SUMMARY OF 2014 TAX LEGISLATION

Washington Department of Revenue Legislation & Policy and Research & Fiscal Analysis Divisions

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This report summarizes the significant revenue and tax legislation approved during the 2014 Regular Session of the 2014 Washington State Legislature. It also summarizes legislation impacting the Business Licensing Service (BLS), which is operated by the Department of Revenue (Department). The material was compiled from information developed by the Department's Legislation & Policy and Research and Fiscal Analysis Divisions. The summary is not intended to cover technical details or provide a legal interpretation of the bills. Rather, its primary purposes are to alert agency personnel of the changes, to assist in developing implementation programs, and to serve as a resource for historical research. For information on the fiscal impacts of the summarized legislation, see the companion document, "*State Revenue Impact of Major 2014 Tax Legislation*."

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STATE REVENUE IMPACT OF MAJOR 2014 TAX LEGISLATION - Sources Impacting Dept. of Revenue Only

Bill Num	Bill Description	FY 2014	FY 2015	2013-15 Bien	FY 2016	FY 2017	2015-17 Bien
House Bills:							
2ESHB 1117	Transfer of real property ¹	\$0	\$0	\$0	\$0	\$0	\$0
ESHB 1287	Indian tribes/Property tax	\$0	\$48,000	\$48,000	\$196,000	\$198,000	\$394,000
SHB 1634	Solar, biomass, and geothermal facilities/Property tax	Indeterminate	Indeterminate		Indeterminate	Indeterminate	
HB 2099	Timber purchase reporting ¹	\$0	\$0	\$0	\$0	\$0	\$0
E2SHB 2192	State agency permitting and review process	\$0	\$0	\$0	\$0	\$0	\$0
SHB 2229	State tourism marketing program ¹	\$0	\$0	\$0	\$0	\$0	\$0
ESHB 2298	Definition of capital projects ¹	\$0	\$0	\$0	\$0	\$0	\$0
SHB 2309	Payment of property taxes	\$0	\$0	\$0	\$0	\$0	\$0
HB 2446	Property tax procedures for refund	Indeterminate	Indeterminate		Indeterminate	Indeterminate	
2SHB 2457	Derelict and abandoned vessels	\$0	\$0	\$0	(\$15,000)	(\$15,000)	(\$30,000)
E2SHB 2493	Current use valuation and commercial horticulture	\$0	\$0	\$0	\$0	\$0	\$0
HB 2741	Vehicle registration	Minimal	Minimal		Minimal	Minimal	
Senate Bills:							
SSB 5360	Collection of unpaid wages	\$0	(\$25,000)	(\$25,000)	(\$25,000)	(\$25,000)	(\$50,000)
ESSB 6001	Supplemental transportation budget, 2013-2015 ¹	\$0	\$0	\$0	\$0	\$0	\$0
SB 6180	Designated forest lands and open space timber	\$0	\$0	\$0	\$0	\$0	\$0
SSB 6216	County ferries ¹	\$0	\$0	\$0	\$0	\$0	\$0
2SSB 6330	Affordable housing in unincorporated areas	\$0	\$0	\$0	\$0	\$0	\$0
SSB 6333	Tax statute clarifications	\$0	\$0	\$0	\$0	\$0	\$0
SB 6405	Non-profit tax-exempt property usage	Indeterminate	Indeterminate		Indeterminate	Indeterminate	
ESSB 6440	Compressed natural gas and liquefied natural gas	\$0	\$0	\$0	(\$308,000)	(\$369 <i>,</i> 000)	(\$677,000)
SB 6505	SB 6505 Clarifying "agricultural products"/Marijuana		\$2,725,000	\$2,725,000	\$2,725,000	\$2,725,000	\$5,450,000
NET GENERAL FUND IMPACT		\$0	\$2,748,000	\$2,748,000	\$2,573,000	\$2,514,000	\$5,087,000

State General Fund

BLS License, Fee & Registration Bills

Bill Num	Bill Description (Fund)	FY 2014	FY 2015	2013-15 Bien	FY 2016	FY 2017	2015-17 Bien
ESHB 2680	Caterer's license to sell spirits, beer, and wine ¹	\$0	\$0	\$0	\$0	\$0	\$0
ESSB 5045	Day spas/Wine or beer by the individual glass ¹	\$0	\$0	\$0	\$0	\$0	\$0
SB 5310	Senior citizen liquor license ¹	\$0	\$0	\$0	\$0	\$0	\$0
ESSB 6137	Pharmacy benefit managers and pharmacy audits	\$0	\$7,000	\$7,000	\$9,000	\$11,000	\$20,000

State Funds other than General or BLS Funds

Bill Num	Bill Description (Fund)	FY 2014	FY 2015	2013-15 Bien	FY 2016	FY 2017	2015-17 Bien
2SHB 2457	Derelict and abandoned vessels - Derelict vessel	\$0	\$95,000	\$95,000	\$127,000	\$127,000	\$254,000
SB 6505	Clarifying "agricultural products"/Marijuana - Multimodal	\$0	\$1,000	\$1,000	\$1,000	\$1,000	\$2,000
SB 6505	Clarifying "agricultural products"/Marijuana - Parks Stewardship	\$0	\$2,000	\$2,000	\$2,000	\$2,000	\$4,000
SB 6505	Clarifying "agricultural products"/Marijuana - Performance Audit	\$0	\$3,000	\$3,000	\$3,000	\$3,000	\$6,000
SB 6505	Clarifying "agricultural products"/Marijuana - Waste/Recycling	\$0	\$36,000	\$36,000	\$36,000	\$36,000	\$72,000

¹The Department did not receive a fiscal note request for proposal.

HOUSE BILLS

2ESHB 1117 Transfer of real property by deed taking effect at the grantor's death (<u>Chapter 58, Laws of 2014</u>)

This bill creates a transfer on death (TOD) deed that would allow transfers of real property to one or more beneficiaries upon the transferor's death outside of probate. A TOD deed must be recorded and may be revoked during the transferor's lifetime. The bill provides a real estate excise tax exemption for transfers of real property by TOD deed, unless the transfer is in satisfaction of a contractual obligation of the decedent owed to the recipient of the property.

2ESHB 1117 is effective June 12, 2014.

ESHB 1287 Subjecting federally recognized Indian tribes to the same conditions as state and local governments for property owned exclusively by the tribe (<u>Chapter 207, Laws of 2014</u>)

This bill:

- Expands the tribal property tax exemption under RCW 84.36.010 to include property used for economic development purposes if the property was owned by the tribe before March 1, 2014.
- Imposes a leasehold excise tax (LET) obligation on leasehold interests of tribal property exempt from property taxes under RCW 84.36.010.
- Imposes a payment in lieu of tax (PILT) obligation with respect to tribal property exempt from property taxes under RCW 84.36.010 if there is no taxable leasehold interest in such property for LET purposes, and the tax-exempt property is:
 - Used exclusively for economic development;
 - Located outside of the tribe's reservation; and,
 - Not otherwise exempt from property taxation by federal law.
- Provides that the PILT amount be determined jointly in a good faith negotiation between the tribal owner and the county in which the property is located. The PILT amount may not be more than LET if the property were subject to LET.
- Requires the Department of Revenue to determine the PILT amount if the tribe and county cannot agree.
- Requires counties to distribute PILT payments to local taxing districts, including cities, in the same proportion as the LET—had LET applied with respect to the property.
- Allows fire protection districts and regional fire protection service authorities to contract with tribes for fire protection if the tribe owns property exempt from property taxes under RCW 84.36.010 within the boundaries of the district or authority.
- Requires the Joint Legislative Audit and Review Committee provide an economic impact report to the Legislature by December 1, 2020, evaluating the impacts of the bill.

ESHB 1287 is effective June 12, 2014, and applies beginning with taxes levied for collection in 2015. The bill expires January 1, 2022.

SHB 1634 Including the value of solar, biomass, and geothermal facilities in the property tax levy limit calculation (Chapter 4, Laws of 2014)

For purposes of calculating the highest lawful property tax levy for a taxing district, this bill allows an additional dollar amount to be added to the regular property tax levy by multiplying the levy rate of the district from the preceding year by the increase in assessed value in the district resulting from new solar, biomass, and geothermal facilities that generate electricity.

SHB 1634 is effective June 12, 2014, and applies beginning with property taxes originally due in 2015.

HB 2099 Extending the expiration date for reporting requirements on timber purchases (Chapter 152, Laws of 2014)

This bill extends the expiration date for reporting private timber purchases involving more than 200,000 board feet to the Department of Revenue (Department) from July 1, 2014, to July 1, 2018. The Department uses these reports to set statewide stumpage values upon which the timber excise tax (RCW 84.33) is imposed on public and private timber harvests.

HB 2099 is effective June 12, 2014.

E2SHB 2192 Relating to promoting economic development through enhancing transparency and predictability of state agency permitting and review processes (Chapter 68, Laws of 2014)

This bill requires certain agencies, including the Department of Revenue, to:

- Provide to the Office of Regulatory Assistance (ORA) an inventory of all business permits and data concerning the time it takes to make permitting decisions.
- Make permitting information available to the public on their websites and link that information to the ORA's website.
- Report quarterly to the Governor about agency programs to improve permitting performance.

The ORA must:

- Host a central repository on its website for permit performance and assistance information.
- Collect permit data and report findings to the Legislature and Governor's Office during even-numbered years.

E2SHB 2192 is effective June 12, 2014.

SHB 2229 Concerning long-term funding for a state tourism marketing program (Chapter 69, Laws of 2014)

This bill requires the Washington Tourism Alliance (WTA), a private nonprofit organization, to prepare a report that proposes a mechanism to raise funds for statewide tourism marketing from the lodging, food service, attractions, retail, and transportation industry sectors. The WTA must also develop a governance structure and a method for assessing the effectiveness of the marketing program. The report is due to the Legislature by December 1, 2014.

The WTA must work with the Departments of Revenue and Commerce, State Treasurer, and Secretary of State to develop a method to collect funds from the five industry sectors.

SHB 2229 is effective June 12, 2014.

ESHB 2298 Changing the definition of capital projects to include technology infrastructure (Chapter 44, Laws of 2014)

This bill allows the use of city and county real estate excise tax revenue for technology infrastructure that is integral to a capital (public works) project.

ESHB 2298 is effective June 12, 2014.

SHB 2309 Concerning fairness and flexibility in the payment of property taxes (Chapter 13, Laws of 2014)

This bill limits the application of penalties and interest on property taxes. It also provides more flexibility for county treasurers in collecting delinquent property taxes and waiving interest and penalties.

Specifically, the bill:

- Authorizes county treasurers to accept partial payments of delinquent property taxes, including penalties and interest, through electronic means.
- Limits the penalties and interest on delinquent property taxes to the remaining unpaid portion instead of the full year of taxes.
- Provides county treasurers authority to waive interest and penalties on property taxes when a taxpayer pays an erroneous amount due to apparent taxpayer error, and the taxpayer pays the delinquent taxes within 30 days of the notice that the taxes are due.

SHB 2309 is effective June 12, 2014, and applies beginning with property taxes originally due in 2015.

HB 2446 Concerning property tax assessment administration—simplifying procedures for obtaining an order for refund (<u>Chapter 16, Laws of 2014</u>)

This bill addresses the property tax refund process administered by county treasurers. Instead of requiring that the taxpayer first file a written request for a refund with the county treasurer, the county treasurer can self-initiate certain refunds based on circumstances, such as orders from the court, or certain decisions by the county treasurer, assessor, or Department of Revenue.

HB 2446 is effective June 12, 2014.

2SHB 2457 Concerning derelict and abandoned vessels (<u>Chapter 195, Laws of 2014</u>)

This bill is intended to reduce the number of vessels that become derelict or abandoned and the current inventory of such vessels. The following provisions specifically impact the Department of Revenue:

- Sales and use tax exemptions for sales of vessel deconstruction services, which take effect October 1, 2014.
- A newly-established derelict vessel removal fee on commercial vessels of \$1 per foot to be collected with the annual commercial vessel property tax, which takes effect January 1, 2015.
- Provisions to encourage vessel registration, which take effect June 12, 2014:
 - Requiring marinas to provide certain information upon request to the Departments of Revenue, Licensing, and Natural Resources, but no more frequently than twice per year.
 - $\circ~$ Imposing escalating penalties on vessel owners that fail to meet vessel registration requirements.

E2SHB 2493 Concerning current use valuation for land primarily used for commercial horticultural purposes (Chapter 125, Laws of 2014)

This bill allows land primarily used for commercial horticultural purposes, including growing plants in containers, whether under a structure or not, to qualify for the farm and agricultural land classification under the current use property tax program, provided that:

- The land is not primarily used for the storage, care, or selling of plants purchased from other growers for retail sale.
- Land consisting of fewer than five acres and used primarily to grow plants in containers does not qualify as farm and agricultural land if more than 25 percent of the land used primarily to grow plants in containers is open to the general public for on-site retail sales.
- If more than 20 percent of the land used for growing plants in containers is covered by pavement, none of the paved area is eligible for classification as farm and agricultural

land, unless the land qualifies under an existing provision of law relating to "incidental use" of land in a way that is compatible with agricultural purposes.

• If the land used primarily for commercial horticultural purposes, and any contiguous land classified as farm and agricultural land, totals fewer than 20 acres, the land must meet existing income or investment requirements for classification as farm and agricultural land.

E2SHB 2493 is effective June 12, 2014.

HB 2741Relating to requirements before issuance of an initial vehicle registration
(Chapter 197, Laws of 2014)

This bill removes the requirement that an individual present an unexpired Washington State driver's license (WSDL) when renewing a vehicle registration. However, the requirement to present an unexpired WSDL to obtain an initial vehicle registration remains.

Maintaining the requirement to present an unexpired WSDL for initial vehicle registration reduces opportunities for abusing the sales tax exemption for eligible nonresidents.

HB 2741 is effective June 12, 2014.

SENATE BILLS

SSB 5360 Relating to the collection of unpaid wages (Chapter 210, Laws of 2014)

This bill allows the Department of Labor & Industries (DLI) to serve a notice and order to withhold and deliver (levy) against an employer's property held by banks and other financial institutions for wage claims. In order to effect such electronic service of a levy, DLI must provide the Department of Revenue with a list of outstanding filed warrants. The Department of Revenue may include these warrants in electronic levies served on financial institutions.

SSB 5360 is effective June 12, 2014.

ESSB 6001 Concerning transportation funding and appropriations (Chapter 222, Laws of 2014, Partial Veto)

This bill makes supplemental transportation appropriations for the 2013-2015 Biennium. The bill includes a provision extending the Commute Trip Reduction (CTR) tax credit program from June 30, 2014, to June 30, 2015. The CTR tax credit program provides a business and occupation or public utility tax credit for a portion of commute trip reduction incentive payments that employers provide to their employees.

SB 6180 Consolidating designated forest lands and open space timber land for ease of administration (Chapter 137, Laws of 2014)

This bill affects the "current use" and "designated forest land" (DFL) property tax programs, which provide eligible land with a reduced valuation as compared to a valuation based on the land's highest and best use. The primary feature of this bill allows a county legislative authority to merge its current use timber land classification into its DFL program, thereby terminating the timber land classification. Other provisions of the bill include:

- Providing that upon merger of the timber land classification into the DFL program, land classified as timber land before the merger is considered DFL as of the date the land was classified as timber land.
- Requiring counties to notify landowners and the Department of Revenue when merging the timber land classification into the DFL program.
- Requiring the Department of Revenue to keep a list on its internet site of counties that have merged the timber land classification into the DFL program.
- Providing that if land is removed from the DFL program as a result of the merger, only the compensating tax will be due, unless the removal meets certain exceptions.
- Providing that when the owner of classified timber land provided notice of withdrawal from classification before the merger of the two programs, the land is removed from the DFL program once two assessment years have elapsed after receipt of the notice. (The bill does not affect the ability of an owner to request immediate withdrawal of land from

timber land classification before a county merges the two programs or the immediate removal of land from DFL following a merger of the two programs.)

- Allowing assessors to require a timber management plan to assist with determining continuing eligibility for the DFL program if the assessor has reason to believe that DFL of fewer than 20 acres is no longer primarily devoted to and used for growing and harvesting timber. This new provision applies regardless of whether a county has merged the timber land classification into the DFL program.
- Reducing the acreage requirement for DFL from 20 to 5 acres. This new provision applies regardless of whether a county has merged the timber land classification into the DFL program.
- Changing the deadline for assessors to approve or deny a DFL application from May 1 to July 1. This new provision applies regardless of whether a county has merged the timber land classification into the DFL program.

SB 6180 is effective June 12, 2014.

SSB 6216 Relating to county ferries (<u>Chapter 51, Laws of 2014</u>)

This bill establishes the procedures and requirements for a county with a population of one million or more to assume the rights, powers, functions, and obligations of a county ferry district established with the same boundaries as the county.

SSB 6216 is effective June 12, 2014.

2SSB 6330 Promoting affordable housing in unincorporated areas of rural counties within urban growth areas (Chapter 96, Laws of 2014)

This bill expands the multifamily housing property tax exemption program (RCW 84.14). Under the bill, the exemption is made available to eligible properties in a residential targeted area (RTA) if the following conditions are met:

- The RTA is located in the unincorporated area of a county, within an urban growth area designated by the county before January 1, 2013.
- The county must have a population between 50,000 and 71,000 and border Puget Sound (such counties are defined in the bill as a "rural county").
- The RTA must be served by a sewer system.

An application for property tax exemption may not be approved for an RTA in a rural county on or after January 1, 2020.

2SSB 6330 is effective June 12, 2014.

SSB 6333 Concerning tax statute clarifications, simplifications, and technical corrections (Chapter 97, Laws of 2014)

This bill makes a variety of changes to the tax statutes, which include eliminating obsolete provisions of law, making statutory corrections or clarifications, providing consistency between statutes, fixing inadvertent errors and oversights in prior legislation, and making other changes that improve administration of the tax laws.

SSB 6333 is effective June 12, 2014.

SB 6405 Providing greater consistency in how nonprofit tax-exempt property may be used without jeopardizing the property's tax-exempt status (<u>Chapter 99, Laws of 2014</u>)

This Department of Revenue request legislation establishes standardized criteria for allowable nonexempt uses of tax-exempt property owned by churches and certain other nonprofit organizations. The bill:

- Allows the rental or use of exempt property for non-exempt purposes for up to 50 days per calendar year if no more than 15 of those 50 days are used for pecuniary gain or business activities.
- Maintains those provisions of current law that allow for greater use of exempt property for non-exempt purposes than under the bill's 15- and 50-day limits.

The bill does not impact the ability of churches and other nonprofit organizations to continue to host occasional, short-in-duration fundraising activities, outside of these new criteria, as long as the host receives 51 percent of the net proceeds from the business activities involved. Fund-raising events that do not meet the 51 percent requirement may be hosted by the exempt nonprofit but are subject to the new 15-day limit on the use of exempt property for pecuniary gain or business activities.

SB 6405 is effective June 12, 2014.

ESSB 6440 Concerning compressed natural gas and liquefied natural gas used for transportation purposes (Chapter 216, Laws of 2014)

Provisions of this bill include:

- Exempting sales of natural gas, liquefied natural gas (LNG), and compressed natural gas (CNG) from the state public utility tax (PUT) if:
 - \circ $\,$ The LNG or CNG is to be sold or used as transportation fuel; or
 - The natural gas is used by the buyer to manufacture LNG or CNG to be sold or used as transportation fuel.
- Exempting the use of natural gas, LNG, or CNG from the brokered natural gas use tax if the taxpayer uses the gas for transportation fuel.

- Subjecting the production and sale of natural gas, LNG, and CNG used as transportation fuel to the B&O and retail sales and use tax statutes, and defining the production of LNG and CNG as manufacturing for B&O and sales tax purposes.
- Capping a city or town's local utility tax rate on sales of natural gas, CNG, or LNG that are exempt from the state PUT under this legislation. If the city or town imposes a B&O tax, the utility tax rate is capped at the B&O tax rate on sales of tangible personal property. If the city or town does not have a B&O tax, the utility tax rate is capped at 0.2 percent.
- Extending the manufacturing machinery and equipment (M&E) sales and use tax exemption to machinery and equipment used in the manufacturing of LNG and CNG for use as a transportation fuel, but requiring a gas distribution business claiming the exemption to:
 - Pay sales tax when purchasing such machinery and equipment; and
 - Apply to the Department of Revenue for a remittance (refund) of the exempted sales taxes paid. Applications may be submitted on a quarterly basis beginning July 1, 2017, for purchases made on or after July 1, 2015. No applications may be made after June 30, 2028.
- Narrowing an existing sales tax exemption for items used in interstate or foreign commerce by eligible carriers. As a result:
 - Until July 1, 2028, 90 percent of LNG purchased as fuel for use outside the state by carriers engaged in interstate or foreign commerce by water will be exempt from sales tax rather than 100 percent of such purchases as would otherwise be exempt under existing law; and
 - Effective July 1, 2028, LNG used as fuel for marine vessels will be ineligible for any exemption.
- Requiring that estimated sales taxes collected on the taxable portion of LNG used outside the state by carriers engaged in interstate or foreign commerce by water be transferred twice a year from the general fund to the motor vehicle fund beginning December 31, 2017, through June 30, 2028.
- Requiring the Department of Revenue to convene a stakeholder work group to recommend to the Legislature by December 1, 2025, the appropriate taxation of LNG used for marine vessel transportation.
- Making provisions for the special fuel taxation of CNG and LNG for on-road use. These taxes are administered by the Department of Licensing.

ESSB 6440 is effective July 1, 2015.

SB 6505 Relating to clarifying that marijuana, usable marijuana, and marijuanainfused products are not agricultural products (<u>Chapter 140, Laws of 2014</u>)

This bill ensures that certain tax preferences are inapplicable to marijuana, useable marijuana, and marijuana-infused products, and the growing and processing of marijuana and marijuana-related products.

The bill affects tax preferences for the business and occupation (B&O) tax, sales and use tax,

public utility tax, litter tax, leasehold excise tax, and property tax.

The bill also exempts persons producing marijuana and marijuana-related products from inspection and licensing by the Washington State Department of Agriculture (WSDA) in regard to plants, seeds, and packaging. Marijuana is also excluded from WSDA's agriculture commodity provisions.

SB 6505 is effective June 12, 2014.

BILLS AFFECTING THE BUSINESS LICENSING SERVICE (BLS)

ESHB 2680 Relating to a liquor catering (Chapter 29, Laws of 2014)

This bill creates a stand-alone "caterer's" license to sell individual servings of spirits, beer, or wine at an event location owned, leased, or operated by either the event's sponsor or caterer. This license is regulated by the Liquor Control Board and issued through the BLS.

The bill takes effective June 12, 2014.

ESSB 5045 Relating to the creation of a permit to allow day spas to offer or supply without charge wine or beer by the individual glass to a customer for consumption on the premises (Chapter 199, Law of 2014)

This bill creates a day spa permit, allowing day spas to serve customers one glass of beer or wine free of charge. The Liquor Control Board will issue these permits through the BLS.

ESSB 5045 is effective June 12, 2014.

SB 5310 Relating to senior center licenses (Chapter 78. Laws of 2014)

This bill creates a liquor license, designated a senior center license, which allows nonprofit senior centers to sell spirits, beer, and wine by the glass for on-premises consumption. The Liquor Control Board will issue the license through the BLS.

SB 5310 is effective June 12, 2014.

ESSB 6137 Regulating pharmacy benefit managers regarding registration, audits, and maximum allowable cost standards (Chapter 213, Laws of 2014)

This bill establishes regulatory provisions relating to pharmacy benefit managers (PBMs), which are third-party administrators of prescription drug programs. Among other things, the bill requires PBMs to register with BLS and to renew their registration annually. The registration and renewal fee for PBMs is \$200.

ESSB 6137 is effective June 12, 2014.