

ORDINANCE No. 185960 As Amended

Amend the Arts Education and Access Income Tax code to add a definition for income-earning resident and include in the definition that a resident must have income of at least \$1,000 to be considered income earning. (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, retroactively creating the Arts Education and Access Income Tax (Arts Tax) for the 2012 tax year and all future tax years. The Revenue Bureau began tax collections on February 27, 2013.
3. It has become apparent that in limited situations under the current City Code, a resident in a household above the federal poverty level could be subject to the \$35 Arts Tax although the tax exceeded the amount of their individual earned income.
4. It was not Council's intent when referring the Arts Tax to voters to assess a tax in excess of an individual's income. To avoid this outcome, a minimum level of income should be added to the definition of "income-earning resident" as used in Portland City Code (PCC) Chapter 5.73.
5. By defining "income-earning resident" to include a minimum threshold level of \$1,000 in income, the revenues that will be generated by the Arts Tax will decrease. This change will result in decreased tax revenue because low income spouses, domestic partners, young adults and other low income taxpayers residing in households above the poverty level will no longer be required to pay the tax. The exact number of new non-paying taxfilers must be broadly estimated because certain tax data is unavailable for joint filers and other low income taxfilers. The revenue decrease is estimated at between \$277,000 to \$700,000.
6. Since the Bureau's administrative cost cap is a function of the revenues generated (5% of gross revenue), decreasing Arts Tax gross revenues increases the likelihood that the Bureau will exceed the expense cap of 5%.
7. This change will also result in increased one-time expenses. These expenses are related to notification to households about the new income definition to ensure that every taxfiler who filed under the existing City Code language is provided a letter and refund request form explaining the rule change and the opportunity to request a refund. One-time costs are also expected to increase related to additional letters and processing for those that fail to file, or need additional assistance in determining if they must file. The increase in one-time expenses is projected at \$140,000.
8. Because the Bureau was projecting it would under spend the original \$500,000 one-time budget by \$40,000, the one-time budget increase needed to administer this change in the Code is \$100,000.
9. Because this change will reduce gross revenue collections and those collections determine the actual amount of on-going administration costs that can be incurred, this change could result in the Bureau exceeding the 5% cap.

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.** “Director” means the Director of the Revenue Bureau, or authorized designee.

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

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

~~**E.**~~ **F.** “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.

~~**F.**~~ **G.** “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.

~~**G.**~~ **H.** “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.

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

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

b. Portland City Code Subsection 5.73.090A. is amended as follows:

**5.73.090 Limitation on Costs.**

A. The Revenue Bureau's first year start-up costs are capped at ~~\$500,000~~ \$600,000. Ongoing administrative costs are capped at an average 5 percent or less of Gross Revenues over a five year period.

c. Council directs the Revenue Bureau to make the necessary budget adjustments in the Spring BMP to reflect increased administrative costs.

Passed by the Council: APR 03 2013

Mayor Charlie Hales  
Prepared by: T. Lannom/T. Williams  
Date: March 19, 2013

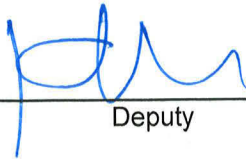
**LaVonne Griffin-Valade**  
Auditor of the City of Portland

By:

  
Deputy

Agenda No. **185960** As Amended  
**ORDINANCE NO.**  
Title

Amend the Arts Education and Access Income Tax code to add a definition for income-earning resident and include in the definition that a resident must have income of at least \$1,000 to be considered income earning. (Ordinance; amend Code Section 5.73)  
*Chapter*

<p><b>INTRODUCED BY</b> Commissioner/Auditor: <b>Mayor Hales</b></p>	<p>CLERK USE: DATE FILED <u>MAR 22 2013</u></p>
<p><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Hales <i>is</i></p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p>	<p>LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By:  Deputy</p>
<p><b>BUREAU APPROVAL</b></p> <p>Bureau: Office of the Mayor Bureau Head: Charlie Hales</p>	
<p>Prepared by: Date Prepared: 3/20/2013</p>	<p><b>ACTION TAKEN:</b></p> <p><b>MAR 27 2013 PASSED TO SECOND READING As Amended APR 03 2013</b> 9:30 A.M.</p>
<p>Financial Impact &amp; Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p>Council Meeting Date <b>3/27/2013</b></p>	
<p><b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan, charter <i>Walters</i></p>	

**AGENDA** *1 of 2*

**TIME CERTAIN**   
Start time: 10:30 Am

**Total amount of time needed:** 30 min  
(for presentation, testimony and discussion)

**CONSENT**

**REGULAR**   
**Total amount of time needed:** \_\_\_\_\_  
(for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	<input checked="" type="checkbox"/>	
2. Fish	2. Fish	<input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman	<input checked="" type="checkbox"/>	
4. Novick	4. Novick	<input checked="" type="checkbox"/>	
Hales	Hales	<input checked="" type="checkbox"/>	