



**The Painters and Sculptors  
Association of Australia Ltd.**

5th Floor 574 St Kilda Road  
Melbourne 3004

**Phone**  
(03) 9529 3800

**Fax**  
(03) 9525 1616

ABN 25 006 321 026

**Patron**  
John Olsen OBE AO

**Directors**

**Melbourne**  
Rick Amor  
Robert Jacks  
Lyndal Jones  
Tom Lowenstein  
Evan Lowenstein  
Victor Majzner  
Brian Seidel  
Jan Senbergs

**Sydney**  
Colin Lanceley AO  
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Peter Pinson  
Ron Robertson-Swann OAM  
Wendy Sharpe  
Tim Storrier AM  
Margaret Woodward

## WHY IS THE ATO 'BRUSHING OFF' VISUAL ARTISTS?

Maybe the ATO hasn't heard, but the majority of visual artists are effectively blue-collar workers and not the so-called elite they are being portrayed as.

The Painters & Sculptors Association is deeply concerned at the way the ATO is treating the visual arts as a tax rort. The situation has been difficult since the mid-90s, and it got a lot worse as a result of legislation concerning losses from non-commercial activities, that came into effect on July 1, 2000. The latest development in relation to artists gifting their own work has only added insult to injury.

It is for this reason that the PSA is calling on all visual artists to attend urgent Public Meetings to discuss this issue. (*See details this page*).

As early as July, 1995 the Tax Office, in a circular to Tax Agents, foreshadowed action against taxpayers who incur losses year after year, and argued that regular and continued losses may indicate that the activity is not a business, and that losses should be disallowed.

In July, 1996 auditors from the Bankstown office of the ATO conducted interviews with 30 artists to assess whether their business activities were commercially viable. It also raised the question of whether the artists had researched their market to ensure that they could achieve profitability within a reasonable time.

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## URGENT PUBLIC MEETING

6-8pm

**MELBOURNE (September 23) Sofitel Melbourne**

**SYDNEY (September 30) The Wentworth Sydney**

**Panel Discussion**

**“WHY IS THE TAX OFFICE TARGETING ARTISTS?”**

with

**Noted barrister & Tax specialist - Bernard Marks**

**Artist - Mike Parr**

**Tom Lowenstein**

**Adam Micmacher**

**Evan Lowenstein**

**Bookings essential as space is strictly limited.**

**Contact Cheryl on (03) 9529 3800 or Adam on (02) 9389 2400**

The legislation in question makes artists the unwitting victims of a move aimed at curbing the excesses of the Collins Street/Macquarie Street farmer and the pyramid seller. Under this legislation, losses from non-commercial activities cannot be offset against income. Well, guess who is in the firing line?

We wonder how many in the ATO have ever attended an art show or talked with an artist or arts administrator? It wouldn't take much to appreciate how artists live and the pressures to produce works before there is even a modest income. This is not a recent phenomenon, and it is ludicrous for the ATO to enact legislation as though it is.

Unfortunately things are going from bad to worse.

## **Hold on to Your Gifts**

A potentially disturbing development has come to our notice. A number of galleries and institutions have received a letter from the Committee on Taxation Incentives for the Arts in relation to gifts made by artists under the Cultural Gifts Programme.

The correspondence noted that some 25% of the 250 donations they were considering came from the creators of the work.

They expressed concern that many artist donors may not be aware “that the extent of their tax deduction entitlement depends on whether the donation has been made from their trading stock or their personal collection”, and “whether the item has been transferred to the artist's personal collection 12 months before the date of the donation?”

A memorandum from the ATO was also enclosed. It said inter alia:

*In order for an artist to donate his/her personal collection, an item that was previously held for commercial gain, it is necessary for the artist to account “for this transfer on their income tax return.*

In effect the suggestion is that the artist should sell from his/her “trading stock” to his/her “personal collection”, a specific item and that the work should be physically removed from one part of the studio so it will be no longer for sale.

In addition the memorandum requires that the item has been held as part of the “personal collection” for 12 months or more. The artist would need to be able to substantiate that the item was removed from trading stock on a particular date and an amount was included in the donor's assessable income (to reimburse the costs that had been claimed as a deduction) and to show that the item has been held in the donor's personal collection for more than 12 months.

The PSA is in the process of making submissions to the ATO in relation to this matter and will keep you informed. In the meantime, however, it is suggested that no gifts be made to any public institution under the Cultural Gifts Programme until professional advice has been sought.





## WELCOME

A musician famously once said, "I make records so I can buy art." This simple but insightful statement sums up the situation facing many visual artists. Visual art is still regarded by many as the highest art form, yet the artist languishes at the bottom of the artistic pack particularly in economic terms. This is the challenge accepted by the Painters & Sculptors Association. Since its formation in 1984, the PSA has worked tirelessly to promote art and artists in a number of key ways. It continues to provide a public profile and industry 'voice', but is just as active behind-the-scenes in trying to bring a viewpoint to governments and semi-government authorities. It has had some notable successes in recent years, and will continue to advocate on behalf of its members and the industry in general. Of course, as realists we accept that there are many competing influences and our campaign must be strident and continuous if we are to succeed in the longer term. Central to this is the building of our member base so that we have the numbers and the income to continue our advocacy.

It is with great pleasure that I welcome you to the inaugural edition of the PSA Newsletter. Its purpose is to keep you informed and involved in the Association's work, and provide a forum for those of you who want to share your point of view with fellow artists and arts administrators. I don't expect our pages to be flooded with angst or advice. To that extent, artists are like any other member of the community: quick to anger, slow to respond. But this is certainly the forum to express yourselves and we welcome it.

Tom Lowenstein  
Executive Director

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## OUR NEW BOARD

For those of you unaware of the new structure of the PSA Board, we are pleased to introduce the following members:

### Melbourne

Rick Amor, Robert Jacks, Lyndal Jones, Evan Lowenstein, Victor Majzner, Brian Seidel, Jan Senbergs

### Sydney

John Olsen (Patron), Colin Lanceley, Mike Parr, Peter Pinson, Ron Robertson-Swann, Wendy Sharpe, Tim Storrier, Margaret Woodward

## ARTISTS SLEEP EASIER AT SOFITEL

Australia's premier arts hotel, the five-star Sofitel Melbourne, has once again confirmed its support for artists by offering PSA members a very special rate. The bed and breakfast rate of \$249 per room per night (maximum two people) is available throughout the year, subject to availability.

This is well below the hotel's advertised rate and represents remarkable value. Bookings can be made on (03) 9653 0000 or [www.sofitelmelbourne.com.au](http://www.sofitelmelbourne.com.au)



## **MARGARET OLLEY DINNER**

Barry Humphries spoke of her “understanding of colour and...unerring placement of objects,” while Edmund Capon described her as a specialist of “the intimate, the personal, even the prosaic.” We are thrilled to announce that the Painters & Sculptors Association Medal will be presented to Margaret Olley at a special dinner at the Art Gallery of NSW on Saturday, November 16, 2002. Entry is \$125 for members and \$150 for non-members. Further details are available from the PSA on (03) 9529 3800 or (02) 9389 2400.

Previous recipients of the PSA Medal are Arthur Boyd, John Coburn, Louis Kahan, Roger Kemp, John Olsen and Lloyd Rees. This is a very special opportunity to honour one of Australia's finest artists, and we urge you to share this occasion with Margaret.

## **MEMBERS WELCOME**

The loudest voice is often the first to be heard. While we're not sure if this pearl was uttered by anyone famous, it certainly makes a lot of sense. If we are to be heard in the corridors of power be they in government or the ATO for example then we must have a strong and active member base to underpin our credibility. With the recently introduced draconian tax legislation related to losses from non-commercial activities, and the GST compliance problems which

artists are facing, the time has never been more appropriate for an effective artists' lobby. The Board urges you to renew your membership or, if you are yet to join, to take that fateful step. The cost is \$55 per annum, and membership forms are available from our Melbourne and Sydney offices. Visual artists are waging a battle to receive their due entitlements, and it is in your interest as a professional artist to ensure that the PSA is empowered to act on your behalf, as well as in support of your colleagues.

## **INQUIRY REPORT SET FOR PUBLIC RELEASE**

The Report of the Contemporary Visual Arts & Crafts Inquiry, chaired by Mr Rupert Myer, was presented to the Minister for Arts and Sport, Senator Rod Kemp. It is expected that the Report will be made publicly available in the next few weeks.

The Inquiry was charged with identifying the key issues impacting on the future sustainability, development and promotion on the sector which includes individual artists, arts and craft organisations, tertiary institutions and government arts departments and agencies in each State and Territory.

The PSA presented three submissions to the Inquiry: New Business Tax Legislation; Artists and Gallery Trust Accounts; and Proposal for Tax Incentives for the Primary Art Market.