

# 2012 TAX PREFERENCE PERFORMANCE REVIEWS

## SCOPE AND OBJECTIVES

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STATE OF WASHINGTON  
JOINT LEGISLATIVE AUDIT AND  
REVIEW COMMITTEE

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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 also directed the Joint Legislative Audit and Review Committee (JLARC) to conduct the periodic reviews.

## Background

Tax preferences are exemptions, exclusions, or deductions from the base of a state tax; a credit against a state tax; a deferral of a state tax; or a preferential state tax rate. JLARC estimates the state currently has 603 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 is to review tax preferences according to the schedule developed by the Commission, consistent with guidelines set forth in statute. For each tax preference the Commission selects for a performance review, JLARC is to provide a recommendation to either: (1) continue, (2) modify, (3) add an expiration date and conduct another review prior to the expiration date, or (4) terminate the preference.

## Study Scope

The Citizen Commission selected the following tax preferences for a performance review by JLARC in 2012:

	Brief Description and Tax Type	RCW Citation	Year Enacted
1.	Annuities (Insurance Premium)	48.14.020(1)	1979
2.	Biotechnology Deferral (Sales & Use)	82.75.010; 82.75.030	2006
3.	Business Inventories (Property)	84.36.477; 84.36.510	1974
4.	Charter and Freight Brokers (B&O)	82.04.260(6)	1979
5.	Commuting Programs (B&O, PUT)	82.70.020	2003
6.	Condominium Maintenance Fees (B&O)	82.04.4298	1979
7.	Ferry Boats (Sales & Use)	82.08.0285; 82.12.0279	1977
8.	Fish Tax Rates (Fish)	82.27.020(4)	1980
9.	Fuel Use Exemptions (Fuel)	82.38.080	1971
10.	Health Insurance by State Pool (Insurance Premium)	48.14.022	1987
11.	High Technology Deferral (Sales & Use)	82.63.010; 82.63.030	1994
12.	High Technology Research and Development (B&O)	82.04.4452	1994
13.	Insurance Agents (B&O)	82.04.260(9)	1983

	<b>Brief Description and Tax Type</b>	<b>RCW Citation</b>	<b>Year Enacted</b>
14.	Insurance Guarantee Funds (Insurance Premium)	48.32.145; 48.32A.125	1976
15.	Leases Under \$250 Per Year or Short Term (Leasehold Excise)	82.29A.130 (8)-(9)	1976
16.	Manufacturing Completed In-State (B&O)	82.04.4295	1977
17.	Natural and Manufactured Gas (Sales & Use)	48.14.020(1)	1979
18.	Precious Metals and Bullion (Sales & Use)	82.04.062	1985
19.	Solar Energy and Silicon Manufacturing (B&O)	82.04.294	2005
20.	Stevedoring (B&O)	82.04.260(7)	1979
21.	Travel Agents (B&O)	82.04.260(5)	1975
22.	Urban Transit Fuel (Sales & Use)	82.08.0255(1)(a),(c); 82.12.0256(2)(a)	1980

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

	<b>Brief Description and Tax Type</b>	<b>RCW Citation</b>	<b>Year Enacted</b>
1.	Adult Family Homes (B&O)	82.04.327	1987
2.	Cargo Containers (Property)	84.36.105	1975
3.	Computers Donated to Schools (Use)	82.12.0284	1988
4.	Conservation Futures (Property)	84.36.500	1984
5.	Credit for Excess Tax (Leasehold Excise)	82.29A.120(1)	1991
6.	Crude Oil (Petroleum Products)	82.23A.010(1)	1989
7.	Delinquent Penalty Waivers (Property)	84.56.025	1984
8.	Domestic Use (Petroleum Products)	82.23A.030(2)	1989
9.	Exported Petroleum Products (Petroleum Products)	82.23A.030(6)	1989
10.	Federal Government Structure Labor (Sales & Use)	82.04.050(12)	1975
11.	Ferrosilicon (Sales & Use)	82.04.050(1)(a)(iv); 82.04.190(1)(d)	1986
12.	Fuel Exported in Fuel Tanks (Petroleum Products)	82.23A.040(1)	1989
13.	Fuel Used Before Tax Imposed (Petroleum Products)	82.23A.030(4)	1989
14.	Fuel Used to Process Petroleum Products (Petroleum Products)	82.23A.030(5)	1989
15.	Hazardous Substance Exemptions (Hazardous Substance)	82.21.040(1)-(4),(6)	1989
16.	Health Insurance Claims (B&O)	82.04.4331	1988
17.	Historic Vessels (Property)	84.36.080(2)	1986
18.	Life Insurance Sales Employees (B&O)	82.04.360(1)	1991
19.	Lodging for the Homeless (Sales & Use)	82.08.0299	1988
20.	Manufacturing for Government (Leasehold Excise)	82.29A.020(1)	1976
21.	Packaged Petroleum Products (Petroleum Products)	82.23A.030(7)	1989
22.	Precious Metals & Bullion (B&O)	82.04.062	1985

## Tax Preference Review Process

Commission develops and delivers to JLARC schedule of tax preferences for review

JLARC staff conducts reviews of tax preferences

Staff presents preliminary report to JLARC

Staff requests comments from OFM and agencies

JLARC presents preliminary report to Commission

Commission conducts public comment session and may provide comments

Proposed Final Report (with OFM, agency, and Commission comments) to JLARC for approval to distribute

Final Report transmitted to Legislative Fiscal Committees

Legislative Fiscal Committees hold joint hearing on Final Report

Brief Description and Tax Type		RCW Citation	Year Enacted
23.	Public Timber Credit (Timber)	84.33.077	1983
24.	Returned Motor Vehicles (Sales & Use)	82.32.065	1987
25.	Student Loan Organizations (B&O)	82.04.367	1987
26.	Student Loan Organizations (Property)	84.36.030(6)	1987
27.	Subsidized Housing (Leasehold Excise)	82.29A.130(3)	1976
28.	Successive Use (Petroleum Products)	82.23A.030(1)	1989
29.	Syrup Exported (Syrup)	82.64.030(2)	1989
30.	Syrup Previously Taxed (Syrup)	82.64.030(1)	1989
31.	Syrup Purchased before Tax Imposed (Syrup)	82.64.030(4)	1989
32.	Timber Tax Minimum (Timber)	84.33.086	1984
33.	Trademarked Syrup (Syrup)	84.64.030(3)	1991
34.	Used Floating Homes (Sales & Use)	82.08.034; 82.12.034	1984

## 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:

5. Who are the entities whose state tax liabilities are directly affected by the tax preference? (RCW 43.136.055(a))
6. 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:

7. 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))
8. 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))
9. 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))
10. 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:

11. 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 2012 JLARC meeting and at the August 2012 meeting of the Commission. A final report will be presented to JLARC in January 2013.

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