



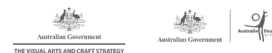
PO Box 60 Potts Point
NSW 1335 Australia
T +61 2 9368 1900
F +61 2 9358 6909
E nava@visualarts.net.au

www.visualarts.net.au
www.artscareer.com.au

ACN 003 229 285
ABN 16 003 229 285

NAVA gratefully acknowledges the assistance provided by the Australian Government through the Australia Council, its arts funding and advisory body, and by the Visual Arts and Craft Strategy, an initiative of the Australian, State and Territory Governments.

Patrons: Pat Corrigan AM
Janet Holmes à Court AC
Professor David Throsby



17th December 2012

The National Association for the Visual Arts (NAVA)'s submission in response to the Not-for-profit Sector Tax Concession Working Group Discussion Paper

The National Association for the Visual Arts (NAVA) welcomes the opportunity to comment on the Not-for-profit Sector Tax Concession Working Group Discussion Paper. However, we feel that we have not had sufficient time to research an appropriate response to a document of this complexity and length. Its content is potentially of very great consequence to not for profit arts organisations like ours, but we would need to consult with our industry and taxation experts to thoroughly explore its implications. Unfortunately, at this busy time of the year it has not been possible to spend the time required. However, we would welcome the opportunity to do background consultation and discuss the issues with the Working Group next year.

About NAVA and Tax

The National Association for the Visual Arts (NAVA) is the peak body representing the professional interests of the Australian visual and media arts, craft and design sector. It is a membership organisation with around 3,000 individual and organisational members. Since its establishment in 1983, NAVA has been influential in bringing about policy and legislative change to encourage the growth and development of the visual arts sector and to increase professionalism within the industry.

NAVA provides professional services to its constituents through offering expert advice and referrals, grants, career development opportunities and training, on-line and hard copy resources and a range of other services. NAVA gets approximately 2,500 requests for advice each year, some of which are about taxation issues.

NAVA also provides advocacy and representation for the sector and sets industry standards. It has had a long standing commitment to trying to create a conducive environment for visual creators and was responsible for negotiating with the Australian Tax Office and finally securing the *Taxation Ruling: Income tax: carrying on business as a professional artist (TR 2005/1)*. This ruling no longer simply regards art profit making or sales as the deciding factor but adopts a broader and more appropriate set of arts industry criteria for determining when

someone can legitimately claim to be in business as an artist for income tax purposes.

NAVA also was influential in securing changes to the Non-Commercial Losses tax legislation which allows artists earning income from non-arts activities to be able to claim their arts business expenses as long as they earned less than \$40,000 a year by this means. Since the introduction of the ATO's taxation ruling, NAVA has argued that artists should be exempt from the Non-Commercial Losses criteria because this the ATO ruling is a much more accurate test for whether artists are in business for income tax purposes.

NFP Tax Concessions

In relation to the Not for Profit Sector, there are some key areas of taxation concessions which impact on arts organisations like NAVA.

1. Being classified as a PBI & therefore eligible for FBT exemption

Organisations like ours which are very dependent on government funding for our survival, are dogged by the difficulty of being unable to afford to pay competitive salaries to our staff. In comparison with most other sectors and even with major arts institutions or government arts departments, our salaries are necessarily much lower in order to be able to provide the range of services required by our sector. This means that we find it hard to recruit staff with sufficient experience and specialist knowledge to be able to deliver the quality of service required. The consequence is that we are constantly training new staff and rarely are able to keep them for longer than a year or two. This results in a continuous loss of corporate knowledge and the need to reinvent wheels. This problem applies to most small to medium arts organisations across all artforms.

Having the ability to offer salary packages (which could include payments for example for cars, mortgage repayments, rent, and school fees) would be a way to increase the value of return and benefit to our staff without drawing further on our very tight income. It would be another efficient and effective way that the government could support the arts sector and ensure the retention of skilled, experienced people within this sector.

2. Eligibility to secure tax deductible donations or gifts

Like many other arts organisations NAVA is included on the Register of Cultural Organisations. This is of enormous benefit to organisations like us in that it allows us to attract donations through being able to offer donors the incentive of a tax deduction.

This has enabled NAVA to secure some larger donations which are used to provide a program of grants, awards and scholarships for artists to an estimated value of \$200,000 a year. It also encourages donors to give money directly to support NAVA itself.

In relation to Q 26: "Should the threshold for deductible gifts be increased from \$2 to \$25 (or to some other amount)?" NAVA would disagree. Raising the bar from

\$2 to \$25 would be distinctly disadvantageous to organisations like NAVA which not only attract a few larger donations but mostly a lot of small amounts which add up to a valuable addition to our income. These, for example, can be a rounding up of a membership fee from \$45 to \$50 or donation being added when someone registers for a workshop or seminar eg from \$15 to \$20.

In relation to Q 19: "Would a clearing house linked to the ACN Register be beneficial for the sector and public?" our observation is that this would be a disincentive. In our experience, our supporters are personal givers who have some kind of relationship with us, not people who are looking for a random good cause in the arts.

One additional suggestion we would make is that crowd funding donations should also be tax exempt. In this climate of greater austerity, larger donations are less easy to secure than a lot of small ones. The administration cost is still comparatively small.

In relation to Q 18: Should testamentary giving be encouraged through tax concessions and what mechanisms could be considered to address simplicity, integrity and effectiveness issues?, NAVA would encourage an incentive to be found for people to will their real estate to arts organisations. For most of us, it is very challenging to find accommodation at an affordable rent or to raise the funds to pay for increasingly costly inner city property. For us to offer accessible services to our constituents effectively, most of us need to be in or close to the CBD. Having the independence of owning our own premises would not only provide security of tenure but also possible allow us to earn extra income from renting out part of the property to others.

3. NFP arts organisations as lobbyists

One of the vexed issues that has come up in relation to the Charities classification is sensitivity around 'lobbying'. This is to some extent in the eye of the beholder. Part of the role of arts service organisation like NAVA is to provide expert advice to politicians, their advisers, departmental staff, funding bodies and other policy makers. These policy makers rely on our regular grass roots contact with our constituency and our national arts industry overview for advice about and contact with the sector. This also involves expressing our opinion, sometimes emphatically, about what we judge is an appropriate course of action. Most decision makers value this advice. Is this lobbying, advocacy, expert advice, informed opinion? However it is described, it is a valuable service for any industry.

We would be keen to discuss and provide further advice on these matters.



Tamara Winikoff
Executive Director