



The Art Advisory Panel of the Commissioner of Internal Revenue

Annual Summary Report for Fiscal Year 2021
(Closed meeting activity)

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Overview

Created in 1968, the IRS Commissioner's Art Advisory Panel (the Panel) provides advice and makes recommendations to the Art Appraisal Services (AAS) unit in the Independent 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. AAS supports and coordinates the Panel meetings. The AAS appraisers independently review additional art works in taxpayers' appraisals that are 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 experiences 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.

AAS 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 provide the Panelists with images and descriptions of the works of art under valuation 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 comparable art works.

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 provides an oral 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. AAS reviews the Panel's recommendations, which become the position of the IRS only with AAS concurrence. In Fiscal Year 2021, AAS adopted 57 percent of the Panel's recommendations.¹

The AAS appraisers provide written reports or memoranda to the requesting IRS office. When an adjustment is recommended, the requesting IRS office shares a copy of the AAS report with 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. The AAS appraiser's 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. AAS appraisers may submit such information to the Panel for reconsideration at a subsequent meeting.

Panel Leadership

The Director of 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.

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.

Due to the Covid-19 pandemic, both Panel meetings held in 2021 were conducted virtually on April 20, 2021 and September 22, 2021.

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 112 items. AAS accepted the Panel's full recommendations on 64 items. The Panel's recommendations assume full ownership of a work of art. However, case specific facts (i.e., partial ownership interests, discounts, etc.) may factor into the IRS's 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.

Summary of Panel Recommendations

During Fiscal Year 2021, the Panel reviewed 112 items with an aggregate taxpayer valuation of \$155,816,250 on 27 taxpayer cases. The average claimed value for an item reviewed by the Panel was \$1,391,217.

The Panel recommended accepting the value of 39 items or 35 percent of the items presented. It adjusted the values of 73 items or 65 percent. On the 73 items adjusted, the Panel recommended total net adjustments of \$16,806,838 to the claimed values, an 11% percent increase.

Comprehensive Recommendations Report

Type of Adjustment	Number of items	Taxpayer Claimed Value	Panel Recommendation	Net Change
Total Items Increased	44 (39%)	\$ 87,520,000	\$122,679,000	\$ 35,159,000
Total Items Decreased	29 (26%)	\$ 35,495,000	\$ 17,142,838	-\$ 18,352,162
Total Items Accepted	39 (35%)	\$ 32,801,250	\$ 32,801,250	\$ 0
Totals	112 (100%)	\$155,816,250	\$172,623,088	\$ 16,806,838
Average Claimed Value Per Item	\$ 1,391,217			

Net Change as a Percent

Total Taxpayer Claimed Value	\$155,816,250
Total Panel Recommendation	\$172,623,088
Total Adjustment	\$ 16,806,838
Total Adjustment as a Percentage	11%

2021 IRS Commissioner's Art Advisory Panel Members

Ms. Stephanie Barron	Senior Curator of Modern Art Los Angeles County Museum of Art Los Angeles, CA
Mr. Andrew 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
Ms. Susan Dunne	Director David Zwirner Gallery New York, NY
Mr. Michael Findlay	Director Aquavella Galleries, Inc. New York, NY
Mr. Steven P. Henry	Director Paula Cooper Gallery New York, NY
Mr. Brock Jobe	Professor Emeritus of American Decorative Arts Winterthur Museum, Garden and Library Winterthur, DE
Mr. Christian Jussel	Independent Scholar/Art Advisor New York, NY
Mr. James Lally	Lally & Co., New York, NY
Ms. Barbara Mathes	Barbara Mathes Gallery New York, NY
Mr. Lawrence Nichols	Former William Hutton Senior Curator, Curator Emeritus Toledo Museum of Art Toledo, OH
Mr. Howard Rehs	Director Rehs Galleries, 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