

LITTER TAX COMPLIANCE

Report of the Department of Revenue

*Prepared Pursuant to
Chapter 257, Laws of 1998 (2SHB 3058)*

**Washington State Department of Revenue
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January 2007



STATE OF WASHINGTON
DEPARTMENT OF REVENUE
OFFICE OF THE DIRECTOR

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January 22, 2007

TO: The Honorable Margarita Prentice, Chair
Senate Ways and Means Committee

The Honorable Ross Hunter, Chair
House Finance Committee

FROM: Cindi L. Holmstrom, Director

SUBJECT: LITTER TAX COMPLIANCE REPORT

Legislation enacted in 1998 directed the Department to prepare a report on litter tax compliance once every two years. This is the Department's fifth report on the subject.

The 1998 legislation changed taxpayer reporting of litter taxes. Beginning in 1999, taxpayers reported the tax on each tax return filed. Previously, taxpayers reported litter tax annually, while reporting their other excise taxes on an annual, quarterly, or monthly reporting cycle. During 1999, the Department of Revenue's Taxpayer Account Administration (TAA) Division conducted an intensive education effort by contacting taxpayers from selected industries and informing them of their potential litter tax liability. This report indicates that the 1998 statutory change and the education effort continue to have an extremely positive effect on litter tax reporting.

In 2005, while the number of filers remained constant, total collections through voluntary compliance reached an all-time high of \$6.9 million or 95.2 percent of the total tax liability. The Department concludes that taxpayer compliance with the litter tax is within normal levels of compliance with other excise taxes.

Tables in the study also report the following:

- ◆ Tax reported voluntarily versus tax obtained through enforcement activities
- ◆ The number of taxpayers and amount of tax paid by major industry



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We will distribute copies of the report to the members of your committees and to the Governor and her staff. If you have any questions about the findings, please contact Donald Gutmann, Revenue Analysis Manager, Research Division, at (360) 570-6073.

cc: The Honorable Christine O. Gregoire, Governor
Jay Manning, Director, Department of Ecology

LITTER TAX COMPLIANCE

The 1998 Legislature established a requirement that a report covering litter tax compliance be prepared beginning in 1999 and in odd-numbered years thereafter (Section 7 of 2SHB 3058, codified in RCW 82.19.010(2)). This report is the Department of Revenue's fifth submission in response to that requirement.

OVERVIEW OF THE LITTER TAX

The litter tax was adopted in 1971 as part of the Model Litter Control and Recycling Act of 1971. The tax is imposed upon manufacturers, wholesalers, and retailers who sell any item from a list of 13 categories of products. The categories, as listed in RCW 82.19.020, are:

1. Food for human or pet consumption
2. Groceries
3. Cigarettes and tobacco products
4. Soft drinks and carbonated waters
5. Beer and other malt beverages
6. Wine
7. Newspapers and magazines
8. Household paper and paper products
9. Glass containers
10. Metal containers
11. Plastic or fiber containers made of synthetic material
12. Cleaning agents and toiletries
13. Nondrug drugstore sundry products

Taxpayers compute the amount of tax due by multiplying the gross proceeds of sales of the listed items by the tax rate of fifteen one-thousandths of one percent (0.00015). By comparison, this tax rate is only three percent of the typical B&O tax rate (0.484 percent for manufacturing/wholesaling), so the amount of tax liability for many firms is quite low.

The tax receipts are devoted to litter-related programs conducted by the Department of Ecology and other state agencies and for grants to local governments for similar programs (Waste Reduction, Recycling and Litter Control Account per RCW 70.93.180).

The Department of Revenue received many complaints from taxpayers regarding the difficulty of sorting through their inventory and sales data to determine which items are included in the list of 13 taxable products. Certain businesses were relieved of this task by an administrative rule adopted by the Department pursuant to authority granted in the litter tax statutes. The rule, WAC 458-20-243, allows grocery stores and drug stores to report and pay the litter tax measured by a percentage of total sales (95 and 50 percent, respectively).

TABLE 1 – LITTER TAX COMPLIANCE

Table 1 shows litter tax receipts for Calendar Years 1991–2005. It compares the actual amount of tax reported voluntarily by taxpayers to the amount obtained from Department enforcement activities. Tax from enforcement is defined as tax collected through Department enforcement actions or the tax filed on a supplemental return to report the litter tax after the normal due date. Liability for this tax results from assessments (usually in conjunction with a field audit), corrections to the taxpayer’s account (usually by an office audit), tax warrants, or supplemental returns.

**Table 1
LITTER TAX COMPLIANCE**

Tax Reported Voluntarily versus Tax Obtained by Enforcement

**Estimates for Calendar Years 1991–2005
Dollars in Thousands**

<u>Year</u>	<u>Total Tax</u>	<u>Tax Reported Voluntarily</u>		<u>Tax from Enforcement</u>	
		<u>Amount</u>	<u>% of Total</u>	<u>Amount</u>	<u>% of Total</u>
1991	\$3,904.0	\$3,104.8	79.5%	\$799.2	20.5%
1992	3,884.9	3,215.4	82.8	669.5	17.2
1993	3,851.3	3,273.3	85.0	578.0	15.0
1994	4,017.9	3,304.5	82.2	713.4	17.8
1995	4,401.1	3,988.6	90.6	412.5	9.4
1996	4,298.6	3,539.0	82.3	759.6	17.7
1997	4,143.2	3,477.2	83.9	666.0	16.1
1998	4,873.1	4,309.9	88.4	563.2	11.6
1999	5,509.1	4,493.4	81.6	1,015.7	18.4
2000	5,730.3	5,598.3	97.7	132.0	2.3
2001	5,785.1	5,733.8	99.1	51.3	0.9
2002	5,422.4	5,383.3	99.3	39.1	0.7
2003	6,415.7	5,979.5	93.2	436.2	6.8
2004	6,719.7	6,480.8	96.4	238.9	3.6
2005	7,262.0	6,915.2	95.2	346.8	4.8

For Calendar Year 1999, taxes from enforcement exceeded \$1 million for the first time. Taxes reported voluntarily also reached an all-time high of nearly \$4.5 million. Historically, enforcement activities had accounted for approximately 10 to 20 percent of total litter tax

receipts. For 1999, enforcement provided 18.4 percent of total litter receipts. In Calendar Year 2000 total taxes continued to grow to \$5.7 million. The amount of taxes reported voluntarily relative to taxes collected through enforcement increased dramatically. In 2000, taxes reported voluntarily accounted for \$5.6 million or 98 percent of the total collected. Enforcement activities accounted for \$132,000 or 2.3 percent of the total reported. In 2001, taxes reported voluntarily reached \$5.7 million or 99 percent of the total reported.

These trends in high voluntary compliance continued through Calendar Year 2005 when total taxes reached a new high of \$7.3 million. Taxes reported voluntarily accounted for \$6.9 million or 95.2 percent of the total liability. Enforcement activities accounted for \$347,000 or 4.8 percent of the total.

The increase in dollars collected from enforcement during 1999 and the decline in dollars collected from enforcement in subsequent years follow upon changes in the litter tax statute enacted in 1998. A corresponding increase in voluntarily paid tax coincided with this change. Under the legislation, taxpayers reported the tax on each tax return filed beginning in 1999. Previously, taxpayers reported litter tax annually, while reporting their other excise taxes on an annual, quarterly, or monthly reporting cycle. During 1999, the Department of Revenue's Taxpayer Account Administration (TAA) Division conducted an intensive education effort by contacting taxpayers from selected industries and informing them of their potential litter tax liability. TAA corrected any tax return with an error of \$2.50 or more and sent a balance due notice. This report indicates that the 1998 statutory change of reporting frequency and the education effort continue to have an extremely positive effect on litter tax reporting.

TABLES 2 AND 3 – LITTER TAX LIABILITY BY INDUSTRY

Table 2 gives detailed industry information on litter tax reporters for Calendar Year 2004. It provides a count of litter taxpayers and compares reported litter tax activity by industry groups.

While a small number of industries reported a high share of litter tax, most industries had some activity subject to litter tax. Eating and drinking firms represented the industry with the most litter taxpayers, followed by grocery stores, miscellaneous retail firms, and wholesalers of nondurable goods. Eating and drinking firms accounted for 9,026 of the total 23,669 firms who paid the litter tax. Four industry groups, wholesalers of nondurable goods, grocery stores, general merchandise stores, and eating and drinking establishments, paid almost 74 percent of the litter tax.

Taxpayers liable for litter tax paid an average of \$284 tax per firm. Only four industries had an average litter tax liability per firm of more than \$1,000. The industry with the highest average litter tax liability per firm is general merchandise stores. Seventeen of the 36 industries in Table 2 had an average annual tax of less than \$100.

Table 3 gives detailed industry information on litter tax reporters for Calendar Year 2005. Total litter tax collections reached an all time high of \$7.3 million. The average tax liability increased to \$297 while the number of taxpayers remained relatively steady at 24,436.

Table 2
LITTER TAX LIABILITY BY INDUSTRY
Calendar Year 2004

NAICS Group	Industry Description	Number of Litter Tax Taxpayers	Litter Tax Liability	Average
11, 21	Agricultural, Fishing & Mining	196	\$40,363	\$206
23	Construction	514	5,648	11
311	Food Manufacturing	481	350,603	729
312	Beverage & Tobacco Prod. Mfg.	136	171,409	1,260
313, 314, 315	Textile & Apparel Manufacturing	16	313	20
321, 337	Wood Product & Furniture Mfg.	19	18,837	991
322	Paper Manufacturing	50	129,490	2,590
323	Printing & Related Support Activities	91	13,420	147
324, 325	Petroleum & Chemical Manufacturing	25	10,722	429
327, 331, 332	Primary & Fabricated Metals Mfg.	31	25,903	836
333, 334, 335	Machinery & Electronic Prod. Mfg.	5	55	11
336	Transportation Equipment Mfg.	17	246	14
339, 316	Miscellaneous Manufacturing	30	5,600	187
48, 49	Transportation & Warehousing	100	4,147	41
22	Utilities	4	231	58
423	Wholesale Trade, Durable Goods	232	92,039	397
424	Wholesale Trade, Nondurable Goods	1,749	2,382,517	1,362
441, 447	Automotive Dealers & Gas Stations	1,628	197,843	122
442	Furniture & Home Furnishings Stores	58	18,900	326
443	Electronics & Appliance Stores	61	1,738	28
444	Bldg. Materials & Garden Equip. Stores	224	30,116	134
445	Food & Beverage Stores	2,350	1,338,213	569
446, 448	Personal Care & Clothing Stores	648	181,465	280
452	General Merchandise Stores	150	681,752	4,545
451, 453, 454	Miscellaneous Retail Stores	2,121	172,674	81
51	Information	227	122,946	542
52, 53	Finance, Insurance & Real Estate	215	(2,022)	(9)
54	Professional, Scientific & Tech. Services	587	20,958	36
55, 56	Management & Support Services	397	35,165	89
61	Educational Services	90	3,087	34
62	Health Care	253	3,096	12
71	Arts, Entertainment & Recreation	352	11,357	32
721	Hotels & Other Lodging Places	220	10,941	50
722	Eating & Drinking Places	9,026	580,081	64
81	Other Services	1,302	34,963	27
92	Public Adm. & Not Classified	64	24,878	389
	Total Reporters	23,669	\$6,719,693	\$284

Table 3
LITTER TAX LIABILITY BY INDUSTRY
Calendar Year 2005

NAICS Group	Industry Description	Number of Litter Tax Taxpayers	Litter Tax Liability	Average
11, 21	Agricultural, Fishing & Mining	217	\$50,462	\$233
23	Construction	480	5,975	12
311	Food Manufacturing	496	406,041	819
312	Beverage & Tobacco Prod. Mfg.	145	183,349	1,264
313, 314, 315	Textile & Apparel Manufacturing	9	221	25
321, 337	Wood Product & Furniture Mfg.	23	26,142	1,137
322	Paper Manufacturing	46	97,580	2,121
323	Printing & Related Support Activities	89	37,397	420
324, 325	Petroleum & Chemical Manufacturing	27	15,883	588
327, 331, 332	Primary & Fabricated Metals Mfg.	27	24,732	916
333, 334, 335	Machinery & Electronic Prod. Mfg.	6	154	26
336	Transportation Equipment Mfg.	18	200	11
339, 316	Miscellaneous Manufacturing	35	19,036	544
48, 49	Transportation & Warehousing	104	6,384	61
22	Utilities	4	44	11
423	Wholesale Trade, Durable Goods	222	102,656	462
424	Wholesale Trade, Nondurable Goods	1,808	2,442,559	1,351
441, 447	Automotive Dealers & Gas Stations	1,615	195,596	121
442	Furniture & Home Furnishings Stores	49	11,231	229
443	Electronics & Appliance Stores	53	740	14
444	Bldg. Materials & Garden Equip. Stores	217	31,146	144
445	Food & Beverage Stores	2,453	1,327,954	541
446, 448	Personal Care & Clothing Stores	649	192,320	296
452	General Merchandise Stores	138	975,923	7,072
451, 453, 454	Miscellaneous Retail Stores	2,260	202,115	89
51	Information	224	120,466	538
52, 53	Finance, Insurance & Real Estate	181	7,032	39
54	Professional, Scientific & Tech. Services	594	23,505	40
55, 56	Management & Support Services	389	94,012	242
61	Educational Services	94	3,189	34
62	Health Care	272	3,648	13
71	Arts, Entertainment & Recreation	353	11,032	31
721	Hotels & Other Lodging Places	210	10,485	50
722	Eating & Drinking Places	9,538	577,123	61
81	Other Services	1,329	22,259	17
92	Public Adm. & Not Classified	62	33,434	539
	Total Reporters	24,436	\$7,262,029	\$297

CONCLUSION

In 2000, taxes reported voluntarily accounted for \$5.6 million or 98 percent of the total \$5.73 million. Enforcement activities accounted for only \$132,000 or 2.3 percent of the total collected. In 2001, taxes collected voluntarily reached \$5.7 million or 99 percent of the total. This change in collection patterns can be attributed directly to the legislative change in reporting frequencies and the Department's education efforts in 1999.

These trends continued for total taxes collected in Calendar Years 2002 through 2005. Total litter taxes reached a high of \$7.3 million in Calendar Year 2005. Taxes reported voluntarily accounted for \$6.9 million or 95.2 percent of the total.

The Department concludes that its objective of increasing compliance with the litter tax has been met. The compliance rate for the litter tax is within normal levels compared to other excise taxes. The litter tax compliance rate has ranged between 96.1 and 99.3 percent in the last six years. The rate dropped in 2003 and 2005 due to a few unusually large audit assessments. However, the level of litter tax compliance is consistent with the overall compliance rate for registered taxpayers, which has averaged about 97 percent during approximately the same time period.