

# Overview

## Citizen Commission for Performance Measurement of Tax Preferences Proposed Process for Commission Action on 2016 Tax Preference Reviews

September 9, 2016

### Step One: Completion date—Friday, September 9th

- Commissioners receive public testimony.

### Step Two: Completion date—Friday, September 30th

- Using the Commissioner Draft Comment Form, Commissioners forward to the Legislative Auditor any proposed comments by September 30th. (See [Commissioner Comment Form](#).)
- The Legislative Auditor will compile proposed comments using groups A through H (see explanation on following pages) and distribute to all Commissioners by C.O.B., Wednesday, October 5th. (See [Exhibit 1: Example from 2014 Commissioner Comment Process](#), pg. 6 of this document.)

### Step Three: Completion date—Monday, October 10th

- Chair to prepare consolidated draft of proposed Commissioner comments. Legislative Auditor will distribute to all Commissioners.

### Step Four: Completion date—Friday, October 14th

- At the October 14 meeting, Commissioners will determine which comments to adopt, using the process outlined below.

## OCTOBER 14th MEETING

**First, the Commission will consider JLARC staff reviews with recommendations to continue.**

**Group A: Continue – endorse without comment**

- Commissioners will be asked if they would like to adopt individual comments for any preferences from Group A.
- **If there are any proposed comments, those preferences will be moved to Group B** (see below).
- The Commission will then entertain a motion to act on those remaining in the Group A list.
- Any Commissioner can ask to add a minority report reflecting their individual comments. ([See Exhibit 2: Citizen Commission for Performance Measurement of Tax Preferences Bylaws, “Article VII: Minority Reports”](#) on pg. 7 of this document.)

<b>GROUP A - LEGISLATIVE AUDITOR RECOMMENDATION: CONTINUE</b>
<b>Custom Software (Sales and Use Tax)</b>
<b>Data Center Equipment (Sales and Use Tax)</b>
<b>Self-service Laundry (Sales and Use Tax)</b>
<b>Standing Timber Sales (Real Estate Excise Tax)</b>

# The Commission will then consider adopting comments for preferences in Groups B through H, in order.

## Groups B Through H

Action on the remaining specific preference reviews will be considered in order of the following groups. **Groups B through H** are organized based on the Legislative Auditor recommendation: the Commission will determine whether to endorse or not endorse, and adopt any additional comments. **Group H** is provided to add comments on Expedited Preferences.

### **GROUP B:** Continue – endorse or not endorse; consider whether to provide a comment

<b>GROUP B - LEGISLATIVE AUDITOR RECOMMENDATION: CONTINUE</b>
(Tax preferences with individual comments from Group A.)

### **GROUP C:** Review and Clarify – endorse without comment

- Commissioners will be asked if they would like to adopt individual comments for any preferences from Group C.
- **If there are any proposed comments, those preferences will be moved to Group D** (see below).
- The Commission will then entertain a motion to act on those remaining in the Group C list.
- Any Commissioner can ask to add a minority report reflecting their individual comments. ([See Exhibit 2: Citizen Commission for Performance Measurement of Tax Preferences Bylaws, “Article VII: Minority Reports” on pg. 7 of this document.](#))

<b>GROUP C - LEGISLATIVE AUDITOR RECOMMENDATION: REVIEW AND CLARIFY – With No Additional Comments from Commissioners.</b>
Clay Targets (Sales and Use)
Customer-Generated Power (Public Utility)
Flavor-Imparting Items (Sales and Use)
Semiconductor Materials Manufacturing (Reduced B&O)
Semiconductor Materials Manufacturing (Sales and Use)
Solar Energy and Silicon Product Manufacturing (B&O)
Timber and Wood Products (B&O)
Trade-Ins (Sales and Use)

**GROUP D:** Review and Clarify – endorse or not endorse; consider whether to provide a comment

<b>GROUP D - LEGISLATIVE AUDITOR RECOMMENDATION: REVIEW AND CLARIFY</b>
<b>(Tax preferences with individual comments from Group C.)</b>

**Group E:** Modify – endorse or not endorse; consider whether to provide a comment

- Commissioners will be asked if they would like to endorse or adopt individual comments for the preference in Group E.
- The Commission will then entertain a motion to adopt any comments.
- Any Commissioner can ask to add a minority report reflecting their individual comments. ([See Exhibit 2: Citizen Commission for Performance Measurement of Tax Preferences Bylaws, “Article VII: Minority Reports”](#) on pg. 7 of this document.)

<b>GROUP E - LEGISLATIVE AUDITOR RECOMMENDATION: MODIFY</b>
<b>Rural Electric Cooperative Finance Organizations (B&amp;O)</b>

**Group F:** Allow to Expire/Repeal/Terminate – endorse or not endorse; consider whether to provide a comment

- Commissioners will be asked if they would like to adopt individual comments for any preferences from Group F.
- **If there are any proposed comments, those preferences will be moved to Group G** (see below).
- The Commission will then entertain a motion to act on those remaining in the Group G list.
- Any Commissioner can ask to add a minority report reflecting their individual comments. ([See Exhibit 2: Citizen Commission for Performance Measurement of Tax Preferences Bylaws, “Article VII: Minority Reports”](#) on pg. 7 of this document.)

<b>GROUP F - LEGISLATIVE AUDITOR RECOMMENDATION: ALLOW TO EXPIRE/REPEAL/TERMINATE</b>
<b><u>ALLOW TO EXPIRE</u></b> <b>Fuel Used by Mint Growers (Sales and Use)</b> <b>Nonresident Large Private Airplanes (Sales and Use)</b>
<b><u>REPEAL</u></b> <b>Syrup Taxes Paid (B&amp;O)</b>

**TERMINATE**

**Semiconductors (six preferences not yet in effect):**

- Sales and Use Tax Exemption for New Buildings
- Property Tax Exemption for Machinery and Equipment
- B&O Tax Credit
- Reduced B&O Rate
- Sales and Use Tax Exemption for Purchases of Gases and Chemicals
- B&O Exemption for Manufacturing Semiconductor Microchips

**GROUP G - LEGISLATIVE AUDITOR RECOMMENDATION: LEGISLATIVE AUDITOR RECOMMENDATION: ALLOW TO EXPIRE/REPEAL/TERMINATE**

(Tax preferences with individual comments from Group F.)

**GROUP H: Expedited preferences where Commission may wish to add comments**

- Each preference and any associated Commission comments will be discussed individually.
- The Commission will then entertain a motion to act on each individual preference.
- Any Commissioner can ask to add a minority report reflecting their individual comments.

## ***EXHIBIT 1: EXAMPLE FROM 2014 COMMISSIONER COMMENT PROCESS***

***GROUP D: Review and Clarify: endorse or not endorse; consider whether to provide a comment***

### ***Draft comment***

#### **10. International Investment Management Services (B&O Tax)**

Legislative Auditor Recommendation: Review and Clarify

To determine if the preference is still necessary, since Washington's adoption of an economic nexus and apportionment standard has reduced the competitive disadvantage for international investment management businesses located in-state as compared to those located out-of-state. If the Legislature determines it wants to maintain this tax preference, then the Legislature should consider clarifying the law to identify which businesses qualify for the preference and what income is subject to the preferential rate.

Proposed Commission Comment: The Legislature in its review of this preference should take into consideration the Department of Revenue's findings from its review of approximately 70 refund requests, which will take some time to complete. In addition, the Legislature should consider the financial and competitive impact this preference has on beneficiaries resulting from the typical business structure involving use of multiple affiliates in the international investment management services business.

Proposed Commission Rationale: The Department of Revenue issued an Excise Tax Advisory on International Management Services on February 28, 2014, which clarifies eligibility and what income is taxable. The Department is currently reviewing approximately 70 refund requests and has completed one-third of these reviews. It will take additional time to complete the remaining reviews. It is the Commission's understanding that these reviews will not resolve all of the issues surrounding who is eligible for the preferential rate and what income is taxable. While the Excise Tax Advisory addresses many of the issues revolving around who is eligible for the preferential rate and the Department of Revenue has a position on what income is taxable, not all taxpayers agree.

***EXHIBIT 2: CITIZEN COMMISSION FOR PERFORMANCE MEASUREMENT OF TAX PREFERENCES BYLAWS***

Article VII: Minority Reports

Section 1: Minority Report(s): Any Commission member may request a minority report for any motion that has been approved by a vote of the Commission. Requests must be made to the Chair at the meeting, following the approval of the motion. The Chair shall ensure that minority reports requested by members are registered in the record of business for the Commission meeting.