

**2014 Tax
Preference
Performance
Reviews
Preliminary Report**

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STATE OF WASHINGTON
JOINT LEGISLATIVE AUDIT
AND REVIEW COMMITTEE

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REPORT SUMMARY

What Is a Tax Preference?

Tax preferences are defined in statute 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 (now found in Chapter 43.136, Revised Code of Washington). Statute assigns specific roles in the process to two different entities.

- The Citizen Commission for Performance Measurement of Tax Preferences 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 Citizen Commission for Performance Measurement of Tax Preferences 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 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. This volume includes 24 preference reviews (similar preferences may be combined in one chapter) completed by JLARC staff in 2014. Analysis of preferences completed in previous years is found on the Commission's website:

<http://www.citizentaxpref.wa.gov/>

JLARC Staff's Approach to the Tax Preference Reviews

Statute guides the 11 questions 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))

Depending on the tax preference, certain questions may be excluded. For instance, question #4 relates to modifying a preference if the public policy is not being fulfilled. If the preference is fulfilling its public policy, this question is skipped.

JLARC Staff's Analysis Process

JLARC staff carefully analyze a variety of evidence in conducting these reviews: 1) the legal and public policy history of the tax preferences; 2) the beneficiaries of the tax preferences; 3) government data pertaining to the utilization of these tax preferences and other relevant data; 4) the economic and revenue impact of the tax preferences; and 5) other states' laws to identify similar tax preferences.

When a preference's public policy objective is identified in statute, staff are able to affirmatively state the public policy objective. This is sometimes found in intent statements or in other parts of statute.

However, for many of the preferences, the Legislature did not state the public policy objective. In such instances, staff may be able to *infer* what the implied public policy objective might be.

To arrive at this inferred policy objective we go through the following step-by-step process:

- Review final bill reports for any statements on the intent or public policy objectives.
- Review bills prior to the final version and legislative action on bills related to the same topic.
- Review bill reports and testimony from various versions of the bill.
- Review records of floor debate.
- Review whether there were court cases that provide information on the objective.
- Review any information available through the Department of Revenue's files on the history of tax preferences, including rules, determinations, appeals, audits, and taxpayer communication.
- Review any press reports during the time of the passage of the bill which may indicate the intention of the preference.
- Review any other historic documents, such as stakeholder statements, that may address the issue addressed by the tax preference.

If there is sufficient information in this evidence to *infer* a policy objective, we state that in our reviews. In these instances, though, the purpose may be a more generalized statement than can be made compared to instances that have explicit statutory language.

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.

A Change in 2013: Policy Purpose Statement Now Required

Beginning in August 2013, new, extended, or expanded preferences now require a tax preference performance statement. The performance statement is to include a statement of legislative purpose as well as metrics to evaluate the effectiveness of the preference. (RCW 82.32.808). Most of the preferences included in this report were passed before this requirement was established.

Summary of the Results from JLARC Staff's Reviews

The table beginning on page 5 provides a summary of the recommendations from JLARC staff's analysis and includes the Citizen Commission's comments on those recommendations. Of the preferences, JLARC staff recommends the Legislature:

- Terminate one preference;
- Review and clarify the intent of twenty preferences; and
- Continue three preferences.

Organization of this Report

The report begins with summary information for each of the 24 preferences, followed by detailed reports. Since the Commission selected several preferences related to aerospace for JLARC staff to review in 2014, both the summary and detail begin with aerospace related preferences. The appendices provide the Scope and Objectives for the preference reviews and the text of current law for each preference.

In addition to the preferences reviewed in this report, information on 62 other preferences considered by the Commission in 2014 can be found in the 2014 Expedited Tax Preferences. Information on these preferences was provided by the Department of Revenue.

Report Summary

Summary of 2014 Tax Preference Performance Reviews			
What the Preference Does	Public Policy Objective	Est. Beneficiary Savings	Legislative Auditor Recommendation
Aerospace Industry Preferences			
A Commercial Airplane Products and Services B&O Tax Preferential Rates			
Commercial Airplane Manufacturing – Preferential Rate (B&O Tax)		RCW 82.04.260(11)	Detail on page 15
Provides a preferential B&O tax rate of 0.2904 percent to manufacturers and processors for hire of commercial airplanes and their components and to manufacturers of tooling specifically designed for use in manufacturing aerospace products.	<p>The Legislature stated the public policy objectives:</p> <ul style="list-style-type: none"> • To encourage the continued presence of the aerospace industry in Washington; • To reduce the cost of doing business in Washington for the aerospace industry compared to locations in other states; and • To provide jobs with good wages and benefits. 	\$238.5 million in the 2015-17 Biennium.	Review and clarify: Because providing additional detail in the tax preference performance statement such as a measure of the desired increase in jobs would facilitate future reviews of these preferences.
Aerospace Product Development – Preferential Rate (B&O Tax)		RCW 82.04.290(3)	Detail on page 15
Provides a preferential B&O tax rate of 0.9 percent to businesses that research, design, or engineer aerospace products for commercial airplanes for others to manufacture.	<p>The Legislature stated the public policy objectives:</p> <ul style="list-style-type: none"> • To encourage the continued presence of the aerospace industry in Washington; • To reduce the cost of doing business in Washington for the aerospace industry compared to locations in other states; and • To provide jobs with good wages and benefits. 	\$6.5 million in the 2015-17 Biennium.	Review and clarify: Because providing additional detail in the tax preference performance statement such as a measure of the desired increase in jobs would facilitate future reviews of these preferences.
B Aerospace Product Development Expenditures B&O Tax Credit			
Airplane Pre-Production Expenditures (B&O Tax)		RCW 82.04.4461	Detail on page 15
Provides a B&O tax credit equal to 1.5 percent of qualifying expenditures for businesses that develop aerospace products. Qualifying expenditures include wages and benefits, supplies, and computer expenses, but not capital costs and overhead.	<p>The Legislature stated the public policy objectives:</p> <ul style="list-style-type: none"> • To encourage the continued presence of the aerospace industry in Washington; • To reduce the cost of doing business in Washington for the aerospace industry compared to locations in other states; and • To provide jobs with good wages and benefits. 	\$197.9 million in the 2015-17 Biennium.	Review and clarify: Because providing additional detail in the tax preference performance statement such as a measure of the desired increase in jobs would facilitate future reviews of these preferences.

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What the Preference Does	Public Policy Objective	Est. Beneficiary Savings	Legislative Auditor Recommendation
C Aerospace Product Development Computer Expenditures Sales and Use Tax Exemptions			
Aerospace Pre-Production Computer Expenditures (Sales and Use Tax)		RCWs 82.08.975 ; 82.12.975	Detail on page 16
Provides sales and use tax exemptions for sales of computer hardware, computer peripherals, and software used primarily in developing, designing, and engineering aerospace products and providing aerospace services.	<p>The Legislature stated the public policy objectives:</p> <ul style="list-style-type: none"> • To encourage the continued presence of the aerospace industry in Washington; • To reduce the cost of doing business in Washington for the aerospace industry compared to locations in other states; and • To provide jobs with good wages and benefits. 	\$13.6 million in the 2015-17 Biennium.	Review and clarify: Because providing additional detail in the tax preference performance statement such as a measure of the desired increase in jobs would facilitate future reviews of these preferences.
D Aerospace B&O Tax Credit for Property/Leasehold Excise Taxes Paid and Superefficient Airplane Facility Leasehold Excise Tax/Property Tax Exemptions			
Commercial Airplane Manufacturing – Credit for Taxes Paid (B&O Tax)		RCW 82.04.4463	Detail on page 16
Provides a B&O tax credit for property taxes or leasehold excise taxes paid on property used exclusively in manufacturing aerospace products or at aviation repair stations. The credit applies to new buildings, the land on which the buildings are located, and on the increase in assessed value from renovations and expansions. The credit is also available for property taxes paid by on certain personal property.	<p>The Legislature stated the public policy objectives:</p> <ul style="list-style-type: none"> • To encourage the continued presence of the aerospace industry in Washington; • To reduce the cost of doing business in Washington for the aerospace industry compared to locations in other states; and • To provide jobs with good wages and benefits. 	\$31.6 million in the 2015-17 Biennium.	Review and clarify: Because providing additional detail in the tax preference performance statement such as a measure of the desired increase in jobs would facilitate future reviews of these preferences.
Superefficient Airplane Production Facilities (Leasehold Excise Tax)		RCW 82.29A.137	Detail on page 17
Provides a leasehold excise tax exemption to the manufacturer of a “superefficient airplane” (Boeing 787) for a facility located on port property.	<p>The Legislature stated the public policy objectives:</p> <ul style="list-style-type: none"> • To encourage the continued presence of the aerospace industry in Washington; • To reduce the cost of doing business in Washington for the aerospace industry compared to locations in other states; and • To provide jobs with good wages and benefits. 	\$0 million in the 2015-17 Biennium. Boeing located the 787 facility on private property instead of port property.	Review and clarify: Because providing additional detail in the tax preference performance statement such as a measure of the desired increase in jobs would facilitate future reviews of these preferences.

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What the Preference Does	Public Policy Objective	Est. Beneficiary Savings	Legislative Auditor Recommendation
Superefficient Airplane Production Facilities (Property Tax) RCW 84.36.655 Detail on page 17			
Provides a property tax exemption for all personal property such as equipment and computers to the manufacturer of a “superefficient airplane” (Boeing 787) at a facility located on port property.	<p>The Legislature stated the public policy objectives:</p> <ul style="list-style-type: none"> • To encourage the continued presence of the aerospace industry in Washington; • To reduce the cost of doing business in Washington for the aerospace industry compared to locations in other states; and • To provide jobs with good wages and benefits. 	<p>\$0 million in the 2015-17 Biennium.</p> <p>Boeing located the 787 facility on private property instead of port property.</p>	<p>Review and clarify: Because providing additional detail in the tax preference performance statement such as a measure of the desired increase in jobs would facilitate future reviews of these preferences.</p>
E Airplane Facilities Sales and Use Tax Exemptions			
Airplane Facilities (Sales and Use) RCWs 82.08.980; 82.12.980 Detail on page 17			
Provides an exemption from sales and use taxes on labor, services, and materials to construct new buildings used exclusively for manufacturing superefficient airplanes. Contingent on the siting of the 777X, the exemption is expanded to new buildings for manufacturing any commercial airplane, the wings, or the fuselage.	<p>The Legislature stated the public policy objectives:</p> <ul style="list-style-type: none"> • To encourage the continued presence of the aerospace industry in Washington; • To reduce the cost of doing business in Washington for the aerospace industry compared to locations in other states; and • To provide jobs with good wages and benefits. 	<p>\$0 million in the 2015-17 Biennium.</p> <p>If the contingency is met, beneficiary savings are estimated at \$12.7 million in the 2015-17 Biennium.</p>	<p>Review and clarify: Because providing additional detail in the tax preference performance statement such as a measure of the desired increase in jobs would facilitate future reviews of these preferences.</p>
Other Aerospace			
Certified Aircraft Repair Firms (B&O Tax) RCW 82.04.250(3) Detail on page 49			
Provides a preferential tax rate of 0.2904 percent to federally certified aviation repair stations.	<p>The Legislature stated the public policy objectives:</p> <ul style="list-style-type: none"> • To encourage the continued presence of suppliers and vendors that support the Washington aerospace industry; • To reduce the cost of doing business in Washington for aerospace suppliers and vendors; and • To provide jobs with good wages and benefits for aerospace suppliers and vendors. 	<p>\$1.3 million in the 2015-17 Biennium.</p>	<p>Review and clarify: Because providing additional detail in the tax preference performance statement such as a measure of the desired number of jobs would facilitate future reviews of the preference.</p>

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What the Preference Does	Public Policy Objective	Est. Beneficiary Savings	Legislative Auditor Recommendation
<p>Commercial Airplane Part Place of Sale (B&O Tax) RCW 82.04.627 Detail on page 59</p>			
<p>Provides a B&O tax exemption for sales of certain airplane parts made by an out-of-state manufacturer if they are sold to a Washington manufacturer of a commercial airplane.</p>	<p>The Legislature stated the public policy objectives in a larger package of aerospace preferences containing this exemption:</p> <ul style="list-style-type: none"> • To encourage the continued presence of suppliers and vendors that support the Washington aerospace industry; • To reduce the cost of doing business in Washington for aerospace suppliers and vendors; and • To provide jobs with good wages and benefits for aerospace suppliers and vendors 	<p>Unknown because beneficiaries are not required to report amount of exemption claimed.</p>	<p>Review and clarify: Because it seems to run counter to the Legislature’s stated policy objective of reducing the cost of doing business in Washington compared to locations in other states. In addition, the Legislature may want to consider adding reporting or other accountability requirements that would provide better information on out-of-state manufacturers’ use of this preference.</p>
<p>Aircraft Part Prototypes (Sales and Use Tax) RCWs 82.08.02566; 82.12.02566 Detail on page 67</p>			
<p>Provides sales and use tax exemptions for sales of materials incorporated into a prototype for aircraft parts, auxiliary equipment, or modifications.</p>	<p>The Legislature stated the public policy objectives:</p> <ul style="list-style-type: none"> • To encourage, develop, and expand opportunities for family wage employment in manufacturing industries; • To solidify and enhance the state’s competitive position. 	<p>\$0 million in the 2015-17 Biennium No taxpayers are claiming the preference.</p>	<p>Terminate: Because the tax preferences are not being used and have not contributed to the stated public policy objectives.</p>

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What the Preference Does	Public Policy Objective	Est. Beneficiary Savings	Legislative Auditor Recommendation
Fresh Food Processing Preferences			
Dairy Product Processors – Deduction (B&O Tax)		RCW 82.04.4268	Detail on page 73
<p>Provides a B&O tax deduction to dairy product processors for:</p> <ul style="list-style-type: none"> • Manufacturing activities for certain dairy products; • Sales of dairy products (wholesale or retail) by the processor to purchasers that receive the products in-state and transport them outside the state; and • Wholesale sales of dairy products by the processor for use as an ingredient to manufacture dairy products. <p>Expires July 1, 2015.</p>	<p>The Legislature did not explicitly state a public policy objective for this preference in 2006 when it enacted the preference or when it extended it in 2012. JLARC staff infer the public policy objective was related to jobs.</p> <p>In 2013 when the preference was expanded to wholesale dairy product sales for use as an ingredient in manufacturing dairy products, the Legislature specifically stated it intended to provide incentives to create additional jobs in Washington’s dairy industry and related dairy-based product manufacturing industry, and specifically to encourage infant formula producers to locate new facilities or expand existing ones in the state.</p> <p>Additionally, the Legislature noted that the actual fiscal impact of the expanded deduction should substantially conform with the fiscal note estimate.</p>	<p>\$8.9 million in the 2013-15 Biennium.</p>	<p>Review and clarify: Because the Legislature indicated extension of the expiration date was directly related to jobs but has not yet identified job-related performance metrics, the Legislature should: 1) identify performance targets and metrics for the number and quality of jobs in the dairy processing industry; and 2) establish criteria for when to transition from the deduction to the preferential rate.</p>

Report Summary

What the Preference Does	Public Policy Objective	Est. Beneficiary Savings	Legislative Auditor Recommendation
<p>Dairy Product Processors – Preferential Rate (B&O Tax) RCW 82.04.260(1)(c) Detail on page 73</p>			
<p>Effective July 1, 2015, provides a preferential B&O tax rate (0.138 percent) to dairy processors for:</p> <ul style="list-style-type: none"> • Manufacturing activities for certain dairy products; • Sales of dairy products (wholesale or retail) by the processor to purchasers that receive the products in-state and transport them outside the state; or • Wholesale sales of dairy products by the processor for use as an ingredient to manufacture dairy products. <p>The wholesale sales for use as an ingredient portion of the preference expires July 1, 2023.</p>	<p>When the Legislature first enacted a preferential B&O tax rate for dairy processors prior to establishing an exemption, the stated public policy objective was to provide a tax rate consistent with the rate provided to other fresh food processors.</p> <p>In 2013 when the preference was expanded to wholesale dairy product sales for use as an ingredient in manufacturing dairy products, the Legislature specifically stated it intended to provide incentives to create additional jobs in Washington’s dairy industry and related dairy-based product manufacturing industry, and specifically to encourage infant formula producers to locate new facilities or expand existing ones in the state. Additionally, the Legislature noted that the actual fiscal impact of the expanded deduction should substantially conform with the fiscal note estimate.</p>	<p>\$9.1 million in the 2015-17 Biennium.</p>	<p>Review and clarify: To clarify, before the preference takes effect, whether the Legislature intends there to be parity among all the different food processor manufacturing and sales activities.</p>
<p>Fruit and Vegetable Processors – Exemption (B&O Tax) RCW 82.04.4266 Detail on page 91</p>			
<p>Provides a B&O tax exemption to fruit and vegetable processors for:</p> <ul style="list-style-type: none"> • Manufacturing activities for fresh fruit and vegetable products, or • Wholesale sales of fruit or vegetable products by the processor to purchasers that receive the products in-state and transport them outside the state. 	<p>The Legislature did not explicitly state a public policy objective for this preference in 2005 when it first enacted the preference or when it extended it in 2012. JLARC staff infer the public policy objective was related to jobs.</p>	<p>\$39.3 million in the 2013-15 Biennium.</p>	<p>Review and clarify: Because the Legislature indicated extension of the expiration date was directly related to jobs but has not yet identified job-related performance metrics, the Legislature should: 1) identify performance targets and metrics for the number and quality of jobs in the fruit and vegetable processing industry; and 2) establish criteria for when to transition from the deduction to the preferential rate.</p>

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What the Preference Does	Public Policy Objective	Est. Beneficiary Savings	Legislative Auditor Recommendation
<p>Fruit and Vegetable Processors – Preferential Rate (B&O Tax) RCW 82.04.260(1)(d) Detail on page 91</p>			
<p>Effective July 1, 2015, provides a preferential B&O tax rate (0.138 percent) to fruit and vegetable processors for:</p> <ul style="list-style-type: none"> • Manufacturing activities for fresh fruit and vegetable products, or • Wholesale sales of fruit or vegetable products by the processor to purchasers that receive the products in-state and transport them outside the state. 	<p>The Legislature did not explicitly state a public policy objective for this preference. JLARC staff infer the policy objective is to treat fruit and vegetable processors consistently with other fresh food processors.</p>	<p>\$30.8 million in the 2015-17 Biennium.</p>	<p>Review and clarify: To clarify, before the preference takes effect, whether the Legislature intends there to be parity among all the different food processor manufacturing and sales activities.</p>
<p>Seafood Product Processors and Certain Sellers – Exemption (B&O Tax) RCW 82.04.4269 Detail on page 111</p>			
<p>Provides a B&O tax exemption to the seafood industry for:</p> <ul style="list-style-type: none"> • Manufacturing activities for certain seafood products; or • Sales of certain seafood products (retail or wholesale) to purchasers that receive the products in-state and transport them outside the state. 	<p>The Legislature did not explicitly state a public policy objective for this preference. JLARC staff infer that the policy objective was related to jobs.</p>	<p>\$4.4 million in the 2013-15 Biennium.</p>	<p>Review and clarify: Because the Legislature indicated extension of the expiration date was directly related to jobs but has not yet identified job-related performance metrics, the Legislature should: 1) identify performance targets and metrics for the number and quality of jobs in the seafood processing industry; and 2) establish criteria for when to transition from the deduction to the preferential rate.</p>
<p>Seafood Product Processors and Certain Sellers – Preferential Rate (B&O Tax) RCW 82.04.260(1)(b) Detail on page 111</p>			
<p>Effective July 1, 2015, provides a preferential B&O tax rate (0.138 percent) to the seafood industry for:</p> <ul style="list-style-type: none"> • Manufacturing activities for certain seafood products; or • Sales of certain seafood products (retail or wholesale) to purchasers that receive the products in-state and transport them outside the state. 	<p>The Legislature did not explicitly state a public policy objective for this preference. JLARC staff infer the policy objective is to treat seafood processors consistently with other fresh food processors.</p>	<p>\$3.5 million in the 2015-17 Biennium.</p>	<p>Review and clarify: To clarify, before the preference takes effect, whether the Legislature intends there to be parity among all the different food processor manufacturing and sales activities.</p>

Report Summary

What the Preference Does	Public Policy Objective	Est. Beneficiary Savings	Legislative Auditor Recommendation
Miscellaneous Preferences			
Electric Power Exported or Resold (Public Utility Tax, B&O Tax) RCWs 82.16.050(11) (Amended in SB 6505 – not yet codified); 82.04.310(2) (Amended in ESSB 6440 – not yet codified); Detail on page 129			
<p>These two preferences provide:</p> <p>Public utility tax deductions for four types of electricity sales made by light and power (L&P) businesses:</p> <ul style="list-style-type: none"> • Direct (to end user) sales delivered out-of-state; • Wholesale sales between L&P businesses delivered in-state; • Wholesale sales to non-L&P businesses delivered in-state; and • Wholesale sales delivered out-of-state. <p>B&O tax exemptions for non-L&P businesses for wholesale electricity sales delivered in-state and out-of-state.</p>	<p>The Legislature did not state the public policy objectives for the public utility tax (PUT) deductions to L&P businesses for four types of electricity sales or the B&O tax exemptions for non-L&P businesses for two types of electricity sales. JLARC staff infer the public policy objectives were</p> <p>PUT deductions:</p> <ul style="list-style-type: none"> • Direct sales delivered out-of-state – to ensure the state complied with federal limitations on taxing goods in interstate commerce. • In-state wholesale sales between L&P businesses – to ensure the PUT did not pyramid, while facilitating transfers of electricity between L&P companies to help meet customer demand. • In-state wholesale sales to non-L&P companies – to provide consistent PUT treatment for wholesale sales by L&P companies regardless of the purchaser. • Out-of-state wholesale sales – to provide consistent tax treatment with wholesale sales delivered in-state to comply with federal requirements. <p>B&O tax exemptions:</p> <ul style="list-style-type: none"> • In-state sales – to provide similar tax treatment to wholesale electricity sales by non-L&P businesses as to L&P businesses, and to keep electricity marketers from moving outside the state; and • Out-of-state wholesale sales – to provide consistent tax treatment for wholesale electricity delivered in-state and out-of-state to comply with federal requirements. 	<p>PUT deductions: \$111.9 million in the 2015-17 Biennium</p> <p>B&O tax exemptions: Cannot be reliably estimated</p>	<p>PUT deductions: Continue: Because the preference is achieving the inferred public policy objectives.</p> <p>B&O tax exemptions: Review and clarify: Because: 1) the Legislature may want to consider adding reporting or other accountability requirements to provide better information on use of the preference; 2) it is unclear whether the preference is still needed to keep electricity marketers from moving out-of-state due to 2010 changes in how service businesses calculate their taxable income; and 3) it is unclear whether the Legislature intended the preference to apply to commission or fee income from electricity brokering.</p>

Report Summary

What the Preference Does	Public Policy Objective	Est. Beneficiary Savings	Legislative Auditor Recommendation
International Investment Management (B&O Tax) RCW 82.04.290(1) Detail on page 147			
Provides a preferential B&O tax rate (0.275 percent) to businesses conducting international investment management services.	<p>The Legislature did not state the public policy objective for this preference. JLARC staff infer the preferential B&O tax rate has two public policy objectives:</p> <ol style="list-style-type: none"> 1) To reduce a perceived competitive disadvantage for IIMS businesses located in Washington; and 2) To attract new international trade and finance business to the state. 	\$26.6 million in the 2015-17 Biennium.	<p>Review and clarify: To determine if the preference is still necessary, since Washington’s 2010 adoption of an economic nexus and apportionment standard has reduced the competitive disadvantage for international investment management businesses located in-state as compared to those located out-of-state.</p> <p>If the Legislature determines it wants to maintain this tax preference, then the Legislature should consider clarifying the law to identify which businesses qualify for the preference and what income is subject to the preferential rate.</p>
Sales Subject to Public Utility Tax (Sales Tax, Sales and Use Tax) RCWs 82.08.0252, 82.08.950, 82.12.950 Detail on page 157			
<p>Two tax preferences provide:</p> <ul style="list-style-type: none"> • A sales tax exemption for any income from activities specifically taxed under public utility tax (applies to electricity, water, and natural or manufactured gas); and • A more narrow sales and use tax exemption for sales of steam, electricity, or electrical energy. 	<p>The Legislature did not state the public policy objective for this preference. JLARC staff infer:</p> <ul style="list-style-type: none"> • The public policy objective for the sales tax exemption was to avoid double taxation by ensuring that sales or distribution of items defined as “tangible personal property” that are taxed under public utility tax are not also subject to sales tax. • The public policy objective for the more narrow sales and use tax preference was to ensure Washington tax law conformed with National Streamlined Sales and Use Tax Agreement. 	\$1.85 billion in the 2015-17 Biennium.	<p>Continue: Because the preferences are meeting the inferred public policy objectives of avoiding double taxation and ensuring Washington tax statutes conform with the National Streamlined Sales and Use Tax Agreement.</p>

