

**2015
TAX PREFERENCE
PERFORMANCE
REVIEWS**

SCOPE AND OBJECTIVES

OCTOBER 2014



STATE OF WASHINGTON
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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 directed the staff of the Joint Legislative Audit and Review Committee (JLARC) to conduct the periodic reviews.

Background

Tax preferences include: exemptions, exclusions, or deductions from the base of a state tax; credits against a state tax; deferrals of a state tax; or preferential state tax rates. As of the 2014 legislative session, JLARC staff estimate the state has 622 tax preferences.

Recognizing the need to assess the effectiveness of these tax preferences through an orderly process, the Legislature established the Citizen Commission for Performance Measurement of Tax Preferences. One of the Commission's roles is to develop a schedule for the orderly 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 the Commission determines is critical to the structure of the tax system may also be omitted. Additionally, the Commission may recommend an expedited process for any tax preference.

JLARC staff are to review tax preferences according to the schedule developed by the Commission. For each tax preference the Commission selects for a performance review, JLARC staff are to provide a recommendation to either: (1) continue; (2) allow to expire; (3) continue and modify the expiration date; (4) review and clarify; or (5) terminate the preference.

Study Scope

The Citizen Commission selected the following tax preferences for a performance review by JLARC staff in 2015:

	Brief Description and Tax Type	RCW Citation	Year Enacted
Agriculture Industry Preferences			
1.	Farm Machinery Replacement Parts (Sales and Use Tax)	82.08.855; 82.12.855	2006
2.	Fuel Used on Farms (Sales and Use Tax)	82.08.865; 82.12.965	2006
3.	Horticultural Services for Farmers (Sales and Use Tax)	82.04.050(3)(e)	1993
4.	Grain and Unprocessed Milk Wholesaling (B&O Tax)	82.04.332	1998
5.	Farm Property (Estate Tax)	83.100.046	2005
6.	Commercially Grown Fish or Shellfish (Enhanced Food Fish Tax)	82.27.030(2)	1980
7.	Livestock Medicine (Sales and Use)	82.08.880; 82.12.880	2001

Brief Description and Tax Type		RCW Citation	Year Enacted
Aluminum Industry Preferences			
8.	Aluminum Smelter Property Taxes (B&O Tax)	82.04.4481	2004
9.	Aluminum Manufacturing (B&O Tax)	82.04.2909	2004
10.	Aluminum Smelter Use of Natural Gas (Use Tax)	82.12.022(5)	2004
11.	Aluminum Smelter Purchases (Sales and Use Tax)	82.08.805; 82.12.805	2009
Miscellaneous Preferences			
12.	Interest on Real Estate Loans (B&O Tax)	82.04.4292	1970
13.	Warehouse Expansion (Sales and Use Tax)	82.08.820; 82.12.820	1997
14.	Motion Picture Program Contributions (B&O Tax)	82.04.4489	2012
15.	Public Facilities Districts (Leasehold Excise Tax)	82.29A.130(16)	1999

The Citizen Commission also identified the following additional tax preferences for a performance review by JLARC staff in 2015, if staff resources are available.

Brief Description and Tax Type		RCW Citation	Year Enacted
16.	Gas Used to Heat Chicken Houses (Sales and Use Tax)	82.08.910; 82.12.910	2001
17.	Leased Irrigation Equipment (Sales and Use Tax)	82.08.0288; 82.12.0283	1983
18.	Shipping Farm Products to Port (Public Utility Tax)	82.16.050(10)	2007
19.	Livestock Nutrient Management Equipment (Sales and Use Tax)	82.08.890; 82.12.890	2001
20.	Salmon Habitat Timber (Timber Tax)	84.33.0775	1999
21.	Accommodation Sales of Automobiles (B&O Tax)	82.04.422(2)	2001
22.	Trust Accounts (B&O Tax)	82.04.392	1997

In addition, using the expedited process, the Commission will consider the following tax preferences. The expedited process is primarily based on information published by the Department of Revenue in its most recent statutorily required tax exemption study.

Brief Description and Tax Type		RCW Citation	Year Enacted
Agriculture Industry Preferences			
1.	Agricultural Products (Property Tax)	82.36.470	1984
2.	Farming Machinery and Equipment (Property Tax)	84.36.630	2001
3.	Hops Processed and Exported (B&O Tax)	82.04.337	1987
4.	Farm-Worker Housing (Sales and Use Tax)	82.08.02745; 82.12.02685	1996
5.	Christmas Tree Inputs (Sales and Use Tax)	82.04.213	1987
6.	Seed Conditioning (B&O Tax)	82.04.120	1987
7.	Conditioned Seed Wholesaling (B&O Tax)	82.04.331	1987
8.	Horticultural Packing Materials (Sales and Use Tax)	82.08.0311; 82.12.0311	1988
9.	Hay Cubing (B&O Tax)	82.04.120	1997
10.	Chicken Bedding Materials (Sales and Use Tax)	82.08.920; 82.12.920	2001
11.	Anaerobic Digesters for Dairies (Sales and Use Tax)	82.08.900; 82.12.900	2001
12.	Christmas Tree Producers (B&O Tax)	82.04.100; 82.04.330	1987
13.	Livestock Feed (Sales and Use Tax)	82.08.0296; 82.12.0296	1986
14.	Custom Farming (B&O Tax)	82.04.625	2007

Brief Description and Tax Type		RCW Citation	Year Enacted
Agriculture Industry Preferences, <i>continued</i>			
15.	Aquaculture Feed (Sales and Use Tax)	82.08.0294; 82.12.0294	1985
16.	Pollination Agents (Sales and Use Tax)	82.04.050(11)	1993
17.	Nonprofit Demonstration Farms (Property Tax)	84.36.570	1999
18.	Hauling Farm Products for Relatives (Public Utility Tax)	82.16.300	2007
19.	Hop Commission Services (B&O Tax)	82.04.338	1998
Aluminum Industry Preferences			
20.	Aluminum Smelter Electricity or Natural Gas Purchases (B&O Tax)	82.04.4482	2004
21.	Aluminum Production Anodes and Cathodes (Sales and Use Tax)	82.08.02568; 82.12.02568	1996
22.	Aluminum Smelter Purchases (Public Utility Tax)	82.16.0498	2004
Miscellaneous Preferences			
23.	Motor Vehicles, Travel Trailers, and Campers (Property Tax)	84.36.595	2000
24.	Nonprofit Low-Income Rentals (Property Tax)	84.36.560	1999
25.	Personal Property Up to \$15,000 (Property Tax)	84.36.110(2)	1890
26.	Used Park-Model Trailers (Sales and Use Tax)	82.08.032; 82.12.032	2001
27.	Nonprofit Educational Foundations (Property Tax)	84.36.050(2)	2001
28.	Small Timber Harvesters (B&O Tax)	82.04.333	1990
29.	Conifer Seedlings Sold Out-of-State (Sales and Use Tax)	82.08.850; 82.12.850	2001
30.	Motorcycles Used for Rider Training (Sales and Use Tax)	82.08.870; 82.12.845	2001
31.	Minimum to File Tax Return (B&O Tax)	82.32.045(4)(a)(i)	1996
32.	Natural Gas Purchased by DSI Customers (Use Tax)	82.12.024	2001
33.	Natural Gas Purchases by DSI Industry (B&O Tax)	82.04.447	2001
34.	Electricity Purchased by DSI Industry (Public Utility Tax)	82.16.0495	2001
35.	Regional Transit Authority Sale-Leasebacks (B&O Tax)	82.04.4201	2000
36.	Regional Transit Authority Sale-Leasebacks (Leasehold Excise Tax)	82.29A.134	2000
37.	Regional Transit Authority Sale-Leasebacks (Property Tax)	84.36.605	2000
38.	Regional Transit Authority Sale-Leasebacks (Sales and Use Tax)	82.08.834; 82.12.834	2000
39.	Vitrification Equipment (Property Tax)	84.36.590	2000
40.	Residential and Recreational Developments (Leasehold Excise Tax)	82.29A.136	2001
41.	Grocery Co-Ops (Litter Tax)	82.19.050(3)	2001

Study Objectives

In response to the legislative directive, each performance review may answer questions relevant to the tax preference from the following list of questions.

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: Who are the entities whose state tax liabilities are directly affected by the tax preference? (RCW [43.136.055\(a\)](#))

5. 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:

6. 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\(h\)](#))
7. 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\(f\)](#))
8. 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\(i\)](#))
9. For those preferences enacted for economic development purposes, what are the economic impacts of the tax preference compared to the economic impact of government activities funded by the tax? (This analysis involves conducting an economic impact study using OFM's input-output model.) (RCW [43.136.055\(j\)](#))

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\(k\)](#))

Timeframe for the Study

A preliminary audit report will be presented at the July 2015 JLARC meeting and at the August 2015 meeting of the Commission. A final report will be presented to JLARC in January 2016.

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