



# Citizen Commission for Performance Measurement of Tax Preferences

William A. Longbrake, *Chair*  
Vice Chair, Washington Mutual, Inc.

Lily Kang, *Vice Chair*  
Associate Professor of Law  
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Richard S. Davis  
President, Washington Research Council

Charles Hasse  
President, Washington Education Association

Carolyn Logue  
State Director,  
National Federation of Independent Business

Brian Sonntag  
State Auditor

Representative Ross Hunter  
Chair, Joint Legislative  
Audit & Review Committee

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## Citizen Commission for Performance Measurement of Tax Preferences Meeting Minutes November 1, 2006 Marriott SeaTac Airport, Salon H SeaTac, WA

### Members Present:

Richard S. Davis  
Charles Hasse  
Representative Ross Hunter  
Lily Kahng  
Carolyn Logue  
William A. Longbrake (via telephone)  
Brian Sonntag

### Absent:

None

### Staff:

Ruta Fanning  
Keenan Konopaski  
Gary Benson  
Suzanne Kelly  
Lisa Hennessy

### WELCOME AND INTRODUCTIONS

Commission Vice Chair Lily Kahng, called the meeting to order at 1:10 p.m. She indicated that Chair Bill Longbrake would be attending the meeting via telephone. Ms. Kahng introduced Commission member State Auditor Brian Sonntag, who was absent from the first meeting.

### APPROVAL OF MEETING MINUTES

MOTION: A motion was made to approve the October 6, 2006, meeting minutes.  
The motion was seconded and carried unanimously.

### STAFF REPORTS

Ruta Fanning, Legislative Auditor, updated the Commission on JLARC staff work. Ms. Fanning indicated that a preliminary review schedule of the B&O tax reduction for beef processors (RCW 82.04.4336; relating to bovine spongiform encephalopathy, or "mad cow disease") will be presented at the Dec. 15 meeting. A staff briefing on JLARC's methodology and process in conducting audits and reviews will also be presented at the Dec. 15 meeting. She also noted

that, as requested by the Commission at the Oct. 1 meeting, website links to previous tax preference reviews and studies had been forwarded to members via e-mail. Ms. Fanning reported that a draft policy regarding conflict of interest and disclosure has been forwarded to the Executive Ethics Board for an informal opinion as to whether it properly addresses the prohibitions found in RCW 42.52.020 (Activities incompatible with public duties). An informal opinion is expected by Dec. 1.

Ms. Fanning presented a draft policy on Commission Meeting Attendance by Communication Equipment.

### **Commission Discussion**

The Commission discussed the draft policy on Commission Meeting Attendance by Communication Equipment. It was agreed the policy should specify that "... at least three **voting** commissioners must be physically present at the public meeting." There was sufficient consensus to approve the policy as amended to specify "**voting** commissioners."

### **TAX BACKGROUND / HISTORY**

Gary Benson, Research Analyst, presented background and history on general tax theory and Washington taxes.

### **Commission Discussion**

With regard to tax theory, the Commission discussed the concept of economic efficiency and potential economic impact of increased taxes.

### **TAX PREFERENCES**

Mr. Benson presented background information on Washington's tax preferences. He then presented three draft tax preference lists: A – Tax Exemptions Omitted by Statute; B – Exemptions Under \$10M; and C – Exemptions Over \$10M. Mr. Benson explained the rationale used in developing the lists. He reiterated they were draft lists and not intended to be final, but rather a starting point for discussion and public involvement.

### **Commission Discussion**

The Commission discussed the three draft lists, types of preferences, and specific preferences.

The Commission discussed tax exemption categories and their definitions. After much consideration it was agreed that, because it was not considered a part of the original tax base, the exemption for personal and professional services (RCW 82.04.050) should not be subject to review and therefore be eliminated from the draft lists.

There was discussion of exemptions statutorily omitted from review, specifically the exemption for income of employees (RCW 82.04.360) and associated constitutional issues. The Commission requested further information from the Attorney General's office regarding exemptions with potential constitutional mandates. Cindy Evans, AAG, offered to look into the issue and report back.

The Commission discussed small business credits for the Business and Occupation (B&O) tax. It was agreed that the \$28,000 minimum for filing a tax return (RCW 82.32.045(4)) and \$2,000 monthly minimum (RCW 82.16.040) exemptions, currently on draft list A - Tax Exemptions Omitted by Statute, be subject to review. Exemptions for prescription drugs were also discussed. The Commission agreed that exemptions for dietary supplements, medical devices, drug delivery systems, and over-the-counter drugs sold via prescription should all be subject to review.

The Commission asked for clarification regarding expedited reviews. Ruta Fanning indicated that guidelines for expedited reviews are not yet defined, but do not need to consider all factors of a full review. The Commission requested that staff present potential components of, or options for, expedited reviews at the Dec. 15 meeting.

The Commission discussed the issue of exemptions determined to be a "critical part of the structure of the tax system," as EHB 1069 allows these exemptions to be omitted from the review schedule.

The Commission agreed on the following amendments to the draft tax preference lists:

- Eliminate subcategory headings from all draft lists
- Eliminate "Personal & professional services" (RCW 82.04.050) from any draft list
- Move from list **A – Tax Exemptions Omitted by Statute** to list **B – Tax Exemptions Under \$10M:**
  - "\$2,000 monthly minimum" (RCW 82.16.040)
  - "Dietary supplements" (RCW 82.08.925; 82.12.92)
  - "Drug delivery systems" (RCW 82.08.935; 82.12.93)
- Move from list **A – Tax Exemptions Omitted by Statute** to list **C – Exemptions Over \$10M:**
  - "Income of employees" (RCW 82.04.360)
  - "\$28,000 minimum for filing a tax return" (RCW 82.32.045(4))
  - "Medical devices" (RCW 82.08.0283; 82.12.0)
  - "Over-the-counter drugs sold via prescription" (RCW 82.08.940; 82.12.94)

MOTION: A motion was made to approve the three draft tax preference lists as amended, and direct JLARC staff to distribute the draft lists for public review and comment. The motion was seconded and carried unanimously.

#### **PUBLIC COMMENT**

None.

The meeting was adjourned at 4:10 p.m.