19-08 FINAL REPORT:

2019 TAX PREFERENCE PERFORMANCE REVIEWS

Commuter Air Carrier Airplanes (Property Tax)

LEGISLATIVE AUDITOR'S CONCLUSION:

The preference streamlines tax reporting for one of three commuter air carriers in Washington. However, the qualifying carrier is paying an estimated 50% to 63% less in excise tax than it would have paid in property tax.

December 2019

Qualifying commuter air carriers are exempt from property tax if they pay a special excise tax on their airplanes

The preference provides a property tax exemption for commuter air carriers if they pay a special aircraft excise tax on the airplanes they own and operate. The preference is limited to commuter air carriers that are primarily located on privately owned property.

Estimated Biennial Beneficiary Savings $186,000 to $254,000
Tax Types Property Tax RCW 84.36.133 Applicable Statutes

Commuter air carriers:

- Operate "small aircraft" with 60 or fewer seats.
- Carry passengers on at least 5 round-trip flights per week.
- Fly according to published flight schedules.

The preference took effect January 1, 2014, and has no expiration date.

JLARC staff separately reviewed a sales and use tax exemption for commuter air carriers that purchase and repair airplanes used primarily for in-state travel. The 2019 review can be found here.

Inferred public policy objectives

The Legislature did not state a public policy objective when it passed this preference in 2013. JLARC staff infer two public policy objectives based on testimony to the Legislature.

Objectives (Inferred)	Results
1. Streamline and simplify tax reporting for qualifying commuter air carriers.	**Met**. The preference is streamlining and simplifying tax reporting for one beneficiary and the Department of Revenue.
2. Provide an alternative to property tax for certain commuter air carriers if they pay an aircraft excise tax that is similar to the amount they would have paid in property tax.	**No longer met**. JLARC staff estimate the one qualifying commuter air carrier pays between 50% to 63% less in excise tax than it would have paid in property tax.

Recommendations

Legislative Auditor's Recommendation: Modify

The preference is meeting one of two inferred objectives. While it is simplifying reporting for one taxpayer and the Department of Revenue, it is not providing an alternative to property tax that results in a similar amount of tax paid.

The Legislature should modify the preference to:

- Provide a method to equalize commuter air carrier excise tax fees on airplanes with property taxes over time.
- Clarify why the preference is limited to commuter air carriers primarily located on private property.
- Provide a performance statement with stated objectives and metrics to determine if objectives are met.

More information is available on the Recommendations Tab.

Commissioners' Recommendation

The Commission endorses the Legislative Auditor's recommendation with comment. Extensive calculations by the Legislative Auditor suggests that current tax methodology is not revenue neutral relative to the older, more complicated methodology. The Legislature should be aware that the lack of neutrality is not the fault of industry; it's an unintended consequence of much needed tax simplification. Because the new methodology has been in place since 2014, the industry has already budgeted in the current tax going forward. Therefore, should the Legislature decide to adjust the tax, it should be done in a way that increases the burden very gradually. Industry testimony indicates they operate with narrow margins and abrupt changes in costs can be difficult to absorb. The ability to absorb tax changes is an important consideration given that industry testimony and the Legislative Auditor's research shows the industry provides unique transportation services to residents in remote parts of the state.

Committee Action to Distribute Report

On December 4, 2019 this report was approved for distribution by the Joint Legislative Audit and Review Committee.

Action to distribute this report does not imply the Committee agrees or disagrees with the Legislative Auditor recommendations.

REVIEW DETAILS

1. What is the preference?

Qualifying commuter air carriers pay special aircraft excise tax in lieu of property tax on their airplanes

This preference, in combination with related statutes, provides a property tax exemption for qualifying commuter air carriers. Qualifying carriers pay a special aircraft excise tax in lieu of property tax on the airplanes they own and operate.

The two inferred objectives for the preference are to streamline and simplify tax reporting, and ensure that beneficiaries continue to pay a similar amount in excise tax that they would have paid in property tax.

Commuter air carriers:

- Operate "small aircraft" with 60 or fewer seats.
- Carry passengers on at least 5 round-trip flights per week.
- Fly according to published flight schedules.

Legislature created special aircraft excise tax to be paid in lieu of property tax

In 2013, the Legislature established a special aircraft excise tax fee schedule for qualifying commuter air carriers. The fees are based on an airplane's weight and do not change over time. The Department of Revenue (DOR) and stakeholders testified when the legislation was passed that the amount collected from the excise tax would be similar to the amount carriers would pay if they owed property tax on their airplanes.

Exhibit 1.1: Special excise tax fees are based on airplane weight

Gross Maximum Weight of Airplane at Take-Off	Annual Excise Tax Fee
4,000 pounds or less	$500
4,001 - 6,000 pounds	$1,000
6,001 - 8,000 pounds	$2,000
8,001 - 9,000 pounds	$3,000
9,001 - 12,500 pounds	$4,000

Source: JLARC staff analysis of RCW 82.48.030(1)(b).

To qualify, commuter air carriers must locate their airplanes primarily on privately owned land

The preference is limited to carriers that are "primarily" located on privately owned land, rather than publicly owned airports. DOR interprets "primarily" to mean more than 50% of the time.

Legislative staff and stakeholders testified in 2013 that one commuter air carrier, Kenmore Air, qualified for the preference. The Washington State Department of Transportation Aviation Division also identified Kenmore Air in their fiscal note for the 2013 legislation.

There was no public discussion on why the preference was limited to carriers that are primarily located on private property. The two other commuter air carriers currently based in Washington do not qualify for this preference because they are primarily located on publicly owned property.

Exhibit 1.2: One of three Washington-based commuter air carriers qualifies for preference

Corporate Name	Commuter Air Carrier Business Name	Base City	Qualifies for Preference?
Kenmore Air Harbor, Inc.	Kenmore Air Express; Kenmore Air	Kenmore	Yes
Rugby Aviation, Inc.	San Juan Airlines	Bellingham	No
West Isle Air, Inc.	Friday Harbor Seaplanes	Renton	No

Source: JLARC staff analysis of Federal Department of Transportation data, viewed 12/07/2018, and interviews with commuter air carriers.

Preference has no expiration date

The preference took effect January 1, 2014, and has no expiration date.

2. Tax reporting is streamlined

Inferred objective of streamlining and simplifying tax reporting is achieved for one beneficiary and the Department of Revenue

The Legislature did not state a public policy objective when it passed this preference in 2013. Based on testimony to the Legislature, JLARC staff infer that one objective was to streamline and simplify tax reporting.

The preference is achieving this inferred objective for the Department of Revenue (DOR) and Kenmore Air, the only qualifying commuter air carrier.

In 2013, DOR and Kenmore Air representatives testified that the process to establish mutually agreed-upon market values for their airplanes was burdensome and time consuming. They noted that establishing aircraft excise tax fees in lieu of property tax rates would result in a similar amount of tax being paid, while simplifying and streamlining the process.

For most air transportation companies, including commuter air carriers, DOR auditors conduct an annual "central assessment" audit. A central assessment audit determines the market value of all of the company's real and personal property, which is then subject to applicable state and local property taxes.

The 2013 legislation specifically exempted a commuter air carrier primarily located on private property from paying property tax if they paid an alternative aircraft excise tax. To date, Kenmore Air is the only commuter air carrier that has qualified to pay the aircraft excise tax in lieu of property tax.

3. Excise tax no longer equal to estimated property tax

Second objective of having commuter air carriers pay similar amount in aircraft excise tax no longer being achieved

When the Legislature considered this preference in 2013, Kenmore Air and the Department of Revenue described the preference as an alternative method for tax collection that would result in a similar amount of tax paid. The second inferred objective is to provide a tax alternative to qualifying commuter air carriers that results in a similar amount of tax paid.

JLARC staff estimate that the one qualifying commuter air carrier pays between 50% to 63% less in excise tax for its airplanes than it would pay in property tax.

Preference impacts state revenues and individual tax reporting in several ways

There are several revenue impacts from allowing commuter air carriers to pay aircraft excise tax in lieu of property tax:

- **The net tax paid by the qualifying commuter air carrier decreases**. JLARC staff estimate the aircraft excise tax paid in 2018 was between 50% to 63% less than what the property tax bill would likely have been on the same fleet of airplanes.
- While state property tax collections do not change, **the preference shifts the burden for paying the property tax onto other county taxpayers**, increasing their tax bill slightly. Since Kenmore Air is based in King County, this shift impacts other King County taxpayers. For calendar years 2018 through 2021, the state property tax levy is collected on a rate-based system. During this time, the exemption results in a tax revenue loss. Beginning in calendar year 2022, the exemption will result in a shift.
- **Aircraft excise tax collections increase**. The excise tax paid by the one qualifying commuter air carrier is deposited into the Aeronautics Account, a dedicated fund used directly for aviation purposes.

In 2021-23 biennium, estimated aircraft excise taxes are $94,000 compared to beneficiary property tax savings of between $186,000 and $254,000

Kenmore Air is the only carrier that has qualified for and used the preference. To estimate the beneficiary savings, JLARC staff consulted with several entities to establish current market values for the fleet of airplanes that were subject to excise tax in 2018:

- Washington State Department of Transportation's Aviation Division to identify all of Kenmore Air's airplanes that were subject to 2018 excise tax.
- Department of Revenue (DOR) to estimate the current (2018) market value for those airplanes.
- Representatives from the commuter air carrier industry to determine the accuracy of the market values established with the assistance of DOR staff. In many cases, the industry representatives provided alternative market values for the airplanes.

Based on these consultations, JLARC staff estimate a range for property tax beneficiary savings. For fiscal year 2018, the range is between $93,000 and $127,000. For the 2021-23 biennium, the estimated range is between $186,000 and $254,000.

Any business that benefits from this preference must pay commuter air carrier aircraft excise tax in lieu of property tax. The excise tax fees paid in lieu of property tax in 2018 were $46,417. This amount is between 50% to 63% less than what JLARC staff estimates would have been paid in property tax for fiscal year 2018.

The aircraft excise tax fees are based on an airplane's weight and remain the same each year. In contrast, the market value of airplanes and property tax rates may fluctuate from year to year. While the amount Kenmore Air paid in aircraft excise tax may have been similar to property tax rates when the tax preference began, the amounts are no longer aligned.

Exhibit 3.1 Estimated property tax beneficiary savings do not equal aircraft excise tax payments

Biennium	Fiscal Year	Range of Estimated State and Local Property Tax	Aircraft Excise Tax Paid (Actual for 2018; estimated for 2019 and beyond)	Estimated Gap Between Aircraft Excise Tax Paid and Estimated Property Tax
2017-19 *7/1/17-6/30/19*	2018	$93,000 - $127,000	$46,417	$46,583 - $80,583
	2019	$91,000 - $126,000	$47,000	$44,000 - $79,000
2019-21 *7/1/19-6/30/21*	2020	$91,000 - $126,000	$47,000	$44,000 - $79,000
	2021	$93,000 - $127,000	$47,000	$46,000 - $80,000
2021-23	2022	$93,000 - $127,000	$47,000	$46,000 - $80,000

Biennium	Fiscal Year	Range of Estimated State and Local Property Tax	Aircraft Excise Tax Paid (Actual for 2018; estimated for 2019 and beyond)	Estimated Gap Between Aircraft Excise Tax Paid and Estimated Property Tax
7/1/21-6/30/23	2023	$93,000 - $127,000	$47,000	$46,000 - $80,000
	2021-23 Biennium	$186,000 - $254,000	$94,000	$92,000 - $160,000

Source: JLARC staff analysis of data based on consultations with staff from: 1. Department of Revenue Property Tax and Research and Fiscal Analysis divisions, 2. King County Assessor's Office, 3. Washington State Department of Transportation Aviation Division, and 4. Kenmore Air personnel. Estimated property tax due in fiscal years 2019 and 2020 are lower than 2018 due to a required $0.30 property tax rate decrease in calendar year 2019 per RCW 84.52.065(2)(a)(I).

4. Applicable statutes

RCW 84.36.133

Aircraft owned and operated by a commuter air carrier.

(1) An aircraft owned and operated by a commuter air carrier in respect to which the tax imposed under RCW 82.48.030 has been paid for a calendar year is exempt from property taxation for that calendar year.

(2) For the purposes of this section, "aircraft" and "commuter air carrier" have the same meanings as provided in RCW 82.48.010.

Additional statutes were passed in the 2013 legislation that work together to create this targeted preference.

RCW 84.12.200

Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) "Airplane company" means and includes any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the conveyance and transportation of persons and/or property by aircraft, and engaged in the business of transporting persons and/or property for compensation, as owner, lessee or otherwise.

(b) "Airplane company" does not include a "commuter air carrier" as defined in RCW 82.48.010, whose ground property and equipment is located primarily on privately held real property . . .

RCW 82.48.010

Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Aircraft" means any weight-carrying device or structure for navigation of the air which is designed to be supported by the air.

(2) "Commuter air carrier" means an air carrier holding authority under Title 14, Part 298 of the code of federal regulations that carriers passengers on at least five round trips per week on at least one route between two or more points according to its published flight schedules that specify the times, days of the week, and places between which those flights are performed.

RECOMMENDATIONS & RESPONSES

Legislative Auditor's Recommendation

Legislative Auditor's Recommendation: Modify

The preference is meeting one of two inferred objectives. While it is simplifying reporting for one taxpayer and the Department of Revenue , it is not providing an alternative to property tax that results in a similar amount of tax paid.

The Legislature should modify the preference to:

- Provide a method to equalize commuter air carrier excise tax fees on airplanes with property taxes over time.
- Clarify why the preference is limited to commuter air carriers primarily located on private property.
- Provide a performance statement with stated objectives and metrics to determine if objectives are met.

Legislation Required: Yes

Fiscal Impact: Depends on legislation.

Letter from Commission Chair

State of Washington

Citizen Commission for Performance Measurement of Tax Preferences

COMMISSION MEMBERS		NON-VOTING MEMBERS
Dr. Grant Forsyth ***Chair*** Avista Corp. **Ronald Bueing** ***Vice Chair*** **Diane Lourdes Dick** Seattle University School of Law	**Dr. Justin Marlowe** Evans School of Public Policy and Governance University of Washington **Andi Nofziger-Meadows** Edmonds Education Association	**Senator Mark Mullet** *Chair*, Joint Legislative Audit and Review Committee **Pat McCarthy** State Auditor

106 11th Ave SW, PO Box 40910, Olympia, WA 98504-0910 | Phone: 360-786-5171 | Fax: 360-786-5180
E-mail: JLARC@leg.wa.gov | Website: www.citizentaxpref.wa.gov | Twitter: @WALegAuditor

October 30, 2019

The Honorable Representative Timm Ormsby
The Honorable Representative Drew Stokesbary
The Honorable Representative Cindy Ryu
The Honorable Representative Bill Jenkin
The Honorable Representative Zack Hudgins
The Honorable Representative Norma Smith
The Honorable Representative Gael Tarleton
The Honorable Representative Ed Orcutt
The Honorable Senator Patty Kuderer
The Honorable Senator Hans Zeiger
The Honorable Senator Mark Mullet
The Honorable Senator Lynda Wilson
The Honorable Senator Christine Rolfes
The Honorable Senator John Braun

Re: 2019 Tax Preference Reviews

Dear Senators and Representatives,

I am pleased to forward to you the comments that the Citizen Commission for Performance Measurement of Tax Preferences unanimously adopted for this year's review of tax preferences. The Citizen Commission consists of five voting members, with a member appointed by each of the four caucuses and the Governor's office. Notably, reviews this year included the $569M aerospace preferences that were expanded and extended in 2013, as well as a $262M preference to encourage development of multifamily and affordable housing.

We adopted positions similar to the Legislative Auditor for eight of the nine recommendations issued this year. I would like to call your attention to a recommendation from the Citizen Commission to the Legislature to form a taskforce to improve the information available to the Legislature on the use and consistency of the multifamily tax preference.

The full text of our Commissioner recommendations, summaries of the JLARC staff's analysis and recommendations, and brief video summaries of each preference are available on the 2019 Tax Preference Reviews overview page linked here.

Tax preference reviews provide valuable information as the Legislature considers whether specific preferences are meeting the Legislature's policy objectives. With this year's report, there are now 13 years of tax preference evaluations available to the Legislature, comprising over 296 individual reviews.

I urge you to consider this year's and previous years' recommendations and comments on tax preference statutes in the upcoming legislative session. An interactive summary of legislative action on prior reviews is available here.

As Chair of the Citizen Commission, I would be pleased to discuss the Commission's position and comments with you and any interested legislators. Please feel free to contact me (grant.forsyth@leg.wa.gov) or the Legislative Auditor, Keenan Konopaski (keenan.konopaski@leg.wa.gov or 360-786-5187).

Sincerely,

Grant D. Forsyth

Grant D. Forsyth, Chair
Citizen Commission for Performance Measurement of Tax Preferences

Commissioners' Recommendation

The Commission endorses the Legislative Auditor's recommendation with comment. Extensive calculations by the Legislative Auditor suggests that current tax methodology is not revenue neutral relative to the older, more complicated methodology. The Legislature should be aware that the lack of neutrality is not the fault of industry; it’s an unintended consequence of much needed tax simplification. Because the new methodology has been in place since 2014, the industry has already budgeted in the current tax going forward. Therefore, should the Legislature decide to adjust the tax, it should be done in a way that increases the burden very gradually. Industry testimony indicates they operate with narrow margins and abrupt changes in costs can be difficult to absorb. The ability to absorb tax changes is an important consideration given that industry testimony and the Legislative Auditor’s research shows the industry provides unique transportation services to residents in remote parts of the state.

Agency Response

STATE OF WASHINGTON

October 1, 2019

TO: Keenan Konopaski, Legislative Auditor
Joint Legislative Audit and Review Committee

FROM: David Schumacher, Director
Office of Financial Management

Vikki Smith, Director
Department of Revenue

SUBJECT: JLARC PRELIMINARY REPORT ON 2019 TAX PREFERENCE PERFORMANCE REVIEWS

The Office of Financial Management and Department of Revenue have reviewed the Joint Legislative Audit and Review Committee's (JLARC) preliminary report on the 2019 tax preference performance reviews.

We appreciate JLARC's thorough analysis and the detailed assessment provided by the Citizen Commission for Performance Measurement of Tax Preferences. A system that provides for a continuous review of state tax preferences is critical to ensure that the state of Washington maintains a fair and equitable tax system.

The Department of Revenue has provided a formal response on the property tax exemption for multifamily housing in urban areas. While we have no specific comments on the other eight preferences in the 2019 preliminary report, we continue to support JLARC's recommendations for the inclusion of performance statements and specific public policy objectives for all tax preferences where they do not exist in statute today.

Thank you for the opportunity to provide comments on this material and the recommendations made by JLARC.

MORE ABOUT THIS REVIEW

Study questions

WASHINGTON JLARC

Proposed Study Questions: Commuter Air Carriers Paying Aircraft Excise Tax

State of Washington Joint Legislative Audit and Review Committee • September 2018

Citizen Commission scheduled a JLARC study of a property tax exemption for airplanes owned by certain Washington commuter air carriers

The 2006 Legislature directed the staff of the Joint Legislative Audit and Review Committee (JLARC) to conduct performance audits of tax preferences. This preference is included in the 10-year review schedule set by the Citizen Commission for Performance Measurement of Tax Preferences.

In 2013, the Legislature provided a property tax exemption for airplanes owned by certain commuter air carriers. Instead, they are subject to a special aircraft excise tax. The preference has no expiration date.

Eligible carriers must:

- Locate their aircraft primarily on privately held land (e.g., land that is not owned by a governmental entity or port).
- Pay a special aircraft excise tax on their airplanes.

Commuter air carriers:

- Operate "small aircraft" with 60 or fewer seats.
- Carry passengers on at least 5 round-trip flights per week.
- Fly according to published flight schedules

JLARC staff are also separately reviewing a sales and use tax exemption in 2019 for commuter air carriers that use airplanes to provide in-state travel.

2019 study will address whether this preference streamlined and simplified tax reporting and provided a revenue-neutral alternative for eligible carriers

The Legislature did not state an objective for this preference when it was enacted. Based on objectives inferred from comments made by the Department of Revenue and stakeholders, JLARC staff will answer two study questions.

Inferred objectives	Study questions
Streamline and simplify tax reporting	1) Has the tax preference streamlined and simplified tax reporting for the state and taxpayers?
Provide a revenue-neutral alternative to personal property tax for certain commuter air carriers	2) Is the amount of revenue generated from aircraft excise tax similar to the amount that would be collected if the same air carriers paid personal property tax?

Joint Legislative Audit & Review Committee, 106 11th Ave SW, Olympia, WA 98501
(360) 786-5171 • (360)786-5180 (fax) • JLARC@leg.wa.gov • www.jlarc.leg.wa.gov
Keenan Konopaski, Washington State Legislative Auditor

Proposed Study Questions: Commuter Air Carriers Paying Aircraft Excise Tax

Study Timeframe

Preliminary Report:	July 2019	Proposed Final Report: December 2019

Study Team

Team Lead:	Dana Lynn	360.786.5177	dana.lynn@leg.wa.gov
Research Analyst:	Eric Whitaker	360.786.5618	eric.whitaker@leg.wa.gov
Project Coordinator:	Eric Thomas	360.786.5182	eric.thomas@leg.wa.gov

JLARC Study Process

- Study Mandate — Budget, legislation, committee direction
- Proposed Study Questions
- Legislative Auditor's Preliminary Report
- For Tax Preferences:
  - Citizen Commission meeting
  - Public testimony
  - Commission adopts comments
- Legislative Auditor's Proposed Final Report — Agency response included
- Final Report — Option to append committee comment
  - *Committee votes to distribute completed audit*

More about 2019 reviews

Audit authority

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

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

The statutory authority for JLARC, established in Chapter 44.28 RCW, requires the Legislative Auditor to ensure that JLARC studies are conducted in accordance with Generally Accepted Government Auditing Standards, as applicable to the scope of the audit. This study was conducted in accordance with those applicable standards. Those standards require auditors to plan and perform audits to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on the audit objectives. The evidence obtained for this JLARC report provides a reasonable basis for the findings and conclusions, and any exceptions to the application of audit standards have been explicitly disclosed in the body of this report.

Timeframe for the study

A preliminary audit report will be presented at the July 2019 JLARC meeting and at the August 2019 meeting of the Commission. A final report will be presented to JLARC in December 2019.

Committee Action to Distribute Report

On December 4, 2019 this report was approved for distribution by the Joint Legislative Audit and Review Committee.

Action to distribute this report does not imply the Committee agrees or disagrees with the Legislative Auditor recommendations.

More about 2019 reviews

Study process

What is a tax preference?

Tax preferences are defined in statute (RCW 43.136.021) as 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 approximately 600 tax preferences.

Why a review of tax preferences?

Legislature creates a process to review tax preferences

In 2006, the Legislature 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 (RCW 43.136).

Statute assigns specific roles to two different entities:

- The Citizen Commission for Performance Measurement of Tax Preferences ("The Commission") creates a schedule for reviews, holds public hearings, and comments on the reviews.
- Staff to the Joint Legislative Audit and Review Committee (JLARC) conduct the reviews.

Citizen Commission sets the schedule

The Legislature directed the Commission to develop a schedule to accomplish an orderly review of most tax preferences over ten years. The Commission is directed to omit certain tax preferences from the schedule, such as those required by constitutional law. The Commission may also exclude preferences from review that the Commission determines are a critical part of the tax structure.

The Commission conducts its reviews based on analysis prepared by JLARC staff. In addition, the Commission may elect to rely on information supplied by the Department of Revenue.

In 2019, JLARC staff reviewed 17 preferences compiled into nine reports (similar preferences may be combined into one report). The Commission's website includes analysis of preferences completed in previous years: See http://www.citizentaxpref.wa.gov/.

JLARC staff's approach to the tax preference reviews

Statute guides the main topics typically covered in the reviews.

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 impacts of government activities funded by the tax? (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)

JLARC staff's analysis process

JLARC staff carefully analyze a variety of evidence in conducting these reviews:

- Legal and public policy history of the tax preferences.
- Beneficiaries of the tax preferences.
- Government and other relevant data pertaining to the utilization of these tax preferences.
- Economic and revenue impact of the tax preferences.
- Other states' laws to identify similar tax preferences.

Key: understanding the purpose of the preference

The Legislature now requires that any legislation creating a new preference, or expanding or extending an existing preference, must include a tax preference performance statement. The performance statement must contain a statement of legislative purpose as well as metrics to evaluate the effectiveness of the preference (RCW 82.32.808).

Some of the preferences included in this report were passed before the 2013 legislation that requires performance statements. When a preference's purpose or objective is identified in statute, staff are able to affirmatively state the public policy objective. Sometimes the objective may be found in intent statements or in other parts of statute if there is no tax preference performance statement.

When the Legislature did not state the public policy objective of a preference, JLARC staff may be able to infer what the implied public policy objective might be. To arrive at this inferred policy objective, staff review the following:

- Legislative history, including
  - Final bill reports for any statements on the intent or public policy objectives.
  - Bills prior to the final version and legislative action on bills related to the same topic.
  - Bill reports and testimony from various versions of the bill.
  - Records of floor debate.
- Relevant court cases that provide information on the objective.
- Department of Revenue information on the history of tax preferences, including rules, determinations, appeals, audits, and taxpayer communication.
- Press reports during the time of the passage of the bill which may indicate the intention of the preference.
- Other historic documents, such as stakeholder statements, that may address the issue addressed by the tax preference.

JLARC staff also interview the agencies that administer the tax preferences or are knowledgeable of the industries affected by the tax. Agencies may provide data on the value and usage of the tax preference and the beneficiaries. If the beneficiaries of the tax are required to report to other state or federal agencies, JLARC staff will also obtain data from those agencies.

If there is sufficient information in this evidence to infer a policy objective, JLARC staff state that in the reviews. In these instances, the purpose may be a more generalized statement than when there is explicit statutory language.

More about 2019 reviews

Contact information

JLARC staff members

Dana Lynn, **Research Analyst** - 360-786-5177
Rachel Murata, **Research Analyst** - 360-786-5293
Pete van Moorsel, **Research Analyst** - 360-786-5185
Eric Whitaker, **Research Analyst** - 360-786-5618
Zack Freeman, **Research Analyst** - 360-786-5179
Josh Karas, **Research Analyst** - 360-786-5298
Aaron Cavin, **Research Analyst** - 360-786-5194

Eric Thomas, Audit Coordinator
Keenan Konopaski, Legislative Auditor

JLARC members on publication date

Senators

Bob Hasegawa
Mark Mullet, *Chair*
Rebecca Saldaña
Shelly Short
Dean Takko
Lynda Wilson, *Secretary*
Keith Wagoner

Representatives

Jake Fey
Noel Frame
Larry Hoff
Christine Kilduff
Vicki Kraft
Ed Orcutt, *Vice Chair*
Gerry Pollet, *Assistant Secretary*
Drew Stokesbary

Citizen Commission for Performance Measurement of Tax Preferences

Voting members

Dr. Grant D. Forsyth
Ronald L. Bueing
Diane Lourdes Dick
Dr. Justin Marlowe
Andi Nofziger-Meadows

Non-voting members

Mark Mullet, JLARC Chair
Pat McCarthy, State Auditor

Washington Joint Legislative Audit and Review Committee

106 11th Avenue SW, Suite 2500
PO Box 40910
Olympia, WA 98504-0910

Phone: 360-786-5171
Fax: 360-786-5180
Email: JLARC@leg.wa.gov