2012 Tax Preference Performance Reviews

Preliminary Report

JLARC Staff

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Citizen Commission
for Performance Measurement of Tax Preferences

August 24, 2012

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Reminder: The Steps in the Review Process

In 2011:
Commission determined 10-year schedule

JLARC staff prepared analysis

Jul: Staff presented to JLARC

Aug: Staff present to Citizen Commission

Sep: Commission takes public testimony

Oct: Commission adopts comments

Jan: JLARC hears final report; joint hearing in Legislature

23 Preferences Reviewed by JLARC Staff in 2012

	Number of Preferences	Beneficiary Savings Est.
Terminate	1	$0 M
Legislature review/ clarify	12	$223 M
Continue	10	$1,866 M
Total	**23**	**$2,089 M**

Information on 33 other preferences provided by DOR is included in separate volume

13 Preferences Covered Today

Tax Preferences to Encourage Investment in Target Industries and to Create Jobs	High Technology Deferral *(Sales Tax)* High Technology R&D Credit *(B&O Tax)* Biotech Manf. Deferral/Waiver (Sales/Use *Tax*) Solar Energy & Silicon Product Manf. *(B&O Tax)*
Preferential B&O Tax Rates for Specific Industries	Stevedoring *(B&O Tax)* Int'l Charter & Freight Brokers *(B&O Tax)* Travel Agents *(B&O Tax)* Insurance Producers *(B&O Tax)*
Other Preferences	Minor Final Assembly (B&O *Tax*) Precious Metal and Bullion *(Sales/Use Tax)* Precious Metal and Bullion *(B&O Tax)* Commuting Programs *(B&O and PUT Tax)* Fish Tax Differential Rates *(Fish Tax)*

Additionally, 10 Preferences with "Continue" Included in Report

1. Annuities *(Insurance Premium Tax)*
2. Business Inventories *(Property Tax)*
3. Condominium Maintenance Fees *(B&O Tax)*
4. Ferry Boats *(Sales/Use Tax)*
5. Health Insurance by State Pool *(Insurance Premium Tax)*
6. Insurance Guarantee Funds *(Insurance Premium Tax)*
7. Leases Under $250 Per Year *(Leasehold Excise Tax)*
8. Natural and Manufactured Gas *(Sales/Use Tax)*
9. Special Fuel Use Exemptions *(Fuel Tax)*
10. Urban Transit Fuel *(Sales/Use Tax)*

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Four Tax Preferences

to

Encourage Investment in Target Industries

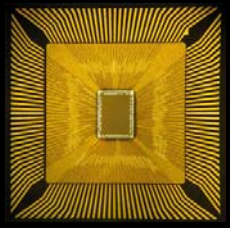
and to

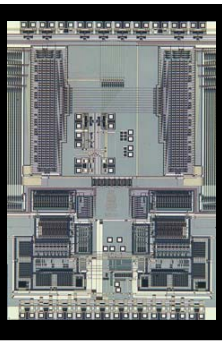
Create Jobs

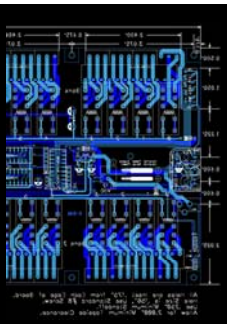
High Technology

Sales & Use Tax Deferral/Waiver

B&O Tax Credit







Current Law – *RCWs 82.63.030 & 82.04.4452*

High Technology R&D

- Firms engaged in high tech R&D are eligible for:
  - A deferral and eventual waiver of sales and use taxes on investment in **facilities** and **machinery and equipment**
  - A B&O tax credit for R&D spending above a certain threshold
- Both preferences expire January 1, 2015.

Current Law – *Requirements*

High Technology R&D

- R&D must be conducted in the fields of:
  - Advanced computing
  - Advanced materials
  - Biotechnology
  - Electronic device technology
  - Environmental technology
- Beneficiaries must file an annual survey by April 30 each year on the number of positions created, wages, benefits, and product information.

Current Law – *Sales & Use Tax Deferral*

High Technology R&D

- Businesses, nonprofits, and public universities are eligible.
- Investment project must be for high tech R&D or pilot scale manufacturing.
- If beneficiary reports annually and continues to qualify for 8 years the taxes are waived.

Current Law – *B&O Tax Credit*

High Technology R&D

- A business must spend more than 0.92% of taxable income on qualified R&D in WA.
- Credit equals 1.5% of R&D spending.
- Credit limited by $2 million or amount of tax liability in a calendar year.
- Beneficiaries must report annually or pay previous year's taxes.

Beneficiaries and Beneficiary Savings

High Technology R&D

Beneficiaries:	Estimated Beneficiary Savings:
535 firms took the deferral or credit or both preferences in 2009	$114 million in 2013-15 Biennium

Background & Legal History

High Technology R&D

1994 Legislature enacted high tech R&D sales & use tax deferral and B&O tax credit.

Credit and deferral originally set to expire on July 1, 2004, but later extended to January 1, 2015.

2004 Legislature required beneficiaries to file annual survey.

Public Policy Objectives Stated

High Technology R&D

- Create "quality" employment opportunities in this state, and
- Encourage investment in R&D to sustain high technology sector as it develops new technologies and products.

Were the Public Policy Objectives Achieved?

High Technology R&D

- Specific targets not identified, such as how much investment and new employment is sufficient.
- JLARC contracted with expert economists to answer question on job creation.
- First time JLARC has used complex statistical modeling to evaluate a tax preference:
  - Tax savings large enough to estimate impact on economy
  - 2011 legislation called for enhanced analysis of economic development incentives

Economists estimate B&O tax credit added 454 jobs

- Jobs estimate is for the 6-year study period.
- 454 jobs are sustained during study period.
- Annual average of $20.5 million in B&O credit claimed, or $45,000 a year per job.

Job Increase:	**454**	
Tax Credit Taken:	**$20.5 Million**	***$45,000 per job***

Source: An Analysis of the Employment Effects of the Washington High Technology B&O Tax Credit, Upjohn 2012.

Economic impact of new earnings estimated at $25,000

High Technology R&D

- Economists recommend approach to measuring economic impact by determining:
  - Net increase in earnings which recognizes some jobs go to people moving to WA and to residents that move up to higher paying jobs
  - Economy-wide increase in earnings which recognizes "multiplier effects"

Economy-Wide New Earnings	***$25,000 per job***
Tax Credit Taken	***$45,000 per job***

Sources: An Analysis of the Employment Effects of the Washington High Technology B&O Tax Credit, Upjohn 2012; Washington Input-Output Model, OFM, 2010 update.

Recommendation

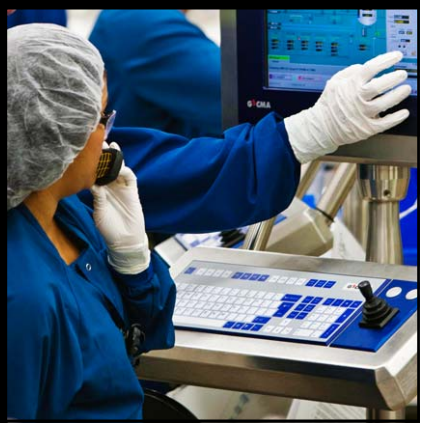
High Technology R&D

Review and Clarify

To determine if progress toward the Legislature's high technology R&D objectives is sufficient and to consider identifying targets for investment and employment.

Biotechnology Manufacturing

Sales & Use Tax Deferral/Waiver



Current Law – *RCW 82.04.4295*

Biotechnology Manufacturing

- Provides a deferral and eventual waiver of sales and use taxes on **facilities** and **machinery and equipment** for biotechnology manufacturing firms.
- Beneficiaries must file an annual report by April 30 each year on the number of positions created, wages, and benefits.
- If beneficiary files survey and continues to qualify for 8 years the taxes are waived.
- Expires January 1, 2017.

Beneficiaries and Beneficiary Savings

Biotechnology Manufacturing

Beneficiaries:	Estimated Beneficiary Savings:
6 firms investing in 10 projects in King and Snohomish counties	$1.4 million in 2013-15 Biennium

Background & Legal History

Biotechnology Manufacturing

2006 The Legislature established this sales and use tax deferral/waiver program for commercial biotechnology manufacturers.

Public Policy Objectives Stated

Biotechnology Manufacturing

- Encourage expenditures in commercial biotechnology operations, and
- Develop employment opportunities in biotechnology manufacturing.

Were the Public Policy Objectives Achieved?

Biotechnology Manufacturing

- **Encourage investment:** $21 million invested
  - JLARC is unable determine how much investment is a result of the deferral.
- **Develop employment opportunities:** 147 new jobs according to beneficiaries
  - Beneficiaries required to report how many new jobs created, not how many as a result of the deferral.
- Specific objectives not identified, such as how much investment and how many new employment positions are sufficient.

Recommendation

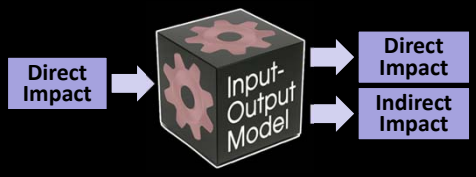
Biotechnology Manufacturing

Review and Clarify

To determine if progress toward the Legislature's biotechnology manufacturing objectives is sufficient and to consider identifying targets for investment and employment.

Supplement to High Tech and Biotech Reviews:

Enhancements Are Needed in the Annual Taxpayer Survey and the Washington Input-Output Model



Survey Information on Deferral Amounts is Misleading

Supplement to High Tech and Biotech

- JLARC found DOR instructs beneficiaries to report deferral amounts each year for 8 years.

1 Biotech Project	Annual Survey Year Due							
	1	2	3	4	5	6	7	8
Actual sales tax deferred	$100K	$0	$0	$0	$0	$0	$0	$0
Reported on survey and to the public	$100K	$100K	$100K	$100K	$100K	$100K	$100K	$100K

Source: JLARC analysis of DOR annual survey instructions.

- Survey gives impression that state is foregoing $800,000.

Survey Information on Job Performance is not Clear

Supplement to High Tech and Biotech

- Same 4 biotech firms reported in 2008 and 2009 annual surveys.

	Number of Businesses Reporting	All Washington Employees	New Employees
2008	4	478	58
2009	4	475	19
Employment change		-3	

Source: JLARC analysis of DOR annual survey data.

- Firms reported job decline *and* 19 new jobs.
- JLARC can't determine net job growth.

Recommendation

Supplement to High Tech and Biotech

The Department of Revenue should

Convene a work group to address how to improve the reliability and the accuracy of the information collected in the annual survey and reported to the Legislature and the public.

2011 Legislature directed JLARC to compare economic impacts

Supplement to High Tech and Biotech

- For incentives designed to create jobs, compare the economic impact of:
  - Spending on tax incentives
  - Spending on government services
- JLARC directed to use OFM's WA Input-Output Model. Model shows total impact of an economic change on the WA economy by industry sector.
- Model does not include government sector.
- JLARC is unable to do the analysis directed by the Legislature.

Recommendation

Supplement to High Tech and Biotech

The Office of Financial Management should

Estimate the cost of including state government and local government as separate sectors within the Washington Input-Output model.

Solar Energy and Silicon Product Manufacturers

B&O Tax

Current Law – *RCW 82.04.294*

Solar Energy Manufacturers

- Provides preferential B&O tax rate (0.275% compared to 0.484%) to:
  - Manufacturers of solar energy systems using photovoltaic modules (PV) or stirling convertors;
  - Manufacturers of certain silicon products used exclusively in solar energy system components; and
  - Wholesalers of solar energy systems or components they've manufactured.
- Expires June 30, 2014.

Current Law – *Annual Report Requirements*

Solar Energy Manufacturers

- Requires beneficiaries to file an annual report due April 30.
- DOR must collect and report on information in the report to the Legislature and the public.

Beneficiaries and Beneficiary Savings

Solar Energy Manufacturers

Beneficiaries:	Estimated Beneficiary Savings:
5 companies during 5 years	$1.55 million in FY 2014 (expires 6/30/2014)

Background & Legal History

Solar Energy Manufacturers

2005 Legislature provided reduced B&O tax rate of 0.2904% to **manufacturers of solar energy systems** using photovoltaic modules or silicon components and to **wholesalers of such systems** that they manufactured. Set 6/30/2014 expiration date.

2009 Legislature reduced B&O rate to 0.275% and added several materials that qualify for preferential rate.

2011 Legislature added manufacturing or wholesaling of stirling convertors to list of qualifying activities for preferential rate.

Public Policy Objective Stated

Solar Energy Manufacturers

- Legislature stated the public policy objectives:
  - **Retain and expand** existing solar industry manufacturing businesses;
  - **Attract** new solar energy manufacturers/wholesalers; and
  - **Create jobs** in Washington.

It is Unclear Whether the Public Policy Objectives are Achieved; Specific Targets Not Identified

Solar Energy Manufacturers

- **Solar business retention and expansion**:
  - The two businesses existing when preference enacted continue operating in WA. Annual reports indicate one of them has expanded.
- **Solar business attraction**:
  - Three new businesses located in WA from 2006 to 2010, one later moved out-of-state.
- **Job creation**:
  - Jobs reported on annual reports increased from 194 (2006) to 582 (2010).
  - Almost all growth due to one company.

Recommendation

Solar Energy Manufacturers

Review and Clarify

To determine if the progress toward its solar industry objectives is sufficient and to consider identifying targets for solar business retention and expansion, attraction, and job creation.

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Four Preferential Rates

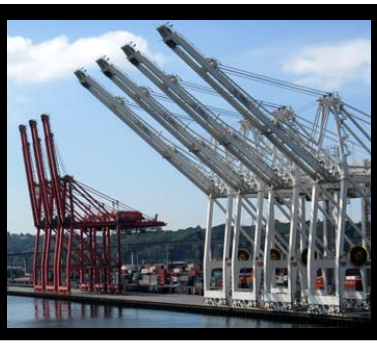
Business and Occupation (B&O) Tax

for

Specific Industries

Stevedoring and International Charter/ Freight Brokers

B&O Tax



Current Law – *RCW 82.04.260(7), RCW 82.04.260(6)*

Stevedores & Intl Charter Brokers

- Provides preferential B&O rate (0.275% compared to 1.8%) to:
  - **Stevedoring and associated activities:** Labor, services, transportation related to loading or unloading cargo from vessels in waterborne interstate/foreign commerce.
  - **International charter and freight brokers:** Arrange international transportation of goods (do not provide actual transportation).

Beneficiaries and Beneficiary Savings

Stevedores & Intl Charter Brokers

Beneficiaries:	Estimated Beneficiary Savings:
Stevedoring	**Stevedoring**
Approximately 25 businesses	$17.9 million in 2013-15
Int'l charter/freight brokers	**Int'l charter/freight brokers**
Approximately 180 businesses	$8.5 million in 2013-15

Background & Legal History

Stevedores & Intl Charter Brokers

1935 Stevedoring and int'l charter/freight brokers subject to service activities B&O tax.

1937 U.S. Supreme Court ruled loading/unloading cargo part of interstate/foreign commerce. Taxing stevedoring was "unlawful burden" on interstate/ foreign commerce.

In response, WA Tax Commission issued rule allowing B&O tax deduction for stevedoring income. Int'l charter/freight brokers remained taxable under service B&O tax.

Background & Legal History

Stevedores & Intl Charter Brokers

1974 Due to several U.S. Supreme Court decisions allowing more taxation of interstate commerce activities, DOR removed B&O deduction for stevedoring. Assn of WA Stevedoring Cos. sued to retain the deduction. DOR continued to allow stevedoring B&O deduction.

1978 In *DOR v. Stevedoring Assn*, U.S. Supreme Court upheld WA's B&O tax on stevedoring, noting it did not violate Commerce Clause. Now both stevedoring and int'l charter/ freight brokers taxed under service B&O tax.

Background & Legal History

Stevedores & Intl Charter Brokers

1979 Legislature provided preferential B&O rate (0.33% vs. 1.0%) for both stevedoring and int'l charter/freight broker activities.

1998 In a bill that consolidated several B&O tax rates, Legislature reduced B&O tax rate for stevedoring and int'l charter/freight brokers to 0.275%.

Public Policy Objective Not Stated

Stevedores & Intl Charter Brokers

- **Stevedoring activities** – JLARC infers objective was to keep WA's ports and related businesses competitive with other states.
  - Is unclear why the particular rate assumed sufficient.
- **Int'l charter/freight brokers** – Is unclear why preferential B&O rate was extended to them.
- **1998 rate consolidation** – Stated objective to simplify tax code and consolidate tax rates.
  - From 10 to 6 B&O tax rates.

Were the Inferred Public Policy Objectives Achieved?

Stevedores & Intl Charter Brokers

- **Stevedoring activities**:
  - Ports and businesses appear competitive; unclear if preference has played a part.
- **Int'l charter/freight brokers**:
  - Since public policy objective is unclear, cannot determine.
- **1998 Tax simplification & rate consolidation**:
  - Evidence suggests B&O rate consolidation & simplification may no longer be relevant.
  - Today, are 12 different rates and 51 B&O tax classifications.

Recommendation

Stevedores & Intl Charter Brokers

Review and Clarify

Because:

1) The public policy objective for why the Legislature chose the current B&O tax rate for stevedoring activities is unclear;
2) The objective for providing a preferential rate for international charter/freight brokers is unclear; and
3) The objective to consolidate and simplify B&O tax rates and classifications may no longer apply.

Travel Agents and Tour Operators

B&O Tax

Current Law – *RCW 82.04.260(5)*

Travel Agents & Tour Operators

- Provides preferential B&O tax rate (0.275% compared to 1.8%) to:
  - **Travel Agents**, who ***arrange*** travel services and are taxed on their ***commissions and fees***; and
  - **Tour Operators**, who ***provide or resell*** travel services and are taxed on the ***value of the service***.

Beneficiaries and Beneficiary Savings

Travel Agents & Tour Operators

Beneficiaries:	Estimated Beneficiary Savings:
502 businesses reporting under the travel agent and tour operator classification	$10.2 million in 2013-15 Biennium

Background & Legal History

Travel Agents & Tour Operators

Early 1970s Courts began allowing states to tax more transactions that involved ***interstate commerce***.

1975 In response, DOR began taxing travel agents on commissions and fees earned by arranging ***interstate travel***.

The Legislature enacted a preferential rate for travel agents (0.25% instead of 1.0%). Industry reps had testified that ***interstate travel*** made up 75% of their income.

Background & Legal History (cont.)

Travel Agents & Tour Operators

1993 The Legislature increased the preferential rate to the current **0.275%**.

1996 The Legislature expanded the preferential rate to ***tour operators***, which had previously paid the general services rate.

2010 The Legislature changed the location of where these activities are taxed from the ***travel agent's office*** to ***where the travel takes place***. This means a Seattle travel agent that arranges an Alaskan cruise might be taxed in Alaska, but not in Washington.

Inferred Public Policy Objectives

Travel Agents & Tour Operators

- **Reduce Impact of 1975 DOR Rule Change**
  By reducing rates by 75%, the Legislature allowed travel agents to continue paying the same amount of tax without overturning DOR's new rule.
- **Provide Equitable Tax Treatment with Air Carriers**
  Testimony stated that ***tickets*** for interstate travel ***were not*** taxed, but travel agents' ***commissions*** for arranging interstate travel ***were*** taxed.
- **Achieve Administrative Simplicity**
  DOR testified it was burdensome to distinguish travel agents from tour operators.

Were the Public Policy Objectives Achieved?

Travel Agents & Tour Operators

- **Reduce Impact of 1975 DOR Rule Change**
  Unclear: Interstate travel no longer 75% of income; rate has not been updated; airline deregulation and the Internet have ***changed*** the travel industry.
- **Provide Equitable Tax Treatment with Air Carriers**
  Unclear how to give different industries equitable tax treatment. Air carriers pay a different tax, at a different rate, on a different tax base.
- **Achieve Administrative Simplicity**
  Unclear: No longer burdensome for DOR to distinguish between travel agents and tour operators.

Recommendation

Travel Agents & Tour Operators

Review and Clarify

Because it is unclear whether the inferred public policy objectives of reducing the financial impact of DOR's 1975 rule change, providing equitable tax treatment with air carriers, and achieving administrative simplicity still apply in light of the changes to the industry since the time of enactment.

Insurance Producers, Title Insurance Agents, and Surplus Line Brokers

B&O Tax

Current Law – *RCW 82.04.260(9)*

Insurance Producers

- Provides insurance producers, title insurance agents, and surplus line brokers with a lower B&O tax rate of 0.484% as compared to the current general service rate of 1.8%.

Current Law – *B&O Tax "Pyramiding"*

Insurance Producers

- Insurance contractors are paid commissions by insurance companies to sell their products.
- The agent pays B&O tax on the full commission, and the sub-agent pays tax on his or her share of the commission.
- The shared portion of the commission is taxed twice.
- This is the intention of the B&O tax and is known as "pyramiding."

Beneficiaries and Beneficiary Savings

Insurance Producers

Beneficiaries:	Estimated Beneficiary Savings:
5,000 insurance firms reported tax at lower rate	$35.6 million in 2013-15 Biennium

Background & Legal History

Insurance Producers

Before 1969 Tax Commission removed "pyramiding" for insurance and real estate commissions.

1969 Tax Commission reversed itself and began taxing gross commissions.

1970 The Legislature removed "pyramiding" for real estate, but not for insurance.

1983 B&O surtax imposed, but tax on insurance commissions received preferential rate.

1998 B&O tax rates consolidated, further reducing tax on insurance commissions.

Public Policy Objective Not Stated

Insurance Producers

- JLARC infers there may be 3 objectives:
  1) Inability to increase commissions to cover tax increases
  2) Equity for insurance firms following the removal of "pyramiding" for real estate firms
  3) Simplification of tax code by consolidating B&O tax rates

Unclear if Policy Objectives Were Achieved

Insurance Producers

- **Inability to increase commissions: No longer applies** – rates can be increased.
- **Equity with tax on real estate commissions: Unclear –** real estate firms pay higher taxes.

Type of Business	Tax Rate	Agent Tax on $1,000 Gross Commission	Sub-agent Tax on $500 Shared Commission	Total Taxes Owed
Real Estate	1.8%	$18.00	$0	**$18.00**
Insurance	0.484%	$4.84	$2.42	**$7.26**

Source: JLARC analysis of tax law and rules.

- **Tax Simplification: No longer applies** – B&O tax has 12 rates and 51 classifications.

Recommendation

Insurance Producers

Review and Clarify

Unclear why the Legislature is providing different tax treatment to firms with similar agent/sub-agent relationships; and because the inferred objectives related to the inability of passing on rate increases and of consolidating rates may no longer apply.

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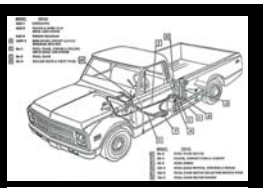
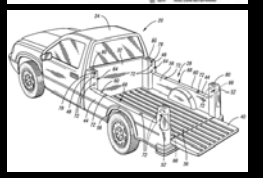
Five Other Preferences

Minor Final Assembly in Washington

B&O Tax





Current Law – RCW 82.04.4295

Minor Final Assembly

- Provides a B&O tax deduction for out-of-state manufacturing if minor final assembly takes place in WA. Generally, B&O tax applies to gross value of finished product.
- To qualify:
  - Components must be imported from outside the U.S.
  - Activity must be manufacturing.
  - Cost of assembly must be 2% or less of final product.
  - Final product must be shipped outside WA.

Background & Legal History

Minor Final Assembly

1970s Feds set 25% duty on imported trucks and 4% duty on component truck parts.
Toyota and Isuzu began assembling trucks in WA ports.

1976 DOR began taxing gross value of the finished truck. Toyota moved to Portland.

1977 Legislature enacted the tax preference.

1980s Feds imposed 25% duty on truck parts.
Foreign manufacturers began building entire vehicles elsewhere in the U.S.

Public Policy Objective Not Stated

Minor Final Assembly

- JLARC infers that the Legislature intended to address the specific circumstance of the assembly of Isuzu trucks at the Port of Seattle in order to retain that operation.
- No evidence that minor final assembly currently takes place in Washington.

Recommendation

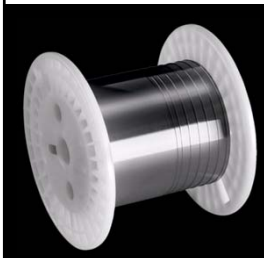
Minor Final Assembly

Terminate

Because federal import regulations changed, imported truck components are no longer being assembled at Washington ports, and there are no known beneficiaries.

Precious Metal, Bullion, and Coins

Sales and Use Tax
B&O Tax



Current Law – *RCW 82.04.062(1) and (2)*

Precious Metal & Bullion

- **Sales and use tax:** Exempts sales/use of precious metal & bullion from sales tax.
- **B&O tax:** Sellers of precious metal & bullion pay service activities rate (1.8%) only on amounts received as commissions on transactions.

DOR interprets statutory language to only tax income when seller makes sale **on behalf of a 3rd party** and receives a **commission** on transaction. Income from sales of seller's own inventory is not taxed.

Beneficiaries and Beneficiary Savings

Precious Metal & Bullion

Beneficiaries:	**Estimated Beneficiary Savings:**
Sales & use tax	**Sales & use tax**
Purchasers of precious metal, bullion, & coins in WA	$39 million in 2013-15 (DOR)
B&O tax	**B&O tax**
WA businesses that sell precious metal & bullion on goods they own and goods they sell on behalf of 3rd parties	$3.1 million in 2013-15 (DOR)

Background & Legal History

Precious Metal & Bullion

Pre-1985 Precious metal & bullion subject to sales & use tax. Gross sales income subject to B&O tax under retailing or wholesaling classification.

1985 Legislature enacted preferences to provide sales & use tax exemption and to tax commissions received from sales under service B&O tax rate, rather than tax gross sales amount at lower rate.

Public Policy Objective Not Stated

Precious Metal & Bullion

- JLARC infers objective was to make Washington coin & bullion dealers more competitive with out-of-state competitors by treating precious metal & bullion sales like sales of investments, rather than sales of tangible personal property.

Were the Inferred Public Policy Objectives Achieved?

Precious Metal & Bullion

- Evidence is mixed
  - **Sales and use tax exemptions**: Preference appears to be achieving objective of making WA sellers competitive by treating precious metal & bullion sales like investment sales.
  - **B&O tax treatment:** DOR interpretation results in this industry not paying B&O tax like other investment sellers. Only commissions earned from 3rd party sales taxed. Other investment sales pay B&O tax on difference between dealer's buy and sell price (mark-up/spread).

Recommendation

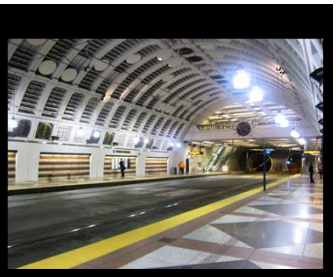
Precious Metal & Bullion

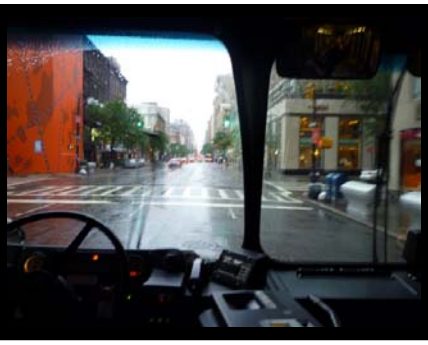
Review and Clarify

Because implementation of the statute may not be achieving the inferred public policy objective of treating precious metal and bullion sales like sales of other investments.

Commuting Programs

B&O Tax
Public Utility Tax





Current Law – *RCW 82.72.020*

Commuting Programs

- Provides a B&O tax or public utility tax (PUT) credit to employers and property managers for amounts they pay for employees to use various commuting programs (e.g., car or ride-sharing, public transportation, biking, walking).
- Statewide cap - $2.75 million/year.
  - $200,000 cap per employer/year.
  - $60 or ½ of amount paid per employee/year, whichever is less.

Commute Trip Reduction (CTR) Program

Commuting Programs

- Legislature created CTR Program in 1991.
- Goal to reduce traffic congestion, air pollution, and gas consumption through employer-based programs to reduce the number of commute trips made by solo drivers during heaviest commuting periods.

Beneficiaries and Beneficiary Savings

Commuting Programs

Beneficiaries:	Estimated Beneficiary Savings:
In FY 11, 457 employers and property managers	$4.7 million in 2011-13 (expires June 30, 2013)

Background & Legal History

Commuting Programs

1994 Legislature enacted CTR B&O/PUT credit for employers in 8 largest counties with at least 100 employees at one site who provided financial incentives to employees for ride-sharing. Credit set to expire 12/31/1996.

1996 Legislature extended expiration date to 12/31/2000, and extended CTR credit availability to all counties and employers, and more commuting types, while reducing the credit cap.

Background & Legal History

Commuting Programs

1999 Legislature extended expiration date to 12/31/2006 and extended B&O/PUT credit to property managers. However, Governor vetoed the new expiration date, citing concern over credit's impact on state budget.

2000 Legislature repealed the MVET effective 1/01/2000, eliminating the credit's funding source. CTR credits not available for 2000 and expired 12/31/2000.

Background & Legal History

Commuting Programs

2002 Legislature reinstated CTR credits with funding dependent on passage of Referendum 51. When the referendum failed in November 2002, the credits were null and void.

2003 Legislature again reinstated CTR credits beginning 7/01/2003 and set the current 6/30/2013 expiration date.

Public Policy Objective Not Stated

Commuting Programs

- JLARC infers the credit was to encourage businesses to provide financial incentives to their employees to participate in CTR programs that reduce single occupancy vehicle travel.

Were the Inferred Public Policy Objectives Achieved?

Commuting Programs

- Per DOR, number of employers applying for and taking the credits has increased since 2005.
- However, JLARC is unable to determine if the CTR credit has had any impact toward the broader objective of reducing single occupancy vehicles.
  - Per WSDOT data, during period CTR credit was not provided (1/1/2000 to 6/30/2003), number of employers and employees participating in CTR programs grew more than after the credit was reenacted.

Recommendation

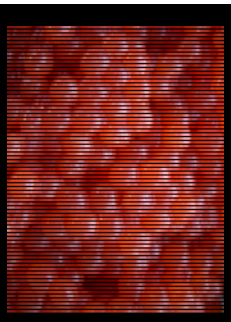
Commuting Programs

Review and Clarify

Because while it provides a credit to businesses that provide financial incentives to their employees who participate in CTR activities, it is unclear whether the preference is meeting the broader public policy objective of increasing participation in commute trip reduction programs.

Fish Tax Differential Rates

Enhanced Food Fish Tax



Current Law – RCW 82.27.020(4)

Fish Tax Differential Rates

- Enhanced food fish tax is on first commercial possession of certain fish or shellfish in state.
- Provides 5 fish tax rates for different species of enhanced food fish:

Food Fish Type	Fish Tax Rate
Chinook, coho, chum salmon or eggs; anadromous game fish (e.g., steelhead or cutthroat trout, Dolly Varden char)	5.62%
Pink and sockeye salmon fish or eggs	3.37%
Other food fish or eggs; shellfish	2.25%
Oysters	0.09%
Sea urchins and sea cucumbers	4.92%

Source: JLARC analysis of RCW 82.27.020(4), (5), and RCW 82.02.030.

Beneficiaries and Beneficiary Savings

Fish Tax Differential Rates

Beneficiaries:	Estimated Beneficiary Savings:
Commercial harvesters, processers, or sellers of certain fish and shellfish in Washington In FY 2011, estimated 236 businesses	$7.5 million in 2013-15

Background & Legal History

Fish Tax Differential Rates

1915 Legislature established tonnage tax and a royalty tax on commercial fisheries. Royalty tax had different rates for different species.

1949 Legislature replaced royalty and tonnage taxes with privilege and catch fees. Privilege fee had 7 different rates for specific areas and species.

1963 Legislature changed privilege fee base from volume to value.

Background & Legal History

Fish Tax Differential Rates

1977 Legislature established salmon enhancement program to provide funds for salmon enhancement work/facilities. To fund, they increased privilege fees for processors and dealers and set them at differential rates:

Chinook, coho, chum salmon	5% of value
Pink and sockeye salmon	3% of value
Other food fish and shellfish	2% of value
Pacific oyster	1¢/gallon
Other oysters	6.5¢/gallon

Background & Legal History

Fish Tax Differential Rates

1980 Legislature replaced privilege and catch fees with new excise tax on commercial possession of food fish and shellfish, administered by DOR. Kept 1977 rates and classifications, but changed oyster tax from volume to value (0.07% rate).

1983 Legislature imposed fish tax on anadromous game fish (steelhead).

1999 Legislature increased fish tax rate for sea urchins and sea cucumbers.

Public Policy Objective Not Stated

Fish Tax Differential Rates

- In 1977, the Legislature intended the food fish and shellfish tax to provide funds to acquire, construct, improve, and operate salmon enhancement facilities.
- The inferred objective for differential rates is to ensure those benefiting most from salmon enhancement efforts help pay for them.

Were the Inferred Public Policy Objectives Achieved?

Fish Tax Differential Rates

- Differential rates do ensure a higher tax rate applied to certain salmon and game fish commercial harvesters, processors, and dealers than to other fish and shellfish.
- However, is unclear why Legislature set the differential rates at the levels at which they were established.
- Rates set in 1977 may not currently meet the inferred public policy objective of reflecting the costs to maintain these species.
  - Fisheries with lower fish tax rates may now require more state resources than in 1977.

Recommendation

Fish Tax Differential Rates

Review and Clarify

Because it is unclear:

1) Why the differential rates were set at the levels they were; and
2) Whether the Legislature seeks a rate structure that reflects the relative levels of state expenditures for maintaining and enhancing the different fish and shellfish species.

Next Steps

2012	Sep 14	Tax Preference Commission conducts public hearing on reviews
	Oct 9	Tax Preference Commission adopts comments on reviews
2013	Jan 23	JLARC hears proposed final reports
	Jan *Date TBD*	Joint Work Session, Senate and House Ways & Means Committees, hears final reports

JLARC

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