PROPOSED CAPITAL GAINS TAX STATUS OF ARTWORKS AS ASSETS

This paper is relevant to these items in the Towards a New national Cultural Policy:

"It reinforced that arts and culture are not a luxury, they are essential to our economy, our wellbeing, and our sense of belonging. *Revive* recognised the essential work of Australian creatives, positioning arts workers as real workers who make substantial contributions to Australia's economic and cultural life." * Minister's message pg 4

"Pillar 3 — Centrality of the Artist

Supporting the artist as worker and celebrating artists as creators. As creative practice, technology and work patterns continue to evolve, the government is seeking views on how cultural policy can respond to changing conditions for creative work, including safer and fairer workplaces, the protection of creative rights in the digital environment and the role of arts education, creative skills and lifelong learning, and how creators are recognised across the broader economy. ' * pg 7

We the undersigned wish to raise a recent development in Labor's Budget

We write on behalf of Australia's visual arts sector at a moment of particular significance. National Cultural Policy consultation is now open, and recently the 2026 Federal Budget has proposed some of the most substantial changes to capital gains tax in a generation. We believe these two processes, taken together, present both an urgent challenge, an elegant solution and a genuine opportunity for Government.

We are requesting that the Government review the application of the new CGT arrangements to secondary sales of artworks and consider an exemption or modified treatment for this asset class in recognition of its unique cultural and economic value.

The Policy Context

The 2024 study Artists as Workers: An Economic Study of Professional Artists in Australia (Throsby and Petetskaya, Creative Australia) provides the most recent and authoritative evidence of the sector's economic circumstances. It identifies the arts as Australia's largest philanthropic sector and documents the conditions under which visual artists work. In FY 2021–22, practising visual artists recorded a mean income of $38,500 and a median of just $23,600, well below the general workforce average. In addition, they must account for the cost of materials required to practise their craft. [Report, p.79]

Reference: Throsby, D. and Petetskaya, K. (2024). Artists as Workers: An Economic Study of Professional Artists in Australia. Creative Australia. https://creative.gov.au/research/artists-workers-economic-study-professional-artists-australia

Visual artists are predominantly the creators of physical objects that others buy and own. Unlike most other art forms, their work enters private hands and may be resold. The commercial gallery sector, consisting largely of small, independent businesses, exists to support that market. Both artists and galleries are operating in a fragile ecosystem that depends on the confidence of collectors to acquire.

How CGT Applies to the Art Market

It is important to clarify where CGT falls in the visual arts economy, because the mechanism is often misunderstood.

When an artist sells their own work, CGT does not apply. The proceeds are assessed as ordinary income under the income tax provisions, with the artwork treated as trading stock. Artists are already taxed on what they earn from their practice.

CGT applies at the point of secondary sale, when a collector resells a work they have purchased. Under current law, if the work has been held for more than 12 months, the collector receives a 50% CGT discount on any gain. Under the Budget reforms, from 1 July 2027 that discount will be replaced by inflation-indexed cost base calculation and a 30% minimum tax on the real capital gain.

While this tax falls on the collector at resale, its effect on artists and galleries is direct.

1. A collector weighing whether to acquire a work may factor in the eventual cost of selling it.
2. When the tax treatment of resale becomes less favourable, the confidence to buy is reduced.
3. That any reduction in demand flows immediately back to the primary market, affecting the income of artists and the viability of the galleries that represent them.
4. CGT on secondary sales is therefore not a remote or tangential concern for artists.

The Tax Reform and Its Impact

We understand and broadly support the Government’s intent to improve intergenerational equity and ensure that gains are taxed on their real, inflation-adjusted value. However, the visual arts market is not comparable to residential property or equity investment, and a uniform approach to CGT reform will produce unintended consequences for artists, collectors, and galleries.

For most collectors, the decision to purchase a work of art is usually driven by emotional, aesthetic and cultural connection, not financial return. But to collectors, return can be a consideration. The secondary market for Australian art remains modest in scale. Imposing greater tax complexity and potential liability on resale will suppress the confidence of existing and prospective collectors at precisely the moment the sector most needs encouragement. We ask the Government to consider: what revenue would be gained from applying the new CGT rules to artwork resales, and does it justify the harm to a sector that already operates at the margins of economic viability?

Our Proposal

We ask that the Government give serious consideration to one or more of the following approaches:

1. Class art and artworks as a class separate to other Capital Gains classes. It has a major cultural component and a tenuous employment component.

2. A CGT exemption for secondary sales of original artworks. Continuing the existing pre-reform treatment for artwork resales would provide a direct incentive for collecting, stimulate demand for Australian artists, and support the gallery sector as a network of small businesses.

2. **A modified threshold or rate for artworks.** If an outright exemption is not feasible, a separate, lower rate or higher threshold for artwork resales could achieve a similar stimulatory effect while still capturing significant gains at the high end of the market.

3. **Recognition within the new National Cultural Policy.** We ask that the new policy explicitly acknowledge the tax treatment of artworks as a lever of cultural and economic support and commit to an intersectoral review between the Arts and Treasury portfolios.

Conclusion

Australia's visual artists are among the most economically disadvantaged of all creative workers, while their contribution to the nation's cultural life is immeasurable. The new National Cultural Policy has an opportunity to make the tax system a tool of cultural investment rather than an inadvertent obstacle to it.

The chain of effect is clear: CGT falls on collectors at resale, but its chilling effect flows directly back to artists and galleries at the point of primary sale. A well-designed exemption or modified treatment for artwork resales would cost the Government very little in revenue terms while delivering a meaningful stimulus to one of Australia's most underfunded and culturally vital sectors.

We respectfully urge you to review the application of the CGT reforms to artwork resales, and to bring together Treasury and Arts portfolio considerations in a way that affirms the Government's stated commitment to the centrality of the artist.

We would welcome the opportunity to discuss this further.

Yours sincerely,

Susan McCulloch, McCulloch & McCulloch Australian Art Books PL /Everywhen Art
Everywhen Art [redacted]

Claire Harris, Director Flinders Lane Gallery
Flinders Lane Gallery [redacted]

D'lan Davidson, Director D'lan Contemporary
D'Lan Galleries [redacted]

Kelli Lundberg Art, Director
Kelli Lundberg [redacted].

Anna Prifti, West End Art Space
West End Art Space [redacted].

Anna Mortley Mora, Director, William Mora Galleries
William Mora Galleries [redacted]

Lily Mora, Director Sunday Salon
Sunday Salon [redacted]

Jo Lane, artist
Jo Lane [redacted]