October 27, 2011

The Honorable Senator Ed Murray  The Honorable Representative Ross Hunter
The Honorable Senator Joseph Zarelli  The Honorable Representative Gary Alexander

2011 Tax Preference Reviews

I am pleased to report that the Citizen Commission for Performance Measurement of Tax Preferences (Citizen Commission) has unanimously adopted its comments for this year’s review of tax preferences.

The attached comments are the consensus of all Commissioners. Commissioners encouraged me, in my capacity as Chair, to emphasize to you the importance of the Legislature considering this year’s and previous years’ recommendations and comments on tax preference statutes, which have undergo rigorous review by the Joint Legislative Audit and Review Committee (JLARC) staff, pursuant to legislatively-mandated criteria and government auditing standards.

As the chairs and ranking minority members of the fiscal committees, I urge you to consider these recommendations and act upon them during the upcoming special session.

This is the fifth year that tax preferences have been reviewed at the direction of the Legislature. Legislation enacted in 2006 established the Citizen Commission and directed it to develop a schedule for an orderly review of tax preferences over ten years. The reviews are conducted independently by the non-partisan staff of JLARC, using government auditing standards. In 2011 the Legislature amended the statutory framework which will enable JLARC staff and the Citizens Commission beginning with the 2012 tax preference reviews to focus resources more effectively on those tax preferences where the provision of information and analysis might have the greatest beneficial impact.

Tax preference reviews provide a valuable resource at a time when the Legislature is grappling with difficult fiscal issues. Some tax preferences have unclear purposes and objectives which make it difficult to ascertain whether the preference is serving a larger public purpose or benefiting a narrower interest group. Some preferences are outdated; some have served legitimate temporary needs that have passed; some may convey unfair competitive advantage; and some may be administratively cumbersome. JLARC staff reviews and Citizen Commission comments provide the Legislature with information which creates opportunities to improve the effectiveness, simplicity, and fairness of our tax system.

Tax preference reviews underscore the importance of on-going evaluations of whether tax preferences are meeting their intended purposes and are serving the broader public interest. Commissioners asked me to convey their collective belief that tax preferences should not be established permanently. Preferences that are established, modified, or extended by the Legislature should include an expiration date so that they will be reviewed periodically to ensure they are performing as intended.

And, we encourage the Legislature to include clear statements of public policy purpose. Such clarity will improve our ability to evaluate a tax preference. Last year the Citizen Commission endorsed a list
of best practices for drafting statements of the legislative intent of individual tax preferences. We believe that the Legislature’s use of these best practices would assist JLARC staff and the Citizen Commission in determining whether the public policy purpose of a tax preference is being achieved.

In addition to comments on individual tax preference reviews, the Citizen Commission included a general comment this year pertaining to the use of the term “expiration” in legislation. We recommend that the Legislature either clarify directly in a tax preference statute the intent of an expiration date or provide commentary in the legislative record that clarifies the intent of an expiration date. We included this general recommendation because an expiration date can have different meanings – the Legislature might intend the date to require review of experience with the preference to determine whether to extend or modify it, or the Legislature might intend the preference to be a time-limited response to temporary short-term industry or economic circumstances with the expectation that the preference will not be extended.

I believe the work of JLARC staff and the Citizen Commission has provided a thoughtful and deliberative forum for highlighting many important performance and policy issues associated with evaluating tax preferences. I encourage you to consider the recommendations of JLARC staff and Citizen Commission comments covering the entire five years of tax preference reviews during the upcoming legislative session.

As Chair of the Citizen Commission for Performance Measurement of Tax Preferences, I would be pleased to discuss the Commission’s position and comments with you and any interested legislators. I can be contacted via email at bill@tlff.org.

If you have questions about JLARC’s performance audits, please feel free to contact the Legislative Auditor, Keenan Konopaski, at 360-786-5187 or keenan.konopaski@leg.wa.gov. Additional information on all five years of tax preference reviews can be found at www.citizentaxpref.wa.gov/reports.htm.

Sincerely,

William A. Longbrake, Chair

cc: All Legislators
    Keenan Konopaski, Legislative Auditor
    Marty Brown, Director, Office of Financial Management
    Suzan DelBene, Director, Department of Revenue

attachment