2018 Tax Policy Forecast Survey

Miller & Chevalier Chartered
The National Foreign Trade Council

EXECUTIVE SUMMARY

The Post-TCJA Picture for Business: the Good, the Bad, and the Uncertain

For more than a decade, we have asked executives to predict where tax policy is headed in the coming year. The playing field, however, changed significantly in the final days of 2017 with the passage of the Tax Cuts and Jobs Act of 2017 (TCJA), the first comprehensive tax reform law enacted in more than 30 years. Beyond that, the political landscape is unlike any we've experienced, with an Administration staff consistently in flux, unexpected retirement announcements from longstanding Congressional members, and social media-driven policy announcements.

As a result, we shaped this 12th Annual Miller & Chevalier/National Foreign Trade Council (NFTC) Tax Policy Forecast Survey to examine the early impact of the TCJA. What will it mean for global competitiveness for U.S. businesses? What actions are companies already taking as a result of the changes? Where are the points of concern, confusion, and misunderstanding? And what will it all mean for the U.S. political landscape in a volatile midterm election year?

If 2017 was the year of renewed hope for tax reform, 2018 is the year of review and reflection about what this comprehensive tax reform legislation means for businesses and their planning.

THE TCJA AND THE BUSINESS IMPACT

Tax reform is clearly welcomed by respondents, who are nearly unanimous in their belief that the TCJA will improve the standing of U.S. businesses on the global stage. In addition to increased competitiveness of U.S.-based businesses, industry leaders overwhelmingly expect that the U.S. will become more attractive for foreign direct investment. **The reduced corporate tax rate post-TCJA has moved the U.S. from the highest rate among large economies to a much more competitive position, increasing the attractiveness of the U.S. economy for businesses in search of investment opportunities.**

For years, survey respondents identified the high statutory tax rate and the worldwide system of taxation as the most important issues for tax reform. The fact that the new tax law addressed those issues by reducing the corporate tax rate and eliminating the so-called lockout effect (which encouraged the accumulation of earnings offshore to avoid the U.S. tax on repatriation) is a large part of the reason survey respondents overwhelmingly believe the new law increases the global competitiveness of U.S. businesses.

When it comes to their own companies, respondents still seem to be weighing the impact of what President Trump called the "biggest tax cuts and reforms in American history" and approaching the changes from a wide swath of perspectives. **For example, while 59 percent of executives believe the TCJA's dramatic corporate rate reduction from 35 percent to 21 percent will decrease their taxes, one-third say the new law will have no impact or will actually raise their taxes**. The impact of revenue raisers in the TCJA, such as the limitation on the business interest expense deduction, the global intangible low-taxed income (GILTI) rules, and the inclusion of the base erosion and anti-abuse tax (BEAT), is of significant concern to respondents.

TAX EXECUTIVES SEEK GUIDANCE

Many respondents intend to find clarity through available channels. **Seventy-four percent plan to request regulatory or other administrative guidance, and 61 percent will seek technical corrections to the law**. Almost half (49 percent) will ask for clarifying language in the Joint Committee on Taxation (JCT) Bluebook, and nearly a quarter (23 percent) plan to pursue new substantive legislation. The high level of interest in seeking regulatory guidance, technical corrections, clarifying language in the JCT Bluebook, or new substantive legislation suggests that when it comes to the details of the new tax law, companies believe more work remains to be done.

Just as most respondents intend to seek clarification to the new law via technical corrections, the most common TCJA concern is that Congress will not be able to pass a technical corrections bill in a timely manner. Unlike the TCJA, technical corrections cannot be enacted using reconciliation measures, so a bipartisan vote will be required to enact a technical corrections bill. The political environment, coupled with the upcoming midterm elections, makes the prospects for such bipartisan legislative action challenging.

Respondents generally expressed more optimism about the ability of the U.S. Department of the Treasury (Treasury) and the Internal Revenue Service (IRS) to implement the TCJA through administrative guidance. There is lack of consensus among respondents regarding which provision in the TCJA is in greatest need of guidance. Executives are almost equally divided between wanting guidance regarding the GILTI rules (17 percent), the BEAT (16 percent), the pass-through deduction for qualified business income (16 percent), and the limitation on the deduction of business interest expense (15 percent). The IRS's second quarter update to the 2017-2018 Priority Guidance Plan targets a number of these provisions for the development of guidance on an expedited basis.

REFORM AND BUSINESS STRATEGY

In the first quarter of the year, news outlets frequently featured stories of the more than 470 U.S. businesses that announced pay raises, bonuses, or other employee incentives tied to the TCJA. Similarly, approximately one-fifth of respondents anticipate the payment of bonuses and/or increased U.S. employment. **However, most respondents do not anticipate any TCJA-related employer incentives within their organizations**.

Despite concerns that the TCJA tax reform savings will primarily be used to benefit shareholders, respondents tell us they expect their companies will maintain the status quo on corporate debt (63 percent), stock buyback programs (74 percent), and dividends (73 percent).

One area where respondents found agreement was the impact of the TCJA on U.S. capital investment strategies. An overwhelming 94 percent say the new tax law will increase their organization's U.S. capital investment. Although the outlook for capital investment abroad is more mixed, most respondents (58 percent) say the TCJA will decrease foreign capital investment, reflecting a view that organizations will favor investment in the U.S. over other countries as a result of the TCJA.

POST-TCJA POLITICAL LANDSCAPE

What does all of this mean for tax policy and the political landscape leading into the November midterm Congressional elections?

Respondents' views of who will have the most significant impact on tax policy have shifted over the past year, with more emphasis now on the President than on Congressional leadership. This sentiment reflects the view that implementation of the TCJA is a top priority. Not surprisingly, many respondents believe Treasury Secretary Steven Mnuchin and Treasury Assistant Secretary for Tax Policy David Kautter will also have influential tax policy-related roles this year.

While respondents place President Trump at the top of the list of tax policy influencers, they believe he will prioritize other legislative matters, including those in the headlines and outlined during his 2016 campaign, such as an infrastructure spending package (91 percent) and immigration reform (68 percent). Further, 59 percent of executives believe an infrastructure spending package will be enacted this year, and 46 percent believe we will see immigration reform – the latter even though Congress held several failed votes on immigration over the survey's open period. Both topics are hot-button issues that will require significant Administration focus to advance.

When it comes to the pending midterm elections, respondents believe Republicans will retain the majority in the House and retain a slim majority in the Senate. Looking at major party nominees, respondents expect to see President Donald Trump (64 percent) and former Vice President Joseph Biden (46 percent) on the top of the 2020 presidential ticket. But many respondents say it is too early to predict the Democrat nominee, making "other" the second most common choice (26 percent).

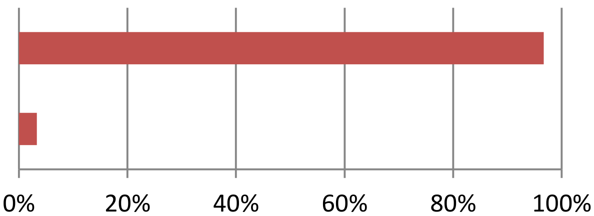
In sum, passage of major tax legislation – or any game-changing new law – inevitably requires analysis, direction, and corrections. When we further factor in the divisive political landscape and the pending midterm elections, it's not surprising that tax executives believe policymakers will focus on administrative guidance over additional tax legislation.

2018 Tax Policy Forecast Survey Results

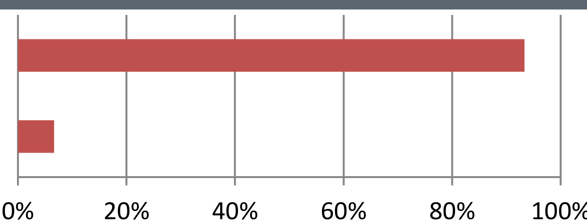
Respondents were asked to complete a short questionnaire designed to measure their thoughts and perspectives on the impact of the Tax Cuts and Jobs Act of 2017 (TCJA) and the direction of tax policy for business in 2018. The following results represent their collective input. The survey methodology can be found at the end of this report.

Q1. How will the Tax Cuts and Jobs Act of 2017 impact U.S. business on the global stage?

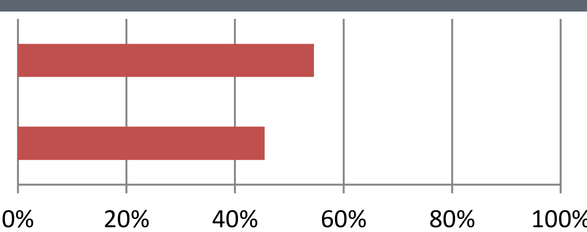
1a. Global competitiveness of U.S. businesses

RESPONSES	%	PERCENTAGE OF TOTAL RESPONDENTS
Increase	96.70%	
Decrease	3.30%	
Total Responses	**91**	

1b. Attractiveness of the U.S. for foreign direct investment

RESPONSES	%	PERCENTAGE OF TOTAL RESPONDENTS
Increase	93.33%	
Decrease	6.67%	
Total Responses	**90**	

1c. Attractiveness of foreign investment for U.S. businesses

RESPONSES	%	PERCENTAGE OF TOTAL RESPONDENTS
Increase	54.55%	
Decrease	45.45%	
Total Responses	**88**	

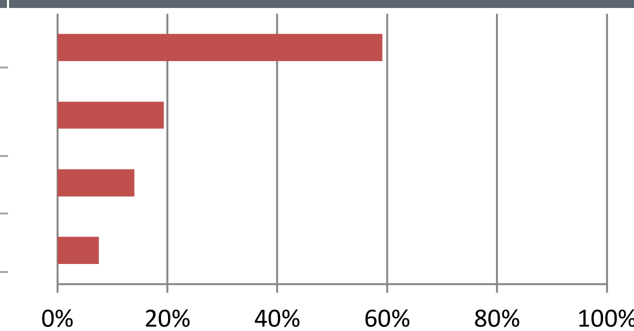
- For years, survey respondents identified the high corporate tax rate and the worldwide system of taxation as the most important issues to be addressed via tax reform. The reduced corporate tax rate post-TCJA has moved the U.S. from the highest rate among large economies to a much more competitive position, increasing the attractiveness of the U.S. economy for businesses in search of investment opportunities. Perhaps unsurprisingly, respondents overwhelmingly believe that the new law increases the global competitiveness of U.S. businesses.

- Over 90 percent of all respondents see the new tax law as increasing the attractiveness of the U.S. for foreign direct investment. However, respondents were more mixed about whether the TCJA will enhance or decrease the attractiveness of foreign investment for U.S. businesses. A substantial number of respondents (45 percent) believe the TCJA, which included international tax changes scored to raise revenue, will make foreign investment less attractive for U.S. businesses, perhaps because provisions of the TCJA, such as the low corporate tax rate, are expected to make U.S. investment more attractive relative to foreign investment.

Q2. How do you believe the Tax Cuts and Jobs Act of 2017 will impact your organization?

RESPONSES	%
Decrease your organization's taxes	59.14%
Little or no impact on your organization's taxes	19.35%
Increase your organization's taxes	13.98%
Other	7.53%
Total Responses	**93**

PERCENTAGE OF TOTAL RESPONDENTS

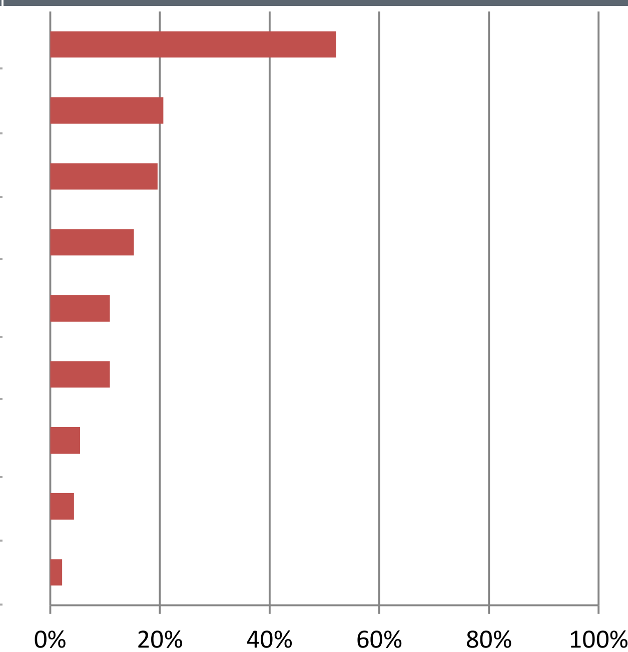


- When it comes to their own businesses, respondents still seem to be weighing the impact of what President Trump called the "biggest tax cuts and reforms in American history." While 59 percent of executives believe the TCJA's dramatic corporate rate reduction from 35 percent to 21 percent will decrease their taxes, one-third say the new law will have no impact or will actually raise their taxes.

Q3. How do you believe the Tax Cuts and Jobs Act of 2017 will impact the U.S. employment of your organization? (Select all that apply)

RESPONSES	%
No impact	52.17%
Increase bonuses to U.S. employees	20.65%
Increase U.S. employment base	19.57%
Raise U.S. wages	15.22%
Increase employee benefit packages for U.S. employees	10.87%
Other	10.87%
Decrease employee benefit packages for U.S. employees	5.43%
Reduce U.S. employment base	4.35%
Reduce U.S. wages	2.17%
Total Responses	**130**

PERCENTAGE OF TOTAL RESPONDENTS



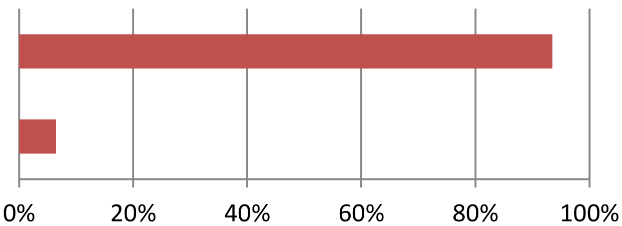
- Most respondents do not anticipate any TCJA-related employer incentives within their organizations. Yet, approximately one-fifth of respondents anticipate the payment of bonuses and/or increased U.S. employment.
  - In the first quarter of the year, approximately 470 U.S. businesses announced pay raises, bonuses, or other employee incentives.

Q4. How will the Tax Cuts and Jobs Act of 2017 impact the capital investment strategy of your organization?

4a. U.S. capital investment

RESPONSES	%
Increase	93.51%
Decrease	6.49%
Total Responses	**77**

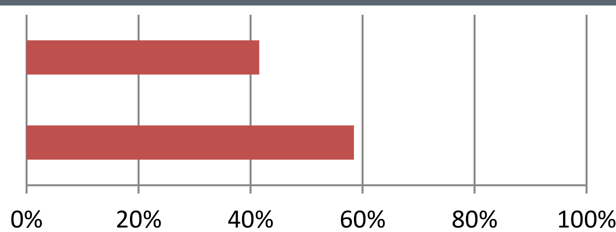
PERCENTAGE OF TOTAL RESPONDENTS



4b. Capital investment abroad

RESPONSES	%
Increase	41.54%
Decrease	58.46%
Total Responses	**90**

PERCENTAGE OF TOTAL RESPONDENTS

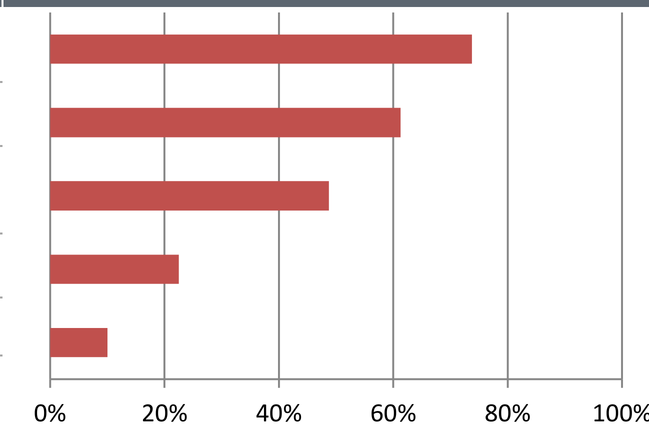


- Respondents believe the TCJA will have a positive impact on their organization's capital investment in the U.S. The low U.S. corporate tax rate, immediate expensing, and the elimination of the lockout effect all likely contribute to this outlook.
- On the other hand, most respondents say the new tax law will decrease their organization's foreign capital investment, likely reflecting a view that organizations will favor investment in the U.S. over investments elsewhere as a result of the TCJA.

Q5. With respect to the Tax Cuts and Jobs Act of 2017, does your organization have plans to seek: (Select all that apply)

RESPONSES	%
Regulatory or other administrative guidance	73.75%
Technical corrections to the law	61.25%
Clarifying language in the Joint Committee on Taxation "Bluebook"	48.75%
Substantive legislation	22.50%
Other	10.00%
Total Responses	**173**

PERCENTAGE OF TOTAL RESPONDENTS



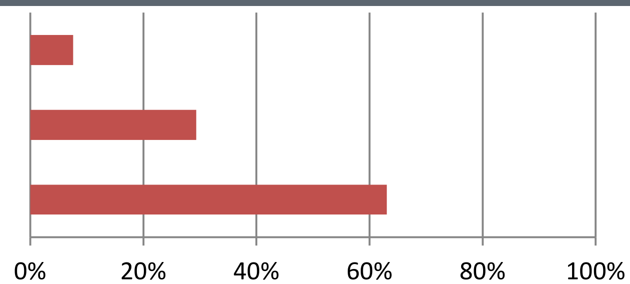
- Most respondents intend to seek some kind of regulatory or administrative guidance with respect to specific provisions in the TCJA. Respondents believe the TCJA will have a positive effect on the competitiveness of U.S. businesses, but the high level of interest in seeking clarification suggests that when it comes to the details of the new tax law, more work remains to be done.
  - Over 60 percent of executives surveyed plan to seek technical corrections to the law. This action will put pressure on Congress to make bipartisan technical corrections to a bill that passed without bipartisan support.

Q6. In response to the Tax Cuts and Jobs Act of 2017, has or will your organization: (Select all that apply)

6a. Corporate debt

RESPONSES	%
Increase or institute	7.61%
Decrease	29.35%
Maintain status quo	63.04%
Total Responses	**92**

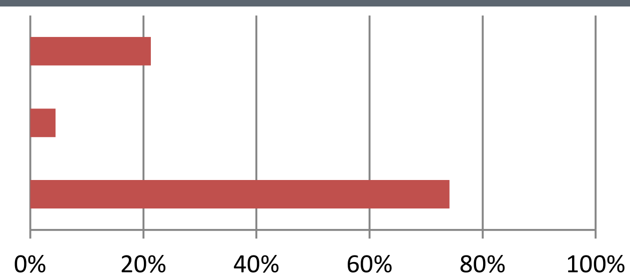
PERCENTAGE OF TOTAL RESPONDENTS



6b. Stock buyback programs

RESPONSES	%
Increase or institute	21.35%
Decrease	4.49%
Maintain status quo	74.16%
Total Responses	**89**

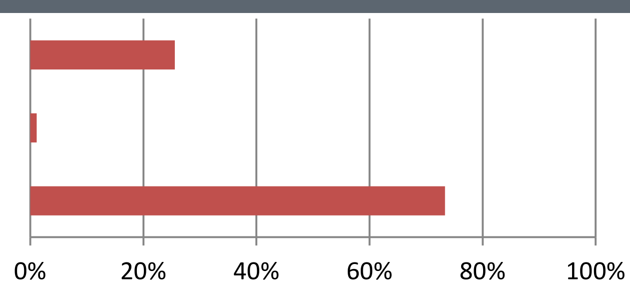
PERCENTAGE OF TOTAL RESPONDENTS



6c. Dividends to shareholders

RESPONSES	%
Increase or institute	25.56%
Decrease	1.11%
Maintain status quo	73.33%
Total Responses	**90**

PERCENTAGE OF TOTAL RESPONDENTS



- Most respondents believe the TCJA will not have a significant impact on the levels of corporate debt, stock buyback programs, or dividends to shareholders. About one-third (29 percent) of respondents believe their organization will reduce corporate debt as a result of the TCJA, which imposes a new limitation on the deduction of business interest expense.
- Twenty-one to 25 percent of respondents believe their organization will increase stock buybacks or dividends to shareholders. This may be a result of the section 965 transition tax and the ability to repatriate overseas earnings going forward.

Q7. What is your greatest concern regarding the Tax Cuts and Jobs Act of 2017?

RESPONSES	%
Inability of Congress to effectively, and in a timely manner, address through technical corrections any unintended consequences or other problems associated with the Tax Cuts and Jobs Act of 2017	43.01%
Endurance of the Tax Cuts and Jobs Act of 2017 in light of potential results of the 2018 and 2020 elections	23.66%
Inability of the Treasury Department and the IRS to effectively, and in a timely manner, implement the Tax Cuts and Jobs Act of 2017	13.98%
Other	9.68%
Endurance of the Tax Cuts and Jobs Act of 2017 in light of potential retaliation by other countries	6.45%
None	3.23%
Endurance of the Tax Cuts and Jobs Act of 2017 in light of potential legal challenges to the legislation	0.00%
Total Responses	**93**

- Just as most respondents intend to seek clarifications to the new tax law via technical corrections, the single most common concern among respondents regarding implementation of the TCJA is that Congress will not be able to, in a timely manner, enact such technical corrections.
  - Unlike the new tax law, technical corrections cannot be enacted using reconciliation measures. As a result, a bipartisan vote will be necessary to fix the law. The political environment, including the upcoming midterm elections, make the prospects for such bipartisan legislative action challenging. Respondents generally expressed more optimism regarding the ability of Treasury and the IRS to timely issue administrative guidance.
  - A quarter of respondents also expressed concern for the endurance or stability of the TCJA in light of potential political instability. In March, Senate Democrats proposed an infrastructure investment plan that would increase taxes and roll back many of the TCJA's corporate tax incentives. This proposal highlights threats to the durability of the TCJA if Democrats aim to weaken the existing legislation if they obtain control of Congress and/or the White House in the future.

Q8. In response to the Tax Cuts and Jobs Act of 2017, what provision do you believe is most in need of clarification through technical corrections and/or regulatory or other administrative guidance?

RESPONSES	%
Global intangible low-taxed income (GILTI) rules	17.39%
Pass-through deduction for qualified business income	16.30%
Base erosion and anti-abuse tax (BEAT)	16.30%
Limitation on deduction of business interest expense	15.22%
Other	13.04%
Deduction for foreign-derived intangible income (FDII)	10.87%
Deemed repatriation tax on deferred foreign income	7.61%
Participation exemption system	3.26%
Total Responses	**92**

- Respondents are divided on the question of which TCJA provision most needs clarification or other guidance. An almost equal number see guidance as being most needed for the limitation on the business interest expense deduction, the GILTI, the BEAT, and the pass-through deduction for qualified business income.
  - Of note, the IRS's second quarter update to the 2017-2018 Priority Guidance Plan targets a number of these provisions for the development of guidance on an expedited basis.

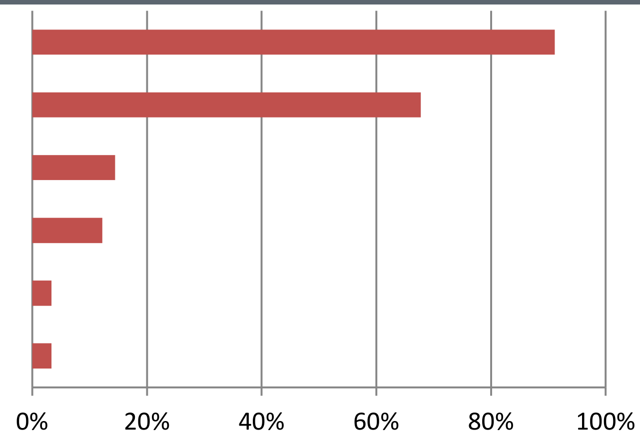
Q9. Who will have the most significant impact on tax policy in 2018? (Rank top three with number one being most influential)

RESPONSES	RANK 1	RANK 2	RANK 3	WEIGHTED RANK (SCORE)
President Donald Trump	24	7	14	1 (100)
Speaker of the House Paul Ryan	9	20	10	2 (77)
Treasury Secretary Steven Mnuchin	17	9	3	3 (72)
Senate Majority Leader Mitch McConnell	10	13	13	4 (69)
House Committee on Ways and Means Chairman Kevin Brady	12	8	17	4 (69)
Treasury Assistant Secretary for Tax Policy David Kautter	9	15	4	5 (61)
Senate Committee on Finance Chairman Orrin Hatch	3	10	8	6 (37)
Senate Minority Leader Chuck Schumer	1	2	6	7 (13)
National Economic Council Director Gary Cohn	0	2	9	7 (13)
Other	2	0	3	8 (9)
Senate Committee on Finance Ranking Member Ron Wyden	1	2	0	9 (7)
House Minority Leader Nancy Pelosi	0	0	1	10 (1)
House Committee on Ways and Means Ranking Member Richard Neal	0	0	0	0 (0)
Total Responses				**88**

- In 2015, 2016, and 2017, respondents predicted that House Speaker Ryan would have the greatest impact on tax policy. Tax executives' views shifted this year, with more seeing the President rather than Congressional leadership as having the greatest impact on tax policy.

Q10. What will be the Trump administration's legislative priorities in 2018? (Select all that apply)

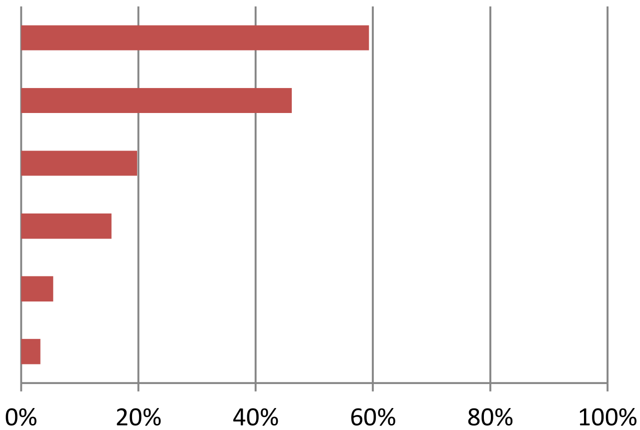
RESPONSES	%	PERCENTAGE OF TOTAL RESPONDENTS
Infrastructure spending package	91.11%	
Immigration reform	67.78%	
Healthcare-related legislation	14.44%	
Welfare reform	12.22%	
Tax "extenders" package	3.33%	
None of the above	3.33%	
Total Responses	**173**	



- With the passage of tax reform, respondents expect that the Trump Administration will turn to infrastructure spending and immigration reform as top legislative priorities in 2018.
  - In 2017, respondents predicted that tax reform, followed by Affordable Care Act "repeal and replace" legislation, would take priority. Infrastructure spending was the third most popular response last year.

Q11. What legislation do you expect to be enacted into law in 2018? (Select all that apply)

RESPONSES	%	PERCENTAGE OF TOTAL RESPONDENTS
Infrastructure spending package	59.34%	
Immigration reform	46.15%	
Tax "extenders" package	19.78%	
None of the above	15.38%	
Welfare reform	5.49%	
Healthcare-related legislation	3.30%	
Total Responses	**136**	

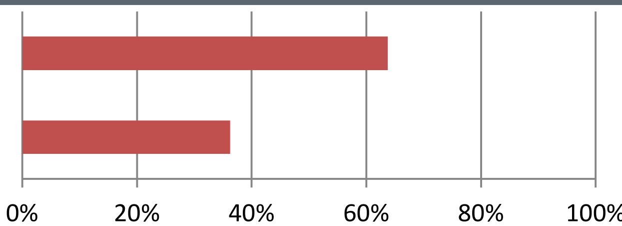


- A majority of respondents believe the Trump Administration will succeed in achieving its legislative priority of enacting an infrastructure spending package in 2018, and just under half (46 percent) believe immigration reform legislation will be enacted. Major legislation may be a tall order as we approach the upcoming midterm elections.
  - President Trump has released his infrastructure plan, although Congress has yet to act on it. Further, in recent weeks Congress held several votes on significant immigration reform proposals that failed to garner sufficient votes, suggesting passage of such legislation is uncertain.

Q12. What do you think will be the outcome of the 2018 midterm elections in the House of Representatives?

RESPONSES	%
Republicans maintain majority	63.74%
Democrats obtain majority	36.26%
Total Responses	**91**

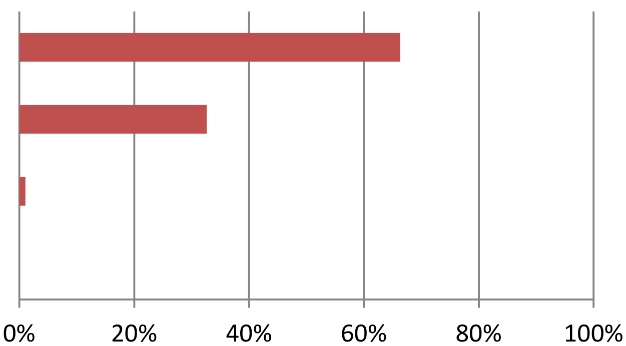
PERCENTAGE OF TOTAL RESPONDENTS



Q13. What do you think will be the outcome of the 2018 midterm elections in the Senate?

RESPONSES	%
Republicans retain slim majority (fewer than 60 votes)	66.30%
Democrats obtain slim majority (fewer than 60 votes)	32.61%
Republicans obtain supermajority (60 or more votes)	1.09%
Democrats obtain supermajority (60 or more votes)	0.00%
Total Responses	**92**

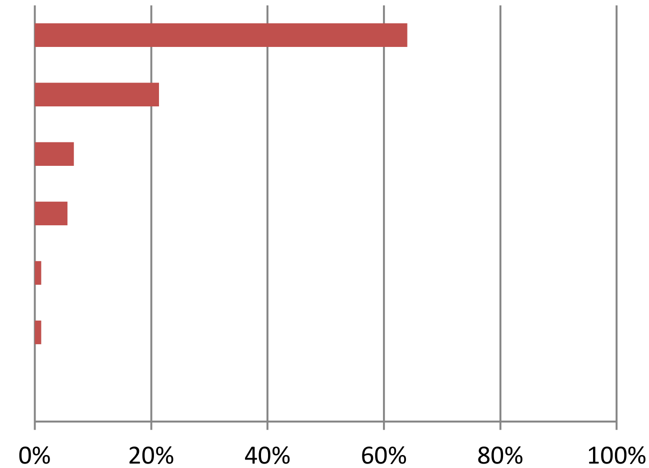
PERCENTAGE OF TOTAL RESPONDENTS



- Respondents' view on the 2018 midterm is to expect more of the same. They believe Republicans will retain a majority in the House of Representatives and a slim majority in the Senate.
  - While Republicans currently hold 51 of the 100 Senate seats, Republican Senators Bob Corker of Tennessee, Jeff Flake of Arizona, and Thad Cochran of Mississippi have announced their retirements. And even long-held Republican seats are now seen as up for grabs, as was seen in the Alabama Senate victory of Democrat Doug Jones in a 2017 special election. In the Senate, Republicans have nine seats up for election and Democrats have 26, including the two Independents who caucus with the Democrats.
  - In the House, Republicans maintain a 24-seat majority. But as of the end of the first quarter, 38 Republicans have announced they are resigning, retiring, or running for another office.

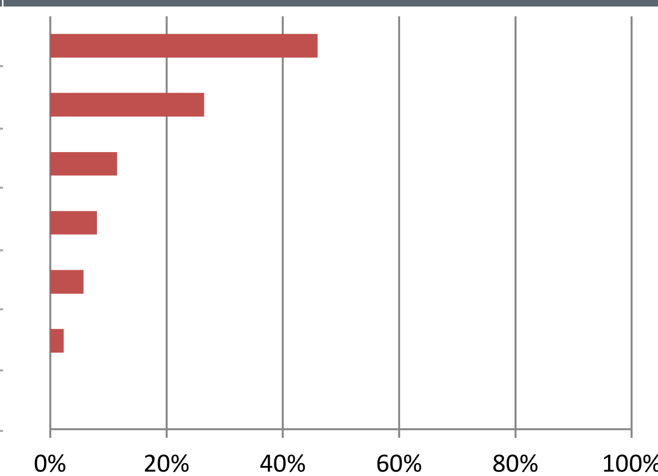
Q14. Who do you think will be the 2020 Republican nominee for president?

RESPONSES	%	PERCENTAGE OF TOTAL RESPONDENTS
President Donald Trump	64.04%	
Vice President Mike Pence	21.35%	
Other	6.74%	
Senator Marco Rubio	5.62%	
Senator Jeff Flake	1.12%	
Senator Ben Sasse	1.12%	
Senator Ted Cruz	0.00%	
Total Responses	**89**	



Q15. Who do you think will be the 2020 Democratic nominee for president?

RESPONSES	%	PERCENTAGE OF TOTAL RESPONDENTS
Vice President Joseph Biden	45.98%	
Other	26.44%	
Senator Elizabeth Warren	11.49%	
Oprah Winfrey	8.05%	
Senator Bernie Sanders	5.75%	
Senator Kirsten Gillibrand	2.30%	
Secretary Hillary Clinton	0.00%	
Total Responses	**87**	



- While the 2020 presidential election is still more than two years out, President Trump announced his reelection campaign in late February.
- Former Vice President Joe Biden is viewed as the front-runner for the Democratic nomination, although a significant number of respondents (26 percent) are still undecided or named alternative nominees.

Methodology

In January and February 2018, Miller & Chevalier Chartered and the National Foreign Trade Council 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.- and foreign-based multinational companies.

Industries surveyed include manufacturing, oil and gas, retail, insurance, utilities, financial institutions, automotive, healthcare, defense, hospitality, and agriculture. The survey was completed by 93 executives.

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.

We appreciate and thank those who contributed their views and shared their experiences.

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