

Affordable and Supportive Housing Tax Credit



REPORT ON THE COLLECTION AND USE OF REVENUES PURSUANT TO RCW 82.14.540(11)

**COMMUNITY SERVICES &
HOUSING DIVISION**

December 2020

REPORT TO THE LEGISLATURE

Lisa Brown, Director

Acknowledgments

Washington State Department of Commerce

Diane Klontz, assistant director

Community Services and Housing Division

Emily Grossman, policy and strategy advisor

Community Services and Housing Division

COMMUNITY SERVICES AND HOUSING DIVISION

1011 Plum St. SE

P.O. Box 42525

Olympia, WA 98504-2525

www.commerce.wa.gov

For people with disabilities, this report is available on request in other formats. To submit a request, please call 360.725.4000 (TTY 360.586.0772)

Table of Contents

Executive Summary	2
Agency Roles and Activities.....	3
2020 Data Overview.....	4
Appendix A: Chapter 365-240 WAC Affordable and Supportive Housing - Sales and Use Tax	7

Executive Summary

Overview

The 2019 Encouraging Investments in Affordable and Supportive Housing Act ([RCW 82.14.540](#)) authorized a new state-shared local tax to be used for investments in affordable and supportive housing. It authorized a local sales tax option that is a credit against the state sales tax rate of 6.5%. The maximum rate imposed may not exceed either 0.0146% or 0.0073%. Jurisdictions can receive Affordable and Supportive Sales and Use Tax revenues for up to 20 years. Counties and cities implementing the tax must report annually to the Department of Commerce (Commerce) on the "collection and use of the revenues." Commerce completed rulemaking on April 13, 2020, to prescribe the contents of those reports.

According to RCW 82.14.540, Commerce will prepare this report annually to update the legislature on how participating jurisdictions use the funds (see Introduction for RCW text). All reports to the legislature prepared pursuant to RCW 82.14.540 conform to the requirements of [RCW 41.01.036](#).

Participating Jurisdictions

Out of 283 eligible jurisdictions (244 cities and 39 counties), 77 had passed resolutions of intent to implement the tax credit and adopted legislation as of Oct. 1, 2020. Seventy-four jurisdictions were receiving distributions from the Department of Revenue. The deadline for jurisdictions to adopt the necessary legislation to implement the tax was July 28, 2020.

Allowable Use of Funds

Affordable and Supportive Housing Sales and Use Tax revenues are available to provide housing and services to persons whose income is at or below 60% of the median income of the city or county imposing the tax. Counties over 400,000 population and cities over 100,000 population may use the revenue for only the following activities:

- (i) Acquiring, rehabilitating, or constructing affordable housing, which may include new units within an existing structure or facilities providing supportive housing services under RCW 71.24.385 (behavioral health organizations); or*
- (ii) Funding the operations and maintenance costs of new units of affordable or supportive housing.*

Counties under 400,000 population and cities under 100,000 population may also use the revenue for providing rental assistance to tenants. Jurisdictions may finance loans or grants to nonprofit organizations or public housing authorities. Jurisdictions may pledge the tax proceeds to repay bonds under debt limitations imposed by the state constitution or statute. Additionally, they may enter into an interlocal agreement with other cities, counties, and housing authorities to pool and allocate the revenue.

Fiscal Year 2020 Data

Commerce collected fiscal year 2020 spending data from jurisdictions in Oct. and Nov. of 2020. Most jurisdictions have not begun spending Affordable and Supportive Housing Sales Tax revenue.

- No jurisdiction reported spending or committing funds toward capital projects.
- Eight jurisdictions reported utilizing revenue for rent assistance programs.
- Thirty jurisdictions are working toward the formation of interlocal agreements for pooling and joint distribution of revenue. These jurisdictions are all located in the Puget Sound area: North King County, South King County and Thurston County.

Agency Roles and Activities

Department of Revenue

The Department of Revenue (DOR) interprets and implements RCW 82.14.540 and administers the tax credit to jurisdictions. DOR calculates the maximum tax distribution participating jurisdictions receive each fiscal year.

The tax is not officially "collected," as this is a state-shared tax credited against the state portion of the sales and use tax. Jurisdictions receive the tax distribution monthly. DOR collects minimal information from jurisdictions to administer the tax credit but does provide Commerce with data on jurisdictions' "collection" of the tax for the required annual legislative report.

The maximum authorized tax distribution is based on the jurisdiction's taxable retail sales in the fiscal year 2019 multiplied by the authorized tax rate (0.0073% or 0.0146%). For example, if a city's taxable retail sales were \$1 million in fiscal year 2019, the maximum amount the city may receive is either \$73 or \$146 per fiscal year, depending on its authorized rate. If that city had taxable retail sales of \$50,000 for a particular month and was eligible to receive the 0.0073% rate, it would receive \$3.65 in tax distribution for that month.

The tax rate is based on three factors: the date of adoption, the presence of a qualifying local tax (cities only), and whether the corresponding city or county is a participating jurisdiction. In some circumstances, counties and cities share revenue. If the county elects not to participate, cities within that county that have not enacted a qualifying local tax will not receive Affordable and Supportive Housing Sales Tax revenues after the first year.

Department of Commerce

Participating jurisdictions must report to Commerce on the "collection and use of the revenues" annually. Pursuant to RCW 82.14.540, Commerce conducted rulemaking in 2019 and 2020 to prescribe the content of those reports.

Commerce filed a Preproposal Statement of Inquiry CR-101 on June 27, 2019, and conducted informal consultation with stakeholders for six weeks. Commerce distributed a draft rule on Oct. 21, 2019, and filed the Notice of Rulemaking CR-102 in Nov. 2019. The department held a formal hearing in Dec. 2019 and the final rule with the Code Reviser in Jan. of 2020. The final rule was adopted Commerce adopted on April 13, 2020 (See Appendix A for the final rule).

According to RCW 82.14.540, Commerce will collect information from jurisdictions on the collection and use of Affordable and Supportive Housing Sales Tax revenues and prepare this report annually, to update the legislature on the collection and use of funds statewide.

2020 Data Overview

Participating Jurisdictions

Data is reported for fiscal year 2020 (July 1, 2019, through June 30, 2020). As of Oct. 1, 2020:

- 77 jurisdictions have passed resolutions of intent to implement the tax credit and adopted legislation
- 74 jurisdictions received distributions from the Department of Revenue (DOR) during fiscal year 2020 (29 counties and 45 cities)
- The total DOR distributions statewide during fiscal year 2020 was \$9,511,495.

Table 1: Participating Jurisdictions and FY 2020 Distributions

Counties	Total Fiscal Year 2020 Distributions	Cities	Total Fiscal Year 2020 Distributions
Asotin	\$14,862.55	Auburn	\$59,243.97
Chelan	\$72,751.56	Bainbridge Island	\$11,659.97
Clallam	\$23,223.59	Bellevue	\$171,982.75
Clark	\$154,931.08	Burien	\$31,225.50
Columbia	\$2,400.15	Carnation	\$1.21
Cowlitz	\$82,528.68	Covington	\$12,883.89
Douglas	\$26,356.92	Dayton	\$207.58
Garfield	\$527.29	Des Moines	\$8,391.75
Grant	\$72,361.52	Duvall	\$4.70
Grays Harbor	\$58,498.39	Edmonds	\$32,446.37
Island	\$82,748.83	Ellensburg	\$31,735.70
Jefferson	\$13,797.69	Enumclaw	\$5,495.78
King	\$1,883,983.26	Everett	\$281.20
Kitsap	\$263,662.24	Federal Way	\$39,220.24
Klickitat	\$114.67	Forks	\$1.90
Mason	\$61,071.71	Issaquah	\$152.03
Okanogan	\$5,745.91	Kenmore	\$10,546.80

Counties	Total Fiscal Year 2020 Distributions	Cities	Total Fiscal Year 2020 Distributions
Pacific	\$22,898.85	Kent	\$250.80
Pend Oreille	\$2,761.14	Lacey	\$26,154.23
Pierce	\$712,787.04	Lakewood	\$106.90
San Juan	\$21,404.00	Leavenworth	\$7.38
Skagit	\$106,559.65	Marysville	\$13,591.92
Snohomish	\$589,123.77	Mercer Island	\$11,363.67
Spokane	\$469,483.64	Mill Creek	\$6,341.09
Thurston	\$145,942.29	New Castle	\$2,882.59
Walla Walla	\$32,133.68	Olympia	\$58,593.01
Whatcom	\$266,929.85	Port Angeles	\$4,054.93
Whitman	\$32,696.76	Port Orchard	\$13,714.50
Yakima	\$212,875.58	Poulsbo	\$13,248.31
		Puyallup	\$10,429.54
		Redmond	\$66,253.61
		Sammamish	\$13,751.27
		SeaTac	\$5478.44
		Seattle	\$2,434,341.92
		Shoreline	\$28,274.50
		Snohomish	\$18232.86
		Spokane	\$56,154.45
		Spokane Valley	\$12,865.22
		Tacoma	\$481,091.88
		Tukwila	\$75,386.92

Counties	Total Fiscal Year 2020 Distributions	Cities	Total Fiscal Year 2020 Distributions
		Tumwater	\$20,279.56
		Vancouver	\$212,206.92
		Wenatchee	\$11,929.92
		Woodinville	\$2897.12
		Yakima	\$60,961.82

Jurisdictions' Use of Funds

Most jurisdictions have not begun spending their Affordable and Supportive Housing Sales Tax revenue. No jurisdiction reported spending or committing funds toward capital projects. Eight jurisdictions (shown in Table 2) reported utilizing revenue for rent assistance programs.

Table 2: Spending on Rent Assistance by Jurisdiction and Target Population

Jurisdiction	Total Spent on Rent Assistance	Total Households Served	Priority Population Served
Bainbridge Island	\$11,659.97	13	Income-eligible Bainbridge Island residents*
Ellensburg	\$31,735.70	17	Income-eligible Ellensburg residents
Enumclaw	\$5,495.78	15	Income-eligible Enumclaw residents
Port Angeles	\$4,054.93	9	Income-eligible Port Angeles residents
San Juan County	\$21,404.00	38	COVID-19-impacted, income-eligible San Juan Island residents
Shoreline	\$24,000.00	19	Income-eligible Shoreline residents
Tukwila	\$67,848.23	61	Income-eligible Tukwila residents
Whatcom County	\$70,513.26	40	Income-eligible Whatcom County residents

Appendix A: Chapter 365-240 WAC

Affordable and Supportive Housing - Sales and Use Tax

Chapter 365-240 WAC AFFORDABLE AND SUPPORTIVE HOUSING—LOCAL SALES AND USE TAX

Last Update: 4/13/20

WAC

365-240-010 Authority.
365-240-020 Authorized uses of tax revenue.
365-240-030 Annual report to the department of commerce.

WAC 365-240-010 Authority. This chapter is promulgated pursuant to the authority granted in RCW 82.14.540 requiring counties and cities that impose the local sales and use tax for affordable and supportive housing to report annually to the department of commerce on the collection and use of the revenue and for the department of commerce to adopt rules prescribing the content of those reports.

[Statutory Authority: RCW 82.14.540(11). WSR 20-09-064, § 365-240-010, filed 4/13/20, effective 5/14/20.]

WAC 365-240-020 Authorized uses of tax revenue. Counties with populations over four hundred thousand and cities with populations over one hundred thousand may use tax revenue for:

(1) Acquiring, rehabilitating, or constructing affordable housing, which may include new units within an existing structure or facilities providing supportive housing services under RCW 71.24.385 (behavioral health organizations); or

(2) Operations and maintenance costs of new units of affordable or supportive housing.

Counties with populations under four hundred thousand and cities with populations under one hundred thousand population may use tax revenue for the activities outlined above, as well as to provide rental assistance to tenants that are at or below sixty percent of the median income of the county or city that is imposing the tax.

[Statutory Authority: RCW 82.14.540(11). WSR 20-09-064, § 365-240-020, filed 4/13/20, effective 5/14/20.]

WAC 365-240-030 Annual report to the department of commerce. Jurisdictions must submit a report to the department by October 1st annually with the following information pertaining to the most recent fiscal year. Reports submitted by a lead jurisdiction or managing entity pursuant to an interlocal agreement must be accompanied by contract language designating the responsible entity for submitting annual reports and ensuring their accuracy.

The first report will be due October 1, 2020, and annually thereafter.

(1) General:

(a) All references made in this section to funds, funds pooled, or funds utilized or bonded against are in regard to those derived from a jurisdiction's affordable and supportive housing sales and use tax distribution from the department of revenue for the corresponding fiscal year.

(b) An annual report submitted by a lead jurisdiction or managing entity pursuant to an interlocal agreement must be accompanied by

agreed language designating it as the responsible party for report timeliness and accuracy.

(c) Information submitted by a lead jurisdiction or managing entity pursuant to an interlocal agreement must include the total combined revenue collection and program activities for all jurisdictions subject to the agreement. A separate report on revenue collection and program activities must be submitted for each jurisdiction choosing to additionally expend funds outside the agreement, if applicable.

(d) All reports submitted pursuant to this section must include contact information for the preparer.

(2) Revenue collection:

(a) Total affordable and supportive housing sales and use tax distribution for the reporting jurisdiction(s);

(b) Applicable affordable housing and supportive housing sales and use tax rate(s) for the reporting jurisdiction(s);

(c) If an interlocal agreement is in place, the total revenue utilized jointly pursuant to the agreement;

(d) If an interlocal agreement is in place, the total revenue utilized by jurisdiction(s) separately, not according to the terms of the agreement.

(3) Program activities:

(a) Total funds committed;

(b) Number, types, and status of projects supported with funds;

(c) Degree of leverage with other public and private funds;

(d) Total funds utilized for rent assistance; and

(e) Duration of affordability for projects supported with funds.

(4) Program outputs:

(a) Total funds committed for loans and grants;

(b) Total funds obligated to support bonding activities;

(c) Total funds committed for operations and maintenance of new units of affordable or supportive housing;

(d) Total number of households served with funds used for rent assistance; and

(e) Target populations served with funds.

[Statutory Authority: RCW 82.14.540(11). WSR 20-09-064, § 365-240-030, filed 4/13/20, effective 5/14/20.]