# Chapter 9
# 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 2024 | FY 2025 | FY 2026 | FY 2027 |
|---|---|---|---|---|
| State Taxes | $509.661 | $661.906 | $607.948 | $751.935 |
| 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 2024 | FY 2025 | FY 2026 | FY 2027 |
|---|---|---|---|---|
| State Taxes | $0.000 | $606.748 | $607.948 | $751.935 |
| Local Taxes | $0.000 | $0.000 | $0.000 | $0.000 |

**Assumptions**

- This repeal takes effect July 1, 2024, and impacts 11 months of collections in fiscal year 2025.
- Annual refinery utilization and capacity for Washington is approximately 25% of the total capacity in the Pacific Region, and it will represent the taxable petroleum product volume.
- Non-volumetric products are 5% of volumetric revenue.
- Electric vehicle registration growth would proportionately decrease the gasoline volume consumption.
- The likelihood of successive taxation exposure is expressed in terms of multiplier(s) to the currently reported taxable amount, and it is based on the supply chain where businesses are involved.
- Refineries and other manufacturers, at the beginning of the supply chain, would be subject to a maximum successive taxation, with a multiplier of 1.5.
- Brokers and intermediaries, at the middle of the supply chain, would be subject to moderate successive taxation, with a multiplier of 1.
- At the end of the supply chain, most retailers would be subject to minimal successive taxation, with a multiplier of 0.3.

# 82.21.040(1) - Successive uses of hazardous substance

**Data Sources**

- Department of Revenue, Excise tax data
- Economic and Revenue Forecast Council, March 2023 forecast
- Department of Revenue, March 2023 Non-General Forecast
- US Energy Information Administration
- Washington Research Council, The Economic Contribution of Washington State's Petroleum Refining Industry in 2021
- Transportation Revenue Forecast Council, November 2022 forecast

**Additional Information**

| Additional Information | |
|---|---|
| **Category:** | Tax base |
| **Year Enacted:** | 1989 |
| **Primary Beneficiaries:** | Wholesalers, distributors, and retailers of hazardous substances |
| **Taxpayer Count:** | 468 |
| **Program Inconsistency:** | None evident |
| **JLARC Review:** | Expedited review completed in 2012 with an upcoming review in 2026 |

# 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 2024 | FY 2025 | FY 2026 | FY 2027 |
|---|---|---|---|---|
| State Taxes | $0.776 | $0.789 | $0.789 | $0.789 |
| 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 2024 | FY 2025 | FY 2026 | FY 2027 |
|---|---|---|---|---|
| State Taxes | $0.000 | $0.687 | $0.749 | $0.749 |
| Local Taxes | $0.000 | $0.000 | $0.000 | $0.000 |

**Assumptions**

- This repeal takes effect July 1, 2024, and impacts 11 months of collections in fiscal year 2025.
- The total sales or deliveries to residential consumers of No.1 and No.2 of Distillate and Kerosene represent the minimum amount of hazardous substances exempt for domestic use.
- The growth rate for the domestic use of hazardous substances decreases by 2.5% annually into the future.
- Compliance is assumed to be as follows:
  - 95% revenue collections in fiscal year 2024 and thereafter.

**Data Sources**

- U.S. Energy Information Administration
- Economic and Revenue Forecast Council, March 2023 forecast

**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:** | Expedited review completed in 2012 and 2020 |

# 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 to make 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 many taxpayers for minimal amounts. The administrative burden would be on the collecting agency and businesses that would have to report small amounts of tax.

**Taxpayer savings**

***($ in millions):***

| | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|---|---|---|---|---|
| State Taxes | $0.026 | $0.028 | $0.029 | $0.030 |
| 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 2024 | FY 2025 | FY 2026 | FY 2027 |
|---|---|---|---|---|
| State Taxes | $0.000 | $0.013 | $0.017 | $0.021 |
| Local Taxes | $0.000 | $0.000 | $0.000 | $0.000 |

**Assumptions**

- This repeal takes effect July 1, 2024, and impacts 11 months of collections in fiscal year 2025.
- Growth rate mirrors the value-based hazardous substance tax revenue reflected in the department's March 2023 non-general fund forecast, which uses the consumer price index reflected in the Economic and Revenue Forecast Council's March 2023 forecast.
- 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% of retail businesses in border counties have out-of-state suppliers that have not already paid hazardous substance tax.
- Compliance is assumed to be as follows:
    - 50% revenue collections in Fiscal Year 2025,
    - 60% revenue collections in Fiscal Year 2026,
    - 70% revenue collections in Fiscal Year 2027
    - 80% revenue collections in Fiscal Year 2028 and beyond.

# 82.21.040(3) - Minimal amount of hazardous substance

**Data Sources**

- Department of Revenue, Excise tax data
- Department of Revenue, March 2023 non-general forecast
- Economic and Revenue Forecast Council, March 2023 forecast

**Additional Information**

| Additional Information | |
|---|---|
| **Category:** | Tax base |
| **Year Enacted:** | 1989 |
| **Primary Beneficiaries:** | Small retailers whose primary business is not selling hazardous substances |
| **Taxpayer Count:** | 2,000 |
| **Program Inconsistency:** | None evident |
| **JLARC Review:** | Expedited review completed in 2013 |

# 82.21.040(4) - Alumina and natural gas

**Description**

Any alumina or natural gas possession is exempt from the tax imposed on the privilege of possessing hazardous substances in Washington.

**Purpose**

To avoid taxation of alumina or natural gas.

**Taxpayer savings**

***($ in millions):***

| | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|---|---|---|---|---|
| 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 increase revenues.

**Potential revenue gains from full repeal**

***($ in millions):***

| | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|---|---|---|---|---|
| State Taxes | $0.000 | $0.000 | $0.000 | $0.000 |
| 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.
- There is no aluminum smelter production in the state. We expect no aluminum smelter production during the forecasted period of this study.

**Data Sources**

- Recycling Today, March 17, 2023

**Additional Information**

| Additional Information | |
|---|---|
| **Category:** | Business |
| **Year Enacted:** | 1989 |
| **Primary Beneficiaries:** | Washington users of natural gas and alumina |
| **Taxpayer Count:** | 0 |
| **Program Inconsistency:** | None evident |
| **JLARC Review:** | Expedited review completed in 2012 with an upcoming review in 2026 |

# 82.21.040(5) - Agricultural crop protection products

**Description**

Pesticide products solely used by farmers or certified applicators as an agricultural crop protection product warehoused in or transported to or from Washington are exempt from the hazardous substance tax provided the possessor of the pesticide products does not otherwise use, manufacture, package for sale, or sell the products in Washington.

This exemption expires on January 1, 2026.

**Purpose**

To incentivize the storage of certain agricultural crop protection products in Washington, where the products are used outside the state.

**Taxpayer savings**

***($ in millions):***

| | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|---|---|---|---|---|
| State Taxes | $0.139 | $0.139 | $0.081 | $0.000 |
| 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 2024 | FY 2025 | FY 2026 | FY 2027 |
|---|---|---|---|---|
| State Taxes | $0.000 | $0.127 | $0.081 | $0.000 |
| Local Taxes | $0.000 | $0.000 | $0.000 | $0.000 |

**Assumptions**

- This repeal takes effect July 1, 2024, and impacts 11 months of collections in fiscal year 2025.
- Growth rate for agricultural crop protection products revenue mirrors Statista's U.S. pesticide and other agricultural chemicals industry revenue trend forecast.

**Data Sources**

- Department of Revenue, Excise tax data
- Statista, Pesticide and other agricultural chemicals industry revenue 2016-2024

**Additional Information**

| Additional Information | |
|---|---|
| **Category:** | Business |
| **Year Enacted:** | 2015 |
| **Primary Beneficiaries:** | Wholesalers who import and re-export pesticides |
| **Taxpayer Count:** | 3 |
| **Program Inconsistency:** | None evident |
| **JLARC Review:** | Full review completed in 2023 |

# 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 2024 | FY 2025 | FY 2026 | FY 2027 |
|---|---|---|---|---|
| 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 2024 | FY 2025 | FY 2026 | FY 2027 |
|---|---|---|---|---|
| State Taxes | $0.000 | $0.000 | $0.000 | $0.000 |
| Local Taxes | $0.000 | $0.000 | $0.000 | $0.000 |

**Assumptions**

No revenue impact. 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:** | No review completed |

# 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**

The credit 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 is unlikely to contribute to such sites.

**Taxpayer savings**

***($ in millions):***

| | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|---|---|---|---|---|
| State Taxes | $17.785 | $23.157 | $21.190 | $26.343 |
| 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 2024 | FY 2025 | FY 2026 | FY 2027 |
|---|---|---|---|---|
| State Taxes | $0.000 | $21.227 | $21.190 | $26.343 |
| Local Taxes | $0.000 | $0.000 | $0.000 | $0.000 |

**Assumptions**

- This repeal takes effect July 1, 2024, and impacts 11 months of collections in fiscal year 2025.
- Growth rate mirrors the nonresidential structures growth rate reflected in the Economic and Revenue Forecast Council's March 2023 forecast.

**Data Sources**

- Department of Revenue, Excise tax data
- Economic and Revenue Forecast Council, March 2023 forecast
- Department of Revenue, March 2023 Non-General Forecast

**Additional Information**

| Additional Information | |
|---|---|
| **Category:** | Tax base |
| **Year Enacted:** | 1989 |
| **Primary Beneficiaries:** | Petroleum refiners |
| **Taxpayer Count:** | 15 |
| **Program Inconsistency:** | None evident |
| **JLARC Review:** | No review completed |

# 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 for 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 2024 | FY 2025 | FY 2026 | FY 2027 |
|---|---|---|---|---|
| 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 businesses operating on an interstate basis.

**Potential revenue gains from full repeal**

***($ in millions):***

| | FY 2024 | FY 2025 | FY 2026 | FY 2027 |
|---|---|---|---|---|
| State Taxes | $0.000 | $0.000 | $0.000 | $0.000 |
| Local Taxes | $0.000 | $0.000 | $0.000 | $0.000 |

**Assumptions**

No revenue impact. Credits taken for taxes paid in other states cannot be repealed.

**Data Sources**

Department of Revenue, Excise tax data

**Additional Information**

| Additional Information | |
|---|---|
| **Category:** | Interstate Commerce |
| **Year Enacted:** | 1989 |
| **Primary Beneficiaries:** | Interstate commerce businesses |
| **Taxpayer Count:** | 0 |
| **Program Inconsistency:** | None evident |
| **JLARC Review:** | No review completed |