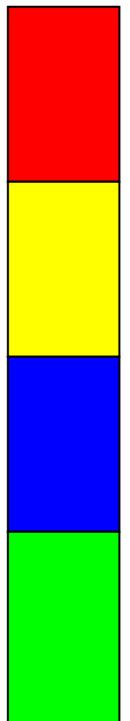


The Art Advisory Panel  
of the  
Commissioner  
of  
Internal Revenue

Annual Summary Report  
for 2010  
(Closed Meeting Activity)



# Annual Summary Report For 2010 (Closed Meeting Activity)

## The Art Advisory Panel of the Commissioner of Internal Revenue

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Three closed meetings of the Commissioner's Art Advisory Panel were held in Calendar Year 2010: Paintings and Sculpture on April 27th and September 29th and Decorative Arts and Antiques on May 12th. All meetings were closed to the public by determination of the Commissioner that the substantive discussions and records of the Panel dealt with the value of works of art involved in a federal tax return and were thus concerned with matters listed in sections 552b(c)(3), (4), (6), and (7) of Title 5 of the United States Code. Consequently, the meetings at which such matters are discussed and the records of such meetings should not be open to the public. This is necessary to protect the confidentiality of tax returns under section 6103 of Title 26 of the United States Code.

The Art Advisory Panel assists the Internal Revenue Service by reviewing and advising on the acceptability of property appraisals submitted by taxpayers in support of fair market value claims on works of art involved in Federal Income, Estate and Gift taxes in accordance with the Internal Revenue Code.

All taxpayer cases selected for audit that include art work or cultural property with a claimed value of \$20,000 or more must be referred to Art Appraisal Services for review by the Commissioner's Art Advisory Panel when applicable. Art Appraisal Services provides the staff support and coordination of the Art Panel and reviews appraisals of taxpayer cases on art works not referred to the Panel.

The Panel meets in Washington, DC usually once or twice a year in each specialty area. Approximately 250-300 items are reviewed at each one-day Paintings and Sculpture meeting; and 50-100 lots are reviewed at the one-day Decorative Arts and Antiques meeting. Prior to the meetings, the staff appraisers send photographs and written materials to the Panelists concerning the works of art to be reviewed. The written materials include information from the taxpayer's appraisal, such as size, medium, physical condition and provenance, as well as the staff's own market research, including information on public and private sales of relevant art work. Sometimes, one or more of the Panelists or staff will have seen the property and may have additional information to provide during the meeting.

Steps are taken to ensure the objectivity of the Panel. The Panelists are not told of the tax consequences, i.e., whether an item is a charitable contribution or from an estate. Also, to minimize recognition by the Panelists of a taxpayer's entire collection, the art works are discussed in alphabetical order by artist or, in the case of decorative art, by object type.

At the meetings, the taxpayer's appraisal and any other supporting evidence provided, along with the research and findings of both the Panelists and staff appraisers, are reviewed. After discussing each item individually, a consensus is reached on each item. Panel discussions are lively, but serious, and in spite of the different perspectives of dealers, auction house experts and museum curators, disagreements are rare. When disagreements do occur, they generally result from insufficient information. In these cases, the Panelists will indicate that additional research, such as inspection of the property or consultation with additional experts, is necessary before a decision can be made. Once the additional work is completed, the item is brought up for review at a subsequent meeting. In the event of a conflict of interest involving a Panelist and a work of art under review, the Panelist does not participate in the discussion and is excused from the room.

The Panel's conclusions are reviewed by the office of Art Appraisal Services. Their recommendations of fair market value with supporting evidence are provided in written reports or memos sent to the requesting IRS office. To assist the taxpayer's understanding of the Art Advisory Panel's conclusions when an adjustment has been recommended, copies of the reports are provided to the taxpayer, detailing the Panel's determination, together with a list of the participating Panelists.

Taxpayers may request reconsideration of an adjusted claimed value only if they provide additional information or new probative evidence. Such information, if deemed substantive by the staff, is submitted to the Panel for reconsideration at a subsequent meeting.

The determinations of the Art Advisory Panel become the position of the Internal Revenue Service. If agreement is not reached at the Examination level, the office of Art Appraisal Services and the Art Advisory Panel will provide assistance to Appeals and Area Counsel. This assistance includes participating in taxpayer conferences, preparing expert reports and securing expert witnesses, including members of the Panel and other outside experts.

Incorporated for the purposes of this annual report is the summary meeting report prepared by the designated committee manager. This report identifies the dates of the meetings, summarizes the statistics on appraisal reviews of estate and gift returns and charitable contribution deductions, and lists names of attending Panelists and Internal Revenue Service officials. Beginning with FACA reporting period 2010, the Art Advisory Panel Annual Summary Report will follow the Federal government's fiscal year.

# Summary of 2010 Reviews

Three closed meetings of the Commissioner's Art Advisory Panel were held in 2010: Paintings and Sculpture on April 27th and September 29th; and Decorative Arts and Antiques on May 12th. The meetings were chaired by Mr. Joseph E. Bothwell, Director of Art Appraisal Services, Appeals, Internal Revenue Service, Washington, DC.

## Art Advisory Panel Summary

The Panel reviewed 475 items with an aggregate taxpayer valuation of \$234,825,406 on 92 taxpayer cases under consideration. The claimed value of the average charitable contribution item was \$967,920 and the average estate and gift item was \$468,061. The Panel recommended total adjustments of \$53,295,606 on the reviews now concluded for these meetings. On the adjusted items, the Panel recommended adjustments amounting to a 58 percent reduction on the overvalued items in charitable contribution claims and a 43 percent increase on the undervalued items in estate and gift appraisals.

The Panel recommended acceptance of 39 percent of the appraisals reviewed. Adjustments were recommended on 54 percent of the reviewed appraisals. Seven percent of the appraisals reviewed by the Panel required additional staff development before a value decision could be made.

The Panel reconsidered 13 items in 5 taxpayer cases originally valued at \$19,548,000 by the taxpayers and \$30,660,000 by the Panel. After reviewing the additional information, the Panel confirmed their prior recommendation on these items. The value of these items is not included in the above listed totals.

## Case Follow-up Results

Art Appraisal Services has a case tracking form to monitor the disposition of cases by Examination, Appeals and Counsel which have been referred to the Commissioner's Art Advisory Panel and this office. To date the following responses have been received on the disposition of the cases reviewed by the Art Advisory Panel between 2006-2010:

	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Percentage of Responses Received on Cases Reviewed	58%	40%	23%	8%	13%
Percentage of Responses Agreed at Exam/Appeals	90%	93%	100%	90%	100%

Attached is the statistical breakdown of the cases reviewed by the Art Panel in 2010 by tax consequences as well as a list of the Panel members and other attendees.

Joseph E. Bothwell  
Chair, Commissioner's Art Advisory Panel

# Estate & Gift (Total)

	Number		Value
Cases	84		
Panel Reviewed Items	450	Total Taxpayer Claimed	\$210,627,406
Average Value	\$468,060		
Items Requiring Further Staff Development (7%)	32	Claimed On Development Items	\$ 10,002,500

## Reviews Concluded

Items (93%)	418	Total Taxpayer Claimed		\$200,624,906
		Total Panel Recommended		\$231,161,700
		<b>Taxpayer Claim</b>	<b>Panel Value</b>	<b>Adjustment</b>
Number Accepted	174 (39%)	\$71,612,700	\$71,612,700	
Number Adjusted	244 (54%)			(43%)
Adjusted +	149 (33%)	\$97,959,300	\$139,875,500	\$41,916,200
Adjusted -	95 (21%)	\$31,052,906	\$ 19,673,500	\$11,379,406
		Total Panel Recommended Adjustments		\$53,295,606
		Net Panel Adjustments		\$30,536,794

**Cases Considered by the Commissioner's Art Advisory Panel  
2010**

# Charitable Contributions (Total)

	Number			Value
Cases	8			
Panel Reviewed Items	25	Total Taxpayer Claimed		\$24,198,000
Average Value \$679,064				
Items Requiring Further Staff Development (4%)	1	Claimed On Development Items		\$ 330,000

## Reviews Concluded

Items (96%)	24	Total Taxpayer Claimed		\$23,868,000
		Total Panel Recommended		\$27,595,000
		<b>Taxpayer Claim</b>	<b>Panel Value</b>	<b>Adjustment</b>
Number Accepted	10 (40%)	\$ 3,440,000	\$ 3,440,000	
Number Adjusted	14 (56%)			(58%)
Adjusted +	3 ( 12%)	\$ 9,175,000	\$15,000,000	\$5,825,000
Adjusted -	11 (44%)	\$11,253,000	\$ 9,155,000	\$2,098,000
		Total Panel Recommended Adjustments		\$7,923,000
		Net Panel Adjustments		(\$3,727,000)

**Cases Considered by the Commissioner's Art Advisory Panel  
2010**

# Art Advisory Panel of the Commissioner of Internal Revenue 2010

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Ms. Stephanie Barron	Senior Curator Twentieth Century Art Los Angeles County Museum of Art Los Angeles, CA
Mr. Douglas Baxter	President PaceWildenstein New York, NY
Mr. Leon Dalva	Dalva Brothers, Inc. New York, NY
Mr. Michael Findlay	Director Acquavella Galleries, Inc. New York, NY
Mr. Brock Jobe	Deputy Director Winterthur Museum Winterthur, DE
Mr. Christian Jussel	Unaffiliated Scholar/Art Adviser New York
Mr. Ian Kennedy	Curator of European Paintings & Sculpture to 1900 The Nelson-Atkins Museum of Art Kansas City, MO
Mr. Leigh Keno	Leigh Keno American Antiques New York, NY
Ms. Rebecca Lawton	Curator of Paintings and Sculpture Amon Carter Museum Fort Worth, TX

Ms. Barbara Mathes	Barbara Mathes Gallery New York, NY
Ms. Nancy McClelland	McClelland + Rachen New York, NY
Ms. Susan Menconi	Partner Menconi & Schoelkopf Fine Art New York, NY
Ms. Lucy Mitchell-Innes	President Mitchell-Innes & Nash, Inc. New York, NY
Mr. Howard Rehs	Director Rehs Galleries, Inc. New York, NY
Mr. James L. Reinish	Martha Parrish & James Reinish, Inc. New York, NY
Mr. Joseph Rishel	Curator European Painting before 1900 & John G. Johnson Collection Philadelphia Museum of Art Philadelphia, PA
Dr. Andrew Robison	Mellon Senior Curator National Gallery of Art Washington, DC
Dr. Scott Schaefer	Senior Curator of Paintings J. Paul Getty Museum Los Angeles, CA
Mr. David Tunick	David Tunick, Inc. New York, NY