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Canada

Certification of Cultural Property for Income Tax Purposes by the

Canadian Cultural Property Export Review Board

Application Guide and Supplementary Information

May 2015

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Certification of Cultural Property for Income-Tax Purposes:
Application Guide and Supplementary Information

May 2015

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CHANGES IN THIS EDITION

May 2015

This edition incorporates material previously published separately on the Review Board's website.

The following sections have been modified or updated in this edition:

Guide to Preparing Applications for Certification

- Introduction
- eSubmission now available
- Deadlines

Section 4: Description of Cultural Property

- Describing Works of Art and Other Objects: Dimensions
- Describing Works of Art and Other Objects: Purchase Price
- Describing Archival Material

Section 8: Type of Disposition and Estimated Fair Market Value (FMV)

- Policy on Monetary Appraisals: Number of Appraisals for Donations
- Format for Monetary Appraisals: Purchase Price

Section 9: Signature of Application

- CCPERB Privacy Statement

Supplementary Information

- Deaccessioning Certified Cultural Property

Contact Us

- New email address

GUIDE TO PREPARING APPLICATIONS FOR CERTIFICATION

Introduction
To enable the Canadian Cultural Property Export Review Board (Review Board) to assess the significance and estimated fair market value of cultural property donated/sold or proposed for donation/sale to designated institutions and public authorities, a completed application form with checklist and related attachments must be provided. This guide provides instructions on the information required.

The following sections correspond to the ten sections that appear on the Application & Checklist for Certification of Cultural Property for Income Tax Purposes. In specific cases where the requirements below may not apply, or where circumstances merit a departure from these requirements, the applicant institution can consult the Review Board Secretariat in advance of preparing the application.

ESUBMISSION IS NOW AVAILABLE
Applying for certification is now easier than ever

eSubmission is a secure, web-based system for applying for the certification of cultural property electronically. Launched in December 2012, the system was developed to simplify the certification process by minimizing paperwork and processing delays. Virtually all required information and supporting documentation can now be submitted online at the click of a button. The Review Board Secretariat will continue to accept paper applications, but applications submitted electronically can typically be processed more efficiently.

A detailed user guide with step-by-step instructions on how to prepare and submit an application in eSubmission is now available. To register for an account or to learn more, please visit the eSubmission page of the CCPERB website.

ONLY COMPLETE SUBMISSIONS ACCEPTED
Application Form, Checklist, and all Supporting Documentation

For paper applications, the application form, checklist, and all accompanying documentation must be typewritten. Handwritten or partially handwritten documents will not be accepted for review. Supporting documentation must be provided with 2.5 cm (1 inch) margins. All information required for an application for certification must be submitted together by the designated institution or public authority, otherwise it will be considered incomplete and returned to the institution.

Deadlines
New applications, requests for redetermination, and supplementary information for applications on hold are all subject to the same deadline.

Deadlines are published online at www.pch.gc.ca/ccperb

Applications submitted electronically will be reviewed by the Secretariat if received before 11:59 p.m. on the deadline date.

Paper applications will be reviewed by the Secretariat if postmarked no later than the deadline date.

Note: that an application is received before a meeting deadline does not guarantee that it will be considered by the Review Board at that meeting. Even when they are complete, complex applications may require additional processing time before they can be presented to the Review Board. Applicants will be notified ahead of time if additional information is required or in the event of any processing delays.

SECTION 1: RECIPIENT INSTITUTION OR PUBLIC AUTHORITY

Name & address
Indicate the public name and mailing address of the institution or public authority.

Person in charge
Provide the name, salutation, title, telephone number, and email address of the person directing the institution and whose signature appears on the application form.

Contact person
Provide the name, salutation, title, telephone number and email address of the person who prepared the application for certification and who may be contacted if clarification is required.

SECTION 2: DESIGNATION OF INSTITUTION OR PUBLIC AUTHORITY

An institution or public authority must be designated under the *Cultural Property Export and Import Act* at the time of disposition and at the time that an application for certification is presented to the Review Board.

Check the appropriate box to identify your organization as Category A or Category B and provide the effective date of designation. If you are uncertain about the designation status of your institution, the group(s) of objects for which your institution is designated, and/or the effective date of designation, please visit the website of the Movable Cultural Property program.

SECTION 3: DONOR OR VENDOR

Salutation
To ensure correct salutations in future correspondence with donors and vendors, please preface the name of the donor/vendor with the appropriate salutation, e.g. Mr., Ms., Mrs., Dr., etc.

Name
If the donor/vendor is a company, please provide the name, title, and telephone number of the addressee in whose care the Cultural Property Income Tax Certificate (T871) should be issued.

Language
Check the appropriate box to indicate the official language in which correspondence should be sent to the donor/vendor.

More than One Donor/Vendor
If more than one donor/vendor has signed the disposition agreement, the name, salutation, address, and telephone number of each donor/vendor must be included with the application on an attached list. Each donor/vendor must sign the disposition agreement or comparable document. In such cases, when the Review Board makes its determination of fair market value and the object has been irrevocably disposed of to the designated institution/public authority, one original T871 will be issued, citing the name of each of the donors/vendors. One of the donors/vendors will receive the original signed tax certificate while each of the others will receive a copy stamped “Donor or Vendor Copy”.

More than One Object
Where more than one object is disposed of on the same date by the same donor/vendor, submit only one application. If the disposition consists of a very large collection of diverse objects, please consult the Secretariat in advance to discuss the most efficient way of presenting the application.

Legal Title
For complete or proposed donations or sales, please attach written confirmation from the donor or vendor that establishes that, at the time of making or proposing the disposition, the donor or vendor holds free and clear title to the cultural property and is legally entitled to make or propose the disposition.

When disposition is complete, legal title can be confirmed in the disposition agreement. In certain cases, the Review Board may deem it necessary to request additional documentation.

Disposition Agreement (Deed of Gift or Sale)
Pursuant to section 33(1) of the *Cultural Property Export and Import Act*, in order for a Cultural Property Income Tax Certificate (T871) to be issued, an irrevocable disposition must be made. The recipient institution must therefore provide a copy of the disposition agreement or comparable documentation, signed and dated by the donor/vendor and recipient institution, which establishes an irrevocable disposition. A clear description of the cultural property must be included as part of the disposition agreement. The certification process is facilitated when disposition agreements are free of conditions, particularly those relating to monetary value.

Disposition agreements that contain a “Right to Borrow” clause are not eligible for certification by the Review Board, since they do not meet the requirement to irrevocably dispose of cultural property.

The date of disposition appears on all T871s issued to donors/vendors of certified cultural property. This date is generally determined by the date of the most recent signature on the disposition agreement, or comparable document, as signed by an official of the designated institution and the donor/vendor. For example, if a donor signed the deed of gift on December 15, 2007, and the institution signed it on March 15, 2008, the date of disposition is deemed to be March 15, 2008. This more recent date would appear on the T871, meaning that for a living person, the tax benefits available to the donor/vendor are applicable to the 2008 tax year and the five following years.

Disposition Completed/Proposed
Check the appropriate box to indicate whether the donation/sale is completed or proposed. If the donation/sale has already been made, indicate the date of disposition on the application form and include a copy of the deed of gift/purchase agreement with your application.

For donations/sales that are proposed at the time the application is submitted, institutions are advised to provide the Secretariat with a copy of the deed of gift/purchase agreement as soon as it is signed and, where possible, before the determination by the Review Board is made. This enables the Secretariat to issue the T871 directly, and therefore more quickly, to the donor/vendor.

Tax-Shelter Gifting Arrangement
Check the appropriate box to indicate whether the disposition is a tax-shelter gifting arrangement. If this is the case, provide the tax-shelter identification number.

SECTION 4: DESCRIPTION OF CULTURAL PROPERTY

Summary Description
Provide a summary description of the object(s) in the space provided in Section 4 of the application form. The summary description should refer to the object(s), medium, date(s) of creation, creator(s), acquisition method and range of acquisition dates by the donor/vendor.

Examples of Summary Descriptions:

e.g. 5 lithographs, 1967, ed. 75, each 30” x 45”, by Jean-Paul Riopelle
Purchased at auction by the donor in 1970

e.g. Collection of 539 objects of Canadiana, 1875 - 1920: 350 ceramic objects, 65 wooden domestic tools, 82 rugs, 12 armoires, 6 tables, and 24 chairs.
Inherited by the donor in 1997

e.g. 20 paintings and 5 works on paper, 1970 - 1985, by Paterson Ewen
Acquired by the donor through gifts from the artist between 1972 and 2000

e.g. Collection of 24 works of art in various media by various artists, 1970 - 1990
Purchased by donor between 1970 and 2000

e.g. 9 works of art by various artists:
2 colour lithographs, each 1960, ed. 3/14 & 5/14, by Albert Dumouchel
1 serigraph, 1975, ed. 4/30, by Jacques Hurtubise
6 engravings, 1975 - 1981, various edition numbers, by Fernand Toupin
Purchased by donor in 2007; total purchase price = $12,000

e.g. The John Doe Fonds, 1962 - 2000, consisting of 10.87 metres of textual records, 105 b/w photographs, 5 audio-cassettes, documenting his career as a non-fiction author.
Donor = Creator

e.g. Melrose Place Inc. Fonds, 1994 - 2005, consisting of 1,903 video elements, 113 audio elements, 13,580 photos and 5.15 metres of textual material representing 27 of the company's titles.

Full Description of Each Object
Attach a full description of each object to be certified in accordance to one of the protocols below:

- Describing Works of Art and Other Objects
- Describing Archival Material
- Describing and Selecting Audiovisual and Electronic Resources

In some cases, more than one description protocol may be applicable, e.g. an archival fonds that includes works of art. If any of these protocols does not appear to be specific enough to the objects you wish to have certified, please consult the Review Board Secretariat in advance of preparing your application.

Please provide all descriptive information to the monetary appraiser(s) engaged so that the information is consistent with that presented in the application and so that factors such as condition, provenance, and retention decisions (for archival material) can be taken into consideration in the estimation of fair market value.

DESCRIBING WORKS OF ART AND OTHER OBJECTS

The following descriptive information must be provided, where applicable, for each work of art or other object for which certification is being requested. Please follow the format in the examples at the end of this section as closely as possible. In cases where the application for certification contains over five objects, please present this information in an Excel chart (or similar format) and use the chart as a basis for summarizing the estimated values of each appraiser.

Maker
Provide the full name of the maker. Where the maker is known by more than one name, indicate each name and identify by which name the maker is recognized in current scholarship, e.g. Antonio Maria Zanetti, better known as Zanetti the Elder; Balthasar Klossowski de Rola, better known as Balthus; Sir Walter Hardy, better known as Cecil Beaton. Where the maker is unknown or anonymous, indicate wherever possible whether the object is, for example, "attributed to", "after", or "from the School of" a particular maker or genre. In some cases, the maker may be a corporation, e.g. Hudson's Bay Company.

Nationality of Maker
Indicate the nationality, in brackets, after the Maker's name, e.g. William Ronald (Canadian). If the maker has more than one nationality, indicate the nationality at birth followed by the most recent nationality, e.g. Paul Kane (Irish/Canadian).

Maker's Birth and Death Dates
Provide the year of birth of the maker and, where applicable, the year of death, after the nationality, e.g. Paul Kane (Irish/Canadian, 1810-1871).

Title of Object
Cite the title of the object that was given by the maker, wherever possible, e.g. *Untitled (Here We Go Again).* Where a title has not been provided by the maker, as is often the case for objects that are not works of art, provide a title that would correspond to how it would be cited on a display label, e.g. *Alexandrite Ring*; *Set of 8 Medals Awarded to Billy Bishop*.

Date(s) of Creation
Provide the year in which the object(s) was created directly after the title, e.g. *Untitled (Here We Go Again),* 1961. If the object(s) was created over several years, provide the year of commencement and the year of completion, e.g. 1900 – 1950; 1200 – 1300. In cases where the date of creation may be unknown, every effort should be made to establish an approximate creation date, indicated by circa (ca.), that can be justified, e.g. ca. 1840.

For photographs, indicate the date the photograph was taken and when the photograph was printed. When the printing year is unknown, specify wherever possible when the negative was made.

Medium and/or Support
Indicate the medium and support of each object as specifically as possible, e.g. oil and pencil on paper mounted on canvas.

Size and Number of Edition
If the object is part of an edition, which is often the case for prints, photographs, sculptures and video art, indicate the size of the edition and the number associated with the work, e.g. a print with an edition number of 14/50, where 14 refers to the 14th print pulled in an edition of 50. In some cases, where the work may be pulled outside the edition number, indicate if the object is an artist's proof, trial proof, hors commerce, or any other designation relating to the edition of the

object. In some cases, an edition may be open, and this should be indicated. In addition, indicate cases where a work was pulled posthumously and provide supporting documentation to demonstrate the authenticity of the work, e.g. a Rodin bronze that was cast after his death.

Dimensions
Provide consistent dimensions for each object in centimetres and/or inches (height x width x depth). For photographs and prints, provide inside and outside dimensions. If only one dimension standard is used, ensure that the same standard is applied throughout the application for certification and monetary appraisal(s).

Condition
Condition may affect whether objects meet the criteria of "outstanding significance and national importance" as well as their fair market value. Where an object has not undergone conservation, and only minor conservation is required, such as surface cleaning, please include a brief condition statement as part of the description (see samples below). Single word references to condition will NOT be accepted. If a work is stated to be of "excellent", "very good", "good" or "poor" condition, for example, please define what these terms mean for the recipient institution/public authority and provide relevant details in relation to the object to support that definition.

In cases where the object has undergone conservation treatment, or where conservation treatment is required, a full condition report prepared, dated and signed by a conservator must be provided to assess the degree to which the original intent of the maker has been, or will be, safeguarded.

For collections of objects, a general report may be provided about the condition of the objects in the collection. A detailed condition report prepared and signed by a conservator must still be provided for any objects in the collection that may have condition issues.

Signature and/or Inscriptions
Indicate whether the object is signed and/or inscribed, the placement of signature/inscription and how it is signed/inscribed.

Bibliography
Cite references to articles in catalogues, newspapers, magazines <u>only</u> in cases where the object to be certified has been cited. DO NOT provide copies of such articles, CVs, etc. unless specifically requested.

Exhibitions
Cite any exhibitions in which the object has been included. Indicate the title of the exhibition, where the exhibition was held, and the exhibition dates. DO NOT provide supporting literature, unless specifically requested to do so.

Catalogue Raisonné (for works of art)
If a catalogue raisonné has been compiled on an artist, indicate whether the work is included in the catalogue and, if so, cite the catalogue reference. DO NOT provide supporting documentation, unless specifically asked to do so.

Provenance
Ownership history (provenance, including dates of transfer) may be relevant to establishing the authenticity, "outstanding significance and national importance" and/or fair market value of an object.

The applicant is required to provide the most complete provenance information possible, from the date of creation to the present, which includes the names of previous owners and the respective dates of ownership. If ownership is corporate, please provide the name(s) of the principals.

Incomplete provenance: In cases where it is impossible to establish complete ownership history, please provide the following:

- a written statement from the donor/vendor attesting that the property was acquired legally;
- a detailed description of the efforts that have been made to exercise diligence in bridging the gaps in the history of ownership of the property and, in the case of collections, the provenance of each component of the collection.

Property originating outside Canada: For controlled cultural property originating in countries which are signatories of the 1970 *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*. Please provide the date of entry into Canada and a declaration confirming the provenance of the object(s). A list of signatories to the 1970 UNESCO Convention may be found online.

Purchase Price
Information concerning date of purchase and purchase price, including any price adjustment arrangement, is required in all applications for certification. The donor's purchase price, or information that the donor has about the most recent purchase price, may be relevant to determinations of fair market value. This information must be provided to the monetary appraiser(s) for inclusion and consideration in the appraisal assignment. When determining the fair market value of cultural property, the Canadian Cultural Property Export Review Board (CCPERB) will, on a case by case basis, consider how much weight to give to information provided about purchase price.

Where purchase price is not available, the applicant must provide an explanation as to why.

Title of JPEG image
Please include the title of the corresponding JPEG image with the description of the object. Refer to the Protocol for Digital Images for presenting images of the objects for which certification is being requested.

Examples of Descriptions of Works of Art and Other Objects:

e.g. **Work of Art**

Attributed to Gugliemo Borremans, called Gugliemo Fimingo (Flemish/Italian, 1688-1737).

Christ and Virgin, ca. 1700
chalk, pen and brown ink on beige laid paper
12" h x 9" w (30.48 cm x 22.86 cm)

Provenance: 1995 – 2009: Luc Robert, the donor, purchased at Sotheby's London, May 25, 1995 (Lot #301) for £25,000 GBP, including premium; 1995: Estate of Robert Stanton; 1945 – 1995: Robert Stanton, purchased from Duveen Brothers, Inc., London, England; 1930 – 1945: Duveen Brothers, Inc., London, England for £5,225 GBP, purchased from the estate of 14th Earl of Worcestershire; 1765 – 1930: Earls of Worcestershire, by descent; 1745 – 1765: 9th Earl of Worcestershire, purchased from Guido Rinaldi, Venice; ca. 1740: Guido Rinaldi, acquired from the artist (no other sales information available).

Condition: Fair, as per attached condition report signed by Sarah Goodall, Conservator

Title of JPEG image: borremans_virgin.jpg

e.g. **Furniture**

Unknown Korean maker
Double Chest on Stand, 1872
inlaid and lacquered chests (Jugaie Nong)
51.5” (130.8 cm) high x 55.0” (139.7cm) wide x 12.0” (30.5cm) deep

Provenance: 1992 – 2008: Sandra Im, the donor, purchased at Christie’s Toronto, April 22, 1992 (Lot 88) for $10,000 CAN, including buyer’s premium; 1992: Estate of John Rosenberg; 1948 – 1992: John Rosenberg, purchased from Kingston Antiques, Toronto; 1945 – 1948: Kingston Antiques, Toronto, purchased from the estate of Kim Suu Kyung; 1880 (?) – 1945: Kim Suu Kyung, by descent.

Condition: Stable and exhibitable condition; some bleaching and minor scratches; legs are secure; wood surfaces are dusty, especially in carved areas; surface cleaning to be undertaken; no conservation required.

Title of JPEG image: double_chest.jpg

e.g. **Jewellery**

Cartier
Eternity Ring, 1950
Lady’s handmade white gold eternity style ring with 9 emerald cut diamonds, 18 straight baguette cut diamonds, inner ring fitted with 2 18K yellow narrow bands
Weight: 10.77 grams

Provenance: 2009: Helen Davidson, the donor, purchased at Sotheby’s Toronto, April 23, 2009 (Lot 89) for $17,500 CAN including buyer’s premium; 2009: Estate of Jane Jamieson; 1950 – 2009: Jane Jamieson, purchased at Cartier, New York.

Condition: Excellent, as per attached condition report signed by Victor Lum, Lum Estate Jewellery

Title of JPEG image: cartier1950.jpg

e.g. **Book Collection**

Macdonald Book Collection, 1854 – 1942, consisting of 98 philosophy books (total of 110 volumes) by various authors.

Provenance: purchased by donor from various Canadian book dealers and international auction houses, ca. 1980. See attached copies of sales transactions documents.

Condition: Very good; a small number of books with paper covers may require protective cases; some books have been rebound; no other conservation treatments necessary.

Title of JPEG image: macdonald_collection.jpg

DESCRIBING ARCHIVAL MATERIAL

For the purposes of tax certification, archival material refers to fonds, archives, or collections that contain any of the following: textual records, graphic materials, cartographic materials, architectural and technical drawings, moving images, sound recordings, records in electronic format, records on microform, philatelic records, related discrete objects.

For archival material comprised primarily of ***Audiovisual Material and/or Electronic Resources***, consult the text boxes below for further instructions on preparing an application for tax certification.

For the purposes of tax certification:

Audiovisual Material means **film/video**, **animation**, **television**, **radio/sound recordings** that embody, contain or carry reproducible sound and/or images, whether moving or still, including analogue and digital formats.

Electronic Resources means electronic data, encompassing analogue and digital information formats, available by remote access and direct access (fixed media) and refers to any work encoded and made available for access electronically.

Archival material should be described in accordance with prevailing archival practice using standards appropriate to the type of material. The Canadian standards, entitled ***Rules for Archival Description*** **(RAD)** are produced by the Canadian Council of Archives (CCA) and may be downloaded from the CCA website at: http://www.cdncouncilarchives.ca/public.html. The CCA may also be contacted directly by telephone at 613-565-1222, toll free at 1-866-254-1403, by fax at 613-565-5445, or by email at cca@archivescanada.ca.

As a minimum, for a tax certification application, the following descriptive information should be provided for archival material. This information should be provided to each monetary appraiser to ensure that the valuations submitted with an application are consistent as to the material appraised and presented for tax certification. Where full descriptive information has not been provided, delays could result in the processing of the application for tax certification. In specific cases, the applicant may be asked for further information beyond these minimum criteria, as deemed necessary.

Maker
Provide the full name of the person or corporation that created the archival material. Where the maker is known by more than one name, indicate each name and identify by which name the maker is recognized in current literature. In some cases, the maker may be a corporation, e.g. Hudson's Bay Company.

In the case of ***Audiovisual Material and Electronic Resources***, provide the full name of the production company, broadcaster, corporate body or individual responsible for creating the material.

Nationality of Maker
Indicate the nationality in brackets after the maker's name, e.g. Farley Mowat (Canadian). If the maker has more than one nationality, indicate the nationality at birth and the most recent nationality, e.g. Nam June Paik (Korean/American).

Maker's Birth and Death Dates
Provide the year of birth of the maker and, where applicable, the year of death, after the nationality, e.g. Nam June Paik (Korean/American, 1932-2006).

Title and Extent
Provide a summary title of the contents of the archival material, and a summary description in terms of the type of material and the extent of each type, e.g. *Canadiana Collection*, consisting of 12 meters of approximately 128 groups of material on general Canadiana, Eastern Townships, fur trade, Seigniory of Hertel de Rouville, New France and Viger family.

For ***Audiovisual Material and Electronic Resources*,** provide a summary title of the contents of the archival material, and a summary description in terms of the type of material and the extent of each type, e.g. *ABC Production Company Ltd. Fonds,* 1993-2003, consisting of 6,732 video recordings, 144 audio recordings, approx. 135 linear m. of textual material and 4,968 photographic images related to the creative, production and business records of this TV production company; or XYZ Polling Company Database, consisting of 7 quarterly public opinion surveys on environmental and social issues, 1945 – 1970, totalling 2.56 MB of data.

Date(s) of Creation
Provide the span of time covered by the archival material directly after the title, e.g. *Canadiana Collection*, 1867 – 1921. In cases where the dates of creation may be unknown, provide an approximate creation date that can be justified, e.g. 1870 – ca. 1921.

Accrual
Indicate whether the archival material is an accrual to an existing fonds, archive or collection or represents a complete fonds, archive or collection. If an accrual, specify if it is the first accrual or a new accrual and whether or not future accruals to the same fonds, archive or collection are anticipated. Explain the extent to which the material represents the whole or a portion of the activities of the maker.

Product
For ***Audiovisual Material and Electronic Resources***, specify the product in terms of film/video, animation, television, radio/sound recording, electronic resources and indicate the type for each as set out in the Technical Specifications in Annexes I - V.

Provenance (history of ownership, including the dates of transfer)
Ownership history (provenance) may be relevant to establishing the authenticity, "outstanding significance and national importance" and/or fair market value of the archival material.

The applicant should therefore provide the most complete provenance information possible, from the date of creation to the present, which includes the names of the previous owners and the respective dates of ownership. If ownership is held by a corporate body, provide the name(s) of the principals.

<u>Incomplete provenance</u>: In cases where it is impossible to establish complete ownership history, provide the following:

- a written, signed and dated statement from the donor/vendor certifying that the property was acquired legally;
- a detailed description of the efforts that have been made to exercise diligence in bridging the gaps in the history of ownership.

Condition Report
Condition may affect whether a fonds, archive or collection meets the criteria of "outstanding significance and national importance" as well as the fair market value. Where material within the fonds, archive or collection has not undergone conservation, and only minor conservation is required, such as surface cleaning, include a general condition statement as part of the description. If "excellent", "very good", "good" or "poor", for example, is used to describe the general condition, provide an explanation in support of that description.

In cases where archival material has undergone or requires conservation treatment, a full condition report prepared, dated and signed by a conservator should be provided.

Archival Assessment
To ensure that the Review Board deliberates only on the archival material that the organization has made a commitment to preserve over the long term, the recipient organization should include a comprehensive archival assessment (sometimes referred to as an archival appraisal report) with the application for certification. This document should outline when, how, and by whom the archival assessment was conducted and include a summary of the author's qualifications—maximum 100 words—as they relate to the archival material being acquired. The archival assessment should be completed prior to obtaining a monetary appraisal and prior to presenting an application for certification to the Review Board, so that the appraisers and the Review Board are fully aware of all material being presented for certification.

The following should be addressed in the archival assessment:

- Is there any duplicate archival material either within the current accrual or with previous accruals or other material already in the organization's collection? If so, explain why the duplicates should be certified.
- What criteria were used for selecting the archival material to be presented for tax certification and what proportion of the complete fonds, archives or collection (or accrual) is being presented for certification? Provide a summary of the archival material not retained or not submitted for certification.
- Outline the scope and content of the fonds, archive or collection, identify the archival material the organization will retain permanently, and provide a rationale for retention.
- How reliable is the selected material for researchers, either in a single subject area or across a broad research field?
- Identify any access restrictions.

In addition, the following should be addressed in the archival assessment for ***Audiovisual Material and Electronic Resources***:

- Describe the scope and content of the fonds, archive or collection (or accrual) being retained in terms of the Technical Specifications in Annexes I – V and provide a rationale for retention of the selected material;
- What technical equipment is available to replay/access/read the archival material being collected and, if the equipment is not available, what migration strategy is in place for the presentation, access and long-term preservation of the material?

Finding Aids
For archival material, the organization should provide a finding aid with the application for certification to each monetary appraiser that clearly reflects the material being retained as the result of its archival assessment exercise. Given the significant extent of some fonds, archives or collections, sufficient detail should be provided to assist the appraisers and the Review Board in fulfilling their respective roles. In some cases, a finding aid provided by the donor/vendor may

be comprehensive and accurate enough for the organization to endorse and use as its own. If such is the case, the organization should demonstrate that the contents of the donation are precisely reflected in the finding aid. Where all the archival material retained by the organization is being appraised but not all is being submitted for certification, the appraisals will need to clearly identify the estimated value of only the portion of material being presented for certification.

Finding Aids for ***Audiovisual Material and Electronic Resources*** should also include the following:

- individual titles or categories of titles including the extent and format of all material relating to each title. In the case of very large collections, grouping titles into logical categories is acceptable;
- extent/descriptive unit for each title or categories of titles: including quantity of archival material, running time and length (as precisely as possible);
- the archival material clearly identified in accordance with the Technical Specifications in Annexes I – V.

Animation Art

Where a select number of animation cels are being acquired as works of art, refer to Describing Works of Art and Other Objects in Section 4 of this Guide, or consult the Secretariat.

Annex I

<table>
<tr><th colspan="2">FILM / VIDEO
Technical Specifications</th></tr>
<tr><th>Identify Type such as:</th><th>Describe Selected Content in Terms of the following, including the corresponding Format(s):</th></tr>
<tr><td>Documentary</td><td rowspan="5">• Masters and sub-masters, duplicate negatives and/or elements that complete the first expression or digital equivalents
• Intermediate production elements (i.e. cutting copies, intermediate editing, unsynchronized tracks, premixes and other materials) or digital equivalents
• Raw footage
• Outs
• Release prints and other distribution formats
• Final mixes and international tracks
• Optical sound negatives
• Stock footage
• Textual material (e.g. transcripts, scripts)
• Other</td></tr>
<tr><td>Corporate</td></tr>
<tr><td>Fiction</td></tr>
<tr><td rowspan="2">Other</td></tr>
<tr><td>Examples of Film Formats:
• 70 mm
• 35mm
• 28mm
• 16mm
• Super 8mm
• 8mm
• Other

Examples of Video Formats:
• 2” Quad
• Betacam SP
• Digital Betacam
• DV
• U-Matic ¾-inch cassette
• 8mm
• XD Cam HD
• Other high-definition formats
• VHS
• DVD
• Other</td></tr>
</table>

ANIMATION **Technical Specifications**		
Identify Type such as:	**Describe Scope of Selection:**	**Describe Selected Content in Terms of the following:**
Variety / Entertainment / Ads Other	• Number of programs • Partial/entire series • Selected weeks of a season • Alternating broadcast days • Selected specials • Sampling of other programs spread over the season • Other	• Handpainted limited edition cels • Sericels • Character model cels • Production cels: Grade (A, B, C,) Full image setups or Subject image setups Character (major or secondary) Background size (12 field, 16 field or larger) • Background Paintings: Key Backgrounds Preliminary Backgrounds Laser backgrounds Background 12 field Pan background (16 field or larger) • Layout drawings (includes character layouts and background layouts) • Pencil drawings used to create a cel (i.e., animator's pencil drawing) • Rough animation drawing: Key drawings Break-Downs Inbetweens Cleanups or Finished drawing • Key master set-ups • Model sheets • Storyboards • Textual materials • Design (building character library) • Voice recordings • Animatics • Modeling and rigging (3D) • Blocking shots – camera / animation (3D) • Animation and backgrounds • Animation and compositing • Compositing, editing and post production • Concept art • Title cards • Production folder • Textual material (e.g., transcripts) • Other

TELEVISION **Technical Specifications**		
Identify Type such as:	**Describe Scope of Selection:**	**Describe Selected Content in Terms of the following, including the corresponding Format(s):**
Documentary series or single programs Fiction series (weekly) Fiction series (daily) Variety / Entertainment / Performing arts programs Lifestyle programs Reality programs News programs Public affairs programs Interview programs Instructional series/programs Other	• Number of programs • Partial/entire series • Selected weeks of a season • Alternating broadcast days • Selected specials • Sampling of other programs spread over the season • Other	• Masters, submasters and/or elements that complete the first expression • Intermediate production elements (i.e. cutting copies, intermediate editing, unsynchronized tracks, premixes and other materials) • Preservation and viewing copies • Final mixes and international tracks • Raw footage • Textual material (e.g., scripts) • Other **Examples of Television Film Formats:** • 70 mm • 35mm • 28mm • 16mm • Super 8mm • 8mm • Other **Examples of Television Video Formats:** • 2” Quad • Betacam SP • Digital Betacam • DV • U-Matic ¾-inch cassette • 8mm • XD Cam HD • Other high-definition formats • VHS • DVD • Other

Annex IV

RADIO / SOUND RECORDINGS Technical Specifications		
Identify Type, such as:	**Describe Scope of Selection:**	**Describe Selected Content in Terms of the following, including the corresponding Formats:**
Documentary series or single programs	• Number of programs • Partial/Entire series • Selected weeks of a season • Alternating broadcast days • Selected specials • Sampling of other programs spread over the season • Other	• Original unedited master recordings • Intermediate elements i.e. premixes and mixes, alternative versions and distribution copies • Masters and preservation copies of final versions • Textual material (e.g., radio scripts, interview transcripts) • Other **Examples of Sound Recording Formats:** • 2” tape • 1” tape • ¼”reel-to-reel tape • Compact cassettes • DAT • Wire recordings • Discs (many different sizes & speeds) • DTRS • CD • Other
Fiction series (daily/weekly)		
Variety / Entertainment / Performing Arts programs		
Lifestyle programs		
Reality programs		
News programs		
Public affairs programs		
Interview programs		
Instructional		
Sound Recording Industry (music, publishing etc.)		
Field research / Oral history		
Sound and special effects		
Other		

Annex V

ELECTRONIC RESOURCES Technical Specifications	
Identify Resource Type, such as:	**Describe Selected Content in Terms of the following, including the corresponding Format(s):**
Web-Based Resources	• Collection of web pages containing images, videos or other digital objects generally located on at least one web server having a common domain name or IP address, and accessible via a network such as the Internet or a private local area network • E-prints, electronic theses and dissertations, electronic journals, electronic publishing, research data, etc. • Facebook, Twitter, LinkedIn, etc.
Emails	• Communications (including attachments) sent or received by an electronic messaging system
Gaming Simulation	• Computer and video games, online games, and games on handheld and mobile devices
Geographically-Based Data	• Visualization and analysis of geographic data in a computer-based environment (e.g., environmental monitoring and modelling, land surveying, archaeological site assessments)
Computer Aided Design (CAD)	• Graphically oriented (rather than geographically based) automated process for interactively creating, modifying and manipulating spatial information and three-dimensional environments (e.g., architectural, cartoons, archaeological and engineering mapping, fine or applied arts, humanities)
Databases	• A database is an application for storing and providing access to data. Various types of databases exist, however each has unique features with respect to its structure, programming, data, the environment in which it was applied and the context of its initial and ongoing management (e.g., scientific, demographic, polling data, etc.)
Digital resources for which there are analogue equivalents	• Textual documents (e.g.,Word documents), tables, spreadsheets, images (e.g., photographs), etc.
Other	**Examples of Digital Formats (indicate whether stored on CDs, DVDs, hard disks, flash memory, etc.):** • CAD/CAM files in various versions of the software • Proprietary and Custom Databases (e.g. polling data) • Email (Outlook. Thunderbird, etc) • Websites • Office-type software files • Encrypted data • Electronic versions of textual materials • Images • Other

The following resources are external websites provided for educational purposes:

United Nations Educational, Scientific, and Cultural Organization (UNESCO)
http://portal.unesco.org/ci/en/files/7746/10448729330glossary.pdf/glossary.pdf

International Association of Sound and Audiovisual Archives (IASA)
http://www.iasa-web.org/

Library and Archives Canada
http://collectionscanada.ca/government/products-services/007002-2049-e.html

National Film Board, Canada
http://www3.nfb.ca/animation/objanim/en/

The Library of Congress
http://www.itsmarc.com/crs/arch0342.htm

The Society of American Archivists
http://www.archivists.org/glossary/

National Film and Sound Archives, Australia
http://www.nfsa.gov.au/preservation/audiovisual_terms/

Association of Moving Image Archivists (AMIA)
http://www.amianet.org

Oral History Association (OHA)
www.oralhistory.org

SECTION 5: DOCUMENTATION (DIGITAL IMAGES)

Digital documentation must be provided in JPEG format, between 500-700k in size, on a CD-ROM according to the Protocol for Digital Images. If digital format is not available please consult the Secretariat.

PROTOCOL FOR DIGITAL IMAGES

1. Provide image(s) on a separate CD-ROM for each application for certification.

2. Label each CD-ROM with the institution and donor names.

3. Images must be in JPEG format, with a file size in the 500k to 700k range.

4. Where there is more than one object in the application, provide the images on the CD-ROM in the same order described in your application for certification.

5. As part of the description of each object, include the name you have given to JPEG image at the end of the description, as follows: “Name.jpg”. Use the naming convention of your choice. For example:

   Greg Curnoe
   Bicycle Wheel, 1967
   mixed media on paper, 45” x 55”
   signed LR
   curnoe_bicyclewheel.jpg

6. In the case of large collections, provide a representative sample of images, including those with the highest estimated value(s) and, where there are clear categories of objects, samples from each category. Where an image has not been provided, indicate under the description of that object: “No image provided”.

7. In the case of archival material, provide a list, describing the image samples provided, again in the order in which they appear on the CD-ROM. As a general rule, you should limit your samples to no more than 20 images unless you judge this not to be sufficiently representative.

8. In the case of vintage and press photographs, provide a digital image of the back (verso).

9. In the case of antique book collections, provide digital images of book groupings as shelved, including book spines.

SECTION 6: OUTSTANDING SIGNIFICANCE AND NATIONAL IMPORTANCE (OS/NI)

NEW TOOL FOR WRITING AN EFFECTIVE OS/NI JUSTIFICATION

Writing an Effective OS/NI Justification: the Secretariat to the Review Board has developed a new tool to help applicants more effectively demonstrate the outstanding significance (OS) and national importance (NI) of all types of cultural property. The OS/NI tool is currently available on the Secretariat's website. All applicants should consult and apply the tool when preparing an OS/NI justification.

SECTION 7: DECLARATION OF AUTHENTICITY

A signed and dated declaration of authenticity, containing the following information, must be attached to each application for certification:

1. Identification of the object or collection;

2. Attestation by the authenticator, including the identification of any other expert(s) the authenticator may have consulted;

3. A brief explanation—not more than 100 words and not a full curriculum vitae, of the relevant qualifications/expertise of the authenticator;

4. Contact information, if different from that indicated on the application form.

In cases where the applicant does not have the expertise in-house, either the opinion of a qualified expert should be cited and the contact information provided, or a separate declaration of authenticity should be obtained from a qualified expert.

When property is particularly contentious, e.g. created by an artist whose work is known to be subject to forgery, re-strikes, or other questionable practices, due diligence on the part of the institution must be demonstrated. In such cases, where the creator of the property is still living, the creator may prepare a signed declaration of authenticity. In the event that the creator is deceased, the applicant should consult the executor or foundation entrusted with authenticating their work.

Please provide the authenticity statement to the monetary appraiser(s) engaged.

SECTION 8: TYPE OF DISPOSITION AND ESTIMATED FAIR MARKET VALUE (FMV)

Refer to the Review Board's Policy on Monetary Appraisals and Format for Monetary Appraisals when preparing this portion of the application, and ensure that any appraiser(s) engaged has this information prior to commencing the appraisal.

Donations Valued Under $5,000 CAN
A Cultural Property Income Tax Certification (T871) for a donation valued at less than $5,000 CAN may not result in a tax benefit for the donor. Institutions are therefore advised to encourage the donor to consult a financial advisor to determine whether the tax benefits associated with certified cultural property sufficiently exceed the tax benefits otherwise available through an official charitable receipt for income tax purposes. In some cases, the tax benefit realized for certified cultural property may be less than the costs related to obtaining a monetary appraisal required for an application for certification.

Signed Appraisals Required
Appraisals must be signed, legible, and complete. The Review Board will accept copies, but reserves the right to request originals at any time.

Review of Appraisals by Applicant
To avoid processing delays, please verify that appraisals submitted with an application for certification are complete and conform to the Review Board's Policy on Monetary Appraisals and the Format for Monetary Appraisals. In addition, please verify that the descriptive information in the appraisal matches that provided by the institution in Section 4 of the application.

Appraisals by Committee
When an appraisal has been prepared by the Art Dealers Association of Canada (ADAC), the National Archival Appraisal Board (NAAB), or the Antiquarian Booksellers Association of Canada (ABAC), indicate the names of each member of that committee in Section 8 of the application.

Sales
Attach a copy of the signed sales agreement for objects that are purchased by a designated institution/public authority. Indicate the sale price, before taxes, in the space provided on the application form. If there is no signed sales agreement, please provide proof of purchase in the form of an invoice marked PAID or cancelled copies of cheque(s). If the purchase has not yet been made, these documents will be required before a (T871) can be issued.

Combined Donations and Sales
If some objects in a collection are donated while others are sold to a designated institution/public authority, two separate applications must be completed, as the tax treatment for a donation is different from the tax treatment for a sale.

Split-Receipting
Split-receipting refers to a type of donation where the donor receives a cash advantage for a portion of the fair market value. When an application for certification is presented in such cases, appraisals for the entire estimated fair market value must be provided in accordance with the Review Board's Policy on Monetary Appraisals and Format for Monetary Appraisals. On the application form, indicate that the cultural property is acquired by way of Donation/Sale (Split-Receipt).

On December 20, 2002, the Department of Finance introduced a tax measure for a donation tax credit in circumstances where a donor has received consideration, or cash advantage. This concept is commonly referred to as “split-receipting”. While the guidelines on split-receipting in Canada Revenue Agency’s Technical News Bulletin No. 26 address how this tax measure applies to fundraising dinners, charity auctions, lotteries, etc., they also apply to certified cultural property, as long as there is a clear donative intent to make a gift.

Example:

- A designated institution is interested in acquiring a cultural object for its collection and enters into negotiations with the potential donor.
- One or more monetary evaluations estimate the fair market value of the object at $100,000.00 CAN.
- The donor agrees to donate the object to the designated institution, which agrees to accept the object and to provide a consideration, or payment, to the donor, in the amount of $80,000.00 CAN.
- The designated institution presents an application for certification to the Canadian Cultural Property Export Review Board, providing two justified appraisals for an estimated fair market value of $100,000.00 CAN.
- The Review Board determines that the object meets the criteria of “outstanding significance and national importance” and that the fair market value of the object is $100,000.00 CAN.
- Upon receipt of a disposition agreement, or comparable document, clearly establishing the amount of the consideration, the Review Board issues a Cultural Property Income Tax Certificate (T871) to the donor. This certificate identifies the disposition as a Donation/Sale and is issued for the total fair market value of $100,000.00 CAN. In addition, the designated institution may provide the donor with an official charitable receipt for income tax purposes for the portion of the fair market value representing the eligible amount of the gift for donation purposes. In this case, that amount is $20,000.00 CAN.
- The tax benefit to the donor in this case is exemption from taxes on any capital gains realized upon disposition of the property and a tax credit based on the eligible amount for donation purposes of $20,000.00 CAN.

POLICY ON MONETARY APPRAISALS

The Review Board makes determinations of fair market value for the purposes of subparagraph 39(1)(*a*)(i.1) or paragraph 110(1)(*b*.1) of the *Income Tax Act*, which establishes the additional tax benefits for which donors or vendors of certified cultural property are eligible. To assist the Review Board in determining the fair market value of cultural property, all applications for certification of objects being donated to designated institutions/public authorities must include substantiated monetary appraisals. The Review Board's policy on monetary appraisals submitted with applications for certification follows:

Appraisal Format
All appraisals must be typewritten and must conform to the Review Board's Format for Monetary Appraisals. Hand written appraisals, calculations, or notations will not be accepted for review.

Sales
Monetary appraisals are not required when an Application for Certification is presented in relation to an object that is purchased by a designated institution; however, the institution is required to provide an explanation of the negotiations undertaken to arrive at the purchase price and to demonstrate how the price reflects market conditions at the date of purchase. The Review Board reserves the right to request that an appraisal be provided if it is not convinced that the sale price is an accurate reflection of market conditions.

Number of Appraisals for Donations
One appraisal is required when the aggregate estimated fair market value of the donation is $50,000.00 CAN or less. For applications above $50,000.00 CAN, two arm's length appraisals are required, unless the appraisal is provided by committee as outlined below.

For donations above $50,000.00 CAN, one appraisal may be provided if it is prepared by a committee of the Art Dealers Association of Canada (ADAC), the Art Dealers Association of America (ADAA), the National Archival Appraisal Board (NAAB), or the Antiquarian Booksellers Association of Canada (ABAC). The Review Board recognizes that such appraisals represent the opinion of more than one expert.

Split-Receipts: Donations/Sale
For an object that is disposed of in part by way of donation, in part by way of sale, known as a split-receipt the same policy for the number of appraisals, as outlined above, applies. Therefore, if the estimated fair market value of the object is over $50,000.00 CAN, two appraisals will be required, even if the donation portion is under $50,000.00 CAN, since the Review Board makes its determination on the full fair market value of the property.

Definition of Fair Market Value
Appraisals must estimate the **fair market value** of the object or collection. Appraisals "for insurance purposes", "for probate purposes", "value", or any variation thereof, are not acceptable. Appraisers are required to quote the definition endorsed by the Canada Revenue Agency, as follows:

> *Fair market value is the highest price, expressed in terms of money, that the property would bring in an open and unrestricted market between a willing buyer and a willing seller who are both knowledgeable, informed, and prudent, and who are acting independently of each other.*

Please refer to Definition of Fair Market Value for a more in-depth explanation.

Purchase Price
Information concerning date of purchase and purchase price, including any price adjustment arrangement, is required in all applications for certification. The donor's purchase price, or information that the donor has about the most recent purchase price, may be relevant to determinations of fair market value. This information must be provided to the monetary appraiser(s) for inclusion and consideration in the appraisal assignment. When determining the fair market value of cultural property, the Canadian Cultural Property Export Review Board (CCPERB) will, on a case by case basis, consider how much weight to give to information provided about purchase price.

Where purchase price is not available, the applicant must provide an explanation as to why.

Discrepancy in Value
When there is a significant discrepancy between the values proposed by the appraisers, either between the values of individual objects or between the total estimated value of each appraiser, the Review Board requires that the applicant provide a written explanation with the application for certification that acknowledges the discrepancy and provides a rationale in support of the average value, or the value of one of the appraisals.

Physical Property vs. Intellectual Property
The Review Board is bound by the *Cultural Property Export and Import Act*, which limits the Review Board's jurisdiction to physical tangible property when determining the fair market value of cultural property. If a disposition includes intellectual property rights, the recipient institution/public authority may issue an official tax receipt for income tax purposes for the intellectual property portion of the disposition.

Appraisers' Qualifications
Appraisals must be prepared by individuals or corporations actively buying and selling, or who are professionally qualified appraisers experienced and known for their expertise in the type of property concerned, such as dealers in, or evaluators of, the type of cultural property being appraised. If the Review Board is unsure about the expertise of an appraiser in a given area, it may require more specific information about the qualifications of the appraiser or an additional appraisal. The Review Board does not publish a list of acceptable appraisers. Recipient institutions/public authorities are responsible for selecting reliable evaluators for donations and should be prepared to stand by the work of the appraisers they have engaged.

Currency
The Review Board's responsibility under the *Cultural Property Export and Import Act* is to determine the fair market value (FMV) of cultural property in Canadian currency, as the Review Board must determine what value, in Canadian dollars, a willing buyer would pay a willing seller. Cultural Property Income Tax Certificates (T871) are issued in Canadian dollars.

Valuations commissioned from appraisers and dealers resident in Canada must be prepared in Canadian dollars.

Valuations of fair market value commissioned from appraisers and dealers outside of Canada may be in the currency of that country, or currency judged by the appraiser to be the most appropriate to transactions of the cultural property in question. Where the disposition to the institution has been made, the appraiser or the applicant institution must convert the appraisal into Canadian dollars at the appropriate rate of exchange as of the date of disposition, which would also be the effective date of the appraisal.

Where the disposition is proposed, the appraiser is asked to apply the rate of exchange corresponding to the date of the appraisal report, which would also be the effective date of the appraisal. Once a determination has been made by the Review Board and documentation

establishing the date of irrevocable disposition has been provided, the Secretariat will calculate the rate of exchange as of date of disposition.

Rate of Exchange

To convert currency to Canadian dollars, the Review Board refers appraisers to the higher of the noon and closing nominal rates published by the Bank of Canada. This information is available online.

Premiums/Added Value

The Review Board has taken the position that premiums, other than those applied by auction houses, placed on the total estimated value of a collection, do not necessarily reflect market conditions at the time of donation. Therefore, such premiums will not automatically be considered to be part of the estimated fair market value. The Review Board reviews such situations on a case by case basis. After reviewing the information before it, such as the integrity of a particular collection, the impact of dismantling the collection, the relevance of the collection as a whole to the mandate of the applicant institution and hence to the Canadian heritage, the Review Board may decide to apply a percentage increase, where it deems appropriate.

Appraisals of Numerous Objects

To ensure clarity and accuracy when presenting an application for certification for a donation that contains over 5 objects, provide a paper copy of a chart that summarizes the description, the estimated values, and the average proposed fair market value of each object, as follows:

Description of Work/Object	Appraiser #1	Appraiser #2	Average Proposed FMV
Creator/Manufacturer, Title, Date of creation, Medium, Dimensions	Estimated FMV	Estimated FMV	Average of 2

In an effort to reduce calculating errors, an automated calculating software, such as Excel, should be used to prepare summary charts. The absence of a chart will suspend or delay consideration of an application. For very large collections, the applicant is encouraged to contact the Review Board Secretariat to discuss how this requirement may be best addressed.

Authenticity Statement

The monetary appraiser is not expected to authenticate the property being appraised unless the appraiser is the known and acknowledged authority of the work being appraised. The recipient institution is therefore requested to provide monetary appraisers with a statement of authenticity made by a competent authority for the object(s) to be appraised. The appraiser must make reference to this statement in the appraisal report, so that it is clear that the estimated value is based on the authenticity as presented by the recipient institution.

Statement of Outstanding Significance and National Importance

The recipient institution is requested to provide monetary appraisers with its statement of outstanding significance and national importance, as this information may affect the estimated fair market value.

Archival Assessment (for dispositions of archival material only)

The recipient institution must conduct an archival assessment prior to obtaining a monetary appraisal and prior to presenting an Application for Certification to the Review Board. The appraisers must be fully aware of what is being kept by the institution, and what is being discarded. Their reports accompanying an Application for Certification must deal only with that portion being retained by the institution. Donors should understand that institutions require flexibility and sufficient time to prepare archival appraisals. It is unrealistic, particularly for large donations, to attempt to file an Application for Certification in the same year as the gift is made.

Institutions should have sufficient time to prepare their full archival assessment. If donors wish to accelerate the process, additional staff may be required, at the donor's expense.

Monetary Value of Finding Aids (for dispositions of archival material only)
The fair market value of finding aids or guides prepared by donors is not subject to certification by the Review Board as such guides are not an integral part of the collection and are thus not considered "cultural property". The recipient institution, however, may issue a charitable tax receipt for the finding aid portion of the donation. Donors are encouraged to assist the institutions in various ways, to ensure that finding aids are as detailed and accurate as possible. Such finding aids make it much easier for appraisers to ascertain the true value of a collection and to identify components of the donation that may have higher value.

Arm's Length Appraisals
All appraisals must be prepared "at arm's length." This means that the appraisal assignment must be prepared in an objective manner, based on facts, and without any pressures ensuing from the donor, vendor, institution/public authority, or other appraisers. Appraisals prepared by an employee of the institution/public authority presenting an Application for Certification to the Review Board are not permitted.

Where more than one appraisal is being sought for the same object, each appraisal must be prepared independently of the others. Where particular circumstances may warrant a deviation from this procedure, the applicant must provide a rationale for such a deviation as part of the Application for Certification.

The appraiser must identify any assistance received in the conduct of the appraisal and should disclose any dissenting opinions of collaborating appraisers.

Conflict of Interest Considerations
Appraisers must disclose whether they have had any past, present or prospective interest in the appraised property, have previously sold the property, or have had any personal or commercial intent or bias with respect to the parties involved (client or creator). Disclosure of such relations does not, in the Review Board's view, necessarily exclude the dealer as an appraiser; however, if the information on disclosure is not clear, it may require a more detailed explanation before deliberating on whether or not to exclude the appraisal.

Compensation for completing an assignment must not be contingent upon the development or reporting of a predetermined value or direction in value that favours the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

Cost of Appraisals
The cost of the appraisal and its payment are matters for the institution and donor to settle. The institution should be fully satisfied that the appraisers are competent and reputable and that the appraisal cost is not contingent on the estimated value.

Additional Information
When the Secretariat requests the institution/public authority to seek additional information from the appraisers, please ensure that this information is channelled through the institution/public authority to the Review Board and that the file number is cited.

FORMAT FOR MONETARY APPRAISALS

I – Letter of Transmittal

[Appraisals must be typewritten, printed on letterhead, and prepared with a header/footer that identifies the appraisal report and page numbers. Hand written appraisals, calculations, or notations will not be accepted.]

[Report Date]
[Name of Client(s): donor and/or recipient institution]
[Address of Client]

Purpose and Summary
As requested, [name of appraiser] has completed a self-contained appraisal [retrospective appraisal if donation made more than a year ago] of the estimated fair market value for donation purposes of:

[Summary description:
e.g. 3 paintings, 2000 – 2003, by Art Painter;
e.g. *John Smith Fonds*, 1972-1983, consisting of 22 m of textual records, 451 photographic records and 5 videotapes documenting the life of this Canadian philanthropist;
e.g. *Jane Doe Collection*, 1859-1950, consisting of 50 paintings, 23 drawings, and 25 prints]

In summary, based on all available data, it is [name of appraiser; if a committee such as ADAC or NAAB, name each member below] professional opinion that the [total: if for a collection of objects] fair market value of the property is

> $ [amount in Canadian dollars, e.g. $20,000 (Twenty Thousand Dollars)]
> [Signature(s) of Appraiser(s)]
> [Typewritten name(s) of Appraiser(s)]

Effective Date
This appraisal estimates the fair market value effective as of [date of donation], which is the date that the property was legally transferred to the [name of designated institution].
OR
This appraisal estimates the fair market value of a proposed donation and the effective date is the date of the report.

Intended Use of Appraisal Report
This report is prepared to accompany an application for certification to the Canadian Cultural Property Export Review Board.

Definition of Fair Market Value (FMV)
The definition of fair market value, as endorsed by the Canada Revenue Agency and the Canadian Cultural Property Export Review Board is:

> *The highest price, expressed in terms of money, that a property would bring in an open and unrestricted market, between a willing buyer and a willing seller who are both knowledgeable, informed, and prudent, and who are acting independently of each other.*

NOTE: Refer to Annex I for the factors implicit in the FMV definition but DO NOT include the

annex with your appraisal report.

Appraiser's Qualifications
[Provide a **brief** summary--maximum 100 words--of your qualifications as they relate to this appraisal report, e.g. experience in the marketplace appropriate for the object(s) being appraised, professional qualifications, relevant education, etc. DO NOT attach a curriculum vitae or other biographical documentation to the appraisal report.]

Information Provided from Other Sources
The following information has been consulted in the preparation of this Appraisal Report (DO NOT include as annexes):

- Description information of property from [name source, e.g. designated institution]
- Condition report prepared by [name]
- Statement of authenticity signed by [name]
- Statement of outstanding significance and national importance prepared by [name]
- Provenance provided by [name]
- Donation agreement
- Archival assessment [for archival material, indicate here any access restrictions mentioned]
- Finding aid [for archival material]
- Copies of sales invoices from [name the sources]
- Digital image(s) of property from [name source]
- Digital images of comparable property [name the source]
- Other: [specify]

Information, both written and verbal, provided by the client and outside sources is assumed to be reliable and accurate.

Inspection
This appraisal is based on a personal inspection of the property on [date] by [name] at [location] in the presence of [name]. At the time of inspection, the property was found to be in generally good condition [or otherwise: summarize condition when there are issues that would affect fair market value] and is described in more detail in the body of the report. [Indicate any limiting conditions, e.g. this appraisal is based on a visual inspection only. Works on paper have not been removed from their frames and materials have been identified without benefit of laboratory analysis; e.g. the backboard affixed to the painting could not be removed and therefore the appraiser was not able to inspect the reverse of the canvas].
OR
[name of appraiser] has not personally inspected the property that is the subject of this report. This appraisal is based on documentation provided by [name] as cited above.

Authenticity
The authenticity of the subject property is based on the statement of authenticity prepared by [name of person] as cited above.
OR
Research with regard to the authenticity of the donated object/s was undertaken [provide a description of any tests, experts consulted and results].

Physical Property
This appraisal estimates the fair market value of the physical property and any acquired characteristic of value (e.g. provenance) only.

Value Approach(es) Used
To estimate fair market value, the following approach(es) to value was/were used:

- Sales Comparison Approach

  [Summarize how this approach was used if relevant, e.g. there was sufficient market data available on past sales of similar objects around the effective date of the appraisal, therefore, only the sales comparison approach was used for this report.] **AND/OR**

- Cost Approach

  [Summarize how this approach was used if relevant, e.g. there was no market data available for similar objects. As the appraised property was a large-scale commissioned work, the cost approach was used, and sales of smaller objects by the creator have been cited to demonstrate a market for the creator's work.]

In addition, I have provided a reasoned justification with reference to relevant market information that explains how I have arrived at my estimated value(s).

NOTE: Refer to Annex II for definitions and examples of the value approaches and Annex III for an explanation of what constitutes a reasoned justification but DO NOT include the annexes with your appraisal report.

Scope of Work
The scope of work undertaken for this report consisted of: [list research, consultations undertaken, e.g. confirmation of sales data from dealers, galleries, vendors, collectors, consultants and artists; verifying sales at public auctions; consultations with experts; authenticity testing; attendance at exhibitions and auction sales.]

II - Body of the Appraisal

Description of Each Object or Category of Objects
[Each appraised object must be described. If a large collection of objects or a fonds is being appraised, the description may be organized into logical categories. For archival material, a thorough finding aid will suffice as the description of the property.]

- Item number [if applicable]
- Creator / Maker [full name, birth and death dates, nationality]
- Title [the name by which the property is known or could be identified]
- Date or period of execution [specify if unknown; for photographs include both the date the photograph was taken and the date of printing]
- Number and edition size [if applicable, e.g. prints, photographs and sculpture]
- Medium and Support [materials and technique, e.g. oil on canvas, cast bronze, DAT, Betacam]
- Dimensions [in centimetres and/or inches (height x width x depth). If only one dimension standard is used, ensure that the same standard is applied throughout the application for certification and monetary appraisal(s).]
- Signature and Inscription [e.g. signed lower right, titled and dated to the reverse; identifying markings, dedications, maker's or purity marks]
- Condition [refer to consulted condition report where applicable and summarize any

condition issues, e.g. damage, repair, restoration, fading, etc.]

- Provenance [history of ownership from creator/maker to present, including dates and methods of transfer, where possible, as provided by the recipient institution]
- Access Restrictions [for archival material, indicate whether or not there are access restrictions and cite the source consulted, e.g. deed of gift, archival appraisal report]
- Reference to exhibition history [summarize here but DO NOT attach documents]
- Reference to literature and illustration [summarize here but DO NOT attach documents]
- Purchase Price Paid by the Donor
- Thumbnail Image inserted next to or directly under the object description, where possible
- Estimated Fair Market Value: $ [in Canadian dollars]. [If several objects within a category, include sub-totals]

Market Context
[Please answer the following questions before providing relevant market information and a rationale for the estimated value]

- Is there a market for the object(s)?
- If so, which market(s): [Identify each dealer that represents the type of object, whether such objects sell at auction, whether the maker/creator sells out of the studio, whether the maker/creator is commissioned to create work, etc. The appraiser should also specify the market level at which the property is traded, e.g. international, national or regional auction houses.]
- Are similar objects currently available in the market? If so, are there indicators of sales? Would a **blockage discount** be appropriate where multiple and similar objects are being appraised?

  NOTE: Refer to Annex IV but DO NOT include the Annex with your appraisal report.

- If no current market, was there a market in the past? If so, provide details.
- What are the most appropriate market and market level for the appraised property? [The appropriate or relevant market is the market where comparable objects by the creator are typically and most frequently sold to the public, e.g. retail Canadian or US gallery market, Canadian or US auction market, artist's studio, etc. Provide an analysis of the market and economic conditions at the effective date of the appraisal, describe the economic conditions at the effective date of the appraisal and the stability or volatility of the market, describe the demand for the creator's work, the market acceptability of the work, the prices that are consistently achieved for similar objects by the same creator and how many similar objects the creator sells on an annual basis. Explain any factors that affect the value of the object in the context of the creator's career, e.g. significance, uniqueness, rarity, etc.

  [e.g. the appraiser's research indicated that properties that are comparable to the donated property are most frequently sold to the public in the Canadian retail gallery market and the Canadian auction market. The pattern of highest sales, however, happens in the Canadian retail gallery market, therefore, this is the most appropriate market for a determination of fair market value at the effective date of this appraisal.]

Market Information and Reasoned Justification
NOTE: Refer to Annex III but DO NOT include the Annex with your appraisal report.
[Indicate the approaches to value used. Cite specific market information, wherever possible, to support the answers; summarize how the approaches cited were used, e.g. there was no recent market data available for similar objects. This appraisal report has relied on relevant sales made

5-7 years ago as well as recent sales of dissimilar objects and sales of relevant objects by artists of comparable stature, to which adjustments have been made.]

- Cite sales in descending order, from most recent to oldest sales and highlight those sold objects which are the most comparable; indicate whether invoices attached; cite sales that have occurred prior to the effective date of the appraisal, after any discounts and excluding taxes paid, with sufficient descriptive detail for comparison with the appraised property [include thumbnail image where possible], and an analysis of the comparable sales. Comparable sales should be cited in a format, such as a table, that allows the reader to easily comprehend the similarities and differences between the appraised object and similar objects sold in the past, e.g. the following table shows actual sales at auctions for landscape paintings by Emily Carr:

Title / Creation Date	**Medium**	**Dimensions (in and/or cm)**	**Vendor / Sale Date**	**Sale Price**
…				

- When citing sales at auction, specify the price achieved with "premium included", the currency of the sale and convert currency to $ Canadian at the sale date, and indicate, wherever possible, whether or not the purchaser is the ultimate consumer.
- Books: For books valued less than $1,000 CAN each, the appraiser may estimate values from his/her own experience but should include sale prices for 10% of the collection, particularly for the higher priced items. For books valued over $1,000.00 CAN each, the appraiser is expected to provide sales information from sources such as American Book Prices Current, Americana Exchange, AddALL.com, auction sales, and/or invoices for private sales. Asking prices from the International League of Antiquarian Booksellers (ILAB) may be used to supplement and qualify established sale prices.
- Frames: The types of frames taken into account by an appraiser when estimating fair market value would include period frames, artist-made frames, or specialized frames that are integral to a work. Commercial frames are not an integral component of the art work and will not be considered as part of the fair market value of the work.
- Transcribe any information received by mail, email, fax, phone, including values estimated by dealers.

DO NOT INCLUDE: CVs of creators/makers or dealers; bios, articles; text about creator's career.

DO INCLUDE: market content provided by dealers, e.g. sales invoices, dealer's estimated value and rationale.

III - Conclusion

Appraiser's Attestation
[Name of Appraiser] hereby certifies that, to the best of [its, his, her, my] knowledge and belief:

- The statements of fact contained in this report are true and correct and relevant for the purpose of the appraisal.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are arm's length professional analyses, opinions, and conclusions.
- That [name of appraiser] does not have any undisclosed past, present or prospective

interest in the property that is the subject of this report and has not previously sold the property, nor has any personal or commercial interest or bias with respect to the parties involved. [If the appraiser does have any interest or bias, or has previously sold the property, this must be disclosed.]

- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favours the cause of a client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- Other [as deemed necessary by appraiser].

Terms and Conditions
While not required by the Review Board, the appraiser may wish to include terms and conditions that suit his/her purposes in which case these should be provided as part of the conclusion.

ANNEX I: Definition of Fair Market Value (FMV)

Review Board determinations of fair market value are made for the purposes of subparagraph 39(1)(a)(i.1) or paragraph 110(1)(b.1) of the *Income Tax Act*, which establishes the additional tax benefits for which donors or vendors of certified cultural property are eligible. When making determinations of fair market value of cultural property for income tax purposes, the Canadian Cultural Property Export Review Board relies on the definition of “fair market value” that is endorsed by the Canada Revenue Agency, as follows:

> *The highest price, expressed in terms of money, that a property would bring, in an open and unrestricted market, between a willing buyer and a willing seller who are both knowledgeable, informed, and prudent, and who are acting independently of each other.*

The above definition stems from the decision of Cattanach, J. in Henderson v. Minister of National Revenue, 1973 Carswell Nat 189, [1973] C.T.C. 636, 73 D.T.C. 5471), as follows:

> The statute does not define the expression “fair market value”, but the expression has been defined in many different ways depending generally on the subject matter which the person seeking to define it had in mind. I do not think it necessary to attempt an exact definition of the expression as used in the statute other than to say that the words must be construed in accordance with the common understanding of them. That common understanding I take to mean the **highest** price an asset might reasonably be expected to bring if sold by the owner in the normal method applicable to the asset in question in the ordinary course of business in a market not exposed to any undue stresses and composed of willing buyers and sellers dealing at arm's length and under no compulsion to buy or sell. I would add that the foregoing understanding as I have expressed it in a general way includes what I conceive to be the essential element which is an open and unrestricted market in which the price is hammered out between willing and informed buyers and sellers on the anvil of supply and demand. These definitions are equally applicable to “fair market value” and “market value” and it is doubtful if the word “fair” adds anything to the words “market value” [Emphasis added].

The factors that are implicit in the definition of fair market value are:

1. Highest price means the highest price that is <u>consistently</u> achieved.
2. The transaction occurs in the market where such properties are most commonly and consistently sold to the public.

3. The public is the customary purchaser or ultimate consumer.
4. An ultimate consumer is a person, institution or corporation who does not hold the item for subsequent resale.
5. The appropriate or relevant market for a determination of fair market value is the most active market for the particular asset and is determined by the frequency and aggregate number of sales.
6. The buyer and seller are typically motivated, where neither is under compulsion to buy or sell.
7. Each party is knowledgeable, informed of all of the relevant facts and acting in their own best interests.
8. An unrestricted and open market is one that is available to the public.
9. The property has been exposed to an unrestricted and open market for an adequate amount of time.
10. The transaction is not influenced by time restrictions that would have a significant effect on the price; for example, fair market value cannot be determined by a forced sale.
11. Payment is made in terms of Canadian dollars. To convert currency to Canadian dollars, appraisers should consult the rates published by the Bank of Canada, and take the higher of the noon and closing nominal rates. This information is available online.

Highest Price
Certain aspects of fair market value are widely misunderstood, particularly the meaning of "highest price" and "public" and the issue of the appropriate or relevant market. Highest price means the highest price that is consistently achieved. It does not mean an extraordinary price that, when viewed in the context of the market for that asset, is an anomaly. Atypically high and low prices are irrelevant to the issue of fair market value. Statistically averaged prices may be distorted if the appraiser includes abnormally high or low prices and the resulting value conclusion will be inaccurate. The frequency of a price being achieved and the aggregate number of sales are most significant to fair market value. Highest price does not mean the single highest price that has ever been achieved or could conceivably be achieved. Fair market value reflects the highest price at which an item might reasonably be expected to change hands in the normal course of business, in the usual market for that item, and it is evidenced by a consistent pattern of sales.

Public = Customary Purchaser
Within the context of the definition of fair market value, the "public" refers to the customary purchaser for the item in its existing form when not purchased for resale. It does not mean all purchasers. A customary purchaser is often an individual buying at the retail market level but, in some circumstance because of the nature of the item [e.g. uncut gemstones], the customary purchaser may also be a wholesaler buying for resale. The customary purchaser may be an individual, a business, a museum or an archival institution. For example, the customary purchaser of an antique artefact may be a private collector, but the customary purchaser of a large quantity of archival material may be a public institution and not an individual.

Selling Price and the Ultimate Consumer
Fair market value represents the amount of money that a property would bring in an open and unrestricted market, in other words, the price, before taxes, that the buyer would pay and at which the property would be sold, and not the amount of money that would be retained by the seller. The ultimate purchaser is akin to the end-user of the property. If a dealer or consultant purchases an object for a client, the ultimate purchaser is the client: the relevant purchase to take into consideration for the estimation of fair market value is the price paid by the end-user, the person who will be "enjoying" the property. If the end-user purchases an object at a discounted price, the relevant value for fair market value purposes is the discounted price paid, not the asking price. The discounted price paid by a consultant/dealer, however, is not relevant

to fair market value if the purchase is made for inventory with the express purpose of reselling it to an end-user. In the auction arena, the buyer's premium that is customarily added to the hammer price is a component of the sales price. The hammer price + premium is relevant to fair market value if paid by an end-user, the ultimate purchaser, but not as relevant if purchased by a dealer for the purposes of resale.

Which Market?
Personal property is traded at various market levels, and determining the most active market, where sales are made to the end user or ultimate consumer, is fundamental to a determination of fair market value. The appraiser must research and consider all active markets. The appropriate market is the market in which such items are customarily sold to the public and is determined by the frequency and total number of sales. For example, if an artist's work is most frequently sold through commercial galleries and only occasionally at public auctions, the relevant market is the gallery market and not the auction market. Similarly, if the artist's work is offered for sale through a gallery but the artist sells most of his work directly from his studio, the relevant market is the artist's studio and not the gallery. In the same way, if the most active market for an artist's work is the tax shelter market, and relatively few objects are sold at the gallery level, the relevant market for that artist's work is the tax shelter market, but only in cases where such a market is available to the public in an open and unrestricted manner. The sales that occur in the most active market available to the public are indicative of fair market value.

ANNEX II: Two Approaches to Value

In preparing appraisal reports for submission to the Canadian Cultural Property Export Review Board, appraisers are expected to be knowledgeable about the fundamental principles of value. The Review Board stipulates two approaches to value that appraisers may take into consideration in conducting their appraisal assignments: the sales comparison approach and the cost approach. The appraiser is required to select the approach(es) most applicable to the appraisal exercise, based on the availability of data and the purpose of the appraisal.

Sales Comparison Approach
The fair market value of charitable donations estimated by using the sales comparison approach is a process of analyzing an object in comparison with similar objects that have been sold in the past around the effective date of the appraisal in the market where they are customarily sold to the public. Data analysis is composed of sale prices and their relationship to attributes that contribute to or detract from value. In other words, conclusions of value are derived by comparing the characteristics of the property being appraised with the corresponding characteristics of sold items used as a standard of comparison. Adjustments are then made to reflect differences. The reliability of the sales comparison approach is dependent upon the degree of similarity between the donated object and the sold items, including the physical attributes and condition of the objects, the nature of the transactions, the market conditions and when the sale took place. Atypically high and low prices are not indicative of fair market value. Fair market value reflects the highest price at which an item might reasonably be expected to change hands in the normal course of business, in the usual market for that item and it is best indicated by a consistent pattern of sales. As a saying from the auction world goes: "*One is a fluke, two is a coincidence, three is a trend, four is a market*."

Cost Approach
The cost approach to appraisals is based on the principle of substitution that states that an informed buyer would not pay more for an item than it would cost to acquire an equally desirable substitute property. This approach is most typically used to estimate replacement cost for

insurance purposes. While not strictly applicable to the determination of fair market value, it can be used for unique properties or when there is limited or no evidence of comparable sales. The cost approach compares the item being appraised with the cost to acquire, by purchase or production (e.g. by commission), a substitute that is comparable in all respects, in the market and fashion in which it would customarily be acquired. Appraisals of objects that are unique, oversized, site specific, or created in new media, for which there is usually a limited market, are special cases in which the production cost (including a creator's fee) may be an important factor in determining fair market value.

In using the cost approach, the appraiser will recognize that cost is not synonymous with value and that appreciable property, such as that certified by the Review Board, cannot be replaced by a new item or by reproduction. The appraiser will therefore need to make adjustments to reflect the attributes of the appraised item that contribute to or detract from value such as condition, period, and provenance. A new item or a reproduction cannot replace these value characteristics. The appraiser therefore needs to develop a *reasoned justification* (Annex III) that takes into consideration the replacement or production cost as a monetary reference point in conjunction with all other relevant factors.

ANNEX III: Reasoned Justification

Every appraisal prepared for the Review Board must include a *reasoned justification*. A reasoned justification is a methodology that explains how the appraiser arrived at an estimated value. Specifically, the appraiser must demonstrate a relationship between the market evidence provided and the object being appraised, by taking into account such factors as rarity, quality, historical significance, provenance, literature references, and the importance of the creator. In doing so, the appraiser then explains the adjustments made upward or downward from market indicators to arrive at the estimated value at the effective date.

Reasoned justification is especially important when there is a limited or non-existent market for the property being appraised. The appraiser's role, in such cases, is to contextualize the property within the marketplace and to explain, if the property were available for sale, in which market it would sell, the existence of willing buyers, the level of interest of those buyers and how much they would be prepared to pay. To do this, the appraiser needs to refer to relevant property being sold in the identified market and justify why the property being appraised could feasibly be sold at the value estimated by the appraiser at the effective date of the appraisal. Factors having an impact on the monetary value such as rarity, quality, historical significance, sales several years ago of comparable objects by the creator, recent sales of dissimilar objects by the creator or recent sales of related objects by creators of comparable stature should be taken into consideration.

Example of Reasoned Justification
Case: A deceased artist for which no comparable objects exist on the market.
This does not mean that there is no market for the object, just that there is no recent sales evidence due to lack of availability or supply in a public market. In this case, the appraiser needs to demonstrate the level of interest in the market and to contextualize the object in terms of artists of similar stature and whose objects are available on the market. As part of this exercise, the appraiser may also wish to discuss the level of market activity when similar objects were available for sale and were being sold.

Example of Reasoned Justification
Case: An archival fonds which may have components that are marketable but which would not

sell as a whole fonds in a traditional market.
The appraiser may wish to argue that the most relevant market is the recipient institution and, if the institution had sufficient funds to purchase the fonds, what it would be willing to pay. The hypothetical purchase price would depend upon how relevant the fonds is to the collecting mandates of archival institutions in general, the uniqueness of the material, the research importance of the material, etc.

ANNEX IV: Blockage Discount

A blockage discount is an appraisal methodology to determine the fair market value for the donation of multiple similar objects in the same year by a single donor when the quantity of items exceeds the demand. The application of a blockage discount is appropriate if the number of items is large in comparison with the number of objects sold annually that they could not be sold at the typical asking prices within a reasonable length of time by experienced dealers following the normally prudent practices.

Supply and demand is one of the fundamental principles of value. The market will only absorb so much of an item before the market becomes saturated and the demand is reduced. When a large number of similar items are offered for sale at one time, there are three possible outcomes:

1. The price of each individual item would be lower because the supply exceeds the demand;
2. The price of each individual item would increase because the offering of a large collection at one time would attract buyers from many different regions; or
3. The price of each individual item would not be affected because there are sufficient buyers in the marketplace to acquire them.

In applying a discount to reflect the negative effect of quantity, an appraiser first determines the fair market value of each item irrespective of the number of items and then applies a discount. The fair market value of the aggregate will be less than the total fair market value of each individual object.

The concept of blockage was referred to in the Nash v. R. Federal Court of Appeal Judgment of November 21, 2005, 344 N.R.152, as follows:

22 In other cases, there may be no evidence of a normal market for the sale in the ordinary course of business applicable to a group of items. For example, a one-time disposition of a group of paintings may not reflect a normal method of sale of paintings in the ordinary course of business. In the absence of a market for the sale of large groups of paintings, the ordinary retail market for individual paintings might be considered a proxy. If so, it will still be necessary to determine whether any adjustments need to be made to account for the disposition of the group. For example, a blockage or volume discount may apply to take account of the depressive effect on the retail market price caused by the availability of the large number of paintings at one time.

23 This is what occurred in Malette v. R. (2004), 320 N.R. 359 (F.C.A.). In that case, 981 works by a single artist were donated to a public gallery. Noel J.A. determined that a blockage discount was an appropriate appraisal methodology when considering the aggregate retail market value of individual paintings when the volume of paintings in a group would depress the price in the retail market.

24 When a court is required to determine the fair market value of an asset for which there is no market that permits a direct comparison, it may be necessary to consider the transactions in some other market, subject to such adjustments as may be appropriate to the case, such as blockage or volume discount. But when there is a market in which assets of the description of the asset being value are traded, there is no need for the use of a proxy.

NOTE: Malette v. R. concerned property that was certified by the Review Board.

SECTION 9: SIGNATURE OF APPLICATION

The certification application and checklist must be signed by the chief executive officer or director of the designated institution/public authority. In order for the signature of a delegated authority to be accepted, please provide a letter signed by the chief executive officer or director, that indicates the name and title of the person to which the signing authority has been delegated. This letter will be kept on the institution's designation file and should be referred to in future applications (e.g. under the signature, "as per delegation of authority effective March 1, 2009").

By signing the application for certification, the designated institution or public authority certifies:

1. that the information in the application and any accompanying documentation is true and correct
2. that the property cited in the application will not be permanently disposed of (deaccessioned) within 10 years of the date of certification, except to an institution or public authority that is, at the time of such disposition, designated for the same category of property by the Minister of Canadian Heritage under subsection 32(2) of the *Cultural Property Export and Import Act*.

For more information, consult Deacessioning Certified Cultural Property in the Supplementary Information section of this document.

The signature of the donor(s)/vendor(s) on the application form is optional. Applications signed by anyone other than the delegated signing authority may be returned.

CCPERB PRIVACY STATEMENT

The donor or vendor must review and sign the *CCPERB Privacy Statement*, consenting to the collection of personal information by the CCPERB for the purposes of making determinations and issuing *Cultural Property Income Tax Certificates* (T871s).

The signed statement must be included with the application (unless there is already a clause to this effect in the disposition agreement).

SUPPLEMENTARY INFORMATION

MAKING A REQUEST FOR REDETERMINATION

Once the Review Board has made a determination, the donor/vendor may request the Review Board to redetermine the fair market value:

1. Review Board determinations of outstanding significance and national importance and fair market value are communicated to the donor/vendor and the recipient institution.

2. If the donor/vendor wishes to contest a Review Board determination of fair market value, the donor/vendor, or an agent appointed for that purpose, may request that the Review Board redetermine the fair market value.

3. Requests for redetermination must be made in writing to the Review Board within twelve (12) months after the day upon which notice of the Review Board's determination was given. Where an agent is appointed, the donor/vendor must provide a letter to the Review Board to this effect.

4. While additional information providing the rationale for a redetermination is not required, it is strongly encouraged.

5. Redetermination requests may be made in relation to proposed or completed dispositions.

6. The Review Board will consider a request for redetermination and render its decision within four (4) months after the receipt of the request, unless the circumstances of a particular case require otherwise.

7. Only one redetermination will be made by the Review Board unless the circumstances of a particular case require otherwise.

MAKING AN APPEAL TO THE TAX COURT OF CANADA

When the Review Board has redetermined the fair market value, the donor/vendor may file an appeal with the Tax Court of Canada:

1. The Review Board must have both determined and redetermined (even if this does not result in a change to the original determination) the fair market value of the disposition in order for an appeal to be filed.

2. Appeals to the Tax Court of Canada must be filed within 90 days after the day on which the Cultural Property Income Tax Certificate (T871) is issued in relation to the redetermined fair market value of the property.

3. The appeal must be filed by the donor/vendor.

4. An irrevocable disposition must have been made.

DEACCESSIONING CERTIFIED CULTURAL PROPERTY

Institutions and public authorities must retain certified cultural property for ten years from the date of certification, unless it is transferred to another designated institution, preferably with a comparable collecting mandate.

Section 207.3 of the *Income Tax Act* states that if an institution or public authority disposes of certified cultural property to a non-designated institution or public authority within ten years of the date of certification, it must pay a tax equal to 30% of the value of the object at the time of disposition.

CONTACT US

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