The Art Advisory Panel Of the Commissioner Of Internal Revenue

Annual Summary Report for
Fiscal Year 2017
(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 assists by providing value recommendations regarding 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 safeguard 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 and they provide their verbal recommendation to the AAS appraisers. 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 physical inspection of the subject 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 strictly 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 2017, AAS adopted 67 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 AAS appraiser's final value determination, which may reference the Panel's recommendations for any adjustments to fair market value with all supporting evidence. Their value determination is informed by panel recommendations.

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 number of items where AAS accepted the Panel value by the total number of items reviewed by the Panel. The Panel reviewed a total of 365 items. AAS accepted the Panel's full recommendations on 245 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, 2017	New York, NY
Fine Arts	September 14, 2017	Washington, DC

The Decorative Arts Panel did not meet in Fiscal Year 2017.

Summary of Panel Recommendations

During Fiscal Year 2017, the Panel reviewed 365[2] items with an aggregate taxpayer valuation of $205,433,138 on 66 taxpayer cases. The average claimed value for an item reviewed by the Panel was $562,831.

The Panel recommended accepting the value of 143 items or 39 percent of the items presented. It adjusted 222 items or 61 percent of the appraisals it reviewed. On the 222 items adjusted, the Panel recommended total net adjustments of $28,236,211 to the appraised values, a 13.7 percent increase.

The Panel reconsidered two items originally valued at $2,750,000 by the taxpayers and $7,900,000 by the Panel. After reviewing the additional information, the Panel made no revisions to their original recommendations. The items reconsidered are not included in the information above or that follows.

Comprehensive Recommendations Report

Type of Adjustment	Number of Items	Taxpayer Claimed Value	Panel Recommendation	Net Change (Panel Less-Claimed Value)
Total Items Increased	128 (35%)	$69,351,508	$120,679,749	$51,328,241
Total Items Decreased	94 (26%)	$56,019,030	$32,927,000	($23,092,030)

[2] This figure does not include items the panel may have declined to value.

Total Items Accepted	143 (39%)	$80,062,600	$80,062,600	$0
Totals	**365 (100%)**	**$ 205,433,138**	**$ 233,669,349**	**$ 28,236,211**
Average Claimed Value Per Item	**$ 562,831**			

Net Change as a Percent	
Total Taxpayer Claimed Value	$ 205,433,138
Total Panel Recommendation	$ 233,669,349
Total Adjustment	$ 28,236,211
Total Adjustment as a Percentage	13.7%

Art Advisory Panel of the Commissioner of Internal Revenue 2017

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	Former 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

*Resigned from Panel in 2017