

Wolters Kluwer Interview: TCPI Previews Tax Reform, Other Global Changes

by Wolters Kluwer, *Federal Tax Weekly*

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Introduction

"Tax Policy in Transition: Diverging Views in a Converging World," will be the focus of the Tax Council Policy Institute's (TCPI)'s 18th Annual Tax Policy & Practice Symposium, to be held in Washington, DC, on February 16–17. Wolters Kluwer recently had the opportunity to ask Lyn Walker (Executive Director & General Counsel, TCPI) and Eric Solomon (TCPI program manager, Co-Director, National Tax, Ernst & Young LLP, and former Assistant Treasury Secretary (Tax Policy)) for their views on current issues surrounding tax reform and global tax policy.

Wolters Kluwer: *How has the US election impacted the outlook for tax reform, trade and the United States' role in shaping global tax policy?*

Lyn Walker: The outlook for tax reform has certainly improved. The direction remains to be seen, but the expectation is quite optimistic – it's clear the election will have a significant impact on accomplishing tax reform domestically, and movement in the US very well may impact reforms underway around the globe. The momentum appears to be building and the log jam has broken.

Eric Solomon: Tax reform has been an issue under discussion for more than a decade, for example, the 2005 Bush Commission Report, over ten years ago. The momentum has been building because of a growing recognition of problems with our current tax system. Our statutory tax rate for corporations is one of the highest in the world. Our tax code is filled with special provisions and preferences. Our international system is unlike that of most other countries; it's a worldwide system, but it allows deferral of foreign earnings, which has caused a lockout effect for American companies to keep their earnings offshore. Our current system provides incentives to use debt, because there are deductions for interest but not for dividends. And, as a framework for doing business, our code is

extremely complex. So for all these reasons, as well as the recognition that tax reform could promote economic growth, the momentum has been building to reform our tax code.

Wolters Kluwer: *How does the House Republican "Better Way" Tax Reform Blueprint play into a company's outlook and planning?*

Lyn Walker: The Blueprint has provided a great starting point and certainly is being discussed in tax departments across the country. It's an important vehicle that has promoted and stimulated the current discussion; it has created much of the momentum that the election has now pushed forward further.

Eric Solomon: It is anticipated that the House Republican Blueprint will provide a foundation for the debate about tax reform in 2017. The Blueprint is, in some ways, a concept document with a lot of open issues and details to be filled out in 2017. I would anticipate that the Blueprint, along with the work on tax reform that has gone before it over the past ten years, will be the foundation for a bill that will work its way through the House and into the Senate.

Wolters Kluwer: *Change is not only taking place in the United States. How are businesses dealing with the changing global economy from a tax perspective?*

Lyn Walker: Certainly, more attention is necessarily being given to the real-time monitoring of policy changes and proposals globally. However, actual involvement in the process is also increasingly more practical and possible. Businesses have long factored into their decisions relevant laws and regulations, but the changing political environment may be of greater relevance today than perhaps in the recent past as well.

Eric Solomon: I agree that American multinational companies are increasingly focused on the changes in the global economy. This is particularly true because many of the fastest growing markets are outside of the United States. Therefore, from both a business and a tax point of view, American companies need to understand tax policy, tax regulation and tax administration in countries around the world.

Wolters Kluwer: *What's the most important thing companies should begin doing to address the potential tax law changes?*

Lyn Walker: Remain vigilant; stay aware of what is going on around the globe, particularly in the jurisdictions where they have business interests currently or are possibly planning to have interests

in the future. Companies need to participate in the process when policy proposals are pending. They'll need to weigh in on the potential impact, good and bad, of possible regulatory and legislative changes and their ability to remain competitive in the marketplace in question.

Eric Solomon: This question, "what companies should begin doing to address potential changes," is not just a question about US law. It's a question about potential changes around the world. Of course, the discussion in the United States about tax reform is front and center right now. But we cannot forget the international discussion of taxes as they affect multinational companies. That dialogue has been going on for a number of years at the Organisation for Economic Co-operation and Development (OECD). Beyond the US and OECD, we also see, for example, the state aid cases where trade laws are coming into play regarding tax issues.

Wolters Kluwer: *Aside from what you already mentioned, what are the biggest global changes that are affecting businesses, specifically assessing the importance of changes in tax law and tax administration?*

Eric Solomon: All around the world governments need more revenues. Countries are increasing their taxes on inbound companies through legislation, regulations and audit activity. At the same time, countries are enacting incentives to lure business to their shores. Countries are competing for inbound investment. A perfect example of a tax incentive is a patent box regime.

Lyn Walker: When you look at tax reform globally, many would say the US has been behind the eight ball in progressivity. Look at what has happened in a number of large countries around the globe – certainly none as large as the US as an economy, but big in terms of their revenues and in terms of some of our businesses' involvement. They've moved on tax reform in the UK, in Australia and some of the Asian countries. Nearly all of our trade partners have lower tax rates than the US.

Eric Solomon: I see globalization as the most significant change in the global economy driving changes in the tax environment. There are huge markets outside the United States into which American companies will want to sell. In addition, there's going to be much more inbound US investment as other countries gain wealth.

Thus, there's going to be much more cross-border investment flow. And, as a result, from a tax point of view, one particular area that is already having increasing importance is the cross-border system, both outbound and inbound. The global economy is very different today from what it was in 1962 when the last major changes to the US international tax system were enacted.

In 1962, US manufacturing was dominant and the international tax provisions were not as important as they are today. The kinds of things that American companies sell offshore, not just goods but also services, as well as the increasing role of American companies abroad, and the increasing role of foreign companies in the United States, are putting a lot of pressure on the need for our tax system to change.

Wolters Kluwer: *What are the most noteworthy specific changes in tax law and administrative practices in various countries, post BEPS?*

Lyn Walker: I think the sharing of tax information and data can't be understated.

Eric Solomon: If I had to pick one of the most noteworthy changes in tax law and administration, I would say transparency and information sharing among countries. And, we expect that this will only increase.

Wolters Kluwer: *What are some practical considerations for tax executives to consider while trying to navigate the new landscape?*

Eric Solomon: Tax executives face many challenges today. Some of those challenges are managing increasing responsibilities and addressing uncertainties in the changing US and global economic and tax environment.

Tax executives need to understand, appreciate and deal with the very large appetite for data by the tax authorities, by their auditors, and by the finance team in the company. In terms of responsibilities, tax executives need to deal with increasingly required transparency. Not only do they have to deal with specific tax issues, they have to deal with financial statement issues. They have to deal with technology and controversy issues. They have to deal with their own budget issues, as well. And on top of all of that, they have to deal with the personnel issues of how to staff a successful tax department. They need to know how to hire good people, retain good people, and how to plan for succession.

There is also tremendous uncertainty caused by potential changes in the law. One of the practical considerations tax executives need to think about in this changing environment is what the tax environment might be two, three or five years from now. For example, what kinds of people and skills will be needed? Personnel decisions are going to be very important in the future. Is it better to get a technical expert in a particular aspect of the law, or is it better to get someone who is

very suited technologically to deal with the management of big data. Of course, the optimal hire would be someone who's able to do both. But I think in this time of change, the tax executive needs to prioritize issues and anticipate what the tax function will be asked to do in the future. By anticipating what is going to be asked of them, tax executives can try to adapt accordingly.

Wolters Kluwer: *How do you see the future of the tax function in a quickly evolving political and economic environment?*

Lyn Walker: The future will be much more dynamic than it was 50 or 60 years ago, as Eric pointed out earlier. The tax function often is, but will increasingly become, an integral part of the business planning process for many, if not all companies.

Eric Solomon: Yes, the future of the tax function is going to be dynamic. Just as the global economy and the tax system are going to be dynamic.

In particular, one of the areas in which tax departments are going to evolve is in the collection, analysis and use of data. This is going to be especially important for planning, for compliance, as well as to provide information to internal members of the company, to external stakeholders and to tax authorities. The future of the tax function is in part the ability of tax executives to project into the future what the needs of the company are going to be with respect to tax issues, financial statement issues and other issues. And, in general, the collection, analysis and use of data is going to be increasingly important.

Wolters Kluwer: *Are there any other observations regarding the role of tax departments in multinational corporations?*

Lyn Walker: Increasingly, members of the tax department will need to communicate on a regular basis with their public affairs and their legislative affairs offices. Because tax is such an important issue, there needs to be open lines of communication between the tax department and the C-suite.

Eric Solomon: The future of the tax function will not solely focus on internal needs. Tax is an essential element of the reputation of a company to the outside world. A tax function needs to be sensitive to issues surrounding the reputation of the company.