PRELIMINARY 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.

July 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 Type 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

Available October 2019.

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 *7/1/21-6/30/23*	2022	$93,000 - $127,000	$47,000	$46,000 - $80,000
	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

Available October 2019.

Commissioners' Recommendation

Available October 2019.

Agency Response

If applicable, available December 2019.

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?

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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

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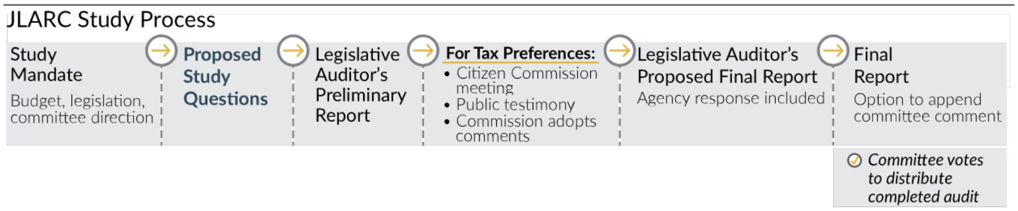

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