

Overview

Citizen Commission for Performance Measurement of Tax Preferences Proposed Process for Commission Action on 2015 Tax Preference Reviews

September 18, 2015

Step One: Completion date—Friday, September 18th

- Commissioners receive public testimony.

Step Two: Completion date—Monday, October 5th

- Using the Commissioner Draft Comment Form, Commissioners forward to the Legislative Auditor any proposed comments by October 5th. (See [Commissioner Comment Form](#).)
- The Legislative Auditor will compile proposed comments using groups A through E (see explanation on following pages) and distribute to all Commissioners by C.O.B., Wednesday, October 7th. (See [Exhibit 1: Example from 2014 Commissioner Comment Process](#), pg. 6 of this document.)

Step Three: Completion date—Monday, October 12th

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

Step Four: Completion date—Friday, October 16th

- At the October 16 meeting, Commissioners will determine which comments to adopt, using the process outlined below.

OCTOBER 16th MEETING

First, the Commission will consider JLARC staff reviews that have no proposed comments.

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.)

GROUP A - LEGISLATIVE AUDITOR RECOMMENDATION: CONTINUE
Family Business Property (Estate Tax)
Horticulture Services for Farmers (Sales and Use Tax)

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

Groups B Through E

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

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

GROUP B - LEGISLATIVE AUDITOR RECOMMENDATION: CONTINUE

(Tax Preferences with individual comments from Group A.)
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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.

GROUP C - LEGISLATIVE AUDITOR RECOMMENDATION: REVIEW AND CLARIFY – With No Additional Comments from Commissioners.

Commercially Grown Fish and Shellfish (Enhanced Food Fish Tax)
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Family Farm Property (Estate Tax)

Farm Machinery Replacement Parts (Sales and Use Tax)
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Fuel Used on Farms (Sales and Use Tax)
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Fuel Used to Heat Chicken Houses; Chicken Bedding Materials (Sales and Use Tax)

Grain and Unprocessed Milk Wholesaling (B&O Tax)
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Livestock Medicine (Sales and Use Tax)
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Aluminum Industry Tax Preferences for Smelters:

<i>Reduced B&O Rate (B&O Tax)</i>

<i>B&O Credit Taxes Paid on Property (Property Tax)</i>

<i>Sales and Use Tax Credit (Sales and Use Tax)</i>

<i>Brokered Natural gas Exemption (Use Tax)</i>
Aluminum Industry Tax Preferences for Energy Sellers: <i>Public Utility Tax Credit (Public Utility Tax)</i> <i>B&O Credit for Electric and Gas Sales (B&O Tax)</i>
Interest on Real Estate Loans (B&O Tax)
Motion Picture Program Contributions (B&O Tax)
Public Facilities Districts (Leasehold Excise Tax)
Warehouse and Grain Elevator Remittance (Sales and Use Tax)

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

GROUP D - LEGISLATIVE AUDITOR RECOMMENDATION: REVIEW AND CLARIFY
(Tax Preferences with individual comments from Group C.)

GROUP E: Expedited Preferences where Commission may wish to add comments

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- 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 proposed by Chair Longbrake for Commission consideration.

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.