

## **ASSOCIATION OF ART MUSEUM DIRECTORS (AAMD)**

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### **SUMMARY OF 109<sup>TH</sup> CONGRESS (2004 – 2006)**

#### **H.R. 1120 "ARTISTS' CONTRIBUTION TO AMERICAN HERITAGE ACT"**

**Introduced by Congressmen Jim Ramstad (R-MN) and Ben Cardin (D-MD)**

#### **S. 372 "ARTIST-MUSEUM PARTNERSHIP ACT"**

**Introduced by Senators Patrick Leahy (D-VT) and Robert Bennett (R-UT)**

Before 1969 artists, composers and writers (artists) could donate self-generated works to a non-profit institution and receive a fair-market-value deduction. Subsequent to 1969, as part of broad tax reform, they could deduct only the cost of materials.

As a result, before 1969 the Library of Congress received, annually, 15 - 20 large gifts of manuscripts from authors. In the four years following the repeal of the deduction, the Library received only one gift. Many works of art that would have been contributed to American institutions were sold to private collections or abroad, in effect depriving the public of its heritage. (For example, Igor Stravinsky planned to donate his papers to the Music Division of the Library of Congress the month the Tax Reform Act of 1969 was signed into law. Instead, the papers were sold to a private foundation in Switzerland.)

The bills, H.R. 1120 and S.372, which are identical bills, would restore the fair-market-value deduction with safe-guards to prevent abuse:

- Works of art must be created at least 18 months prior to the date of contribution by the artist, who has previously publicly sold, performed or exhibited similar works.
- The artist must obtain a written appraisal of the fair market value of the work by a qualified appraiser, and the appraisal shall be attached to the artists' tax return.
- The use of the work of art must be related to the purpose of the institution that receives it. (For example, a painter could not contribute a painting to a soup kitchen and take a fair-market-value deduction.)
- The artist must deduct the entire amount the year the gift is made, whereas, a collector can carry forward for up to five years, his/her deduction.
- The artists' deduction can only be taken from income earned as an artist, including teaching or writing, but not for instance waiting tables, whereas a collector can deduct from any income earned.
- The artist must be professional, i.e. has sold or exhibited his/her work.

An additional filter – not included in the bill – is that the collecting institution must want the work. In the case of museums 80 – 95% of what is offered is refused for a wide variety of reasons.

If the widow(er) of an artist donates a work of art created by his/her deceased spouse, the widow(er) can take a fair-market-value deduction, as can the collector of the artist's work. In addition, the artist's estate is taxed at fair-market value.

The benefit to the nation, when artists are encouraged to contribute their work during their lifetime cannot be overemphasized. It allows the public, historians, scholars and others to learn from the artist his/her aesthetic intention for the work, how to display, perform or interpret it and what influences affected the artist.

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