

Fundraising Auctions: Issues and Alternatives for Art Organizations

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I. INTRODUCTION TO FUNDRAISING AUCTIONS

This Professional Guidelines topic is intended to more fully inform art organizations (most often non-profit exhibition spaces, museums, and schools) about the impact that fundraising auctions have on the entire arts community. This document will specifically address auctions in which donations of original artwork are solicited from artists, galleries and collectors and then sold to the highest bidders during an auction event—live or silent—to raise funds in support of an art organization. This is one of four Professional Guidelines documents about Fundraising Auctions, each addressing a different perspective:

- Fundraising Auctions: Issues and Checklist for Artists
- Fundraising Auctions: Issues and Impact for Galleries
- Fundraising Auctions: Issues and Recommendations for Collectors
- Fundraising Auctions: Issues and Alternatives for Art Organizations

These documents provide insights and helpful suggestions for all members of the community. You are welcome and encouraged to read all four to see a thorough discussion from all perspectives.

Auctions can be a successful way for organizations to raise needed funds. However, frequent auctions or multiple auctions from various groups can have a significantly negative impact on the art community—the very constituency they wish to support. A few auctions may sell work for bids above the retail prices; this benefits the organization, the donors, and the art community in general. Unfortunately fundraising auctions have, in general, gained a reputation for selling artwork at considerably less than retail prices –with negative consequences. Over-reliance on auctions as fundraising mechanisms may ultimately harm galleries, collectors and individual artists by siphoning off gallery sales, devaluing artists' work, and reducing the ability of artists and galleries to make a living.

The long-term financial health of art organizations ultimately depends on developing the entrepreneurial skills to build and maintain a variety of reliable revenue sources. Organizations sponsoring or benefiting from fundraising auctions, especially those involved with the art community, should act responsibly when planning fundraising efforts. Artwork needs to be handled and displayed with care and respect. Every effort should be made to obtain the highest prices for donated work, minimum bids and reserve prices should be established and honored, and all information regarding the purchaser forwarded to the donating artist or gallery.

The primary function of an auction is to provide funding for organizations that deserve support. If everyone is consistently reminded of this fundamental fact, then bidders and artists may decide to be more generous. Artists may decide to take less than 40% of the retail price and bidders may decide to purchase work at prices greater than retail in the spirit of generosity. Higher prices at auctions eliminate the bargain hunting mentality that is detrimental to the entire art community and support the retail value of artists' work sold at galleries.

In addition to discussing some of the pros and cons of fundraising auctions, this document also includes a number of alternatives for fundraising (see section *VIII. Fundraising Alternatives*) collected from a variety of art-related organizations. Each alternative includes both Advantages and Disadvantages for the particular fundraising method. If your organization has tried a new or different method for fundraising that you think works well for artists, galleries and collectors in your community, let the Professional Guidelines know about it. It would make a great contribution to this information and be very helpful to other organizations. Contact the Professional Guidelines through Harriete Estel Berman at www.harriete-estel-berman.info and tell us about it.

II. MYTHS ABOUT FUNDRAISING AUCTIONS

Organizations requesting donated work often portray their request as an opportunity for donors to demonstrate their support for the organization and as a chance for artists to show their work to a new and wider audience—in the company of other important artists. However, some rationalizations are overextended. Here are a few:

Myth #1: Fundraising auctions support the arts community.

Fact: Financial burden of fundraising auctions falls on the artists, gallery and collectors. Auctions depend on donations largely from artists and galleries. In selling art and craft, auctions compete with artists and galleries that have invested year-round to generate public awareness. By selling art and craft far below retail prices, the market value of all similar work is diminished. Even the organization can be affected when a number of other organizations hold auctions, all expecting the same local artists to donate work and the same collectors to make a purchase. The detrimental impact of auctions can be mitigated significantly by adopting some of the suggestions itemized later in this document.

Myth # 2: An Auction is an exhibition opportunity.

Fact: An Auction may provide exposure, but is a marginal venue for exhibiting work. Auctions usually display donated work for a very short time, typically only a single evening. Since sponsors have little or no control over the consistency of donated work, auctions are extremely difficult forums to present a consistent body of artwork in the cohesive manner of an exhibition. The donated work is rarely professionally installed (as in a gallery or museum), but often placed on tables, crowded into cases or used as centerpieces on dinner tables. Works are rarely lighted advantageously and, in the case of live auctions, often carried out onto a stage where it is difficult for them to be seen. These circumstances are not equivalent to an exhibition and should not be represented as such.

Myth # 3: Auctions support the artists.

Fact: The auction supports the auction sponsor; the benefits to the artist are minimal.

Auction sponsors usually request donations of artwork from artists. Some sponsors offer a small percentage of the auction purchase price to the donor. Frequently, the sponsor encourages the artists to donate work with little or no compensation – or, alternatively, compensate the artist with tickets to the auction or a membership in the organization. Donated work that sells far below the retail price may adversely affect the value for the artist's other work. The artist foregoes potential income for the work itself and can only take a tax deduction for the expense of materials on their Federal tax return. The promotional value of brief exposure to the auction audience is debatable.

Myth # 4: Auctions do not impact galleries.

Fact: Auctions compete with galleries. Auctions circumvent the role that galleries serve within the arts community. Galleries invest in exhibition space, inventory, and staff resources for an extended period of time to show and promote an artist's work. In addition, galleries offer advice, expertise and perspective to patrons of the gallery. These services for collectors and for artists are impacted by auctions that "piggy back" on the goodwill and marketing developed by galleries and siphon off sales opportunities, diminishing the economic viability of galleries. Given the fact that galleries are for-profit businesses, fundraising auctions may offer unfair competition for three reasons. Auctions solicit donations from donors based on a sense of philanthropy. Likewise, bidders perceive their purchases as a donation to the fundraising organization and, again, as an act of philanthropy. Third, auctions depend on volunteers for their workforce rather than paid employees which gives them an economic advantage.

Myth 5#: Auctions do not affect the value of artwork.

Fact: Winning bids that are above or below normal retail prices may affect the values of all work for the artists and the galleries. When higher or lower (above or below retail) prices are generated at auction, the established value for an artist's work may change. When generous bidding at auction yields higher than retail sales prices, everyone wins. Unfortunately, since artwork sold at fundraising auctions often sells below established retail prices, the collectable value of an artist's work may suffer and the retail market values for artists and galleries are undermined. In addition, auction prices become part of the provenance of an artist's entire body of work. Consequently, values of all artwork may be affected.

Myth # 6: Auctions introduce work to a new and wider audience.

Fact: Auctions rarely yield introductions that are meaningful to the artist or gallery. An auction may offer exposure to a new audience, but an auction is an ineffective marketing approach for an established artist or gallery. Collectors attend auctions with a variety of motivations, but most know that artists cannot afford to donate their best work to an auction where it will be shown for only a limited time, will not be professionally installed, and will not be critically reviewed in magazines or newspapers. Until the structure of auctions change, artists and their work will still be at a significant disadvantage under these circumstances.

Myth #7: Buying work at an auction is a tax-deductible contribution.

Fact: According to the IRS, the tax-deductible portion is only the amount paid *above the retail value of the work*. For example, if the stated retail value of a piece is \$100 and the piece sells for \$125, according to the IRS, then only \$25 is tax deductible. Although the check for a winning bid at a fundraising auction is written to a non-profit organization, the entire amount of the check is NOT tax deductible. (See section *III. Financial Impact of Auction on Collectors* below for more details.)

III. FINANCIAL IMPACT OF FUNDRAISING AUCTIONS ON ART ORGANIZATIONS

A. Short term benefits. Auctions generate income for the organization with donations and contributions coming from various constituents of the community. Artists, galleries or collectors donate artwork. Collectors and patrons contribute cash by offering winning bids. Auction sponsors have no inventory costs and limited investment in the costs of display or installation.

B. Long-term detriments. Over time, auctions may undermine the very constituencies that the art organization is chartered to support. Artists and galleries lose income. All members of the art community who identify with multiple organizations are confronted with numerous demands for their support. Collectors who regularly attend fundraising auctions may come to feel a sense of obligation and become uncomfortable or simply lose interest in attending. This has a cumulative impact. Auctions may even become perceived as bargain hunting opportunities instead of events designed to support the art organization.

C. Over-dependence on auctions. At this time, it appears that the auction idea has become over-extended, and abused. Artists get too many requests to donate their work. Established collectors have become complacent and jaded. Galleries want to support art organizations, too, but have become disenfranchised because auctions compete for sales and impact the gallery's very survival.

D. Federal tax deductions. For reference, the tax deductions permitted to donating artists and winning bidders are limited.

1. Artists can deduct only the cost of materials – not the retail value of the donation on their federal tax return. A few states allow a deduction for the wholesale value of the work donated to auctions, (check with your state laws).

2. Winning bidders can deduct only the amount of their bid in excess of the retail value – not the entire amount. Technically, the bidder at an auction is purchasing artwork or craft for the bid price. The payment for the purchase is not a tax-deductible contribution unless the collector pays more than the fair market value to the qualified organization. Then, only the portion of the purchase price above the retail value is tax deductible. The I.R.S. web site states: "If your contribution entitles you to merchandise, goods, or services, including admission to a charity ball, banquet, theatrical performance, or sporting event, you can deduct only the amount that exceeds the fair market value of the benefit received."

I.R.S. **Look on line for more information at:** <http://www.irs.gov/taxtopics/tc506.html>
"For the excess amount to qualify, [for a tax-deduction] you must pay it with the intent to make a charitable contribution." (**I.R.S. Publication 526**) See the Appendix below for more details.

IV. RECOMMENDATIONS OF THE PROFESSIONAL GUIDELINES COMMITTEE

Reserve Price Policy

The Professional Guidelines Committee recommends that the reserve price for work in an auction be 80% of the retail price. The artists (and/or gallery) should be offered 40% of the retail price for the donation. The art organization will receive at least 40% of the retail price for fundraising and the collector has the possibility of receiving a 20% discount. If bidding for work does not reach the reserve price, the work should be returned to the donor.

V. CONSIDERATIONS FOR AUCTION SPONSORS

A. Goals for Fundraising

1. Avoid negative impact on artists and galleries.
 - a. Support the retail market values of all work donated. Implement a Reserve Price Policy.
 - b. Consider the impact that auctions have on the exclusive representation of an artist's work by local galleries.
 - c. Donors (artists and galleries) should be offered at least the wholesale value for the work donated.
2. Consider the alternatives to fundraising auctions listed below under VIII. FUNDRAISING ALTERNATIVES
3. Maximize tax benefits for donors and bidders, if possible, with another fundraising model.
4. Balance the requests for donations among the constituency. Do not ask the same artists or galleries all the time.
5. Be creative—think of a variety of fundraising approaches. This will keep the pool—often finite—of donors, bidders and patrons interested.

VI. IMPROVING FUNDRAISING AUCTIONS

A. Before the Auction

1. **Plan on an auction contract covering important issues such as insurance and shipping.** You can modify the *Model Consignment Contract* in the Professional Guidelines as a basis for the auction contract adding your decision about some of the issues listed below that are unique to auctions. These may include *minimum bid*, *reserve prices* and *bid to own*.
 - a. A **minimum bid** is the starting point in the bidding of a “live” or “silent” auction. The Professional Guidelines recommends that the minimum bid start at the wholesale value.
 - b. The “**reserve price**” is the lowest price at which the artwork will be sold. The Professional Guidelines recommends that the reserve price be set at 80% of the retail value. The reserve price is usually published, but not always.
 - c. The “**bid to own**” is written at the bottom of the bidding sheet. It is usually full retail. If the bidder decides to place a “bid to own” early in the auction, no further bids are accepted. This is the winning bid.
2. **Offer artists the wholesale value for donated work.** If the artist decides to take less, that is their choice. Artists cannot afford to give their work away for free. This is a very important fact that auction sponsors and organizers need to keep in mind. If auction sponsors offered artists the wholesale value of their work, in all probability, artists would donate better work.

3. Recognize that artists and galleries may have an exclusive relationship. If an organization contacts an artist that is represented exclusively by a gallery in their area, they may have encroached on the professional relationship between the artist and the gallery. In such cases, it might be best to approach both the gallery and the artist at the same time when requesting donations.

4. Establish a “reserve price” with the guidance of the artist and/or the gallery that represents the work. The “reserve price” is the lowest price at which the artwork will be sold. The Professional Guidelines recommends that the reserve price be set at 80% of the retail value. The auction sponsor may decide to publish the reserve price in a catalog, on the web site or add it to the bidding card.

5. Inform the donor (artists, galleries or collectors) in advance about the type of work that sells. Suggestions regarding the anticipated price range, style, or materials would be helpful. Artists, galleries or collectors donating work can then select work that will sell more successfully at your auction.

6. Every effort should be made to display the work appropriately: properly oriented, appropriately titled, well lit, etc. In addition, it is in the best interest of all concerned for auction organizers to educate attendees about the work.

7. Ask the donor to prepare a complete description of the work for labels and publicity indicating:

- Artist’s name
- Title of work donated
- Materials
- Date of work
- Provenance of work such as previous exhibitions or books where the work was featured.
- Gallery representation (if appropriate) “Represented by _____ Gallery” or “Courtesy of _____ Gallery.”

This can be used for:

- a. Publicity
- b. Informing the staff that will be circulating among bidders during the auction.
- c. As the basis for the “live auction” description. The live auction description should be entertaining, descriptive and clear.

8. Ask the donor to submit slides, digital images or transparencies of their donation 3-4 months in advance of the auction. (*This is the most helpful item that an artist or gallery can provide – after artwork.*) The fundraising sponsor can use these images for publicity such as newsletter, museum calendar, advertising and promotion.

9. Publish a catalog. Inform members, collectors and donors of your organization about the names of the artists donating work. Include images or resume highlights to attract interest.

10. Publish a list of the work with images on the Internet. More visibility, and a larger audience means more interested and knowledgeable bidders. Provide hyperlinks to the artist’s or gallery’s web site as a gesture of goodwill to the donors and to educate your web audience.

11. Plan on the appropriate amount of advertising and publicity to attract interested bidders. Focus your promotion to attract your core audience *and* finding new auction participants using separate and distinct marketing for each demographic.

12. All work should arrive well in advance of the auction. It should be examined and an appropriate display designed. The better the display with suitable lighting, the better the work will look, thus generating higher bids and auctions proceeds.

13. Consider hosting extra events that draw attention to the auction including guest lectures, luncheons, panel discussion and family activities.

14. Plan a preview event for the auction. Invite the donors (artists, galleries or collectors) to the preview event and auction. Advertise this as a rare opportunity to “meet and greet” the creative talent behind the works to be offered. Make it worthwhile for the artists to show up by granting complimentary admission to the auction events and include them in the festivities.

15. Consider an extended viewing period for the artwork (months, weeks, days, weekends). This will attract a wider audience, provide more visibility and stimulate competitive bidding.

Consider that extending the viewing hours into the evening for weekdays, weekends, and the preview will offer convenience to your bidders, which translates into dollars for your organization.

16. Name badges for the artists and galleries (possibly containing small images of the artists' work) are extremely helpful in generating a dialog among the audience attending the event.

17. Offer donors to the auction a membership to your museum or organization for donating work.

18. Remember that if it isn't fun, people won't come back next year.

If your staff, organization and management are having fun, so will your bidders.

B. During the Auction

1. Consider charging admission. The admission could include complimentary food and wine.

2. Provide plenty of room for ALL the bidders to comfortably look at the work and place bids.

a. The exhibition space and cases should not be crowded. Bidders need plenty of room to view the work favorably. b. In the case of silent auctions, the bidding cards need to be easily accessible—even in a crowd.

c. All work at the auction should be available for all the attendees to bid on. For example, work should not be used as centerpieces on a table where only the eight to ten people at that table can bid on the item.

3. Label every item with the artist's name, title, date of work, description and gallery representation as appropriate. This information should be included on all marketing, and advertising promoting the auction including, but not limited to, photos in the catalog, catalog descriptions and the web site.

4. Bidding cards at silent auctions should be labeled with the minimum bid (the Professional Guidelines Committee suggests that the minimum bid start at 40% of the retail price; in the past the starting bids have been unreasonably low), **bid increments and retail value for the donated work.**

5. Increase bid increments.

a. Work that normally sells for \$85 might have bid increments of \$25 (not \$5 or \$10).

b. Work that sells for \$1,000 might have bid increments of \$200.

6. Consider a “bid to own” amount at the bottom of the bidding cards.

If the bidder decides to ignore the incremental bidding and agrees to pay the “bid to own” price early in the bidding process during the preview or auction, this bold and generous bid guarantees them the winning bid and higher bidding will not be accepted.

7. Stating the reserve price is optional, but recommended. The bidding form should clearly state that if the bidding does not reach the *reserve price*, the piece will not be sold. For example, “Work that does not reach the *reserve price* will be withdrawn from the

auction.” (Work that does not receive bids equal to the *reserve price* should be returned to the person who donated the item.)

See section IV. *Recommendations from the Professional Guidelines Committee* above in this document for suggestions about establishing a *reserve price*.

8. The auction sponsor should arrange for knowledgeable personnel to be at the auction preview and the auction itself informing bidders about the work and answering questions.

a. If work is wearable (such as jewelry or clothing) there should be knowledgeable people ready to assist in trying on the work.

b. Staff should be available to discuss the materials, the artists' influences or design. This adds to the bidding experience.

10. Bidders should be informed about the catalogues, if available, and shown where the work they are interested in is included in the catalog for future reference. The catalog could possibly generate sales or commissions for the artists and/or galleries.

11. Whether a live auction or a silent auction, find a way to remind bidders that they are there to support the organization and that they are bidding on quality work from their community. Their bidding reflects directly upon the community's support of the organization.

C. After the Auction

1. We urge art organizations to furnish the complete name and address of the winning bidders who purchased work at the auction to the artist and/or gallery who donated the work. This includes the complete mailing address (not just the city), and telephone number of the client/collector who purchased artwork. While the Professional Guidelines respects the right of privacy of the winning bidders there are two very important considerations (listed below) that need to be taken into consideration.

a. Being able to communicate with winning bidders for one-of-a-kind artwork can be very important for the artist and galleries. In the future, curators or museums working on exhibitions or retrospectives may want to borrow work from a collector. These exhibitions become part of the work's provenance and may increase the value of the artwork. Thus, auction sponsors can assist artists and galleries by providing accurate records for the location of artwork.

b. The more important the work donated to the auction, the more important it is to make sure that the artist is informed about the new owner of the work. A professional courtesy such as this may encourage the donation of higher quality work from artists, galleries or collectors.

2. Follow up with the runner-up bidders or repeat bidders to be sure they know where the artist shows his/her work. If possible, furnish the name and complete mailing address of the most interested bidders to the artists and/or galleries so that they can add to their mailing list.

a. Offering this information to the artists and galleries that have donated work is a professional courtesy. This level of advocacy from the auction sponsor generates contacts for artists, galleries and collectors and the possibility of future sales or commissions.

b. It also generates goodwill. Artists or galleries may be more inclined to donate work to the next fundraiser.

3. Return work promptly after the auction (*within about two weeks*) if it does not reach the reserve price. The more time an artist's work spends out of circulation and without exposure, the more costly to the artist their donation becomes.

4. Written statements for qualified tax deductions. A qualified organization must give a written statement to a donor if the payment is more than \$75 and is partly a contribution and partly for good or services. The statement must say that the donor can only deduct the amount of payment that is more than the value of the goods or services received. It must also give a good faith estimate of the value of the goods or services. **(See I.R.S. Publications 526, Charitable Contributions for more information. The Appendix at end of this document also offers relevant tax information.)**

VII. LIVE AUCTIONS VERSUS SILENT AUCTIONS

Live auctions give the artwork chosen more visibility and prestige.

Live auctions usually generate higher final bids than silent auctions.

A. Suggestions for more successful Live Auctions

1. Use a professional auctioneer, professional entertainer, or experienced public speaker. The live auction component is always more successful when the speaker is entertaining, maybe even a celebrity. He or she should be able to excite the audience and maintain their enthusiasm until the end of the Live Auction.

2. The auctioneer should be familiar with the work, the artist and the materials in order to encourage bidding. If not, then a script should be prepared for the speaker, in advance, providing this information. Another option is to use a curator or other staff member of the organization to briefly describe the art and the artist's importance before the auctioneer invites bids.

a. Contact the artist or gallery to prepare the scripted information in advance.

b. Use an Artist Statement.

c. Remember to keep this material light and entertaining.

3. Keep the Live Auction short and sweet. People's attention spans only last 30 to 45 minutes. Longer than that and many people leave, get up and wander or start conversations. Some auctioneers get tired toward the end and do a lackluster job of promoting the work.

B. Suggestions for More Successful Silent Auctions

1. Some organizations have several silent auction sections that close in sequence during the cocktail and dinner hours preceding the live auction. This gives more visibility to the work featured in the auction and gives opportunity for each piece to be seen.

2. Announcements of the impending closing bid push people to make last minute bids.

3. On the bidding form have a bottom line "BID TO OWN". (See section VI. *Improving Fundraising Auctions*, part A, 1, c)

VIII. FUNDRAISING ALTERNATIVES

Below are several alternatives to fundraising auctions that have many positive aspects. Nevertheless, even these ideas may still impact galleries and their long-term economic viability as a business. One other consideration that is difficult—but crucial—to address is that many (if not most) fundraising options are dependent on the generosity of artists—the segment of the art community that may be the least financially able to donate money or work. This ‘Chicken and Egg’ dilemma—supporting the arts community by exploiting the artist—can be seen as a troubling and negative consequence of fundraising auctions as well.

A. Donate a percentage of the proceeds from a limited time period.

At a retail show, fair or gallery, ask artists or galleries to donate a percentage of their proceeds for a particular time period. Biba Schutz says, “At the ACC Retail show in St. Paul, I donated a percentage of opening night revenue rather than a piece of jewelry.” This worked out a lot better than a previous experience where a valuable pin sold far below retail”.

1. Advantages

- a. Works for different venues such as retail art shows, craft fairs, or galleries.
- b. Artists can make a tax-deductible contribution that is normally not allowed under standard fundraising auction structures.
- c. Supports selling work at full retail prices.
- d. Could possibly be used by galleries representing multiple artists.
- e. Allows the collector to make a purchase from a variety of work by one artist or a number of different artists avoiding dependence on one donated object or painting for success.
- f. Collectors feel magnanimous while making a purchase of their choice.
- g. Fundraising organization receives a portion of the revenue.

2. Disadvantages

- a. Lost revenue by galleries or artists.
- b. No “gala event” specifically linked to an organization

B. Ask artists or galleries to donate the proceeds from selling one particular piece. This piece could be labeled (or highlighted) at a gallery or in the booth at a show as benefiting an art organization. When the piece is purchased, a check is written to the fundraising organization by the artist or gallery for the full donation (the agreed percentage of the retail price.).

1. Advantages

- a. This works for different venues such as retail art shows, craft fairs, or galleries.
- b. Artists can make a tax-deductible contribution that is disallowed with standard fundraising auction structures.
- c. This method supports the full retail value of the work.
- d. The artist or gallery can elect to take a percentage of the sale.
- e. Collectors feel magnanimous while making a purchase.
- f. Fundraising organization receives a portion of the revenue.
- g. Enhances visibility for the designated organization.

2. Disadvantages

- a. Lost revenue for galleries.
- b. Lost revenue for artists.

C. Auction sponsors could elect to purchase work at wholesale prices from artists before the auction. At that point, auctions begin with a stated *minimum bid at the wholesale value or higher*. (See section IV. **Recommendation from the Professional Guidelines Committee** for their advice about setting a reserve price.)

1. Advantages

- a. Artist receives the wholesale value for work sold.
- b. Bids over the reserve price generate funds for the auction sponsor.
- c. The auction sponsor may be able to select the most appropriate work from the artist's or gallery's entire inventory.
- d. The auction sponsor may be able to focus the auction around a theme.
- e. Fundraising organization receives a portion of the revenue.

2. Disadvantages

- a. Circumvents galleries relationship with artists and collectors.
- b. May infringe on gallery's exclusive representation of an artist's work.
- c. Collectors lack advice from gallery staff.
- d. Galleries lose revenue from retail sales.
- e. Artists may lose revenue if they have a retail location for their work.
- f. The payment for the purchase at auctions is not a tax-deductible contribution unless the collector pays more than the retail value for the work. The payment for the purchase at auctions is not a tax-deductible contribution unless the collector pays more than the retail value for the work. Then, only the portion of the purchase price above the retail value is tax deductible. The I.R.S. web site states: "If your contribution entitles you to merchandise, goods, or services, including admission to a charity ball, banquet, theatrical performance, or sporting event, you can deduct only the amount that exceeds the fair market value of the benefit received." Look online for more information at: <http://www.irs.gov/taxtopics/tc506.html>

D. Ask artists or galleries to offer a gift certificate. The exhibitor offers a gift certificate (suggested amounts may be \$125, \$250, or \$500) that may be applied to any item in their booth or gallery. The purchase price of the gift certificate benefits an art organization and is paid for in advance.

1. Advantages

- a. Gift certificate is applied to the retail price and avoids devaluing retail prices.
- b. Works for different venues such as retail art shows, craft fairs, or galleries.
- c. May introduce collectors to a new booth or gallery or artist.
- d. Avoids dependence on bidding on one object for success.
- e. Collectors purchasing a gift certificate make a donation to the fundraising sponsor.
- f. Gift Certificates may be lost or forgotten and never redeemed. This is good for the donor of the gift certificate.
- g. Creates a sense of goodwill toward the fundraising sponsor *and* the artist or gallery where the gift certificate is redeemed.
- h. Fundraising organization receives a portion of the revenue.

2. Disadvantages

- a. Gift certificates are lost revenue by the donor (galleries or artists).
- b. Gift Certificates may be lost or forgotten and never redeemed. This is a potential loss for the bidder.
- c. The gift certificate is not a tax-deductible donation for the bidder unless the collector pays more than the retail value for the work. Then, only the portion of the purchase price above the retail value is tax deductible. The I.R.S. web site states: "If your contribution

entitles you to merchandise, goods, or services, including admission to a charity ball, banquet, theatrical performance, or sporting event, you can deduct only the amount that exceeds the fair market value of the benefit received.” Look online for more information at: <http://www.irs.gov/taxtopics/tc506.html>

E. Ask for donations in the form of unique services from community professionals such as a teeth-cleaning appointment, financial advice, or the drafting of basic wills. The fundraising organization then receives either the entire revenue generated or an agreed upon portion.

1. Advantages

- a. Avoids dependence on one mode of fundraising.
- b. Breaks the cycle of over-reliance on artists' goodwill and ability to donate.
- c. Offers a fresh and perhaps sought after item to bid on, giving collectors and regular auction attendees a break from bidding only on art.

2. Disadvantages

- a. This is a new idea. Professionals are not accustomed to giving away their work for free or offering gift certificates

F. Sell raffle tickets for a particular object or group of objects. A raffle supports the established retail value of the work and saves face for all parties. It is still important to offer the artist a significant portion of the wholesale value of the work donated for a raffle.

1. Advantages

- a. Avoids dependence on one object for success.
- b. Fundraising organization receives a portion of the revenue.
- c. Raffle tickets can be sold for smaller amounts allowing more people to bid without devaluing the artwork.
- d. Purchase of a raffle ticket means you may win something of extraordinary value for a very small outlay.

2. Disadvantages

- a. Most ticket buyers receive nothing—only a few win anything.
- b. Raffle ticket purchases are not tax-deductible contributions. According to the I.R.S. “you cannot deduct as a charitable contribution amounts you pay to buy raffle tickets.” (Read I.R.S. Publication 526, Charitable Contributions.)

G. Ask artists, galleries or collectors for something other than their artwork to be auctioned off to bidders. This might include studio visits, gallery talks, lectures, cocktails at their studio or home. Another donation might be in the form of custom or commission design services. An artist might agree to donate two or three hours of design or commission time, with the agreement that the final piece, if made, will be produced by them. Any time or materials above that donated would be the responsibility of the winning bidder.

1. Advantages

- a. Promotes additional business and forges new client/artist relationships.
- b. Avoids auctioning off artwork with unpredictable bids and purchase prices that devalue the work.
- c. Educates the public at an intimate level about art.
- d. This will be a new experience for people.
- e. Amounts of the donation above the Fair Market Value are tax-deductible as long as the bid is made with the intent to make a charitable contribution.
- f. Encourages interaction between artists and patron.
- g. Establishes or engenders relationships that directly benefit all parties.

2. Disadvantages

- a. This will be a new experience for people. People may be hesitant at first to participate.
- b. May be seen, by some, as disrespectful to an artist's professionalism.
- c. May intrude upon the privacy of the artist, or the collector.
- d. Establishing Fair Market Value for the I.R.S. as a tax-deduction may be difficult.

H. A new fundraising strategy from the New Hampshire Furniture Masters Association uses their web site to attract bidders and develop visibility for art furniture. A 'patron' commissions a piece of furniture from a member of the New Hampshire Furniture Masters Association. The price is established in advance of the commission. After the furniture is completed it is shown on the web site for three months. At the organization's fall auction, if this piece of furniture is sold for a higher bid price, the artist makes another piece at the original price for the patron.

1. Advantages

- a. Avoids auctioning off artwork with unpredictable bids and purchase prices that devalue the work.
- b. Educates the public about the concept of art patronage and commissions at an intimate level.
- c. Offers visibility for members of the association.
- d. Using the web site possibly expands and educates a new audience about art furniture.

2. Disadvantages

- a. Circumvents the artist/gallery/collector relationship.
- b. Galleries lose revenue.
- c. The patron cannot immediately own their commission until several months after it is completed.
- d. A duplicate piece of furniture is made, thus, it is no longer one-of-a-kind.
- e. The portion of the purchase price above the retail value is tax deductible. The I.R.S. web site states: "If your contribution entitles you to merchandise, goods, or services, including admission to a charity ball, banquet, theatrical performance, or sporting event, you can deduct only the amount that exceeds the fair market value of the benefit received." Look on line for more information at: <http://www.irs.gov/taxtopics/tc506.html>. If you pay more than the fair market value to a qualified organization for merchandise or goods, the excess amount must be paid with the intent to make a charitable contribution.

IX. AUCTION SPONSOR'S CHECKLIST

A. Considerations before deciding to host an auction

1. **What is the purpose of this auction?**
2. **Have you investigated the impact that auctions have on the entire arts community?** Read section *II. Myths about Auctions* of this document.
3. **How frequently can auctions take place and remain effective?**
4. **How many other auctions are going on in your area each year?**
5. **How recently did you last host an auction?**
6. **Who is the right audience for bidding in the auction?**
7. **Who are the right artists to offer work in the auction?**

8. **Will the attendees of the auction be knowledgeable about the artwork?**
Are they familiar with the materials, technique, content or the artist's reputation?
9. **How will participants benefit from donating work to this auction?**
10. **Is cash, volunteered time, or other contribution more beneficial to the sponsor?**

B. Auction Preparation

1. **Will donated items sell for more than the reserve price?**
2. **What percentage of items reach full retail prices?**
3. **Is there a price range for the work that sells best?**
4. **How will the bidding be handled?** See section *XIII. F. Bidding* of this document.
5. **Will the artist be given a percent of the selling price?**
6. **How many pieces overall will be auctioned?**
7. **Who will pay for shipping including insurance to the auction?**
8. **Who will pay for return shipping including insurance for work that has not met the minimum bid/reserve price?**
9. **Is the work insured during the auction?**
10. **If a collector is donating an artist's work, there are tax consequences that may require an appraisal (from a gallery or professional in the field) and advice from an accountant.** Read page 230 in the *Legal Guide for the Visual Artist* by Tad Crawford for a brief description; see *Resources for Legal and Professional Advice* for where to get this book.
11. **Is there a contract for donating work for the auction?**

C. Increasing Visibility prior to the auction

1. **Will there be a catalog?**
 - a. Will the catalog be available before the auction?
 - b. Will the catalog be distributed to a large audience prior to the auction?
 - c. Will all work in the auction be listed in the catalog?
 - d. Which photos of auction items will be in the catalog?
2. **Will there be an Internet site for viewing work prior to the auction?**
3. **Do you have a plan for adequate marketing and advertising of the auction?**
4. **Will the work be on display for a length of time prior to the actual auction?**
 - a. Will there be a preview party of the auction items?
 - b. Will there be an exhibition of the items prior to the auction?

D. Viewing

1. **How will the work be displayed?**
Will the exhibition be professionally installed?
2. **Who is responsible for insurance and the deductible?**
3. **Will there be labels with information about the artist?**
4. **Will there be labels with each item donated indicating:**
 - a. Donor
 - b. Artist
 - c. Title of work donated
 - d. Description and/or materials
 - e. Date of work
 - f. Provenance of work
 - g. Gallery representation (if appropriate) "Courtesy of _____ Gallery"
Or "Represented by _____ Gallery"
5. **Will ALL auction attendees be able to view the work?**

6. Will the Auction sponsor have trained staff to circulate at the preview and/ or during bidding to inform bidders about the work and help try on jewelry and clothing as appropriate?

E. Auction Events

- 1. Where will the auction be held?**
- 2. Are extra events planned to increase visibility for the auction?**
- 3. Will there be a preview party?**
- 4. Will the artist and guest receive complimentary tickets for the auction?**
Or a complimentary membership to your organization, if appropriate.
- 5. What does it cost for guests to attend the auction event?**
- 6. Who will be invited to attend the auction events?** Members only? General public?
- 7. How many people are expected?**

F. Bidding

- 1. How long a time period will bidding be open?** (One month, two weeks, two hours)
- 2. Will everyone be able to bid on every piece, or is the bidding area obstructed, work poorly displayed?**
- 3. Will there be a minimum bid?** (See section *IV. Recommendations of the Professional Guidelines Committee* for establishing reserve prices.)
- 4. Is there a reserve price for each item?**
- 5. Is this a silent auction?**
- 6. Will there be a live auction?**
- 7. Will bidding be accepted on-line or by phone?**

G. Follow-Up after the Auction

- 1. Send the name and complete address of the winning bidder of each piece to the artist and/or gallery that represents the work.**
- 2. Send the name and complete address of the second bidders or other interested bidders of each piece to the artist or gallery.**
- 3. If an artist's work does not sell, how will it be returned to the donor (artist or gallery)?**
- 4. Make sure you've made arrangements for getting unsold work back in a timely fashion.** In fact, having a contract or an agreement with the donor, in writing, that spells out all the details, particularly the financial ones, is highly recommended as misunderstandings can and often do occur.

SNAG Professional Guidelines Committee
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DISCLAIMER

THE SOCIETY OF NORTH AMERICAN GOLDSMITHS AND THE COPYRIGHT OWNER HAVE PREPARED THE FOLLOWING MATERIALS AS AN INFORMATIONAL AID TO EDUCATE THE READER ABOUT COMMON SITUATIONS THAT GENERALLY ARISE IN THE ARTS AND CRAFTS FIELD. THESE MATERIALS, INCLUDING ALL SAMPLE AGREEMENTS, CANNOT AND DO NOT ADDRESS ALL OF THE LEGAL ISSUES THAT MAY BE PERTINENT TO ANY INDIVIDUAL CIRCUMSTANCE. THE READER SHOULD NOT ASSUME THAT THE INFORMATION CONTAINED HEREIN WILL SATISFY ALL OF THEIR NEEDS. LAWS VARY FROM STATE TO STATE, AND THESE MATERIALS ARE NOT A SUBSTITUTE FOR OBTAINING LEGAL ADVICE FROM A LICENSED ATTORNEY IN YOUR STATE. THE READER IS ENCOURAGED TO SEEK SUCH LEGAL ADVICE PRIOR TO USE OF THESE MATERIALS. SNAG AND THE COPYRIGHT OWNER DISCLAIM ANY RESPONSIBILITY FOR ANY AND ALL LOSSES, DAMAGE, OR CAUSES OF ACTION THAT MAY ARISE OR BE CONNECTED WITH THE USE OF THESE MATERIALS AND/OR FORMS.

APPENDIX

THE FOLLOWING TAX INFORMATION IS TAKEN DIRECTLY FROM THE I.R.S. WEB SITE for the reader's convenience. NO INTERPRETATION OF THE TEXT HAS BEEN MADE BY THE PROFESSIONAL GUIDELINES.

Written Statement for tax-deductible contributions. A qualified organization must give a donor a written statement for a payment that is **more than \$75** and is partly a contribution and partly for goods or services. The statement must say that the donor can deduct only the amount of payment that is more than the value of the goods or services received. It must also give a good faith estimate of the value of those goods or services. The organization may give the statement either when it solicits or when it receives the payment. (Read I.R.S. Publication 526, Charitable Contributions)

When a donation exceeds \$75, the charitable organization must furnish a disclosure statement to the donor, even though the deductible amount does not exceed \$75.

A required written disclosure statement must:

- inform a donor that the amount of the contribution that is deductible for federal income tax purposes is limited to the excess of money (and the fair market value of property other than money) contributed by the donor over the value of goods or services provided by the organization
- provide a donor with a good-faith estimate of the fair market value of the goods or services

Read I.R.S. Publications 1771, Charitable Contributions

Publication 1771, Charitable Contributions—Substantiation and Disclosure Requirements, explains the federal tax law for organizations such as charities and churches that receive tax-deductible charitable contributions and for taxpayers who make contributions. There are two general rules that organizations need to be aware of to meet substantiation and disclosure requirements for federal income tax return reporting purposes:

- a donor is responsible for obtaining a **written acknowledgment** from a charity for any single contribution of \$250 or more before the donor can claim a charitable contribution on his/her federal income tax return
- a charitable organization is required to provide a **written disclosure** to a donor who receives goods or services in exchange for a single payment in excess of \$75. More on written acknowledgments and written disclosures is addressed in Publication 1771.

For information about organizations that are qualified to receive charitable contributions, see IRS Publication 526, *Charitable Contributions*. Publication 526 also describes contributions you can (and cannot) deduct, and it explains deduction limits. For assistance about valuing donated property, see IRS Publication 561, *Determining the Value of Donated Property*.

Examples of Written Acknowledgments

- “Thank you for your cash contribution of \$300 that (organization’s name) received on December 12, 2001. No goods or services were provided in exchange for your contribution.”
- “Thank you for your cash contribution of \$350 that (organization’s name) received on May 6, 2001. In exchange for your contribution, we gave you a cookbook with an estimated fair market value of \$60.”

- “Thank you for your contribution of a used oak baby crib and matching dresser that (organization’s name) charity received on March 15, 2001.No goods or services were provided in exchange for your contribution.”

The following is an example of a written acknowledgment where a charity accepts contributions in the name of one of its activities:

- “Thank you for your contribution of \$450 to (organization’s name) made in the name of its *Special Relief Fund* program. No goods or services were provided in exchange for your contribution.”

Written Acknowledgment

Requirement

A donor cannot claim a tax deduction for any single contribution of \$250 or more unless the donor obtains a contemporaneous, written acknowledgment of the contribution from the recipient organization. An organization that does not acknowledge a contribution incurs no penalty; but, without a written acknowledgment, the donor cannot claim the tax education. Although it is a donor’s responsibility to obtain a written acknowledgment, an organization

can assist a donor by providing a timely, written statement containing the following information:

- 1.name of organization
- 2.amount of cash contribution
- 3.description (but not the value) of non-cash contribution
- 4.statement that no goods or services were provided by the organization in return for the contribution, if that was the case
- 5.description and good faith estimate of the value of goods or services, if any, that an organization provided in return for the contribution
- 6.statement that goods or services, if any, that an organization provided in return for the contribution consisted entirely of intangible religious benefits (described later in this publication), if that was the case

It is not necessary to include either the donor’s social

security number or tax identification number on the acknowledgment. A separate acknowledgment may be provided for each single contribution of \$250 or more, or one acknowledgment, such as an annual summary, may be used to substantiate several single contributions of \$250 or more. There are no IRS forms for the acknowledgment. Letters, postcards, or computer-generated forms with the above information are acceptable. An organization can provide either a paper copy of the acknowledgment to the donor, or an organization can provide the acknowledgment electronically, such as via an e-mail addressed to the donor. A donor should not attach the acknowledgment to his or her individual income tax return, but must retain it to substantiate the contribution. Separate contributions of less than \$250 will not be aggregated. An example of this could be weekly offerings to a donor’s church of less than \$250, even though the donor’s annual total contributions are \$250 or more.

Written Disclosure

Requirement

A donor may only take a contribution deduction to the extent that his/her contribution exceeds the fair market value of the goods or services the donor receives in return for the contribution; therefore, donors need to know the value of the goods or services. An organization must provide a written disclosure statement to a donor who makes a payment exceeding \$75 partly as a contribution and partly for goods and services provided by the organization. A contribution made by a donor in exchange for goods or services is known as a *quid pro quo* contribution.

Example of a *quid pro quo* contribution: A donor gives a charitable organization \$100 in exchange for a concert ticket with a fair market value of \$40. In this example, the donor's tax deduction may not exceed \$60. Because the donor's payment (*quid pro quo* contribution)

Further Information

written acknowledgment — Detailed rules for contemporaneous written acknowledgments are contained in Section 170(f)(8) of the Internal Revenue Code and Section 1.170A-13(f) of the Income Tax Regulations. The “low-cost article” rules are set forth in Section 513(h)(2) of the Code. This information can be found on the IRS Web site at www.irs.gov.

written disclosure—Detailed rules for written disclosure statements are contained in Section 6115 of the Internal Revenue Code and Section 1.6115-1 of the Income Tax Regulations. The penalty rules are contained in Section 6714 of the Code. This information can be found on the IRS Web site at www.irs.gov.

IRS publications — Order publications by calling the IRS at (800) 829-3676. Download IRS publications at www.irs.gov.

IRS customer service – Telephone assistance for general tax information is available by calling IRS customer service toll-free at (800) 829-1040.

EO customer service – Telephone assistance specific to exempt organizations is available by calling IRS Exempt Organizations Customer Account Services toll-free at (877) 829-5500.

EO Web site – Visit Exempt Organizations Web site at www.irs.gov/eo.