



Hazardous Substance Tax



82.21.040 - Agricultural crop protection products

Description Possession of agricultural crop protection products such as pesticides and insecticides are exempt from the hazardous substance tax if the products are:

- solely for use by a farmer or certified applicator,
- warehoused in Washington State, or transported to or from the state, and
- not used, manufactured, packaged for sale, or sold in the state.

This exemption takes effect September 1, 2015, and expires January 1, 2026.

Purpose The Legislature states the intent is to encourage regional competitiveness of agricultural distribution.

Taxpayer savings

(\$ in millions):

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|-------------|---------|---------|---------|---------|
| State Taxes | \$0.225 | \$0.300 | \$0.300 | \$0.300 |
| Local Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |

Repeal of exemption

Repealing the exemption would increase tax revenues.

Potential revenue gains from full repeal

(\$ in millions):

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|-------------|---------|---------|---------|---------|
| State Taxes | \$0.000 | \$0.275 | \$0.300 | \$0.300 |
| Local Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |

Assumptions

- For distributors of agricultural products such as seed, feed, fertilizer, pesticides, herbicides, and fuels, 55 percent of their wholesale sales are pesticides.
- For businesses that are primarily merchant wholesalers of nondurable goods, 5 percent of their wholesale sales are pesticides.
- An export sale of a hazardous substance that triggered a hazardous substance tax liability also entitles the taxpayer to an interstate and foreign sales deduction against the B&O tax for the activity of wholesaling.
- The taxable value of the hazardous substance was the same as the value of the export sale.
- No growth, declining petroleum prices will have no direct affect on hazardous substance tax collections.
- September 1, 2015 effective date, with 9 months of taxpayer savings in Fiscal Year 2016.
- July 1, 2016 effective date, with 11 months collections in Fiscal Year 2017.

Continued

82.21.040 - Agricultural crop protection products

Data Sources

- Department of Revenue Non-general Fund Forecast, September, 2015
 - Department of Revenue excise tax data
 - Washington State Department of Agriculture pesticide registration list
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Additional Information

| Additional Information | |
|-------------------------------|---|
| Category: | Business |
| Year Enacted: | 2015 |
| Primary Beneficiaries: | Wholesalers who import and re-export pesticides |
| Taxpayer Count: | 25 |
| Program Inconsistency: | None evident |
| JLARC Review: | None scheduled |

82.21.040(1) - Successive uses of hazardous substance

Description Any successive possession of a previously taxed hazardous substance is exempt from the hazardous substance tax.

Purpose To avoid double taxation.

Taxpayer savings

(\$ in millions):

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|-------------|-----------|-----------|-----------|-----------|
| State Taxes | \$262.699 | \$303.921 | \$347.353 | \$381.575 |
| Local Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |

Repeal of exemption Repealing this exemption would increase revenues.

Potential revenue gains from full repeal

(\$ in millions):

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|-------------|---------|-----------|-----------|-----------|
| State Taxes | \$0.000 | \$278.594 | \$347.353 | \$381.575 |
| Local Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |

Assumptions

- Growth rate mirrors the hazardous substance tax growth rate reflected in the Department of Revenue's February 2015 non-general fund forecast.
- Eleven months of collections in Fiscal Year 2017 due to July 1, 2016 effective date.

Data Sources

- Department of Revenue tax return data
- Department of Revenue's February 2015 non-general fund forecast

Additional Information

| Additional Information | |
|-------------------------------|--|
| Category: | Tax base |
| Year Enacted: | 1989 |
| Primary Beneficiaries: | Wholesalers, distributors, and retailers of hazardous substances |
| Taxpayer Count: | 550 |
| Program Inconsistency: | None evident |
| JLARC Review: | JLARC completed an expedited review in 2012 |

82.21.040(2) - Domestic uses of hazardous substance

Description Possession of a hazardous substance by a natural person for personal or domestic purposes is exempt from the hazardous substance tax.

Purpose To limit the tax to those using the hazardous substance for business purposes.

Taxpayer savings *(\$ in millions):*

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|-------------|---------|---------|---------|---------|
| State Taxes | \$0.542 | \$0.531 | \$0.520 | \$0.510 |
| Local Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |

Repeal of exemption Repealing this exemption would increase revenues.

Potential revenue gains from full repeal *(\$ in millions):*

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|-------------|---------|---------|---------|---------|
| State Taxes | \$0.000 | \$0.487 | \$0.520 | \$0.510 |
| Local Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |

Assumptions

- This represents minimum amount of hazardous substances that are exempt from hazardous substance tax due to domestic use.
- The growth rate for the domestic use of hazardous substances decreases by 2 percent annually into the future.
- Eleven months of collections in Fiscal Year 2017 due to July 1, 2016 effective date.

Data Sources

- United States Energy Information Administration
- Department of Revenue February 2015 Non-General Fund Forecast, Environmental Legacy Stewardship Account

Additional Information

| Additional Information | |
|-------------------------------|--|
| Category: | Individuals |
| Year Enacted: | 1989 |
| Primary Beneficiaries: | Domestic users of hazardous substances |
| Taxpayer Count: | Unknown |
| Program Inconsistency: | None evident |
| JLARC Review: | JLARC has not reviewed |

82.21.040(3) - Minimal amount of hazardous substance

Description Possession of a minimal amount of a hazardous substance (as determined by the Department of Ecology) by a retailer for the purpose of making sales to consumers is exempt from the hazardous substance tax. This exemption does not apply to pesticides or petroleum products.

Purpose To avoid the administrative burden of collecting taxes on a large number of taxpayers for minimal amounts. The administrative burden would be on the collecting agency as well as the businesses that would have to report small amounts of tax.

Taxpayer savings

(\$ in millions):

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|-------------|---------|---------|---------|---------|
| State Taxes | \$0.012 | \$0.012 | \$0.012 | \$0.012 |
| Local Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |

Repeal of exemption

Repealing this exemption would increase revenues.

Potential revenue gains from full repeal

(\$ in millions):

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|-------------|---------|---------|---------|---------|
| State Taxes | \$0.000 | \$0.006 | \$0.007 | \$0.009 |
| Local Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |

Assumptions

- A "minimal" amount of hazardous substance is an amount with a wholesale value of less than \$1,000 possessed during any calendar month.
- Approximately 20 percent of retail businesses in border counties have out-of-state suppliers that have not already paid hazardous substance tax.
- July 1, 2016 effective date, with 11 months of cash collections in Fiscal Year 2017.
- A conservative annual growth of 2 percent is applied.
- These taxpayers are small retailers not primarily in the business of selling hazardous substances. They may not be immediately aware of a law change, so reporting compliance is expected to be:
 - 50 percent revenue collections in Fiscal Year 2016,
 - 60 percent revenue collections in Fiscal Year 2017,
 - 70 percent revenue collections in Fiscal Year 2018, and
 - 80 percent revenue collections in Fiscal Year 2019 and thereafter.

Data Sources

- Department of Revenue tax return data

Continued

82.21.040(3) - Minimal amount of hazardous substance

Additional Information

| Additional Information | |
|-------------------------------|--|
| Category: | Business |
| Year Enacted: | 1989 |
| Primary Beneficiaries: | Small retailers whose primary business is not selling hazardous substances |
| Taxpayer Count: | 1,500 |
| Program Inconsistency: | None evident |
| JLARC Review: | JLARC has not reviewed |

82.21.040(4) - Alumina and natural gas

Description Alumina and natural gas are exempt from the hazardous substance tax.

Purpose To avoid taxation of alumina and natural gas.

Taxpayer savings

(\$ in millions):

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|-------------|----------|----------|----------|----------|
| State Taxes | \$13.004 | \$13.004 | \$13.004 | \$13.004 |
| Local Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |

Repeal of exemption

Repealing this exemption would increase revenues.

Potential revenue gains from full repeal

(\$ in millions):

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|-------------|---------|----------|----------|----------|
| State Taxes | \$0.000 | \$11.921 | \$13.004 | \$13.004 |
| Local Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |

Assumptions

- Full production of aluminum at Washington smelters.
- No growth factor used.
- Eleven months of collections in Fiscal Year 2017 due to July 1, 2016 effective date.

Data Sources

- United States Energy Information Administration - Washington natural gas consumption
- Alumina price is the spot price in February, 2015

Additional Information

| Additional Information | |
|-------------------------------|---|
| Category: | Tax base |
| Year Enacted: | 1989 |
| Primary Beneficiaries: | Washington users of natural gas and alumina |
| Taxpayer Count: | 3,500 |
| Program Inconsistency: | None evident |
| JLARC Review: | Not on JLARC review schedule |

82.21.040(5) - Constitutional or Federal prohibition on hazardous substance

Description Persons or activities that the United States Constitution prohibits taxing are exempt from the hazardous substance tax.

Purpose To prevent violating constitutional law.

Taxpayer savings

(\$ in millions):

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|-------------|---------|---------|---------|---------|
| State Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |
| Local Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |

Repeal of exemption

Repealing this exemption would not increase revenues because such an act would be unconstitutional.

Potential revenue gains from full repeal

(\$ in millions):

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|-------------|---------|---------|---------|---------|
| State Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |
| Local Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |

Assumptions

Collecting tax revenue would be unconstitutional.

Data Sources

None

Additional Information

| Additional Information | |
|-------------------------------|------------------------|
| Category: | Tax base |
| Year Enacted: | 1989 |
| Primary Beneficiaries: | None |
| Taxpayer Count: | 0 |
| Program Inconsistency: | None evident |
| JLARC Review: | JLARC has not reviewed |

82.21.040(6) - Hazardous substance used prior to 3/1/1989

Description Possession of a hazardous substance obtained prior to March 1, 1989 is not subject to the hazardous substance tax.

Purpose To prevent taxing those who possessed the hazardous substance prior to the enactment of the tax.

Taxpayer savings

(\$ in millions):

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|-------------|---------|---------|---------|---------|
| State Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |
| Local Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |

Repeal of exemption

The repeal of this exemption would not result in additional tax revenues. Taxpayers involved in various activities related to petroleum pay the majority of hazardous substance tax. Petroleum products have a shelf life, so it is unlikely product from 1989 continues to be stored in Washington.

Potential revenue gains from full repeal

(\$ in millions):

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|-------------|---------|---------|---------|---------|
| State Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |
| Local Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |

Assumptions

No hazardous substances obtained prior to March 1, 1989 remain in inventory in Washington State.

Data Sources

None

Additional Information

| Additional Information | |
|-------------------------------|------------------------|
| Category: | Tax base |
| Year Enacted: | 1989 |
| Primary Beneficiaries: | None |
| Taxpayer Count: | 0 |
| Program Inconsistency: | None evident |
| JLARC Review: | JLARC has not reviewed |

82.21.050(1) - Fuel exported in fuel tanks

Description Hazardous substance tax previously paid on fuel carried from this state in the fuel tank of any airplane, ship, truck, or other vehicle is eligible for a credit against the hazardous substance tax.

Purpose Avoids taxing fuel used outside of Washington. The purpose of the hazardous substance tax is to use its receipts to clean up hazardous substance sites within Washington, and fuel consumed primarily outside the state are unlikely to contribute to such sites

Taxpayer savings

(\$ in millions):

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|-------------|----------|----------|----------|----------|
| State Taxes | \$14.263 | \$16.501 | \$18.859 | \$20.717 |
| Local Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |

Repeal of exemption

Repealing this credit would increase revenues.

Potential revenue gains from full repeal

(\$ in millions):

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|-------------|---------|----------|----------|----------|
| State Taxes | \$0.000 | \$15.126 | \$18.859 | \$20.717 |
| Local Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |

Assumptions

- Growth rate mirrors the hazardous substance tax growth rate reflected in the Department of Revenue's February 2015 non-general fund forecast.
- Eleven months of cash collections in fiscal year 2017 due to July 1, 2017 effective date.

Data Sources

- Department of Revenue tax return data
- Department of Revenue's February 2015 non-general fund forecast

Additional Information

| Additional Information | |
|-------------------------------|----------------------------|
| Category: | Tax base |
| Year Enacted: | 1989 |
| Primary Beneficiaries: | Petroleum refiners |
| Taxpayer Count: | 12 |
| Program Inconsistency: | None evident |
| JLARC Review: | Excluded from JLARC review |

82.21.050(2) - Taxes paid in other states

Description A credit is allowed against the hazardous substance tax for any hazardous substance tax paid to another state with respect to the same hazardous substance. The amount of the credit cannot exceed the hazardous substance tax liability for that substance.

Purpose To avoid the possibility of double taxation of the same product.

Taxpayer savings

(\$ in millions):

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|-------------|---------|---------|---------|---------|
| State Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |
| Local Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |

Repeal of exemption

Repealing this exemption would not increase revenue because federal law prohibits double taxation (of the same product) of firms operating on an interstate basis.

Potential revenue gains from full repeal

(\$ in millions):

| | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
|-------------|---------|---------|---------|---------|
| State Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |
| Local Taxes | \$0.000 | \$0.000 | \$0.000 | \$0.000 |

Assumptions

The amounts for this exemption are included with the exemption for fuel exported in fuel tanks, RCW 82.21.050(1).

Data Sources

- Department of Revenue excise tax data
- Department of Revenue's February 2015 non-general fund forecast

Additional Information

| Additional Information | |
|-------------------------------|--|
| Category: | Tax base |
| Year Enacted: | 1989 |
| Primary Beneficiaries: | Persons purchasing hazardous substances out of state and bringing them into Washington |
| Taxpayer Count: | 0 |
| Program Inconsistency: | None evident |
| JLARC Review: | Unable to find on JLARC review schedule |