

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

2012 Expedited Tax Preferences

May 21, 2012

This report contains information from the Department of Revenue (DOR) on 33 tax preferences selected for expedited review. JLARC does not evaluate these tax preferences, but the DOR information is provided for reference.

Upon request, this document is available in alternative formats for persons with disabilities.

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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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2012 Expedited Tax Preferences

May 21, 2012



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REPORT SUMMARY

What Is a Tax Preference?

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. Washington has over 600 tax preferences.

Why a JLARC Review of Tax Preferences?

Legislature Creates a Process to Review Tax Preferences

In 2006, the Legislature expressly stated that periodic reviews of tax preferences are needed to determine if their continued existence or modification serves the public interest. The Legislature enacted Engrossed House Bill 1069 to provide for an orderly process for the review of tax preferences. The legislation assigns specific roles in the process to two different entities. The Legislature assigns the job of scheduling tax preferences, holding public hearings, and commenting on the reviews to the Citizen Commission for Performance Measurement of Tax Preferences. The Legislature assigns responsibility for conducting the reviews to the staff of the Joint Legislative Audit and Review Committee (JLARC).

Citizen Commission Sets the Schedule

EHB 1069 directs the Citizen Commission for Performance Measurement of Tax Preferences to develop a schedule to accomplish a review of tax preferences at least once every ten years. The legislation directs the Commission to omit certain tax preferences from the schedule such as those required by constitutional law.

In 2011, the Legislature enacted Senate Bill 5044, which gave the Commission more discretion in developing the review schedule. Prior to 2012, the Commission was directed to schedule tax preferences for review in the order in which the preferences were enacted into law. Starting in 2012, the Commission may group preferences for review by type of industry, economic sector, or policy area. The Commission must still schedule tax preferences that have a statutory expiration date before the preference expires.

SB 5044 also permits the Commission to recommend an expedited review process for any tax preference. Prior to enactment, the expedited review processes was limited to preferences with a biennial fiscal impact of two million dollars or less.

In September 2011, the Commission adopted its fifth ten-year schedule for the tax preference reviews. The schedule for 2012 includes a total of 56 tax preferences under the business and occupation tax, public utility tax, sales tax, use tax, property tax, special fuel tax, leasehold excise tax, insurance premium tax, timber tax, hazardous substance tax, petroleum products tax, syrup tax, and the enhanced food fish tax. Of these tax preferences, the Commission scheduled 33 tax preferences for the expedited review process. This report addresses those 33 tax preferences. JLARC's full reviews of the remaining tax preferences as scheduled by the Commission are included in a separate report.

JLARC Staff Do Not Evaluate the Expedited Review Category of Tax Preferences

JLARC's assignment is to conduct the reviews of tax preferences according to the schedule developed by the Commission and consistent with the guidelines set forth in statute.

JLARC staff use a performance audit process to evaluate and make recommendations for tax preferences. For workload reasons the Commission directed JLARC staff to not conduct performance audits for the expedited reviews included in this report. Instead, this report provides the information contained in the Department of Revenue's (DOR's) 2008 and 2012 Tax Exemption Reports. DOR's Tax Exemption Reports summarizes each tax preference's purpose, primary beneficiaries, and taxpayer savings.

Though this report does not contain JLARC recommendations for the preferences subject to expedited review, the Commission may still elect to provide comments about these preferences for the Legislature at its October 2012 Commission meeting.

Table of Tax Preferences in the 2012 Expedited Report

Brief Description		RCW Citation	Year Enacted	Biennial Fiscal Impact
1.	Hazardous Substance Exemptions (Hazardous Substance)	82.21.040	1989	\$167,177,000
2.	Subsidized Housing (Leasehold)	82.29A.130(3)	1976	\$43,487,000
3.	Federal Government Structure Labor (Sales and Use)	82.04.050(12)	1975	\$12,265,000
4.	Cargo Containers (Property)	84.36.105	1975	\$2,901,000
5.	Manufacturing for Government (Leasehold)	82.29A.020(1)	1976	\$1,839,000
6.	Life Insurance Sales Employees (B&O)	82.04.360(1)	1991	\$1,581,000
7.	Adult Family Homes (B&O)	82.04.327	1987	\$962,000
8.	Excess Tax Credit (Leasehold)	82.29A.120(1)	1986	\$637,000
9.	Used Floating Homes (Sales and Use)	82.08.034; 82.12.034	1984	\$334,000
10.	Historic Vessels (Property)	84.36.080(2)	1986	\$333,000

Report Summary

Brief Description		RCW Citation	Year Enacted	Biennial Fiscal Impact
11.	Computers Donated to Schools (Sales and Use)	82.12.0284	1983	\$192,000
12.	Returned Motor Vehicles (Sales and Use)	82.32.065	1987	\$90,000
13.	Lodging For Homeless People (Sales and Use)	82.08.0299	1988	\$68,000
14.	Timber Tax Minimum (Timber)	84.33.086	1984	\$8,000
15.	Student Loan Organizations (B&O)	82.04.367	1987	\$0
16.	Student Loan Organizations (Property)	84.36.030(6)	1987	\$0
17.	Health Insurance Claims (B&O)	82.04.4331	1988	\$0
18.	Crude Oil (Petroleum Products)	82.23A.010(1)	1989	\$0
19.	Successive Use (Petroleum Products)	82.23A.030(1)	1989	\$0
20.	Domestic Use (Petroleum Products)	82.23A.030(2)	1989	\$0
21.	Fuel Used Before Tax Imposed (Petroleum Products)	82.23A.030(4)	1989	\$0
22.	Fuel Used To Process Petroleum Products (Petroleum Products)	82.23A.030(5)	1989	\$0
23.	Exported Petroleum Products (Petroleum Products)	82.23A.030(6)	1989	\$0
24.	Packaged Petroleum Products (Petroleum Products)	82.23A.030(7)	1989	\$0
25.	Fuel Exported In Fuel Tanks (Petroleum Products)	82.23A.040(1)	1989	\$0
26.	Syrup Previously Taxed (Syrup)	82.64.030(1)	1989	\$0
27.	Syrup Exported (Syrup)	82.64.030(2)	1989	\$0
28.	Trademarked Syrup (Syrup)	82.64.030(3)	1991	\$0
29.	Syrup Purchased Before Tax Imposed (Syrup)	82.64.030(4)	1989	\$0
30.	Public Timber (Timber)	84.33.077	1983	\$0
31.	Conservation Futures (Property)	84.36.500	1984	\$0
32.	Delinquent Penalty, Interest Waivers (Property)	84.56.025	1984	\$0
33.	Ferrosilicon (Sales and Use)	82.04.050(1)(a)(iv); 82.04.190(1)(d)	1986	*Nondisclosable

HAZARDOUS SUBSTANCE EXEMPTIONS (HAZARDOUS SUBSTANCE)

Current statute: RCW 82.21.040

Department of Revenue provided information relevant to RCW 82.21.040(1) and (3)

Department of Revenue 2012 Tax Exemption Report (p. 149):

82.21.040(1)

Description: Exemption for hazardous substance tax is allowed for any substances which were previously subject to the tax.

Purpose: To ensure that the tax applies only to the first possession of these products within the state.

Category/Year Enacted: Tax base. 1989

Primary Beneficiaries: Subsequent users of hazardous substances.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000):

	FY 2012	FY 2013	FY 2014	FY 2015
State tax	\$82,932	\$84,441	\$84,262	\$82,899
Local taxes - none.				

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

Yes, however this would change the nature of the first-possession tax.

82.21.040(3)

Description: Possession of minimal amounts of hazardous substances, determined by the Department of Ecology to be less than \$1,000 in wholesale value, is exempt from the tax, if the substance is held by a retailer for sale to consumers. The exemption does not apply to pesticides or petroleum products.

Purpose: To avoid undue tax burden on retailers of small amounts of hazardous substances.

Category/Year Enacted: Other business. 1989

Primary Beneficiaries: Approx. 1,000 retailers whose principal business is not selling hazardous substances.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000):

	FY 2012	FY 2013	FY 2014	FY 2015
State tax	\$7	\$7	\$8	\$8
Local taxes - none.				

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

Yes, however this would change the nature of the first-possession tax.

SUBSIDIZED HOUSING (LEASEHOLD)

Current statute: RCW 82.29A.130(3)

Department of Revenue 2012 Tax Exemption Report (p. 21):

Description: Excluded from leasehold excise tax are leases of subsidized housing where fee ownership is vested in the U.S. government, the state, or any political subdivision. 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 (\$000):

	FY 2012	FY 2013	FY 2014	FY 2015
State tax	\$10,733	\$11,064	\$11,407	\$11,759
Local taxes	\$9,415	\$9,706	\$10,006	\$10,315

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

Partially.

FEDERAL GOVERNMENT STRUCTURE LABOR (SALES AND USE)

Current statute: RCW 82.04.050(12)

Department of Revenue 2008 Tax Exemption Report (p. 227):

Description: Charges made for labor and services in connection with building, repairing or improving new or existing structures for the federal government or a local housing authority are excluded from the definition of retail sale. Also excluded are charges for moving earth and clearing land for these jurisdictions. The contractor must pay retail sales/use tax on materials incorporated into these projects.

Purpose: The state cannot directly tax the federal government, but it can tax contractors who do work for the federal government on the value of the materials they incorporate into the project. The impact of the sales/use tax on materials is then indirectly passed on to the federal government. The exemption for labor and services for local housing authorities helps reduce the cost for these entities.

Category/Year Enacted: Government. 1975

Primary Beneficiaries: The U.S. government and municipal housing authorities.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000):

	FY 2008	FY 2009	FY 2010	FY 2011
State tax	\$4,011	\$4,296	\$4,553	\$4,826
Local taxes	\$1,234	\$1,322	\$1,401	\$1,485

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

No; most of the impact represents federal construction which could not be taxed.

CARGO CONTAINERS (PROPERTY)

Current statute: RCW 84.36.105

Department of Revenue 2008 Tax Exemption Report (p. 42):

Description: Cargo containers that are principally used in ocean commerce are exempt from property tax.

Purpose: To help Washington ports compete with other West Coast ports.

Category/Year Enacted: Business incentive. 1975

Primary Beneficiaries: Owners of cargo containers.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000):

	CY 2008	CY 2009	CY 2010	CY 2011
State levy	\$256	\$269	\$284	\$293
Local levies	\$991	\$1,057	\$1,134	\$1,190

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

No - other taxpayers would experience reduced taxes for the state levy and most local levies.

MANUFACTURING FOR GOVERNMENT (LEASEHOLD)

Current statute: RCW 82.29A.020(1)

Department of Revenue 2012 Tax Exemption Report (p. 18):

Description: Excluded from the term "leasehold interest" is any interest in personal property owned by the U.S. government or a foreign government, if the right to use such property is part of a contract to produce articles for sale to these governments.

Purpose: To minimize the cost of the articles produced and to encourage the federal government to contract with Washington businesses.

Category/Year Enacted: Government. 1976

Primary Beneficiaries: Contractors with the federal and foreign governments.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000):

	FY 2012	FY 2013	FY 2014	FY 2015
State tax	\$481	\$485	\$488	\$492
Local taxes	\$422	\$425	\$428	\$431

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

Yes.

LIFE INSURANCE SALES EMPLOYEES (B&O)

Current statute: RCW 82.04.360(1)

Department of Revenue 2012 Tax Exemption Report (p. 55):

Description: Persons who meet the Internal Revenue Code definition of "statutory employee" are considered employees for purposes of B&O tax liability and thus are exempt. Statutory employees are independent contractors for federal income tax purposes but receive W-2s and have Social Security taxes withheld. A statutory employee must sell life insurance on a full-time basis and work primarily for one company.

Purpose: To establish a distinction between employees, whose wages are not subject to B&O tax, and independent contractors who are subject to the tax.

Category/Year Enacted: Other business. 1991

Primary Beneficiaries: Approximately 3,900 sellers of life insurance.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000):

	FY 2012	FY 2013	FY 2014	FY 2015
State tax	\$745	\$763	\$781	\$800
Local taxes - not considered.				

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

Yes, although there could be compliance difficulties in locating these persons.

ADULT FAMILY HOMES (B&O)

Current statute: RCW 82.04.327

Department of Revenue 2012 Tax Exemption Report (p. 68):

Description: Homes that provide a protected family-like environment for adult clients with developmental, physical or other disabilities are exempt from B&O tax. To qualify the home must be licensed by DSHS but does not necessarily have to be a nonprofit organization.

Purpose: To reduce the cost of operating these facilities.

Category/Year Enacted: Nonprofit - health or social welfare. 1987

Primary Beneficiaries: Approximately 2,867 homes.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000):

	FY 2012	FY 2013	FY 2014	FY 2015
State tax	\$572	\$572	\$485	\$477
Local taxes - not considered.				

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

Yes.

EXCESS TAX CREDIT (LEASEHOLD)

Current statute: RCW 82.29A.120(1)

Department of Revenue 2012 Tax Exemption Report (p. 19):

Description: Credit is allowed against leasehold tax for two types of leases: (1) leases, other than product leases, executed after April 1, 1986, and (2) leases in which the Department of Revenue determines the amount of contract rent. For both types of leases, the credit is equal to the amount that the computed leasehold tax exceeds the amount of property taxes that would apply to the leased property if the property were in private ownership.

Purpose: The credit assures that the leasehold tax, which is in lieu of property tax, does not exceed the equivalent amount of property tax.

Category/Year Enacted: Other business. 1986

Primary Beneficiaries: Lessees of public property.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000):

	FY 2012	FY 2013	FY 2014	FY 2015
State tax	\$150	\$155	\$167	\$172
Local taxes	\$131	\$136	\$147	\$151

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

Yes.

USED FLOATING HOMES (SALES AND USE)

Current statutes: RCW 82.08.034; 82.12.034

Department of Revenue 2012 Tax Exemption Report (p. 229):

Description: Exemption from retail sales/use tax is allowed for the sale, rental or lease (of more than 30 days) of a used floating home as defined in RCW 82.45.032.

Purpose: To provide tax treatment for used floating homes comparable to the treatment of residential real estate. The initial purchase of a floating home, like the construction of a residential home built for an owner by a contractor, is subject to retail sales tax. Subsequent sales of floating homes are subject to real estate excise tax rather than retail sales tax, just as they are for other homes.

Category/Year Enacted: Individuals. 1984

Primary Beneficiaries: Purchasers/renters of used floating homes.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000)*:

	FY 2012	FY 2013	FY 2014	FY 2015
State tax	\$125	\$125	\$125	\$125
Local taxes	\$42	\$42	\$42	\$42

*Impact is net of state and local real estate excise taxes.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

Yes, but unlike normal residential property, these units would be subject to both sales/use tax and real estate excise tax.

HISTORIC VESSELS (PROPERTY)

Current statute: RCW 84.36.080(2)

Department of Revenue 2008 Tax Exemption Report (p. 41):

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

Purpose: To encourage retention and restoration of historic boats.

Category/Year Enacted: Individuals. 1986

Primary Beneficiaries: Owners of approximately 20 vessels.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000):

	CY 2008	CY 2009	CY 2010	CY 2011
State levy	\$28	\$30	\$32	\$33
Local levies	\$112	\$122	\$131	\$137

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

No - other taxpayers would experience reduced taxes for the state levy and most local levies.

COMPUTERS DONATED TO SCHOOLS (SALES AND USE)

Current statute: RCW 82.12.0284

Department of Revenue 2012 Tax Exemption Report (p. 202):

Description: Use tax exemption is provided to public and private schools for computers donated to them by individuals and businesses. The exemption covers computer hardware, components and accessories, as well as computer software. (Note: a similar exemption is provided for ALL tangible personal property that is donated to a government entity or a nonprofit charitable organization. However, that statute apparently would not cover donations of computers to private, nonprofit educational institutions.)

Purpose: To encourage individuals and businesses to donate computer equipment to schools.

Category/Year Enacted: Government (and nonprofit organizations). 1983

Primary Beneficiaries: Public and private K-12 schools, as well as colleges and universities.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000):

	FY 2012	FY 2013	FY 2014	FY 2015
State tax	\$70	\$70	\$70	\$70
Local taxes	\$26	\$26	\$26	\$26

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

Yes.

RETURNED MOTOR VEHICLES (SALES AND USE)

Current statute: RCW 82.32.065

Department of Revenue 2012 Tax Exemption Report (p. 234):

Description: A credit or refund of retail sales tax paid is allowed to manufacturers of vehicles, if they refund the sales tax to customers upon the return of new vehicles under the provisions of Chapter 19.118 RCW, commonly known as the “lemon” law.

Purpose: To assure that manufacturers are not financially responsible for the sales tax, if they refund the tax previously collected to customers.

Category/Year Enacted: Other business. 1987

Primary Beneficiaries: Manufacturers of new motor vehicles that are found to be defective and ultimately the purchasers of these vehicles.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000):

	FY 2012	FY 2013	FY 2014	FY 2015
State tax	\$33	\$33	\$33	\$33
Local taxes	\$12	\$12	\$12	\$12

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

Yes.

LODGING FOR HOMELESS PEOPLE (SALES AND USE)

Current statute: RCW 82.08.0299

Department of Revenue 2012 Tax Exemption Report (p. 200):

Description: Exemption from retail sales tax is allowed for emergency lodging that is provided to homeless persons under a shelter voucher program. The exemption applies for a period of up to 30 days per recipient, and the voucher must be given by a local government agency or private organization that provides emergency food and shelter for homeless persons.

Purpose: To reduce the cost of providing housing services for the homeless.

Category/Year Enacted: Individuals. 1988

Primary Beneficiaries: Homeless persons who receive temporary lodging at hotels, etc. However, it is understood that vouchers are being replaced with longer term types of assistance.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000)*:

	FY 2012	FY 2013	FY 2014	FY 2015
State tax	\$17	\$17	\$18	\$18
Local taxes	\$15	\$15	\$16	\$16

*Impact includes hotel/motel taxes and state convention center tax.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

Yes.

TIMBER TAX MINIMUM (TIMBER)

Current statute: RCW 84.33.086

Department of Revenue 2012 Tax Exemption Report (p. 34):

Description: Any timber harvester incurring less than \$50 in timber tax liability per quarter is excused from payment of the timber excise tax.

Purpose: To support smaller harvesters and to reduce administrative costs for harvesters and the Department.

Category/Year Enacted: Other business. 1984, increased from \$10 to \$50 in 1987.

Primary Beneficiaries: Small timber harvesters, mostly harvesters of timber on private lands.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000):

	FY 2012	FY 2013	FY 2014	FY 2015
State tax	\$1	\$1	\$1	\$1
Local taxes	\$3	\$3	\$3	\$3

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

Yes.

STUDENT LOAN ORGANIZATIONS (B&O)

Current statute: RCW 82.04.367

Department of Revenue 2012 Tax Exemption Report (p. 71):

Description: B&O tax exemption is provided for the income of nonprofit organizations that issue debt for student loans and for guarantee agencies under the federal guaranteed student loan program.

Purpose: To promote the availability of student loans.

Category/Year Enacted: Nonprofit - other. 1987

Primary Beneficiaries: Nonprofit student loan organizations qualifying under this statute.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000): Due to a restructuring of the federal government's education loan process, it is believed there would be no revenue impact for this statute. The Federal Family Education Loan Program was terminated and now all education assistance is provided directly by the federal government, rather than through a nonprofit organization.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

Yes.

STUDENT LOAN ORGANIZATIONS (PROPERTY)

Current statute: RCW 84.36.030(6)

Department of Revenue 2008 Tax Exemption Report (p. 14):

Description: Property owned by nonprofit organizations that are exempt from federal income tax and are guarantee agencies under the federal guaranteed student loan program or that issue debt to provide or acquire student loans is exempt from property tax.

Purpose: To support the programs and benefits that these organization provide to college students.

Category/Year Enacted: Nonprofit - other. 1987

Primary Beneficiaries: The personal property of one organization is exempt (no real property is owned).

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000): Minimal personal property is owned by the one organization that currently operates in Washington.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

No - other taxpayers would experience reduced taxes for the state levy and most local levies.

HEALTH INSURANCE CLAIMS (B&O)

Current statute: RCW 82.04.4331

Department of Revenue 2008 Tax Exemption Report (p. 125):

Description: A B&O tax deduction was provided to insurance companies for amounts paid on medical or dental claims for state employees incurred prior to July 1, 1990.

Purpose: To prevent placing commercial insurers at a competitive disadvantage in bidding for state contracts by providing commercial insurance firms with a deduction that was available to health care contractors and health maintenance organizations.

Category/Year Enacted: Tax base. 1988

Primary Beneficiaries: None. The state now self-insures and no commercial insurer was selected to provide the uniform health plan for state employees.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000): None.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

No.

CRUDE OIL (PETROLEUM PRODUCTS)

Current statute: RCW 82.23A.010(1)

Department of Revenue 2012 Tax Exemption Report (p. 151):

Description: The definition of petroleum products includes a variety of products derived from crude oil but excludes crude oil itself.

Purpose: To avoid taxing both the products and the substance from which they are derived.

Category/Year Enacted: Tax base. 1989

Primary Beneficiaries: Refineries.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000): The petroleum products tax was last imposed during fiscal year 2010. It is not expected to be reactivated during the forecast period and therefore the exemptions are not currently applicable.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

No.

SUCCESSIVE USE (PETROLEUM PRODUCTS)

Current statute: RCW 82.23A.030(1)

Department of Revenue 2012 Tax Exemption Report (p. 152):

Description: Successive possession of petroleum products that were previously subject to the 0.5 percent petroleum products tax is exempt from the tax.

Purpose: The tax is intended to apply only to the first use of petroleum products within the state.

Category/Year Enacted: Tax base. 1989

Primary Beneficiaries: Wholesalers, distributors and retails of petroleum products.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000): The petroleum products tax was last imposed during fiscal year 2010. It is not expected to be reactivated during the forecast period and therefore the exemptions are not currently applicable.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

No.

DOMESTIC USE (PETROLEUM PRODUCTS)

Current statute: RCW 82.23A.030(2)

Department of Revenue 2008 Tax Exemption Report (p. 179):

Description: Petroleum that is used by persons (not businesses) for personal or domestic purposes is exempt from petroleum products tax.

Purpose: The tax is intended to apply only to businesses that import or produce petroleum in this state.

Category/Year Enacted: Individuals. 1989

Primary Beneficiaries: Principally applies to individuals who bring motor vehicle fuel into the state in the fuel tanks of their personal vehicles.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000): The petroleum products tax was last imposed during fiscal year 2004. It is not expected to be reactivated during the forecast period and therefore the exemptions are not currently applicable.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

No.

FUEL USED BEFORE TAX IMPOSED (PETROLEUM PRODUCTS)

Current statute: RCW 82.23A.030(4)

Department of Revenue 2008 Tax Exemption Report (p. 180):

Description: Possession of petroleum before the effective date of tax (7/1/1989) is exempt.

Purpose: To prevent the tax from applying to petroleum on which the owners did not anticipate having to pay tax.

Category/Year Enacted: Tax base. 1989

Primary Beneficiaries: None; it is assumed that there are no petroleum products remaining in inventory since 1989.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000): None.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

No.

FUEL USED TO PROCESS PETROLEUM PRODUCTS (PETROLEUM PRODUCTS)

Current statute: RCW 82.23A.030(5)

Department of Revenue 2012 Tax Exemption Report (p. 152):

Description: Exemption from petroleum products tax is provided for natural gas, petroleum coke, liquid fuel, or fuel gas that is used in processing of petroleum products.

Purpose: To exclude fuels that are consumed in processing and restrict the tax to products that are ultimately sold at retail.

Category/Year Enacted: Tax base. 1989

Primary Beneficiaries: Petroleum refiners.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000): The petroleum products tax was last imposed during fiscal year 2010. It is not expected to be reactivated during the forecast period and therefore the exemptions are not currently applicable.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

No.

EXPORTED PETROLEUM PRODUCTS (PETROLEUM PRODUCTS)

Current statute: RCW 82.23A.030(6)

Department of Revenue 2012 Tax Exemption Report (p. 153):

Description: Petroleum products that are exported for use outside of Washington are exempt from tax.

Purpose: The tax is intended to apply only to products ultimately used in this state.

Category/Year Enacted: Tax base. 1989

Primary Beneficiaries: Petroleum exporters.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000): The petroleum products tax was last imposed during fiscal year 2010. It is not expected to be reactivated during the forecast period and therefore the exemptions are not currently applicable.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

No.

PACKAGED PETROLEUM PRODUCTS (PETROLEUM PRODUCTS)

Current statute: RCW 82.23A.030(7)

Department of Revenue 2008 Tax Exemption Report (p. 182):

Description: Petroleum products that are packaged are not subject to the tax.

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 are not stored in such tanks and 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 (\$000): The extent of packaged petroleum products is believed to be minimal. Further, the petroleum products tax was last imposed during fiscal year 2004. It is not expected to be reactivated during the forecast period and therefore the exemptions are not current

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

No.

FUEL EXPORTED IN FUEL TANKS (PETROLEUM PRODUCTS)

Current statute: RCW 82.23A.040(1)

Department of Revenue 2012 Tax Exemption Report (p. 153):

Description: A credit is allowed against the petroleum products tax for fuel that is exported from the state in the fuel tank of any vehicle, including airplanes, ships or trucks.

Purpose: The tax is paid upon the first use of the products in Washington which have the potential to cause environmental damage. It is presumed that once fuel is deposited into vehicle fuel tanks that the risk to the environment is significantly reduced.

Category/Year Enacted: Tax base. 1989

Primary Beneficiaries: Refiners and wholesalers who deliver their products outside the state.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000): The petroleum products tax was last imposed during fiscal year 2010. It is not expected to be reactivated during the forecast period and therefore the exemptions are not currently applicable.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

No.

SYRUP PREVIOUSLY TAXED (SYRUP)

Current statute: RCW 82.64.030(1)

Department of Revenue 2012 Tax Exemption Report (p. 157):

Description: Successive sales of concentrated syrup used to produce carbonated beverages upon which the tax was previously paid are exempt from the soft drinks syrup tax.

Purpose: To avoid pyramiding of the tax. This exemption assures that the tax will apply only once to the same syrup.

Category/Year Enacted: Tax base. 1989

Primary Beneficiaries: Purchasers of syrup upon which tax has already been paid.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000): Minimal. There are no data on successive sales of previously taxed syrup, but it is believed that most syrup is actually used by the firm that pays the tax.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

Yes, however any revenue realization might be offset by a corresponding reduction in revenues from the B&O tax credit provided by RCW 82.04.4486 for syrup taxes paid by the buyer..

SYRUP EXPORTED (SYRUP)

Current statute: RCW 82.64.030(2)

Department of Revenue 2008 Tax Exemption Report (p. 188):

Description: Exemption is allowed for soft drink syrup that is shipped out of state.

Purpose: To limit the tax to syrup used to produce soft drinks that are consumed in this state.

Category/Year Enacted: Tax base. 1989

Primary Beneficiaries: Exporters of carbonated beverage syrup.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000): Minimal. There is no evidence of syrup taxpayers taking a deduction for out of state sales.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

No.

TRADEMARKED SYRUP (SYRUP)

Current statute: RCW 82.64.030(3)

Department of Revenue 2012 Tax Exemption Report (p. 157):

Description: Wholesale sales of trademarked carbonated beverage syrup are exempt from the syrup tax, if the syrup is sold to a bottler who is appointed by the owner of the syrup trademark to manufacture, distribute and sell the syrup. Ordinarily, the bottler of trademarked syrup uses the syrup to produce canned or bottled soft drinks; such syrup is subject to the syrup tax. But in instances where the bottler, in turn, sells the syrup to another bottler or retailer this exemption applies to the transaction, because the tax will be owed by the second purchaser of the syrup.

Purpose: To shift the tax from the bottler to the next purchaser of the trademarked syrup, so that the tax will only be paid once on each gallon of syrup.

Category/Year Enacted: Tax base. 1991

Primary Beneficiaries: Bottlers of trademarked beverages.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000): None; the tax is simply shifted to the next purchaser. In any case, the volume of sales of syrup by trademarked bottlers to other bottlers or retailers is not known.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

Yes, however any revenue realization might be offset by a corresponding reduction in revenues from the B&O tax credit provided by RCW 82.04.4486 for syrup taxes paid by the buyer.

SYRUP PURCHASED BEFORE TAX IMPOSED (SYRUP)

Current statute: RCW 82.64.030(4)

Department of Revenue 2008 Tax Exemption Report (p. 189):

Description: This exemption applies to soft drinks syrup upon which tax was paid prior to June 1, 1991.

Purpose: In 1991 the nature of the carbonated beverage tax was changed so that the wholesale transaction was taxed, instead of the first possession of the product. This exemption was then necessary to avoid double taxation of the same product.

Category/Year Enacted: Tax base. 1989

Primary Beneficiaries: No current beneficiaries.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000): None; this exemption is no longer applicable, due to the shelf-life of syrup.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

No.

PUBLIC TIMBER (TIMBER)

Current statute: RCW 84.33.077

Department of Revenue 2012 Tax Exemption Report (p. 33):

Description: Standing timber under contract for harvest on nonfederal public lands is subject to personal property tax and the timber excise tax. However, timber on private and federal land is only subject to the timber excise tax. This tax credit allows the harvester to subtract the amount of property tax paid on timber on nonfederal public lands against the timber excise tax due.

Purpose: To lessen the revenue impact on timber dependent counties. A property tax shift to non-timber property and a potential loss of revenue to taxing districts was avoided by maintaining the property tax and allowing the credit against the timber tax.

Category/Year Enacted: Other. 1983

Primary Beneficiaries: Regular purchasers of public timber. Also, local governments and owners of nontimber property who might otherwise experience an increase in property taxes.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000): In 2005, the timber tax on harvest on public lands began to be distributed to counties (phase in over 10 years). As a result, this credit is no longer utilized.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

No. This credit is no longer utilized.

CONSERVATION FUTURES (PROPERTY)

Current statute: RCW 84.36.500

Department of Revenue 2008 Tax Exemption Report (p. 26):

Description: Conservation futures on agricultural lands acquired by a governmental entity, nonprofit historic preservation corporation, or nonprofit nature conservancy are exempt from property tax on the value of the development rights. To qualify, the lands must be enrolled in the current use assessment program, the conservation futures must be for an unlimited duration, and they must effectively prohibit conversion of the parcel to a nonagricultural use.

Purpose: To encourage the retention of farm lands, particularly in urban transitional areas.

Category/Year Enacted: Nonprofit - other. 1984

Primary Beneficiaries: Nonprofit organizations that acquire the development rights to agricultural lands and the owners of the land who are thereby enabled to remain in farming.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000): No current impact. The conservation futures that have been purchased to date generally involve open space lands under RCW 84.36.260, rather than farm lands under this statute.

DELINQUENT PENALTY, INTEREST WAIVERS (PROPERTY)

Current statute: RCW 84.56.025

Department of Revenue 2008 Tax Exemption Report (p. 38):

Description: Interest and penalties on delinquent property taxes may be waived for up to 18 months if the delinquency was due to an error on the part of the county or because of hardship caused by the death of the taxpayer's spouse, parent or step-parent.

Purpose: To provide relief for taxpayers in the above situations.

Category/Year Enacted: Individuals. 1984; statute clarified in 2003 giving County Treasurers more flexibility in administering the waiver of delinquency penalties.

Primary Beneficiaries: Property owners who may owe interest and penalties in these circumstances.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000): Minimal. No county has reported any utilization of this waiver.

FERROSILICON (SALES AND USE)

Current statutes: RCW 82.04.050(1)(a)(iv); 82.04.190(1)(d)

Department of Revenue 2012 Tax Exemption Report (p. 170):

Description: Tangible personal property used in production of ferrosilicon which, in turn, is used in the production of magnesium is excluded from the definition of retail sale. The primary purpose of the exempt items must be to create a chemical reaction with an ingredient of ferrosilicon.

Purpose: To encourage magnesium production businesses to locate in Washington.

Category/Year Enacted: Business incentive. 1986

Primary Beneficiaries: Magnesium production firms.

Possible Program Inconsistency: None evident.

Taxpayer Savings (\$000): The impact of this exemption cannot be disclosed, as it is believed to affect fewer than three firms.

If the exemption were repealed, would the taxpayer savings be realized as increased revenues?

Yes.

APPENDIX 1 – SCOPE AND OBJECTIVES

2012 TAX PREFERENCE PERFORMANCE REVIEWS

SCOPE AND OBJECTIVES

OCTOBER 2011



STATE OF WASHINGTON
JOINT LEGISLATIVE AUDIT AND
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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

Brief Description and Tax Type		RCW Citation	Year Enacted
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
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.

Brief Description and Tax Type		RCW Citation	Year Enacted
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

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
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
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.

JLARC Staff Contact for the Study

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APPENDIX 2 – CURRENT LAW

Hazardous Substance Exemptions (Hazardous Substance)

82.21.040

The following are exempt from the tax imposed in this chapter:

(1) Any successive possession of a previously taxed hazardous substance. If tax due under this chapter has not been paid with respect to a hazardous substance, the department may collect the tax from any person who has had possession of the hazardous substance. If the tax is paid by any person other than the first person having taxable possession of a hazardous substance, the amount of tax paid shall constitute a debt owed by the first person having taxable possession to the person who paid the tax.

(2) Any possession of a hazardous substance by a natural person under circumstances where the substance is used, or is to be used, for a personal or domestic purpose (and not for any business purpose) by that person or a relative of, or person residing in the same dwelling as, that person.

(3) Any possession of a hazardous substance amount which is determined as minimal by the department of ecology and which is possessed by a retailer for the purpose of making sales to ultimate consumers. This exemption does not apply to pesticide or petroleum products.

(4) Any possession of alumina or natural gas.

(5) Persons or activities which the state is prohibited from taxing under the United States Constitution.

(6) Any persons possessing a hazardous substance where such possession first occurred before March 1, 1989.

[1989 c 2 § 11 (Initiative Measure No. 97, approved November 8, 1988).]

Subsidized Housing (Leasehold)

82.29A.130(3)

The following leasehold interests shall be exempt from taxes imposed pursuant to RCW 82.29A.030 and 82.29A.040:

(3) All leasehold interests of subsidized housing where the fee ownership of such property is vested in the government of the United States, or the state of Washington or any political subdivision thereof but only if income qualification exists for such housing.

[2008 c 194 § 1; 2008 c 84 § 2; 2007 c 90 § 1. Prior: 2005 c 514 § 601; 2005 c 170 § 1; 1999 c 165 § 21; 1997 c 220 § 202 (Referendum Bill No. 48, approved June 17, 1997); 1995 3rd sp.s. c 1 § 307; 1995 c 138 § 1; 1992 c 123 § 2; 1975-'76 2nd ex.s. c 61 § 13.]

Federal Government Structure Labor (Sales and Use)

82.04.050(12)

(1)(a) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who:

(i) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, but a purchase for the purpose of resale by a regional transit authority under RCW 81.112.300 is not a sale for resale; or

(ii) Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(iii) Purchases for the purpose of consuming the property purchased in producing for sale as a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

(iv) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(v) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065; or

(vi) Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (7) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

(b) The term includes every sale of tangible personal property that is used or consumed or to be used or consumed in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property is resold or used as provided in (a)(i) through (vi) of this subsection following such use.

(c) The term also means every sale of tangible personal property to persons engaged in any business that is taxable under RCW 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

(12) The term does not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other

structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor does the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor does the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development.

[2011 c 174 § 202. Prior: 2010 c 112 § 14; 2010 c 111 § 201; 2010 c 106 § 202; prior: 2009 c 563 § 301; 2009 c 535 § 301; prior: 2007 c 54 § 4; 2007 c 6 § 1004; prior: 2005 c 515 § 2; 2005 c 514 § 101; prior: 2004 c 174 § 3; 2004 c 153 § 407; 2003 c 168 § 104; 2002 c 178 § 1; 2000 2nd sp.s. c 4 § 23; prior: 1998 c 332 § 2; 1998 c 315 § 1; 1998 c 308 § 1; 1998 c 275 § 1; 1997 c 127 § 1; prior: 1996 c 148 § 1; 1996 c 112 § 1; 1995 1st sp.s. c 12 § 2; 1995 c 39 § 2; 1993 sp.s. c 25 § 301; 1988 c 253 § 1; prior: 1987 c 285 § 1; 1987 c 23 § 2; 1986 c 231 § 1; 1983 2nd ex.s. c 3 § 25; 1981 c 144 § 3; 1975 1st ex.s. c 291 § 5; 1975 1st ex.s. c 90 § 1; 1973 1st ex.s. c 145 § 1; 1971 ex.s. c 299 § 3; 1971 ex.s. c 281 § 1; 1970 ex.s. c 8 § 1; prior: 1969 ex.s. c 262 § 30; 1969 ex.s. c 255 § 3; 1967 ex.s. c 149 § 4; 1965 ex.s. c 173 § 1; 1963 c 7 § 1; prior: 1961 ex.s. c 24 § 1; 1961 c 293 § 1; 1961 c 15 § 82.04.050; prior: 1959 ex.s. c 5 § 2; 1957 c 279 § 1; 1955 c 389 § 6; 1953 c 91 § 3; 1951 2nd ex.s. c 28 § 3; 1949 c 228 § 2, part; 1945 c 249 § 1, part; 1943 c 156 § 2, part; 1941 c 178 § 2, part; 1939 c 225 § 2, part; 1937 c 227 § 2, part; 1935 c 180 § 5, part; Rem. Supp. 1949 § 8370-5, part.]

Cargo Containers (Property)

84.36.105

All cargo containers principally used for the transportation of cargo by vessels in ocean commerce shall be exempt from taxation. The term "cargo container" means a receptacle:

- (1) Of a permanent character and accordingly strong enough to be suitable for repeated use;
- (2) Specially designed to facilitate the carriage of goods, by one or more modes of transport, one of which shall be by vessels, without intermediate reloading;
- (3) Fitted with devices permitting its ready handling, particularly its transfer from one mode of transport to another; and
- (4) Designed to be easy to fill and empty.

[1975 1st ex.s. c 20 § 1.]

Manufacturing for Government (Leasehold)

82.29A.020(1)

As used in this chapter the following terms shall be defined as follows, unless the context otherwise requires:

(1) "Leasehold interest" shall mean an interest in publicly owned real or personal property which exists by virtue of any lease, permit, license, or any other agreement, written or verbal, between the public owner of the property and a person who would not be exempt from property taxes if that person owned the property in fee, granting possession and use, to a degree less than fee simple ownership: PROVIDED, That no interest in personal property (excluding land or buildings) which is owned by the United States, whether or not as trustee, or by any foreign government shall constitute a leasehold interest hereunder when the right to use such property is granted pursuant to a contract solely for the manufacture or production of articles for sale to the United States or any foreign government. The term "leasehold interest" shall include the rights of use or occupancy by others of property which is owned in fee or held in trust by a public corporation, commission, or authority created under RCW 35.21.730 or 35.21.660 if the property is listed on or is within a district listed on any federal or state register of historical sites. The term "leasehold interest" shall not include road or utility easements, rights of access, occupancy, or use granted solely for the purpose of removing materials or products purchased from a public owner or the lessee of a public owner, or rights of access, occupancy, or use granted solely for the purpose of natural energy resource exploration.

[1999 c 220 § 2; 1991 c 272 § 23; 1986 c 285 § 1; 1979 ex.s. c 196 § 11; 1975-'76 2nd ex.s. c 61 § 2.]

Life Insurance Sales Employees (B&O)

82.04.360(1)

(1) This chapter does not apply to any person in respect to his or her employment in the capacity of an employee or servant as distinguished from that of an independent contractor. For the purposes of this section, the definition of employee includes those persons that are defined in section 3121(d)(3)(B) of the federal internal revenue code of 1986, as amended through January 1, 1991.

[2010 1st sp.s. c 23 § 702; 2010 c 106 § 207. Prior: 1991 c 324 § 19; 1991 c 275 § 2; 1961 c 15 § 82.04.360; prior: 1959 c 197 § 20; prior: 1945 c 249, § 2, part; 1943 c 156 § 4, part; 1941 c 178 § 6, part; 1939 c 225 § 5, part; 1937 c 227 § 4, part; 1935 c 180 § 11, part; Rem. Supp. 1945 § 8370-11, part.]

Adult Family Homes (B&O)

82.04.327

This chapter does not apply to adult family homes which are licensed as such, or which are specifically exempt from licensing, under rules of the department of social and health services.

[1987 1st ex.s. c 4 § 1.]

Excess Tax Credit (Leasehold)

82.29A.120(1)

After computation of the taxes imposed pursuant to RCW 82.29A.030 and 82.29A.040 there shall be allowed the following credits in determining the tax payable:

(1) With respect to a leasehold interest other than a product lease, executed with an effective date of April 1, 1986, or thereafter, or a leasehold interest in respect to which the department of revenue under the authority of RCW 82.29A.020 does adjust the contract rent base used for computing the tax provided for in RCW 82.29A.030, there shall be allowed a credit against the tax as otherwise computed equal to the amount, if any, that such tax exceeds the property tax that would apply to such leased property without regard to any property tax exemption under RCW 84.36.381, if it were privately owned by the lessee or if it were privately owned by any sublessee if the value of the credit inures to the sublessee. For lessees and sublessees who would qualify for a property tax exemption under RCW 84.36.381 if the property were privately owned, the tax otherwise due after this credit shall be reduced by a percentage equal to the percentage reduction in property tax that would result from the property tax exemption under RCW 84.36.381.

[1994 c 95 § 2; 1986 c 285 § 2; 1975-'76 2nd ex.s. c 61 § 12.]

Used Floating Homes (Sales and Use)

82.08.034

The tax imposed by RCW 82.08.020 shall not apply to:

- (1) Sales of used floating homes, as defined in RCW 82.45.032;
- (2) The renting or leasing of used floating homes, as defined in RCW 82.45.032, when the rental agreement or lease exceeds thirty days in duration.

[1984 c 192 § 3.]

82.12.034

The provisions of this chapter shall not apply with respect to the use of used floating homes, as defined in RCW 82.45.032.

[1984 c 192 § 4.]

Historic Vessels (Property)

84.36.080(2)

(2) All ships and vessels listed in the state or federal register of historical places are exempt from all ad valorem taxes.

[2011 c 171 § 126; 2000 c 103 § 24; 1998 c 335 § 5; 1986 c 229 § 1; 1983 2nd ex.s. c 3 § 51; 1983 c 7 § 23; 1961 c 15 §84.36.080 . Prior: 1945 c 82 § 1; 1931 c 81 § 1; Rem. Supp. 1945 § 11111-2.]

Computers Donated to Schools (Sales and Use)

82.12.0284

The provisions of this chapter do not apply in respect to the use of computers, computer components, computer accessories, computer software, digital goods, or digital codes, irrevocably donated to any public or private nonprofit school or college, as defined under chapter 84.36 RCW, in this state. For purposes of this section, "computer" and "computer software" have the same meaning as in RCW 82.04.215.

[2009 c 535 § 617; 2007 c 54 § 15; 2003 c 168 § 603; 1983 1st ex.s. c 55 § 7.]

Returned Motor Vehicles (Sales and Use)

82.32.065

If a manufacturer makes a refund of sales tax to a consumer upon return of a new motor vehicle under chapter 19.118 RCW, the department shall credit or refund to the manufacturer the amount of the tax refunded, upon receipt of documentation as required by the department.

[1987 c 344 § 16.]

Lodging For Homeless People (Sales and Use)

82.08.0299

(1) The tax levied by RCW 82.08.020 shall not apply to emergency lodging provided for homeless persons for a period of less than thirty consecutive days under a shelter voucher program administered by an eligible organization.

(2) For the purposes of this exemption, an eligible organization includes only cities, towns, and counties, or their respective agencies, and groups providing emergency food and shelter services.

[1988 c 61 § 1.]

Timber Tax Minimum (Timber)

84.33.086

(1) The taxes imposed under this chapter shall be computed with respect to timber harvested each calendar quarter and shall be due and payable in quarterly installments. Remittance shall be made on or before the last day of the month next succeeding the end of the quarterly period in which the tax accrues. The taxpayer on or before such date shall make out a return, upon such forms and setting forth such information as the department of revenue may require, showing the amount of tax for which the taxpayer is liable for the preceding quarterly period and shall sign and transmit the same to the department of revenue, together with a remittance for the amount of tax.

(2) The taxes imposed by this chapter are in addition to any taxes imposed upon the same persons under chapter 82.04 RCW.

(3) Any harvester incurring less than fifty dollars tax liability under this section in any calendar quarter is excused from the payment of such tax, but may be required by the department of revenue to file a return even though no tax may be due.

[1987 c 166 § 1; 1984 c 204 § 10.]

Student Loan Organizations (B&O)

82.04.367

This chapter does not apply to gross income received by nonprofit organizations exempt from federal income tax under section 501(c)(3) of the internal revenue code of 1954, as amended, that:

(1) Are guarantee agencies under the federal guaranteed student loan program or that issue debt to provide or acquire student loans; or

(2) Provide guarantees for student loans made through programs other than the federal guaranteed student loan program.

[1998 c 324 § 1; 1987 c 433 § 1.]

Student Loan Organizations (Property)

84.36.030(6)

The following real and personal property shall be exempt from taxation:

(6) Property owned by nonprofit organizations exempt from federal income tax under section 501(c)(3) of the internal revenue code of 1954, as amended, that are guarantee agencies under the federal guaranteed student loan program or that issue debt to provide or acquire student loans.

[2006 c 305 § 1; 1993 c 327 § 2; 1990 c 283 § 6; 1987 c 433 § 2; 1984 c 220 § 1; 1983 1st ex.s. c 25 § 1; 1973 2nd ex.s. c 40 § 2. Prior: 1971 ex.s. c 292 § 70; 1971 ex.s. c 64 § 1; 1969 c 137 § 1; 1961 c 15 § 84.36.030; prior: 1955 c 196 § 5; prior: (i) 1939 c 206 § 8, part; 1933 ex.s. c 19 § 1, part; 1933 c 115 § 1, part; 1929 c 126 § 1, part; 1925 ex.s. c 130 § 7, part; 1915 c 131 § 1, part; 1903 c 178 § 1, part; 1901 c 176 § 1, part; 1899 c 141 § 2, part; 1897 c 71 §§ 1, 5, part; 1895 c 176 § 2, part; 1893 c 124 §§ 1, 5, part; 1891 c 140 §§ 1, 5, part; 1890 p 532 §§ 1, 5, part; 1886 p 47 § 1, part; Code 1881 § 2829, part; 1871 p 37 § 4, part; 1869 p 176 § 4, part; 1867 p 61 § 2, part; 1854 p 331 § 2, part; RRS § 11111, part. (ii) 1945 c 109 § 1; Rem. Supp. 1945 § 11111a.]

Health Insurance Claims (B&O)

82.04.4331

In computing tax, insurers as defined by RCW 48.01.050, may deduct from the measure of tax amounts paid out for claims incurred before July 1, 1990, for covered health services under medical and dental coverage purchased under chapter 41.05 RCW.

[1988 c 107 § 33.]

Crude Oil (Petroleum Products)

82.23A.010(1)

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Petroleum product" means plant condensate, lubricating oil, gasoline, aviation fuel, kerosene, diesel motor fuel, benzol, fuel oil, residual oil, and every other product derived from the refining of crude oil, but the term does not include crude oil or liquefiable gases.

[2004 c 203 § 4; 1989 c 383 § 15.]

Successive Use (Petroleum Products)

82.23A.030(1)

See below.

Domestic Use (Petroleum Products)

82.23A.030(2)

See below.

Fuel Used Before Tax Imposed (Petroleum Products)

82.23A.030(4)

See below.

Fuel Used To Process Petroleum Products (Petroleum Products)

82.23A.030(5)

See below.

Exported Petroleum Products (Petroleum Products)

82.23A.030(6)

See below.

Packaged Petroleum Products (Petroleum Products)

82.23A.030(7)

The following are exempt from the tax imposed in this chapter:

(1) Any successive possession of a previously taxed petroleum product. If tax due under this chapter has not been paid with respect to a petroleum product, the department may collect the tax from any person who has had possession of the petroleum product. If the tax is paid by any person other than the first person having taxable possession of a petroleum product, the amount of tax paid shall constitute a debt owed by the first person having taxable possession to the person who paid the tax.

(2) Any possession of a petroleum product by a natural person under circumstances where the substance is used, or is to be used, for a personal or domestic purpose (and not for any business purpose) by that person or a relative of, or person residing in the same dwelling as, that person.

(3) Persons or activities which the state is prohibited from taxing under the United States Constitution.

(4) Any persons possessing a petroleum product where such possession first occurred before July 1, 1989.

(5) Any possession of (a) natural gas, (b) petroleum coke, or (c) liquid fuel or fuel gas used in petroleum processing.

(6) Any possession of petroleum products that are exported for use or sale outside this state as fuel.

(7) Any possession of petroleum products packaged for sale to ultimate consumers.

[1989 c 383 § 17.]

Fuel Exported In Fuel Tanks (Petroleum Products)

82.23A.040(1)

(1) Credit shall be allowed in accordance with rules of the department of revenue for taxes paid under this chapter with respect to fuel carried from this state in the fuel tank of any airplane, ship, truck, or other vehicle.

(2) Credit shall be allowed, in accordance with rules of the department, against the taxes imposed in this chapter for any petroleum product tax paid to another state with respect to the same petroleum product. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to that petroleum product. For the purpose of this subsection:

(a) "Petroleum product tax" means a tax:

(i) That is imposed on the act or privilege of possessing petroleum products, and that is not generally imposed on other activities or privileges; and

(ii) That is measured by the value of the petroleum product, in terms of wholesale value or other terms, and in the determination of which the deductions allowed would not constitute the tax an income tax or value added tax.

(b) "State" means (i) a state of the United States other than Washington, or any political subdivision of such other state, (ii) the District of Columbia, and (iii) any foreign country or political subdivision thereof.

[1989 c 383 § 18.]

Syrup Previously Taxed (Syrup)

82.64.030(1)

See below.

Syrup Exported (Syrup)

82.64.030(2)

See below.

Trademarked Syrup (Syrup)

82.64.030(3)

See below.

Syrup Purchased Before Tax Imposed (Syrup)

82.64.030(4)

The following are exempt from the taxes imposed in this chapter:

- (1) Any successive sale of a previously taxed syrup.
- (2) Any syrup that is transferred to a point outside the state for use outside the state. The department shall provide by rule appropriate procedures and exemption certificates for the administration of this exemption.
- (3) Any sale at wholesale of a trademarked syrup by any person to a person commonly known as a bottler who is appointed by the owner of the trademark to manufacture, distribute, and sell such trademarked syrup within a specified geographic territory.
- (4) Any sale of syrup in respect to which a tax on the privilege of possession was paid under this chapter before June 1, 1991.

[1994 sp.s. c 7 § 907 (Referendum Bill No. 43, approved November 8, 1994); 1991 c 80 § 3; 1989 c 271 § 507.]

Public Timber (Timber)

84.33.077

The amount of any property taxes paid on timber standing on public land shall be allowed as a credit against any tax imposed with respect to the business of harvesting timber from publicly owned land under RCW 84.33.041. However, the amount of credit allowed shall not exceed the amount of excise tax due in respect to the business of harvesting timber from publicly owned land.

[1984 c 204 § 21; 1983 1st ex.s. c 62 § 8.]

Conservation Futures (Property)

84.36.500

All conservation futures on agricultural lands acquired pursuant to RCW 64.04.130 or 84.34.200 through 84.34.240, that are held by any nonprofit corporation or association, the primary purpose of which is conserving agricultural lands and preventing the conversion of such lands to nonagricultural uses, shall be exempt from ad valorem taxation if:

- (1) The conservation futures are of an unlimited duration;
- (2) The conservation futures are effectively restricted to preclude nonagricultural uses on such agricultural land; and
- (3) The lands are classified as farm and agricultural lands under chapter 84.34 RCW: PROVIDED, That at such time as these property interests are not used for the purposes enumerated in RCW 84.34.210 and 64.04.130 the additional tax specified in *RCW 84.34.108(3) shall be imposed.

[1984 c 131 § 11.]

Delinquent Penalty, Interest Waivers (Property)

84.56.025

(1) The interest and penalties for delinquencies on property taxes shall be waived by the county treasurer if the notice for these taxes due, as provided in RCW 84.56.050, was not sent to a taxpayer due to error by the county. Where waiver of interest and penalties has occurred, the full amount of interest and penalties shall be reinstated if the taxpayer fails to pay the delinquent taxes within thirty days of receiving notice that the taxes are due. Each county treasurer shall, subject to guidelines prepared by the department of revenue, establish administrative procedures to determine if taxpayers are eligible for this waiver.

(2) In addition to the waiver under subsection (1) of this section, the interest and penalties for delinquencies on property taxes shall be waived by the county treasurer under the following circumstances:

(a) The taxpayer fails to make one payment under RCW 84.56.020 by the due date on the taxpayer's personal residence because of hardship caused by the death of the taxpayer's spouse if the taxpayer notifies the county treasurer of the hardship within sixty days of the tax due date; or

(b) The taxpayer fails to make one payment under RCW 84.56.020 by the due date on the taxpayer's parent's or stepparent's personal residence because of hardship caused by the death of the taxpayer's parent or stepparent if the taxpayer notifies the county treasurer of the hardship within sixty days of the tax due date.

(3) Before allowing a hardship waiver under subsection (2) of this section, the county treasurer may require a copy of the death certificate along with an affidavit signed by the taxpayer.

[2003 c 12 § 1; 1998 c 327 § 1; 1984 c 185 § 1.]

Ferrosilicon (Sales and Use)

82.04.050(1)(a)(iv)

(1)(a) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who:

(iv) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

[2011 c 174 § 202. Prior: 2010 c 112 § 14; 2010 c 111 § 201; 2010 c 106 § 202; prior: 2009 c 563 § 301; 2009 c 535 § 301; prior: 2007 c 54 § 4; 2007 c 6 § 1004; prior: 2005 c 515 § 2; 2005 c 514 § 101; prior: 2004 c 174 § 3; 2004 c 153 § 407; 2003 c 168 § 104; 2002 c 178 § 1; 2000 2nd sp.s. c 4 § 23; prior: 1998 c 332 § 2; 1998 c 315 § 1; 1998 c 308 § 1; 1998 c 275 § 1; 1997 c 127 § 1; prior: 1996 c 148 § 1; 1996 c 112 § 1; 1995 1st sp.s. c 12 § 2; 1995 c 39 § 2; 1993 sp.s. c 25 § 301; 1988 c 253 § 1; prior: 1987 c 285 § 1; 1987 c 23 § 2; 1986 c 231 § 1; 1983 2nd ex.s. c 3 § 25; 1981 c 144 § 3; 1975 1st ex.s. c 291 § 5; 1975 1st ex.s. c 90 § 1; 1973 1st ex.s. c 145 § 1; 1971 ex.s. c 299 § 3; 1971 ex.s. c 281 § 1; 1970 ex.s. c 8 § 1; prior: 1969 ex.s. c 262 § 30; 1969 ex.s. c 255 § 3; 1967 ex.s. c 149 § 4; 1965 ex.s. c 173 § 1; 1963 c 7 § 1; prior: 1961 ex.s. c 24 § 1; 1961 c 293 § 1; 1961 c 15 § 82.04.050; prior: 1959 ex.s. c 5 § 2; 1957 c 279 § 1; 1955 c 389 § 6; 1953 c 91 § 3; 1951 2nd ex.s. c 28 § 3; 1949 c 228 § 2, part; 1945 c 249 § 1, part; 1943 c 156 § 2, part; 1941 c 178 § 2, part; 1939 c 225 § 2, part; 1937 c 227 § 2, part; 1935 c 180 § 5, part; Rem. Supp. 1949 § 8370-5, part.]

82.04.190(1)(d)

"Consumer" means the following:

(1) Any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of the person's business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose of:

(d) Consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

[2010 c 111 § 202; 2010 c 106 § 204; 2009 c 535 § 302; 2007 c 6 § 1008; 2005 c 514 § 103. Prior: 2004 c 174 § 4; 2004 c 2 § 8; 2002 c 367 § 2; prior: 1998 c 332 § 6; 1998 c 308 § 2; prior: 1996 c 173 § 2; 1996 c 148 § 4; 1996 c 112 § 2; 1995 1st sp.s. c 3 § 4; 1986 c 231 § 2; 1985 c 134 § 1; 1983 2nd ex.s. c 3 § 27; 1975 1st ex.s. c 90 § 2; 1971 ex.s. c 299 § 4; 1969 ex.s. c 255 § 4; 1967 ex.s. c 149 § 6; 1965 ex.s. c 173 § 4; 1961 c 15 § 82.04.190 ; prior: 1959 ex.s. c 3 § 3; 1957 c 279 § 2; 1955 c 389 § 20; prior: 1949 c 228 § 2, part; 1945 c 249 § 1, part; 1943 c 156 § 2, part; 1941 c 178 § 2, part; 1939 c 225 § 2, part; 1937 c 227 § 2, part; 1935 c 180 § 5, part; Rem. Supp. 1949 § 8370-5, part.]