

# Chapter 8

## Hazardous Substance Tax

## 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 2020	FY 2021	FY 2022	FY 2023
State Taxes	\$361.383	\$375.612	\$387.052	\$398.518
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 2020	FY 2021	FY 2022	FY 2023
State Taxes	\$0.000	\$300.922	\$368.182	\$379.087
Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000

**Assumptions**

- The volume of HST taxable petroleum products in Washington is based on information from Washington Research Council and Energy Information Administration (EIA).
- The forecasted percentage change for the implicit price deflator for non-residential structures is as follows:
  - Fiscal Year 2021 percentage change of 2.8 percent
  - Fiscal Year 2022 percentage change of 3.0 percent
  - Fiscal Year 2023 percentage change of 3.0 percent
  - Fiscal Year 2024 percentage change of 2.9 percent
  - Fiscal Year 2025 percentage change of 2.9 percent
- The tax rates for petroleum products are as follows:
  - Fiscal Year 2020 tax rate of \$1.09 per barrel
  - Fiscal Year 2021 tax rate of \$1.12 per barrel
  - Fiscal Year 2022 tax rate of \$1.15 per barrel
  - Fiscal Year 2023 tax rate of \$1.19 per barrel
  - Fiscal Year 2024 tax rate of \$1.22 per barrel
  - Fiscal Year 2025 tax rate of \$1.26 per barrel
- Approximately 4.8 percent of current law HST collections are for non-petroleum based products.
- Requirement that \$50 million per biennium be distributed into the motor vehicle fund has already been met.
- July 1, 2020, effective date and 11 months of cash collections in Fiscal Year 2021.

## 82.21.040(1) - Successive uses of hazardous substance

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### Data Sources

- U.S. Energy Information Administration
  - IHS Market's March 2019 Forecast
  - Department of Revenue excise tax data
  - U.S. Energy Information Administration, Prime Supplier Sales Volumes of petroleum products, annual series for Washington State
  - U.S. Energy Information Administration, Annual Energy Outlook 2019, Pacific Region
  - Washington Research Council, "The Economic Contribution of Washington State's Petroleum Refining Industry in 2017," February 2019
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### Additional Information

Additional Information	
<b>Category:</b>	Tax Base
<b>Year Enacted:</b>	1989
<b>Primary Beneficiaries:</b>	Wholesalers, distributors, and retailers of hazardous substances
<b>Taxpayer Count:</b>	570
<b>Program Inconsistency:</b>	None evident
<b>JLARC Review:</b>	JLARC completed an expedited report 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 2020	FY 2021	FY 2022	FY 2023
State Taxes	\$0.900	\$0.925	\$0.941	\$0.957
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 2020	FY 2021	FY 2022	FY 2023
State Taxes	\$0.000	\$0.805	\$0.894	\$0.909
Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000

**Assumptions**

- Represents minimum amount of hazardous substances that are exempt from hazardous substance tax due to domestic use.
- Growth rate for domestic use of hazardous substances decreases by 1.2 percent annually into the future.
- July 1, 2020, effective date, with 11 months of collections in Fiscal Year 2021.
- Requirement that \$50 million per biennium be distributed into the motor vehicle fund has already been met.

**Data Sources**

- U.S. Energy Information Administration
- IHS Markit's March 2019 forecast

**Additional Information**

Additional Information	
<b>Category:</b>	Individuals
<b>Year Enacted:</b>	1989
<b>Primary Beneficiaries:</b>	Domestic users of hazardous substances
<b>Taxpayer Count:</b>	Unknown
<b>Program Inconsistency:</b>	None evident
<b>JLARC Review:</b>	Not reviewed by JLARC

## 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 businesses having to report small amounts of tax.

**Taxpayer savings**

*(\$ in millions):*

	FY 2020	FY 2021	FY 2022	FY 2023
State Taxes	\$0.015	\$0.015	\$0.016	\$0.016
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 2020	FY 2021	FY 2022	FY 2023
State Taxes	\$0.000	\$0.007	\$0.009	\$0.011
Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000

**Assumptions**

- A "minimal" amount of hazardous substance is an amount with a wholesale value less than \$1,000 possessed during a 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, 2020, effective date and 11 months of cash collections in Fiscal Year 2021.
- Compliance:
  - 50 percent revenue collections in Fiscal Year 2021
  - 60 percent revenue collections in Fiscal Year 2022
  - 70 percent revenue collections in Fiscal Year 2023
  - 80 percent revenue collections in Fiscal Year 2024 and beyond.

**Data Sources**

- Department of Revenue excise tax data
- Department of Revenue hazardous substance tax March 2019 forecast

## 82.21.040(3) - Minimal amount of hazardous substance

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### Additional Information

Additional Information	
Category:	Tax Base
Year Enacted:	1989
Primary Beneficiaries:	Small retailers whose primary business is not selling hazardous substances
Taxpayer Count:	1,300
Program Inconsistency:	None evident
JLARC Review:	JLARC completed an expedited report in 2012

## 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 2020	FY 2021	FY 2022	FY 2023
State Taxes	D	D	D	D
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 2020	FY 2021	FY 2022	FY 2023
State Taxes	\$0.000	D	D	D
Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000

**Assumptions**

- Natural gas is not defined as a hazardous substance.
- If repealed, natural gas would not be taxable.
- Fewer than three taxpayers producing alumina; revenue impact is confidential.

**Data Sources** Alumina price from London Metal Exchange on March 8, 2019

**Additional Information**

Additional Information	
<b>Category:</b>	Tax Base
<b>Year Enacted:</b>	1989
<b>Primary Beneficiaries:</b>	Washington users of natural gas and alumina
<b>Taxpayer Count:</b>	Fewer than three taxpayers
<b>Program Inconsistency:</b>	None evident
<b>JLARC Review:</b>	Not reviewed by JLARC

## 82.21.040(5) - Agricultural crop protection products

**Description** Pesticides or insecticides that are intended for agricultural crop protection by farmers or certified applicators, and are warehoused in Washington State, or transported to or from the state without being used in the state, and are not packaged, repackaged, or manufactured in the state, are exempt from the state hazardous substance tax.

**Purpose** This concerns a very small amount of product that is neither produced nor used in Washington, so there is no reason to burden distributors with the hazardous substance tax.

**Taxpayer savings**

*(\$ in millions):*

	FY 2020	FY 2021	FY 2022	FY 2023
State Taxes	\$0.490	\$0.490	\$0.490	\$0.490
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 2020	FY 2021	FY 2022	FY 2023
State Taxes	\$0.000	\$0.449	\$0.490	\$0.490
Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000

**Assumptions**

- No growth assumed in tax collections.
- July 1, 2020, effective date with 11 months of collections in Fiscal Year 2021.

**Data Sources**

Department of Revenue excise tax data

**Additional Information**

Additional Information	
<b>Category:</b>	Business
<b>Year Enacted:</b>	2015
<b>Primary Beneficiaries:</b>	Wholesalers who import and re-export pesticides
<b>Taxpayer Count:</b>	5
<b>Program Inconsistency:</b>	None evident
<b>JLARC Review:</b>	Not reviewed by JLARC



## 82.21.040(6) - Constitutional or Federal prohibition on hazardous substance

**Description** Persons or activities that the U.S. Constitution prohibits taxing are exempt from the hazardous substance tax.

**Purpose** To prevent violating constitutional law.

**Taxpayer savings** *(\$ in millions):*

	FY 2020	FY 2021	FY 2022	FY 2023
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 2020	FY 2021	FY 2022	FY 2023
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	
<b>Category:</b>	Tax Base
<b>Year Enacted:</b>	1989
<b>Primary Beneficiaries:</b>	None
<b>Taxpayer Count:</b>	0
<b>Program Inconsistency:</b>	None evident
<b>JLARC Review:</b>	JLARC completed an expedited report in 2016

## 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 2020	FY 2021	FY 2022	FY 2023
State Taxes	\$25.371	\$28.594	\$29.441	\$30.322
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 2020	FY 2021	FY 2022	FY 2023
State Taxes	\$0.000	\$24.901	\$27.969	\$28.806
Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000

**Assumptions**

- Requirement that \$50 million per biennium be distributed into the motor vehicle fund has been met.
- Forecasted percentage change for the implicit price deflator for non-residential structures is as follows:
  - Fiscal Year 2021 percentage change of 2.8 percent
  - Fiscal Year 2022 percentage change of 3.0 percent
  - Fiscal Year 2023 percentage change of 3.0 percent
  - Fiscal Year 2024 percentage change of 2.9 percent
  - Fiscal Year 2025 percentage change of 2.9 percent
- Tax rates for petroleum products are as follows:
  - Fiscal Year 2020 tax rate of \$1.09 per barrel
  - Fiscal Year 2021 tax rate of \$1.12 per barrel
  - Fiscal Year 2022 tax rate of \$1.15 per barrel
  - Fiscal Year 2023 tax rate of \$1.19 per barrel
  - Fiscal Year 2024 tax rate of \$1.22 per barrel
  - Fiscal Year 2025 tax rate of \$1.26 per barrel
- Moderate annual growth rate of positive 0.4 percent is applied in near-term, before gradually falling to negative 1 percent in the longer-term.
- July 1, 2020, effective date and 11 months of cash collections in Fiscal Year 2021.

## 82.21.050(1) - Fuel exported in fuel tanks

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### Data Sources

- U.S. Energy Information Administration
  - IHS Markit's March 2019 forecast
  - Department of Revenue excise tax data
  - U.S. Energy Information Administration, Prime Supplier Sales Volumes of Petroleum Products, annual series for Washington State
  - U.S. Energy Information Administration, Annual Energy Outlook 2019, Pacific Region
  - Washington Research Council, "The Economic Contribution of Washington State's Petroleum Refining Industry in 2017," February 2019
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### Additional Information

Additional Information	
<b>Category:</b>	Tax Base
<b>Year Enacted:</b>	1989
<b>Primary Beneficiaries:</b>	Petroleum refiners
<b>Taxpayer Count:</b>	15
<b>Program Inconsistency:</b>	None evident
<b>JLARC Review:</b>	Not reviewed by JLARC

## 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 2020	FY 2021	FY 2022	FY 2023
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 2020	FY 2021	FY 2022	FY 2023
State Taxes	\$0.000	\$0.000	\$0.000	\$0.000
Local Taxes	\$0.000	\$0.000	\$0.000	\$0.000

**Assumptions** There is no evidence that this credit is being used.

**Data Sources** Department of Revenue excise tax data

**Additional Information**

Additional Information	
<b>Category:</b>	Interstate Commerce
<b>Year Enacted:</b>	1989
<b>Primary Beneficiaries:</b>	Interstate commerce firms
<b>Taxpayer Count:</b>	0
<b>Program Inconsistency:</b>	None evident
<b>JLARC Review:</b>	Not reviewed by JLARC