

# 2016 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 directed the staff of the Joint Legislative Audit and Review Committee (JLARC) to conduct the periodic reviews.

## Background

Tax preferences include: exemptions, exclusions, or deductions from the base of a state tax; credits against a state tax; deferrals of a state tax; or preferential state tax rates. As of the 2015 legislative session, JLARC staff estimate the state has 632 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 staff are to review tax preferences according to the schedule developed by the Commission. For each tax preference the Commission selects for a performance review, JLARC staff are to provide a recommendation to either: (1) continue; (2) allow to expire; (3) continue and modify the expiration date; (4) review and clarify; or (5) terminate the preference.

## Study Scope

The Citizen Commission selected the following tax preferences for a performance review by JLARC staff in 2016:

Brief Description and Tax Type		RCW Citation	Year Enacted
1.	Solar Energy and Silicon Product Manufacturers (B&O Tax)	82.04.294	2005
2.	Nonresident Large Private Airplanes (Sales and Use Tax)	82.08.215; 82.12.215	2013
3.	Flavor-Imparting Items (Sales and Use Tax)	82.08.210; 82.12.210	2013
4.	Clay Targets (Sales and Use Tax)	82.08.205; 82.12.205	2013
5.	Rural Electric Cooperative Finance Organizations (B&O Tax)	82.04.43394	2013
6.	Fuel Used by Mint Growers (Sales and Use Tax)	82.08.220; 82.12.220	2013
7.	Data Center Equipment (Sales and Use)	82.08.986; 82.12.986	2010

Brief Description and Tax Type		RCW Citation	Year Enacted
8.	Semiconductor Materials Manufacturing – Gases and Chemicals (Sales and Use Tax)	82.08.9651; 82.12.9651	2006
9.	Semiconductor Materials Manufacturing – Preferential Rate (B&O Tax)	82.04.2404	2006
10.	Customer-Generated Power (Public Utility Tax)	82.16.130	2005
11.	Timber and Wood Products (B&O Tax)	82.04.260(12)	2006

The Citizen Commission also identified the following additional tax preferences for a performance review by JLARC staff in 2016, if staff resources are available.

Brief Description and Tax Type		RCW Citation	Year Enacted
12.	Trade-Ins (Sales Tax)	82.08.010(1)(a)	1984
13.	Custom Software (Sales and Use Tax)	82.04.050(6)(a)(i)-(ii)	1998
14.	Syrup Taxes Paid (B&O Tax)	82.04.4486	2006
15.	Boarding Homes (B&O Tax)	82.04.2908	2004
16.	Self-Service Laundry Facilities (Sales and Use Tax)	82.04.050(2)(a)	1998
17.	Boarding Home Medicare Income (B&O Tax)	82.04.4437	2004
18.	Electric Power Sold in Rural Areas (Public Utility Tax)	82.16.053	1994
19.	Professional Employer Organization Wages (B&O Tax)	82.04.540	2006
20.	RTA Maintenance Contracts (Sales and Use Tax)	82.04.050(13)	2005

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

Brief Description and Tax Type		RCW Citation	Year Enacted
1.	Minimum Taxable Threshold (Estate Tax)	83.100.020(1)	2005
2.	Marital Deduction (Estate Tax)	83.100.047	2005
3.	Nonprofit Organization Government Grants (B&O Tax)	82.04.4297	1979
4.	Bad Debts (Sales and Use Tax)	82.08.037; 82.12.037	1982
5.	Public Corporations (Property Tax)	35.21.755	1974
6.	Donations to Nonprofits and Government Grants (Use Tax)	82.12.02595	1995
7.	Conditioned Seed Wholesaling (B&O Tax)	82.04.331	1987
8.	Tribal Lands Used for Government Purposes (Property Tax)	84.36.010(1)	2004
9.	Sellers With Limited Washington Connection (B&O Tax)	82.04.424	2003
10.	Neighborhood Revitalization (Multiple Tax)	82.73.030	2005
11.	Fund-Raising Sales of Magazines (Sales Tax)	82.08.02535	1995
12.	Food and Beverages Consumed On-Site (Litter Tax)	82.19.050(4)	2003
13.	Camps for Disabled Persons (Leasehold Excise Tax)	82.29A.130(13)	1995
14.	Computers for Publishers	82.08.806; 82.12.806	2004
15.	Legal Services for Low-Income Persons (B&O Tax)	82.04.635	2009
16.	Standing Timber (Real Estate Excise Tax)	82.45.195	2007
17.	Federal Small Business Innovation Grants (B&O Tax)	82.04.4261	2004
18.	Salmon Habitat Restoration Grants (B&O Tax)	82.04.4339	2004

Brief Description and Tax Type		RCW Citation	Year Enacted
19.	Direct Mail Delivery (Sales and Use Tax)	82.08.807; 82.12.807	2005
20.	Parking and Business Improvement Areas (B&O Tax)	82.04.4267	2005
21.	Housing for Youth in Crisis (Sales and Use Tax)	82.08.02915; 82.12.02915	1995
22.	Nonprofit Boarding Homes (B&O Tax)	82.04.4264	2005
23.	Child Care Resource and Referral (B&O Tax)	82.04.3395	1995
24.	Amphitheatre (Leasehold Excise Use Tax)	82.29A.130(18)	2005
25.	Historic Property (Leasehold Excise Tax)	82.29A.130(17)	2005
26.	Federal Small Business Technology Transfer Grants (B&O Tax)	82.04.4262	2004
27.	Treating Chemical Dependency (B&O Tax)	82.04.2906	2003
28.	Direct Mail Delivery (B&O Tax)	82.04.4272	2005
29.	Veteran Widows and Widowers (Property Tax)	84.39.010	2005
30.	Nonprofit Fundraising for Individual Artists (Property Tax)	84.36.650	2003
31.	Catering (Litter Tax)	82.19.050(5)	2005
32.	Liquefied Gasses (Petroleum Products Tax)	82.23A.010(1)	2004
33.	Natural Gas Not Delivered Via Pipeline (Use Tax)	82.12.022(3)	1994
34.	Sellers With Limited Washington Connection (Sales and Use Tax)	82.08.050(11); 82.12.040(5)	2003
35.	Semiconductor Materials Manufacturing After \$1 Billion Investment – Construction Costs (Sales and Use Tax)	82.08.965; 82.12.965	2003
35.	Semiconductor Materials Manufacturing After \$1 Billion Investment – Gases and Chemicals (Sales and Use Tax)	82.08.970; 82.12.970	2003
36.	Semiconductor Materials Manufacturing After \$1 Billion Investment – Machinery and Equipment (Property Tax)	84.36.645	2003
37.	Semiconductor Materials Manufacturing After \$1 Billion Investment – New Jobs Credit (B&O Tax)	82.04.448	2003
38.	Semiconductor Materials Manufacturing After \$1 Billion Investment – Preferential Rate (B&O Tax)	82.04.240(2)	2003
39.	Semiconductor Microchip Manufacturing after \$1 Billion Investment (B&O Tax)	82.04.426	2003
40.	Grocery Distribution Co-ops (B&O Tax)	82.04.298(2)	2001
41.	Job Training Services (B&O Tax)	82.04.4333	1996
42.	Tobacco Settlement Authority (B&O Tax)	82.04.311	2002
43.	Fuel Previously Taxed (Aircraft Fuel Tax)	82.42.020	1967
44.	Fuel Previously Taxed (Fuel Tax)	82.38.030(7)(d); 82.38.032	1923
45.	Hazardous or Toxic Waste (Solid Waste Collection Tax)	82.18.010(3)	1986
46.	Nonprofit Fundraising (Use Tax)	82.12.225	2013
47.	Nonprofit R&D (B&O Tax)	82.04.260(3)	1965
48.	Recycling or Salvage Materials (Solid Waste Collection Tax)	82.18.010(3)	1986

## 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 2016 JLARC meeting and at the August 2016 meeting of the Commission. A final report will be presented to JLARC in December 2016.

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