

# 2013 Tax Preference Performance Reviews

## Proposed Final Report

### JLARC Staff

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Joint Legislative Audit & Review Committee

December 11, 2013

## 2006 Legislative Mandate: Conduct Performance Audits of Tax Preferences

Statute (Chapter 43.136 RCW):

- Created a Citizen Commission for Performance Measurement of Tax Preferences (Tax Preference Commission)
- Specified preferences reviewed over 10-year cycle
- Outlined specific questions for JLARC staff to answer in reviews
- Established analysis and reporting process



## Steps in Process Repeated Each Year

In 2012, Commission determined 10-year review schedule – which preferences JLARC staff to review

JLARC staff prepared analysis

**Aug 2013:** Staff presented to JLARC and Citizen Commission

**Sept:** Commission took public testimony

**Oct:** Commission adopted comments

**Dec:** JLARC hears final report

**Jan 2014:** Joint fiscal committee hearing

## Since 2007, JLARC Staff Have Reviewed 180 Preferences

Legislative Auditor Recommendation to Legislature	Number of Preferences	Beneficiary Savings Est.
Continue	111 (62%)	\$ 57.8 billion
Review/Clarify	49 (27%)	\$ 2.0 billion
Allow to Expire	12 (7%)	\$ 63.0 million
Terminate	8 (4%)	\$ 120.4 million
<b>Total</b>	<b>180</b>	<b>\$ 59.9 billion</b>

All reviews easily accessible on Commission website:  
<http://www.citizentaxpref.wa.gov/reports.htm>

## In 2013, JLARC Staff Reviewed 22 Preferences

Legislative Auditor Recommendation to Legislature	Number of Preferences	Beneficiary Savings Est.
Continue	12 (55%)	\$ 394.6 million
Review/Clarify	9 (41%)	\$ 283.7 million
Terminate	1 (4%)	\$ 22.4 million
<b>Total</b>	<b>22</b>	<b>\$ 700.7 million</b>

All reviews easily accessible on Commission website:  
<http://www.citizen taxpref.wa.gov/reports.htm>

## Legislative Auditor Recommends that the Legislature...

<b>Continue (12)</b>	<b>Basic Health Plan Receipts</b> (Insurance Premium Tax)
	<b>Dietary Supplements</b> (Sales/Use Tax)
	<b>Health Maintenance Orgs</b> (Insurance Premium Tax)
	<b>Insulin</b> (Sales/Use Tax)
	<b>Kidney Dialysis Devices</b> (Sales/Use Tax)
	<b>Medical Devices</b> (Sales/Use Tax)
	<b>Medicare Receipts</b> (Insurance Premium Tax)
	<b>Nonprofit Blood &amp; Tissue Banks</b> (B&O Tax)
	<b>Nonprofit Blood &amp; Tissue Banks</b> (Sales/Use Tax)
	<b>Prescription Drug Resellers</b> (B&O Tax)
	<b>Tree Trimming Under Power Lines</b> (Sales/Use Tax)
	<b>Use Tax on Rental Value</b> (Use Tax)

## Legislative Auditor Recommends that the Legislature...

### Review and Clarify (9)

- Artistic and Cultural Orgs (B&O Tax)
- Artistic and Cultural Orgs (Sales/Use Tax)
- Fishing Boat Fuel (Sales/Use Tax)
- Fuel Used in Commercial Vessels (B&O Tax)
- Govt Payments Public & Nonprofit Hospitals (B&O Tax)
- Nonprofit Youth Recreation Services (Sales/Use Tax)
- Prescription Drug Administration (B&O Tax)
- Retailing (B&O Tax)
- Rural County and CEZ New Jobs (B&O Tax)

### Terminate

- Dentistry (Insurance Premium Tax)

[www.citizentaxpref.wa.gov/documents/Recommendation\\_summary\\_2013.pdf](http://www.citizentaxpref.wa.gov/documents/Recommendation_summary_2013.pdf)



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## Dentistry Prepayments

### Insurance Premium Tax



## Dentistry Prepayments (Insurance Premium Tax)

### Public Policy Objective?

Legislature did not state the public policy objective in 1993.  
JLARC staff infer the preference was originally intended to be temporary while HCSCs offering dentistry services transitioned into Certified Health Plans in 1999.



## Dentistry Prepayments (Insurance Premium Tax)

### Legislative Auditor Recommends

#### Terminate

Because the inferred public policy objective of providing a temporary insurance premium tax exemption during the transition of HCSCs to certified health plans no longer applies.



## Dentistry Prepayments (Insurance Premium Tax)

### Citizen Commission

#### Does not endorse and recommends

The Legislature should review and clarify if the exemption is serving a broad-based public policy objective.



There is no public record to reflect whether the Legislature explicitly intended the temporary exemption to become permanent or whether this was simply the outcome of repealing parts of the 1993 health care act in 1995.

## Prescription Drug Resellers

### B&O Tax



## Prescription Drug Resellers (B&O Tax)

### Public Policy Objective?

The Legislature did not state the public policy objective.

JLARC staff infer the Legislature intended to reduce a competitive disadvantage for drug resellers operating warehouses in Washington relative to businesses that distribute drugs in the state without nexus and that owe no B&O tax.



## Prescription Drug Resellers (B&O Tax)

### Legislative Auditor Recommends

#### Continue

Because the preference is meeting the inferred public policy objective of reducing a competitive disadvantage for wholesalers operating Washington warehouses.



## Prescription Drug Resellers (B&O Tax)

### Citizen Commission

#### Continue with comment

In light of public testimony, the Legislature could consider whether to review this preference.

The preference is also available to drug resellers operating out-of-state warehouses that have nexus.



## Government Payments to Public and Nonprofit Hospitals

### B&O Tax





## Government Payments to Public and Nonprofit Hospitals (B&O Tax)

### Public Policy Objective?

The Legislature stated it did not want to tax amounts paid to public and nonprofit hospitals under a government-subsidized health care program for the care of elderly, low income, or disabled people. They noted providing health care for such persons is a recognized, necessary, and vital governmental function.



## Government Payments to Public and Nonprofit Hospitals (B&O Tax)

### Legislative Auditor Recommends

#### Review and clarify

Because it is unclear why for-profit hospitals that provide government-subsidized health care are excluded from the preference.



# Government Payments to Public and Nonprofit Hospitals (B&O Tax)

## Citizen Commission

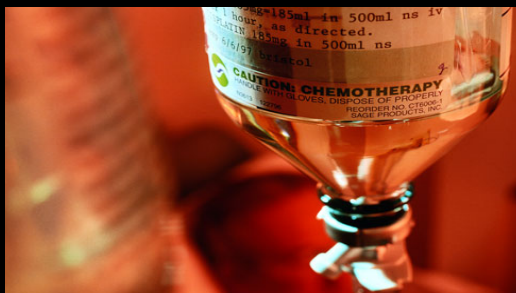
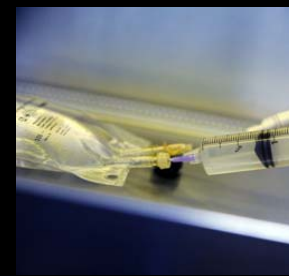
### Endorses with comment

The Legislature has consistently excluded for-profit hospitals from this preference since 1937 and explicitly omitted for-profit hospitals in its statement of purpose when it amended the preference in 2005.



# Prescription Drug Administration

## B&O Tax

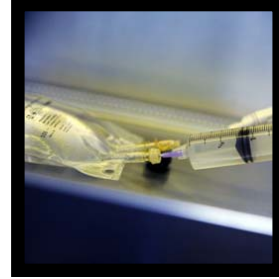


## Prescription Drug Administration (B&O Tax)

### Public Policy Objective?

The Legislature did not state. JLARC staff infer two public policy objectives:

- To lower costs for physicians and medical clinics that infuse or inject drugs covered under Medicare Part B; and
- To help keep physicians' offices and medical clinics open to provide better patient access to these drugs.

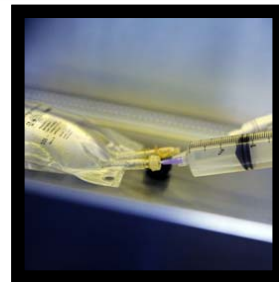


## Prescription Drug Administration (B&O Tax)

### Legislative Auditor Recommends

#### Review and clarify

Because while the preference is meeting the inferred objective of lowering costs, the Legislature may want to consider adding reporting or other accountability requirements to provide better information on the effectiveness of the preference.

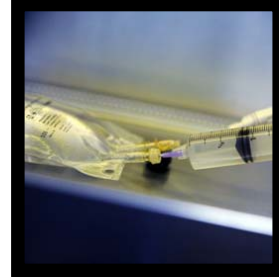


## Prescription Drug Administration (B&O Tax)

### Citizen Commission

#### Endorses with comment

The Legislature may want to consider how the Affordable Care Act (ACA) impacts incentives to provide services covered by this preference.



## Fishing Boat Fuel

### Sales and Use Tax



## Fishing Boat Fuel (Sales and Use Tax)

### Public Policy Objective?

The Legislature did not state. JLARC staff infer they may have been:

- To support WA's commercial fishing industry, coastal towns, and businesses by removing a disincentive for fishing boats to buy fuel in WA; and
- To provide tax treatment of fuel for commercial and charter fishing boats equitable with tax treatment for fuel for interstate/foreign commerce boats.



## Fishing Boat Fuel (Sales and Use Tax)

### Legislative Auditor Recommends

#### Review and clarify

Because preference is not meeting inferred public policy objective of providing equitable tax treatment on fuel for WA commercial fishing boats compared to that of fuel for boats engaged in interstate/foreign commerce. Also, the \$5,000 minimum gross receipts level has not been reviewed since 1987.



## Fishing Boat Fuel (Sales and Use Tax)

### Citizen Commission

#### Endorses with comment

The Legislature should state an explicit public policy objective for this preference and structure it to be consistent with the stated public policy objective.



## Retailing

### B&O Tax



## Retailing (B&O Tax)

### Public Policy Objective?

The Legislature did not state the public policy objective.

JLARC staff infer that, at the time of enactment, the Legislature wanted to lessen the financial impact of a sales tax increase on retailers by not imposing a B&O tax increase on them at the same time.



## Retailing (B&O Tax)

### Legislative Auditor Recommends

#### Review and clarify

Because sales tax-related changes since 1983 may impact the rationale for the level of preferential rate provided to the retail industry compared to other businesses.



## Retailing (B&O Tax)

### Citizen Commission

#### Endorses with comment

The Commission encourages the Legislature to examine whether the preferential B&O tax rate should be eliminated or be changed to some other amount.

The Legislature could examine whether there would be broad-based public benefits by revising, rather than eliminating, the preferential B&O tax rate.



## Rural County and CEZ New Jobs

### B&O Tax





## Rural County and CEZ New Jobs (B&O Tax)

### Public Policy Objective?

The Legislature did not state the public policy objective when it enacted this preference in 1986.

In a 1997 amendment, the Legislature stated that public policy objective is to assist rural distressed areas in their efforts to address above average unemployment rates and below average employment growth.



## Rural County and CEZ New Jobs (B&O Tax)

### Legislative Auditor Recommends

#### Review and clarify

To determine if the new jobs are located where the Legislature intended and if the number of new jobs is what the Legislature intended.



## Rural County and CEZ New Jobs (B&O Tax)

### Citizen Commission

#### Endorses with comment

The Legislature should consider whether “rural” is the appropriate determinant of eligibility and whether the 15% increase in employment requirement is the most appropriate standard.



Shifting emphasis to “rural” from “distressed” has opened the preference to rural counties with relatively healthy economies.

## Additional Duty in 2013: How to Improve Analysis of Effectiveness?

- Legislative Auditor directed to recommend appropriate data and measures to evaluate new preferences
- With assistance of task force, recommendations to Legislature, January 2014
- Sneak preview: structured around a bill drafting guide for stakeholders



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