

Chapter 5.73 Arts Education and Access Income Tax

(Chapter added by Resolution 36939 (approved at November 6, 2012 election); effective December 5, 2012.)

5.73.010 Definitions.

(Amended by Ordinances 185827, 185960, 187339, 187610, 191037 and 191605, effective March 1, 2024.)

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

A. "Arts teachers" means teachers who provide instruction in any arts discipline, including, but not limited to, 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 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.

~~**D. "City Arts Program"** means the City's internal program and its staff who work with City bureaus, Council offices, and other partners to support the City's vibrant arts and culture ecosystem.~~

~~**ED. "Director"** means the Director of the Revenue Division~~ Office of Arts & Culture, or authorized designee.

FE. "Gross revenues" means the total of all revenue received by the City from the Arts Education and Access Income Tax without regard to collection, administrative or other costs.

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GF. "Income-earning resident" means a resident who has income of \$1,000 or more in the tax year.

HG. "Net revenues" means the revenue remaining after interest, collection, administrative and other costs and refunds are deducted from gross revenues.

H. Office of Arts & Culture means the City's office that works with City bureaus, Council offices, and other partners to support the City's vibrant arts and culture ecosystem.

I. "Portland K-5 students" means students that reside within the geographical boundary of the City that attend 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 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

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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 districts" means the Portland Public, David Douglas, Centennial, Parkrose, Reynolds and Riverdale school districts.

5.73.020 Tax Imposed.

(Amended by Ordinance 191605, effective March 1, 2024.)

A tax of \$35 is imposed on the income of each income-earning resident of the City 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.

(Amended by Ordinances 187339, 191037 and 191605, effective March 1, 2024.)

Net revenues will be paid by the Revenue [and Financial Services](#) Division to the Arts Education and Access Fund for distribution by the City as follows:

A. First, funds 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 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 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 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 will be distributed on a pro rata basis based on the number of students attending that school. Funds will not be distributed to:

1. Elementary schools within the school districts that have no Portland K-5 students; and

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2. Elementary schools within the School Districts that have Portland K-5 students enrolled, but whose catchment does not overlap with the City's geographical boundaries.

B. Next, funds will be distributed to the ~~City Arts Program~~[Office of Arts & Culture](#) 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:

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;
3. Collect quantitative and qualitative data from school districts as requested by the City and/or Oversight Committee;
4. Monitor school district performance and report any IGA compliance concerns to the Oversight Committee;
5. Convene superintendents, curriculum directors, arts teachers, and other school district personnel as needed to coordinate and evaluate high quality arts education in the school districts.

C. Any funds remaining after distribution to the school districts and the City per Subsections 5.73.030 A. and B. will be distributed to the ~~City Arts Program~~[Office of Arts & Culture](#) or its designee. The funds will be spent as follows:

1. Up to 95 percent of the remaining funds will be distributed 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. The ~~City Arts Program~~[Office of Arts & Culture](#) or its designee will make the determination as to which arts organizations will be supported. In the event that the ~~City Arts Program~~[Office of Arts & Culture](#) or its designee distributes less than 95 percent of the funds to non-profit Portland arts organizations, the remaining funds will be distributed for the purpose of providing grants and programs as described in Subsection 2. below.

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2. A minimum of 5 percent of the remaining funds will be distributed for grants and programs to non-profit arts organizations, other nonprofits and schools that will give access to high-quality arts experiences to 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 for the [City Arts Program](#) [Office of Arts & Culture](#).

5.73.040 Intergovernmental Agreements.

(Amended by Ordinance 191605, effective March 1, 2024.)

The City will execute Intergovernmental Agreements (IGAs) with the school districts and 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.

(Amended by Ordinances 185827, 191037 and 191605, effective March 1, 2024.)

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 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.

(Amended by Ordinance 191605, effective March 1, 2024.)

The City will receive copies of annual independent audits or other documentation regarding expenditures by the school districts each year. The

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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.

(Amended by Ordinance 191605, effective March 1, 2024.)

This tax will be effective beginning with the tax year 2012 and 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 and Financial Services Division Responsibilities.

(Amended by Ordinances 187339, 191037 and 191605, effective March 1, 2024.)

The Revenue and Financial Services Division will:

- A.** Receive the gross revenues derived from the Arts Education and Access Income Tax and distribute the net revenues in accordance with the IGAs. Any balance remaining will be distributed to the ~~City Arts Program~~Office of Arts & Culture for arts education coordination and grants;
- B.** Keep accurate records of the funds;
- C.** Report to the Council by way of a public record on all funds received and directed to the school districts and the ~~City Arts Program~~Office of Arts & Culture;
- 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.

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(Amended by Ordinances 185960, 187339, 188859, 191037 and 191605, effective March 1, 2024.)

A. The administrative budget will be subject to annual Council approval.

B. The ~~City Arts Program's~~ [Office of Arts & Culture's](#) costs for coordinating, supporting, and reporting on arts education activities in the school districts are capped at 3 percent of net revenues.

5.73.100 Confidentiality.

(Replaced by Ordinance 191745, effective June 5, 2024.)

A. In accordance with ORS 314.835, except as otherwise specifically provided by Oregon law or this Section and related rules or written policies, it is unlawful for the Revenue [and Financial Services](#) Division or any officer or employee of the division to divulge or make known in any manner the amount of income, expense, deduction, exclusion or credit or any particulars set forth or disclosed in any report or return required in the administration of this chapter.

B. It is unlawful for any City employee, agent or elected official, or for any person who has acquired information pursuant to this section to divulge, release or make known in any manner any information submitted or disclosed to the City under the terms of Chapter 5.73 for any purpose other than that specified in the provisions of law authorizing the use or disclosure.

C. No subpoena or judicial order ~~may~~**shall** be issued compelling the division or any of its officers or employees, or any person who has acquired information pursuant section or any other provision of state or City law, to divulge or make known the amount of income, expense, deduction, exclusion or credit or any particulars set forth or disclosed in any report or return except where the taxfiler's liability for any tax imposed under this chapter is to be adjudicated by the court from which such process issues.

D. As used in this section:

- 1.** "Officer," "employee" or "person" includes an authorized representative of the officer, employee or person, or any former officer, employee or person, or an authorized representative of such former officer, employee or person.

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2. "Particulars" includes, but is not limited to, a taxpayer's name, address, telephone number, Social Security number, employer identification number or other taxpayer identification number, the amount of refund claimed by or granted to a taxpayer, and whether a report or return has been filed.

E. The Revenue [and Financial Services](#) Division may:

1. Furnish any taxfiler, representative authorized to represent the taxfiler or person designated by the taxfiler, upon request of the taxfiler, representative or designee, with a copy of the taxfiler's tax return filed with the division for any year, or with a copy of any report filed by the taxfiler in connection with the return, or with any other information the division considers necessary.

2. Publish statistics so classified as to prevent the identification of income or any particulars contained in any report or return.

3. Disclose a taxfiler's name, address, telephone number, refund amount, amount due, Social Security number, employer identification number or other taxfiler identification number to the extent necessary in connection with collection activities or the processing and mailing of correspondence or of forms for any report or return required in the administration of the tax imposed under Chapter 5.73.

F. Only to the extent necessary to meet the business purpose of the disclosure, the division also may disclose and give access to information described in Subsection 5.73.100 A. to:

1. The City Attorney, the City Attorney's assistants and employees, or other legal representatives of the City, to the extent the division deems disclosure or access necessary for the performance of the duties of advising or representing the division, including but not limited to instituting legal actions on unpaid accounts.

2. The City Bureau of Technology Services or its authorized representative, for the purpose of managing access, security and communications.

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3. City Printing and Distribution employees and agents, for the purpose of printing and mailing notices that may contain confidential information.
4. City Treasury and Central Accounting employees and agents, for the purpose of performing functions related to the issuance of refunds.
5. The Auditor or their authorized representative, to the extent pursuant to City Charter, Chapter 2, Article 5.
6. Other persons, partnerships, corporations and other legal entities, and their employees, to the extent the division deems disclosure or access necessary for the performance of such others' duties under contracts or agreements between the division and such legal entities, in the division's administration of the tax laws.

G. Each officer or employee of the division and each person described or referred to in Subsection F. of this section to whom disclosure or access to the tax information is given under Subsection B. of this section or any other provision of law, prior to beginning employment or the performance of duties involving such disclosure or access, ~~shall~~will be advised in writing of the provisions of Section 5.73.100, relating to penalties for the violation of Section 5.73.120, and ~~shall~~must as a condition of employment or performance of duties execute a certificate for the division, in a form prescribed by the division, stating in substance that the person has read these provisions of law, that the person has had them explained and that the person is aware of the penalties for the violation of Section 5.73.100.

5.73.110 Frivolous Filing, False Filing and Hacking.

(Added by Ordinances 185827 and 191605, effective March 1, 2024.)

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 are hereby adopted by direct reference.

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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 Section 7.02.850 regarding hacking apply.

5.73.120 Criminal Penalties for Violation of the Arts Tax Law by City Employee or Agent

(Added by Ordinance 191745, effective June 5, 2024.)

Anyone knowingly violating Section 5.73.100 may be punished, upon conviction thereof, by a fine not exceeding \$500 or by imprisonment for a period not exceeding six months, or by both fine and imprisonment. Any City employee that is convicted will be dismissed from employment and is ineligible for holding any position of employment or office in the City for a period of five years thereafter. Any agent of the City that is convicted is ineligible for participation in any City contract for a period of five years thereafter.