

## Membership Benefits Update

The PSA is currently updating its raft of members' benefits and would like to hear from you about new incentives and ideas. In addition to the range of opportunities listed below we are keen to emphasise the organisation's role as a spokesperson for individuals, able to assist with legal, moral and other personal issues arising from your work as a professional artist.

### Legal advice

Shaun Miller of Melbourne law firm Marshalls and Dent has kindly offered to assist PSA members with issues arising from professional work, such as gallery contracts, copyright law, moral rights, possibly defamation law and wills. He is happy to offer a free initial half hour consultation and can be contacted on Tel 0439 391 377.

### Accommodation

Sofitel Melbourne, located at 25 Collins St, Australia's premier five-star arts hotel provides PSA members with a heavily discounted bed & breakfast rate of \$239 per room/per night (max two people) (room only \$210), throughout the year subject to room availability. Bookings via Tel (03) 9653 0000 or [www.sofitelmelbourne.com.au](http://www.sofitelmelbourne.com.au).

Sofitel Wentworth, 61-101 Phillip Street, Sydney offers PSA members an exclusive bed and breakfast rate on several room options, ranging from \$237 to \$527 a night. For reservations and details Tel (02) 9228 9104, Fax (02) 9228 9126 or email on [h3665@accor-hotels.com](mailto:h3665@accor-hotels.com).

Marriott Brisbane, 515 Queen Street Brisbane Close to the city's heart, this centrally located hotel offers PSA members a rate of \$200 per night / Deluxe City View Room or \$220 for Deluxe River View Room. Service includes breakfast and evening drinks. Bookings via Tel:(07) 3303 8029 Fax: (07) 3303 8089

More to come in our Summer newsletter!

## Upcoming Members' Events

### PSA MEDAL PRESENTATION DINNER

This year we are rewarding the unique talent of renowned sculptor **Inge King**. Come along to help us celebrate Inge's longstanding contribution to the third dimension over a sumptuous feast and some fine wine! Put this date in your diary now. Where: Australian Galleries, Melbourne 35 Derby St Collingwood  
When: Wednesday 17<sup>th</sup> November  
7.30pm. Cost to be advised - enquiries to Lowensteins Tel (03) 9529 3800

You are also invited to take a seat at our regular **SEASONAL LUNCHEON** in Sydney or Melbourne:

### SYDNEY'S SPRING FEAST

6 November 2004, Arte E Cucina, 2 Short St Double Bay at 12.30pm. \$50 at the door includes meal, drinks and a special surprise guest speaker (J.M.). As seating is limited RSVP to Nicole in the Sydney office, Tel (02) 9389 2400 (nb: diary dates for forthcoming lunches: first Saturday of February, May & August 2005)

### MELBOURNE'S SPRING SPREAD,

4 December 2004 12.30pm, Monty's Bar, 347 Smith St Fitzroy. \$35 includes a drink and meal plus special surprise guest speaker (J.B.). As seating is limited RSVP to Cheryl in the Melbourne office, (03) 9529 3800 (nb diary dates for forthcoming lunches: last Saturday of February, May & August 2005).

For something less formal, front up to our favourite **Art Bar** for a soiree with other PSA members over a modestly discounted drink: Melbourne's Candy Bar, 162 Greville St Prahran, Tel 9529 6566 A regular PSA event, first Thursday in the month (starting 4<sup>th</sup> November) drinks and nibbles 6-8pm.



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

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## WHY BE A MEMBER?

The Painters and Sculptors Association (PSA) was formed in 1984. 2004 marks our twentieth anniversary! In contrast with our early period of focused politicking, the past few years have been relatively quiet for the organisation and we have kept a low profile. However, rumbles of change are afoot!

As you may recall the PSA was originally established as a lobby group representing the needs of professional artists. Our initial challenges included lobbying the Minister for the Arts in relation to artists donating artworks and working closely with the National Association for the Visual Arts (NAVA) and Arts Law on submissions to Government and the Tax Office. Our efforts spanned subjects such as the GST, the PAYG system, losses from non commercial activities as well as the unique nature of carrying on business as an artist.

In addition to our lobbying role we have also assumed the role of a peer group body, paying tribute to a number of artists for their outstanding contribution to the arts by awarding specially designed medallions at a series of celebratory presentation events (past awardees are: Roger Kemp, Lloyd Rees, Margaret Olley, John Olsen, John Coburn, Charles Blackman, Judy Casaab, Robert Juniper, Arthur Boyd and Louis Kahan). Feedback tells us that such social events are popular and regarded as an important catalyst for the creative community as well as valuable public exposure for the PSA membership.

Over recent months the PSA Board met and discussed directions for the organisation, seeking ways to revitalise and update the relevance of membership. This spring we appointed arts writer/curator Anna Claburn to be our administrator and oversee some exciting new changes. Plans for the future include the following:

- o a seasonal quarterly members' newsletter
- o a program of regular social functions in Sydney and Melbourne, including the 'Medal Presentation *dinner*'
- o a range of special PSA members discounts on travel, accommodation, arts supplies, gallery bookshops, and insurance
- o a venue for regular informal drinks/chats

We are keen to hear from our membership base and value your input into PSA's future direction so please feel free to email Anna to air your ideas with her ([claburn@eck.net.au](mailto:claburn@eck.net.au)).

We enclose an annual member's **application form** with this newsletter in the hope that you will sign up and join us for an exciting year ahead.

With warm regards

Tom Lowenstein  
Executive Director  
PSA

# Tax Updates

Remember: Membership of organisations such as the PSA supports your tax status as a professional artist!

As many of you will be aware, the Australian Tax Office's new Draft Ruling, '*Income tax: carrying on business as a professional artist*' continues to affect all practising artists and will soon be fully ratified as binding tax law. Full details of the ruling can be found on their website [www.ato.gov.au](http://www.ato.gov.au). The summary below will give you an idea of what this means for you

## *Why is the ruling important to artists?*

Studies of Australian artists consistently show that many professional artists make losses (i.e. an absence of actual profit) from their arts activity. These losses can only be deducted against other assessable income if the arts activity is regarded by the ATO as a business. If your arts activity is regarded as a hobby rather than a business your expenses are not deductible and your income is not assessable.

The ATO's new draft ruling, developed in collaboration with the NAVA and Arts Law, provides guidance as to when an artist will be regarded as 'carrying on a business', thereby addressing the special circumstances of artists. If you make a loss from your arts activity this draft ruling is vital reading.

## *What does it mean to 'carry on a business'?*

The ATO considers a series of factors in determining whether you are carrying on a business. While these are not a precise indicator and it is not necessary for you to be able to put a tick against each listed factor, they are useful categories for you to consider in relation to your own professional arts practice.

## *What are the factors?*

In summary, the factors put forward in the draft ruling are as follows (refer to the ATO website for full explanations):

- a) Significant commercial purpose/character
- b) Intention of the taxpayer (i.e. to carry on a professional business)
- c) Profit motive (Do you intend to make a profit from your activity? What steps are you taking to make your activity profitable if you currently make a loss?)
- d) Repetition and regularity (i.e. extent of engagement in arts activity to maintain skills and present your work to suitable markets)
- e) Activity carried on in a similar manner to others in the industry (i.e. peer comparison with the work practices of other professional artists)
- f) Business-like conduct (i.e. the maintenance of records, receipts, invoices etc.) Goals for your work?
- g) Size, scale and permanence of activity (i.e. even though most arts businesses are conducted by individuals, is your arts activity of a size and scale beyond what is required for your personal enjoyment?)
- h) Not a hobby/recreation (i.e. relates to how you position your work in the context of your life in general)

*"This document precises an article prepared by tax lawyers Judy Sullivan and Jill Savage on behalf of the National Association for the Visual Arts (NAVA) and the Arts Law Centre of Australia. It was presented in August to a round table meeting of peak arts bodies and represents the culmination of eight years' work by NAVA and Arts Law, advised and assisted pro bono by the two tax lawyers and IP lawyer Delia Browne."*

## Further tax tips

The Australian Tax Commissioner Michael Carmody recently identified his intention to pay closer attention to small-medium size business and individuals on issues of tax obligation compliance and work related deductions (*Business Review Weekly*, June 2004). By the same token, as Carmody himself has acknowledged, tax law is so "absurdly complex" that both taxpayers and tax officers often have trouble understanding it! Knowing this, his plans include an intention to increase 'educational auditing' of one-person enterprises to check record-keeping and return preparation methods. So be fiscally squared and prepared!

When preparing a will the most important aspect is that both your Accountant and your Solicitor are consulted and are fully aware of your assets and their location. In the first instance you should consult your Accountant and obtain a comprehensive list of your assets and liabilities, including the date that the assets were acquired, as there could be possible Capital Gains Tax implications. You should also ask your Accountant to prepare a chart of your business structure and to provide your Solicitor with copies of Trust Deeds and company documentation, to establish in what way control of these entities is exercised.

It is also necessary for you to prepare a comprehensive list of your beneficiaries or potential beneficiaries, including children by previous marriages or others who could claim to be your dependents. Ideally, you should meet with your Accountant and Solicitor as part of preliminary discussions to ensure that they communicate with each other and are fully informed of your circumstances.

It's a case of where there's a clear will there will be a clear way!

## Where there is a will, there could still be trouble!

### *Advice from Tom Lowenstein*

Over the past few years, I have been confronted with numerous problems in my capacity as Executor, mediator or advisor to Deceased Estates. Many of the problems that occurred arose from homemade Wills, and sometimes from Wills prepared by lawyers. In some instances, although the intention of the Deceased was spelt out, it was not possible to carry out his or her wishes due to technical/legal reasons or as a result of lawyers who had not been properly briefed by the accountants as to the financial situation of the client. In other instances, problems arose where properties left to beneficiaries were not actually owned by the deceased but instead belonged to a company or Trust. There were also some situations where the assets left in the Will no longer existed or had already been gifted during the Deceased's lifetime.