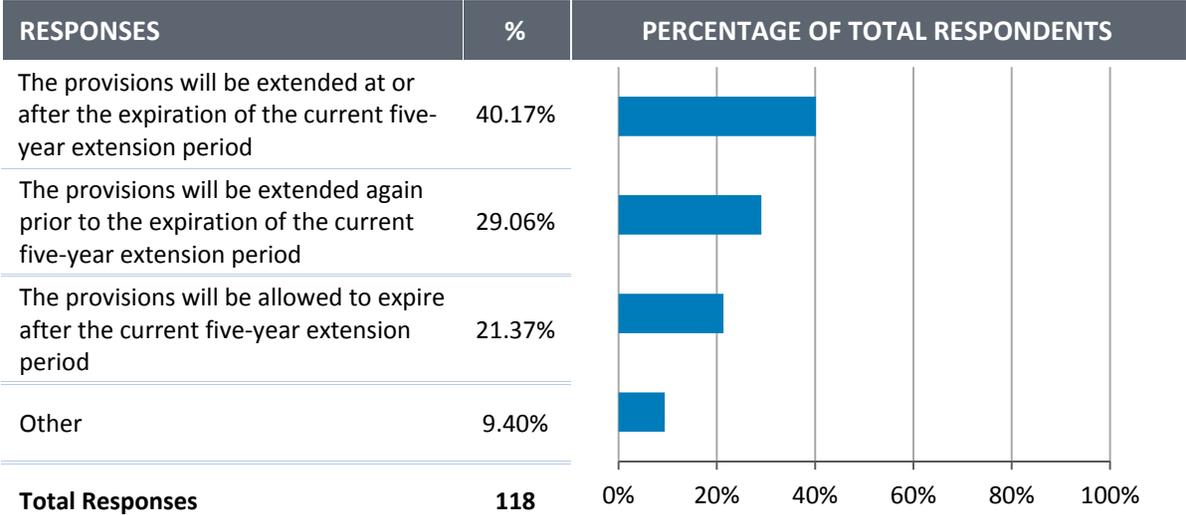
- Respondents are uncertain when comprehensive tax reform will be enacted. Questions around the pending presidential and congressional elections are likely a large factor for the 29 percent of respondents who did not feel confident enough to guess.
- Compared to 2012, the last presidential election year the survey was given, fewer respondents actually believe tax reform will happen next year (31 percent thought tax reform would be enacted in 2013).

Q27. The PATH Act of 2015 made a number of traditional extenders permanent, while extending other provisions temporarily for two years or five years. The provisions that were extended for two years include a number of investment credits, cost-recovery provisions and energy-related incentives. How do you think Congress will address these provisions in the future? (For purposes of this question, assume that all provisions that received a two-year extension will be treated consistently in the future.)



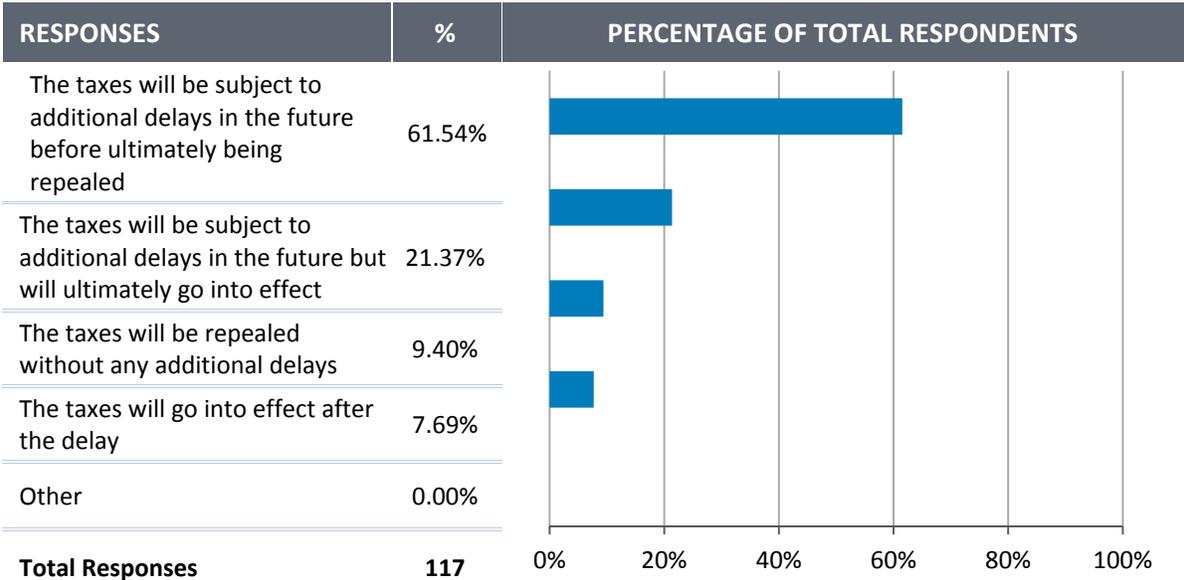
- More than half of respondents believe the provisions will be extended again, but not until at or after their expiration. Another extension for these provisions would require action before the end of this year, which may be difficult given the limited congressional calendar in light of the November elections.

Q28. As noted above, the PATH Act of 2015 extended certain provisions for five years. The provisions include the new markets and work opportunity tax credits, bonus depreciation (subject to certain phase-out rules) and the Subpart F CFC look-through rule. How do you think Congress will address these provisions in the future? (For purposes of this question, assume that all provisions that received a five-year extension will be treated consistently in the future.)



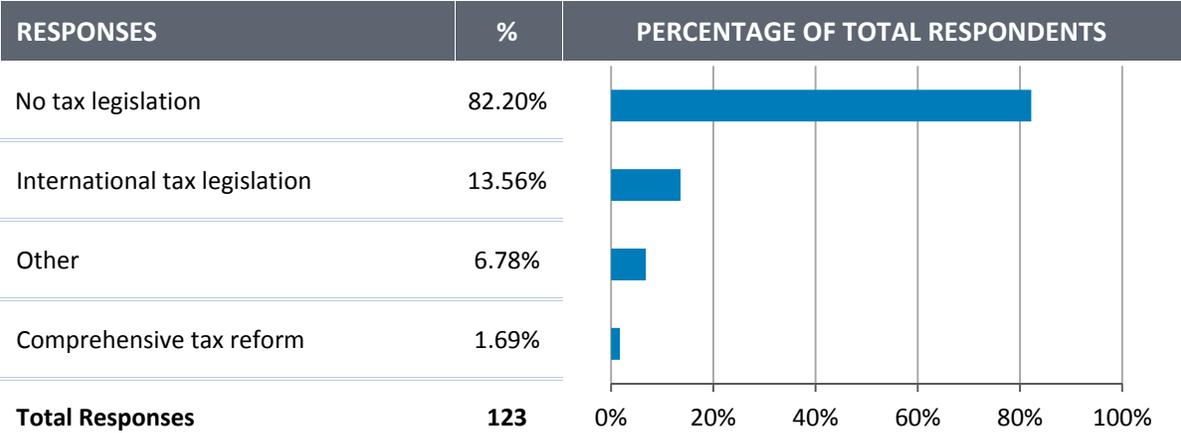
- While respondents expect the "two-year" extenders to again be renewed at or after the expiration of the current package, they're less clear on the "five-year" extenders. The responses are probably influenced by whether respondents believe tax reform will be enacted in the next few years and whether these extenders will be dealt with as part of such reform.

Q29. The PATH Act of 2015 delayed the effective dates of a number of taxes from the Patient Protection and Affordable Care Act, including the medical device excise tax, the high-cost employer-sponsored health care coverage ("Cadillac") tax and the annual excise tax on health insurance providers. How do you think Congress will address these taxes in the future?



- Respondents believe that Congress will continue to delay the effective dates of tax provisions from the Patient Protection and Affordable Care Act that were temporarily delayed by the PATH Act of 2015. Respondents overwhelmingly (62 percent) believe that Congress will continue to delay the effective date of these provisions before ultimately repealing them.

Q30. What tax legislation do you expect to be enacted into law in 2016? (Select as many as apply)



- Only two respondents (2 percent) expect comprehensive tax reform to become law in 2016 — three fewer than last year.
- Given the election year and the lack of administrative engagement on tax issues, the fact that 82 percent of respondents anticipate no tax reform in 2016 is not surprising.
- Some respondents do think international tax legislation is a possibility this year, likely influenced by Chairman Brady’s public comments that he wants the House Committee on Ways and Means to mark up legislation in committee this year.

Methodology

In January 2016, Miller & Chevalier and the NFTC distributed a survey via email to leading business tax executives, including vice presidents, directors and managers of tax, at a broad cross-section of U.S.-based and foreign-based multinational companies.

Industries surveyed include manufacturing, oil and gas, insurance, utilities, financial institutions, automotive, health care, defense, hospitality and agriculture, among others. The survey was completed by 120 respondents.

Due to rounding and questions where respondents could select more than one answer, certain final percentages may not equal 100 percent. Some minor edits were made to selected quotes to improve readability.

While some have since suspended their campaigns, presidential candidates included on Questions 13 to 17 had active campaigns at the time of the survey.

We appreciate and thank those who contributed their views and shared their experiences. We also want to acknowledge the invaluable contribution of Sean Morrison of Miller & Chevalier Chartered for his assistance in the development of this survey.

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