State of Washington
Joint Legislative Audit & Review Committee (JLARC)

2017 Expedited Tax Preferences

May 2017

This report contains information on 53 tax preferences selected for expedited review. The source of the information is Department of Revenue Tax Exemption Reports. Expedited Reviews have not undergone a performance evaluation by JLARC staff and do not include a JLARC staff recommendation.

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Audit Authority

The Joint Legislative Audit and Review Committee (JLARC) works to make state government operations more efficient and effective. The Committee is comprised of an equal number of House members and Senators, Democrats and Republicans.

JLARC's non-partisan staff auditors, under the direction of the Legislative Auditor, conduct performance audits, program evaluations, sunset reviews, and other analyses assigned by the Legislature and the Committee.

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Boats Sold to Nonresidents (Sales and Use Tax)

Current statutes: RCW 82.08.700; 82.12.700

Department of Revenue 2016 Tax Exemption Report (p. 758):

Description: A retail sales and use tax exemption is provided for sales to a nonresident of vessels at least 30 feet in length from a Washington dealer if the purchaser displays a valid use permit. The purchaser must make an irrevocable election to take the exemption authorized under this statute or the exemption in either RCWs 82.08.0266 or 82.08.02665. The permit issued under this statute is valid for 12 consecutive months from the date of issuance and is not renewable.

Purpose: To increase the time that a boat owned by a nonresident can remain in Washington waters. This helps to encourage purchases of new boats from Washington dealers and also increases tourism.

Category/Year Enacted: Individuals. 2007

Primary Beneficiaries: Nonresident Boat Owners

Possible Program Inconsistency: None

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0.743	$0.791	$0.844	$0.886
Local taxes	$0.289	$0.307	$0.328	$0.343

Repeal of Exemption

Repealing this exemption would increase revenues.

BOATS SOLD TO NONRESIDENTS (SALES TAX)

Current statutes: RCW 82.08.0266; 82.08.02665

JLARC 2011 Tax Preference Reviews (p. 35):

Description: Provides a sales tax exemption to residents from other states and countries when they purchase and take possession of boats in Washington.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to support sales of boats in Washington by removing a disincentive for nonresidents and foreign residents to purchase and take possession of boats in-state.

Year Enacted: 1959

2011 Legislative Auditor Recommendation: Continue because the preference is meeting the inferred public policy objective of removing a disincentive for nonresidents to purchase and take delivery of boats in Washington.

2011 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings ($ in millions)(from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	$3.835	$4.074	$4.343	$4.553
Local taxes	$1.457	$1.548	$1.650	$1.730

BOATS UNDER 16 FEET (WATERCRAFT EXCISE TAX)

Current statute: RCW 82.49.020(3)

Department of Revenue 2016 Tax Exemption Report (p. 877):

Description: Vessels under sixteen feet in overall length are exempt from the Watercraft Excise Tax.

Purpose: To minimize administrative costs and to mirror the exemption from vessel registration under chapter 88.02 RCW for certain vessels under sixteen feet.

Category/Year Enacted: Individuals. 1983

Primary Beneficiaries: Small boat owners

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$3.164	$3.360	$3.558	$3.747
Local taxes	$0	$0	$0	$0

Repeal of Exemption

Repealing this exemption would increase revenues.

COMMERCIAL VESSELS (PROPERTY TAX)

Current statute: RCW 84.36.080(1)

JLARC 2008 Tax Preference Reviews (p. 59):

Description: Provides a property tax apportionment for the assessed values of commercial vessels used in interstate or foreign commerce, or used exclusively in fishing, tendering, harvesting, or processing seafood products on the high seas. All commercial vessels are also exempt from local property tax levies.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to bring the taxation of vessels engaged in interstate or foreign commerce in line with more recent U.S. Supreme Court rulings allowing for the fair apportionment of vessels.

Year Enacted: 1931

2008 Legislative Auditor Recommendation: Continue because the preference is meeting the inferred public policy objective of allowing for fair apportionment of vessels used in interstate or foreign commerce.

2008 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings ($ in millions) (from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	$0.949	$0.969	$0.995	$1.021
Local taxes	$4.270	$4.494	$4.672	$4.857

CREDIT UNIONS - STATE CHARTERED (USE TAX)

Current statute: RCW 82.12.860

Department of Revenue 2016 Tax Exemption Report (p. 835):

Description: State-chartered credit unions receive an exemption from use tax on any tangible personal property, digital goods and services, certain other services defined as retail sales, or extended warranties acquired from federal, out-of-state, or foreign credit unions as a result of a merger or conversion.

Purpose: Enables state-charted credit unions to compete with federally-chartered credit unions.

Category/Year Enacted: Business. 2006

Primary Beneficiaries: Credit unions

Possible Program Inconsistency: None

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0.172	$0.172	$0.172	$0.172
Local taxes	$0.065	$0.065	$0.065	$0.065

Repeal of Exemption

Repealing this exemption would increase revenues.

Customer-Generated Power (Public Utility Tax)

Current statute: RCW 82.16.130

JLARC 2016 Tax Preference Reviews:

Description: Provides a tax credit to utilities to offset a portion of the public utility taxes they owe on their total annual sales. Utilities are eligible for the credit if they administer a program that provides payments to their customers who produce their own power with renewable energy systems. The tax credit is equal to the amount the utilities pay their customers for the power they generate, regardless of whether they use the power or it flows back into the power grid. The preference is scheduled to expire June 30, 2021.

Purpose: The Legislature stated its intent for this preference was to provide incentives for:

- The greater use of locally created renewable energy technologies; and
- Supporting and retaining existing local industries, and creating new opportunities for renewable energy industries to develop in Washington.

Year Enacted: 2005

2016 Legislative Auditor Recommendation: Review and clarify while there has been growth in locally made systems and associated opportunities for businesses, this growth is concentrated in a small number of solar energy system manufacturers. As part of the clarification, the Legislature should include targets for how many new local renewable energy systems it hopes to create and how much power capacity it hopes to generate through the use of this preference, as well as which local industries it would like to support.

2016 Citizen Commission Comment: The Commission endorses the Legislative Auditor's recommendation.

The Legislature should more clearly define targets for installations and generation. This would include targets for both residential, commercial, and community solar installations. In addition, based on written testimony from Inland Power and Light (a cooperative headquartered in Spokane County), the Legislature may want to consider a utility's administrative costs related to managing customer-installed solar panels. The testimony from Inland Power and Light indicates administrative costs are not fully compensated under the current tax preference.

Estimated Beneficiary Savings: $55,000,000 in the 2017-19 Biennium.

DOMESTIC USE (PETROLEUM PRODUCTS TAX)

Current statute: RCW 82.23A.030(2)

Department of Revenue 2016 Tax Exemption Report (p. 368):

Description: Petroleum used by persons (not businesses) for personal or domestic purposes is exempt from petroleum products tax.This exemption expires July 1, 2020.

Purpose: To ensure the tax applies only to businesses that import or produce petroleum in this state.

Category/Year Enacted: Individuals. 1989

Primary Beneficiaries: Non-business users of petroleum products

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0.174	$0	$0.112	$0
Local taxes	$0	$0	$0	$0

Repeal of Exemption

Repealing this exemption would increase revenues. The petroleum products tax was suspended during Fiscal Year 2010. It is expected to be reactivated in Fiscal Year 2016 and again in Fiscal Year 2018.

ELECTRIC POWER EXPORTED OR RESOLD (PUBLIC UTILITY TAX)

Current statute: RCW 82.16.050(11)

JLARC 2014 Tax Preference Reviews (p. 143):

Description: Provides public utility tax deductions for four types of electricity sales made by light and power (L&P) businesses: 1) direct (to end user) sales delivered out-of-state; 2) wholesale sales between L&P businesses delivered in-state; 3) wholesale sales to non-L&P businesses delivered in-state; and 4) wholesale sales delivered out-of-state.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been: 1) for direct sales delivered out-of-state, to ensure the state complied with federal limitations on taxing goods in interstate commerce; 2) for in-state wholesale sales between L&P businesses, to ensure the PUT did not pyramid, while facilitating transfers of electricity between L&P companies to help meet customer demand; 3) for in-state wholesale sales to non-L&P companies, to provide consistent PUT treatment for wholesale sales by L&P companies regardless of the purchaser; and 4) for out-of-state wholesale sales, to provide consistent tax treatment with wholesale sales delivered in-state to comply with federal requirements.

Year Enacted: 1989

2014 Legislative Auditor Recommendation: Continue because the preference is achieving the inferred public policy objectives.

2014 Citizen Commission Comment: Endorses without comment.

Estimated Beneficiary Savings: $28,812,000 in the 2017-19 Biennium.

ELECTRICITY AND STEAM (SALES AND USE TAX)

Current statutes: RCW 82.08.950; 82.12.950

JLARC 2014 Tax Preference Reviews (p. 171):

Description: Provides a sales and use tax exemption for sales of steam, electricity, or electrical energy.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to ensure Washington tax law conformed with National Streamlined Sales and Use Tax Agreement.

Year Enacted: 2003

2014 Legislative Auditor Recommendation: Continue because the preference is meeting the inferred public policy objective of ensuring Washington tax statutes conform with the National Streamlined Sales and Use Tax Agreement.

2014 Citizen Commission Comment: Endorses without comment.

Estimated Beneficiary Savings: $1,850,000,000 in the 2015-17 Biennium.

ELECTRICITY SALES FOR RESALE (B&O TAX)

Current statute: RCW 82.04.310(2)

JLARC 2014 Tax Preference Reviews (p. 143):

Description: Provide B&O tax exemptions for non-L&P businesses for wholesale electricity sales delivered in-state and out-of-state.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been: 1) for in-state sales, to provide similar tax treatment to wholesale electricity sales by non-L&P businesses as to L&P businesses, and to keep electricity marketers from moving outside the state; and 2) for out-of-state wholesale sales, to provide consistent tax treatment for wholesale electricity delivered in-state and out-of-state to comply with federal requirements.

Year Enacted: 2000

2014 Legislative Auditor Recommendation: Review and clarify because: 1) the Legislature may want to consider adding reporting or other accountability requirements to provide better information on use of the preference; 2) it is unclear whether the preference is still needed to keep electricity marketers from moving out-of-state due to 2010 changes in how service businesses calculate their taxable income; and 3) it is unclear whether the Legislature intended the preference to apply to commission or fee income from electricity brokering.

2014 Citizen Commission Comment: Endorses without comment.

Estimated Beneficiary Savings: Not disclosable.

EXPORTED PETROLEUM PRODUCTS (PETROLEUM PRODUCTS TAX)

Current statute: RCW 82.23A.030(6)

Department of Revenue 2016 Tax Exemption Report (p. 372):

Description: Petroleum products exported for use outside of Washington are exempt from tax. This exemption expires July 1, 2020.

Purpose: Restricts application of the petroleum products tax to product used in this state.

Category/Year Enacted: Tax base. 1989

Primary Beneficiaries: Petroleum exporters

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$4.144	$0	$4.356	$0
Local taxes	$0	$0	$0	$0

Repeal of Exemption

Repealing this exemption would increase revenues. The petroleum products tax was suspended during Fiscal Year 2010. It is expected to be reactivated in Fiscal Year 2016 and again in Fiscal Year 2018.

EXTRACTED FUEL (USE TAX)

Current statute: RCW 82.12.0263

JLARC 2011 Tax Preference Reviews (p. 63):

Description: Provides a use tax exemption for fuel used by an extractor or manufacturer during the same extracting or manufacturing activity that produced the fuel.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to 1) provide a limited use tax exemption in order to apply a use tax to byproducts without contradicting a state Supreme Court decision; and 2) provide a narrow tax preference to certain extractors/manufacturers in order to support those industries. A court decision made shortly before the Legislature created the preference in 1949 dealt with the taxability of a wood product manufacturer. However, the majority of the beneficiary savings now appear to be realized by oil refineries.

Year Enacted: 1949

2011 Legislative Auditor Recommendation: Review and clarify because the public policy objective and intended beneficiaries are unclear.

2011 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings ($ in millions) (from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	$20.525	$22.143	$22.904	$23.494
Local taxes	$7.677	$8.282	$8.566	$8.787

FERRY BOATS (SALES AND USE TAX)

Current statutes: RCW 82.08.0285; 82.12.0279

JLARC 2012 Tax Preference Reviews (p. 73):

Description: Provides a sales and use tax exemption for purchases by state and local governments of ferry boats and component parts, as well as labor and services to build, repair, or maintain such vessels.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to support state and local governments by reducing the cost of building and repairing ferry vessels owned and operated by state and local government entities.

Year Enacted: 1977

2012 Legislative Auditor Recommendation: Continue because it is meeting the inferred public policy objective of reducing the cost to state and local government entities of building, maintaining, and repairing ferry vessels they own and operate.

2012 Citizen Commission Comment: Does not endorse; recommends Review and Clarify. The Commission does not endorse the recommendation to continue the preference and encourages the Legislature to review and clarify the public policy intent of the preference. Rationale: The JLARC staff study infers the public policy objective is to support state and local governments by reducing the cost of building and repairing ferry vessels owned and operated by state or local government entities. The principal beneficiary of this preference is Washington State Ferries. If the preference were terminated, state and local government entities that operate ferries in Washington would have to pay sales and use tax, which presumably would be a burden on state and local entities' finances. However, because state and local entities that operate ferries charge fees to users of ferries, it would be possible for those entities to raise user fees to recover the amount of sales and use tax. Thus, in effect, this preference is a subsidy that reduces the fees paid by users of ferries. The Commission recommends that the Legislature review and clarify the public policy objective of this preference and determine whether the intent of the preference is to subsidize public use of ferries. If that is not the public policy intent, the Legislature should consider terminating this preference.

Taxpayer Savings ($ in millions) (from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	$7.003	$7.010	$4.410	$4.417
Local taxes	$2.661	$2.663	$1.676	$1.678

FINANCIAL INSTITUTION AFFILIATE INCOME (B&O TAX)

Current statute: RCW 82.04.645; 82.04.080(2)

Department of Revenue 2016 Tax Exemption Report (p. 225):

Description: Financial institutions receive an exemption from B&O tax on amounts received from affiliates that require an arm's length transaction under the Federal Reserve Act (section 23A or 23B).

Purpose: Encourages affiliate transactions involving banks.

Category/Year Enacted: Business. 2010

Primary Beneficiaries: Banks with subsidiaries and/or affiliates

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax - Unknown				
Local taxes	$0	$0	$0	$0

Repeal of Exemption

Repealing this exemption would increase revenues; however not all affiliate transactions would be taxable at full market value.

FINANCIAL INSTITUTION INVESTMENT CONDUIT OR SECURITIZATION ENTITY INCOME (B&O TAX)

Current statute: RCW 82.04.650; 82.04.080(2)

Department of Revenue 2016 Tax Exemption Report (p. 226):

Description: Investment conduits and securitization entities receive a B&O tax exemption for cash and securities.

Purpose: Avoids taxing the same revenue more than one time and clarifies that the activities of investment conduits and securitization entities are not subject to taxation.

Category/Year Enacted: Business. 2010

Primary Beneficiaries: Real estate lenders and their customers

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$14	$14	$14	$14
Local taxes	$0	$0	$0	$0

Repeal of Exemption

Repealing this exemption would increase revenues.

FISHING BOAT FUEL (SALES AND USE TAX)

Current statutes: RCW 82.08.0298; 82.12.0298

JLARC 2013 Tax Preference Reviews (p. 113):

Description: Provides a sales and use tax exemption to commercial deep sea fishing and commercial passenger charter fishing businesses on purchases of diesel fuel for use in their watercraft.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to 1) support Washington's commercial fishing industry, coastal communities, and businesses by removing a disincentive for fishing boats to buy fuel in Washington; and 2) provide tax treatment of fuel for commercial and charter fishing vessels that is equitable with the tax treatment of fuel for vessels conducting interstate and foreign commerce.

Year Enacted: 1987

2013 Legislative Auditor Recommendation: Review and clarify because the preference is not meeting the inferred public policy objective of providing equitable tax treatment on fuel for Washington commercial deep sea fishing and charter fishing boats when compared to tax treatment on fuel for commercial fishing vessels engaged in interstate and foreign commerce. In addition, the $5,000 minimum gross receipts level has not been reviewed since 1987.

2013 Citizen Commission Comment: Endorses with comment. The Commission endorses the Legislative Auditor's recommendation and encourages the Legislature to state an explicit public policy objective for this preference and to structure this preference to be consistent with the stated public policy objective. Rationale: The Legislative Auditor determined that although the preference removes a possible disincentive for fishing boats to purchase fuel in Washington, the preference is not meeting the inferred public policy objective of providing equitable tax treatment on fuel for Washington commercial deep sea fishing and charter boats when compared to tax treatment on fuel for commercial vessels engaged in interstate and foreign commerce. The Legislature should determine whether this preference serves a public policy objective and, if so, structure the preference to align with an explicitly stated objective.

Estimated Beneficiary Savings: $6,261,000 in the 2017-19 Biennium.

FORECLOSURE OR DEED IN LIEU OF FORECLOSURE (REAL ESTATE EXCISE TAX)

Current statute: RCW 82.45.010(3)(j)

JLARC 2011 Tax Preference Reviews (p. 187):

Description: Provides a real estate excise tax exemption for several types of property transfers (e.g., gifts, mortgages, and divorce settlements) and sales (e.g., by a government or cemetery).

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to define the tax and its base.

Year Enacted: 1951

2011 Legislative Auditor Recommendation: Continue because the preference is meeting the inferred public policy objective of defining the tax base for application of the real estate excise tax.

2011 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings ($ in millions) (from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	$52.135	$55.207	$57.290	$59.455
Local taxes	$16.772	$17.760	$18.430	$19.126

FORECLOSURE RELOCATION ASSISTANCE (REAL ESTATE EXCISE TAX)

Current statute: RCW 82.45.030(3)

Department of Revenue 2016 Tax Exemption Report (p. 608):

Description: For real estate excise tax (REET) purposes, "total consideration paid" does not include any outstanding lien or encumbrances in favor of a governmental body or any relocation assistance provided during a foreclosure.

Purpose: REET taxes arm's-length purchases of real estate in situations where the purchase price reflects the market price. Governmental liens and relocation assistance are not part of the market price of a property.

Category/Year Enacted: Tax base. 1951

Primary Beneficiaries: Persons

Possible Program Inconsistency: None Evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0	$0	$0	$0
Local taxes	$0	$0	$0	$0

Repeal of Exemption

Repealing this exemption would increase revenues.

FORFEITURE OF INTEREST IN A SALE OF REAL PROPERTY (REAL ESTATE EXCISE TAX)

Current statute: RCW 82.45.010(3)(d)

JLARC 2011 Tax Preference Reviews (p. 187):

Description: Provides a real estate excise tax exemption for several types of property transfers (e.g., gifts, mortgages, and divorce settlements) and sales (e.g., by a government or cemetery).

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to define the tax and its base.

Year Enacted: 1955

2011 Legislative Auditor Recommendation: Continue because the preference is meeting the inferred public policy objective of defining the tax base for application of the real estate excise tax.

2011 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings ($ in millions) (from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	$0.332	$0.352	$0.365	$0.379
Local taxes	$0.107	$0.114	$0.118	$0.122

FUEL FOR STATE OR COUNTY FERRIES (SALES AND USE TAX)

Current statutes: RCW 82.08.0255(1)(d)-(e); 82.12.0256(2)(e)-(f)

Department of Revenue 2016 Tax Exemption Report (p. 675):

Description: Motor vehicle or special fuel purchased for use in state or county-owned ferries is exempt from the retail sales and use tax.

Purpose: Reduces the cost for state and local government to provide ferry service.

Category/Year Enacted: Government. 2011

Primary Beneficiaries: State and County-Owned Ferry Systems

Possible Program Inconsistency: None

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$2.222	$2.397	$2.479	$2.543
Local taxes	$0.844	$0.911	$0.942	$0.966

Repeal of Exemption

Repealing this exemption would increase revenues.

FUEL USED TO PROCESS PETROLEUM PRODUCTS (PETROLEUM PRODUCTS TAX)

Current statute: RCW 82.23A.030(5)

Department of Revenue 2016 Tax Exemption Report (p. 371):

Description: Natural gas, petroleum coke, liquid fuel, and fuel gas used in processing of petroleum products is exempt from the petroleum products tax. This exemption expires July 1, 2020.

Purpose: Excludes fuels consumed in processing and restricts the tax to products sold at retail.

Category/Year Enacted: Tax base. 1989

Primary Beneficiaries: Petroleum refiners

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0.839	$0	$0.559	$0
Local taxes	$0	$0	$0	$0

Repeal of Exemption

Repealing this exemption would increase revenues. The petroleum products tax was suspended during Fiscal Year 2010. It is expected to be reactivated in Fiscal Year 2016 and again in Fiscal Year 2018.

HISTORIC VESSELS (PROPERTY TAX)

Current statute: RCW 84.36.080(2)

Department of Revenue 2016 Tax Exemption Report (p. 462):

Description: Ships and vessels listed on the state or federal register of historic places are exempt from property tax.

Purpose: Encourages retention and restoration of historic boats.

Category/Year Enacted: Individuals. 1986

Primary Beneficiaries: Owners of vessels listed in the state or federal register of historical places

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0.028	$0.027	$0.026	$0.025
Local taxes	$0.126	$0.125	$0.12	$0.118

Repeal of Exemption

Repealing a property tax exemption would not increase state revenues. The repeal shifts the state property tax to the currently exempt taxpayers and reduces the tax burden of other taxpayers. The repeal may decrease the local rate. Local taxing districts at their statutory maximum may experience a revenue increase.

HOMES PENDING DESTRUCTION (LEASEHOLD EXCISE TAX)

Current statute: RCW 82.29A.130(10)

Department of Revenue 2016 Tax Exemption Report (p. 329):

Description: Month-to-month leases in residential units rented for residential purposes pending destruction or removal to construct a public highway or building are exempt from leasehold tax.

Purpose: When a private residence is either condemned or purchased outright to make way for a public project, this exemption provides tax relief during the transition period.

Category/Year Enacted: Other. 1976

Primary Beneficiaries: Residents of homes awaiting destruction or removal

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0.048	$0.05	$0.052	$0.054
Local taxes	$0.042	$0.044	$0.046	$0.047

Repeal of Exemption

Repealing this exemption would increase revenues.

HOUSING FINANCE COMMISSION (B&O TAX)

Current statute: RCW 82.04.408

Department of Revenue 2016 Tax Exemption Report (p. 111):

Description: Income received by the Housing Finance Commission is exempt from B&O tax. This income includes fees generated from bond issues and interest received from reserves used for the operation of the Commission.

Purpose: To support the activities of the Commission as a financial conduit for programs that provides affordable housing.

Category/Year Enacted: Government. 1983

Primary Beneficiaries: The Housing Finance Commission

Possible Program Inconsistency: None evident; however, other state agencies are not subject to B&O tax and do not require a special exemption

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax - Unable to disclose				
Local taxes	$0	$0	$0	$0

Repeal of Exemption

Repealing this exemption may possibly increase revenues.

INTEREST FROM STATE AND MUNICIPAL OBLIGATIONS (B&O TAX)

Current statute: RCW 82.04.4293

JLARC 2011 Tax Preference Reviews (p. 83):

Description: Provides a business and occupation tax deduction to financial businesses for gross income received as interest from state and municipal government obligations.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to provide consistent tax treatment for interest income from all forms of government obligations.

Year Enacted: 1970

2011 Legislative Auditor Recommendation: Continue because the inferred public policy objective of ensuring that tax treatment is consistent for interest from state, municipal, and U.S. government obligations is being achieved.

2011 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings ($ in millions) (from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	$3.890	$3.930	$4.010	$4.100
Local taxes	$0.000	$0.000	$0.000	$0.000

INTEREST ON AGRICULTURAL LOANS (B&O TAX)

Current statute: RCW 82.04.4294

Department of Revenue 2016 Tax Exemption Report (p. 164):

Description: From B&O taxable amounts, qualifying banks may deduct interest income on loans made to:

- farmers;
- ranchers;
- aquatic product producers/harvesters; or
- their cooperatives.

Qualifying banks must:

- be owned exclusively by its members or borrowers and
- only make loans or provide financial-related services to:
  - farmers;
  - ranchers;
  - aquatic product producers/harvesters;
  - their cooperatives;
  - rural residents for housing; or
  - people furnishing farm-related or aquatic-related services to these individuals or entities.

Purpose: Reduce the cost of loans supporting the agricultural industry.

Category/Year Enacted: Agriculture. 1970

Primary Beneficiaries: Certain banks that make agricultural loans

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$4.5	$4.5	$4.5	$4.5
Local taxes	$0	$0	$0	$0

Repeal of Exemption

Repealing this deduction would increase revenues.

INTEREST ON REAL ESTATE LOANS (B&O TAX)

Current statute: RCW 82.04.4292

JLARC 2015 Tax Preference Reviews:

Description: Banks and other financial institutions may receive a business and occupation (B&O) tax deduction for the interest they receive on loans for residential property.

Purpose: The Legislature did not state a public policy objective. JLARC staff infer the objectives were to: 1) Stimulate Washington's residential housing market by making loans available to home buyers at lower cost; and 2) Limit the tax preference to "community banks."

Year Enacted: 1970

2015 Legislative Auditor Recommendation: Review and clarify because: 1) The application of different definitions for "community bank" changes the pool of lenders who qualify for the preference; and 2) The original inferred public policy objective of stimulating the residential housing market may no longer apply given the changes in the lending industry and the rise of the secondary mortgage market.

2015 Citizen Commission Comment: Does not endorse; recommends Continue. The Legislature should continue this preference as updated in 2012 legislation. Rationale: Washington State financial institutions that portfolio mortgage loans compete with their counterparts in other states who are subject to different tax regimes. The industry's testimony made the reasonable argument that the current tax preference helps mitigate the competitive disadvantage created by recent federal regulatory changes. In this new environment, smaller financial institutions are struggling to absorb the increase in regulatory costs associated with lending. Although offsetting regulatory costs was not the preference's original stated intent, the preference appears to enable smaller financial firms to compete with (1) large nationally-based financial firms whose size enables them to absorb these additional costs and (2) credit unions, which have special tax status. Indicative of increased cost pressures facing smaller community banks, the number of community banks nationally has fallen from about 7,000 in 2008 to 5,400 recently (a 23% decline). Over this same time period, the number of commercial banks headquartered in Washington State has declined from 81 to 45 (a 44% decline). While there are many factors driving shrinkage in the number of community banks, limiting the current preference in same fashion could aggravate that trend.

Furthermore, the inferred public policy objectives do not capture the legislative debate and compromise that surrounded the compromise reached to determine the class and type of banks that would continue to qualify for the exemption. Specifically, the current testimony and debate at the time of the 2012 legislation indicated the restructuring of the exemption was to provide a benefit to a certain population of smaller, local lending institutions without violating commerce clause restrictions imposed by the courts. The community bank definitions considered by JLARC staff were not adopted during legislative debate of these provisions because they would not have encompassed the full population of banks the Legislature determined should be covered.

Estimated Beneficiary Savings: $69,417,000 in the 2017-19 Biennium.

INTERNATIONAL INVESTMENT MANAGEMENT (B&O TAX)

Current statute: RCW 82.04.290(1)

JLARC 2014 Tax Preference Reviews (p. 161):

Description: Provides a preferential B&O tax rate of 0.275 percent to businesses conducting international investment management services.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to: 1) reduce a perceived competitive disadvantage for IIMS businesses located in Washington; and 2) attract new international trade and finance business to the state.

Year Enacted: 1995

2014 Legislative Auditor Recommendation: Review and clarify because it is unclear whether the preference is still necessary in light of the fact that Washington's 2010 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.

2014 Citizen Commission Comment: Endorses with 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. Rationale: The Department of Revenue issued an Excise Tax Advisory on International Management Services on February 28, 2014, which clarifies the Department's position on 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 and determine the viability of these refunds under existing rules. The conclusions reached by the Legislative Auditor based on the existence of these refunds and the timing of the economic nexus and single sales factor apportionment standards are premature given the status of the current refund request reviews. 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. The Commission received testimony from a beneficiary that described how the B&O tax, which applies both to inter-affiliate transactions as well as to the gross receipts of the parent company, poses an undue tax burden compared to taxation methodologies in other states. This burden arguably could be reduced by merging affiliates; however, the affiliate business structure is a standard feature of businesses involved in international investment management services that is generally required by state and federal securities regulations. In states that tax income rather than receipts, the income of the parent is typically taxed, not the income of each individual affiliate. This issue arises from the structure of the B&O tax and is not unique to the international investment management services business. However, the B&O tax structure frequently results in a larger B&O tax burden for international investment services businesses located in Washington than for such businesses located outside of Washington.

Estimated Beneficiary Savings: $40,956,000 in the 2017-19 Biennium.

INVESTMENT OF BUSINESSES IN RELATED ENTITIES (B&O TAX)

Current statute: RCW 82.04.4281(1)(b),(c)

JLARC 2011 Tax Preference Reviews (p. 111):

Description: Provides a business and occupation tax deduction for: 1) dividends and distributions paid by subsidiaries to parent entities; and 2) interest on loans between certain affiliated entities, if the total investment and loan income is less than 5 percent of gross receipts of the parent business annually.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to exempt income earned by a business from investing in its own subsidiaries and in intercompany loans. These investments are not considered engaging in business for B&O tax purposes.

Year Enacted: 1970

2011 Legislative Auditor Recommendation: Continue because the preference is meeting the inferred public policy objective of not treating income from intercompany investments in affiliates as a business activity.

2011 Citizen Commission Comment: Endorses without comment.

Estimated Beneficiary Savings (JLARC 2011 Tax Preference Review): $14,400,000 in the 2011-13 Biennium.

Taxpayer Savings ($ in millions) (from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	Unknown	Unknown	Unknown	Unknown
Local taxes	$0.000	$0.000	$0.000	$0.000

INVESTMENTS BY NONFINANCIAL FIRMS (B&O TAX)

Current statute: RCW 82.04.4281(1)(a)

JLARC 2009 Tax Preference Reviews (p. 49):

Description: Provides a business and occupation tax deduction for interest, dividends, and capital gain income earned by businesses not engaged in banking, loan, or security activities.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to avoid treating the investment of incidental surplus funds of businesses and the savings of individuals as a business activity.

Year Enacted: 1935

2009 Legislative Auditor Recommendation: Continue because the tax preference is meeting the inferred public policy objective of not treating incidental investment as engaging in businesses.

2009 Citizen Commission Comment: Endorses with comment. The Legislature should consider whether investment income should be taxed by some means other than the B&O gross receipts tax.

Taxpayer Savings ($ in millions) (from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	$307.000	$325.000	$342.000	$357.000
Local taxes	$0.000	$0.000	$0.000	$0.000

MOBILE HOMES IN DEALER INVENTORY (PROPERTY TAX)

Current statute: RCW 84.36.510

Department of Revenue 2016 Tax Exemption Report (p. 495):

Description: Property tax does not apply to mobile homes in a dealer's inventory and held solely for sale in the ordinary course of the dealer's business. Property tax does apply to taxes already levied or delinquent on the mobile home when it becomes part of a dealer's inventory.

Purpose: Helps make Washington competitive with neighboring states that eliminated personal property taxes on business inventories.

Category/Year Enacted: Business. 1985

Primary Beneficiaries: Manufactured home dealers

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0.027	$0.024	$0.020	$0.018
Local taxes	$0.122	$0.109	$0	$0

Repeal of Exemption

Repealing a property tax exemption would not increase state revenues. The repeal shifts the state property tax to the currently exempt taxpayers and reduces the tax burden of other taxpayers. The repeal may decrease the local rate. Local taxing districts at their statutory maximum may experience a revenue increase.

MOBILE HOMES POSSESSED BY LANDLORDS (PROPERTY TAX)

Current statute: RCW 84.56.335(2)

Department of Revenue 2016 Tax Exemption Report (p. 534):

Description: Property tax does not apply to a manufactured home or park model trailer worth less than $8,000 if the landlord of the manufactured home park takes ownership and submits a signed affidavit to the assessor indicating an intent to resell or rent the home and:

- The manufactured home or park model trailer has been abandoned, or
- A final judgment regarding the manufactured home or park model trailer for restitution of the premises under RCW 59.18.410 executes in favor of the landlord and the title transfers to the landlord.

All future taxes are the responsibility of the owner of the manufactured, mobile home or park model trailer.

Purpose: Allows manufactured home park owners to renovate and rent or sell abandoned homes without the responsibility of back property taxes, interest, and penalties owed by the previous owner.

Category/Year Enacted: Other. 2013

Primary Beneficiaries: Manufactured home park owners

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0.001	$0.001	$0.001	$0.001
Local taxes	$0.006	$0.006	$0.006	$0.006

Repeal of Exemption

Repealing a property tax exemption would increase state revenues. Unlike most property tax exemptions it would not shift property taxes to the currently exempt taxpayers and reduce the tax burden of other taxpayers.

MORTGAGE INSURERS (REAL ESTATE EXCISE TAX)

Current statute: RCW 82.45.010(3)(k)

JLARC 2011 Tax Preference Reviews (p. 187):

Description: Provides a real estate excise tax exemption for several types of property transfers (e.g., gifts, mortgages, and divorce settlements) and sales (e.g., by a government or cemetery).

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to define the tax and its base.

Year Enacted: 1951

2011 Legislative Auditor Recommendation: Continue because the preference is meeting the inferred public policy objective of defining the tax base for application of the real estate excise tax.

2011 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings ($ in millions) (from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	$4.652	$4.936	$5.112	$5.305
Local taxes	$1.496	$1.585	$1.644	$1.707

MORTGAGE OR OTHER SECURITY INTEREST (REAL ESTATE EXCISE TAX)

Current statute: RCW 82.45.010(3)(i)

JLARC 2011 Tax Preference Reviews (p. 187):

Description: Provides a real estate excise tax exemption for several types of property transfers (e.g., gifts, mortgages, and divorce settlements) and sales (e.g., by a government or cemetery).

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to define the tax and its base.

Year Enacted: 1951

2011 Legislative Auditor Recommendation: Continue because the preference is meeting the inferred public policy objective of defining the tax base for application of the real estate excise tax.

2011 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings ($ in millions) (from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	$0.285	$0.302	$0.314	$0.325
Local taxes	$0.091	$0.096	$0.099	$0.103

NATURAL AND MANUFACTURED GAS (SALES AND USE TAX)

Current statutes: RCW 82.08.026; 82.12.023; 82.14.030(1)

JLARC 2012 Tax Preference Reviews (p. 145):

Description: Provides a sales and use tax exemption for natural and manufactured gas purchased by consumers when the consumer pays Washington's brokered natural gas use tax.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to 1) ensure equitable taxation by avoiding double taxation of natural or manufactured gas purchased from outside the state; 2) provide local governments with a continued source of local tax revenue through the brokered natural gas use tax; and 3) comply with the federal Constitution.

Year Enacted: 1989

2012 Legislative Auditor Recommendation: Continue because it is meeting the inferred public policy objectives of 1) ensuring equitable taxation by avoiding double taxation; 2) providing local governments with a continued source of local tax revenue; and 3) complying with the federal Constitution.

2012 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings ($ in millions) (from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	$19.540	$20.092	$20.696	$21.361
Local taxes	($26.051)	($26.788)	($27.593)	($28.480)

NATURAL GAS NOT DELIVERED VIA PIPELINE (USE TAX)

Current statute: RCW 82.12.022(3)

Department of Revenue 2016 Tax Exemption Report (p. 283):

Description: Natural or manufactured gas delivered to customers by means other than through a pipeline is not subject to brokered natural gas use tax.

Purpose: To clarify how this tax is applied.

Category/Year Enacted: Tax base. 1994

Primary Beneficiaries: Customers that receive natural gas via other means

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0	$0	$0	$0
Local taxes	$0	$0	$0	$0

Repeal of Exemption

Repealing this exemption would increase revenues.

NATURAL GAS SUBJECT TO PUBLIC UTILITY TAX (USE TAX)

Current statute: RCW 82.12.022(4)

Department of Revenue 2016 Tax Exemption Report (p. 239):

Description: Gas is not subject to the brokered natural gas use tax if the seller previously paid public utility tax with respect to the same gas.

Purpose: This exemption eliminates double taxation of the same fuel. Gas purchased via brokers is generally not subject to public utility tax, and is the reason that the brokered natural gas tax is in place.

Category/Year Enacted: Tax base. 1989

Primary Beneficiaries: Purchasers of gas via brokers

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$32.988	$33.920	$34.940	$36.063
Local taxes	$9.223	$9.484	$9.769	$10.083

Repeal of Exemption

Repealing this exemption would increase revenues.

Nonfuel Use of Petroleum (Oil Spill Tax)

Current statute: RCW 82.23B.045

Department of Revenue 2016 Tax Exemption Report (p. 360):

Description: Taxpayers may claim a credit against oil spill tax paid on crude oil or petroleum products:

(1) not used as fuel or

(2) used as a component or ingredient in a manufacturing process.

Purpose: Ensures the tax applies only to crude oil or petroleum used as fuel.

Category/Year Enacted: Tax base. 1991

Primary Beneficiaries: Petroleum refiners

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0.125	$0.105	$0.096	$0.086
Local taxes	$0	$0	$0	$0

Repeal of Exemption

Repealing this exemption would increase revenues.

OTHER SHIPS AND VESSELS (PROPERTY TAX)

Current statute: RCW 84.36.090

JLARC 2008 Tax Preference Reviews (p. 73):

Description: Provides a property tax exemption for all ships and vessels, except commercial vessels and vessels under construction. This preference applies primarily to pleasure or recreational boats.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to define the property tax base. Initially in 1931, noncommercial vessels were exempted from 80 percent of local property tax levies. Since then the Legislature defined the property tax base to exclude noncommercial boats. In lieu of the property tax, the Legislature made noncommercial boats subject to vessel registration and a vessel excise tax.

Year Enacted: 1931

2008 Legislative Auditor Recommendation: Continue because the property tax exemption for noncommercial and other vessels is achieving the inferred public policy objective of defining the tax base.

2008 Citizen Commission Comment: Endorses without comment.

Taxpayer Savings ($ in millions) (from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	$5.443	$5.188	$4.928	$4.775
Local taxes	$24.529	$24.044	$32.141	$22.721

PACKAGED PETROLEUM PRODUCTS (PETROLEUM PRODUCTS TAX)

Current statute: RCW 82.23A.030(7)

Department of Revenue 2016 Tax Exemption Report (p. 373):

Description: Petroleum products that are packaged for sale to ultimate consumers are exempt from the petroleum products tax. This exemption expires July 1, 2020.

Purpose: The purpose of the tax is to generate funds to provide adequate insurance and funding for programs to clean up discharges from leaking underground petroleum storage tanks. Presumably packaged products do not have the potential to cause pollution.

Category/Year Enacted: Tax base. 1989

Primary Beneficiaries: Importers of packaged petroleum products

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0	$0	$0	$0
Local taxes	$0	$0	$0	$0

Repeal of Exemption

Repealing this exemption would not increase revenues.

PUBLIC EMPLOYEE HOUSING (LEASEHOLD EXCISE TAX)

Current statute: RCW 82.29A.130(5)

Department of Revenue 2016 Tax Exemption Report (p. 326):

Description: When public employees are required by the terms of their employment to live in a publicly owned property (e.g., at state parks), the leasehold interest in that property used as the employee's residence is not subject to leasehold excise tax.

Purpose: This exemption supports legislative policy to not tax government. Also, the tax would in essence reduce employee compensation or increase government costs.

Category/Year Enacted: Government. 1976

Primary Beneficiaries: Public employees who must live in government housing

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0.116	$0.118	$0.121	$0.124
Local taxes	$0.101	$0.104	$0.106	$0.109

Repeal of Exemption

Repealing this exemption would increase revenues.

RURAL ELECTRIC COOPERATIVE FINANCE ORGANIZATIONS (B&O TAX)

Current statute: RCW 82.04.43394

JLARC 2016 Tax Preference Reviews:

Description: Provides a B&O tax deduction for cooperative finance organizations on any interest income earned from loans to rural electric cooperatives or other nonprofit or government utility service providers. The preference is scheduled to expire July 1, 2017.

Purpose: The Legislature stated the public policy objective was to provide tax relief for customers of rural electric cooperatives by providing this incentive to finance organizations that lend to rural electric cooperatives.

Year Enacted: 2013

2016 Legislative Auditor Recommendation: Modify because as currently structured, there is no guarantee that the savings realized by finance organizations will be passed on to Washington rural electric cooperatives and their customers, as the Legislature intended.

2016 Citizen Commission Comment: The Commission does not endorse the Legislative Auditor's recommendation. The Legislature should continue the preference.

The organization to which this exemption applies is a federally chartered organization created to provide cost effective financing to rural electric cooperatives. Savings due to the preference are likely passed on to all rural utility customers across the nation through electric rates. To assure that the benefit of the exemption is solely received by Washington based cooperatives, such cooperatives must bear the cost of this tax from which they are otherwise exempted by this law. Accordingly, such a clarification is unnecessary, would force the cooperative to amend its bylaws and rules for no reason, and will undoubtedly create undue confusion.

Estimated Beneficiary Savings: $370,000 in the 2013-15 Biennium.

SECONDARY TRANSPORTATION (OIL SPILL TAX)

Current statute: RCW 82.23B.030

Department of Revenue 2016 Tax Exemption Report (p. 358):

Description: Successive receipt or transportation of crude oil or petroleum products is exempt from the oil spill tax after the initial receipt of the same products at a marine terminal.

Purpose: This credit restricts the tax to the initial off-loading of crude oil or petroleum product in Washington.

Category/Year Enacted: Tax base. 1991

Primary Beneficiaries: None

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0	$0	$0	$0
Local taxes	$0	$0	$0	$0

Repeal of Exemption

Repealing this exemption would not increase revenues.

SHIPS UNDER CONSTRUCTION (PROPERTY TAX)

Current statute: RCW 84.36.079

Department of Revenue 2016 Tax Exemption Report (p. 460):

Description: Vessels that can carry more than 1,000 tons that are under construction and materials and parts held by the builder at the construction site for use in these vessels are exempt from property tax.

Purpose: Improves the competitive position of shipyards in Washington.

Category/Year Enacted: Business. 1959

Primary Beneficiaries: Owners of vessels under construction and the shipyards where the activity occurs

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0	$0	$0	$0
Local taxes	$0	$0	$0	$0

Repeal of Exemption

Repealing a property tax exemption would not increase state revenues. The repeal shifts the state property tax to the currently exempt taxpayers and reduces the tax burden of other taxpayers. The repeal may decrease the local rate. Local taxing districts at their statutory maximum may experience a revenue increase.

STEVEDORING (B&O TAX)

Current statute: RCW 82.04.260(7)

JLARC 2012 Tax Preference Reviews (p. 187):

Description: Provides a business and occupation tax preferential rate of 0.275 percent to stevedoring and associated activities.

Purpose: The Legislature did not state a public policy objective for this preference. JLARC staff infer that the policy objective may have been to keep Washington's ports and port-related businesses competitive. The Legislature stated the public policy objective in 1998 for reducing the tax rate was to simplify the tax code by consolidating B&O tax rates.

Year Enacted: 1979

2012 Legislative Auditor Recommendation: Review and clarify because 1) the public policy objective for why the Legislature chose the particular current preferential tax rate for stevedoring activities is unclear; 2) the objective to consolidate B&O tax rates and classifications may no longer apply.

2012 Citizen Commission Comment: Does not endorse; recommends Terminate. The Commission does not endorse the JLARC staff recommendation to review and clarify these two preferences and recommends that the Legislature should terminate both of these preferential tax rates. Rationale: The apparent original intent of providing a preferential tax rate in 1979 was to maintain an equivalent tax burden after a U.S. Supreme Court decision eliminated the tax exemption of certain stevedoring activities. While the industry has argued that the preferential rate is justified for competitive reasons, the industry has never provided substantiation for this claim. In testimony provided to the Commission by a representative of these industries, no substantive evidence was provided that elimination of this preference would harm the competitiveness of Washington's ports materially. In response to a question during public testimony, an industry representative acknowledged no competing west coast ports in the U.S. receive a similar tax break. The JLARC staff study indicated that it is unclear that the preferential B&O tax rate has had any role in making Washington's ports more competitive. Therefore, the Commission recommends that the Legislature stop supporting these industries financially by terminating the preferential tax rates.

Taxpayer Savings ($ in millions) (from DOR 2016 Tax Exemption Study):

	FY2016	FY2017	FY2018	FY2019
State tax	$8.424	$8.879	$9.326	$9.785
Local taxes	$0.000	$0.000	$0.000	$0.000

SUBSIDIZED HOUSING (LEASEHOLD EXCISE TAX)

Current statute: RCW 82.29A.130(3)

Department of Revenue 2016 Tax Exemption Report (p. 325):

Description: A lease of subsidized housing owned by the U.S. government, the state, or any political subdivision is not subject to leasehold excise tax. There must be an income qualification for such housing in order for the exemption to apply.

Purpose: To support public housing for low-income individuals.

Category/Year Enacted: Government. 1976

Primary Beneficiaries: Public housing authorities and the individuals who reside in subsidized housing

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$10.431	$10.829	$11.242	$11.671
Local taxes	$9.150	$9.499	$9.861	$10.238

Repeal of Exemption

Repealing this exemption may increase revenues.

SUCCESSIVE USE (PETROLEUM PRODUCTS TAX)

Current statute: RCW 82.23A.030(1)

Department of Revenue 2016 Tax Exemption Report (p. 367):

Description: Successive possession of previously taxed petroleum products is exempt from the tax. This exemption expires July 1, 2020.

Purpose: To ensure the tax applies only to the first use of petroleum products within the state.

Category/Year Enacted: Tax base. 1989

Primary Beneficiaries: Wholesalers, distributors and retailers of petroleum products

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$82.796	$0	$72.103	$0
Local taxes	$0	$0	$0	$0

Repeal of Exemption

Repealing this exemption would increase revenues. The petroleum products tax was suspended during Fiscal Year 2010. It is expected to be reactivated in Fiscal Year 2016 and again in Fiscal Year 2018.

TRUST ACCOUNTS (B&O TAX)

Current statute: RCW 82.04.392

Department of Revenue 2016 Tax Exemption Report (p. 103):

Description: Amounts received by mortgage brokers from a borrower for paying third-party provided services are exempt from B&O tax.

Purpose: Recognizes the funds passing-through to third parties are not income for the mortgage broker.

Category/Year Enacted: Business. 1997

Primary Beneficiaries: Mortgage brokers holding funds used to pay for third-party provided services

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0.562	$0.602	$0.643	$0.697
Local taxes	$0	$0	$0	$0

Repeal of Exemption

Repealing this deduction could increase revenues; however, mortgage brokers may be able to qualify certain third-party costs as advances or reimbursements under WAC 458-20-111. Those amounts would not be subject to B&O tax.

USED FLOATING HOMES (SALES AND USE TAX)

Current statutes: RCW 82.08.034; 82.12.034

Department of Revenue 2016 Tax Exemption Report (p. 743):

Description: The sale, rental or lease, in excess of 30 days, of a used floating home as defined in RCW 82.45.032 is exempt from retail sales and use tax.

Purpose: To provide consist tax treatment for used floating homes and residential real estate.

Category/Year Enacted: Individuals. 1984

Primary Beneficiaries: Purchasers of floating homes

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0.373	$0.392	$0.406	$0.419
Local taxes	$0.161	$0.169	$0.175	$0.180

Repeal of Exemption

Repealing this exemption would increase revenues.

USED MOBILE HOMES (SALES AND USE TAX)

Current statutes: RCW 82.08.033; 82.12.033

Department of Revenue 2016 Tax Exemption Report (p. 741):

Description: The sale, rental, or lease, in excess of 30 days, of a used mobile home attached to the land, is exempt from retail sales and use tax.

Purpose: To provide consist tax treatment for used mobile homes and residential real estate.

Category/Year Enacted: Individuals. 1979

Primary Beneficiaries: Long-term renters and purchasers of used mobile homes

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$3.527	$3.708	$3.835	$3.964
Local taxes	$1.340	$1.409	$1.457	$1.506

Repeal of Exemption

Repealing this exemption would increase revenues.

USED PARK-MODEL TRAILERS (SALES AND USE TAX)

Current statutes: RCW 82.08.032; 82.12.032

Department of Revenue 2016 Tax Exemption Report (p. 740):

Description: The sale, rental, or lease, in excess of 30 days, of a used park-model trailer, is exempt from retail sales and use tax.

Purpose: To provide consist tax treatment for used park-model trailers and residential real estate.

Category/Year Enacted: Individuals. 2001

Primary Beneficiaries: Purchasers of park model trailers

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0.289	$0.303	$0.314	$0.324
Local taxes	$0.110	$0.115	$0.119	$0.123

Repeal of Exemption

Repealing this exemption would increase revenues

VESSEL USE BY MANUFACTURERS OR DEALERS (USE TAX)

Current statutes: RCW 82.12.800; 82.12.801; 82.12.802

Department of Revenue 2016 Tax Exemption Report (p. 831):

Description: These three statutes relate to the application of use tax for firms that manufacture or sell boats and boat trailers. Use tax is exempt on the following uses of a vessel and trailer by the manufacturer or a vessel dealer:

- Testing, setting-up, repairing, remodeling or otherwise making the vessel seaworthy;
- Training of employees who are involved in the manufacturing of the vessel; activities promoting the sale of the vessel;
- Loaning or donating the vessel to nonprofit organizations or governmental entities for limited periods;
- Transporting, displaying or demonstrating the vessel at boat shows; and
- Delivering, showing and operating the vessel for a prospective buyer.

Any other personal intervening use of the vessel by the manufacturer or a dealer is subject to use tax. However, RCW 82.12.802 provides that the use tax in such instances is to be measured by the reasonable rental value of the vessel for that particular use, rather than the fair market value, if the dealer can demonstrate that the vessel is truly held for sale.

Purpose: To clearly identify the uses of vessels and related equipment which are not considered as taxable "intervening" uses and to provide a basis for the use tax in other taxable situations.

Category/Year Enacted: Business. 1997

Primary Beneficiaries: Boat Builders and Dealers

Possible Program Inconsistency: None

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0.251	$0.266	$0.284	$0.297
Local taxes	$0.095	$0.101	$0.108	$0.113

Repeal of Exemption

Repealing this exemption would increase revenues.

VESSELS UNDER 65 FEET IN LENGTH (PUBLIC UTILITY TAX)

Current statute: RCW 82.16.020(1)(e)

Department of Revenue 2016 Tax Exemption Report (p. 546):

Description: Vessels under sixty-five feet in length, except tugboats, operating upon the waters within the state are subject to the public utility tax at a rate of 0.642 percent. The public utility tax rate for most other forms of transportation is 1.926 percent.

Purpose: Provides tax relief for small vessels transporting persons or goods within Washington.

Category/Year Enacted: Business. 1935

Primary Beneficiaries: Water transportation businesses

Possible Program Inconsistency: None evident

Taxpayer Savings ($ in millions):

	FY2016	FY2017	FY2018	FY2019
State tax	$0.019	$0.020	$0.020	$0.021
Local taxes	$0	$0	$0	$0

Repeal of Exemption

Repealing this exemption would increase revenues.