The Art Advisory Panel Of the Commissioner Of Internal Revenue

Annual Summary Report for
Fiscal Year 2016
(Closed meeting activity)

Overview

Created in 1968, the Art Advisory Panel of the Commissioner of Internal Revenue (the Panel) provides advice and makes recommendations to the Art Appraisal Services (AAS) unit in the Office of Appeals for the Internal Revenue Service (IRS). Chartered under the Federal Advisory Committee Act (FACA), the Panel helps the IRS review and evaluate the acceptability of tangible personal property appraisals taxpayers submit to support the fair market value claimed on the wide range of works of art involved in income, estate, and gift tax returns.

When a tax return selected for audit includes an appraisal of a single work of art or cultural property valued at $50,000 or more, the IRS examining agent or appeals officer must refer the case to AAS for possible referral to the Panel, unless a specific exception exists. The AAS staff supports and coordinates the Panel meetings, while the AAS appraisers independently review taxpayers' appraisals for art works not referred to the Panel.

The Panel provides essential information to help foster voluntary compliance. The information and recommendations play an important role in the IRS's efforts to cost-effectively address the potentially high abuse area of art valuation. The panelists provide information, advice, and insight into the world of art which cannot be obtained effectively from within the IRS. The Panel does not duplicate work performed in the IRS. The AAS appraisers review appraisals by researching publicly available information; the Panel provides additional knowledge of private sales based on their personal experience as dealers, scholars, and museum curators, and from information obtained from other members of their relatively small industry. The panelists' knowledge is particularly beneficial when questions exist about the authenticity or condition of works of art.

Art Appraisal Services takes steps to ensure objectivity and taxpayer privacy. Information provided to the panelists does not include the taxpayer's name, the type of tax, the tax consequences of any adjustments to the value, or who did the appraisal. To minimize the possibility that panelists recognize a taxpayer's entire collection, the art works are usually discussed in alphabetical order by artist or, in the case of decorative art, by object type. If there is a conflict of interest with a panelist and a work of art under review, the panelist does not participate in the discussion and is excused from that portion of the meeting.

Before Panel meetings, AAS appraisers send photographs and written materials to the panelists about the works of art under review. The materials include information from the taxpayer's appraisal, such as size, medium, physical condition, provenance, any comparable sales, and appraised value, and the AAS appraiser's own research, including available information on public and private sales of relevant art work.

During the Panel meetings, the panelists review the information provided, along with the research and findings of both the panelists and AAS appraisers. After discussing each item individually, the Panel reaches consensus on the value of a subject work. Panel discussions are lively and serious. Despite the different perspectives of dealers, museum curators, and scholars, substantial disagreements are rare. When disagreements happen, they generally result from insufficient information. In these cases, the panelists may recommend additional research, such as inspecting the property or consulting with additional experts, before making a recommendation as to value. Once the AAS appraiser completes the additional work, the item may be brought up for review at a subsequent Panel meeting.

The Panel's recommendations are advisory. The AAS staff reviews all of the Panel's recommendations, which become the position of the IRS only with AAS concurrence. In Fiscal Year 2016, AAS adopted 70 percent of the Panel's recommendations.[1]

The AAS staff provides written reports or memos to the requesting IRS office, with a copy for the taxpayer, outlining the Panel's recommendations for any adjustments to fair market value with all supporting evidence.

Taxpayers may request reconsideration of an adjusted claimed value only if they provide substantial new information or probative evidence. The AAS staff may submit such information to the Panel for reconsideration at a subsequent meeting.

Panel Leadership

The Director, Art Appraisal Services serves as the Panel Chair and Designated Federal Officer (DFO) for FACA purposes.

Panel Subcommittees

The DFO has the authority to create subcommittees or workgroups. Subcommittees may be established for any purpose consistent with the Panel's charter, and are comprised of Panel members. There are currently two subcommittees: the Fine Arts Panel, which reviews items such as paintings, sculpture, watercolors, prints, and drawings; and the Decorative Arts Panel, which reviews items such as antique furniture, decorative art, ceramics, textiles, carpets, and silver.

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[1] This percentage was calculated by dividing the total number of items reviewed by the Panel by the number of items where AAS accepted the Panel value. The Panel reviewed a total of 555 items. AAS accepted the Panel's recommendations on 386 items. The Panel's recommendations assume full ownership of a work of art. However, case specific facts (i.e., partial ownership interests, discounts, etc.) are considered by the IRS in the ultimate value determination. In charitable contribution cases AAS not only considers the Panel's recommendations but also the substantiation requirements set forth in the Internal Revenue Code and corresponding regulations.

Meetings

The Panel generally meets twice a year. Panel meetings are closed to the public since all portions of the meetings concern matters that are exempted from disclosure under the provisions of sections 552b(c)(3), (4), (6) and (7) of Title 5 of the U.S. Code. This determination, which is consistent with section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), is necessary to protect the confidentiality of tax returns and return information as required by section 6103 of the Internal Revenue Code.

The meetings held during this reporting period included:

Type	Date	Location
Fine Arts	April 20, 2016	New York, NY
Fine Arts	September 14, 2016	Washington, DC

The Decorative Arts Panel did not meet in Fiscal Year 2016.

Summary of Panel Recommendations

During Fiscal Year 2016, the Panel reviewed 555 items with an aggregate taxpayer valuation of $503,135,185 on 63 taxpayer cases. The average claimed value for an item reviewed by the Panel was $906,550.

The Panel recommended accepting the value of 222 items or 40 percent of the items presented. It adjusted 333 items or 60 percent of the appraisals it reviewed. On the 333 items adjusted, the Panel recommended total net adjustments of $102,406,967 to the appraised values, a 17 percent increase.

The Panel reconsidered three items originally valued at $1,650,000 by the taxpayers and $3,600,000 by the Panel. After reviewing the additional information, the Panel revised their recommendations to $2,900,000. The items reconsidered are not included in the information above or that follows.

Comprehensive Recommendations Report[2]

Type of Adjustment	Number of items	T/P Claimed Value	Panel Recommendation	Net Change (Panel less-Claimed Value)
Total Items Increased	202 (36%)	$197,629,700	$360,918,772	$163,289,072
Total Items Decreased	131 (24%)	$150,398,000	$89,515,895	($60,882,105)
Total Items Accepted	222 (40%)	$155,107,485	$155,107,485	$0
Totals	**555 (100%)**	**$503,135,185**	**$605,542,152**	**$102,406,967**
Average Claimed Value Per Item	**$906,550**			

Net Change as a Percent	
Total T/P Claimed Value	$503,135,185
Total Panel Recommendation	$605,542,152
Total Adjustment	$102,406,967
Total Adjustment as a Percentage	17%

[2] The data in this table was changed from prior years to provide a format that captures all items reviewed by the Panel (i.e., items in taxpayer cases under examination as well as statement of value requests). This format also avoids potential Internal Revenue Code section 6103 disclosure concerns in situations where there may be too few items in a particular category (estate, gift or charitable contribution) to report separately.

Art Advisory Panel of the Commissioner of Internal Revenue 2016

Ms. Stephanie Barron	Senior Curator of Modern Art Los Angeles County Museum of Art Los Angeles, CA
Mr. Andrew W. Butterfield	President Andrew Butterfield Fine Arts, LLC New York, NY
Ms. Carol Conover*	Kaikodo, LLC New York, NY
Mr. Leon Dalva	Dalva Brothers, Inc. New York, NY
Ms. Alice Duncan	Director Gerald Peters Gallery New York, NY
Mr. Michael Findlay	Director Acquavella Galleries, Inc. New York, NY
Mr. Steven P. Henry	Director Paula Cooper Gallery New York, NY
Mr. Brock Jobe	Professor of American Decorative Arts Winterthur Museum Winterthur, DE
Mr. Christian Jussel	Independent Scholar/Art Adviser New York, NY
Mr. James Lally*	Lally & Co New York, NY
Ms. Barbara Mathes	Barbara Mathes Gallery New York, NY

Ms. Susan Menconi	Partner Menconi & Schoelkopf Fine Art New York, NY
Mr. Howard Rehs	Director Rehs Galleries, Inc. New York, NY
Mr. James L. Reinish	Principal James Reinish & Associates, Inc. New York, NY
Dr. Andrew Robison	Mellon Senior Curator of Prints and Drawings National Gallery of Art Washington, DC
Mr. Louis Stern	President Louis Stern Fine Arts Inc. Los Angeles, CA
Mr. David Tunick	President David Tunick, Inc. New York, NY

*New member as of April 2016.