



Federal Aviation Administration

Memorandum

Date: December 11, 2024

To: ACO Financial Compliance Division Staff, ACO-200
Michael W. Helvey Digitally signed by MICHAEL W HELVEY
Date: 2024.12.11 13:39:06 -05'00'

From: Michael Helvey, Director, Office of Airport Compliance and Management Analysis (ACO-1)

Subject: **ACTION: Compliance Guidance Letter 2024-02, Guidance for Aviation Fuel Tax Revenue Use Compliance Testing Plan**

I. Purpose and Objective

This Compliance Guidance Letter (CGL) establishes the testing plan for the Office of Airport Compliance and Management Analysis - Financial Compliance Division (Financial Compliance Division). This plan provides a systematic framework to ensure whether states and local jurisdictions assessing taxes on the sale of aviation fuel adhere to Federal revenue regulations.

The FAA's Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel (Amendment) (79 Federal Register (FR) 66282, November 7, 2014) required State and local governments to submit action plans outlining:

- How they would implement processes to amend any non-compliant laws on the use of aviation fuel tax;
- Their commitment to undertake the legislative process; and
- Processes necessary to develop reporting requirements and tracking systems for discrete information on aviation fuel tax revenues.
 - Confirm that the accounting, tracking, and reporting mechanisms will be implemented to ensure airport revenue accounts receive on a timely basis an amount equal to or exceeding the amounts collected as aviation fuel taxes; and

- The requirements to ensure the appropriations are implemented and are enforceable by state or local agencies.

These elements of the action plans will be the focus of the reviews of the compliant government entities assessing taxes on the sale of aviation fuel.

The primary objective is to achieve reasonable assurance that aviation fuel tax revenues are being used in compliance with the FAA's Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel (Amendment) (79 Federal Register (FR) 66282, November 7, 2014).

II. Jurisdiction Selection

The Director of the Office of Airport Compliance and Management Analysis (ACO-1) will select the jurisdictions levying taxes on the sale of aviation fuel for an annual compliance testing and review based on recommendations from the Financial Compliance Division. These recommendations will be based on the following criteria or key factors to prioritize high-risk jurisdictions, improved audit planning, and efficient use of resources:

- Jurisdictions requiring additional effort by the FAA to become compliant with the Amendment;
- The number and hub size of airports within the jurisdictional boundaries;
- Formal and informal complaints received from airport stakeholders;
- Previous compliance history regarding federal requirements;
- Whether the jurisdiction is a sponsor or non-sponsor; and
- The jurisdiction is claiming grandfather status.

III. Review Process

Financial Compliance Division will draft an engagement letter and data request, outlining the scope of the review and the data needed for evaluation. Data requests will focus on the following compliance requirements:

- The enactment or amendment of any legislation or processes developed to meet federal revenue regulations;
- Changes in tax rates that are assessed on the sale of aviation fuel;
- Identification of the aviation fuel tax reporting process implemented to capture the actual amounts of aviation fuel taxes collected;

- Total amounts collected and used from aviation fuel taxes on the sale of aviation fuel for each year on and after December 8, 2017 to the current date;
 - Total proceeds from the taxation of the sales of aviation fuel for each category of taxes.
 - Total appropriations of the collected aviation fuel taxes allocated back to the taxing jurisdiction assessing taxes on the sale of aviation fuel.
 - Total expenditures on aviation programs within the taxing jurisdiction, funded by proceeds from aviation fuel taxes.
- Whether the date of implementation of the processes identified within the submitted action plans met the transition date of December 8, 2017; and
- Any other documentation that could be used to analyze and establish the revenue use compliance of aviation fuel taxes to the Amendment.

Jurisdictions must submit the requested documentation detailing their reporting, collection, and allocation of aviation fuel tax revenue and the corresponding usage for aviation purposes. This documentation includes complete revenue collection data, including detailed breakdowns of collection methods and amounts. Fund allocation and expenditure documentation must demonstrate reconcilable tracking from collection through final disbursement, enabling verification of proper aviation-related usage. The state and local governments will be given 60 days to submit the requested data. The Financial Compliance Division will consider an extension of time for submittal with good cause.

ACO's process of review and analysis involves a thorough examination of submitted documents and other publicly available financial documents, including budget documents, financial reports, and other accessible records related to aviation fuel tax revenue. Throughout the review process, ACO may collaborate with Regional and Airport District Offices (ADOs) using their knowledge of local operations to enhance the understanding of specific practices and challenges in each jurisdiction.

IV. Implementation

As a pilot, ACO initiated its monitoring and testing efforts with the State of Washington (See Attached).

V. Program Management and Continuous Improvement

ACO maintains comprehensive records of the testing process, including submitted reports, findings, communications, and resolution of compliance issues. This documentation serves as both a historical record and a resource for improving future compliance testing procedures.

The program includes regular evaluation of process effectiveness, examining testing methodologies, requirements for documents, and enforcement procedures. This evaluation includes feedback from Financial Compliance Division staff, jurisdiction representatives, and Regional and Airport District Offices to identify common challenges and opportunities for systematic improvements. Based on these assessments, ACO implements changes to the testing approach for future cycles.



U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW
Washington, DC 20591

April 10, 2024

Ann B. Richart, AAE
Aviation Director
Washington State Department of Transportation
310 Maple Park Avenue SE
Olympia, WA 98504-7300

Dear Ms. Richart:

The Federal Aviation Administration (FAA) advised the State of Washington (State) on June 8, 2022 via email that its proposed 2021 Action Plan Update addressing the use of proceeds from taxes on aviation fuel was found to be compliant. The State's submission was in response to the FAA's *Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel* (79 Federal Register 66282, November 7, 2014).

As referenced in the June 8, 2022 email, the FAA is now initiating its review of the State's procedures and reporting of the proceeds from the aviation fuel tax now that the Action Plan is up and running. The review will assist the agency in determining whether the plan has been implemented consistent with the process described and the State is in compliance with federal law when using aviation fuel tax proceeds.

Our emphasis of the review will be centered on the proposed processes and methodologies submitted in the Action Plan for the State levied taxes on the sale of aviation fuel - an Aircraft Fuel Tax; State and Local Sales and Use Taxes; a Hazardous Substance Tax (HST); and a Petroleum Products Tax (PPT). For purposes of this review, these taxes are referenced as aviation fuel taxes collectively except where a tax is specifically identified.

In furtherance of the review of the State's Action Plan, please address the following:

- Identify the aviation fuel tax reporting process implemented to capture the actual amounts of taxes collected.
 - Provide a discrete report of actual amounts of aviation fuel taxes collected, including:
 - Copies of sample revised taxpayer reports and schedules and;
 - Confirmation of the reporting and tracking of the amounts of aviation fuel taxes collected and appropriated for the 7 years of 2017 - 2023.
- Provide the following information concerning the State's collections from the taxation of aviation fuel sales for the past 7 years of 2017 – 2023:
 - The total proceed amounts from each of the aviation fuel tax categories, listed above, collected from levies on aviation fuel;
 - Provide a schedule of appropriations of the aviation fuel taxes allocated back to the local taxing jurisdictions levying a tax on aviation fuel for airport use and;
 - Provide a schedule of the transactions using the proceeds from aviation fuel taxes levied by the State for State aviation programs.
- Provide copies of action plans for local taxing jurisdictions; the State assumed responsibility to ensure local taxing jurisdictions comply with the aviation fuel tax requirements.
 - Substantiate whether the proceeds collected from the local government taxes on aviation fuel are being used for airport purposes in local taxing jurisdictions.
- Provide the total amounts of HST and PPT collected on aviation fuel, including:
 - Detailed information of transactions in the funds, and the balances attributable to airport use;
 - Complete account information for HST and PPT reflecting deposits into toxic control accounts and the pollution liability insurance program trust, respectively and;
 - Substantiate whether these funds are being tracked, reported, and used for airport purposes only.

Additionally, we request the State to provide information on any enacted legislation or processes developed to meet the federal aviation fuel tax requirements. This includes copies of any enactments since the submission of the 2021 Action Plan Update, and any tax rate increases enacted since January 11, 2021 levied upon the sale of aviation fuel.

We request that you provide the information requested above within 30 days of receipt of this letter to Scott Glenn, Division Manager, Office of Airport Compliance and Management Analysis at scott.f.glenn@faa.gov.

We also remind you to timely submit updates to the FAA of any substantive changes to aviation fuel tax revenues received by the State.

We appreciate your assistance in this review. Should you have any questions, please contact Mr. Glenn at (202) 267-6491.

Sincerely,

 Digitally signed by
MICHAEL W HELVEY
Date: 2024.04.10
15:13:13 -04'00'

Michael Helvey
Director, Office of Airport Compliance

Enclosure



STATE OF WASHINGTON
DEPARTMENT OF REVENUE
OFFICE OF THE DIRECTOR

P.O. Box 47454 • Olympia, Washington 98504-7454 • (360) 534-1600 • FAX (360) 534-1606

January 11, 2021

TO: The Honorable Christine Rolfes, Chair
The Honorable Lynda Wilson
Ways & Means Committee
Washington State Senate

The Honorable Noel Frame, Chair
The Honorable Ed Orcutt
Finance Committee
Washington State House of Representatives

The Honorable Timm Ormsby, Chair
The Honorable Drew Stokesbary
Appropriations Committee
Washington State House of epreseentatives

FROM: Vikki Smith, Director
Washington State Department of Revenue

SUBJECT: Washington Action Plan—FAA Policy Concerning Airport Revenue—2021 Update

The Department of Revenue (department) is submitting this report to the Legislature as required under [Section 135\(8\), Chapter 357, Laws of 2020 \(Engrossed Substitute Senate Bill 6168\)](#). This budget proviso requires the department to:

- Update the publication titled “Washington Action Plan—FAA Policy Concerning Airport Revenue.”
- Consult with the Washington State Department of Transortation, Aviation Division, to develop and recommend to the fiscal committees of the Legislature a method of separately tracking the actual amounts collected from the hazardous substance tax (HST) and the petroleum products tax (PPT), to the extent these taxes are imposed on aviation fuel.

The Federal Aviation Administration’s policy concerning the use of airport revenues requires that any state or local taxes on aviation fuel, except taxes in effect on December 30, 1987, be expended exclusively for airport purposes and aviation programs.

In addition to HST and PPT, local sales and use taxes are subject to the FAA’s policy concerning the use of airport revenues. Therefore, while not required by ESSB 6168, this report also includes our recommended methodology to separately track local sales and use tax revenues collected on the sale and use of aviation fuel.

If you have any questions or need the report in an alternate format, please contact Michael Bailey, Legislative and External Affairs Liaison, Executive Division, at MichaelBa@dor.wa.gov or (360) 534-1545.

cc: Brad Hendrickson, Secretary, Washington State Senate
Bernard Dean, Chief Clerk, Washington State House of Representatives
Keith Phillips, Executive Policy Director, Office of the Governor
Members, Senate Ways & Means Committee
Members, House Finance Committee
Members, House Appropriations Committee
Members, Senate Transportation Committee
Members, House Transportation Committee
David Schumacher, Director, Office of Financial Management
Drew Shirk, Executive Director, Legislative Affairs, Office of the Governor
David Fleckenstein, Director of Aviation, Washington State Department of Transportation
Roselyn Marcus, Assistant Director, Office of Financial Management
Ramona Nabors, Budget Assistant, Office of Financial Management
Rachel Knutson, Budget Assistant, Office of Financial Management

Washington Action Plan

FAA Policy concerning Airport Revenue

2021 Update



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Introduction

This report is prepared as required by [Section 135\(8\), Chapter 357, Laws of 2020](#) (the 2019-2021 supplemental operating budget). This legislation required the Department of Revenue (department) to:

- Update the 2015 “Washington Action Plan – FAA Policy Concerning Airport Revenue” (see Appendix A) to reflect subsequent legislative changes to the taxation of hazardous substances.
- Develop and recommend, in consultation with Washington State Department of Transportation, Aviation Division (WSDOT), a method of separately tracking the actual amounts of hazardous substance tax (HST) and petroleum products tax (PPT) imposed on aviation fuel.

Background

The FAA's [Policy and Procedures Concerning the use of Airport Revenue; Proceeds from Taxes on Aircraft fuel](#) (FAA Policy) requires that state and local taxes imposed on aviation fuel after December 30, 1987, be used exclusively for airport purposes and aviation programs.

In 2015, the department collaborated with WSDOT to prepare a document titled, "Washington Action Plan – FAA Policy Concerning Airport Revenue" (2015 Action Plan). The 2015 Action Plan proposed a method for complying with the FAA Policy on aviation fuel tax revenue use.

Some state and local taxes apply to both aviation fuel and other products. Taxpayers report these taxes to the department on an aggregated basis. For this reason, the department does not currently collect data on the actual amount of local sales and use taxes, HST, and PPT collected on aviation fuel. The 2015 Action Plan proposed a method for estimating the amounts of those taxes collected on aviation fuel. The 2015 Action Plan was presented to the FAA by WSDOT.

In a letter dated June 28, 2017 (see Appendix B), the FAA notified WSDOT that the proposed estimation methodology in the 2015 Action Plan is not in full compliance with the aviation fuel tax revenue use requirements in the FAA Policy. As a result, the department has not implemented the 2015 Action Plan. To the department's knowledge, the FAA has not taken any action against Washington State to enforce its policy on fuel tax revenue use.

In 2019, the Legislature passed, and the Governor signed, [Engrossed Substitute Senate Bill 5993](#) (ESSB 5993). Among other things, ESSB 5993 modified the HST as applied to petroleum products from a value-based tax to a volumetric tax, beginning July 1, 2019. During final passage of this bill, several floor amendments were offered that would have exempted aviation fuel from the HST. None of these amendments were successful.

Overview of taxes applicable to aviation fuel

In some circumstances, the sale, use, purchase, or storage of aviation fuel may be subject to one or more of the following Washington state and local taxes:

- Aircraft fuel tax.
- State sales and use tax.
- Local sales and use tax.
- HST.
- PPT.

For more information on the taxes listed below, see the department's [2018 Tax Reference Manual](#) at dor.wa.gov.

1. Aircraft fuel tax ([Chapter 82.42 RCW](#))

The aircraft fuel tax is levied by the state on each gallon of aircraft fuel sold, delivered, or used in Washington. The tax was established in 1967. On December 30, 1987, the tax rate was \$0.05 per gallon.

The current tax rate is \$0.11 per gallon ([RCW 82.42.020](#)). Distributors of aircraft fuel are

required to collect the tax and submit it to the Department of Licensing. The tax is somewhat limited in scope because it does not apply to many uses of aircraft fuel, including fuel used in interstate commerce. All of the collected revenue is deposited into Washington's aeronautics account ([RCW 82.42.090](#)), a state aviation program. Thus, because the aircraft fuel tax is already dedicated to aviation, the department believes that aircraft fuel tax revenues comply with the FAA Policy's aviation fuel tax revenue use requirements.

2. State sales and use taxes (Chapters [82.08](#) and [82.12](#) RCW)

Washington's sales tax applies to the retail sale of tangible personal property, certain services, digital products, and extended warranties (see [RCW 82.08.020](#) and [RCW 82.04.050](#)). Use tax applies when Washington consumers use taxable products or services within the state and did not pay sales tax on the products or services.

Aviation fuel purchased in the state is generally subject to sales tax. However, the law provides exemptions for fuel purchased by a farmer for agricultural purposes ([RCW 82.08.865](#)) and fuel purchased by an air carrier for use in interstate or foreign air transportation ([RCW 82.08.0261](#) and [WAC 458-20-175](#)). Air carriers that purchase aviation fuel in this state are subject to use tax on the portion of the fuel consumed in this state.

State sales and use tax is generally reported by sellers and paid to the department. Revenues from the state sales and use tax are deposited into the state general fund and performance audits of government account.

The state's portion of the sales and use tax rate has remained at 6.5% since 1983. Because the current state sales and use tax rate was imposed before 1987, state sales and use taxes are not subject to the FAA's aviation fuel tax revenue use requirements.

3. Local sales and use taxes (Chapter [82.14](#) RCW and [RCW 81.104.170](#))

Local governments in Washington may impose a tax only if authorized by the Legislature. Currently, the only local tax on aviation fuel is local sales and use tax. There are currently 29 different local sales and use taxes authorized under state law. The highest current aggregate rate of local sales and use tax is 4%. Combined with the state rate of 6.5%, Washington's highest current combined state and local sales and use tax rate is 10.5%. Local sales and use taxes are administered by the department. For more information on local sales and use tax, see the department's [2020 Local Tax Reference Guide](#) at [dor.wa.gov](#).

We estimate that aviation fuel sales occur in approximately 107 local taxing jurisdictions that have either imposed or raised the rate on their local sales and use taxes after 1987. Under the terms of the FAA Policy, the revenues from the local sales and use taxes of these jurisdictions are subject to the policy's aviation fuel tax revenue use requirements. Because the department administers all local sales and use taxes, affected local governments will not need to submit their own action plans to the FAA.

4. Hazardous substance tax ([Chapter 82.21](#) RCW)

The HST is a state tax imposed on the first possession of a hazardous substance in this

state. The HST applies to:

- Petroleum products, including aviation fuel.
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) listed substances.
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) registered pesticides.

The HST rate is as follows:

Type of product	Tax rate	
<ul style="list-style-type: none">• Non-petroleum products.• Petroleum products not easily measured on a per-barrel basis.	0.7% multiplied by the wholesale value of the product.	
<ul style="list-style-type: none">• All other petroleum products, including aviation fuel.	FY 20	\$1.09 per barrel (42 gallons)
	FY 21	\$1.13 per barrel
	The per-barrel rate is adjusted for inflation, effective July 1 of each year.	

HST was first imposed in 1989. The revenue from the HST is deposited into toxic control accounts. For more information on the HST, see the [HST page](#) on the department's website.

Because the HST was imposed after 1987 and applies to aviation fuel, HST revenues are subject to the FAA's aviation fuel tax revenue use requirements.

5. Petroleum products tax ([Chapter 82.23A RCW](#))

PPT is a state tax imposed on the first possession of petroleum products in this state. The tax is equal to 0.3% of the wholesale value of the petroleum product. Effective July 1, 2021, the tax rate is reduced to 0.15%. The PPT was first imposed in 1989 and is scheduled to expire July 1, 2030. Aviation fuel is a taxable petroleum product. The revenue from the PPT is deposited in the pollution liability insurance program trust account. For more information on the PPT, see the [PPT page](#) on the department's website.

Like HST, the PPT was imposed after 1987 and is subject to the FAA Policy on the use of aviation fuel tax revenues.

Action plan and recommended methodology

Because local sales and use tax, HST, and PPT are not specific to aviation fuel, we do not currently require taxpayers to separately report the amount of local sales and use tax, HST, and PPT, attributable to aviation fuel. Instead, taxpayers report in the aggregate the amount of local

sales and use tax, HST, and PPT they owe. Consequently, we currently possess no data on the actual amount of local sales and use tax, HST, and PPT we collect specifically on aviation fuel. In order to obtain this information, we will have to require taxpayers who are liable for local sales and use tax, HST, or PPT, with respect to aviation fuel, to provide that information when filing their combined excise tax return.

The state will use the amounts of HST and PPT reported by taxpayers as attributable to aviation fuel to calculate the amount of funds that should be allocated to aviation purposes.

The state will also educate local jurisdictions on the FAA Policy's aviation fuel tax revenue use requirements, including the requirement to offset their use of tax revenue on aviation fuel put towards non-aviation purposes with an equal amount of spending on aviation and the types of aviation spending that qualify for the offset amount.

The department will produce a list of taxpayers who report local sales and use tax, HST, or PPT and determine which of these taxpayers are likely to distribute, use, or own aviation fuel. We will inform these taxpayers about why they are being asked to report taxes attributable to aviation fuel and provide instructions on how to do so.

The department proposes the following methodology to track the amount of local sales and use tax, HST, and PPT collected on aviation fuel:

Local sales tax

Taxpayers who report local sales tax on the sale of aviation fuel will be required to complete a worksheet along with their regular combined excise tax return. The worksheet will indicate what portion of their reported local sales tax is attributed to the sale of aviation fuel, as well as the location and local tax rate associated with those sales.

Local use tax

Similar to the process for local sales tax, taxpayers who report use tax on aviation fuel will be required to complete a worksheet along with their use tax return or combined excise tax return to specify what portion of their reported local use tax is attributed to the use of aviation fuel, as well as the location and local tax rate associated with that use.

Hazardous substance tax (HST)

Taxpayers who report HST on the possession of liquid petroleum products on a per-barrel basis will be required to complete a worksheet along with their regular combined excise tax return to indicate the portion of the reported taxable barrels are attributed to aviation fuel.

Petroleum products tax (PPT)

Similar to the process for HST, taxpayers who report PPT on the possession of petroleum products will be required to complete a worksheet along with their regular combined excise tax return to indicate the portion of reported PPT attributed to aviation fuel.

Once data is collected from these worksheets, the department will calculate the actual revenue

amounts received from local sales and use tax, HST, and PPT on aviation fuel.

Conclusion

If the FAA determines that the methodology recommended in this report complies with its policy on aviation fuel tax revenue use, we will update our electronic filing system and begin tracking revenue from taxes on aviation fuel via additional reporting requirements on combined excise tax returns as described above.

The state will track the state spending on aviation to ensure it is sufficient to offset the HST and PPT collections on aircraft fuel.

The state will also notify each local jurisdiction that imposed or raised its local sales and use tax after 1987 of the revenue use requirements detailed in the FAA Policy and provide guidance to local jurisdictions about what types of airport spending will satisfy the FAA Policy.

Appendix A

Washington Action Plan—FAA Policy Concerning Airport Revenue

Taxes applicable to aircraft fuel

In some circumstances, the sale, use, purchase, or storage of aircraft fuel may be subject to one or more of the following Washington state and local taxes:

- Aircraft fuel tax
- State sales/use tax
- Local sales/use tax
- Hazardous substance tax
- Petroleum products tax

State taxes

Several of Washington's taxes on aircraft fuel are already compliant with, or have grandfathered status under, the FAA's *Policy and Procedures Concerning the use of Airport Revenue; Proceeds From Taxes on Aircraft fuel* (FAA Policy). Revenue from the aircraft fuel tax is already dedicated to aviation, and therefore compliant with the FAA policy. The current state sales/use tax rate was imposed before 1987 and is therefore grandfathered from the FAA Policy's revenue use restrictions.

The state also imposes a hazardous substance tax (HST) and petroleum products tax (PPT) on aircraft fuel. Both of these taxes were imposed after 1987. Under the terms of the FAA Policy, they are subject to its revenue use restrictions.

Local taxes

Local governments in Washington may only impose a tax if authorized by the Legislature. Currently, the only local tax on aircraft fuel is local sales/use tax, which is administered by the state. Therefore, there is no variation in how local sales/use tax is administered. Hundreds of local taxing jurisdictions have either imposed or raised the rate on their respective local sales/use taxes after 1987. Aircraft fuel sales are estimated to occur in approximately 107 of these jurisdictions. Under the terms of the FAA Policy, the revenues from these jurisdictions' local taxes are subject to its use restrictions. Because the state administers all local sales/use taxes, affected local governments will not be submitting a separate action plan.

Action plan

Washington possesses no data on the actual amount of local sales/use tax, HST, and PPT collected specifically on aircraft fuel. Obtaining this information would be expensive and administratively burdensome. Therefore, Washington plans to estimate the amount of local sales/use tax collected on aircraft fuel by each local jurisdiction subject to the FAA Policy's restrictions and the amount of HST and PPT collected on aircraft fuel by the state. The state will use this data to determine whether amounts the state spends on aviation programs at least equal

the amount of HST and PPT revenues collected on aircraft fuel, which are dedicated by Washington law to non-aviation purposes.

The state will inform local jurisdictions of the FAA Policy's revenue use requirements, and advise those jurisdictions to offset their use of tax revenue on aircraft fuel put towards non-aviation purposes with an equal amount of spending on aviation. The state will provide information about what types of aviation spending qualify for the offset amount and will respond to complaints from airports. The state will also track state spending on state aviation programs to ensure it is sufficient to offset the HST and PPT collections on aircraft fuel.

Overview of Taxes

1. Aircraft Fuel Tax ([chapter 82.42 RCW](#))

The aircraft fuel tax is levied on each gallon of aircraft fuel sold, delivered, or used in Washington (RCW 82.42.020). The tax was established in 1967. On December 30, 1987, the tax rate was \$0.05 per gallon. The current tax rate is \$0.11 per gallon (RCW 82.42.020). For more information on the aircraft fuel tax, see the [tax reference manual](#).

Distributors of aircraft fuel are required to collect the tax. The tax is somewhat limited in scope because it does not apply to many uses of aircraft fuel, including fuel used in interstate commerce. All of the collected revenue is deposited into Washington's aeronautics account (RCW 82.42.090), a state aviation program. Thus, the aircraft fuel tax revenues already comply with the FAA Policy's use restrictions.

2. State Sales and Use Taxes ([chapters 82.08](#) and [82.12 RCW](#))

The state portion of the Washington retail sales/use tax rate has remained at 6.5 percent since 1983. See [1983 Wash. Laws ch. 7 § 6](#) (1983 session law establishing the current tax rate).

The tax base is the selling price of tangible personal property and certain services purchased at retail, i.e. by consumers. The basic definition of items and transactions subject to sales tax appears in RCW 82.04.050. (NOTE: Use tax applies to taxable items used within the state if retail sales tax was not paid)

Aircraft fuel purchased in the state is generally subject to sales tax, except for such fuel purchased by a farmer for agricultural purposes (RCW 82.08.865). With respect to air carriers engaged in interstate travel, the sales/use tax on aircraft fuel is currently imposed only on fuel placed on board and consumed in this state (WAC 458-20-175). Sellers of aircraft fuel to air carriers are not required to collect the tax. Instead, an air carrier registered with the state pays the use tax directly to the state.

State sales/use tax is generally deposited in the state general fund. For more information on state sales and use tax, see the [tax reference manual](#).

3. Local Sales and Use Taxes ([chapter 82.14 RCW](#))

The revenue sources of cities, counties, and junior taxing districts are strictly controlled by the Legislature and only specifically authorized taxes can be imposed at the local level. There are currently 25 different types of local sales taxes. The maximum local sales tax rate currently levied totals 3 percent in portions of southwestern Snohomish County and in all of the

metropolitan areas of King County. Combined with the state rate of 6.5 percent, Washington's maximum sales tax rate that applies to most taxable items is now 9.5 percent. For more information on local sales and use tax, see the [tax reference manual](#).

4. Hazardous Substance Tax ([Chapter 82.21 RCW](#))

The hazardous substance tax (HST) is imposed on the first possession of a hazardous substance in the state. The tax is equal to 0.7 percent of the wholesale value of the substance and was first imposed in 1989. Aircraft fuel is considered a taxable hazardous substance. The revenue from the HST is deposited into toxic control accounts (RCW 82.21.030). For more information on the HST, see the [tax reference manual](#).

5. Petroleum Products Tax ([chapter 82.23A RCW](#))

The petroleum products tax (PPT) is imposed on the first possession of a petroleum product in the state. The tax is equal to 0.3 percent of the wholesale value of the petroleum product and was first imposed in 1989. Aircraft fuel is considered a taxable petroleum product. The revenue from the PPT is deposited in the pollution liability insurance program trust account (RCW 82.23A.020).

The PPT was suspended from April 1, 2010, to June 30, 2015. The tax was re-imposed effective July 1, 2015. For more information on the PPT, see the [tax reference manual](#) and [special notice](#).

Methodology

When businesses report taxes to the state they are not required to itemize the individual items they sell, but report the gross amount for an entire category of sales (retailing, wholesaling, services, etc.) Therefore, the actual amount of local sales/use tax, HST, and PPT collected on aircraft fuel is unknown. This information would be difficult to obtain and collecting it would place a significant burden on taxpayers and government entities.

Washington proposes the following methodology to estimate the amount of local sales/use tax, HST, and PPT collected on aircraft fuel:

Local sale tax

To calculate the local sales tax collected on aircraft fuel by distributors, the state will perform the following calculation each year (beginning 2018):

- Determine the airport operators selling aircraft fuel within the boundaries of a local jurisdiction that imposed or raised its local sales and use tax after 1987.
- Determine the amount of aircraft fuel tax collected in the previous year by each affected airport operator.
- Divide the aircraft fuel tax collections by the aircraft fuel tax rate (11 cents per gallon) to obtain the gallons sold by each affected airport operator. Multiply this amount by the average retail price per gallon of aircraft fuel, which is obtained from the [FAA Aerospace Forecasts – Table 18](#). This provides the dollar value of aircraft fuel sold by each affected airport operator.
- Multiply the appropriate local sales tax rate by the dollar value of aircraft fuel sold by

each affected airport operator. This provides the estimated local sales tax collected by the airport operator for the local jurisdiction.

- Sum the estimated local sales tax collected by airport operators within each affected local jurisdiction. This amount is the local jurisdiction's local sales tax offset amount for the year.

Local use tax

To calculate the local use tax paid directly by passenger airlines on aircraft fuel, the state will perform the following calculation each year:

- The state will query the local use tax reported by each passenger airline that reports taxes to the state.
- Based on multiple passenger airline audits, approximately 91 percent of the local use tax reported by passenger airlines is for aircraft fuel.
- For each passenger airline, the state will multiply the airline's annual use tax payments to each local jurisdiction by 91 percent. This amount is the local jurisdiction's local use tax offset amount for the year.

For each affected local jurisdiction, the local sales tax offset amount and local use tax offset amount will be added together to determine the local jurisdiction's total offset amount for the year.

Hazardous substance tax (HST) – reported by distributors

To calculate the HST on aircraft fuel reported by distributors, the state will perform the following calculation each year:

- Determine the total aircraft fuel tax collections in the previous year.
- Divide the aircraft fuel tax collections by the aircraft fuel tax rate (11 cents per gallon) to obtain the total gallons sold. Obtain average price per barrel from US Energy Information Administration and convert to average price per gallon. Multiply the average price per gallon by the total gallons sold. This provides an estimated wholesale dollar value of aircraft fuel possessed in the state by distributors.
- Multiply the hazardous substance tax rate by the estimated wholesale value to determine the state's offset amount for HST reported by distributors.

Hazardous substance tax – reported by airlines

To calculate the HST paid directly by passenger airlines on aircraft fuel, the state will perform the following calculation each year:

- Query the total HST reported by all passenger airlines that report taxes to the state.
- Based on multiple commercial airline audits, approximately 91 percent of the HST reported by passenger airlines is for aircraft fuel.
- Multiply the total HST reported by all passenger airlines by 91 percent. This provides the state's offset amount for HST reported by airlines.

The estimated HST reported by distributors and airlines will be added together to determine the state's total HST offset amount for the year.

Petroleum products tax (PPT)

The PPT offset amount will be calculated in the same manner as the HST.

Conclusion

Beginning in 2018, the state will begin calculating the offset amounts as described above. The state will also notify each local jurisdiction that imposed or raised its local sales and use tax after 1987 of the revenue use requirements detailed in the FAA Policy.

The state will provide guidance about what types of airport spending will satisfy the FAA requirements for the offsets. The state will also track the state spending on aviation to ensure it is sufficient to offset the HST and PPT collections on aircraft fuel.

Appendix B



U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW.
Washington, DC 20591

June 28, 2017

Tristan K. Atkins
Director of Aviation
7702 Terminal St. SW
Tumwater, WA 98501

Dear Mr. Atkins:

Re: Letter of Acknowledgment: Washington State's Action Plan in Response to FAA
Aviation Fuel Tax Policy Amendment

Thank you for your December 18, 2015 letter, regarding the "Policy and Procedures
Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel" (79 FR
66282).

The FAA has received your response, and understands the sale, use, purchase, or storage of
aircraft fuel may be subject to one or more of the following Washington state and local taxes:

- Aircraft fuel tax,
- State sales/use tax,
- Local sales/use tax,
- Hazardous substance tax, and/or
- Petroleum products tax.

FAA Response on Compliance:

1) Aircraft Fuel Tax

- The FAA has determined that five cents of the aircraft fuel tax qualifies for grandfathered status. It is thus exempt from airport revenue use requirements, including those regarding fuel tax revenue use. However, the remaining six cents of the tax is not exempt, and is subject to Federal requirements for use of airport revenue. The state has indicated that the revenue is distributed to the state aviation fund, and as such, is qualified and under review by the FAA for compliance.

2) State Sales and Use Tax

- The FAA has determined that Washington's state sales and use tax qualifies for grandfathered status. It is thus exempt from airport revenue use requirements, including those regarding fuel tax revenue use.

3) Local Sales and Use Tax

- The FAA does not have enough information to determine whether or not some local sales and use taxes in Washington may qualify for grandfathered status, although the state has indicated an offset approach will be used to ensure compliance.

4) Hazardous Substance Tax (HST) and Petroleum Substance Tax (PPT)

- The FAA has determined that neither the Hazardous Substance Tax nor the Petroleum Products Tax qualify for grandfathered status because the authorizing legislation for these taxes was not in place on December 30, 1987. They are thus subject to airport revenue use requirements, including those regarding fuel tax revenue use.
- The planned methodology to estimate the amount of the HST and PPT reported is not in full compliance with the aviation fuel tax revenue use requirements. FAA requires an adjustment of actual proceeds to be determined through a documented reconciliation method. While FAA allows budgetary estimates for projected revenue calculations used for the offset, using an average price per gallon sold and an approximate percent of airline collection does not provide actual amounts for the offset.

Consistent with the list of supporting information posted on regulations.gov on July 17, 2015,¹ the FAA has determined that additional clarifications or adjustments are needed in order to evaluate whether the State of Washington is fully compliant with Federal requirements for aviation fuel tax revenue use and therefore is requesting more information to ensure that Washington will be in compliance with these requirements by December 8, 2017. Please ensure that all of the following are submitted:

- 1) For the aircraft fuel tax, please provide a full description of the use of Washington's state aeronautics account, or any other aviation fund into which tax revenues are submitted.
- 2) For the HST and PPT taxes, please confirm that the planned changes will provide the following information and results:
 - The amount of the offset will be greater than or equal to the total revenue from the fuel tax each year.
 - Documentation that the government body collecting the fuel tax has the authority to offset revenues as described.
 - Documentation indicating that State of Washington Department of Revenue has developed a review process by which it will track revenues from any taxes on aviation fuel by local jurisdiction, expenditures of any taxes on airports or, if applicable, offsets in equivalent or greater amounts to those earned through any taxes on aviation fuel and documentation ensuring that State of

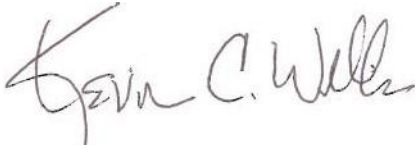
¹ "Aviation Fuel Tax Grandfathering Action Plans," available in Docket FAA-2013-0988

Washington Department of Revenue has developed reporting and enforcement mechanisms for its review process.

We request that you provide this additional information within 60 days of receipt of this letter, along with assurance that the proposed changes will be fully implemented by December 8, 2017 to remain within the three year period provided in the FAA Policy Amendment. If you have any questions, please contact me at (202) 267-3085.

The foregoing response represents the present view of the FAA based on the information presented in Action Plan submission and does not constrain future the FAA action or opinion. This response does not constitute a final agency action or an "order issued by the Secretary of Transportation" under title 49 U.S.C., § 46110.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kevin C. Willis". The signature is fluid and cursive, with the first name "Kevin" being more prominent than the last name "Willis".

Kevin C. Willis, Director
Office Airport Compliance
and Management Analysis



July 12, 2024

Scott Glenn
Division Manager
Office of Airport Compliance and Management Analysis
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

Dear Mr. Glenn;

This letter is in response to your letter of April 10, 2024, requesting information on Washington State's efforts to implement our Revenue Policy Action Plan of 2021.

Washington Department of Transportation has worked diligently with other agencies to provide the information that you requested. This preliminary response details the answers to most of your requests. We continue to work to develop the specific actions that will address all of the questions in your letter.

I will respond to your requests in the order that you presented them:

Identify the aviation fuel tax reporting process implemented to capture the actual amounts of taxes collected.

- Provide a discrete report of actual amounts of aviation fuel taxes collected, including:
 - Copies of sample revised taxpayer reports and schedules and;
 - Confirmation of the reporting and tracking of the amounts of aviation fuel taxes collected and appropriated for the 7 years of 2017 - 2023.

With assistance from the Washington State Department of Licensing (which administers Washington's [aircraft fuel tax](#)) and the Aviation Division of the Washington State Department of Transportation, the Washington State Department of Revenue has identified taxpayers that could potentially owe hazardous substance tax (HST), petroleum products tax (PPT), and/or local sales and use taxes (LSUT) on aviation fuel. These taxpayers are required to complete a worksheet as an addendum to their regular combined excise tax return to indicate what portion of their reported taxes are attributable to aviation fuel. We have also included [oil spill taxes](#) on the worksheet, as we believe they may also be subject to the FAA's revenue use requirements.

Please see the *Aviation Fuel Worksheet* tab of the *FAA Report Exhibits* attachment for a blank copy of the worksheet that taxpayers must complete when filing their Combined Excise Tax Return. The *Sample Taxpayer completed Worksheet* tab contains a copy of the same worksheet as it would appear after being filled out by a taxpayer.

Provide the following information concerning the State's collections from the taxation of aviation fuel sales for the past 7 years of 2017 – 2023:

- The total proceed amounts from each of the aviation fuel tax categories, listed above, collected from levies on aviation fuel;
- Provide a schedule of appropriations of the aviation fuel taxes allocated back to the local taxing jurisdictions levying a tax on aviation fuel for airport use and;
- Provide a schedule of the transactions using the proceeds from aviation fuel taxes levied by the State for State aviation programs.

On June 8, 2022, we received provisional FAA approval for our 2021 action plan and the Department of Revenue (DOR) began implementing their proposed data collection efforts. After the necessary programming and tax return changes were complete, actual data collection began with the Quarter 3-2023 tax returns. In lieu of collected data prior to Quarter 3-2023, DOR has provided estimates from 2017 through Quarter 2-2023. Attached is *FAA Estimate of Total Taxes Paid on Aviation Fuels From December 8, 2017*. This document details the methodology used to estimate the HST/PPT taxes required to be appropriated for aviation projects prior to the Taxpayer Report commencement in July 1, 2023.

Estimates from fiscal year 2017 through fiscal year 2023 (ending with Q2-2023) are attached as *FY17 through FY23 Estimated Aviation Fuel Tax Data*. Actual figures for state tax collections for Q3-2023 and Q4-2024 are as follows:

Tax	2023 Quarter 3 (revised)		2023 Quarter 4	
	Taxpayer Count	Tax Due (dollars) ¹	Taxpayer Count	Tax Due (dollars) ¹
	Preliminary ²		Preliminary ²	
Petroleum Products Tax	14	\$388,545	23	\$288,119
Hazardous Substance Tax	11	\$4,086,019	16	\$3,121,581
Oil Spill Taxes ³	5	\$4,591	5	\$2,060
	Total Tax Due	\$4,479,154	Total Tax Due	\$3,411,760

Notes:

1. *Data Source: Department of Revenue, Excise Tax Data, as of March 5, 2024.*
2. *This data is preliminary and will continue to change significantly as we work with taxpayers to true up our data and educate them for future reporting. We have already removed some taxpayer reporting errors from Q3 based on more accurate reporting in Q4.*
3. *Oil Spill Taxes are 5 cents per barrel (1 cent per barrel for Response Tax and 4 cents for Administration tax).*

It will take some time to ensure that taxpayers are educated and reporting correctly using this addendum. Because data collection began relatively recently, DOR is still in the process of educating taxpayers on how and when to report, and many taxpayers are not yet providing accurate data. Due to these compliance factors, the data collected so far is incomplete and contains reporting errors – issues that are expected to improve over time as taxpayers are educated, and they adjust to the new requirements. DOR expects the collected data to match the estimates more closely as taxpayer reporting improves.

However, because the estimates involve taxes which are not specific to aviation fuel, DOR does not have any historical data regarding what portions of these taxes are attributable to aviation fuel, so their estimates rely on assumptions and incomplete data. They have provided the most comprehensive estimates they are able to provide in light of these circumstances, but still expect that the actual collection data will not match the estimates perfectly, even after taxpayer compliance improves.

Local sales and use tax (LSUT) is levied by the local taxing district and collected by the Department of Revenue on their behalf, so all collections are provided back to the local taxing district that levied the tax – including any LSUT on aviation fuel. Once again, DOR does not have data on specific amounts attributable to aviation fuel prior to the start of their data collection in Q3-2023, but here is a summary of LSUT collections on aviation fuels allocated to the fifty local government entities receiving distributions of LSUT starting Q3-2023:

- Quarter 3 2023 Total Local Sales/Use Tax from the Sale of Aviation Fuel (total accumulation with rate exclusions applied) - **\$488,546**
- Quarter 4 2023 - **\$1,013,230**
- Quarter 1 2024 - **\$4,006,742**

The significant increases here are a result of taxpayer education, especially with large stakeholders that were not reporting accurately prior to Q1-2024.

Adjustments to both the LSUT and HST/PPT will continue as efforts to true up the collected data continue.

Washington Department of Transportation (WSDOT) tracks aviation appropriations made out of other funds which can be used to offset the HST/PPT/Oil Spill proceeds. The specific appropriations made are detailed in the Attachment *Washington State Aviation Appropriations 2019-2023*.

Provide the total amounts of HST and PPT collected on aviation fuel, including:

- Detailed information of transactions in the funds, and the balances attributable to airport use;
- Complete account information for HST and PPT reflecting deposits into toxic control accounts and the pollution liability insurance program trust, respectively and; whether these funds are being tracked, reported, and used for airport purposes only.

All proceeds from HST or PPT collected on aviation fuel are directed in accordance with state statute, along with all other HST and PPT proceeds. While the revenue amounts attributable to tax on aviation fuel are tracked to ensure appropriations fully offset any and all taxes on aviation fuel, the actual deposits and movement of aviation fuel revenues through these accounts are not separately tracked. The appropriations to fully fund aviation programs do not generally come out of the accounts where HST or PPT are deposited. Rather, offsetting funds will come from other accounts as appropriated by the legislature or local governing authorities.

In addition to the data DOR has provided on HST/PPT revenues, they can also provide data on overall HST/PPT deposits – however this data would not be specific to aviation fuel, so it may not be useful for your purposes. Please let me know if you would like that data regardless.

In general, HST and PPT are directed as follows:

For HST, the Motor Vehicle Fund for transportation stormwater activities and projects receives the first \$50 million of these taxes each biennium. The remaining proceeds are deposited into the following accounts:

- 60% to the Model Toxics Control Operating Account ([RCW 70A.305.180](#)).
- 25% to the Model Toxics Control Capital Account ([RCW 70A.305.190](#)).
- 15% to the Model Toxics Control Stormwater Account ([RCW 70A.305.200](#)).

For PPT, the Pollution Liability Insurance Program Trust Account receives all receipts from this tax. Each biennium, if the account balance exceeds \$7.5 million, the Pollution Liability Insurance Agency Underground Storage Tank Revolving Account may receive a transfer of up to \$20 million ([RCW 70A.345.080](#)).

Additionally we request the State to provide information on any enacted legislation or processes developed to meet the federal aviation fuel tax requirements. This includes copies of any enactments since the submission of the 2021 Action Plan Update, and

Scott Glenn
July 12, 2024
Page 5

any tax rate increases enacted since January 11, 2021 levied upon the sale of aviation fuel.

There has been no new legislation specific to aviation fuel, but there have been changes to the HST and PPT rates described below. No new processes have been developed by the Department of Revenue aside from those already described above.

The state tax rate change related to aviation fuel revenue was an annual inflation adjustment to the hazardous substance tax on petroleum products. The rate is volumetric rather than value-based and is annually adjusted for inflation using the US Department of Commerce's implicit price deflator.

The per-barrel rate was \$1.13 on January 11, 2021, had increased to \$1.40 by the time data tracking began in Q3-2023, and increased to \$1.48 on July 1, 2024.

The PPT rate has changed twice since January 11, 2021. Before July 1, 2021, the rate was 0.0030. It decreased to 0.0015 from July 1, 2021, to September 30, 2023. From October 1, 2023, forward, the rate returned to 0.0030.

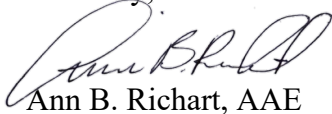
PPT includes a "trigger" mechanism based on the amount of funds in the Pollution Liability Insurance Program Trust Account, which suspends the tax when an account balance threshold is met. PPT was last reinstated on January 1, 2020, and has not been suspended since. New thresholds were set in 2023 and are now as follows:

- Beginning October 1, 2023, when the balance falls below \$15 million for the most recent quarter, the tax starts.
- Beginning October 1, 2023, When the balance exceeds \$30 million for the previous calendar quarter, the tax stops.

There have been several local tax rate changes since January 11, 2021, that affect aviation fuel reporting. Please see, FAA Report Exhibits Attachment, *Local Rate Changes* tab for a complete list of changes.

Please let me know if you have any questions about this information or if you would like to further discuss the State of Washington's funding of aviation programs.

Sincerely,



Ann B. Richart, AAE
Aviation Director

Enc.