

**2010
FULL
TAX PREFERENCE
PERFORMANCE
REVIEWS**

SCOPE AND OBJECTIVES

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STATE OF WASHINGTON
JOINT LEGISLATIVE AUDIT
AND REVIEW COMMITTEE

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Why a JLARC Study of Tax Preferences?

Engrossed House Bill 1069 (2006) established the Citizen Commission for Performance Measurement of Tax Preferences and directed it to develop a schedule for periodic review of the state's tax preferences. The bill also directed the Joint Legislative Audit and Review Committee (JLARC) to conduct the periodic reviews.

Background

Tax preferences are exemptions, exclusions, or deductions from the base of a state tax; a credit against a state tax; a deferral of a state tax; or a preferential state tax rate. The state has more than 580 tax preferences.

Recognizing the need to assess the effectiveness of these tax preferences in meeting their intended objectives, and an orderly process to do so, the Legislature established the Citizen Commission for Performance Measurement of Tax Preferences. The role of the Commission is to develop a schedule for the performance review of all tax preferences at least once every ten years. The ten-year schedule is to be revised annually.

Omitted from review are several categories of tax preferences identified by statute (e.g., tax preferences required by constitutional law). Any tax preference that the Commission determines is a critical part of the structure of the tax system may also be omitted.

The Commission has identified three categories of review, based on each tax preference's estimated biennial fiscal impact:

1. Full reviews (over \$10 million)
2. Expedited reviews (between \$2 million and \$10 million)
3. Expedited light reviews (less than \$2 million)

This document identifies the scope and objectives for the first category: full tax preference reviews. JLARC is to review tax preferences according to the schedule developed by the Commission, and consistent with guidelines set forth in statute. For the full tax preferences JLARC is to provide recommendations to (1) continue, (2) modify, (3) add an expiration date and conduct another review prior to the expiration date, or (4) terminate the preference. JLARC may also recommend accountability standards for future reviews of tax preferences.

Full Study Scope

This tax preference performance review will include the tax preferences identified by the Citizen Commission to be reviewed prior to July 30, 2010. These tax preferences were recommended by the Citizen Commission as being subject to full review:

Brief Description	RCW Citation	Year Enacted
1. Interstate transportation, instate portion	82.16.050(6)	1935
2. Nonresidents' personal property	82.12.0251	1935
3. Vehicles sold to nonresidents	82.08.0264	1935
4. Interstate transportation, through freight	82.16.050(8)	1937
5. Shipments to ports	82.16.050(9)	1937
6. Vehicles used in commerce	82.12.0254	1937
7. Fertilizer and chemical spray	82.04.050(9)	1943
8. Labor for local road construction	82.04.050(8)	1943
9. Breeding livestock; cattle & milk cows	82.08.0259; 82.12.0261	1945
10. Title insurance	48.14.020	1947
11. Interstate transportation equipment	82.08.0262	1949
12. Vehicles in interstate commerce	82.08.0263	1949
13. Fruit/vegetable, dairy & seafood facilities	82.74.030	2005

Full Study Objectives

In response to the legislative directive, the study will answer, for each tax preference, the following questions (unless the commission determines that the tax preference review should be conducted as an expedited review):

Public Policy Objectives:

1. What are the public policy objectives that provide a justification for the tax preference? Is there any documentation on the purpose or intent of the tax preference? (RCW 43.136.055(b))
2. What evidence exists to show that the tax preference has contributed to the achievement of any of these public policy objectives? (RCW 43.136.055(c))
3. To what extent will continuation of the tax preference contribute to these public policy objectives? (RCW 43.136.055(d))
4. If the public policy objectives are not being fulfilled, what is the feasibility of modifying the tax preference for adjustment of the tax benefits? (RCW 43.136.055(g))

Beneficiaries:

5. Who are the entities whose state tax liabilities are directly affected by the tax preference? (RCW 43.136.055(a))
6. To what extent is the tax preference providing unintended benefits to entities other than those the legislature intended? (RCW 43.136.055(e))

Revenue and Economic Impacts:

7. What are the past and future tax revenue and economic impacts of the tax preference to the taxpayer and to the government if it is continued? (This includes an analysis of the general effects of the tax preference on the overall state economy, including the effects on consumption and expenditures of persons and businesses within the state.) (RCW 43.136.055(h))
8. If the tax preference were to be terminated, what would be the negative effects on the taxpayers who currently benefit from the tax preference and the extent to which the resulting higher taxes would have an effect on employment and the economy? (RCW 43.136.055(f))
9. If the tax preference were to be terminated, what would be the effect on the distribution of liability for payment of state taxes? (RCW 43.136.055(i))

Other States:

10. Do other states have a similar tax preference and what potential public policy benefits might be gained by incorporating a corresponding provision in Washington? (RCW 43.136.055(j))

Timeframe for the Study

A preliminary audit report will be presented at the July 2010 JLARC meeting and at the August 2010 meeting of the Commission. A final report will be presented to JLARC in November 2010.

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Tax Preference Review Process

Commission develops and delivers to JLARC schedule of tax preferences for review

JLARC staff conducts reviews of tax preferences

Staff presents preliminary report to JLARC

Staff requests comments from OFM and DOR

JLARC presents preliminary report to Commission

Commission conducts public comment session and may provide comments

Proposed Final Report (with OFM, DOR, and Commission comments) to JLARC for approval to distribute

Final Report transmitted to Legislative Fiscal Committees

Legislative Fiscal Committees hold joint hearing on Final Report