

# TAX POLICY FORECAST SURVEY

FEBRUARY 2013

MILLER & CHEVALIER CHARTERED  
THE NATIONAL FOREIGN TRADE COUNCIL

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## Executive Summary

Leading business tax executives are in the process of determining the impact of the 2012 election results and the enactment of the "fiscal cliff" legislation (the American Taxpayer Relief Act of 2012) on the tax legislative agenda and environment in 2013. Miller & Chevalier joined with the National Foreign Trade Council (NFTC) in designing the 2013 Tax Policy Forecast Survey to determine the evolving views of these executives on this important topic.

The results of the survey, the seventh Miller & Chevalier has conducted, demonstrate that the leading concern of business tax executives is that in light of the current political and fiscal environment, Congress could enact revenue offsets to fund other legislative initiatives rather than to fund changes to make the U.S. tax system more competitive, such as a corporate rate reduction. In fact, 88% of respondents believe that raising revenue will be a significant tax policy priority of the Administration in 2013. Respondents are particularly concerned about the use of revenue offsets impacting the U.S. taxation of their international operations in this context.

Business tax executives continue to believe that fundamental tax reform is necessary (and believe it is Congress's top policy priority in 2013), but expressed greater doubt than in prior years that such reform will be enacted in the near future. Only 2% of respondents believe that fundamental tax reform will be enacted in 2013, whereas 31% of respondents in last year's survey believed such reform would be enacted in 2013. In fact, more than 40% of respondents now predict that fundamental tax reform will not be enacted until after 2015, if ever. Respondents believe that the lack of activity is attributable to a variety of factors including the existence of competing legislative priorities, a lack of public agreement, budget constraints, and a lack of Administration interest.

### Other highlights of the Miller & Chevalier/NFTC 2013 Tax Policy Forecast Survey:

- Respondents named (1) the enactment of revenue offsets without adoption of a competitive tax system and/or competitive tax rates (39% of those responding) and (2) changes to the U.S. taxation of international operations (21% of the respondents) as their top two business tax concerns in 2013.
- A plurality of business tax executives (34%) believe that a continued focus on the economy will have the most positive impact on tax policy in 2013, while 56% of executives believe that the Administration's priorities (which will likely include the raising of revenues) will have the most negative impact on tax policy in 2013.
- 88% of survey respondents are concerned that the Administration's top tax policy priority in 2013 will be to raise revenues by eliminating corporate tax preferences and closing so-called "loopholes."

- 68% of respondents say an increase in the U.S. taxation of international operations is likely to be a revenue source to pay for any Congressional tax initiatives this year, and 47% of respondents say that such an increase will have a negative impact on their businesses.
- The Bowles/Simpson report continues to be viewed as having a more significant impact on the fundamental tax reform debate than other recent reports or proposals.
- Congress will make fundamental reform of the tax code a top priority according to 68% of survey respondents.
- Despite the fact that inclusion of the traditional "extenders" package in the American Tax Relief Act of 2012 was important to the business community, respondents hoped for more comprehensive legislation that included significant spending cuts.

## 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. Here are a few direct quotes.

### What tax issues are you most concerned about in 2013?

- *The inability of Congress to pass any legislation due to the significant philosophical differences between the parties.*
- *Unprincipled policymaking in the face of the debt-ceiling debate.*
- *Net increase in business taxes without [an] offsetting rate reduction.*
- *Arbitrary "loophole closers" and broad-based attacks on repatriation of foreign cash.*
- *Lowering of the tax rate and reducing deferral and eliminating full tax-deductibility of expenses will increase overall taxes and further substantively reduce the competitiveness of U.S.-based multinationals on the worldwide front and produce more U.S. job loss.*
- *Tax legislation that is not focused on making both domestic and international operations competitive.*
- *Comprehensive corporate tax reform. This is an issue which MUST be addressed, for the sake of international competitiveness, the dysfunctional and burdensome tax code we currently have in place, and our overall budget deficit and debt situations.*
- *We would like to see fundamental tax reform including corporate tax reform with a reduced corporate tax rate and a territorial system for profits earned abroad.*
- *A tax code "out of sync" with global trading partners making U.S. industry increasingly non-competitive.*

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

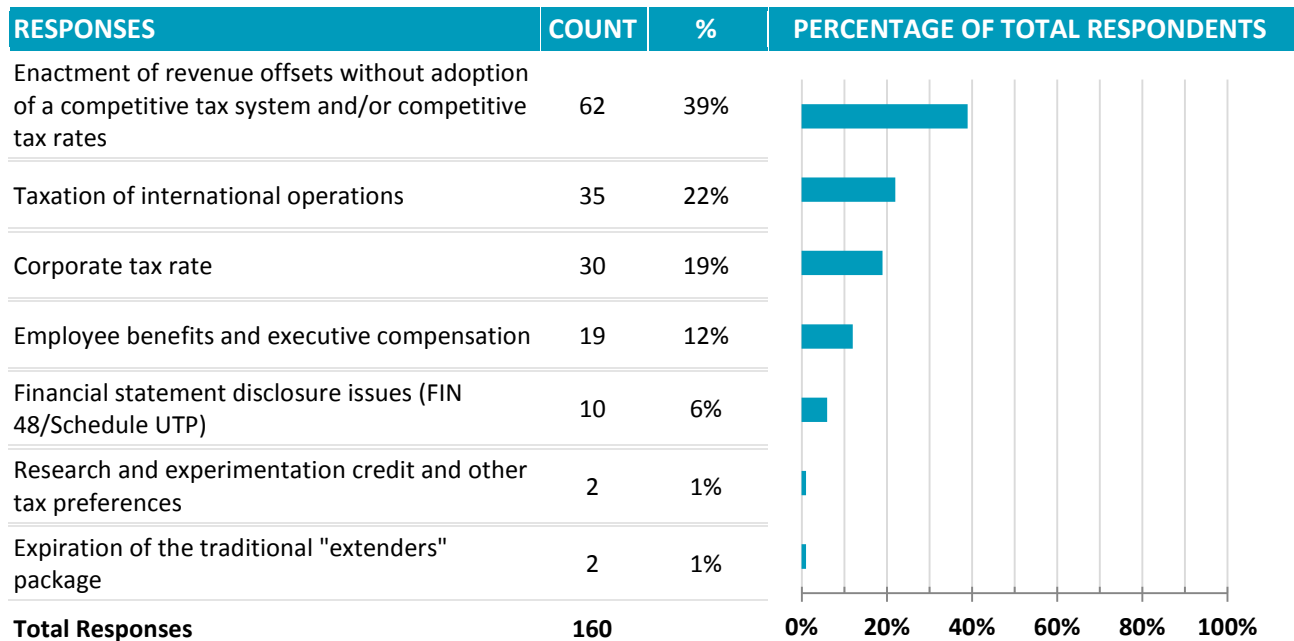
- *International rules need to be revamped for the sake of competitiveness. Rates should come down, and we need a more robust R&D credit if we want to keep intellectual property (and good R&D jobs) in the U.S.*
- *Realistic territorial regime that keeps U.S. multinationals competitive globally.*

- *Movement toward a territorial system and a lowering of the corporate tax rate to be more competitive internationally.*
- *Base broadening will be needed to get the rate down, and a territorial system with safeguards (i.e., base erosion provisions). We need realistic revenue and growth estimates to make that happen.*
- *Repeal and start over. The Code is a mess, incomprehensible, and useless as both a taxing mechanism and a policy mechanism. They need to literally start over, make it simpler, and easier for businesses to comply.*
- *Lower the corporate tax rate to the low 20s to be competitive with other OECD countries (which have all been lowering their rates below that of the U.S.); go to a territorial system so U.S.-based companies can compete with other OECD-based companies.*

## 2013 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 2013. The following charts represent the collective input of 163 respondents to the survey. A full overview of the survey methodology can be found at the end of this report.

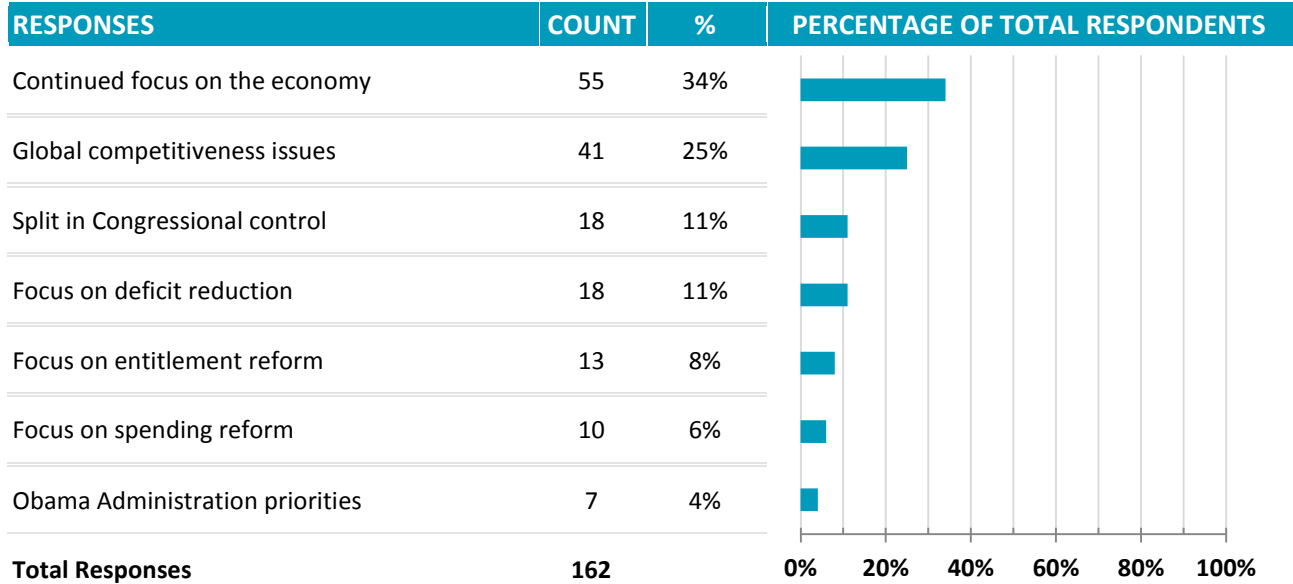
### Q1. What is your top business tax concern for 2013?



- Respondents are more concerned about the enactment of revenue offsets without adoption of a competitive tax system and/or competitive tax rates than about other items. This is the first time since the survey was conducted in 2007 that we gauged whether revenue offsets were a top business tax concern.
- Such concern is likely because respondents believe that raising revenue will be the top tax policy priority initiative of the Administration in 2013. In addition, the American Taxpayer Relief Act of 2012 contained significant tax increases on individuals, which likely heightened respondents' concerns regarding the use of revenue offsets.
- In 2012, the U.S. corporate tax rate was the top concern of business executives (31%), followed by the taxation of international operations (29%). These remain significant concerns.

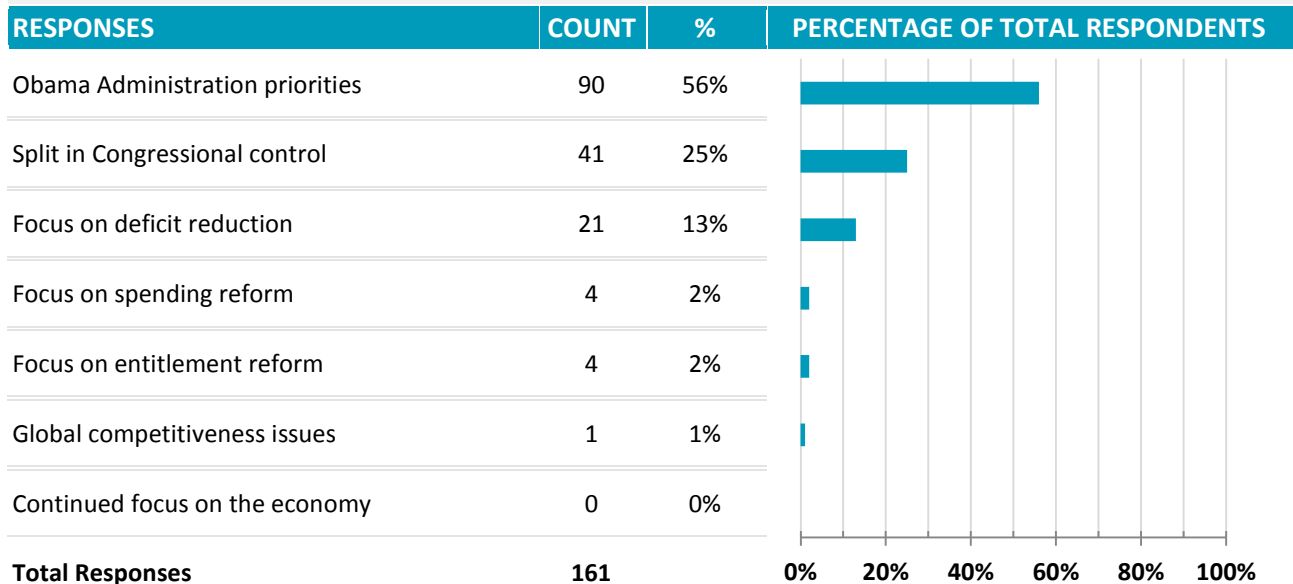
Q2. What single factor will have the most significant impact on tax policy in 2013?

2a. Most positive impact



Q2. What single factor will have the most significant impact on tax policy in 2013?

2b. Most negative impact



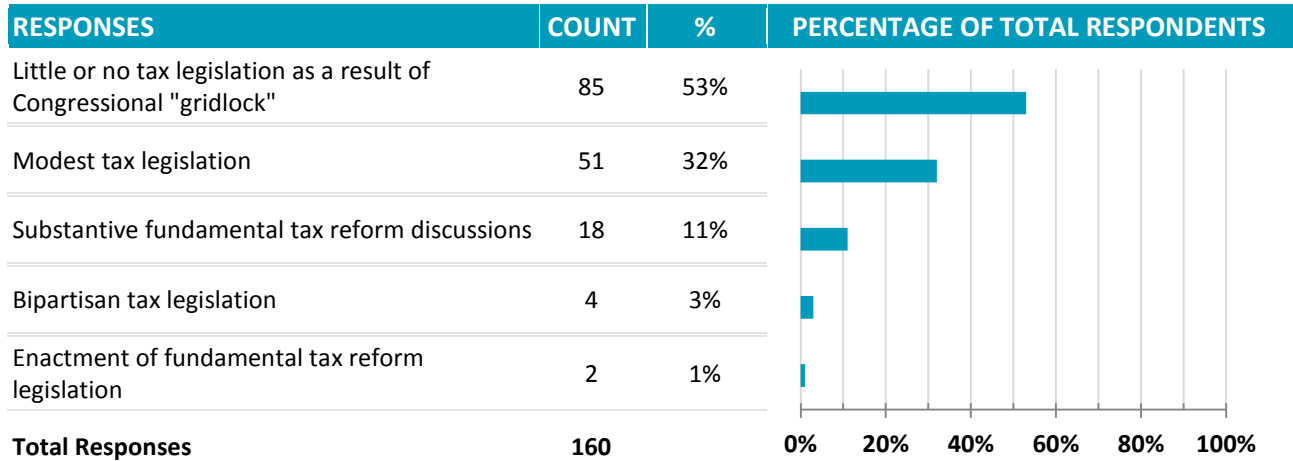
- Respondents believe that a continued focus on the economy will have the most positive impact on tax policy in 2013. In this regard, Congress may consider additional measures, such as

expanded bonus depreciation, to stimulate the economy. Compared to only 2% last year, 25% of respondents this year believe that global competitiveness will have a significant impact on tax policy in 2013. Indeed, global competitiveness is often cited as a primary motivating factor for fundamental tax reform.

- Responding to a question new to this survey, the majority of respondents are concerned that the Obama Administration's priorities will negatively affect tax policy in 2013. Such concern is likely the result of the fact that respondents believe that raising revenue will be the top tax policy priority initiative of the Administration in 2013.

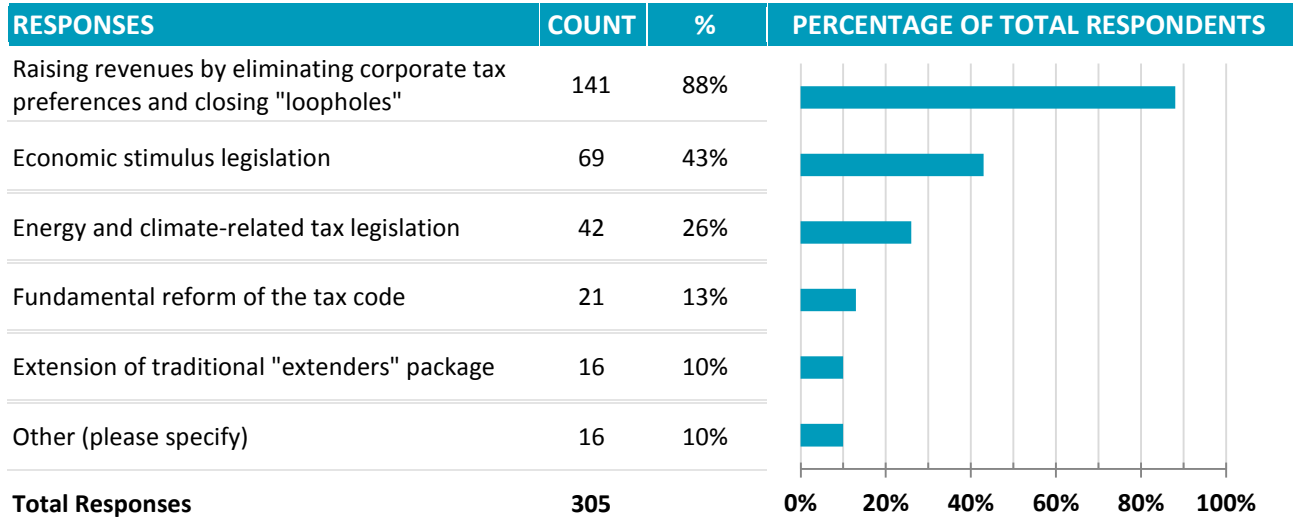


**Q3. The Democratic Party controls the U.S. Senate and the White House while the Republican Party controls the U.S. House of Representatives. What impact will divided government have in 2013?**



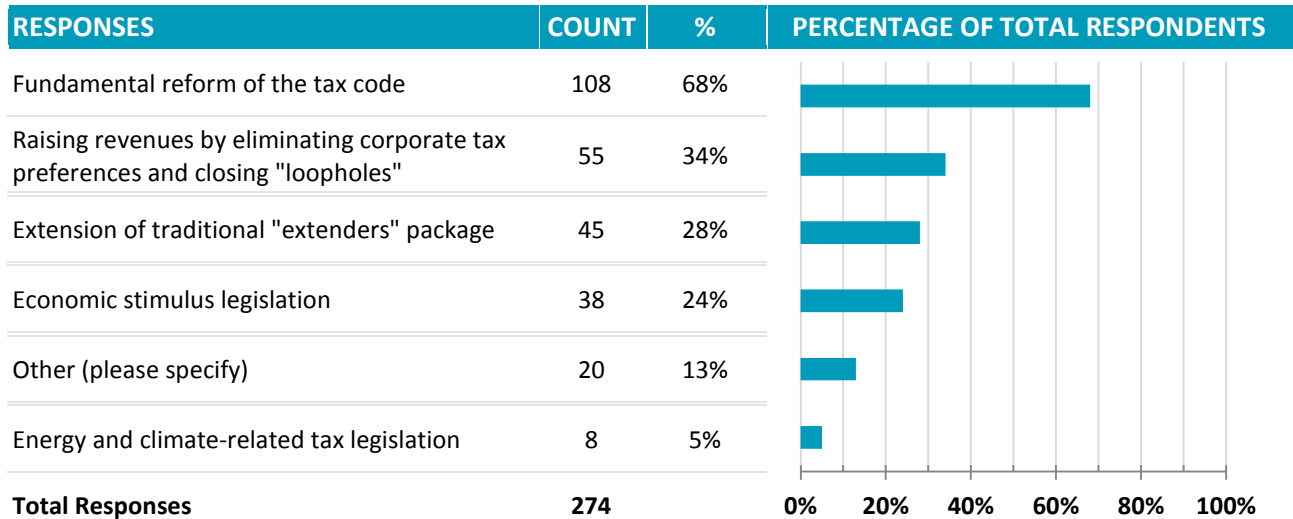
- While the election improved the outlook of respondents regarding whether Congressional "gridlock" will stand in the way of any substantial tax legislation, a majority of respondents (53%) continue to believe that divided government will lead to gridlock. In 2012, 79% believed divided government would lead to gridlock.
- 32% of respondents believe that the divided government will result in the enactment of some modest tax legislation in 2013. Although signs of this were seen with the enactment of the American Taxpayer Relief Act of 2012 in early January on a bipartisan basis, it is unclear whether it is an indication that the new Congress and the Administration can productively work together in 2013 to enact even modest legislation.

**Q4. What will be the Obama Administration's tax policy priorities in 2013?**  
(Check all that apply)



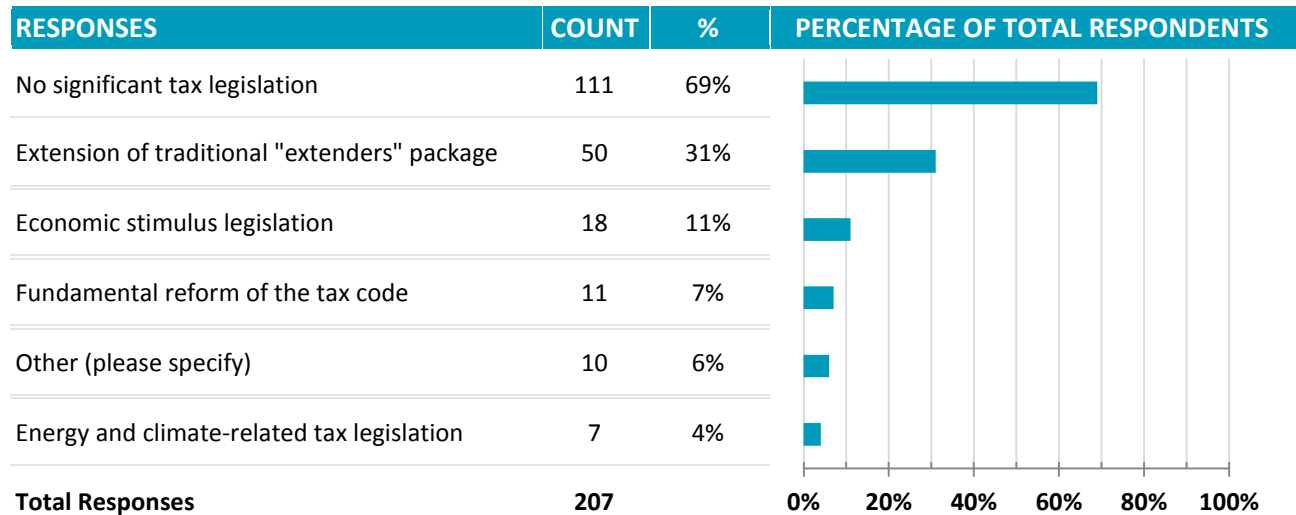
- Almost all respondents believe the Administration's tax policy priority in 2013 includes raising revenues. A number of the Administration's revenue proposals have been detailed in the Fiscal Year 2013 budget, as well as in the President's Framework for Business Tax Reform. It will be interesting to see if these proposals, as well as potentially new proposals, are contained in the pending Fiscal Year 2014 budget.
- Similar to last year, economic stimulus legislation was chosen as one of the Administration's top tax priorities in 2013. As referenced earlier through Question 2a, a majority of respondents believe that a continued focus on the economy will have the most positive impact on tax policy in 2013.

Q5. What will be Congress's tax policy priorities in 2013? (Check all that apply)



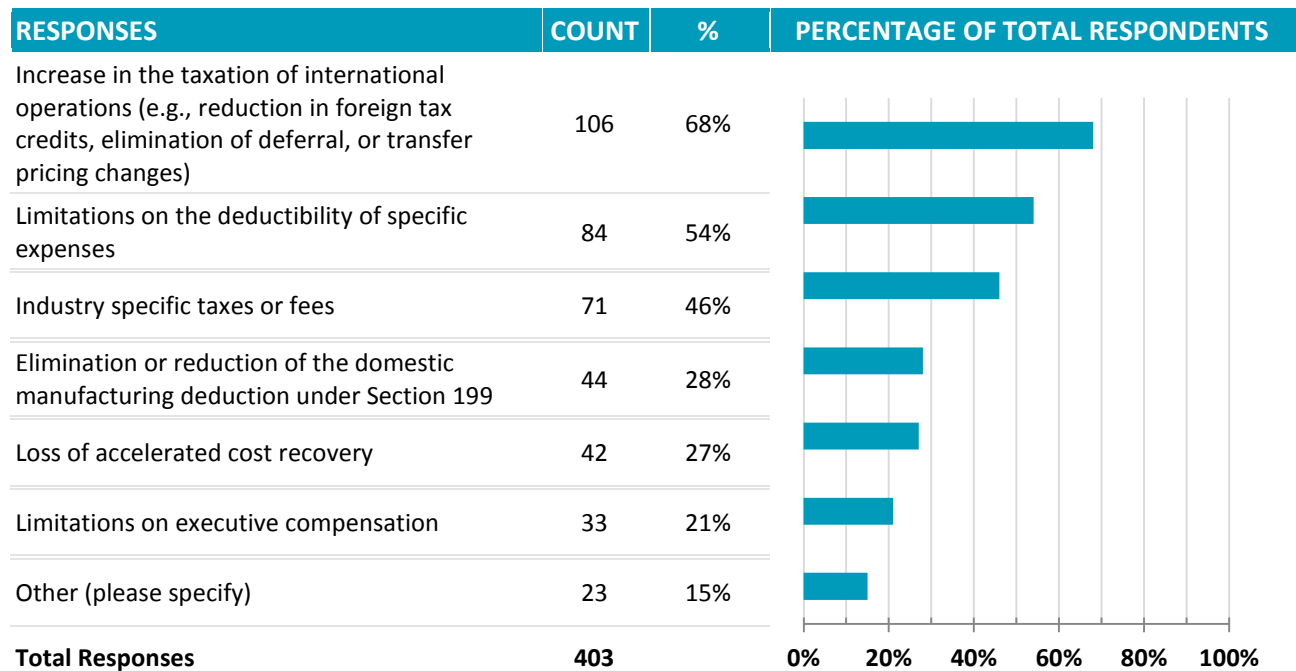
- In the last few years, Congress has devoted significant time and resources to tax reform in the form of hearings and proposals. In that regard, two-thirds of respondents believe that fundamental tax reform will be a top priority for Congress in 2013. This is compared to 19% of respondents who believed this would be among the top Congressional tax policy priorities in 2012.
- Respondents are likely influenced by the fact that House Ways and Means Committee Chairman Dave Camp has clearly made tax reform a priority. Chairman Camp has released two significant tax reform "discussion drafts" and has publicly stated that the Ways and Means Committee will "mark up" a tax reform bill this year.
- Taking a look at last year's survey, more respondents chose the traditional "extenders" package and the extension of the 2001/2003 tax cuts as the top Congressional tax policy priorities of 2012. Both items were addressed in the American Taxpayer Relief Act of 2012, although it is important to note that the "extenders" package was only addressed on a temporary basis.

**Q6. What tax legislation do you expect to be enacted into law in 2013?**  
(Check all that apply)

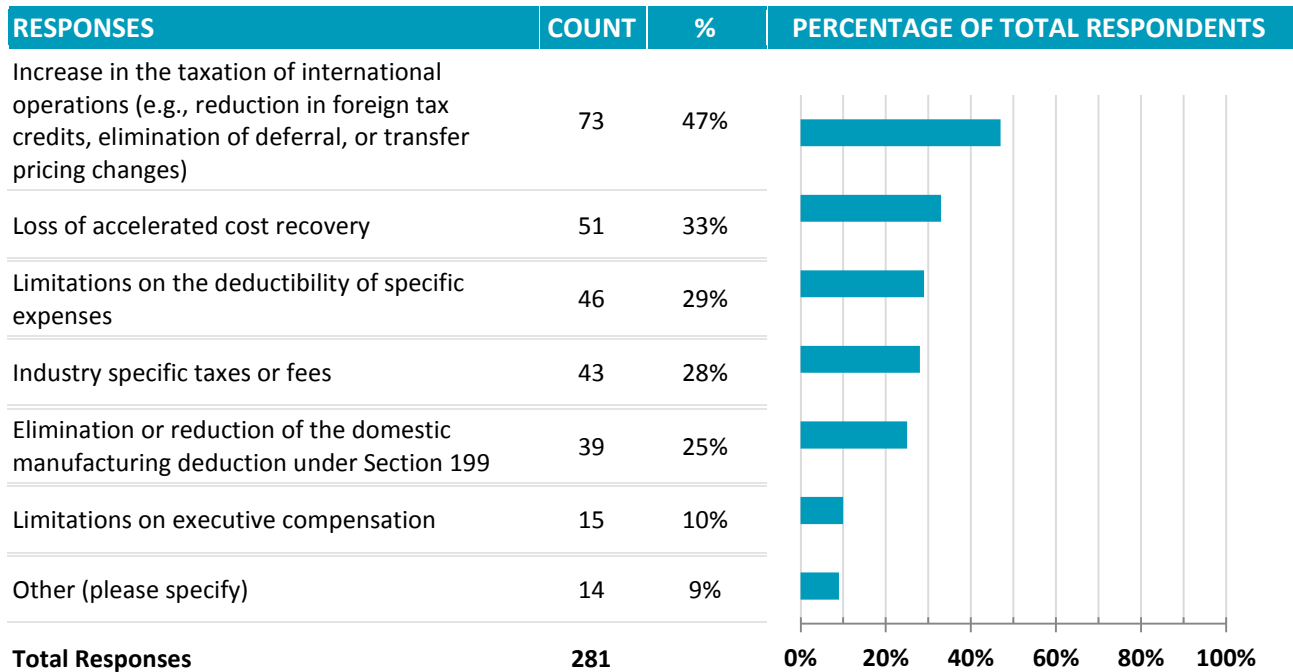


- Most respondents (69%) agree that no significant tax legislation will be enacted into law in 2013.

**Q7. Which of the following revenue sources do you believe will be among the leading sources tapped to pay for Congressional tax initiatives in 2013?**  
(Check all that apply)

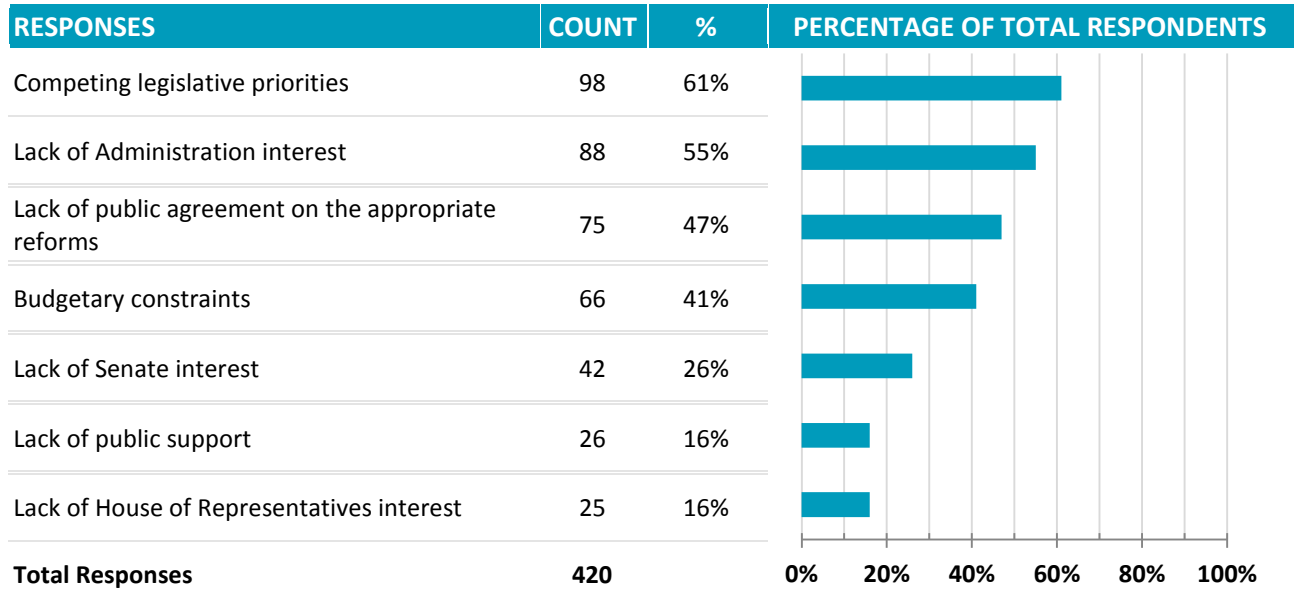


**Q8. If tapped by Congress which of the following revenue sources would have the most unfavorable impact on your business? (Check all that apply)**



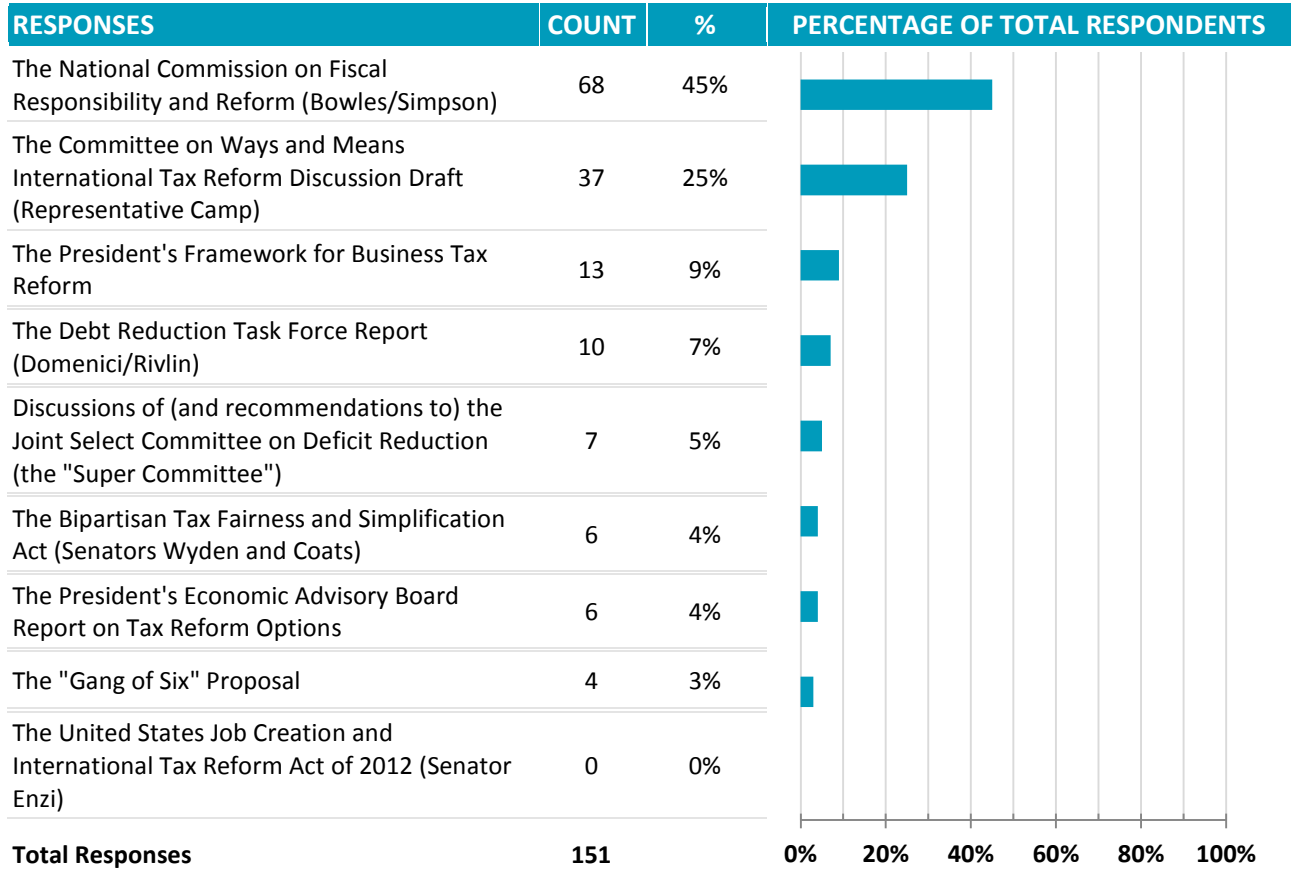
- The Administration's Fiscal Year 2013 budget and the President's Framework for Business Tax Reform contained a number of significant proposals that would increase the U.S. taxation of international operations. To date, however, these proposals have not received serious Congressional consideration. However, it is important to note that a number of international tax proposals from previous budget proposals, including the Section 909 foreign tax credit "splitter" rule and the Section 901(m) rules covering asset acquisitions, have been enacted.
- Perhaps because of the ongoing attention to international tax proposals, for the fifth year in a row the majority of respondents say they believe an increase in the U.S. taxation of international operations is likely to be among the top revenue sources to pay for any Congressional tax initiatives.
- This is of particular concern given that more business executives (38%) are concerned about the enactment of revenue offsets without adoption of a competitive tax system and/or competitive tax rates than any other specific item, and that 48% of respondents say an increase in U.S. taxation of international operations would have the most unfavorable impact on their businesses.

Q9. Many believe that the U.S. tax code is in need of fundamental reform. If such reform does not occur in 2013, which of the following will be the contributing factors? (Check all that apply)



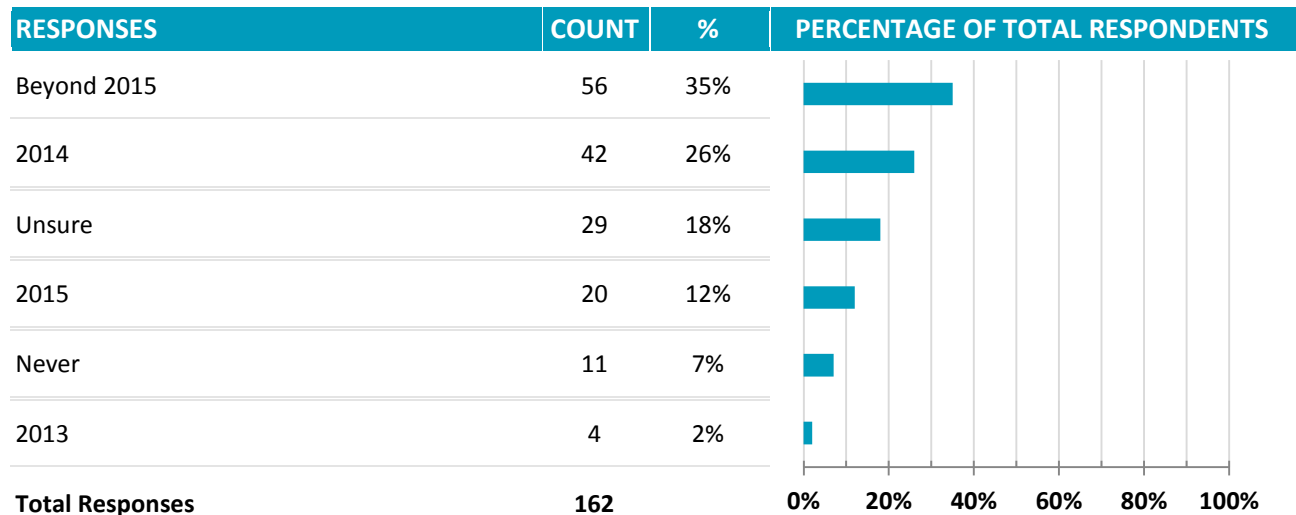
- Last year, the pending Presidential and Congressional elections were viewed as the most significant reason why fundamental tax reform would not be enacted. With the elections now behind us, survey respondents continue to believe that such reform will not be enacted in the near future, although for different reasons.
- Competing legislative priorities and a lack of Administration interest are cited as the primary reasons why respondents believe that fundamental tax reform will not be enacted in 2013.

**Q10. What study/proposal will have the most significant impact on advancing the tax reform debate?**



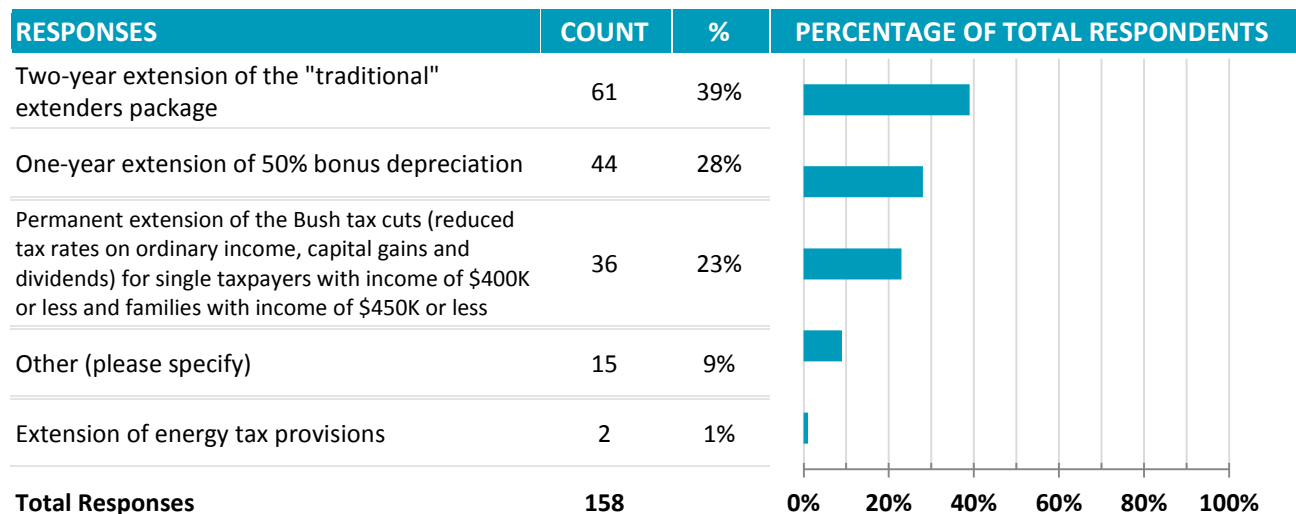
- The Bowles/Simpson report and Ways and Means Committee Chairman Dave Camp's international tax reform "discussion draft" continue to be viewed as having the most significant impact on the tax reform debate. Both proposals provide that the current worldwide system of taxation be replaced with a territorial tax system and that the corporate tax rate be reduced, both of which are priorities of the business community.
- More respondents chose the Bowles/Simpson report this year (45%), compared to 29% of respondents who chose it in 2012.

### Q11. When do you expect fundamental tax reform to be enacted?



- Last year, 31% of respondents believed fundamental tax reform would be enacted in 2013, perhaps on the belief that the election would result in control of both Houses and the Administration by a single party. This year, with the election behind us, that number dropped to 2%. In fact, respondents are evenly split between those that believe tax reform will be enacted before 2016 and those that believe that tax reform will not be enacted until after that (if ever). This is compared to 11% of respondents from 2012 who said they believed reform wouldn't be enacted until after 2015, if ever.

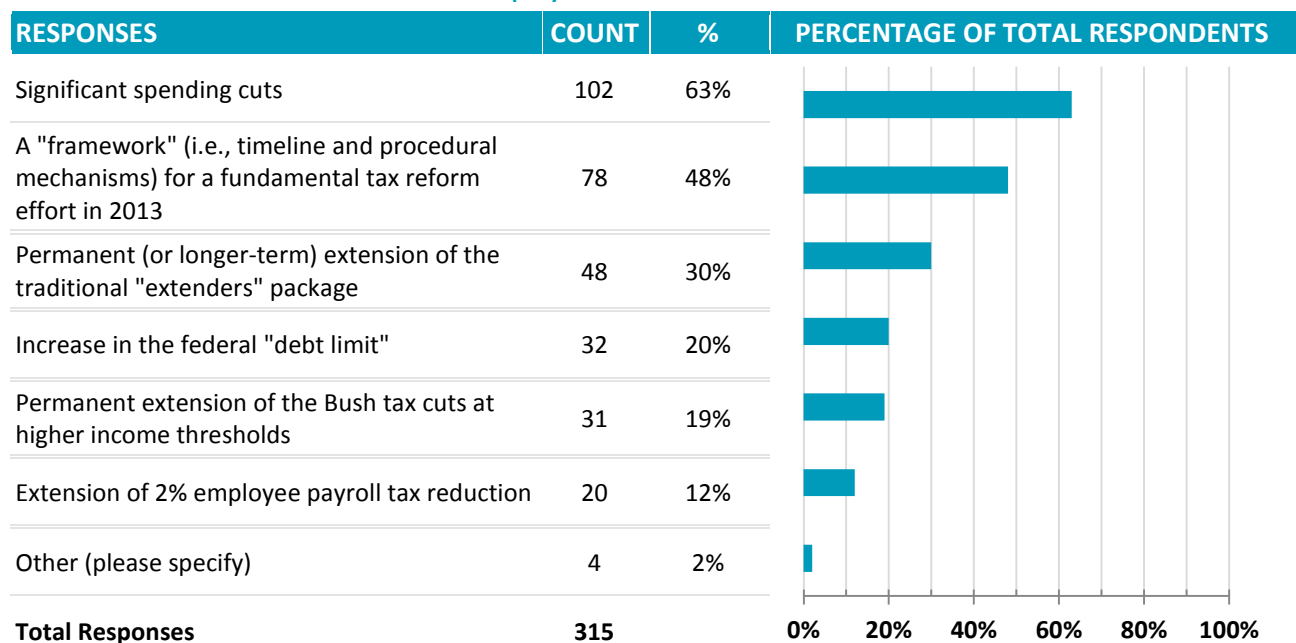
### Q12. What provision contained in the recently enacted American Taxpayer Relief Act of 2012 is most important to your business?





- Respondents viewed the two-year extension of the "traditional" extenders package as the most important component of the American Taxpayer Relief Act of 2012 to their businesses. In particular, the extension of the R& D credit and certain Subpart F provisions were priorities of the business community.
- Because a significant portion of the extension was retroactive, however, the package is scheduled to expire at the end of 2013 and will need to be addressed again by Congress. Timely extension of the package has been an ongoing concern for the business community.

### Q13. What provisions do you believe should have been included in the recently enacted The American Taxpayer Relief Act of 2012?



- Although business executives were relieved by the inclusion of the two-year extension of the traditional "extenders" package, an overwhelming majority hoped for more comprehensive legislation that included significant spending cuts. Almost half of respondents hoped for a "framework" for a fundamental tax reform effort in 2013, which is consistent with many views expressed throughout the survey.

## Methodology

In January 2013, Miller & Chevalier and the NFTC distributed a survey via email 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 163 respondents.

Due to rounding, all percentages used in all questions may not equal 100%. A few small edits were made to select verbatim responses to improve readability.

Percentages added may exceed 100 in questions 4, 5, 6, 7, 8, 9 and 13 since a participant could select more than one answer for those questions.

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