

Legislative Objective

# Environmental Remediation Tax Classification

## Background:

Prior to July 1, 1998, the taxation of environmental remediation was often uncertain and subject to different treatment depending upon the status of the site and the form of the contract for remediation. Some site owners paid sales tax on the remediation contract and others were exempt from sales tax. Similarly, the business and occupation (B&O) tax rates for remediation contractors were at different levels for different sites, even if the same type of work was being performed. The uncertain and differential taxation discouraged independent cleanup of sites. Site owners who moved forward expeditiously to clean up their property were penalized by the unequal (higher) taxation. The owners could avoid sales tax by waiting until their site came under formal cleanup orders, rather than conducting an independent cleanup as allowed under the Model Toxics Control Act (MTCA).

In the mid-1990's, the Department of Ecology established a Policy Advisory Committee on the state's cleanup program under MTCA. One of the recommendations of this committee was to eliminate the delay in cleanup activities by establishing a single tax classification for all property owners to clean up contaminated property. Legislation passed in 1998 provided this new tax classification. It excluded the labor and services portion of cleanup contracts from sales tax and provided a uniform B&O tax rate for contractors and other service providers involved in environmental remedial actions. Certification was required from site owners and environmental professionals to assure that the activities proposed for the site were legitimate remediation activities.

SB 6781 from the 2006 session would have reinstated this program but was vetoed by Gov. Gregoire stating past incentives did not increase cleanup and cleanup by government would inappropriately shift the costs burden to the general fund.

## Problem:

Many businesses have liability for cleanup costs, either on property they own or on other property for which they may have full or partial liability. The law establishing the tax classification for environmental remediation activities expired on July 1, 2003. It has not been extended or reinstated by the legislature. The former tax classification for environmental remediation activities makes it more affordable to clean up these sites and put them back into productive use. These types of cleanup projects can also have significant economic development benefits, enhancing our ability to use industrial property and create new jobs. The former law also had the added benefit of simplifying the tax code for these projects instead of having multiple rates for different activities of the same project.

## Solution:

AWB supports the reenactment of the tax classification for environmental remediation activities to encourage prompt cleanup and to again provide clarity on the proper tax classification.

1. Support legislation to restore the tax classification for all environmental remediation activity.
2. Eliminate the economic disincentive for taxpayers to clean up contaminated property.
3. Encourage activity to convert contaminated property into productive property for economic activity and the creation of new jobs.

