

# 2017 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?

In 2006, the Legislature 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 Legislature directed the staff of the Joint Legislative Audit and Review Committee (JLARC) to conduct the periodic reviews. (Chapter 43.136 RCW).

## 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.

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 the state's 600+ tax preferences at least once every ten years. The Commission meets this requirement through the development of a ten-year review schedule, which can be revised annually if needed.

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

With the 2017 reviews, the Commission will enter into the second decade of reviews. Based on the experiences of the past ten years, the Commission choose, as permitted in statute, to organize the ten-year schedule primarily by industry groupings. For 2017, the focus is on alternative energy, energy, finance, and maritime.

The Citizen Commission selected the following tax preferences for a performance review by JLARC staff in 2017:

Brief Description and Tax Type		RCW Citation	Year Enacted
1.	Renewable Energy Machinery (Sales and Use Tax)	82.08.962; 82.12.262	2009
2.	Alternative Fuel Vehicles (Sales and Use Tax)	82.08.809; 82.12.809	2005
3.	Solar Energy Machinery and Equipment (Sales and Use Tax)	82.08.963; 82.12.963	2009
4.	Standard Financial Information (Sales and Use Tax)	82.08.207; 82.12.207	2013
5.	Vessel Deconstruction (Sales and Use Tax)	82.08.9996; 82.12.9996	2014
6.	Disabled Veterans Adaptive Vehicle Equipment (Sales and Use Tax)	82.08.875; 82.12.875	2013
7.	Electric Vehicle Battery Charging Stations (Sales and Use Tax)	82.08.816; 82.12.816	2009

Brief Description and Tax Type		RCW Citation	Year Enacted
8.	Electric Vehicle Infrastructure (Leasehold Excise Tax)	82.29A.125	2009
9.	Manufactured Home Communities (Real Estate Excise Tax)	82.45.010(3)(r)	2008
10.	Electricity for Electrolyte Firms (Public Utility Tax)	82.16.0421	2009
11.	Cogeneration Facilities and Renewable Resources (Public Utility Tax)	82.16.055	1980
12.	Wood Biomass Fuel Manufacturing (B&O Tax)	82.04.260(1)(f)	2003
13.	Coal for Thermal Generating Plants (Sales and Use Tax)	82.08.811; 82.12.811	1997
14.	Electric Power Sold in Rural Areas (Public Utility Tax)	82.16.053	1994
15.	Domestic Use (Petroleum Products Tax)	82.23A.030(2)	1989

The Citizen Commission also identified the following additional tax preferences for a performance review by JLARC staff in 2017, if staff resources are available.

Brief Description and Tax Type		RCW Citation	Year Enacted
16.	Financial Institution Affiliates Income (B&O Tax)	82.04.645; 82.04.080(2)	2010
17.	Credit Unions – State Chartered (B&O Tax)	82.04.405	1970
18.	Financial Institution Investment Conduit or Securitization Entity Income (B&O Tax)	82.04.650; 82.04.080(2)	2010
19.	International Banking Facilities (B&O Tax)	82.04.315	1982
20.	Interest on Agricultural Loans (B&O Tax)	82.04.4294	1970
21.	Trust Accounts (B&O Tax)	82.04.392	1997
22.	Forfeiture of Interest in a Sales of Real Property (Real Estate Excise Tax)	82.45.010(3)(d)	1955
23.	Ferry Boats (Sales and Use Tax)	82.08.0285; 82.12.0279	1977
24.	Boats Under 16 Feet (Watercraft Excise Tax)	82.49.020(3)	1983
25.	Fuel for State or County Ferries (Sales and Use Tax)	82.08.0255(1)(d)-(e); 82.12.0256(2)(e)-(f)	2011

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.	Boats Sold to Nonresidents (Sales and Use Tax)	82.08.700; 82.12.700	2007
2.	Vessel Use by Manufacturers or Dealers (Use Tax)	82.12.800, 801, 802	1997
3.	Historic Vessels (Property Tax)	84.36.080(2)	1986
4.	Vessels Under 65 Feet in Length (Public Utility Tax)	82.16.020(1)(e)	1935
5.	Ships Under Construction (Property Tax)	84.36.079	1959
6.	Foreclosure or Deed in Lieu of Foreclosure (Real Estate Excise Tax)	82.45.010(3)(j)	1951
7.	Multi-unit Urban Housing (Property Tax)	84.14.020	1995
8.	Subsidized Housing (Leasehold Excise Tax)	82.29A.130(3)	1976
9.	Mortgage Insurers (Real Estate Excise Tax)	82.45.010(3)(k)	1951
10.	Used Mobile Homes (Sales and Use Tax)	82.08.033; 82.12.033	1979
11.	Used Floating Homes (Sales and Use Tax)	82.08.034; 82.12.034	1984
12.	Used Park Model Trailers (Sales and Use Tax)	82.08.032; 82.12.032	2001
13.	Mortgage or Other Security Interest (Real Estate Excise Tax)	82.45.010(3)(i)	1951
14.	Public Employee Housing (Leasehold Excise Tax)	82.29A.130(5)	1976
15.	Homes Pending Destruction (Leasehold Excise Tax)	82.29A.130(10)	2009
16.	Mobile Homes in Dealer Inventory (Property Tax)	84.36.510	1985
17.	Mobile Homes Possessed by Landlords (Property Tax)	84.56.335(2)	2013
18.	Housing Finance Commission (B&O Tax)	82.04.408	1983

## 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 2017 JLARC meeting and at the August 2017 meeting of the Commission. A final report will be presented to JLARC in December 2017.

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## Tax Preference Review Process

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

JLARC staff conduct reviews of tax preferences

Staff presents preliminary report to JLARC

JLARC staff present preliminary report to Commission

Commission conducts public comment session and may provide comments

Staff requests comments from OFM and agencies

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