

## Memphis City Council Summary Sheet



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**1. Description of the Item (Resolution, Ordinance, etc.)**

Resolution to settle pending litigation for the Professional Privilege Tax charged to over 900 NBA Players.

**2. Initiating Party (e.g. Public Works, at request of City Council, etc.)**

Finance Division

**3. State whether this is a change to an existing ordinance or resolution, if applicable.**

No

**4. State whether this requires a new contract, or amends an existing contract, if applicable.**

No

**5. State whether this requires an expenditure of funds/requires a budget amendment.**

Yes- Funds have been reserved in anticipation of this litigation.



## Resolution to Pay Settlement for The Tennessee Professional Privilege Tax

**WHEREAS,** From July 1, 2009 through May 30, 2016, the Tennessee professional privilege tax was imposed on NBA players who were on an NBA franchise's roster for any regular season game in Tennessee; and

**WHEREAS,** Over 900 professional basketball players and former professional basketball players filed or indicated intent to file claims for Tennessee professional privilege taxes paid; and

**WHEREAS,** The Tennessee Department of Revenue, in consultation with the State Attorney General's office, concluded that there was significant risk that the NBA players would prevail and that the court would order all amounts collected to be refunded to the professional basketball players subjected to the professional privilege tax, along with interest and legal fees; and

**WHEREAS,** due to the risk, the Tennessee Department of Revenue received authorization from the State Attorney General, the Comptroller of the Treasury, and the Governor, pursuant to Tenn. Code Ann. §§20-13-103 et seq. and 67-1-102 et seq. to resolve the claims through negotiated settlements and compromise regarding professional liability tax obligations imposed upon the over 900 NBA players; and

**WHEREAS,** The players have agreed to accept a refund of 1/3 the amounts paid prior to the 2015 tax period, and all amounts paid in 2015 and 2016; and

**WHEREAS,** The City of Memphis received an aggregate disbursement from the State in the amount of \$7,267,590.64 and taking into consideration the amount of tax collected by the State, but not disbursed, the City of Memphis is required to repay a balance of \$2,385,954.64; and

**WHEREAS,** The City of Memphis has set aside a reserve for this purpose in FY2015 and it is appropriate to use such funds to pay its proportionate share of the agreed settlement amount; and

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS,** that the City of Memphis shall use the reserve set aside in the amount of \$2,385,954.64 to pay its portion for the settlement of professional privilege tax liability obligations paid by the 900 NBA basketball players from July 2009 through May 2016.