



# The tax disputes environment

**How U.S. multinational corporations  
are managing, responding to, and  
evolving in today's global tax  
disputes environment**

**2018 tax dispute resolution  
benchmarking survey**

KPMG LLP



[kpmg.com/us/tax](https://kpmg.com/us/tax)



Complementing the findings of **KPMG International's 2016 Global Tax Disputes Benchmarking Survey** of foreign multinational companies, this report captures the issues facing U.S. multinational companies navigating audits and disputes with state, U.S. federal, and international tax authorities.

KPMG's 2018 Tax Dispute Resolution Benchmarking Survey of in-house tax professionals appears to confirm the trend we've been seeing in tax controversies: Based on the survey results, dispute activity with state and local tax (SALT) authorities has increased significantly. In addition, while Internal Revenue Service (IRS) activity is not declining, its frequency and scope do not appear to be increasing as fast as SALT and foreign tax authority activity.

Many in-house tax professionals perceive SALT authorities to be increasingly assertive, marginally outpacing the increase in foreign tax authority assertiveness. Whether or not related to the SALT authorities' increased assertiveness, more than two-thirds of survey respondents do not believe that state revenue authorities are becoming more efficient at risk assessment than in the previous three years.

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# About the survey

- KPMG’s 2018 Tax Dispute Resolution Benchmarking Survey focuses on how in-house tax disputes professionals are meeting their responsibilities and how they are responding—and expect to respond—to controversy challenges in a dynamic disputes environment. This report highlights the survey’s findings about the people, processes, and technology deployed by companies to manage their tax audits and disputes as well as their experiences with tax authorities.
- The findings in this report are based on a survey of 159 senior tax professionals in a cross section of U.S. multinational companies.
- Close to half of the respondents have established internal processes for managing tax disputes, and another quarter vary their process with the type and size of the tax risk.

# Respondent profile

Three-quarters of the respondents represent global entities with annual revenues of \$1 billion and over, with 35% having revenues in excess of \$10 billion. Almost two-thirds (64%) are tax directors and above.

The survey participants were high-level tax executives leading the departments of those responsible for handling their organizations' tax controversies: chief tax officers, tax vice presidents, and tax directors.

## The respondents' primary industries include:



Electronics



Pharmaceuticals



Software



Energy and natural resources



Business services



Transportation



Retail



Chemicals



Banking and finance



Conglomerates



Insurance



Metals



Food



Engineering



Drink

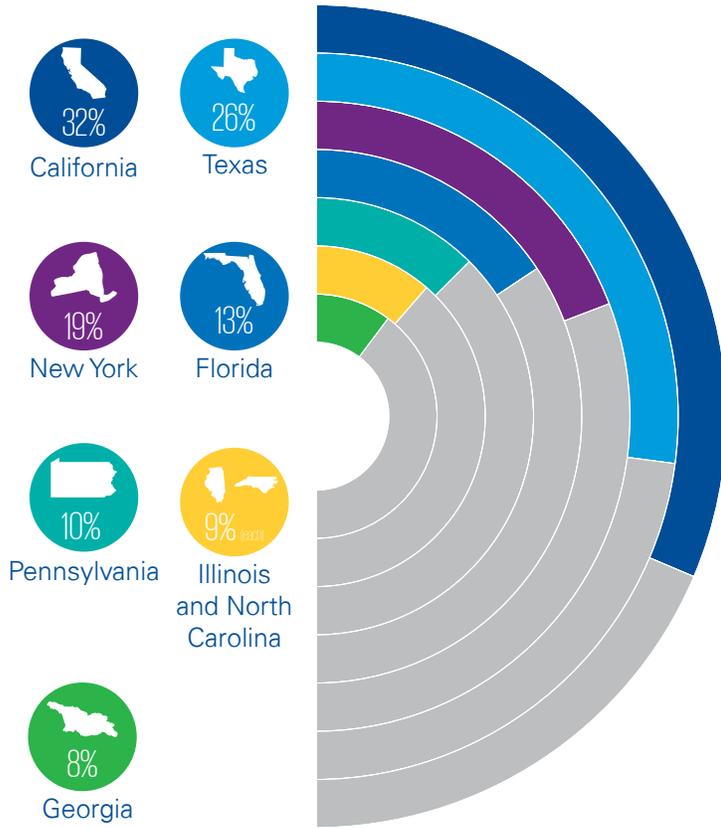


Industrial products

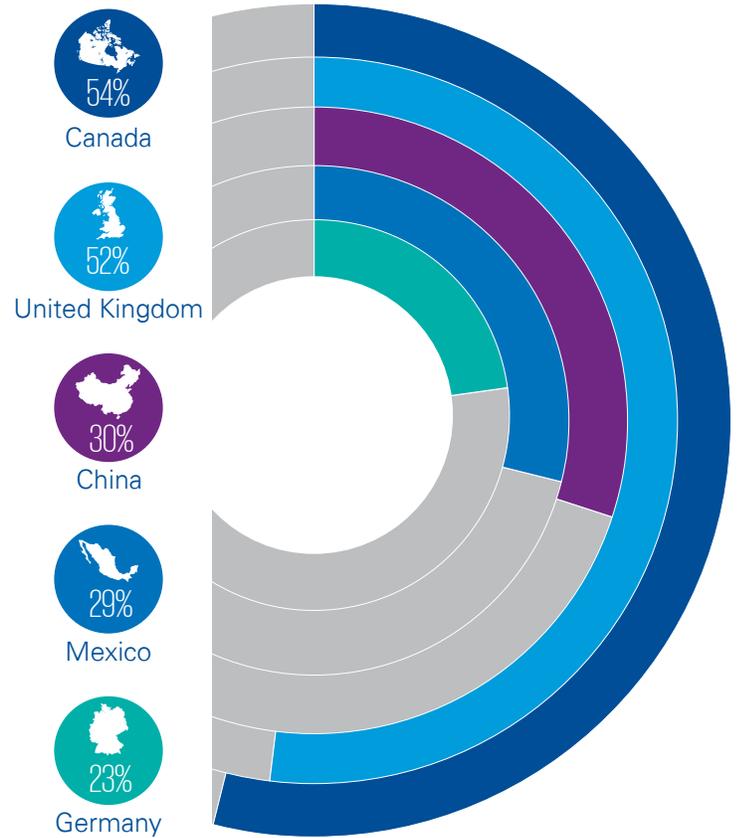


Consumer goods

**California, Texas, and New York are the most popular locations for respondents' domestic operations.**



**Operations outside of the U.S.\***

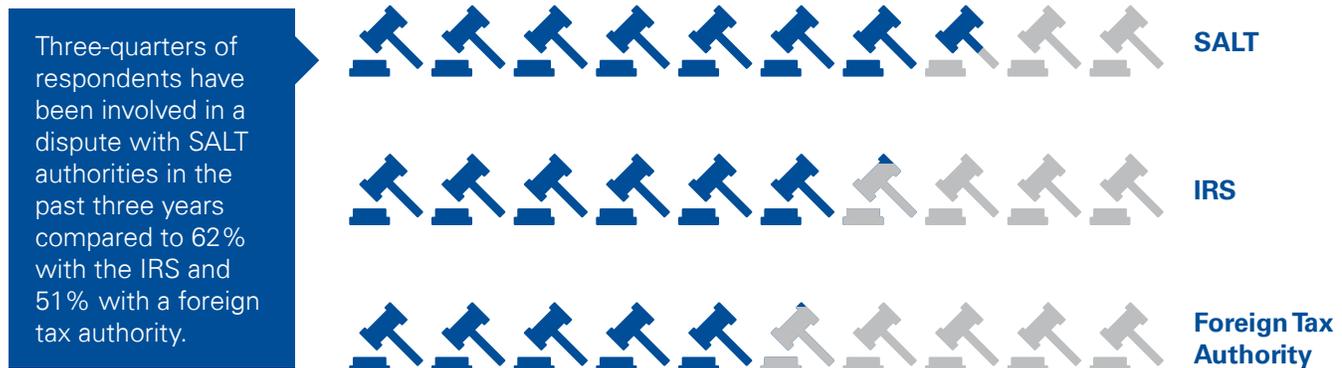


\*Respondents were asked to identify up to five jurisdictions in which their companies had the most extensive operations.

# Evolving tax audits and disputes environment

## Audit activities

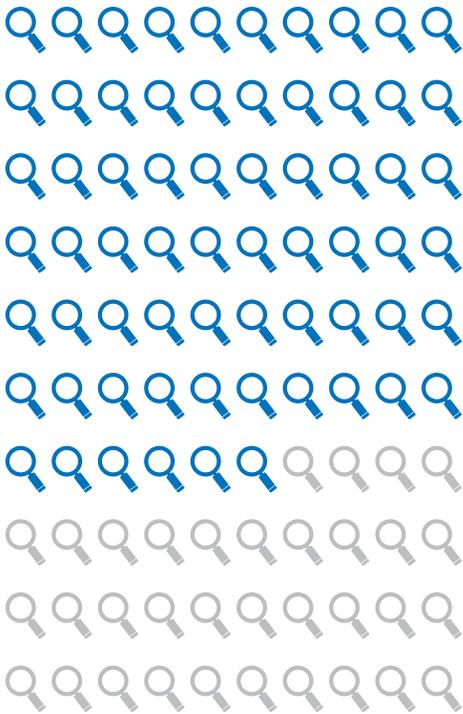
Increasing scrutiny by state, U.S. federal, and foreign tax authorities is not a new phenomenon. By 2016, many taxpayers and practitioners had already seen heightened activity from tax authorities and a dramatic increase in difficulty in resolving disputes. That trend has continued into 2018, but the most noticeable uptick in enforcement activities in the current survey appears to have come from SALT authorities.



About half of respondents reported an increase in SALT audit inquiries, more frequent contact, more requests for information (IDRs), more extensive IDRs, and more assertiveness in raising assessments. By comparison, only a third of respondents reported increases in foreign tax authority activity in those same categories, and only a fifth of respondents saw an increase in such activity from the IRS. Likely because of resource and budgeting constraints at the IRS, almost half of respondents expect no increase in audit activity from the IRS in the near term.

## Risk assessment

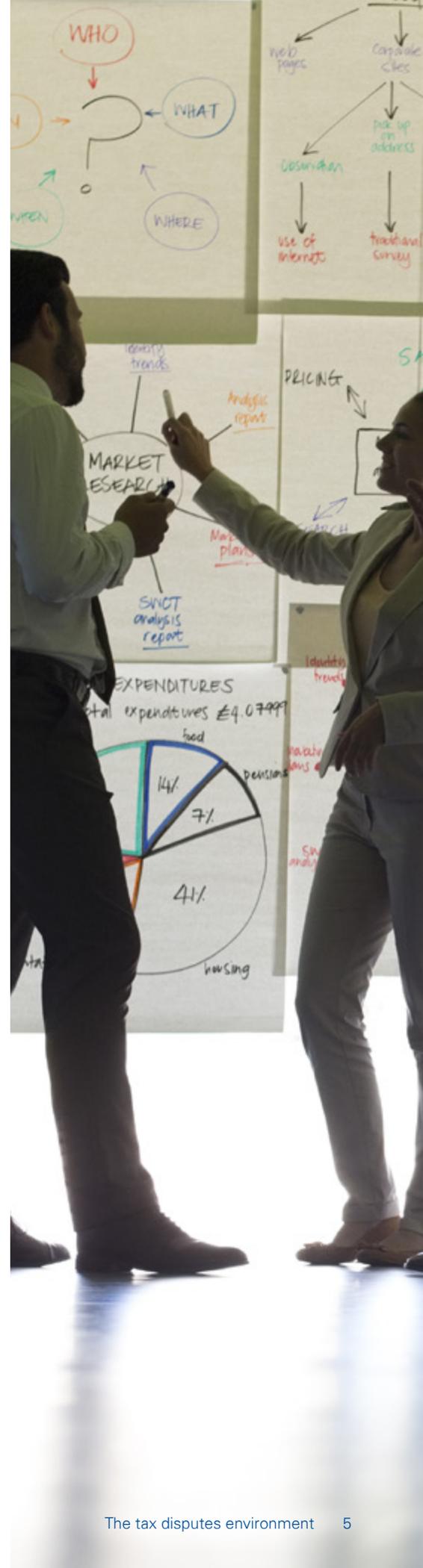
Although audit activity appears to be increasing, risk assessment efficacy of revenue authorities, particularly SALT authorities, does not appear to have improved compared to three years ago.



More than two-thirds of respondents found that SALT authorities are not becoming more efficient in risk assessment (identifying significant risks to which resources should be allocated)...

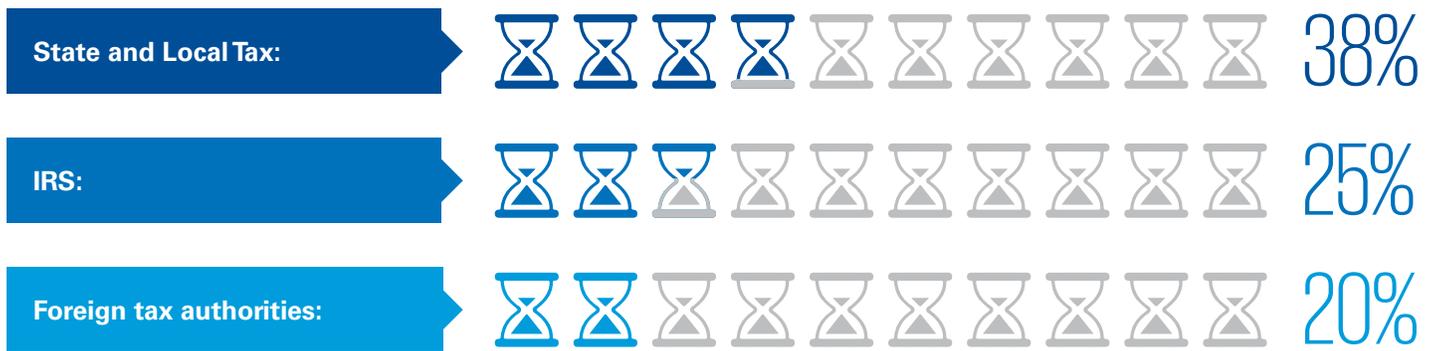


...with almost half (45%) noting that SALT authorities have not instituted any new techniques to promote compliance and resolve disputes.

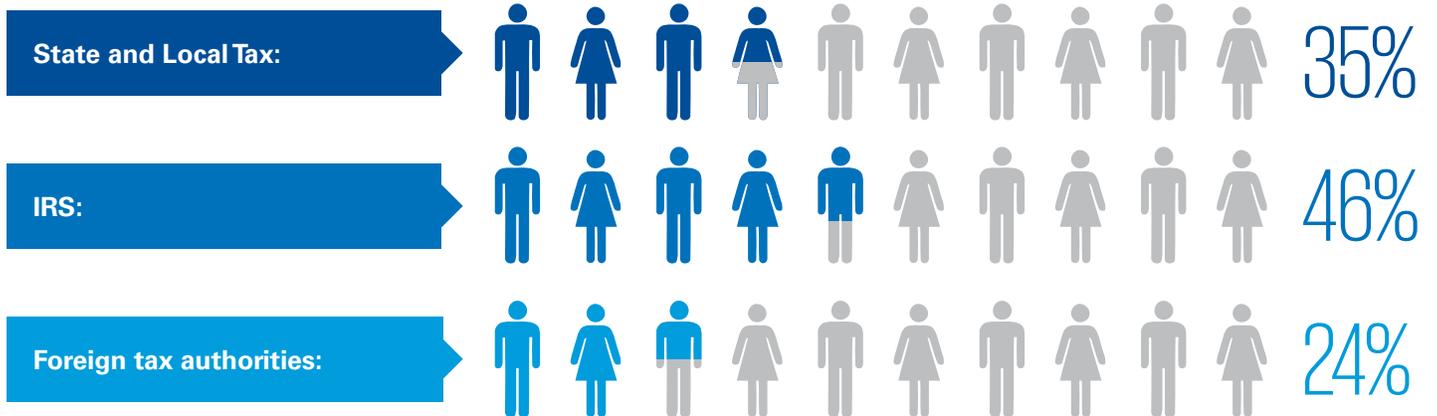


## Reaching resolution

Compared to three years ago, audits with these authorities are taking longer to conclude:



The level of difficulty in reaching resolution with these tax authorities is increasing:



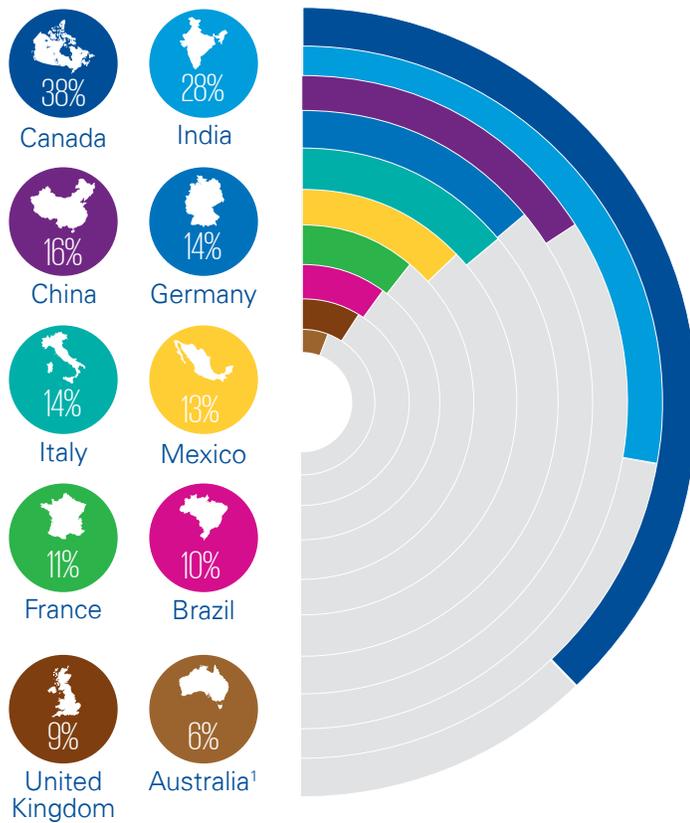
## Degree of difficulty

More than a third of respondents (34%) reported that SALT authorities have been less open to negotiating settlements over the last three years (e.g., not amenable to “splitting the difference” in marginal cases).

Nevertheless, matters are still more likely to be settled than taken to court; more than half of respondents reported that SALT authorities are more inclined to avoid litigation in favor of seeking a negotiated settlement.

### Respondents identified the following jurisdictions as most difficult:\*

Certain international jurisdictions – Canada and India top the list—are considered by the respondents to be more challenging than others, with respect to ease of resolution.



\*Respondents were asked to identify up to three jurisdictions that they found most challenging.



## Penalties

With regard to penalties, 40% of respondents saw no increase in the assertion of penalties from any revenue authorities, and 47% reported no increase in penalties being sustained. In contrast, 31% reported an increase in SALT authorities asserting penalties, compared with 16% for the IRS and 14% for foreign authorities.

As noted in KPMG's 2016 Global Tax Disputes Benchmarking Survey, penalties are being applied more frequently in countries such as France and the U.K. In the U.K., for example, Her Majesty's Revenue & Customs (HMRC) has moved from rarely imposing penalties on large businesses to mandatory consideration of penalties whenever there is an error in a tax return.

## Topics of interest

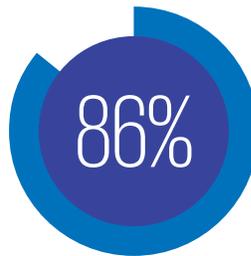
Transfer pricing is the most examined issue by both the IRS and foreign tax authorities. Moreover, given the focus by the Organisation on Economic Co-operation and Development (OECD) on base erosion and profit sharing (BEPS), it is not surprising that more than two-thirds of respondents anticipate more audit activity with respect to cross-border activities, including transfer pricing, permanent establishments (PE), etc. In fact, 30% expect “significantly more” activity during the next few years.

Turning to state and local taxes, the top three areas of dispute are sales/use taxes, the corporate income tax base, and apportionment.

## Go it alone versus cross-border collaboration



Despite BEPS and other OECD collaborative efforts, only a one-third of respondents have seen increased sharing of information among tax authorities globally, and 58% have not seen any increase in global cooperation in the past two years.



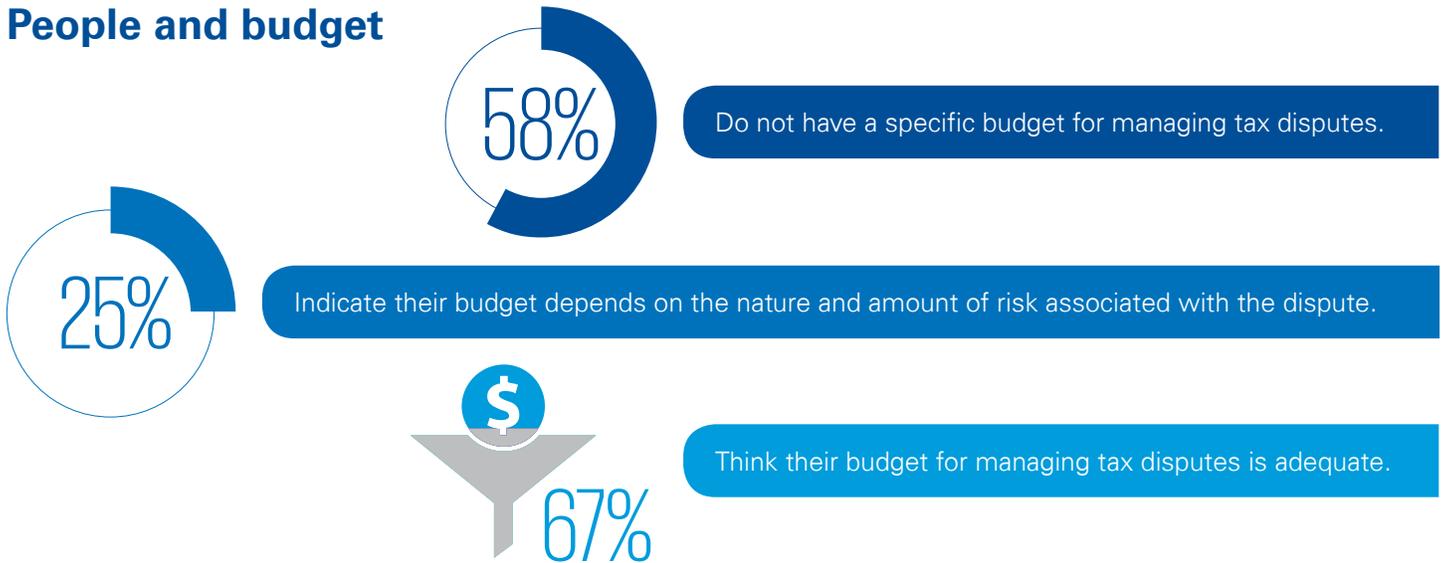
An overwhelming majority of respondents (86%) reported that they have experienced no increase in collaboration between the IRS and state taxing authorities.

## Outlook

Over the next 1-3 years, more than two-thirds of participants expect more audit activity in international compliance issues, e.g., transfer pricing, PE, and BEPS. By comparison, slightly more than half expect more audits of domestic compliance issues.

# Tax dispute management

## People and budget



Three-quarters (77%) of the teams responsible for tax exams and disputes have fewer than 6 people, and most (57%) of them don't have professionals with specific tax dispute management experience. Moreover, a majority of the companies do not anticipate a change in their tax exam and dispute team staffing in the next several years.



## Use of technology

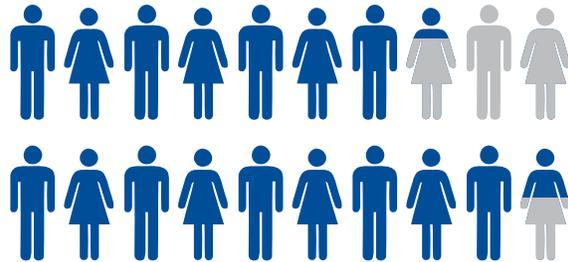
Two-thirds of respondents do not use technology to monitor the number and nature of tax disputes across their organizations.



66%

The other third rely primarily on Excel.

Inasmuch as Excel is the preferred tool for managing disputes, it is not surprising that the technology is managed by in-house professionals for the vast majority of respondents.



72%

94%

It is also not surprising that more than a third of respondents overall anticipate an increase in their organizations' use of technology for managing tax disputes over the next two years.



38%

## Escalating issues & using outside advisors

Almost half of the responding companies have an established process for managing disputes.



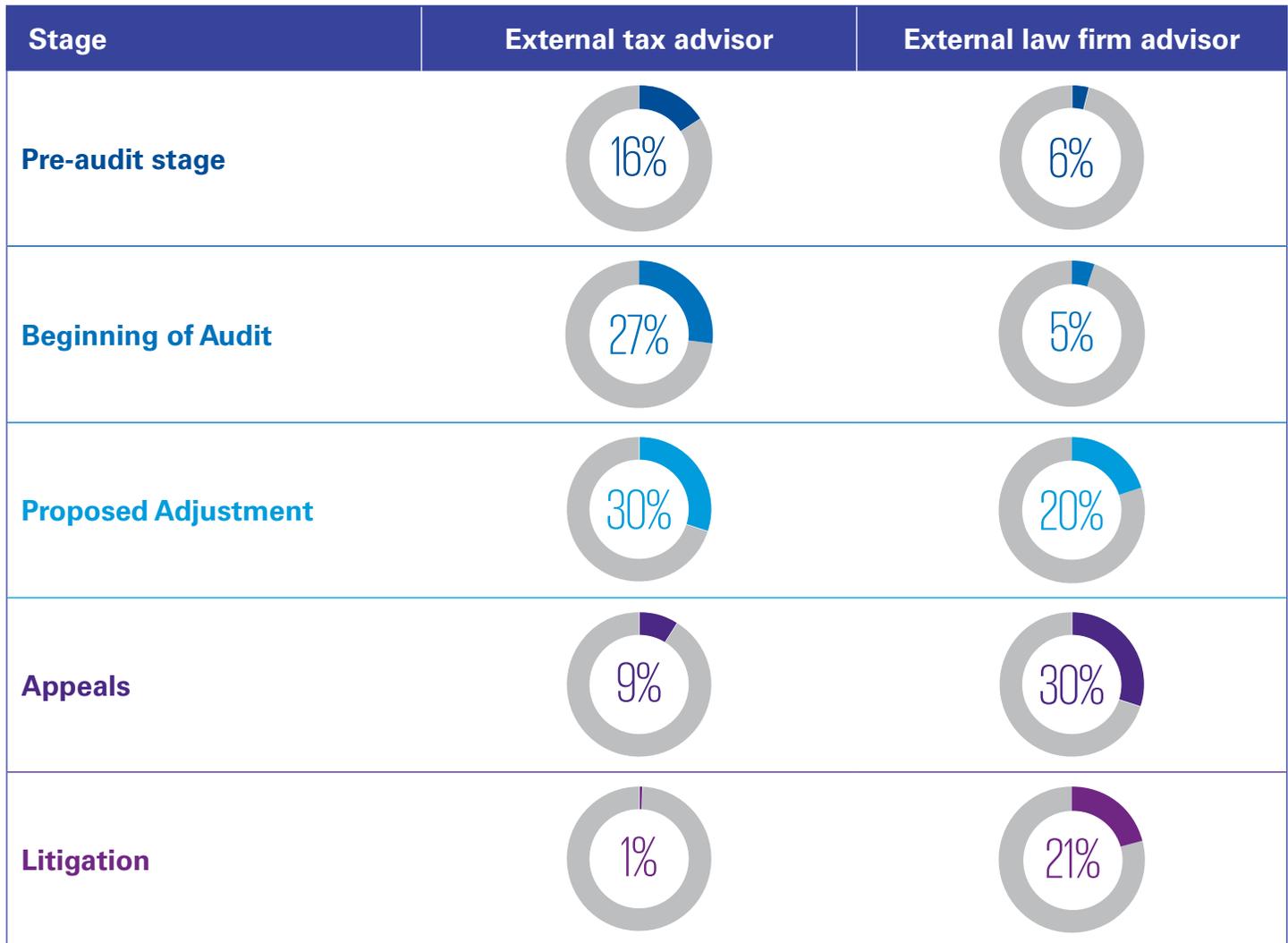
For those who do not have a process – or whose process depends on the nature or amount of risk from the tax dispute – most manage disputes internally on a case-by-case basis.



Respondents' use of outside advisors depends on the stage of the tax dispute. External tax advisors (non-law firm) are generally brought in at the beginning of an audit or after an adjustment is proposed. Law firms are usually not engaged (if at all) until the matter is at least at the proposed adjustment stage and most often not until the appeals and litigation phase.



### When respondents decide to bring in external advisors



### Concluding thoughts

While not surprising in and of themselves, the trends revealed in *KPMG's 2018 Tax Dispute Resolution Benchmarking Survey* are potentially meaningful portents of what lies ahead for in-house tax controversy professionals. Tax dispute activity continues to grow, more in some areas than others, as do the level of cooperation among global tax authorities and the assertiveness of those authorities in seeking information and proposing assessments. Since staffing levels are not growing, technology tools to assess risks and managing tax controversies may hold promise especially as they address new challenges flowing from the 2017 U.S. tax law, burgeoning trade and tariff disputes between the United States and other countries, the increased use of technology by revenue authorities, and the U.S. Supreme Court's decision in *South Dakota v. Wayfair* relating to the states' authorities to impose sale/use tax on remote sales.

# Contact us

For further information about KPMG's Global Tax Disputes Resolution Network please visit:  
([kpmg.com/xx/en/home/insights/2016/11/global-tax-disputes-department-benchmarking](https://kpmg.com/xx/en/home/insights/2016/11/global-tax-disputes-department-benchmarking))

For more information about how KPMG's Tax Dispute Resolution Network can potentially help your business manage and resolve tax disputes efficiently and effectively, please contact our Head of Dispute Resolution & Controversy Services below or visit us at <https://tax.kpmg.us/services/tax-dispute-resolution.html>

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