

We Would Like to Congratulate Our Clients



Asher Keddie
Picture: David Caird
Source: Herald Sun

Ben Quilty – Winner, Archibald Prize, Art Gallery of New South Wales

Richard Goodwin – Winner, Wynne Prize, Art Gallery of New South Wales

Graham Fransella – Winner, Trustee's Watercolour Prize, Art Gallery of New South Wales

Louise Paramor – Winner, McClelland Award

Shaun Tan – Winner, Academy Award for Best Short Animated Film (USA)

Shaun Tan – Winner, Astrid Lindgren Memorial Award (Sweden)

Asher Keddie – Winner, Silver Logie Award for Most Popular Actress (*Offspring*)

Ben Quilty wins Archibald Prize for portrait of Margaret Olley

Ben Quilty has been awarded the 2011 Archibald Prize for his portrait of legendary painter Margaret Olley.

Olley has become the only person to twice be the subject of an Archibald Prize winner. William Dobell painted her to take it in 1948.

After the prize was awarded she told a packed room at the Art Gallery of NSW: "This morning I thought, 'Well, Bill won it at the beginning of my career ... And Ben's won it towards the end of my career ... I've been bookended.'"

Artist John Beard, one of the trustees to judge the prize, said there had been "rigorous discourse" among them but *Margaret Olley* emerged their "very popular" choice.

"There's a lovely connection with the painting that Dobell painted ... This time it captured everyone's imagination," he said. It "somehow captured Margaret's youthfulness in the eye but also her dignity as an old lady."

Quilty, who lives in Robertson in the southern highlands, has been an Archibald finalist five times before. The 37-year-old said he was very happy with the portrait the moment he finished it.



Ben Quilty, *Margaret Olley* 2011, oil on linen. Winner: The Archibald Prize 2011.
Image courtesy Art Gallery of New South Wales.

"She's such an inspiration", Quilty said of his subject. "She was a feminist ahead of her time. She's vigorously passionate about social and political issues, as well as art, and is enormously compassionate. Margaret has such an infectious attitude to both life and death."

Olley said she told him: "When a tree feels it's dying, it flowers a lot.' Helping Ben is part of the flowering."

The Archibald finalists will be exhibited at the Art Gallery of NSW, Sydney until June 26. The exhibition will then tour regional NSW.

National Tax Summit Deferred to October

“ I have news to share: tax forum will be Oct 4 & 5. More details in my eco note later, Swanny.”

Wayne Swan, Treasurer
Twitter 20 March 2011

Thus announced the Department of Treasury its change of heart to hold a tax summit by the end of June. It must be remembered that the original proposed tax summit was a key condition of support for the independent MPs Tony Windsor and Rob Oakeshott to allow Julia Gillard to form minority government in September last year.

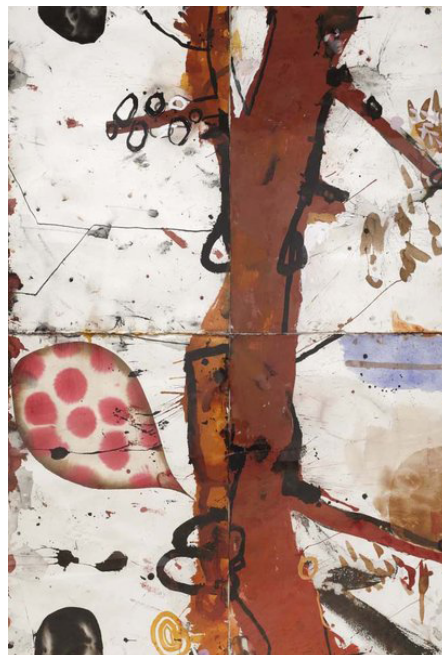
The significance of this delay has become clear in the month following the Twitter announcement with the Federal Government determined to push through the mining tax and carbon tax laws so that they would have been dealt with by parliament before the tax summit, sorry forum, had a chance to discuss them.

The Australian newspaper editorial of March 22 succinctly summarised the feelings of many tax professionals about the downgrading of the tax summit to a tax forum, which has also followed the near abandonment of the 2009 Henry Report a year ago:

“The contrast with the genuine reformist zeal of Labor’s Hawke-Keating years could hardly be sharper. In late 1984, prime minister Bob Hawke promised a tax summit and outlined nine reform principles before the December election, then convened the gathering in July the following year. More than 100 business, union, government and community

leaders assembled for a full week in the nation’s parliament, having had six weeks to consider a draft white paper containing detailed options significant changes. The pre-positioning, manoeuvring, debate and deliberations all played out in public. Then treasurer Paul Keating could not carry the day with his preferred plan, but a compromise option led to meaningful reform, including capital gains and fringe benefits taxes offsetting income tax cuts.

“The independent MPsalready sound underwhelmed by what has eventuated and they are promising to force discussion on a full range of tax options. But, as they come to understand what has transpired, and how redundant the gathering is likely to be, they might conclude that the Treasurer promised them Cirque du Soleil and delivered a flea circus.”



Graham Fransella, *Tree*
Winner: Trustees' Watercolour Prize 2011
Image courtesy Art Gallery of New South Wales

GST and the Visual Arts

With the balance of power in the Federal Senate to be held by the Australian Greens in the new financial year, the appropriateness of levying GST on the visual arts should be re-examined in the light of two aspects of their arts policy:

a desire that any legislation introduced by the parliament does not act as a disincentive to invest in Australian art (refer to the motion passed by Senator Christine Milne on February 10 this year); and their stated intent to levy a resale royalty of up to 5% to apply from the first sale as opposed to the first resale of Australian artworks.

This latter policy would very clearly make the resale royalty right an additional GST and if enacted would call into question the worth of having to charge GST on artwork sales in the first place. In fact it could be suggested that a GST exemption on art sales could be complementary to the Greens' scrapping of the first transfer exemption under the resale royalty right.

In any event almost 11 years after the commencement of the Goods and Services Tax one could argue the GST is an ill-fitting measure to be applied to the visual arts for the immaterial amount of taxation it raises and the onerous administration costs it imposes on the arts industry.

Despite its complex nature this is an important issue and should be examined in depth at the forthcoming tax summit, sorry forum, in October.

But first some background to GST and the visual arts.

Before 1 July 2000 artists were able to purchase their materials sale tax-free by being granted a sales tax number from the ATO with which they advised their suppliers. After the introduction of the GST artists who did not sell more than \$50,000 per year in artwork sales (subsequently increased to \$75,000) and who did not register for GST found themselves worse off than under the sales tax system.



Richard Goodwin
b.1953
Co-isolated slave 2011
Mixed media sculpture
Winner: The Wynne Prize 2011
Image courtesy Art Gallery of New South Wales

Under the tax regime that existed pre-2000 there was also an exemption for artworks as a good — that is the exemption applied not just to the materials used to make them, but on the artwork itself when made and sold. This proves a precedent for artwork being exempt from taxes on goods, and because it was exempt pre-2000, there are already a set of rules in place that was used by the ATO and Customs to determine what “artwork” is. A request for an exemption from GST for artworks in effect is just asking that this tax treatment reverts back to the pre-2000 position.

To compound matters the treatment of GST by commercial galleries appears anecdotally to be quite inconsistent. This is mainly due to the complexities of administering what is essentially an agency relationship with the artists they represent, many of whom are not registered for GST. The commencement of the resale royalties scheme last year brought these issues to a head.

The heart of this problem is this - when a gallery sells the work of an artist on consignment GST law treats this sale as being from the artist to the client with the gallery in the middle but it is the gallery which will issue the invoice to its client and not the artist.

If the artist is not registered for GST then the gallery cannot sell the artwork to its client with a tax invoice but must instead merely issue an invoice – that is the artwork must be sold GST-free which means the client cannot claim a GST credit (if the artwork was bought for business purposes). But what has been observed in some instances is for the gallery to issue a tax invoice to the client with a GST component representing the amount of GST charged on the commission earned on the sale. This is a real administrative issue for galleries due to the number of artists not registered for GST and at the same time a market pressure for galleries to keep making sales with tax advantages to their clients.

On the other side of the ledger it is not widely understood that for GST purposes the turnover of the artist is the gross amount of sales and not the net amount received from their galleries or agents after deducting commissions and exhibition costs. If these gross sales are more than \$75,000 per year the artist is obliged to register for GST. This is also the case for Australian-resident artists who sell primarily to overseas markets. Prior to resale royalties many galleries used a “recipient-created tax invoice” to

pay the artist for artworks consigned to them. In effect this created 2 transactions – a simultaneous purchase of the artwork from the artist and a sale of the artwork to their client. Galleries that continue to use this system post June 8 this year should therefore be paying their artist an extra 5% in resale royalties for artwork sales on consignment in excess of \$1,000 as it is clear that a recipient-created tax invoice makes the sale to their client the second transfer of ownership of that artwork.

The only way to properly resolve the linked issues of GST and resale royalties is for art professionals to bank the entire amounts of their consignment sales to a separate “trust” account and from there have the moneys paid as follows:

Gallery commissions and exhibition or other expenses drawn up as appropriate tax invoices to their artists which on approval or agreement would be paid to a separate operating account; and

The balance of the proceeds to then be paid to the artist.

This may tidy up the administration of consignment sales but there is still the messy issue of GST to contend with let alone other specific areas like the taxation treatment for community arts centres and Aboriginal artists. Why not just make sales of artworks by all visual artists GST-exempt as part of a package to make the industry more functional?

Under this proposal galleries will still be paying GST on their commissions. This should clarify art market operations as the public will know there will be no GST payable on primary market sales.

Artists would then claim GST from gallery commissions when they lodge their BAS along with GST on their materials and other practice costs. This will bring their tax treatment back in line with the situation that existed with the sales tax regime, which was after all the overriding goal of

introducing GST in the first place. This is also fairer when you consider that artists currently not registered for GST still pay GST on gallery commissions without the recourse of recovery through the tax system.

It would also be hoped that this system would encourage galleries to issue tax invoices on their commissions to their artists and should aid the model described above where there should be trust accounts for artwork sales. All of these changes would assist with the operation of the resale royalty scheme.

How much would it cost to bring in this exemption? This is the question that must be examined by Treasury but it is hard to imagine the relatively small amounts of GST collected from artists (half of which are most likely not even registered) would not be largely offset by the increased employment costs and income tax collections such an exemption would create.

Shaun Tan wins Academy Award for Best Animated Short Film and Astrid Lindgren Memorial Award

In the space of a month Shaun Tan won a prestigious Oscar for his work on “The Lost Thing” and was then awarded the world’s richest award for children’s and young-adult literature, the Astrid Lindgren Memorial Award.

Together with Andrew Ruhemann, Tan won his Oscar in the Animated Short Film category for “The Lost Thing”, which is narrated by comedian Tim Minchin.

“The Lost Thing” was the winner of the Melbourne International Film Festival, won the animation award at the Sydney Film Festival, and picked up jury prizes at the Austin Film Festival and Palm Springs International Shortfest in the US.

A few weeks later, back home and washing dishes he received a call from a phone number he did not recognise. Picking up at the last moment he was informed by the caller that he had been chosen as the recipient of the Astrid Lindgren Memorial Award, which carries a purse of 5 million krona or \$765,000.

Tan told *The Age* the award was almost the polar opposite of his Academy Award prize as it is given for a body of work (not dissimilar to the Nobel prize). “The Oscar is a great award, but this feels more significant because it is not voted on. There is serious deliberation and they said it was a unanimous decision, which I was surprised about”, he told the newspaper.

Shaun Tan began creating images for science fiction and horror stories in



WINNER: Shaun Tan won an Oscar for his short animated film *The Lost Thing*.
Picture: AFP Source: Herald Sun

small-press magazines as a teenager, and has since become best known for illustrated books that deal with social, political and historical subjects through surreal, dream-like imagery.

He plans on donating some of his prize money to funds such as the Indigenous Literacy Project.

Federal Senate passes Motion on Save Super Art

On February 10 this year the Federal Senate passed the following motion put forward by Christine Milne, the Australian Greens Deputy Leader.

The Senate:

- (a) Notes:
- (i) That the Cooper Review into superannuation last year recommended that private investment in art no longer be eligible investments for DIY superannuation schemes;
 - (ii) That, after a strong campaign by artists concerned that the local art market would be seriously damaged by this move, the government promised during the 2010 election campaign to reject that recommendation; and
- (b) Calls on the government to:
- (i) Abide by its election promise; and
 - (ii) Ensure that any conditions do not act as a disincentive for DIY superannuation funds to invest in Australian art.

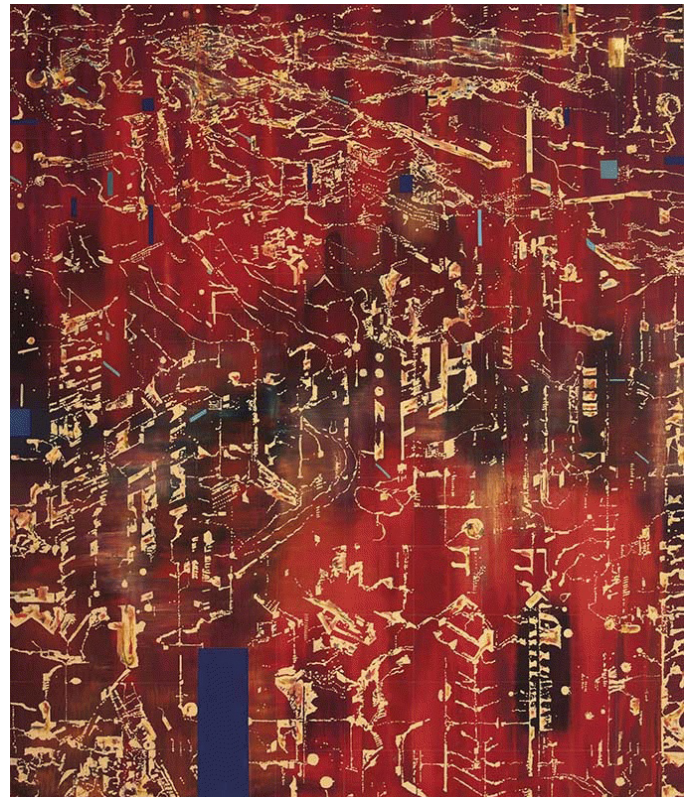
The motion was put forward in response to the Exposure Draft of new laws being legislated to govern the way that SMSFs can invest in the art market.

In summary the current position concerning SMSF purchases of artworks is as follows:

According to the Australian Labor Party Campaign Media Release issued on 30 July 2010 there will be “new standards for storing collectables and personal-use assets held by self-managed superannuation funds” that will commence from 1 July 2011;

These new standards are currently being formulated with reference to the SPAA Best Practice Guidelines for acquiring and holding artworks in an SMSF (drafted with input from the author in June last year) and submissions made to the Stronger Super division of Federal Treasury;

The government has acceded to ensuring the legislation does not “act as a disincentive for DIY superannuation funds to invest in Australian art.”



John Cattapan born 1956
“Day-City (Hoping; Dragon-State)” 1999-2000
Oil on linen, signed, dated and inscribed verso: Cattapan 1999-2000/ “Day-City (Hoping; Dragon State)”, 198cm by 167.5 cm, Est: \$9,000-12,000, Menzies, Australian & International Fine Art, Sydney, 24/03/2011, Lot No. 15
Sold for \$22,800, a new record price for the artist

In other words there is still no legislated change to the way that SMSFs are able to invest in the art market compared to the situation that existed before the Cooper Review announced its intention to ban such investments at the end of April 2010.

It is the author’s understanding that regardless of when the proposed legislation with “new standards for storing” artworks is finally enacted such as to “not act as a disincentive for DIY superannuation funds to invest in Australian art” there will be no change to the current rules until 30 June 2016.

An edited version of The Australian Artists Association submission to Federal Treasury concerning the proposed new laws is reproduced in the current AAA newsletter.

Flood Levy Introduced for 2011/12

Individual taxpayers, both residents and non-residents, who have a taxable income over \$50,000 in the 2011-12 financial year will have to pay the flood levy.

If you earn salary and wages (pay as you go withholding system), the flood levy will automatically be included in the tax taken out of your salary and wages by your employer.

If you pay instalments towards your expected tax liability, the flood levy will automatically be included in your instalment rate. For example, this includes self-employed and investors, or self-funded retirees through the pay as you go system.

You are exempt from paying the flood levy if you:

- have a taxable income of \$50,000 or less ; or
- are in receipt of an Australian Government Disaster Recovery Payment from Centrelink for a declared natural disaster that occurred during 2010-11.

Flood levy rates of payment are as follows:

Taxable Income 2011/12	Flood Levy on This Taxable Income
\$0 to \$50,000	NIL
\$50,001 to \$100,000	Half a cent for each dollar over \$50,000
Over \$100,000	\$250 plus 1 cent for each dollar over \$100,000

Work-Related Deduction Claims Now Greater than \$2,000 on Average

The latest ATO statistics show average work-related expenses increased from \$1,950 in the 2008 income tax year to \$2,034 in 2009.

The number of people claiming work-related deductions has steadily increased over the last decade and may result in few taxpayers taking up the Federal Government's offer of a standard no-receipt

claim of \$500 from 1 July 2012. This standard claim will rise to \$1,000 from 1 July 2013, however this represents less than 50% of the current average claim.

The ATO is hoping Australian taxpayers follow the lead of New Zealand, where prior to the scrapping of work-related deductions in 1999, most lodged returns opted for a flat rather than itemised deduction.

Congratulations to Louise Paramor, winner of the McClelland Award 2010

"Louise's beautifully positioned industrial plastic objects speak to the sculptural found in everyday life. The assemblage is literally "heightened" by a simple metal table forcing the objects up against the foliage. It is playful, unexpected and highly engaging."

- Judge Tony Ellwood
Director, Queensland Art Gallery| Gallery of Modern Art, Brisbane



Louise Paramor, *Top shelf 2010*, plastics, steel, pins, bolts
560cm by 230cm by 230cm
Image courtesy of the artist and Nellie Castan Gallery, Melbourne.
Photography: John Gollings

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