

## Chapter 5.73 Arts Education and Access Income Tax

### 5.73.010 Definitions.

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

- A. "Arts ~~T~~teachers" means teachers who provide instruction in any arts discipline, including dance, music, theatre, or visual art.
- B. "Catchment" means the geographical area from which an elementary school within a District draws its students.
- C. "Charter ~~S~~school" means a school offering a comprehensive institutional program as defined under ORS Chapter 338. The charter school will be included in the ~~S~~school ~~D~~district if sponsored by the ~~S~~school ~~D~~district or the State Board of Education, provided that the ~~S~~school ~~D~~district is the ~~F~~fiscal ~~A~~agent for state school funds for the ~~C~~charter ~~S~~school and the ~~C~~charter ~~S~~school has both Portland catchment and Portland ~~k~~K-5 students.
- D. "City Arts Program" means the City's internal program and its staff who work with City bureaus, Council offices, ~~the Regional Arts & Culture Council~~, and other partners to support the City's vibrant arts and culture ecosystem.
- E. "Director" means the Director of the Revenue Division, or authorized designee.
- F. "Gross ~~R~~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.
- G. "Income-earning resident" means a resident who has income of \$1,000 or more in the tax year.
- H. "Net ~~R~~revenues" means the revenue remaining after interest, collection, administrative and other costs and refunds are deducted from ~~G~~gross ~~R~~revenues.

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I. "Portland K-5 ~~S~~students" means students that reside within the geographical boundary of the City ~~of Portland, Oregon~~ that attend ~~K~~kindergarten through 5th grade in public schools.

J. "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~~will be counted as a whole day.

K. "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.

L. "Schools" means those educational institutions defined as schools by the Oregon Department of Education, but do not include on-line schools.

M. "School ~~D~~istricts" means the Portland Public, David Douglas, Centennial, Parkrose, Reynolds and Riverdale school districts.

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### 5.73.020 Tax Imposed.

A tax of \$35 is imposed on the income of each income-earning resident of the City of Portland, Oregon who is at least eighteen years old. No tax will be imposed on filer(s) within any household that is at or below the federal poverty guidelines established by the federal Department of Health and Human Services for that tax year.

### 5.73.030 Net Revenues Distribution.

Net Revenues will be paid by the Revenue Division to the Arts Education and Access Fund for distribution by the City as follows:

**A.** First, funds shall will be distributed to the School Districts for the purpose of hiring certified Arts Teachers for elementary school students for kindergarten through 5th grade (K-5). Distribution shall will be based on a ratio of one teacher for every 500 K-5 students at schools that serve Portland K-5 students, except that charter schools shall will be funded based on a ratio of one teacher for every 500 Portland K-5 students served by the charter school. Students attending schools that receive no distribution of funds shall will not be counted. In the event that a school has less than 500 K-5 students, or in the case of charter schools, less than 500 Portland K-5 students, funds shall will be distributed on a pro rata basis based on the number of students attending that school. Funds shall will not be distributed to:

1. Elementary schools within the School Districts that have no Portland K-5 students; and
2. Elementary schools within the School Districts that have Portland K-5 students enrolled, but whose catchment does not overlap with the City's of Portland's geographical boundaries.

**B.** Next, funds shall will be distributed to the City Arts Program for the purpose of coordinating, supporting, and reporting on arts education services within School Districts. Funding may be used for but is not limited to Funding may be used to:

1. Employ highly qualified person(s) to work with the School Districts in the provision of high-quality arts education;
2. Provide professional development opportunities for certified Arts Teachers in the School Districts;

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3. Collect quantitative and qualitative data from Sschool Districts as requested by the City and/or Oversight Committee;
  4. Monitor Sschool District performance and report any IGA compliance concerns to the Oversight Committee;
  5. Convene superintendents, curriculum directors, Arts Teachers, and other Sschool District personnel as needed to coordinate and evaluate high quality arts education in the Sschool Districts.
- C. Any funds remaining after distribution to the Sschool Districts and the City per Subsections 5.73.030 A. and B. ~~shall~~will be distributed to the ~~Regional Arts & Culture Council (RACC)~~City Arts Program or its designee. ~~The City shall execute a contract amendment with RACC to ensure the~~ funds ~~are~~will be spent as follows:
1. Up to 95 percent of the remaining funds ~~shall~~will be distributed ~~to RACC for~~as grants to support non-profit Portland arts organizations that demonstrate artistic excellence, provide service to the community, show administrative and fiscal competence and provide a wide range of high-quality arts programs to the public. ~~RACC~~The City Arts Program or its designee will make the determination as to which arts organizations ~~shall~~will be supported, ~~in accordance with their contract with the City~~. In the event that ~~RACC~~the City Arts Program or its designee distributes less than 95 percent of the funds to non-profit Portland arts organizations, the remaining funds ~~shall~~will be distributed for the purpose of providing grants and programs as described in Subsection 2. below.
  2. A minimum of 5 percent of the remaining funds ~~shall~~will be distributed ~~to RACC for the purpose of providing~~ grants and programs to non-profit arts organizations, other nonprofits and schools that will give access to high-quality arts experiences to ~~K~~kindergarten through 12th grade students (K-12) and for grants and programs that will make arts and culture experiences available to Portland residents, with particular emphasis on programs directed to communities who are underserved by local arts providers.
  3. These funds are in addition to existing and ongoing financial support ~~from the City to RACC~~for the City Arts Program.

## 5.73.040 Intergovernmental Agreements.

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The City will execute Intergovernmental Agreements (IGAs) with the ~~S~~school ~~D~~districts and ~~will amend its contract with RACC~~any other contracted partners and require them to provide independently audited financial statements each year that show how the funds received pursuant to this program are spent.

### 5.73.050 Oversight Committee.

The City will appoint an oversight committee that is representative of the City's diverse communities to ensure the Arts Education and Access Fund is being implemented as required, to review expenditures made and to report their findings in a public record to the City Council on an annual basis. The committee ~~shall~~will be comprised of a minimum of 10 and a maximum of 20 members, including, if possible, a member of the Tax Supervising and Conservation Commission.

### 5.73.060 Audits.

The City will receive copies of annual independent audits or other documentation regarding expenditures by ~~RACC and~~ the ~~S~~school ~~D~~districts each year. The Arts Education and Access Fund also will be part of the City's independent annual audit report, the results of which will be made available to the public.

### 5.73.070 Effective Dates.

This tax will be effective beginning with the tax year 2012 and ~~shall~~will continue each year thereafter. Payment of the tax each year is due on the date on which state taxes are due, not including any extensions of time that might be requested or received.

### 5.73.080 Revenue Division Responsibilities.

The Revenue Division ~~shall~~will:

**A.** Receive the ~~G~~gross ~~R~~revenues derived from the Arts Education and Access Income Tax and distribute the ~~N~~net ~~R~~revenues in accordance with the IGAs ~~and RACC contract~~. Any balance remaining will be distributed to the City Arts Program for arts education coordination and grants;

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- B. Keep accurate records of the funds;
- C. Report to the ~~City~~Council by way of a public record on all funds received and directed to the ~~S~~school ~~D~~istricts, ~~and~~ the City Arts Program, ~~and RACC~~;
- D. Adopt administrative rules necessary to implement tax collection and administration.
- E. If necessary, contract with public or private agencies to fulfill any of its duties in regard to this Arts Education and Access Income Tax and the Arts Education and Access Fund; and
- F. Accept any and all gifts and donations to the Arts Education and Access Fund.

### 5.73.090 Limitation on Costs.

- ~~A. The Revenue Division's first year start-up costs are capped at \$600,000. Ongoing~~The administrative ~~costs~~budget will be subject to ~~the oversight and~~annual ~~Council~~approval ~~of the City Council~~.
- B. The City Arts Program's costs for coordinating, supporting, and reporting on ~~A~~arts ~~E~~ducation ~~A~~activities in the ~~S~~school ~~D~~istricts are capped at 3 percent of ~~N~~et ~~R~~evenues.

### 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 any 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 general statistics in a form which would prevent the identification of financial information regarding an individual taxfiler;
- C. Disclosure to the City Attorney's Office to obtain payment on unpaid accounts or to receive legal advice; or

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**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;

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

### 5.73.110 Frivolous Filing, False Filing and Hacking.

**A.** A \$250 penalty will be assessed if a taxfiler takes a "frivolous position" in respect to preparing the taxfiler's tax return. A tax return is considered frivolous if a taxfiler does not provide information on which the substantial correctness of the self-assessment may be judged or if the tax return contains information that on its face indicates that the self-assessment is substantially incorrect. Examples of "frivolous positions" as provided in Oregon Administrative Rule 150-316.0652~~992(5)(2)~~ are hereby adopted by direct reference.

**B.** A \$250 penalty will be assessed if a taxfiler willfully makes or provides false statements related to their tax return filing.

**C.** The provisions of PCC ~~Sub~~section 7.02.850 regarding ~~H~~hacking apply.