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Tax professionals' perception of large and mid-size business US tax law complexity

Hughlene A. Burton¹ and Stewart Karlinsky²

Abstract³

Tax complexity represents one of the most serious problems facing taxpayers and governments. For example, the United States (US) tax law and regulations contain more than 17,000 pages, an increase of more than 40 percent since 2000. The effect of this complexity involves a significant cost for both taxpayers and the government by creating annual compliance costs. As the tax code becomes more complex, this number rises as well. The most important cost engendered by tax complexity may be the frequent errors by the Internal Revenue Service (IRS) and taxpayers as well as the somewhat related non-compliance ('tax gap') with the tax law. Unfortunately, this issue is not unique to the US.

The current study concentrates on issues related to large and mid-size businesses. In this study, we surveyed both tax directors for large US corporations as well as partners and managers of international accounting and law firms to get their perception of tax complexity across 40 different tax issues. The results show that five of the ten most complex issues dealt with international tax, but in contrast with prior studies, the participants in this study did not find Alternative Minimum Tax (AMT) and depreciation to be very complex. This study also tested the differences in perception of the two groups of participants (external and internal tax advisers) to see if they were significant. While the difference in perception was significantly different for a few of the tax issues, the differences for the majority of the issues were not statistically significant.

Keywords: Tax law complexity, large business, tax law professionals

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1. INTRODUCTION

According to the Taxpayer Advocate Nina Olson, tax complexity represents ‘the most serious problem facing taxpayers’ (Olson, 2013). She went even further in her 2014 Annual Report in suggesting that ‘I believe we need fundamental tax reform, sooner rather than later, so the entire system does not implode’ (Olson 2015). In a June 28, 2011 Congressional Hearing before the US Senate Finance Committee, Olson (2011) directly linked complexity to the ‘tax gap’ and cited an IRS National Research Program that identified 67 percent of errors on tax returns as inadvertent and caused by complexity of the tax system.⁴ Even though major changes have been made to the Internal Revenue Code (IRC) in the last three decades, or maybe because of these changes, the tax law still remains highly complex. For example, in 2014 the US tax law and regulations contained more than 74,608 pages in the CCH Standard Federal Tax Reporter (CCH, 2014). Compare this number to the 26,300 pages the US tax law contained in 1984 and you will see that it is almost three times longer today.

In addition, in the National Taxpayers Union Foundation (NTUF) annual study of tax code complexity in the US, they found that the economy lost \$233.8 billion due to 6.1 billion hours of lost productivity (an estimated value of \$202.1 billion) and \$31.7 billion in out-of-pocket costs spent complying with a complex tax code in 2015. According to this study the cost of tax complexity spiked from under \$150 billion per year to well over \$200 billion per year between 2009 and 2011. It has not fallen below that threshold since, and 2015’s estimates are nearly \$10 billion higher than the previous year, showing that complexity costs are rising each year (Brady, 2016).

Over the past 20 years, an increasing number of American taxpayers bewildered by ‘the increasing complexity of tax law’ and ‘confusion over how to comply with the tax code’ have sought help in preparing their income tax returns according to IRS Commissioner John Koskinen. He told the Senate Finance Committee in April of 2014 that about 80 million returns, or 56 percent of the total individual tax returns filed each year, are done by paid preparers. Another 34 percent of taxpayers use tax preparation software, making a total of 90 percent of taxpayers who seek some form of assistance (Jones, 2014). These percentages are not publicly available for corporate returns but one would expect the percentages to be at least as high as the percentage for individual tax returns.

It is interesting that former Representative David Camp (prior House Ways and Means Chair) and former Senator Max Baucus (prior Senate Finance Chair) both lobbied for tax reform during 2012 and 2013 while Camp presented a tax reform proposal to Congress in 2014, all of which has all been ignored. Camp and Baucus have said their motivation for tax reform was the complexity of the current tax law and the need to simplify. Similarly, President Obama established a tax reform panel to recommend a tax law reform package (often called the Simpson-Bowles proposal) (White House, 2010). It too went nowhere.

⁴ Tax gap is a term used by the IRS to define the difference between total taxes owed and taxes paid on time. This difference includes taxes not paid due to both inadvertent mistakes and tax evasion. The number is made up of three components – non-filing, underreporting of tax owed, and underpayment of tax. The US government calculates the tax gap number periodically based on information from both the IRS and the Census Bureau.

One of the current suggestions in Congress is to broaden the tax base while reducing the tax rates. The *Tax Reform Act of 1986* (86TRA) broadened the tax base and lowered the tax rates in an effort to simplify the tax code. However, few would argue that the 86TRA made the tax law simpler with the inclusion of the Passive Activity Loss rules, the limitation on interest deductions, the repeal of the General Utilities doctrine, the expansion of both corporate and individual Alternative Minimum Tax, and inclusion of transfer pricing relative to intangibles (Kent, 2011; Slemrod, 1992).

We would hope that Congress would look at the complexity issues before deciding whether a provision should be included or not. However, recent experience with the *Protecting Americans from Tax Hikes Act of 2015* (PATH) enacted on 18 December 2015, suggests this hope is probably not realistic. Members of Congress had barely a day to consider what was in that law and lobbyists held sway. Instead, we therefore need to hope that studies like ours can provide input before the legislative process even begins.⁵

Complexity is almost a metaphysical term that no one wants to define. In this paper we define the complexity of a tax system as the sum of compliance costs (incurred directly by individuals and businesses) and administrative costs (incurred by government). Compliance costs include the time taxpayers spend preparing and filing tax forms, learning about the law, and maintaining record-keeping for tax purposes.

This study will examine the perceptions of both internal and external tax professionals to determine which areas of the current US tax law they believe are the most complex. In addition, we will test to see where there are any differences within the total sample and between the two groups of professionals that make up the sample. The authors hope the results of the current study will help policymakers focus on what are the complex areas of the tax law relative to large and mid-sized businesses⁶ that need to be simplified, rather than have the term be used as a euphemism for simply lowering a constituency's tax liability.

There have been a number of studies that have looked at the complexity of the individual tax system and a few that examined small business complexity. The current study focuses on issues related to large and mid-sized businesses by surveying tax practitioners. We surveyed both international tax directors for large corporations, and partners and managers of international accounting firms to get their perception of tax law complexity. This study will add to the literature in two ways. First, to date all of the studies have focused on individuals and small business. This study will expand the focus to larger corporations. This expansion is important since the companies in the large and mid-sized group usually have more complex structures and thus would be more affected by complexity in the tax law. Second, this study uses both tax professionals in public accounting and law firms (external) and corporate tax directors (internal) in the sample. To the best of our knowledge, it is the first study to compare the perception of internal tax professionals and external tax professionals.

⁵ It is possible if the US used a consultative process such as that used in New Zealand where taxpayers have a way to voice their opinion before the legislation is enacted, a less complex tax code could result.

⁶ Based on Internal Revenue Service designation we define large and mid-sized businesses as corporations with \$10,000,000 or more in gross assets.

This paper is presented in six parts. It begins with a short discussion of the complexity of the current US tax law and provides the context for the balance of the paper. The second part reviews prior research regarding tax complexity and includes an analysis of the findings of the various studies. The third part discusses the research methodology and hypotheses used in the study. The fourth part reports the results of the study. The fifth part lists some of the limitations and strengths in the study. The final section reviews the conclusions that can be reached from the study and includes some recommendations on how the results can impact tax policy.

2. TAX COMPLEXITY

Many US tax practitioners cynically and realistically assume that when Congress adds the word 'simplification' to a new law it means the opposite; the tax code will become even more complex. The effect of this complexity results in a significant cost to both taxpayers and the government. According to Olsen (2013), tax compliance translated into 6.1B work hours. If one compares this number to the 2001 estimate of 4.6B (Moody, 2001), one can see that complexity is increasing rapidly. In her 2012 report to Congress, Olsen reported that there had been 4,680 changes to the IRC Code since 2001 (Olsen, 2013). Interestingly, in prior studies in the US, Australia and New Zealand, frequent changes in the tax law were rated by professionals as extremely complex (Ingraham and Karlinsky, 2005; Tran-Nam and Karlinsky, 2008; and Gupta, 2011). These prior studies examined small businesses. We include changes in the tax law in the current study to see how the perception of this issue may differ with a different type of tax practitioner.

The National Taxpayer Union Foundation (NTUF, 2015) recently estimated that the cost of complying with our federal income tax system includes \$31.7 billion in software costs, while the Heritage Foundation estimates the total annual cost of complying with tax law as close to \$1.5 trillion (Tax Notes, 2014). But perhaps maybe the most important cost tax complexity engenders is involves frequent errors by the IRS and taxpayers plus the somewhat related non-compliance with tax law. McKerchar (2003) investigated the impact of complexity upon tax compliance. Her study focused on Australian personal taxpayers. The results of this study revealed that the incidence of unintentional non-compliance was high due to tax law complexity.

The most recent report from the IRS (2016) found that the US tax gap for 2008–2010 was \$458 billion annually. This study also found that the voluntary compliance rate was 81.7 percent. These numbers are slightly higher than those reported for 2006, however, they do not represent a significant change. It has often been asserted that tax complexity adds to the tax gap by encouraging aggressive non-compliance. Unfortunately, as Fred Goldberg, former IRS Commissioner, has stated: 'Tax simplification is everyone's favourite orphan. All of us involved in the tax system—Congress, the executive branch, practitioners and taxpayers—proclaim our affection for this child of our dreams, but few are willing to adopt her as our own.' Other comments typically heard include the statement that tax simplification has no constituency to lobby for it.⁷

⁷ It would be an interesting experiment to see if people would pay slightly more in taxes in return for serious simplification of the tax system. We would venture a guess that taxpayers want to have their cake and eat it as well—no increased taxes and a simpler system.

3. PRIOR RESEARCH

The importance and impact of tax complexity has been discussed extensively in the tax policy literature. Several previous studies have found that complexity in the US tax system negatively influences a person's judgment and quality of decision making (Boylan and Frischmann, 2006; Rupert, Single and Wright, 1998). Boylan and Frischmann (2006) found that tax complexity affects market efficiency. They found that tax complexity led to higher prices and quantities of shares in the market. The higher prices created larger gains and thus more taxes owed which resulted in the movement of more of the funds from the investment market to the government. The Rupert et al. (1998) study found when marginal tax rates were harder to determine, individuals were more likely to make incorrect investment decisions. The authors also found when individuals were subject to a more complex tax situation, they were more likely to adopt a fixed-decision strategy which led them to a less than optimal tax position. For example, if a person was given the tax rate to be applied to the income from an investment decision they were more likely to make a better decision than when they did not know the specific tax rate that would apply.

Other studies have examined the effect of the tax complexity of the US tax system on compliance, tax evasion, fairness and equity. Two studies (Milliron and Toy, 1988 and Collins, Milliron and Toy, 1992) found evidence that complexity is associated with taxpayer non-compliance. Conversely, Forest and Sheffrin (2002) found evidence that there may be a disconnect between tax complexity and taxpayer compliance because taxpayers don't necessarily view complexity as unfair. In other research, Karlinsky and Koch (1987) found that a high level of complexity leads to reduced technical accuracy by both tax professionals and future tax practitioners which supports the idea that tax complexity helps increase the tax gap. Carnes and Cuccia performed two studies (1996, 2001) to investigate the relationship between tax complexity and tax equity perceptions. In the first study, they found that the perception of tax complexity generally has a negative effect on a persons' perception of tax equity. The results also suggested that the participants in their sample believed that tax complexity was necessary. However, the participant's justification for tax complexity varied across different tax items and complexity sources. In their second study, Carnes and Cuccia conducted an experiment in which subjects assessed different forms of a hypothetical tax provision with identical economic consequences. The results of the second study found that the provision's complexity negatively affected equity assessments only when the subjects were given a less complex alternative: for example, computing the tax liability from a rate schedule versus determining the tax liability from a tax table. The authors also found that if an explicit justification for the complexity was provided, many of the participants excused the complex nature of the provision.

Several prior studies have also examined the perception of tax complexity. However, most of these focused on the individual tax system. The first (Karlinsky, 1981) surveyed US tax professionals asking which areas of tax law were the most complex. This study examined the entire income tax code, not any particular segment. Karlinsky found the most complex areas of the tax code then were the Subpart F rules, the rules related to collapsible corporations (since repealed) and the issues governing

consolidated groups. Interestingly, the results of the current study found some of the same issues among the most complex, 35 years later. This reminds one that the more things change, the more they stay the same.

O'Neil, Samelson and Harkness (1997) investigated the complexity of the US Schedule C (sole proprietors reporting schedule) but did not examine other small business entities such as partnerships and S corporations. They found the major factors of complexity for sole proprietorships were rules related to auto expense, depreciation expense and the office-in-home deduction. Davies, Carpenter and Iverson (2001) surveyed tax practitioners and tax educators regarding their perception of tax complexity. Their survey included 39 tax issues that mainly concentrated on individual tax. They found support for the idea that the US tax laws are extraordinarily complex.

Both Ingraham and Karlinsky (2005) and McKerchar, Ingraham and Karlinsky (2005) examined tax practitioners' views on the complexity of tax issues relative to small businesses. Ingraham and Karlinsky examined the perception of US tax preparers while McKerchar, Ingraham and Karlinsky compared the perception of tax preparers in the US and Australia. Ingraham and Karlinsky (2005) examined 37 areas of tax law. They found the five most complex areas to be partnership taxation, estate and gift taxation, tax deferred exchanges, frequency of tax law changes and retirement plans. The Ingraham and Karlinsky study was replicated (with jurisdictional modifications) in Australia (Tran-Nam and Karlinsky, 2008) and New Zealand (Gupta, 2011). The Australian study (Tran-Nam and Karlinsky, 2008) also found frequency of tax law changes and retirement planning to be some of the most complex, while the Gupta study (2011) also found frequency of tax law changes to be one of the most complex issues. The other items considered most complex in these two studies had no corresponding issues in the US tax code.

Karlinsky and Burton (2010) used a sample of US tax professionals to examine the complexity of the tax system for large businesses. In their study they sampled only tax directors. In this study the authors extended the original Karlinsky and Burton study by expanding the sample to include outside tax advisers. The earlier paper also did not contain any statistical analysis or mean testing, nor did it examine differences between the various sub-samples.

4. RESEARCH METHOD

There has been little research regarding which provisions of the IRC, particularly those that work with the tax law, are perceived to be the most complex. Those studies that have examined this issue have primarily focused on small businesses and individual tax issues (Ingraham and Karlinsky, 2005 and Davies et al, 2001). In this study, we examine the top areas of perceived complexity affecting large businesses by surveying tax directors of major corporations⁸ and their external advisors. Given that large businesses are an important part of the country's economic health and that \$48 billion of the US tax gap was from large corporations underreporting their correct tax liability, we felt the perception of those who work with large companies was important. To put this segment of the tax return population into perspective, in 2010 there were 38,000 consolidated returns filed representing 2.4 percent of all corporate

⁸ Defined by the IRS classification of LB&I, companies with more than \$10 million in gross assets.

tax returns. Income tax paid on these returns was 99.83 percent of revenue collected from the corporate sector (SOI, 2012).

A test instrument was designed to be as simple as possible. A list of 40 areas of the tax law (encompassing corporate federal and state issues, partnership issues, custom taxes, employment tax, etc.) was presented to the participant to identify the relative complexity of the tax area or provision that affects large businesses (See Appendix A).

The 40 areas of tax law tested were derived from our experience in the LB&I area, discussions with several large corporate tax directors about areas they encountered in practice, and a pilot test with six tax directors to test the instrument in general, and the specific issues in particular. To account for any major items that may have been inadvertently omitted, there was room provided in an 'other' space.⁹

The test instrument was designed to be completed online in 10 minutes or less, and to be simple and clear. A five-point Likert scale was used with a slight variation; a sixth category for Not Applicable to LB&I clients. The five discrete points on the Likert scale ranged from extremely complex (1) to very complex (2), complex (3), and somewhat complex (4) to not complex (5). The list of 40 items was randomised with four variations to minimise any potential built-in response or immediacy bias. The survey also included a demographic section that asked about the industry the participant primarily worked in, tax experience, level of education, job title, geographic location, and experience with LB&I clients. The test instrument was sent to 800 tax professional who were members of Tax Executive Institute (TEI) and to 100 partners and managers from several large international accounting and law firms. One hundred and nine professionals completed the entire questionnaire which made for a 12 percent response rate.

The variable of interest in this study is the perception of complexity. Because most of the issues included in the survey are US federal tax related, geographic location was not expected to be a discriminating factor since all US corporations face the same tax law. However, we did include three control variables: experience, job title and education that prior studies indicated would make a difference in a person's perception. The test instrument had five experience levels: less than 5 years, 5 to 10 years, 10 to 15 years, 15 to 20 years and greater than 20 years. The test instrument also had three job title descriptions: tax director, partner and manager; plus three education levels: bachelor's degree, master's degree (MBA or MST) and doctorate (JD or LLM).¹⁰

Based on the Ingraham and Karlinsky study (2005), the experience level of the participant was expected to make a difference in their perception of complexity of some issues. In their study they examined the differences in the perception of complexity based on job title. They could use job titles as all of their participants were from public accounting and had similar titles. In our study we have participants

⁹ Of the 109 subjects, there were only nine 'other categories filled out. Areas found in the other category included IP migration (extremely complex), APB 23 issues (complex), timing of a deduction/loss (very complex), environmental taxes (very complex), section 6662 documentation (somewhat complex), estate tax planning (very complex), tax stock basis computation (extremely complex), other transfer pricing issues such as APAs (extremely complex) and expense/liability incurred under section 461 (very complex).

¹⁰ More than 80 percent of the participants in the sample had some form of advanced degree. Based on these demographics we did not test for differences in education level.

from both public accounting and private corporations and thus the job titles vary greatly. For this reason, instead of using job titles we have used experience level as its proxy. We used this information to test the following hypothesis:

H1: Perception of complexity decreases with experience.

Since those in public accounting and law firms deal with many different companies and may or may not spend most of their time on LB&I issues, whereas the participants from corporate tax departments deal with one large consolidated group of companies and spend all of their tax time on LB&I issues, we expected to see a difference in the perception of complexity. External advisors may find the issues to be more complex because they see a wider variety of different transactions than someone in a large corporation. On the other hand, external advisors may see the issues to be less complex because they may be specialists who work with the issues on a daily basis and are more comfortable with them. We therefore expect to see a difference between the perception of external advisors and those that work in a corporate tax department.

From this background we tested the following hypothesis:

H2: Perception of complexity is different for external advisers than for internal advisers.

Hypothesis 1 looked at the difference in experience for the whole sample while Hypothesis 2 dealt with the difference between the overall sample of internal and external participants. We expected to see a difference in both experience and work type. We extended our examination to look at the differences within the two groups. The first extension examined the differences within the two sub-samples related to experience. To make this determination we tested the following two hypotheses:

H3: Perception of complexity by external advisers with >20 years' experience vs. >20 years' internal advisers.

H4: Perception of complexity by external advisers with <20 years' experience vs. <20 years' internal advisers.

Likewise, based on Hypothesis 1, we expected to find differences in perception based on experience in the tax field. Thus, we further divided the sample to see what type of differences we could find based on experience, holding internal or external position constant. With the divided sample we tested the following two hypotheses:

H5: Perception of complexity by external advisers with <20 years' experience vs. >20 years' external advisers.

H6: Perception of complexity by internal advisers with <20 years' experience vs. >20 years' internal advisers.

5. RESULTS

5.1 Demographics

The survey was administered to 109 professionals of which 49 were external advisors and 60 were employees in the tax department of large corporations. There were 39 Tax Directors, 34 Partners, 10 Vice-Presidents, 7 Senior Managers, 13 Managers and 6 with other titles. As expected with this type of taxpayer most of the sample had extensive years of service, with 64 of the 109 having more than 20 years of experience, while only seven had between five and ten years of experience. More than 80 percent of the sample participants were CPAs. Sixty-five of the participants had a master's degree, and 25 had either a JD or LLM. Only 15 (18%) spent less than 75 percent of their time on tax issues. Eighty-two percent of the participants spent more than 75 percent of their time on LB&I taxpayer issues. All of the participants were from the US. Table 1 shows the demographics of the sample.

5.2 Overall results

The overall mean for the 40 factors was 2.96 for the full sample. The overall mean for outside advisors was 2.94 and the internal group 2.97, while the overall mean for participants with over 20 years' experience was 2.88 and for participants with less than 20 years' experience was 3.23. The individual average for the 40 factors in order of complexity from Extremely Complex (1) to Not Complex (5) are listed in Table 2.

Table 1: Demographic information

Outside advisor	49
Corporate tax	60
CPAs	89
Non-CPAs	20
Educational background	
JD	25
Master's degree	65
Bachelor's degree	19
Years of experience	
5–10	7
10–15	13
15–20	23
>20	64
Non-reporting	2
Percent of time spent on tax issues	
50% or less	9
50 to 75%	6
> 75%	90
Non-reporting	4
Percent of time spent on LB&I	
50% or less	7
50 to 75%	10
> 75%	92
Job title	
Tax Director	39
Partner	34
VP	10
Senior Manager	7
Manager	13
Other	6

Although individual participants rated many of the issues as extremely complex (1.0), the average listed in Table 2 showed no average score as extremely complex and only three of the factors were scored above very complex (<2.0). The fact the only three of the factors were scored as very complex may be influenced by the familiarity with the issue the participants had. Most of the participants in the study had a number of years' experience with large corporate tax matters and may have been quite familiar with the tax issues in the survey. When a person is familiar with an issue they do not usually perceive it to be as complex as someone who is not familiar with the issue or someone who works in the area only rarely.

Not surprisingly, the most complex issue was foreign mergers and acquisitions which combines elements of international tax and reorganisations (two areas rated as the most complex in Karlinsky, 1981). The second most perceived complex topic was deferred income taxes (ASC 740). This area requires in-depth knowledge of both financial accounting rules and tax law, which many tax professionals, especially attorneys, may not be familiar or comfortable with. This issue has also received a lot of exposure with the enactment of the *Sarbanes-Oxley Act* and the issuance of ASC 740 regarding uncertain tax positions (UTP) and related Form 1120 Schedule UTP. This complex ranking reinforces the findings of the Public Company Accounting Oversight Board that there are more weaknesses in accounting for income taxes than any other part of financial statements. It should be noted that even if the tax law were to be simplified, this issue may still be perceived to be complex as long as there are differences between tax law and financial statement accounting.

Table 2: Forty factors in descending order of complexity — overall sample

	Total Average	Overall Rank
Foreign mergers and acquisitions (Section 367)	1.637	1
Deferred income taxes (FAS 109, 123R, 141, FIN 48)	1.840	2
Section 482	1.953	3
Foreign tax credit (including sourcing rules)	2.038	4
Subpart F	2.038	5
Domestic mergers and acquisitions (including corp. divisions)	2.075	6
Sections 381–384 Loss carryover limitations	2.086	7
Partnership/joint ventures (including PFIC)	2.122	8
Consolidated tax rules (including dual consolidated loss rules)	2.125	9
Repatriation	2.300	10
Corporate tax shelters	2.423	11
IFRS vs. GAAP	2.434	12
Frequent changes to the tax law	2.606	13
Foreign currency translation	2.647	14
Foreign income taxes	2.687	15
Employee benefits (i.e. NQO, ISO, ESPP)	2.713	16
Executive compensation (i.e. 409A)	2.757	17
Earnings & profits	2.785	18
Treaties	2.833	19
Pension plans	2.888	20
Inventory (Unicap, FIFO, LIFO)	2.908	21
General business credits (R&D Credit, Rehab, etc.)	2.960	22
Domestic production activity deduction (199)	3.063	23
VAT	3.072	24
Debt vs. equity	3.113	25
Customs	3.167	26
Independent contractor vs. employee	3.294	27
Temporary provisions, extenders	3.276	28
Capital vs. revenue expenditure (Indopco, etc.)	3.284	29
Revenue recognition	3.369	30
Schedule M-3	3.451	31
Corporate AMT/ACE	3.510	32
State franchise taxes	3.570	33
State sales taxes	3.589	34
Capital gains and losses	3.991	35
Payroll taxes	4.010	36
Estimated taxes	4.143	37
Depreciation	4.183	38
Property taxes	4.312	39
Charitable contributions	4.398	40

Of the ten most complex LB&I tax provisions identified by the participants the average score ranged from 1.637 to 2.300. Of those ten, five related to the international arena. Issues related to domestic mergers and acquisitions were rated as the sixth and seventh most complex signifying that determining the taxability and the tax attributes that come with a merger or acquisition still give sophisticated practitioners problems. As with the 2005 small business survey done by Ingraham and Karlinsky, partnership tax issues were included in the ten most complicated areas. Many people perceive partnerships as a small business issue but this ranking emphasises the increased complexity engendered by using partnerships and limited liability companies (LLCs) to transact business (e.g. joint ventures, strategic alliances). Many corporations are now using LLCs instead of C corporations in multijurisdictional transactions. In many cases the corporation can achieve better results with a single-member LLC than it could with a wholly-owned subsidiary corporation because of the asymmetrical treatment of LLCs across jurisdictions. However, the use of entities with the tax treatment varies across taxing jurisdictions and only adds to the complexity of the transaction.

Prior studies (O'Neil et al, 1997 and Carnes and Cuccia, 1996) found that depreciation was considered to be extremely complex. However, in the current survey, depreciation was rated as relatively not complex (4.183). The results of the current study relative to depreciation do agree with those found by Ingraham and Karlinsky (2005). They suggested that the reason for the difference in results may be that there has been little change in the depreciation rules over the last ten years and tax professionals have become more familiar with these provisions and therefore do not perceive them as complex. Another reason that the subjects may have found depreciation to not be complex is their personal experience level. Many of the participants deal with much larger and more complex transactions and thus depreciation is deemed to be relatively less complex. It is interesting to note that depreciation was rated as not very complex during a time when there have been multiple changes to the depreciation rules with the inclusion of bonus depreciation (IRC Section 168(k)). This change may be evidence that allowing tangible personal property expensing is definitely a simplifying provision, as was section 179 for small business. As compared to the small business studies, the individuals in this sample may be doing more tax advisory work rather than tax compliance work. Therefore, many of the sample may not perform many AMT or depreciation calculations or use computer programs to do much of the work in this area. On the whole, this sample surveyed more senior level professionals. It may be interesting in a future study to survey more junior level tax professionals (seniors or managers) to see if they still perceive these areas to be more complex.

In addition to partnerships and depreciation, the current survey had 11 other factors in common with the Ingraham and Karlinsky study. In all cases, the overlapping factor was rated as less complex in the LB&I study than in the small business study. Of particular note was the rating for frequent changes in the law. In the small business study, participants rated it as the fourth most complex area, whereas in the current LB&I study it was only the thirteenth most complex factor. The difference in the rating may be explained by the fact that participants that work in or with LB&I taxpayers are associated with larger organisations which have more resources to stay up-to-date more easily. Another factor that showed a large difference between the two studies was the perception of the complexity of Corporate AMT. In the small business study, it was rated as the eighth most complex, while it was in the bottom ten (thirty-

second most complex) in the current study. Again, the difference in ratings may be explained by the client mix of participants in the two samples.

5.3 Qualitative analysis

To provide for internal consistency, the participants were asked to list the five most complex issues and the five least complex issues in their opinion in addition to rating each of the 40 factors from 1 to 5. As would be expected, the areas that were listed the most were for the most part the same as the items that had the lowest overall average rating. However, there were a few inconsistent results. The ten tax issues that were listed most often as one of the five most complex issues included foreign currency translation, frequent changes in the tax law and executive compensation. None of these issues were in the top ten overall rating. Foreign currency translation was rated fourteenth, while frequent changes in the tax law was thirteenth, and executive compensation was sixteenth. One reason that executive compensation may have been mentioned as one of the top five most complex issues is the recent changes made to section 409A. There was total internal consistency of the quantitative and qualitative ranking for the issues that were considered the least complex.

5.4 Experience analysis

Since we are dealing with very large businesses (over \$10 million in gross assets) and more complex issues, a strength of this study is that the subject's experience level was much greater than in most surveys. We separated the groups into those that had more than 20 years of experience and those that had less, regardless of whether the participant worked internally for the company or not. This division breaks down to 64 participants with over 20 years' experience and 43 participants with less than 20 years' experience. Two of the participants did not indicate the amount of experience they had and were omitted from the results. This breakdown appears appropriate as no one in the sample had less than five years' experience and only seven participants had less than ten years' experience. Table 3 shows the ranking of each of the factors for both groups. The ratings for both groups are similar to the overall rankings but there are some interesting differences.

Table 3: Forty factors in descending order of complexity — experience

	Total Average	Overall Rank	>20 Years	< 20 Years
Foreign mergers and acquisitions (Section 367)	1.637	1	1	1
Deferred income taxes (FAS 109, 123R, 141, FIN 48, etc.)	1.840	2	3	2
Section 482	1.953	3	2	8
Foreign tax credit (including sourcing rules)	2.038	4	7	3
Subpart F	2.038	5	4	6
Domestic mergers and acquisitions (including corp. divisions)	2.075	6	5	4
Sections 381–384 Loss carryover limitations	2.086	7	9	10
Partnership/joint ventures (including PFIC)	2.122	8	8	5
Consolidated tax rules (including dual consolidated loss rules)	2.125	9	6	7
Repatriation	2.300	10	11	9
Corporate tax shelters	2.423	11	10	12
IFRS vs. GAAP	2.434	12	12	14
Frequent changes to the tax law	2.606	13	14	13
Foreign currency translation	2.647	14	13	17
Foreign income taxes	2.687	15	15	14
Employee benefits (i.e. NQO, ISO, ESPP)	2.713	16	18	23
Executive compensation (i.e. 409A)	2.757	17	19	15
Earnings & profits	2.785	18	16	16
Treaties	2.833	19	17	20
Pension plans	2.888	20	20	21
Inventory (Unicap, FIFO, LIFO)	2.908	21	21	19
General business credits (R&D Credit, Rehab, etc.)	2.960	22	23	18
Domestic production activity deduction (199)	3.063	23	25	22
VAT	3.072	24	22	26
Debt vs. equity	3.113	25	24	25
Customs	3.167	26	26	24
Independent contractor vs. employee	3.294	27	34	34
Temporary provisions, extenders	3.276	28	28	30
Capital vs. revenue expenditure (Indopco, etc.)	3.284	29	29	27
Revenue recognition	3.369	30	27	31
Schedule M-3	3.451	31	30	28
Corporate AMT/ACE	3.510	32	31	29
State franchise taxes	3.570	33	32	32
State sales taxes	3.589	34	33	33
Capital gains and losses	3.991	35	36	36
Payroll taxes	4.010	36	35	35
Estimated taxes	4.143	37	37	37
Depreciation	4.183	38	38	38
Property taxes	4.312	39	39	39
Charitable contributions	4.398	40	40	40

To determine if the difference in perception is statistically significant between the two groups, a t-test for each factor was performed. Table 4 shows the average rating for both groups. Based on the t-test, the perception of the complexity of 13 of the 40 tax issues was significant at either the .01, .05 or .10 level¹¹. In all cases where the difference was significant, the more experienced group rated the issue as less complex. In addition, none of the issues rated in the bottom ten by either group was significantly different.

Because the data is not continuous, we also ran a Kendall's Tau-b test. The Tau-b test is a commonly used non-parametric measure of association used to look for a trend in the responses. There were 13 issues that were significant based on years of experience, seven of which were significant in the t-tests.¹² In all cases the responses to years of experience were negative, meaning that there was a negative correlation between years of experience and perception of complexity. This result of the Tau-b tests support the results found with the t-tests. Both the t-tests and the Tau-b tests support hypothesis 1 that the perception of complexity decreases with experience.

5.5 External versus internal adviser analysis

We also tested to see any differences between the perception of the complexity of the 40 tax issues between the external advisors and those that work in the tax department of large corporations. Table 5 shows how the 40 factors rank for the overall sample and for the external professionals versus the internal professionals. For most of the factors the two groups rated the factors consistently.

¹¹ Differences that are significant at the .01 level are denoted as *** while those that are significant at the .05 level are denoted as ** and at the .1 level as *. This notation is consistent throughout all the tables in the paper.

¹² The 13 differences that were significant under the Tau-b test are denoted with #.

Table 4: Forty factors in descending order of complexity — experience

		>20 Years	< 20 Years	T-test	Tau-b
Foreign mergers and acquisitions (Section 367)		1.508	1.721	**	
Deferred income taxes (FAS 109, 123R, 141, FIN 48)		1.864	1.732		
Section 482		1.688	2.233	***	#
Foreign tax credit (including sourcing rules)		2.016	2.000		
Subpart F		1.903	2.140	**	
Domestic mergers and acquisitions (including corp. divisions)		2.000	2.093		
Sections 381–384 Loss carryover limitations		2.161	2.349	*	
Partnership/joint ventures (including PFIC)		2.067	2.135		
Consolidated tax rules (including dual consolidated loss rules)		2.016	2.195		
Repatriation		2.271	2.244		
Corporate tax shelters		2.238	2.528	***	#
IFRS vs. GAAP		2.283	2.583	**	#
Frequent changes to the tax law		2.508	2.610		
Foreign currency translation		2.459	2.854	*	
Foreign income taxes		2.638	2.659		#
Employee benefits (i.e. NQO, ISO, ESPP)		2.717	3.077		
Executive compensation (i.e. 409A)		2.721	2.780		
Earnings & profits		2.646	2.833		
Treaties		2.672	2.976		#
Pension plans		2.807	3.02	*	#
Inventory (Unicap, FIFO, LIFO)		2.900	2.923		#
General business credits (R&D Credit, Rehab, etc.)		2.934	2.892		
Domestic production activity deduction (199)		2.978	3.053	**	#
VAT		2.912	3.300	**	#
Debt vs. equity		2.946	3.262	***	
Customs		3.047	3.257	**	#
Independent contractor vs. employee		3.746	4.051		
Temporary provisions, extenders		3.156	3.571	*	
Capital vs. revenue expenditure (Indopco, etc.)		3.270	3.357		#
Revenue recognition		3.111	3.692		
Schedule M-3		3.387	3.487		#
Corporate AMT/ACE		3.403	3.525		
State franchise taxes		3.474	3.737		
State sales taxes		3.593	3.789		
Capital gains and losses		3.921	4.244		#
Payroll taxes		3.820	4.154		
Estimated taxes		3.938	4.317		
Depreciation		4.159	4.350		
Property taxes		4.300	4.445		
Charitable contributions		4.233	4.500		

Table 5: Forty factors in descending order of complexity — public versus private

	Total Aver	Overall Rank	Public	Private
Foreign mergers and acquisitions (Section 367)	1.637	1	1	1
Deferred income taxes (FAS 109, 123R, 141, FIN 48, etc.)	1.840	2	2	3
Section 482	1.953	3	11	2
Foreign tax credit (including sourcing rules)	2.038	4	5	5 tied
Subpart F	2.038	5	3	7
Domestic mergers and acquisitions (including corp. divisions)	2.075	6	8	4
Sections 381–384 Loss carryover limitations	2.086	7	7	5 tied
Partnership/joint ventures (including PFIC)	2.122	8	6	8
Consolidated tax rules (including dual consolidated loss rules)	2.125	9	4	9
Repatriation	2.300	10	9	10
Corporate tax shelters	2.423	11	10	12
IFRS vs. GAAP	2.434	12	12	11
Frequent changes to the tax law	2.606	13	14	14
Foreign currency translation	2.647	14	15	13
Foreign income taxes	2.687	15	16	16 tied
Employee benefits (i.e. NQO, ISO, ESPP)	2.713	16	17	16 tied
Executive compensation (i.e. 409A)	2.757	17	20	15
Earnings & profits	2.785	18	18	19
Treaties	2.833	19	13	24
Pension plans	2.888	20	24	18
Inventory (Unicap, FIFO, LIFO)	2.908	21	19	21
General business credits (R&D Credit, Rehab, etc.)	2.960	22	22	22
Domestic production activity deduction (199)	3.063	23	23	25
VAT	3.072	24	21	27
Debt vs. equity	3.113	25	25	23
Customs	3.167	26	27	26
Independent contractor vs. employee	3.294	27	34	20
Temporary provisions, extenders	3.276	28	26	30
Capital vs. revenue expenditure (Indopco, etc.)	3.284	29	28	29
Revenue recognition	3.369	30	29	31
Schedule M-3	3.451	31	33	28
Corporate AMT/ACE	3.510	32	30	33
State franchise taxes	3.570	33	32	32
State sales taxes	3.589	34	31	34
Capital gains and losses	3.991	35	36	35
Payroll taxes	4.010	36	36	36
Estimated taxes	4.143	37	37	38
Depreciation	4.183	38	38	37
Property taxes	4.312	39	39	39
Charitable contributions	4.398	40	40	40

However, there were a few factors that the external advisors rated considerably more complex than those participants from the corporations and a few that were rated as less complex than by internal advisers. Factors that the external advisors rated as more complex included VAT, corporate AMT/ACE, subpart F, consolidated tax rules, and treaties. Each of these may have been rated as more complex because the public accountant works with many companies and therefore will see more and different transactions which could lead to a perception that these areas are more complex. Whereas the corporate personnel work with one consolidated group and may be used to the rules for their company and therefore do not perceive these issues to be as complex. The factors that external advisors rated as less complex than the internal ones included section 482, pension plans, domestic mergers and acquisitions, executive compensation, independent contractor and schedule M-3. The reason the external advisors may have rated these items as less complex may be that they work with these issues on a daily basis with various clients and therefore they are more comfortable with them.

The average complexity for each tax issue for those in public accounting and law firms versus those that work for private companies is presented in Table 6. A t-test was performed to determine if the difference in average perception of complexity between the groups for each factor was statistically significant or not. The differences in only 14 of the 40 issues were statistically significant. Of the 14 issues where the differences were significant external advisers rated seven of the issues as more complex than the corporate tax accountants and seven of the issues as less complex than the corporate tax accountants. The results from the t-tests support hypothesis 2 that the perception of complexity is different based on the person's work environment.¹³

¹³ In addition, we ran a non-directional chi-square test to determine the relationship of the responses with industry. However, there were only five issues that were significant related to industry and only one of those issues was also significant in the t-test.

Table 6: Forty factors in descending order of complexity — public vs. private

		Public	Private	T-test	Chi Square
Foreign mergers and acquisitions (Section 367)		1.681	1.600		#
Deferred income taxes (FAS 109, 123R, 141, FIN 48)		1.860	1.825		
Section 482		2.324	1.638	***	
Foreign tax credit (including sourcing rules)		2.000	2.071		
Subpart F		1.939	2.125		
Domestic mergers and acquisitions (including corp. divisions)		2.125	2.034		
Sections 381–384 Loss carryover limitations		2.102	2.071		
Partnership/joint ventures (including PFIC)		2.022	2.208		
Consolidated tax rules (including dual consolidated loss rules)		1.957	2.259	**	
Repatriation		2.273	2.321		
Corporate tax shelters		2.286	2.535		
IFRS vs. GAAP		2.333	2.500	**	
Frequent changes to the tax law		2.596	2.614		
Foreign currency translation		2.733	2.579		#
Foreign income taxes		2.750	2.627	**	#
Employee benefits (i.e. NQO, ISO, ESPP)		2.814	2.627	*	
Executive compensation (i.e. 409A)		2.933	2.621		
Earnings & profits		2.816	2.759		
Treaties		2.574	3.055	**	
Pension plans		3.150	2.673	*	
Inventory (Unicap, FIFO, LIFO)		2.854	2.947	**	
General business credits (R&D Credit, Rehab, etc.)		2.953	2.964		
Domestic production activity deduction (199)		3.064	3.061		
VAT		2.944	3.170		#
Debt vs. equity		3.184	3.053	*	
Customs		3.276	3.093		
Independent contractor vs. employee		3.795	2.914		
Temporary provisions, extenders		3.188	3.351		
Capital vs. revenue expenditure (Indopco, etc.)		3.304	3.268		
Revenue recognition		3.356	3.379		#
Schedule M-3		3.705	3.259		
Corporate AMT/ACE		3.378	3.614	*	
State franchise taxes		3.605	3.544		
State sales taxes		3.538	3.625	**	
Capital gains and losses		4.061	3.931	*	
Payroll taxes		3.927	4.071	*	
Estimated taxes		4.085	4.190		
Depreciation		4.200	4.169		
Property taxes		4.351	4.286	**	
Charitable contributions		4.400	4.397		

5.6 Within job description analysis

Because we found statistically significant differences in terms of experience level amongst both external advisors and those that work for a corporation, we further divided the sample for both external advisors and corporate personnel into those that had 20 or more years of experience and those that had less than 20 years. Table 7 presents the averages for the two outside advisor groups and Table 8 presents the averages for the two corporate personnel groups.

It is interesting to note that the differences between the two corporate groups (Table 8) the more experienced group rated 32 of the 40 issues as less complex than the younger group while in the two external advisor strata (Table 7), the older group only rated 19 out of the 40 as less complex (the groups had essentially the same rating for nine of the issues). The results for the corporate personnel follow the results for the whole sample while the results of the external advisors do not. The reason the more experienced external advisors may find the issues more complex is that they are involved with a lot of very complex transactions for their clients while those with less experience are often only working with the normal year-to-year transactions. We ran t-tests to see if the differences were statistically significant. Only one difference (deferred income taxes) was statistically significant for the external advisors. However, this result may be because the two groups are relatively small. There were seven differences that were statistically significant for the corporate group. It is interesting to note that all seven issues were rated as more complex by the more experienced group and included issues such as transfer pricing, corporate tax shelters, revenue recognition and international issues of IFRS and VATs.

Table 7: Forty factors in descending order of complexity — external advisors

	>20 Years	< 20 Years	T-test
Foreign mergers and acquisitions (Section 367)	1.652	1.682	
Deferred income taxes (FAS 109, 123R, 141, FIN 48, etc.)	2.150	1.619	*
Section 482	2.200	2.455	
Foreign tax credit (including sourcing rules)	2.040	2.000	
Subpart F	1.800	2.091	
Domestic mergers and acquisitions (including corp. divisions)	2.292	1.955	
Sections 381–384 Loss carryover limitations	2.120	1.955	
Partnership/joint ventures (including PFIC)	2.125	1.842	
Consolidated tax rules (including dual consolidated loss rules)	1.826	2.095	
Repatriation	2.182	2.400	
Corporate tax shelters	2.438	2.056	
IFRS vs. GAAP	2.533	2.059	
Frequent changes to the tax law	2.542	2.619	
Foreign currency translation	2.783	2.667	
Foreign income taxes	2.792	2.773	
Employee benefits (i.e. NQO, ISO, ESPP)	3.045	2.500	
Executive compensation (i.e. 409A)	3.087	2.850	
Earnings & profits	2.760	2.818	
Treaties	2.833	2.762	
Pension plans	2.714	2.850	
Inventory (Unicap, FIFO, LIFO)	3.045	2.550	
General business credits (R&D Credit, Rehab, etc.)	3.048	2.684	
Domestic production activity deduction (199)	3.050	3.053	
VAT	3.000	3.150	
Debt vs. equity	3.280	3.273	
Customs	3.077	3.118	
Independent contractor vs. employee	3.954	3.810	
Temporary provisions, extenders	3.040	3.409	
Capital vs. revenue expenditure (Indopco, etc.)	3.292	3.333	
Revenue recognition	3.522	3.737	
Schedule M-3	3.478	3.737	
Corporate AMT/ACE	3.348	3.350	
State franchise taxes	3.526	3.632	
State sales taxes	3.667	3.632	
Capital gains and losses	4.208	4.136	
Payroll taxes	4.000	3.650	
Estimated taxes	4.217	4.286	
Depreciation	4.261	4.150	
Property taxes	4.353	4.167	
Charitable contributions	4.571	4.250	

Table 8: Forty factors in descending order of complexity — corporate

	>20 Years	< 20 Years	T-test
Foreign mergers and acquisitions (Section 367)	1.500	1.762	
Deferred income taxes (FAS 109, 123R, 141, FIN 48, etc.)	1.811	1.850	
Section 482	1.432	2.000	***
Foreign tax credit (including sourcing rules)	2.114	2.000	
Subpart F	2.086	2.190	
Domestic mergers and acquisitions (including corp. divisions)	1.921	2.238	
Sections 381–384 Loss carryover limitations	2.314	2.762	
Partnership/joint ventures (including PFIC)	2.147	2.444	
Consolidated tax rules (including dual consolidated loss rules)	2.237	2.300	
Repatriation	2.457	2.095	
Corporate tax shelters	2.292	3.000	*
IFRS vs. GAAP	2.310	2.900	*
Frequent changes to the tax law	2.622	2.600	
Foreign currency translation	2.389	2.905	
Foreign income taxes	2.688	2.526	
Employee benefits (i.e. NQO, ISO, ESPP)	2.667	3.500	***
Executive compensation (i.e. 409A)	2.639	2.714	
Earnings & profits	2.711	2.850	
Treaties	2.711	3.200	
Pension plans	3.029	3.048	
Inventory (Unicap, FIFO, LIFO)	2.972	3.150	
General business credits (R&D Credit, Rehab, etc.)	3.026	2.947	
Domestic production activity deduction (199)	3.167	3.053	
VAT	3.028	3.450	*
Debt vs. equity	2.862	3.250	
Customs	3.250	3.211	
Independent contractor vs. employee	3.821	4.105	
Temporary provisions, extenders	3.405	3.750	
Capital vs. revenue expenditure (Indopco, etc.)	3.432	3.381	
Revenue recognition	3.026	3.650	**
Schedule M-3	3.514	3.250	
Corporate AMT/ACE	3.622	3.700	
State franchise taxes	3.639	3.842	
State sales taxes	3.750	3.947	
Capital gains and losses	3.946	4.368	
Payroll taxes	4.026	4.450	**
Estimated taxes	4.077	4.320	
Depreciation	4.316	4.550	
Property taxes	4.289	4.526	
Charitable contributions	4.271	4.526	

5.7 Between experience levels analysis

We also compared the more experienced groups and the less experienced groups. The results for the more experienced groups can be found in Table 9 and the results for the less experienced groups can be found in Table 10.

When comparing the ratings of the more experienced groups, the corporate personnel rated 19 of the tax issues as more complex while the external advisors rated 16 of the issues as more complex, with five of the issues being rated approximately the same. It is interesting to note that the corporate personnel rated more strategic and financial statement issues such as mergers and acquisitions, deferred taxes and revenue recognition as more complex than the external advisors, while the external advisors rated computations issues such as foreign tax credit, schedule M-3 and corporate AMT as more complex than the corporate personnel.

With the less experienced groups, the internal personnel found only six of the 40 issues as more complex while the external advisors found 28 of the 40 to be more complex than the corporate personnel. Some of the issues the internal personnel found to be more complex dealt with transfer pricing, repatriation, and revenue recognition. These results are similar to the results for the more experienced group. Again we ran t-tests to test the differences. There were three issues that were statistically significant between the more experienced groups, all of which the corporate group found to be more complex. These differences were transfer pricing issues, executive compensation and revenue recognition, all issues that the external advisor group may have more experience with as they work with multiple clients.

Table 9: Forty factors in descending order of complexity — more experienced

	External Advisor	Corporate	T-test
Foreign mergers and acquisitions (Section 367)	1.652	1.500	
Deferred income taxes (FAS 109, 123R, 141, FIN 48, etc.)	2.150	1.811	
Section 482	2.200	1.432	****
Foreign tax credit (including sourcing rules)	2.040	2.114	
Subpart F	1.800	2.086	
Domestic mergers and acquisitions (including corp. divisions)	2.292	1.921	
Sections 381–384 Loss carryover limitations	2.120	2.314	
Partnership/joint ventures (including PFIC)	2.125	2.147	
Consolidated tax rules (including dual consolidated loss rules)	1.826	2.237	
Repatriation	2.182	2.457	
Corporate tax shelters	2.438	2.292	
IFRS vs. GAAP	2.533	2.310	
Frequent changes to the tax law	2.542	2.622	
Foreign currency translation	2.783	2.389	
Foreign income taxes	2.792	2.688	
Employee benefits (i.e. NQO, ISO, ESPP)	3.045	2.667	
Executive compensation (i.e. 409A)	3.087	2.639	*
Earnings & profits	2.760	2.711	
Treaties	2.833	2.711	
Pension plans	2.714	3.029	
Inventory (Unicap, FIFO, LIFO)	3.045	2.972	
General business credits (R&D Credit, Rehab, etc.)	3.048	3.026	
Domestic production activity deduction (199)	3.050	3.167	
VAT	3.000	3.028	
Debt vs. equity	3.280	2.862	
Customs	3.077	3.250	
Independent contractor vs. employee	3.954	3.821	
Temporary provisions, extenders	3.040	3.405	
Capital vs. revenue expenditure (Indopco, etc.)	3.292	3.432	
Revenue recognition	3.522	3.026	*
Schedule M-3	3.478	3.514	
Corporate AMT/ACE	3.348	3.622	
State franchise taxes	3.526	3.639	
State sales taxes	3.667	3.750	
Capital gains and losses	4.208	3.946	
Payroll taxes	4.000	4.026	
Estimated taxes	4.217	4.077	
Depreciation	4.261	4.316	
Property taxes	4.353	4.289	
Charitable contributions	4.571	4.271	

Table 10: Forty factors in descending order of complexity — less experienced

	External Advisor	Corporate	T-test
Foreign mergers and acquisitions (Section 367)	1.682	1.762	
Deferred income taxes (FAS 109, 123R, 141, FIN 48, etc.)	1.619	1.850	
Section 482	2.455	2.000	*
Foreign tax credit (including sourcing rules)	2.000	2.000	
Subpart F	2.091	2.190	
Domestic mergers and acquisitions (including corp. divisions)	1.955	2.238	
Sections 381–384 Loss carryover limitations	1.955	2.762	***
Partnership/Joint ventures (including PFIC)	1.842	2.444	*
Consolidated tax rules (including dual consolidated loss rules)	2.095	2.300	
Repatriation	2.400	2.095	
Corporate tax shelters	2.056	3.000	**
IFRS vs. GAAP	2.059	2.900	**
Frequent changes to the tax law	2.619	2.600	
Foreign currency translation	2.667	2.905	
Foreign income taxes	2.773	2.526	
Employee benefits (i.e. NQO, ISO, ESPP)	2.500	3.500	**
Executive compensation (i.e. 409A)	2.850	2.714	
Earnings & profits	2.818	2.850	
Treaties	2.762	3.200	
Pension plans	2.850	3.048	
Inventory (Unicap, FIFO, LIFO)	2.550	3.150	
General business credits (R&D Credit, Rehab, etc.)	2.684	2.947	
Domestic production activity deduction (199)	3.053	3.053	
VAT	3.150	3.450	
Debt vs. equity	3.273	3.250	
Customs	3.118	3.211	
Independent contractor vs. employee	3.810	4.105	
Temporary provisions, extenders	3.409	3.750	
Capital vs. revenue expenditure (Indopco, etc.)	3.333	3.381	
Revenue recognition	3.737	3.650	
Schedule M-3	3.737	3.250	*
Corporate AMT/ACE	3.350	3.700	
State franchise taxes	3.632	3.842	
State sales taxes	3.632	3.947	
Capital gains and losses	4.136	4.368	
Payroll taxes	3.650	4.450	*
Estimated taxes	4.286	4.320	
Depreciation	4.150	4.550	
Property taxes	4.167	4.526	
Charitable contributions	4.250	4.526	

There were eight differences that were statistically significant for the less experienced groups. For six of these eight differences, the outside advisors found the issue to be more complex. The two issues that the internal group found to be more complex, transfer pricing and schedule M-3 may again be because the external advisors have more experience in these areas.

It was unclear what the interplay between education level and experience would be on perception of complexity. If either one is sufficient to reduce complexity perception, then we may not see a significant result. Thus, if 20 years' experience with a bachelor's degree is equivalent to ten years with an LLM degree, we may not see a significant difference using parametric statistics. Therefore, we analysed it with non-parametric analysis. However, we did not find any significant differences in the non-parametric analysis either.

5.8 Limitations and strengths

It should be noted that the results of this study are limited by the fact that we had only 109 participants involved. Of those participants 49 were in public accounting. The other 60 were from various large corporations. In addition, the participants were not geographically dispersed as all were from the US and many were located in California. It is clear that this complexity issue is not unique to the US. (James and Budak, 2016). A major strength of this study is that we did not use undergraduate or master's level students, but rather polled experienced tax practitioners who work with these issues daily. Previous research polled students who were studying business and accounting at either the undergraduate or master's level as a proxy for taxpayers. Many of these students would not have the in-depth knowledge of the tax system to make an informed decision. Another strength is that the participants include both practitioners from the public arena and practitioners that work in the tax department of major international corporations.

6. CONCLUSIONS

A number of conclusions can be reached as a result of this research.

First, experienced tax practitioners, whether as external advisors or corporate tax professionals find the tax system that applies to large and medium-sized businesses to be very complex. Overall the sample found the tax law to be 2.96, or just on the cusp of very complex and complex. The overall external and internal professionals were grouped around this mean at 2.94 and 2.97 respectively.

Second, both tax practitioners in public practice and tax directors of large corporations find international tax issues to be the most complex. Five of the top ten tax issues rated as most complex were international in nature. These results have significant policy implications.

Third, two areas in the financial accounting arena were found by both groups to be complex, namely deferred income taxes and international accounting standards.

Fourth, some of the issues that have received a lot of attention in the past few years (schedule M-3, domestic production activity deduction, and AMT) were all rated as relatively less complex by the participants of this survey.

Fifth, there was no significant difference in the perception of the complexity of the tax factors based on experience and also between those in public accounting and corporate tax departments. While we found some areas were significantly different, the difference for *most* of the factors were not significant. For the most part the corporate personnel found more strategic issues to be more complex, while the outside advisers found more technical issues to be more complex. However, it should be noted that for all of the issues where the differences were significantly different, those with more experience rated the issues as less complex. This result should also have policy implications. It shows that it isn't just one group of tax professionals that find an area complex.

Sixth, everyone whether working for a corporation or in public accounting, and whether they had five years of experience or 25 years, found foreign mergers and acquisitions to be extremely complex. These results imply that as a country moves towards a more global economy, it should consider simplifying the tax rules related to international operations

7. RECOMMENDATIONS/OVERALL OBSERVATIONS

The results of this paper should be important to tax policymakers. The study used both internal and external tax professionals that work with some of the largest corporations in the US. Congress and other tax policymakers should take into careful consideration what these individuals perceive to be the most complex issues in the current tax law. In discussions of tax reform these are the areas that policymakers should address in a meaningful and measured manner.

Five of the top ten tax issues rated as most complex were international in nature. These results have significant policy implications. Clearly a rigorous study of the relative complexity of the territorial system versus the current US worldwide tax system with deferral of income for many multinational corporations needs to be made. A study by a country that uses the territorial system, especially if they converted recently with all the attendant transition rules, would be very instructive. President Obama has included in his tax agenda many changes to the international tax area as did Representative Camp. If practitioners already perceive this area to be the most complex, more changes may not be the right simplification answer. The administration may want to look at how to simplify the current law first. There have been some suggestions in the professional tax press by Kleinbard (2013), and Karlinsky (2013) to simplify the international tax area by modifying the tax system to partly base it on financial statement income or worldwide tax consolidation. This would largely eliminate the need for monitoring transfer pricing, cost sharing and subpart F rules which are three areas that our current study shows are some of the most complex areas of the tax law. It would also lead to simplification of the IRC section 367 international reorganisation rules, the number one complexity provision in our survey. It should be noted however, that some taxpayers may like the complexity of this area as it may assist them in structuring transactions that are more difficult for the IRS to understand. However, that should not be a reason to not change the current tax law.

Both groups found the two financial accounting topics: deferred income taxes and international accounting standards to be complex. This result makes sense as the

participants were tax professionals who were many years away from working regularly with financial accounting. However, the results do point to the importance of tax departments staying current with the changes that have been proposed for financial accounting as it clearly has an impact on the tax work they perform daily.

Issues such as schedule M-3, the domestic production deduction, depreciation and AMT were not found to be very complex. These results may mean that the taxpayers that were protesting these changes were not doing so because they found the rules to be too complex, but rather that they take too much time and effort to produce a sufficient relative benefit to the company. Their protests may have also been a transparency issue in that they did not want to disclose this information in their financial statements and tax returns. In addition, the participants may have not rated these issues as complex because of familiarity. Individuals that work with a provision regularly may perceive it to be less complex even though others who are less familiar with the provision would find it to be more complex. In the past these areas have been deemed to be quite complex. If the US Congress were to propose a more simplified tax system, they should examine the rules related to these issues to make sure they are based on sound tax policy.

8. FUTURE RESEARCH

The sample in this study included both public accountants and attorneys as well as accountants and lawyers in tax departments of major corporations. It would be interesting to include IRS and government officials¹⁴ that work in this area using the same survey. We believe that government officials may perceive the complexity of some of these issues quite differently than the tax practitioners. In addition, similar studies could be conducted in other countries. For example, it would be interesting to see the relative complexity of a territorial tax system versus a worldwide tax system as this is an area receiving a lot of attention today. It also would be interesting to survey less experienced external and internal tax professionals (say seniors and managers with three to ten years' experience) to gauge the relationship between experience level and complexity perception.

¹⁴ The authors tried to get IRS participation, but were foiled by union rules that forbade them participating in this survey. Some other governments may be more flexible in allowing government officials to be surveyed.

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10. APPENDIX

We are two academics doing a study on tax professionals' perceptions of the degree of complexity of selected large and mid-sized business (LB&I) tax issues. For purposes of this study, we are defining large and mid-sized business (LB&I) as having gross assets > \$10MM; It would primarily include C corporations as well as some large partnerships, LLCs, LLPs, or S corporations. This criterion is a demarcation used by the IRS.

Thank you in advance for taking ten minutes out of your busy schedule to share your thoughts with us.

Since we are only interested in your judgments, there are no right or wrong answers. Please just tell us how you honestly feel about each issue's tax complexity. Note that your responses are totally anonymous.

To make full use of your responses, we need you to answer all judgment and background questions.

Thank you,

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Tax Issue

	Extremely complex	Very complex	Complex	Somewhat complex	Not complex	N/A to LB&I
Depreciation						
Schedule M-3						
Foreign tax credit (including sourcing rules)						
Earnings & profits						
Estimated taxes						
Subpart F						
Independent contractor vs. employee						
Section 482						
Capital gains and losses						
Foreign income taxes						
VAT						
Frequent changes to the tax law						

Customs

General business credits (R&D Credit, Rehab, etc.)

Payroll Taxes

Employee benefits (i.e. NQO, ISO, ESPP)

Deferred income taxes (FAS 109, 123R, 141, FIN 48, etc.)

State FRANCHISE TAXES

Corporate AMT/ACE

Revenue recognition

Temporary provisions, extenders

State sales taxes

Property taxes

Foreign currency translation

Executive compensation (i.e. 409A)

Partnership/joint ventures (including PFIC)

Domestic mergers and acquisitions (including corp. divisions)

Foreign mergers and acquisitions (Section 367)

Sections 381-384 Loss carryover limitations

Inventory (Unicap, FIFO, LIFO)

Capital vs. revenue expenditure (Indopco, etc.)

Domestic production activity deduction (199)

Repatriation

Treaties

Consolidated tax rules (including dual consolidated loss rules)

Debt vs. equity

Pension plans

IFRS vs. GAAP

Corporate tax shelters

Charitable contributions

Other _____

Demographics

Industry you primarily work in
communications, technology, and media
heavy manufacturing and transportation

natural resources and construction
retailers, food, pharmaceuticals and
healthcare

**Education credentials (check all that
apply)**

CPA
MST
JD
LLM
MBA
BA

Years tax experience

>20

15-20

10-15

5-10

<5

% time spent on tax issues

% time spent on LB&I clients

Job status (e.g. tax director/ partner/
manager)

Which state or country are you located
in?

Gross receipts

Total
Foreign
USA

Rank the five most complex issues from above (with one being most complex of 43 issues)

1
2
3
4
5

Rank the five least complex issues from above (with one being least complex of 43 issues)

1
2

3
4
5