

**Ordinance No. 187610**

Amend the Arts Education and Access Income Tax code to add a definition for charter schools to include those charter schools where the school district is the fiscal agent and delete the reference to names and addresses of taxpayers not being confidential (Ordinance; amend Code Chapter 5.73)

The City of Portland ordains:

Section 1. The Council finds:

1. The Council adopted Resolution No. 36939 on June 27, 2012, which referred the Arts Education and Access Income Tax to Portland voters for the November 6, 2012, general election as Ballot Measure 26-146.
2. Portland voters approved Ballot Measure 26-146 on November 6, 2012, creating the Arts Education and Access Income Tax (Arts Tax) for the 2012 tax year and all future tax years. The Revenue Division began tax collections on February 27, 2013.
3. The City learned that charter schools can be sponsored by the school district directly, or if the district denies the sponsorship request, the state of Oregon Education Department (OED) can sponsor the charter school.
4. In the case of a state sponsored charter school, the OED doesn't consider the charter school to be a district school. As such, Arts Tax funds could not be distributed to those charter schools that were state sponsored.
5. It was the voters and City Council's intention to benefit Portland K-5 students, including charter school students. By adding a definition of charter school to include both district sponsored and state sponsored schools that have Portland catchment and Portland K-5 students, all K-5 students will receive the benefit of arts and/or music instruction within the six Portland school districts that receive Arts Tax funds.
7. The Council adopted Ordinance No. 185827, passed on December 19, 2012, which added confidentiality requirements to the code. Taxpayers must have confidence that personal and financial information submitted to the City is confidential and secure. In many of the other taxes administered by the Revenue Division, allowing the release of names and addresses is appropriate. In the case of an income tax, releasing names and addresses of taxpayers is not a reasonable expectation that taxpayers have. As such, names and addresses of taxpayers who have paid the Arts Tax should remain confidential to the extent the law allows.

NOW, THEREFORE, the Council directs:

- a. Portland City Code Section 5.73.010 is amended as follows:

**5.73.010 Definitions.**

For the purposes of this paragraph, the following definitions apply unless the context requires a different meaning.

- A. "Catchment" means the geographical area from which an elementary school within a District draws its students.

**B.** “Charter School” means a school offering a comprehensive institutional program as defined under ORS Chapter 338. The charter school will be included in the School District if sponsored by the School District or the State Board of Education, provided that the School District is the Fiscal Agent for state school funds for the Charter School and the Charter School has both Portland catchment and Portland k-5 students.

**B-C.** “Director” means the Director of the Revenue Division, or authorized designee.

**C-D.** “Gross Revenues” means the total of all revenue received by the City of Portland from the Arts Education and Access Income Tax without regard to collection, administrative or other costs.

**D-E.** “Income-earning resident” means a resident who has income of \$1,000 or more in the tax year.

**E-F.** “Net Revenues” means the revenue remaining after interest, collection, administrative and other costs and refunds are deducted from Gross Revenues.

**F-G.** “Portland K-5 Students” means students that reside within the geographical boundary of the City of Portland, Oregon that attend Kindergarten through 5th grade in public schools.

**G-H.** “Resident” or “resident of the City” means:

1. An individual who is domiciled in this City unless the individual:
  - a. Maintains no permanent place of abode in the City;
  - b. Does maintain a permanent place of abode elsewhere; and
  - c. Spends in the aggregate not more than 30 days in the taxable year in the City; or
2. An individual who is not domiciled in the City but maintains a permanent place of abode in the City and spends in the aggregate more than 200 days of the taxable year in the City unless the individual proves that the individual is in the City only for a temporary or transitory purpose. For purposes of this Subsection, a fraction of a calendar day shall be counted as a whole day.

**H-I.** “Resident” or “resident of the City” does not include:

1. An individual who is a qualified individual under section 911(d)(1) of the Internal Revenue Code for the tax year;
2. A spouse of a qualified individual under section 911(d)(1) of the Internal Revenue Code, if the spouse has a principal place of abode for the tax year that is not located in the City; or
3. A resident alien under section 7701(b) of the Internal Revenue Code who would be considered a qualified individual under section 911(d)(1) of the Internal Revenue Code if the resident alien were a citizen of the United States.

**I-J.** “Schools” means those educational institutions defined as schools by the Oregon Department of Education, but do not include on-line schools.

**J K.** "School Districts" means the Portland Public, David Douglas, Centennial, Parkrose, Reynolds and Riverdale school districts:

b. Portland City Code Section 5.73.100 is amended as follows:

**5.73.100 Confidentiality.**

It is unlawful for any City employee, agent or elected official, or for any person who has acquired financial information pursuant to Chapter 5.73 or the Division's administrative rules to divulge, release or make known in any manner financial information submitted or disclosed to the City under the terms of the Arts Education and Access Income Tax, unless otherwise required by law. This Section does not prohibit:

**A.** Disclosure to the taxfiler or authorized representative of the taxfiler;

~~**B.** Disclosure of the names and addresses of any persons that paid the Tax;~~

~~**C B.** Disclosure of general statistics in a form which would prevent the identification of financial information regarding an individual taxfiler;~~

~~**D C.** Disclosure to the City Attorney's Office to obtain payment on unpaid accounts or to receive legal advice; or~~

~~**E D.** Disclosure to an outside collection agency for collection of any unpaid account balance receivable. Assignment to an outside collection agency permits the Division to collect a reasonable collection fee, above and beyond any amount otherwise owed to the Division;~~

~~**F E.** Disclosure as otherwise required by law.~~

Passed by the Council: MAR 02 2016

Mayor Charlie Hales  
Prepared by: T. Williams  
Date: January 11, 2016

**Mary Hull Caballero**  
Auditor of the City of Portland

By: *Gayla Jennings*  
Deputy

173-209

Agenda No. **ORDINANCE NO. 1876 10**

Title

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<b>INTRODUCED BY</b> Commissioner/Auditor: <i>Hales</i>	CLERK USE: DATE FILED <u>FEB 16 2016</u>
<b>COMMISSIONER APPROVAL</b> Mayor—Finance and Administration - <i>JAT</i> Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Novick	Mary Hull Caballero Auditor of the City of Portland  By: <u><i>[Signature]</i></u> Deputy
<b>BUREAU APPROVAL</b> Bureau: Revenue & Financial Svcs Bureau Head: Ken Rust, CFO <i>KLR</i>	
Prepared by: Terri Williams Date Prepared: 1/25/2016	<b>ACTION TAKEN:</b> FEB 24 2016 PASSED TO SECOND READING MAR 02 2016 9:30 A.M.
<b>Impact Statement</b> Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
<b>Portland Policy Document</b> If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<b>City Auditor Office Approval:</b> required for Code Ordinances <i>Toni</i>	
<b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan, charter <i>Kam</i>	
Council Meeting Date <b>2/24/2016</b>	

<b>AGENDA</b>
<b>TIME CERTAIN</b> <input type="checkbox"/> Start time: _____  Total amount of time needed: _____ (for presentation, testimony and discussion)
<b>CONSENT</b> <input checked="" type="checkbox"/> <i>pulled</i>
<b>REGULAR</b> <input type="checkbox"/>  Total amount of time needed: _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz ✓	
2. Fish	2. Fish ✓	
3. Saltzman	3. Saltzman	✓
4. Novick	4. Novick ✓	
Hales	Hales ✓	