Corporate Guide to Canadian Art Aquisition

Dear Art Buyer,

In order to assist your art purchasing decisions, Open Door Gallery has compiled a resource guide of corporate art purchasing tax allowances in Canada.

Enclosed you will find:
1. Guide to Canadian Corporate Art Purchase Allowances and Requirements (p.3)

Supporting Documentation:
2. Corporate Capital Allowance for the Purchase of Original Canadian Artwork (p.4)
3. Dispositions of Cultural Property to Designated Canadian Institutions (p.5)

Further information for individual collectors can be requested from the Canadian Revenue Services Individual Income Tax Department at 1-800-959-8281.

All information contained in this document was obtained in consultation with a Senior Agent at the Canadian Revenue Agency Department of Source Deduction and Remittance for Business.

Open Door Gallery is available at your convenience to assist with your investment in Original Canadian Artwork.

Sincerely,

Caragh Geiser
Director | Open Door Gallery
778-228-0313
info@opendoorgallery.ca

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This document is provided as a courtesy for information purposes only, and should not be considered legal council.

Guide to Corporate Art Purchase

Allowances and Requirements

Art purchase by a corporation can be considered as either:

a) inventory (with the intent to resell), or

b) capital acquisition (as an investment for display to improve their business environment for clients

If the purchase is a capital acquisition, it can be claimed as a class 8 capital cost allowance depreciable at a rate of 20% per year.

Purchase must be original artwork by a Canadian artist (citizen or permanent resident).

Artwork valued at less than $200 is a one time class 12 deduction at 100% of the purchase price.

Artwork valued at greater than $200 can be claimed at 100% of purchase price as a class 8 capital cost allowance depreciable at a rate of 20% per year.

Example: If a painting is $10,000, the amount that can be claimed each tax year is:

Year 1 - 20% of $10,000 can be claimed as a deduction = $2000

Year 2 - 20% of $8000 (the remaining value from year 1) =$1600 etc.

In the event that the artwork is sold by the business (ie. sale of a corporate asset) there are two different factors to consider depending on whether the artwork has appreciated or depreciated in value.

a) If the artwork is sold for less than the remaining undedicated cost of the artwork, the balance can be claimed as a terminal loss deduction. For example, if $1000 still remains unclaimed based on class 8 capital cost allowance depreciation rate but the work is sold for $500 due to depreciation of the artwork, then the remaining unclaimed cost of $500 can be claimed as a terminal loss deduction.

b) More commonly, if the artwork has appreciated in value and is sold for more than the purchase price the amount that has already been claimed as a class 8 capital cost allowance will be subject to recapture. The claimed amount will then 3be considered business income in the year of sale. The profit from the sale will be subject to capital gains.

Ruling on corporate capital allowance for purchase of original Canadian artwork

Ruling #9813595 regarding corporate capital allowance for purchase of original Canadian artwork, as requested by Open Door Gallery. itrulingsdirectorate@cra.gc.ca

Tax treatment of purchase of original works of art:
1. May qualify for inclusion in Class 8 if conditions met
2. Considered Certified Cultural Property
3. Could be personal use property

Dear Sir Re: Purchase of Art Work - July 13, 1998

This is in response to your letter of May 6, 1998, wherein you requested technical publications concerning the purchase of original works of art. We have enclosed Interpretation Bulletins: IT-128R, Capital Cost Allowance - Depreciable Property, IT-332R, Personal Use Property and IT-407R4, Dispositions of Cultural Property to Designated Canadian Institutions. We also offer the following general comments.

Generally, artwork (a print, etching, drawing, painting sculpture or other similar work of art) acquired by a taxpayer (a corporation, individual or partnership), could qualify as a Class 8 asset eligible for capital cost allowance at a rate of 20% provided certain conditions are met. These conditions include:
* The artwork was acquired for the purpose of gaining or producing income.
* The artwork is not described in the taxpayer's inventory.
* The cost of the artwork to the taxpayer was $200 or more.
* The individual who created the artwork was a Canadian.

These rules are contained in subsection 1102(1) of the Income Tax Regulations. For further comments regarding capital cost allowance, please refer to Interpretation Bulletin IT-128R.

Artwork acquired for personal enjoyment would be considered "personal-use property" and would not qualify for capital cost allowance. Interpretation Bulletin IT-332R discusses "personal-use property."

There are specific rules in the Income Tax Act for dispositions of "Certified Cultural Property" to a designated institution or public authority. Interpretation Bulletin IT-407R4 discusses the income tax implications respecting dispositions of "Certified Cultural Property."

We trust that our comments and the enclosed Interpretation Bulletins will be of assistance.
Yours truly,
J. F. Oulton, CA for Director - Business and Publications Division
Income Tax Rulings and Interpretations Directorate
Policy and Legislation Branch

Capital Gains and Losses

Income Tax Bulletin IT-407
Dispositions of Cultural Property to Designated Canadian Institutions

Paragraphs 3-5 outline rules for capital gains and losses.

3. Pursuant to subparagraph 39(1)(a)(i.1) of the Act, there will be no capital gain from the disposition (sale or gift) by a taxpayer of certified cultural property to a designated cultural institution that was at the time of the disposition designated by the Minister of Canadian Heritage under subsection 32(2) of the CPEIA. The designation by the Minister of Canadian Heritage may be made for either an indefinite or a limited period of time, and either generally or for a purpose related to that certified cultural property.

4. For dispositions of certified cultural property as a consequence of the death of a taxpayer, subparagraph 39(1)(a)(i.1) of the Act also exempts a capital gain resulting from the bequest of a certified cultural property to a designated cultural institution. The disposition must occur within the period ending 36 months after the death of the taxpayer. However, if the taxpayer's legal representative applies in writing within that period to the Director of the local Revenue Canada tax services office, an extension of the period to what is considered reasonable in the circumstances may be granted.

5. While capital gains from dispositions of certified cultural property are exempt from tax, a taxpayer will be entitled to deduct capital losses in such transactions within the limits provided in the Act. If such losses arise on the disposition of personal-use property, other than listed personal property, they are deemed to be nil pursuant to subparagraph 40(2)(g)(iii) of the Act. Losses on dispositions of listed personal property can be offset only against gains on listed personal property other than certified cultural property. Any gain realized on the disposition of certified cultural property will not be taken into account in determining the taxpayer's net gain or loss from the disposition of listed personal property. (See the current version of IT-332,Personal-Use Property.)

http://www.cra-arc.gc.ca/E/pub/tp/it407r4-consolid/it407r4-consolid-e.pdf