

## RESOLUTION No. 37213

Establish criteria for assignment of delinquent Arts Education and Access Income Tax accounts to outside collection agencies (Resolution)

WHEREAS, Portland City Council Resolution No. 36939 passed June 27, 2012, referring the Arts Education and Access Income Tax (“Arts Tax”) to voters. The resolution included a new Portland City Code section 5.73 that went into effect following the passage of Ballot Measure 26-146 with 62% of voters approving on November 6, 2012. Over \$35 million in tax revenue has been collected to date.

WHEREAS, Portland City Code 5.73.080 (E) granted the Bureau of Revenue and Financial Services Revenue Division the authority to “...contract with public or private agencies to fulfill any of its duties in regard to this Arts Education and Access Income Tax...”

WHEREAS, Resolution No. 36939 included the Revenue Division’s Arts Tax program description which included an example collection timeline to ultimately refer unpaid accounts to a collection agency. Use of collection agencies to enforce the Code has been a key assumption underlying compliance projections since 2012.

WHEREAS, no Code amendment is required to refer delinquent Arts Tax accounts to a collection agency because the Revenue Division already has that authority. However, Portland City Council passed Resolution No. 37007 on March 27, 2013, requiring the Revenue Division to “submit a plan to address when a private for-profit collection agency may be contracted or assigned debt, including a provision that a debt cannot be assigned to such agencies until the debt reaches a minimum threshold to be later determined by the Council.”

WHEREAS, higher compliance rates cannot be achieved without referring delinquent accounts to a collection agency. No other cost-effective collection tools are available.

WHEREAS, voluntarily compliant taxpayers have an expectation that non-compliant taxpayers will be held accountable for their failure to contribute their fair share to the Arts Education and Access Fund. Moreover, voluntary compliance with the tax will decrease if action is not taken to collect delinquent debt because voluntary taxpayers will recognize that ultimately nothing will be done to collect the tax and may then themselves cease filing and paying it.

WHEREAS, the U.S. Internal Revenue Service (IRS) publishes its estimated income tax compliance rates. For tax year 2006, the most recent year available, the IRS estimated taxpayer voluntary compliance at 83.1% increasing to 85.5% after enforcement actions. The State of Oregon Department of Revenue has a similar compliance estimate. Overall, Arts Tax payment compliance is now over 70%. No income tax program collects all taxes due.

WHEREAS, beginning in fiscal year 2011, Multnomah County referred 32,005 Multnomah

County Personal Income Tax (“ITAX”) delinquent accounts from tax years 2003, 2004 and 2005 to an outside collection agency. The referral threshold was accounts owing \$100 or more. Between 2011 and 2014, the outside collection agency used by Multnomah County collected and remitted to the County 17% of the gross value of the accounts referred.

WHEREAS, the Revenue Division has referred thousands of delinquent business income tax accounts to outside collection agencies since 2005 with a referral threshold of \$100 or more. The collection agencies have recovered \$3.4 million for the City of Portland and Multnomah County.

WHEREAS, the Portland Water Bureau refers finalized delinquent accounts to the same collection agency used by Revenue Division and other City bureaus. Water Bureau’s referral threshold is \$25 and 49 days past due.

WHEREAS, the State of Oregon’s general threshold for referring most past due accounts to a collection agency is \$100 (ORS 293.231).

WHEREAS, while seven in ten Portlanders who owe it have paid the Arts Tax, tens of thousands remain out of compliance, some owing for multiple tax years (currently up to \$260 including penalties). Arts Tax payment compliance rates approaching those of federal and state levels may yet be attainable by sending final demand letters to delinquent taxpayers and then referring non-responsive taxpayers to an outside collection agency.

WHEREAS, ongoing use of collection agencies is expected to increase the revenue yield from the current \$9.0-9.3 million per year to \$10-11 million per year.

WHEREAS, there is no cost to the City to refer accounts to a collection agency. The City’s current contracted collection agency, Professional Credit Services, is authorized by City contract No. 33000130 to add an additional 23% to the debt referred to recover its collection costs from the debtor.

WHEREAS, following a recently implemented agreement with the IRS, the Revenue Division has gained access to IRS tax and income records for all Portland residents who file tax returns with the IRS. This information will be used to improve administration of the Arts Tax by focusing collection activity on taxpayers who reported taxable income to the IRS.

WHEREAS, this resolution was reviewed by the Arts Education and Access Fund Citizen Oversight Committee (AOC), the independent citizen oversight committee charged with reviewing the expenditures, progress, and outcomes of the Arts Tax. The AOC supports this resolution.

NOW, THEREFORE, BE IT RESOLVED:

1. The Bureau of Revenue and Financial Services Revenue Division is authorized to refer delinquent Arts Tax accounts to outside collection agencies if the amount past due is \$100 or greater, and the account is one or more years past due. The Revenue Division shall not refer a past due account to a collection agency unless a final demand letter is first mailed to the taxpayer's last known address and at least 30 days have elapsed without payment or other resolution of the account.
  
2. The Revenue Division shall monitor collection agency performance and practices for conformance with applicable laws. The Division shall retain the ability to stop collection on any incorrectly referred accounts in real-time using a secure portal provided by the collection agency whenever feasible.

Adopted by the Council:

JUN 16 2016

Mayor Charlie Hales

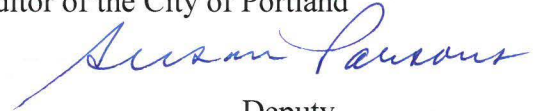
Prepared by: T. Lannom, S. Karter

Date Prepared: May 26, 2016

**Mary Hull Caballero**

Auditor of the City of Portland

By



Deputy

Agenda No.  
**RESOLUTION NO.**

**37213**

Title

Establish criteria for assignment of delinquent Arts Education and Access Income Tax accounts to outside collection agencies (Resolution)

<p><b>INTRODUCED BY</b> Commissioner/Auditor: <b>Mayor Hales</b></p>	<p>CLERK USE: DATE FILED <u>JUN 07 2016</u></p>
<p><b>COMMISSIONER APPROVAL</b> <i>[Signature]</i> Mayor—Finance and Administration - Hales</p>	<p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u><i>[Signature]</i></u> Deputy</p> <p><b>ACTION TAKEN:</b> <i>[Signature]</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><b>BUREAU APPROVAL</b> Bureau: OMF/BRFS/Revenue CAO: Fred Miller <i>[Signature]</i> CFO, Bureau Head: Kenneth L. Rust <i>[Signature]</i> Division Head: Thomas W. Lannom <i>[Signature]</i></p>	
<p>Prepared by: Scott Karter Date Prepared: 5/26/2016</p>	
<p>Impact 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><b>City Auditor Office Approval:</b> required for Code Ordinances</p>	
<p><b>City Attorney Approval:</b> required for contract, code, easement, franchise, charter, Comp Plan</p>	
<p>Council Meeting Date <b>6/16/2016</b></p>	

**AGENDA** 2 of 3

**TIME CERTAIN**   
**Start time: 2:00 PM**

**Total amount of time needed: one hour**  
(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	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman		✓
4. Novick	4. Novick	<del>_____</del>	
Hales	Hales	✓	