

# The Business of Art - 30th Anniversary Edition

Pages: 387

Publisher: Lee Evan Caplin; 3rd International Edition edition (November 5, 2011)

Format: pdf, epub

Language: English

---

[ [DOWNLOAD FULL EBOOK PDF](#) ]

---

**THE BUSINESS OF ART** *30th Anniversary Edition* by Lee Caplin *The Business of Art* Copyright 2011 Lee Caplin, Evening Sun Press *It's About Time* (c) Copyright 2012 Ed Ruscha, All rights reserved. Image used with permission, **Library of Congress Cataloging-in-Publication Data** The business of art / [edited by] Lee Caplin.—3rd ed. p. cm. "Published in cooperation with the National Endowment for the Arts." Includes index. ISBN 0-13-597998-6 (ppc). —ISBN 0-7352-0013-0 (p) 1.

Art—Economic aspects. 2. Art—Marketing. I. Caplin, Lee Evan II. National Endowment for the Arts. N8600.B875 1998 98-8034 CIP 706'. 8—dc21 All rights reserved. No part of this book may be reproduced in any form or by any means, without permission in writing from the author. This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional service. If legal advice or other expert assistance is required, the services of a competent professional person should be sought.... *From the Declaration of Principles jointly adopted by a Committee of the American Bar Association and a Committee of Publishers and Associations.*

**PREFACE TO THE THIRD EDITION** In the two decades since *The Business of Art* was first conceived, the art world has undergone upheaval and change. Art, in all its forms, has generally been considered part of the so-called nonprofit world. Ironically, in the aggregate, the arts comprise an almost \$40 billion industry, giving rise to approximately 1.5 million jobs. According to some estimates, the more than 30,000 arts organizations in the United States contribute over \$3.5 billion to the federal government in taxes. In terms of underwriting the arts, the government actually funds less than 1 percent—primarily targeted for administrative and operational activities. Individual visual artists receive virtually nothing from the charitable activities that characterize the nonprofit world. Perhaps in today's society that does not seem surprising. The 1980s saw a veritable art boom. By 1989, the inflated Japanese yen had created a bull art market, where even mediocre artists became millionaires. Art speculators were out in full force. However, by 1991, the public witnessed a true arts recession: Artworks failed to reach their reserves at auction. Collectors began to feel that they had overpaid for white elephant art pieces that would never again achieve their original "value." Dealers became more cautious in adding new artists to their rosters. Galleries refused to honor their promises to "take back" artworks if clients became dissatisfied, or wished to "upgrade" their collections. Some galleries even demurred in giving their own artists shows of new work, fearing that the new work would fail to find the same surefire audience that had made them all wealthy. Artists who rode the crest of the 1980s, but fearing the worst in the art market, boldly struck forth in the entertainment business, trying to make their way. One wealthy 1980s artist underwrote his own lowbudget movie, hoping for the chance to become a Hollywood director. Another made a short-lived appearance as a Country Western singer on a self-produced album. Still others looked to expand their market shares to other mediums such as dance, theater, and even MTV, where they could enhance their careers by painting sets and costumes, or making minimovies. As with all businesses, however, financial results were, and are, a direct reflection of the marketplace. In the case of the super-star artists of the 1980s, the new

marketplaces were far from those in which they made their reputations. Trying to “sell” the public on a movie or album made by a famous artist simply made no financial sense. Ultimately the end product had to rise or fall as a result of a public uninterested in new arrivals whose calling card was fame in the world of visual arts. Those particular artists were back to ground zero in their new careers. In 1996, the art business began to turn around. Auctions at Christie’s and Sotheby’s started attracting crowds again. There was the sense of theater that characterized the boom market years earlier—news cameras awaited the arrival and exit of the glitterati. Outside, street performers regaled the crowds, while inside, black-tie audiences applauded multimillion dollar sales prices for modern masters such as Willem de Kooning, Roy Lichtenstein, and Andy Warhol. But people were definitely hedging their bets. Banks, for their part, were wary of extending financing to even their good art-business customers. Thus, money some dealers had advanced to artists to help with cash flow or to create new bodies of work was in short supply. Dealers and auction houses were forced to put their heads together to form public alliances that hitherto had been implied or covert. Both Christie’s and Sotheby’s diversified by purchasing large holdings in private gallery operations, breathing new life into struggling art boutiques. Some disparate dealers openly shared representations of large collections or artists’ estates, thereby redefining their own marketplaces and, by sharing customer bases as well as marketing costs, expanding the number of potential buyers. At the same time, potential conflicts of interest threatened the art buying public with the aesthetic equivalent of price fixing. After all, what is art worth? In business, fair prices are those numbers upon which willing buyers and sellers agree. But in art, value often is that which a trusted art advisor or consultant supports. Even among regulated government activities auction and gallery prices set important insurance and IRS standards for valuation. One piece of art seen in the context of another, perhaps superior, piece may fetch a price far higher than the same piece of art seen out of that context. By developing exhibitions, catalogues raisonné, and carefully choreographed reviews, those who sell art in galleries or at auction can position artwork for sale at higher prices. These issues are discussed in the chapters devoted to art at auction and the politics of art, among others. But for those artists who are driven to their studios by the passion of producing art, regardless of what happens, the goings and comings of the New York or world art market mean very little. It is to these individuals that this volume is dedicated. Surveys in recent years estimate that over 300,000 people in the United States consider themselves artists. The figures go startlingly higher worldwide. These artists range from students and housewives/husbands to weekend painters to dedicated practitioners who grapple with outside jobs to support their passion for making art. Picasso once opined that everyone is born an artist; what is it about life, he asked, that allows some to stay artists and forces others to forget the joy they once knew as creators. Part of what happens, we might answer, is that people age and begin to face the realities of social and financial responsibility. Sylvia Stone, the sculptor, once remarked that life for an artist is a long time: “Even if you draw or paint or sculpt for a quarter of a century, what are you going to do with all the rest of your years?” For an artist committed to his or her art, the answer is obvious: persevere. While everyone may not wish or be able to treat art as a means of earning a livelihood, *The Business of Art* is a means of understanding enough about business to make informed choices. While scoring a dealer may not be the way of choice or within the realm of possibility, this volume describes alternative paths that can be followed. Practical suggestions are always valuable: protecting one’s body from chemical harm, protecting one’s family from legal action should an installed work fall from the wall, creating new environments in which artwork can be created and displayed. In the writing of this handbook, even the idea of a “career” in the arts drew controversy. Purists claimed that even the word “career” was antithetical to art. Others disavowed any knowledge or attention paid to the marketing of their works, insisting that their sales were wholly attributable to the fact that their art was “good.” Sadly, business “techniques” will enable some artists to survive regardless of the quality of the art they create. But everyone seems to agree that demystifying the business aspect of the visual arts is a positive step. In addition to this volume, we have assembled a video tape presentation that replicates the spirit of the original conferences. Use of both the tape and the text can offer the basis for actual course material that arts groups and art schools can offer to their local communities of artists. We still

have a National Endowment for the Arts as well as state and local art agencies. The United States Small Business Administration is still open for business, and is willing to assist in planning and executing local conferences. In the wake of federal cutbacks in direct financial aid to artists, the path is still open for all who make a serious attempt to be self-reliant, whether on a full or part-time basis. Lee Caplin Los Angeles, 1998

**ACKNOWLEDGMENT** The author would like to acknowledge the invaluable assistance of the Washington, D.C. law firm of Caplin & Drysdale in preparing the technical aspects of this text.

**FOREWORD** *Livingston L. Biddle, Jr.* **LIVINGSTON L. BIDDLE served as Chairman of the National Endowment for the Arts from 1976-1980** These are perilous times for the arts. Recent decisions to reduce by record amounts support for the National Endowment for the Arts produce a chilling effect on state and local funding. The arts are perceived by many as increasingly vulnerable to attack and no longer, as they were earlier, of central worth to our society. Too often it has become politically advantageous to berate the arts. Too often defenses have become insufficient. Conceived as a catalyst to encourage nongovernmental assistance to the arts, the National Endowment once succeeded mightily in that mission. Now, that strength is seriously diminished. Arts activity, growing at an unprecedented rate since 1965, is placed in similarly unprecedented jeopardy. Private initiatives, those undertaken by the private community, are thus of crucial importance. Especially now, visual artists need to focus on how best to address their efforts and energies to the business in which they are engaged—the business that allows them to grow in excellence and bring reinvigorated attention to the abiding value of their creative expression. This new edition of *The Business of Art* has an immediate, a most timely, significance. Its broad range of subjects and approaches demonstrate practicality, imagination, and ingenuity. It is compelling and rewarding reading for artists seeking to succeed, for those interested in helping artists to enhance their work, and for all who are enriched and moved by the artistic experience. When the first edition was compiled and published in cooperation with the National Endowment, which I then headed as its chairman, we were immensely gratified, and indeed astonished, by the magnitude of response. The variety of thoughtful and thought-provoking advice offered involved not only artists, but art dealers, lawyers, collectors, experts in tax matters, gallery owners, and leaders of small businesses sharing with the arts world their own relevant expertise. The benefits to artists throughout the country were described as exceptional. The new edition promises an update to meet, with special understanding and wisdom, the urgency of present needs. My admiration goes to the pioneering Lee Evan Caplin who worked at the Endowment with me, and who has produced previous editions as well as this one, and to Prentice-Hall, the publisher. My own goal through a lifetime devoted to the arts is to be of help. To be associated with Lee and with Prentice-Hall in the presentation of this unique book is a privilege. *Washington, D.C., 1998*

**INTRODUCTION: THE CREATION OF A FEDERAL PROGRAM FOR ARTISTS** *Lee Caplin* **LEE CAPLIN created and directed the Federal Program "The Business of Art and the Artist" while serving as Special Assistant to the Chairman of the National Endowment for the Arts in Washington, D.C. Mr. Caplin currently produces feature films and television through his company, Picture Entertainment, in Los Angeles. Lee Caplin also spends time in northern California, where he was part of the founding faculty at California State University Monterey Bay, and served as Chairman of Starium Encryption Technologies, specializing in telecommunications privacy equipment and software.** Between September 1979 and May 1980 over 4,000 artists gathered together in Los Angeles, Chicago, and New York City, where, for perhaps the first time, two federal agencies combined forces in four major events to assist art in America. Blue jeans and paint-stained windbreakers merged with three-piece suits, and an air of lively curiosity and expectation filled the auditoriums at L.A.'s and Chicago's Museum of Science and Industry and New York's American Museum of Natural History. After 18 intense hours at each location, artists were still talking, listening, taking notes, exchanging names. The events were conferences, co-sponsored by the U.S. Small Business Administration (SBA) and the National Endowment for the Arts (NEA), to give artists basic business and marketing information. This apparent unlikely pairing had a rational basis embedded in the purpose and philosophy of the two agencies involved. The National Endowment for the Arts is the federal agency that was charged with giving support to all aspects of the arts in America. It not only supported the arts through

grants but also supported artists and arts groups through technical assistance—helping them to be better organized and to get on their feet financially. NEA also had been involved in advocacy efforts to try to get members of the private sector to become involved with supporting the arts. One segment of the private sector was the business community. The business community at large has primarily been active in supporting the arts as a patron—purchasing art for office buildings, giving support to symphony orchestras, dance companies, museums, and theaters. However, the business community also possesses the practical knowledge of how business affairs are run—knowledge potentially very valuable to artists or arts groups in managing their own affairs—and in making the most of opportunities to earn income. Each year as the Endowment's budget was reviewed by Congress the questions inevitably came up: "Are artists hooked on the federal dollar? How much do they really help themselves?" The NEA/SBA joint project seemed like an ideal opportunity to start answering those questions in the most positive of ways. The Small Business Administration offers a variety of assistance projects for the small businessperson. It makes loans and loan guarantees and gives technical assistance to individual entrepreneurs or businesses. However, one major distinction between the purposes of the Arts Endowment and of the SBA was that SBA gives direct support only to groups or individuals who are trying to make money, while NEA gave grants only to individuals or to art groups which were tax exempt and therefore primarily not engaged in making a profit. However, indirect or technical assistance to individuals was ground common to both agencies. SBA brought to this new partnership a widespread "delivery mechanism" for technical assistance. It has field offices in all 50 states and territories that give business training sessions to all aspects of the small business community. While SBA does not have programs that deal specifically with artists, artists occasionally have found their way to SBA training conferences on accounting or establishing business operations. Nevertheless, SBA has previously given no specific attention to the arts. And most of the arts community is unaware that SBA gives technical assistance applicable to the arts. The National Endowment for the Arts realized that it could help SBA develop a mechanism to train artists in business and marketing affairs that would respond to some real needs in the arts community. So with SBA to purvey technical information, and NEA to help develop that information, the two agencies began their task of putting together a training program for artists. The development of this partnership received interest and support from the wife of the vice president of the United States, Mrs. Joan Mondale. As honorary head of the Federal Council on the Arts and the Humanities, Mrs. Mondale saw the NEA/SBA alliance as embodying the goal of the Federal Council—that the Council should act as a catalyst in involving other federal agencies besides the Endowment in assisting the arts. With Mrs. Mondale's strong endorsement, the project was off to a fine start. NEA's Visual Arts Program—dealing with individual painters, sculptors, printmakers, photographers, and varied craftspersons—was chosen as the most practical area on which to focus this first program. Since the area of visual arts is so broad, subject areas dealing with art marketing and specific problems of artists were best addressed both by practicing artists who had "made it" in the financial sense and who understood the business aspects of their activities, and by accountants and lawyers who, in the course of their practice, handled artists' affairs. In its training activities, SBA traditionally uses lecturers picked from its "service corps of retired executives" (SCORE) and an "active corps of executives" (ACE). These experts are business executives who donate time to SBA to assist in training and advising small businesspeople. While such resource people often do not have familiarity with the arts community, the Arts Endowment found them especially receptive to tailoring their remarks to fit the artists in the audience. With an array of experts from both the arts and business communities, NEA and SBA felt that the subjects would be fully addressed. Three pilot conferences, in Los Angeles, Chicago, and New York, were planned. These cities were picked because of the size of their arts communities and because of the quality of SBA's district offices. The key to the success of these conferences was identifying and engaging local conference co-sponsors. Such co-sponsors would take part in the planning and execution of the conferences and would continue to be available on the local level for future artist training efforts by SBA. The Los Angeles co-sponsor was the California Confederation of the Arts. In Chicago and New York, co-sponsors were both the state and the city arts agencies. An additional cosponsor

in New York was the Foundation for the Community of Artists. These organizations gave unselfishly of their time and resources to supply the essential support so critical to a successful program. The response was amazing. Whereas SBA's past experience in training led it to believe that no more than 200 applicants would attend each conference, about 1,000 artists attended in each city. In Los Angeles, there was such an overflow crowd that there had to be last-minute closed-circuit TV coverage in an adjoining auditorium. In New York an entire second conference was scheduled to accommodate nearly 1,000 additional artists who were unable to fit into the auditorium during the first New York conference. During the course of the four two-day conferences, over 80 panelists appeared. On the first day, artists talked about planning; an artist's accountant talked about arts accounting problems; and experts explained the intricacies of insurance, retirement plans, money-lending sources, banks, credit, tax, and the law in relation to the arts. Monona Rossol, of New York's Center for Occupational Hazards, described health hazards facing artists and art buyers from the materials used in making art. The second day was all about marketing. Successful artists from various corners of the arts community, experienced in traditional or alternative marketing possibilities, spoke on such subjects as galleries, museums, alternative spaces, and commissions. Dealers who were involved as brokers, middlemen, or direct sellers of art, spoke about marketing art in those settings. According to the evaluation forms and other responses the Endowment has received, artists found the program format ideal. Certain areas, such as law and accounting, are so complex that they deserve specific attention if they are to be explained fully. However, NEA and SBA simplified their presentations within a larger context, sensitizing artists to the need for legal and accounting advice, and devoting more time to some of the specifics of *where* and *how* artists go to sell their work. Surprisingly, some artists who were approached to serve on panels were at first skeptical about the program. They feared such a conference might emphasize elements antithetical to art. But ultimately all agreed that artists could generally benefit from exposure to business and marketing basics. Despite the practical purpose of the conferences, it was far from a simple "How-to" program. The basic philosophy of those who make their lives in the arts was explored thoroughly by the artists on the panels. As these artists later unfolded their stories it was evident that they wanted to make certain that people in the audience, who call themselves artists, were not putting the cart before the horse; art is not so much a business as it is a calling and it is not so much the manufacture of products for sale as it is a matter of producing something because one is obsessed with producing it, and only then wondering, once the art is produced, what should be done with it. On the one hand, artists who had developed formulas for success did not want to reveal their formulas to the audiences. In many ways such formulas were unique to those artists. On the other hand, some of the speakers did not care to admit that there are any business oriented steps that artists could or should take. Painter Ed Moses suggested, "There's art, there's stuff that looks like art, and there's stuff that just looks good. If you're into the last two, you're into business." The point being that "if the art is good, it will speak for itself." In the words of sculptor Bruce Beasley, however, "If you hide your light under a bushel, nobody will see it, but first you must be sure there's a light." Several of the artists' presentations were discouraging, in their hesitancy to validate a business element in "getting one's art out." Painter Philip Pearlstein urged that each artist ask the question, "Do I have talent?" He said that the drop-out rate of artists over 30 suggests that many are asking themselves that question. "There are very few artists over 50," Pearlstein said. Other panelist-artists, who are adept at promotion and marketing, made the assumption that everyone in the audience had work that he or she was proud of, and therefore it was valid to probe the extent to which business techniques were adaptable to the professional structure surrounding the making of art. They were able to identify means by which artists could go further in promoting and selling their own work. A significant point was made that in all instances there is a quotient of "luck" and a quotient of "quality" involved in any success by any artist. Painter Joan Snyder called hers a "Cinderella story." Larry Bell was unable to explain what he had done to promote himself other than by doing his work, observing those he admires, and "emulating their style" in handling their own affairs. Most subscribed to doing only what is comfortable in terms of self-promotion. What may be easy for one artist, such as shaking hands at gallery gatherings, or setting a market value on a piece of art, may be anathema to another.

Sculptor Sylvia Stone admitted that she tended to undervalue her work and preferred to let her dealer establish the prices. Conceptual artist Newton Harrison even advised his fellow practitioners, with some humor, to cultivate the “appearance of incompetence” for the purpose of conducting business affairs, since any attempt on their part to compete on an equal footing with other business practitioners would only lead to greater exposure and susceptibility to the various government rules and regulations. Artist June Wayne suggested that government agencies lack sophistication about the unique business problems of the arts. To those who draft tax legislation, an artist’s overhead looks suspiciously large compared to the slim profits or repetitive losses the artist’s tax return may reveal. Because Congress assumes that the only credible reason for pursuing any business or profession is to make taxable profits, the persistence with which artists pursue their unprofitable activities greatly puzzles and vexes both our lawmakers and our enforcers. As a result, for an artist to fit into the tax laws is, according to Wayne, “for an eagle to fly while wearing an ox-yoke.” The traditional rules of business do not always apply in the business side of the arts. Gallery owner Ivan Karp stated that he chooses the artists he represents on the basis of how he responds to their work—not on the work’s marketability. One theme of conflict recurred and was never fully resolved: Some artists felt that planning was essential in having a professional career as an artist. Other equally successful artists felt that any plan is out of place—that it stifles one’s creative instincts. Painter Jim Rosenquist gave his view by quoting President Eisenhower: “A plan is nothing, planning is everything.” On balance, however, everyone seemed to profit by some aspect of the conferences. Few expected to be given a list of “ten easy do’s and don’ts” for becoming a successful painter or sculptor. But despite their individualism, most artists share many of the same problems and needs. As they listened and asked questions, artists were able to arrive at a balanced view of the various options available to them in marketing and promoting their work. Certainly the gatherings themselves were significant events apart from the valuable information conveyed. Many of the artists in the audience had never seen or heard dealers such as those on stage. Many had never been in the company of artists of major reputation, such as appeared in the three cities. There was great value in the audience’s listening to sculptor Fred Eversley, on the one hand, showing clear knowledge of how to market art work or Bob Graham, on the other hand, suggesting that there is little an artist can do in marketing artwork; that his work somehow seemed to sell almost by itself. On a human level, it was reassuring to encounter colleagues of one’s own discipline or geographic surrounding, who attended the conferences to get the same information, and to be able to communicate with these people afterward at the receptions that were held. The Endowment, for its part, certainly did not advocate treating art as a business or artworks as commodities for sale. Rather, its main role in participating in the project was to make available as much technical business and marketing information as possible, so as to offer the broadest range of choices to artists pursuing their callings as professionals. As a result of the pilot program “The Business of Art and the Artist,” the Endowment and SBA produced a documentary videotape and a conference organizer’s manual to be used in presenting workshops throughout the country. That videotape may now be purchased via the 800 telephone number included in this volume. This volume can supplement these workshops and is a useful introduction to the business side of art for all those who have not yet received such technical assistance. The material presented here is not meant to be inclusive, nor is it supposed to supplant courses in business and marketing. Rather, it is a first step toward understanding many aspects of “survival” for artists in a commerce-oriented society. The artists, dealers, and business professionals who have contributed their thoughts in producing this book hope it will help you discover the types of questions you ought to be asking either yourself or those whom you enlist to help you. They hope that their views on the professional side of art will illuminate and demystify many seemingly technical and complicated details that might seem burdensome to those who just want to make art. Their ideas apply to all forms of visual arts and crafts. Whether the topic is sculpture or the Los Angeles art scene, the information can be generally useful. Artists as a group are less eager to share “techniques” that have worked for them. Dealers, too, sometimes are reluctant to be candid about their colleagues and the practices they use. But for the first time, gathered in one place, a composite of the art scene is depicted by what

is said—and what is left unsaid—by the authors of this book. Larry Bell once stressed that each of us is responsible for the best and the worst of what happens in our careers. What you won't get by reading this book are any "Ten Commandments" for becoming a successful artist. What we hope you will get is a better sense of what you really want from your art and how far you are willing to go to achieve your goals. If you can place all the elements of your art and the business of art in perspective, you will have achieved a lot, especially in terms of being responsible to yourself as an artist and as a professional. For some there may be a period of time when fame and fortune are a reality. For others, there may be a perpetual obscurity. In between are many variations on the theme, as well as behavior patterns ranging from the promiscuous to the recalcitrant. Sylvia Stone made a keen observation when she said that "making art is one of the true areas where we have a kind of independence and serve our own sense of morality. It is one of the free activities still left to some of us. And I say; 'Use it. Use it and enjoy it.'"

**CONTENTS**[Preface to the Third Edition](#) (Lee Caplin)[Foreword](#) (Livingston L. Biddle, Jr., Chairman, National Endowment for the Arts, 1978-1981)[Introduction: The Creation of a Federal Program for Artists](#) (Lee Caplin)**PART ONE PLANNING**[1. An Artist's Way of Life](#) (James Rosenquist)[2. Practical Planning](#) (Bruce Beasley)[3. Stepping Through the Looking Glass: Forming a Business Entity](#) (Joshua J. Kaufman, Esq.)[4. Understanding Everyday Finances](#) (Robert J. Higashi)[5. Estate and Gift Tax Planning](#) (Ira M. Lowe)**PART TWO PROTECTING**[6. Keeping Your Artwork Unique: Copyright, Trade Secret, Patent, and Trademark Law](#) (Richard L. Stroup)[7. Insuring Artwork and the Artist](#) (Huntington T. Block)[8. Safeguarding Your Health: Health Hazards for Artists](#) (Michael McCann and Monona Rossol)[9. Financial Resources: Art in Public Places](#) (Judy Baca)[10. Support for Individual Artists in the Empire State](#) (Kitty Carlisle Hart)[11. Joining Together: Artists' Unions](#) (Olive Mosier)**PART THREE MARKETING**[12. Career and the Artist](#) (Henry Geldzahler)[13. Entering the Mainstream](#) (Julian Schnabel)[14. Preparing Your Portfolio](#) (Kate Keller and Mali Olatunji)[15. Selling Art Under Contract](#) (Tennyson Schad)[16. The Integrity of the Artist, Dealer, and Gallery](#) (Tibor de Nagy)**PART FOUR EXHIBITING**[17. New York: A Dealer](#) (Ivan Karp)[18. Los Angeles: A Dealer](#) (James Corcoran)[19. Washington, D.C.: A Dealer](#) (Christopher Addison)[20. Chicago: A Dealer](#) (Rhona Hoffman)[21. Houston: A Dealer](#) (Betty Moody)[22. Artists' Spaces: Alternative State of Mind for a Temporary Exhibition](#) (Kenny Schachter)**PART FIVE BUYING AND SELLING**[23. Museums: The Artist and the Museum How to Crack the Sight Barrier](#) (Tom L. Freudenheim)[24. Art Advisory Services: The Age of the Art Advisor](#) (Jeffrey Deitch)[25. Individual Art Collectors: The Role of Art Consulting in the Art of Collecting](#) (Barbara Guggenheim)[26. Art Collections in Corporations](#) (Mary Lanier)[27. Contemporary Art at Auction: That Was Then; This Is Now](#) (Frank Giraud/David J. Nash)[28. Commissions](#) (Helen and Newton Harrison)[29. Craft Fairs](#) (Carol Sedestrom Ross)**PART SIX THE POLITICS OF ART**[The Great American Art Game](#) (Lee Caplin)

Mary Boone • Sidney Janis • Leo Castelli • Arnold Glimcher • Paula Cooper • William Rubin • Patterson Sims • Hilton Kramer • Peter Schjeldahl • Richard Brown Baker • Nathan Cummings • George Segal • Jennifer Bartlett • Chuck Close

[Index](#)**PART ONE Planning****The first thing you have to decide is whether you have talent. It's a hard decision to make but a lot of people seem to make it. There's a big drop-out period when people reach 30. There are very few artists over 50.****PHILIP PEARLSTEIN**

**1. AN ARTIST'S WAY OF LIFE** James Rosenquist JAMES ROSENQUIST is an artist and a former member of the National Council on the Arts. The question I ask myself when art and business are discussed together is, "Has art grown into a desk job?" I started drawing in 1949—or even before that—but I arrived in New York in 1955. The Third Avenue El was just being torn down, the Colosseum wasn't built yet, and the Whitney Museum was still on 54th Street. At that time the art world was very small. The number of galleries was few, and I would say the number of people who collected avant-garde art—which meant that it had come from young living Americans—was perhaps less than a dozen. While art, historically, has always been related to communication, in 1955 in New York many famous underground artists lived within a few blocks from each other but did not know each other, had never met each other. In the 1950s, Jim Harvey—the man who designed the Brillo box—who used to travel to the Middle East, brought back slides of his travels and invited the whole art world to come and see the slides down at Coentie's Slip. So everybody and his brother showed up, and I was surprised to find that people did not know each other. I met

Ad Rinehardt—one of America's most famous artists—for the first time. Major artists were not in close contact. In the late 1950s, American artists such as Bazziotes, de Kooning, Gottlieb, Guston, Kline, Motherwell, Newman, Pollock, Still, Rothko, and others had tremendous underground reputations. They had worked for years—some of them, like Franz Kline, in the WPA programs—yet they hadn't had one-man shows, and they were already in their late forties or older. Some of them would get up at the Friday Night Club and broadcast their art. They'd talk about it, be assertive about it, defend it, and they were, I would say, very self-conscious about their work. They talked among themselves. They would try to establish the work; in other words, they were not cool about it. They were *hot* about it compared to the next generation, called Pop Artists, of which I was a part. When I arrived on the art scene, the art audience had already begun to increase. In 1958 de Kooning had a show, and one of his paintings sold for the highest price for a living American artist—\$14,500. Just after that, Jasper Johns appeared on the scene. He seemed to be a reactionary to a style in painting sometimes described as drips and splashes. Actually it was called "abstract expressionism." His style resulted in critics trying to group artists in a "movement," but they were not all alike. At that time in New York, Ivan Karp, Henry Geldzahler, and Dick Bellamy would prowl the streets, going to artists' studios to discover new talent. They actually went from door to door to find out who lived in each loft. I think this was the first time artists were solicited. Young unknown artists felt they didn't have a chance to show their work when they saw someone like de Kooning walk down 57th Street in an old Levi jacket and bedroom slippers, looking very poor. If *he* wasn't doing well, how could a lesser known artist expect to do well? One day in 1960 I ran into Bob Indiana. He said, "Guess what I saw, Jim. I saw a dirty new collage of Bob Rauschenberg's behind a big glass table on Park Avenue! Let's go out and have a drink and celebrate!" So we celebrated Bob Rauschenberg's breakthrough. At that time artists supported themselves any way they could. Some did commercial art jobs, some worked on construction jobs, and some sold coffee in Madison Square Park from the coffee stands. I painted billboards and created window displays for Bonwit Teller and Tiffany. Rauschenberg also did window displays for Bonwit Teller. We all had to make a buck. When Henry, Ivan, and Dick started looking for people, Henry was a curator at the Metropolitan Museum, Ivan was at the Castelli Gallery, and Dick was about to open his new Green Gallery. Dick asked me to be in his gallery. I knew I could make a living at that point, so I quit my commercial artist's job just to paint. I was very happy. I lived frugally, and was able to live on very little. I could eat breakfast for 25 cents at the Seamen's Institute! I found it a tremendous luxury to be able to live in a cosmopolitan city and not have to deal with it except to dream. The dealers urged me to hurry up and have a show as fast as I could, but I was happy just to live with my pictures and simply let things happen. My paintings were like my companions, and I wasn't consciously trying to sell them. But then Dick sold some of them to Bob Scull, the Tremains, Dick Baker, Jan Streed, Morton Newman, and others, for prices ranging from \$350 to \$1,100. In the 1950s you could walk into the Whitney Museum annual exhibit and buy almost anybody's painting for a thousand bucks. Then things started to heat up. People became interested in art—I don't know why. Leon Menuchin bought practically a whole show for Brandeis University. People followed his lead. Harry Abrams, who had been buying French Impressionism and Old Masters' works before that, saw what Leon had done and began buying young artists' work. John Powers saw what Harry and Leon bought, and he bought what they bought. So collectors of young unknown American artists began to proliferate. **ART AS A BUSINESS** I've been asked, "How does an artist relate to business?" and "Can I plan a career as an artist?" As for planning, Eisenhower once said, "A plan is nothing. Planning is everything." Being an artist, whatever that is, involves constant questioning of everything. It is very difficult to set out a plan in a businesslike manner because a happy accident could happen and someone might like your worst work. Artists work in unknown territory. If it were known, they probably wouldn't be artists. This is difficult for an artist to realize, but it's also more difficult for an audience to understand. However, when an artist is through with a work, then strange things can happen, like people wanting to be near it, people talking about it, and people wanting to own it. When this happens, artists usually don't know what to do. My first experience in relating to business was like building a better mousetrap. I never had to ask my friends or potential buyers to visit me. One day Barbara Durkee

visited me. She told her husband Steve about my work, and he told his dealer Alan Stone. Alan told Ileana Sonnabend, and she told Bellamy and Karp, and they told Leo Castelli. Jasper Johns even asked to come to my studio. He said, "Where did you learn to paint like that?" People beat down the door to my studio. Artists, then, were usually indifferent to galleries; they didn't expect much money, only the possibility of having their work on view in a neutral space. Before I had any reputation, I never had to schlep my paintings anywhere. That's how it happened with me. Other people's introductions to a gallery and to business happen differently. Frank Stella just walked into the Castelli Gallery, and Leo asked him, "What do you paint?" Frank said, "I paint. I just paint, man." The artists of the 1960s and the 1970s were a little luckier because they didn't have to solicit their art. In the 1980s there [was] an entirely different situation. There were many more artists living in New York City, and there were many more galleries. I liked it that way; there was more to look at, more to investigate. All through the 1960s my daily routine was waking up with a hangover about ten o'clock, painting all day, at five o'clock renting a tuxedo from Silver's Tuxedos, going up to 57th Street to an opening, going up to the Jewish Museum to Rauschenberg's opening, or somebody else's opening, or my own opening, then going out, staying out till one or two in the morning, waking up with a hangover, working the next day, renting another tuxedo at Silver's (or keeping the same one), going out again— every night of the week! Sometimes I was invited to three dinners at a time. Life was fast and fun. But getting back to that planning thing: Planning is like looking for your wallet under a street lamp when you didn't lose it there in the first place. When I started planning, I wanted to be a mural painter. I tried to go to school where they would teach me mural painting. All these men teaching had read books about it, but they had never done it. I looked around and I saw billboard painters painting, and I thought, "Gee, those guys can handle any kind of space. They must know how to handle paint and brushes." So I went right into billboard painting as a master billboard painter—no apprenticeship, no nothing. I learned a great deal from my helpers: David Mishnick, a sculptor who had come from Russia in 1927 and had shown his work with Arshile Gorky; Solly Schnee, Harold Bernstein, who had a lot of knowledge about paint. These old-timers were like teachers to me. They told me what not to do. It was like going to school—but it was a tough commercial business. Successful artists as well as businessmen use creative thinking to get from point A to point B. The attempt to repeat an approach or a style that has been successful in the past in order to achieve new success can lead to a dull result. Creative, successful artists and businessmen rarely approach the same thing in the same way twice. Art isn't really done for any reason other than a means of the artist's self-expression. Business, on the other hand, is traditionally done to make money. Now art may not be done to make money, but that doesn't rule out its value. The problem for any artist has always been either having money and no time or a lot of time and no money. The ideal life for an artist would be to live in a cosmopolitan city and be free from the burden of having to make a living. And, however one accomplishes it, that freedom from "making a living" could be essential to being an artist. I think a problem comes when an artist does start to sell something, for then he becomes connected with business and his life is no longer free from that involvement. For myself, I don't have the slightest idea of how to allocate time between art and making money except on a case-by-case basis. I really have no plan at all. The reason I work, the reason I make things, is to illuminate physically some feelings I've had. Then they exist outside of myself in some kind of form, so when I am old and gray I'll be able to look at them and realize that I was alive at a certain period. I really regard it almost like a philatelic thing. When I'm dead, that's outside the human condition and I don't care any more about the works. There's a whole new crop of young artists who grew up surrounded by materialism, as I did, but who try to plan their art careers like the climb up a corporate ladder. I can't imagine an artist's life being as steady as that. People who don't know what an artist does ask me, "Are you doing pictures for magazines now? What are you doing this for?" My answer is that I'm not doing art for anyone but myself. The reason why is that if I did art for somebody other than myself, I wouldn't know what to do. I don't have to paint something this color or that color because of someone else's reason. I can do anything I please. And that's the lovely, scary thing. It's challenging to go into a room with a canvas and know that you can do anything you want to do. This is probably a Far Eastern attitude about learning. You confront

yourself totally, whether you're able to work or not. So, getting back to the idea of planning, to an artist's mind there are no holds barred, no barriers. The only thing that stops you is the old Catch-22 thing, the financial problem that you just don't want to deal with. Yet you have to face it. When I began painting, James Michener came to my studio and said, "I want to buy that painting." I said, "I'm sorry; it's already been sold. Richard Bellamy sold it." He said, "I'd like one just like it, or something like it." I felt that the look of my art wasn't like anything else being done at that time, so I was very reactionary, and I said, "No, I can't possibly do that." Now if he hadn't said what he did, I might have made four more paintings similar to that one, or studied it further. But I viewed his request as an interference. I was very sensitive then! Just a few years ago it wasn't fashionable to want one's son or daughter to be an artist. Now sons and daughters are encouraged to study art because it could be possible to make a handsome income from it. I can't think of art as a desk job. Avant-garde artists still face hardships in spite of a current government attitude that art is alive and well in the United States. Artists have a hard time getting credit, getting hospital care. Their work is sold, and resold quickly for high prices in a short time, and the artist gets only the first piddling commission from a dealer—or may not get paid for years. Artists can't contribute their work to museums for a tax deduction as art collectors can, because the government says the only value coming from an artist's work is the cost of the materials! Back in the 1960s, when it was lawful, the art dealers' association carefully scrutinized donations, so there were very few overvalued works. The person possibly most responsible for stopping contributions was former President Nixon, who donated his writings for an unrealistic deduction. Artists' heirs are often stuck with a huge inheritance tax on unsold works and have to sell them off cheaply to be able to pay the taxes. There are a great number of artist problems pertaining to business and taxes. If the speed of thinking of the IRS and the government could accelerate at the same rate as the speed of artists' and inventors' thinking—that is, linked with communication—I think we could get away from a guns or unemployment society and get into space without bringing war with us. During the time I've taken to write this, the current acceleration of the change of events regarding government support for the arts, business support for the arts, and the fate of the National Endowment for the Arts under the new administration has changed drastically. The new government senses a need for extreme budget cuts in every area except military spending. In *The New York Times*, during the height of the Vietnam conflict, the annual government military contracts to major corporations were published. If one added up the cost of all the arts activities in the United States for the same year, including dance, music, museums, theater, and even large Hollywood films, it wouldn't be a drop in the bucket compared to the enormous military expenditures for Vietnam. On a television program on Sunday, April 28, 1981, the panelists seemed to agree that art should become a business in order to be able to make it on its own. Mr. Herb Schmerz, of Mobil Oil, stated that art groups should be able to function and survive as a business. Mr. Schmerz was happy to announce that art finance should be left to the private sector and will happily be taken over by big business. One panelist said that art in America is alive and healthy, and always was, despite government support. Another panelist suggested that viewers should send their ideas to their congressmen. I remember a time not long ago when art barely existed in New York. And the future of art in America doesn't look good now. In this great country of ours, let's encourage the arts and humanities, and new forays into visual art. Let's build one or two fewer missiles and provide the National Endowment for the Arts—with its history of a hands-off attitude—with a healthy, growing budget. Let's not let large corporate control lead us into 1984.

**2. A PRACTICAL PLANNING** *Bruce Beasley* BRUCE BEASELY is a sculptor with works in the permanent collection of the Museum of Modern Art, the Guggenheim, and the Musee d'Art in Paris, among others. His large sculptures can be seen in public places such as the federal courthouse in San Diego and the San Francisco International Airport. I have been asked to address the rather vague area of planning in regard to a career in art. I am not sure what this encompasses, but I know for certain that I did not plan to be an artist. It just happened just as falling in love happens. Although I myself cannot imagine being anything but an artist, I do not believe in soliciting others to follow me in this field. Art is a joy too precious—and painful—to proselytize. Therefore, I extend my sympathies and, of course, my warmest feelings for anyone who has the art monkey on his or her back. I am asked

what can be expected when you have been bitten by the art bug. You can expect challenge, the joy of expression, exploration, and sometimes exploration that leads to exhilarating accomplishment. You can expect frustration, self-doubt, and loneliness. You can also expect damn little practical support.

**THE ESSENTIAL DILEMMA** There is much known history about artists and money problems, and a lot of it is true: Michelangelo fighting with the pope over payments, Van Gogh writing his brother for more money. The stories are endless, and they point to a terrible historical dilemma: an artist must have money to live and to make art. But the motives for making art are not financial. This puts artists' needs in direct conflict with their motivation. In fact, artists are economic victims of their own aesthetic, which of course is not news to anyone who is an artist. The purpose of this chapter is to shed some light on this dilemma. Perhaps the reason I was asked to address this question is that some years ago I made a decision to throw myself on the world of galleries and sales of my art for my sole livelihood. I am therefore supposed to know something about it. I am not sure this is true, nor am I sure that I know any more about it now than I did when I made the decision. However, in looking back on that decision (which at the time was made more in passion than in logic), and also in observing and sharing the lives and careers of friends who made both similar and dissimilar choices, I have thought of some things I have learned which I would like to share. Maybe they will sound simplistic and obvious, but they have been lessons to me.

**MAKING CLEAR CHOICES** Basically, I would say that the artists I have known who have had rewarding and successful careers are those who have been able to make very clear choices about their priorities and expectations. Once these priorities were selected, they wasted no emotion on the other things they gave up. I want to make it clear that when I refer to a successful artist I do not necessarily mean financially successful. To me a successful artist is one who continues to make art and is not more than 50 percent bitter about the rest of life. If you teach for a living, the pay per hour is good, but for some it is aesthetically draining; if you drive a cab you have to put in more hours, but it's less complicated. If you work in California you don't have the New York scene; if you live in New York you can't work outside as you can in California. To cast in bronze is expensive. If you work in plaster, people won't pay as much for it. If you work monumentally, you can do only a few pieces per year. If you work small, you can't be in the shows of monumental work. These trade-offs are endless, and in addressing the specific and terrifying question of how one can make art and also make a living, there are myriad answers, and all of them have a good part and a bad part. My most sincere advice is to take a hard look at your desires, your abilities, and your temperament, and then pick the solution that is the least repugnant. I purposefully put the phrase as "the solution that is the least repugnant," not as the best, because that is how I see it. The best part is the art you are going to make. The negative part is that somehow you have to get some money in order to do it. And believe me, there are no perfect solutions.

**BE AWARE OF DRAWBACKS** If you are rich to start with, you and others will wonder if you could have made it on your own. There are the same and even greater doubts about marrying for money. If you teach, there are time constraints, and for some there are aesthetic drains and the general diversion of your time and energy that university involvement demands. For many, selling their art has its drawbacks also. It requires the drive to sustain a regular output even at difficult times. Some have difficulty in letting the work go once it is finished. It requires that your prices be set by what the work will really sell for rather than by what you think it should be worth; this often requires facing painful realities. Some artists find the whole business aspect of galleries and sales to be unpleasant. My decision to try to live off my work and cut the bridges to teaching in the early days involved my acquiring a mechanical skill to fall back on when nothing sold, and also being willing to live very cheaply for many years. I do not mean to go into a long lament on the suffering and starving artist, but there is more than an element of truth in the cliché. If you are going to depend on the sales of your work as your means of livelihood, you must expect to go through a period of very real deprivation. This may mean forgoing a family, living in genuinely inadequate conditions, and, in every material sense, living a lousy life. On the other hand, this will also be a period of great excitement and reward as you hit a stride with your work that was previously prevented by the demands of school or regular work. There is, of course, no guarantee that your learning the elements of business will produce any financial success in your art. After all, we are not talking

about earning merit badges or getting into heaven. It is hoped that you will have found out your work capacity, discovered the depth of your ideas, and produced a good body of work. For myself it has been a good choice and one that I would make again. It is not, however, as good as it often looks from the other side of the fence. I am under constant pressure to produce and exhibit. I must actively seek out and enter into competitions for sculpture commissions that are often time-consuming and unrewarding. Aside from the actual making of the art, it is a rather practical life—full of details of crating, shipping, photographs, installations, and so on. And there is, of course, no certainty that because things sold this year they will sell next year. But I am not complaining. I made my choice, and when the payoff isn't worth the pain, I will make another choice. But it would be a critical mistake to eat myself up with bitterness about the bad part that came automatically with the choice I made. If I am going to live off my work, I must pay more attention to the business part than if I had another source of income. It is just like sweeping up the studio or changing the oil in the air compressor; it isn't interesting or aesthetic, but it is reality that has to be dealt with.

**KNOW YOURSELF** So, basically, what I am saying is this: Pick where you want to be and go there without looking over your shoulder, without looking back. If you are gregarious and good at self-promotion, do it. If you are not, do as much as you can stand; realize that you are making a choice not to do more, and don't be bitter about your not being better at it. If you love working in the mountains, great. But don't badmouth the New York "conspiracy." If showing in public is painful, don't show. If you can't manage a variable income, get a secure job. These are a lot of don'ts, but I also have some do's: do make art; do make good art; and do make it all through your life, because, really, that is the only reward you can expect. Selling your art is nice; public acclaim is nice; but it's like the warmth of a sunburn. It's superficial and short-lived. Be practical but only about practical matters. Expect damn little, but expect a lot from yourself—because finally your relationship with the art you make will be the major source of joy and sorrow in your life.

**3. A STEPPING THROUGH THE LOOKING GLASS: A FORMING A BUSINESS ENTITY** *Joshua J. Kaufman, Esq.* JOSHUA J. KAUFMAN is a partner in the Washington, D.C.-based law firm of Kaufman & Silverberg. The firm specializes in art law and has associated offices throughout the United States. Mr. Kaufman is an adjunct professor at American University Law School where he teaches Art & Entertainment law. He is the founder and Executive Director of both Volunteer Lawyers for the Arts, DC and The Society to Prevent Trade in Stolen and Fraudulent Art (STOP). When Alice stepped through the looking glass, she entered a strange and terrifying world. When artists cross the thresholds of their studios and decide to market their works, they enter the business world, a place even more bizarre than the looking glass world. Everything that makes artists unique, creative, and great in the studio becomes an albatross when they enter the business world: spontaneity, going with one's creative energies, gut reactions, trusting one's instincts—the tools of success in the studio— can be the implements of disaster. Artists must realize that, when they decide to sell their art works, they have been transformed into business people. To succeed in the business world, an artist must understand the rules under which that alien world functions, and then master those rules. One of the very first decisions artists must make when they cross into the world of business is to decide what type of entity they want to become. It is a decision that artists cannot avoid. Understanding the options is necessary if the artist is to make an intelligent choice from the available alternatives. Fear not! These decisions are not engraved in stone. As time goes on, if an artist's circumstances dictate changes in the format of the business structure, those changes can be made. The artist should periodically review the situation to ascertain whether or not the current business structure is still the right vehicle. If the artist chooses to adopt the "ostrich method" of decision-making, and refuses to deal with the issue, it does not go away. Instead of the artists deciding what is best suited for their needs, the government does it for them, under the defaults set up by the state and the IRS. Very often these defaults will not be in the artist's best interest. State law generally governs the legal issues that affect business formation. Therefore, some specifics will differ, based on where an artist does business and is set up. However, the general rules and procedures that we discuss in this chapter are generally similar from state to state. In setting up a business, strange words are used. It is important that a competent translator is found. Usually these decipherers of the alien words are found disguised as lawyers, accountants, financial advisors, and other

creatures whom artists have spent most of their lives avoiding. However, this is one of the times when these professionals are not the harbingers of disaster, but rather are an artist's allies. In fact, they provide a shield for the artist that can prevent future problems, discord, and disasters. Seven basic business formats are generally available to an artist to choose from: Sole Proprietorship Partnership Joint Venture Agency Relationship Standard Corporation Sub-chapter S Corporation Limited Liability Company Partnerships and joint ventures are very similar, as are the subchapter S corporations and standard corporations. The agency relationship is a quasi-partnership arrangement. The limited liability company is a new form of business entity that has gained popularity since the early 1990s. This chapter will describe each of these entities, and then evaluate their strengths and weaknesses. Before deciding the nature of the business entity there are two things artists must do no matter which form of business they adopt: (1) choose a business name, and (2) set up a business bank account. All artists, even if they are working alone from their own homes, should maintain a set of business books and records for their business activities. They should most definitely have a separate business bank account. Once one form of doing business, as discussed in this chapter, is chosen, one of the first orders of business should be to set up the business's bank account. Never co-mingle personal and business funds! Perhaps the first thing the artist considers when entering the business world is the name of the new venture. It does not matter which form of a business entity is chosen; all businesses operate under some form of identifying name. The entity's name should promote the business. It will be the name the public identifies with the artist; it will be the source from which to acquire the artist's work. Therefore, it is important that the name be selected carefully. Obviously, there are many aesthetic considerations involved. In addition, to ensure that no one else is using the same or a similar name, check with the state in which the business is to be established to make sure the name is not in use or reserved. States will not allow a new entity to use a name if they have already registered the same or a similar name to an existing business. While essential, checking the local state records for similar names is not enough. If another entity *anywhere in the U.S.* is already using a name similar to the one chosen by the artist for the new business, it could happen that, after printing brochures and letterhead, placing ads, etc., the artist might receive a "Cease and Desist" letter demanding a stop to the use of the newly minted name. This ominous legal letter will state that the name violates the sender's pre-existing trademark rights. A trademark identifies, to the public, the source of origin of a product. Trademark rights in a name or other materials are obtained by the actual use of the name in commerce: "Use it, You own it!" Our trademark system is based on the "first come, first served," school of jurisprudence. It is therefore mandatory for artists starting a new business to undertake a comprehensive search for other names that might be similar to the one they would like to use. A worthwhile search goes well beyond just checking the state and federally registered marks because trademark registration is not mandatory (although one gets additional benefits from registration), and therefore most people do not register their trademarks. To ensure that a prospective business name—a vital business asset—is not lost, a search should include an inspection of all the white and yellow pages in the country; a review of the hundreds of business name directories; a search of trade publications; and even a check of Internet domain names. The list of possible sources to review is vast. Fortunately there are companies out there that will conduct a comprehensive search for a reasonable fee. Since the attorney should have a relationship with one or more of them, one of the attorney's services that an artist should request is a comprehensive trademark search. The lawyer should review the raw materials received from the search company and draft a legal opinion on the availability of the name from a trademark perspective.

**SOLE PROPRIETORSHIP** When an artist crosses the threshold alone into the business world, where no one else has a financial or ownership interest in the business—that is, no one else shares in the profits, runs the risks of the losses, makes the decisions, shoulders the burdens, or acts as a partner in any way—the artist becomes a "sole proprietor." The sole proprietor runs the business on the "me, myself, and I" formula. A sole proprietor can have employees, hire individuals or entities as independent contractors, and contract with vendors for assistance. However, these relationships are all on a strictly "arms-length" basis, with no sharing of the ultimate decision-making powers. Sole proprietors (or

any business entity) can assume a business name, which is different from their legal name, under which they conduct their business. For example, Picasso, as a sole proprietor, might choose to work under his own name or choose to be "also known as" (a.k.a.) a business name such as *Guernica Studios*. His letterhead, checks, and agreements could all be under the name of *Guernica Studios*. Some states require a business that uses a trade or other kind of fictitious business name to register those names with the appropriate state office. However, when a sole proprietor operates under a business name, it does not change the business structure; it simply provides some marketing flexibility. When sole proprietors enter contracts, they are responsible as individuals, even if they sign them in their business name. If any liabilities arise based on the actions of the sole proprietor, the individual who signed the contract is personally liable for them. If any judgments are entered against a sole proprietor, the personal assets can be seized, even if the funds or property has nothing to do with the business. If, in our example of Picasso d.b.a. (doing business as) *Guernica Studios*, Picasso had signed a lease in the name of *Guernica Studios* for a studio and the rent was not paid, Picasso, the individual, would be liable for the debts of *Guernica Studios*. Any judgment entered against *Guernica Studios* would in fact be a lawsuit against Picasso, the individual. A common misconception is that conducting business as a sole proprietor out of a home will somehow exempt an artist from local licensing or zoning laws. Generally, if a studio is run in a residential neighborhood, the artist still must conform to the various local zoning regulations. Also, if the local county or state taxing authority has a personal property tax for business property, a sole proprietor must pay it, as well. Usually, there are no required state filings, tax consequences, or tax breaks by virtue of being a sole proprietor. Whatever profit is earned by a sole proprietor is taxed as individual income. The benefits of a sole proprietorship are that there is no setup, no extra paperwork, no partners with whom to fight or split profits, few governmental filings, no additional tax forms, and few, if any, business registrations. Being a sole proprietor requires an artist to take few affirmative actions, and does not add to the burdens of daily existence. As can be imagined, this is by far the most popular business form used by artists.

**PARTNERSHIP** A partnership is created by the actions of two or more individuals that have come together to carry on as co-owners for the business. The coming together of the partners is the act of creation for the partnership. Generally, there are no requirements to register with the state or the federal government. The Partnership Agreement, which governs the activities of the partnership, is a private document, and is not filed or registered with any public entity. Many artists enter partnerships by accident. They will start collaborating with another person on a limited basis; the relationship works; the personalities gel; they find that they are working together on a consistent and regular basis. Sometimes without being conscious of the fact, they have formed a partnership. A partnership can consist of two artists who collaborate on works of art. A partnership can also exist between an artist and one who helps manage the artist's business, or between an artist and one who distributes the works of art. If partners do not draft and negotiate their own partnership agreement, the state imposes one on them. In one form or another, all states have adopted laws that govern partnerships. These laws become the basis for the default partnership agreement for those who do not draft their own. There may be a circumstance in which the default partnership suits the artist's needs, but in all likelihood it will not. Rather than relying on the law, a partnership agreement should be drafted that matches and suits the needs of the individual partners. Partnerships can be of any size, but in the arts, partnership arrangements are generally limited to these situations: an artist who collaborates with another; artists who share studio space or form a co-op gallery; and individuals who invest in an artist's career or who front money so an artist can publish works. Partnerships are generally an open-ended kind of arrangement, not for a specific project or for a limited time. There are many partnerships in existence in the art world. Unfortunately, many of them were formed by default without any conscious thought or design. If an artist believes that he or she might be in a "partnership," it would be to everyone's advantage to formalize that relationship and commit it to writing. Partnerships should be considered similar to marriages, and partnership agreements akin to prenuptial agreements, although a bit more palatable. Partnerships pose great risks for an artist. Partners are personally liable for the acts of their fellow partners, even if they are unaware

of them. For example, if one partner finds a studio, and without consulting the other partners, signs a lease on behalf of the partnership, in case of a default all of the partners will be liable to the landlord under that lease. This is true even if they did not see the lease before their partner signed it, and never agreed to its terms. One partner may have a claim against another partner for acting in an inappropriate manner or for breach of the partnership agreement, but as to “third parties” (in this case, the landlord), all partners are equally liable. If the landlord sues the partnership, each partner could be *individually liable* to the landlord for the *full amount* of the debt. The landlord can choose which of the partners to go after to recoup the loss. If the partnership enters a loan agreement and they default on the loan, all partners are liable to the lender for the full amount. The moral of the story? Choose all partners well! Even the most brilliantly-drafted partnership agreement will not protect an innocent partner from claims made by aggrieved third parties. A partnership agreement explains how the partnership is to be run, who is responsible for what tasks, how profits and losses are allocated, what happens if someone wants to drop out of the partnership, and what happens to that partner’s contribution. It also covers who owns the partnership assets, who owns the copyrights in the artworks, and who owns the rights in future exploitation of the works. When engaged in a partnership, it is imperative that one have a partnership agreement. The initial meeting with an artist’s own attorney and the prospective partner to set up the partnership can be educational and enlightening. It is often the first time that partners really see each other in a strict business environment and have the opportunity to disagree. The soon-to-be partners learn very quickly whether or not they are compatible. I have seen many a budding partnership that didn’t last past the organizational meeting. Serious differences which were not brought out when the topic of discussion was “art” are exposed when attention turns to how to run the business. Although there may be disappointment that the partnership did not flower, in the end it is a lot cheaper and holds much less anxiety for all parties if the partnership is abandoned early, rather than too late. One key feature of a partnership agreement is what happens upon the death of a partner. Partnership interests are considered property and can be left to one’s spouse or heirs in a will. If a partner dies, the surviving partners may very well find themselves in the unanticipated situation of being in partnership with their recently departed partner’s spouse. Partnership agreements should provide remedies for these situations. A standard solution is a mandatory “sell out” by the deceased partner’s estate, at an agreed-upon price. In other words, if a partner dies, his or her estate must sell the partnership interests to the surviving partner(s), at either a prearranged price, or a price based on a predetermined formula. Partnership agreements can also provide for life insurance policies to be owned by the partnership so that there are sufficient liquid funds to pay off surviving spouses or other heirs. Income from a partnership is generally taxed to the individual partners in accordance with the distribution of profits, as set out in the partnership agreement. The partnership does not file its own tax returns with the IRS. Partners report their share of the partnership’s profits or losses on their own individual returns.

**JOINT VENTURE** A “joint venture” is the same as the general partnership described above, with one distinct difference: It is an association of persons in a single or limited enterprise. The partners combine their property, money, efforts, skill, and knowledge for a limited purpose, usually a single project or a few related projects. A joint venture might be created, for example, if the investor joined with an artist for the sole purpose of jointly publishing a limited edition print. Although limited in scope, all of the reasons that partnership agreements need to be clearly listed in writing hold true for a joint venture. The agreement may be shorter and more concise, but is still necessary.

**AGENCY RELATIONSHIP** An agency relationship also is similar to that of a partnership in many aspects, but has one primary difference: there is a boss. An agency relationship consists of the principal (boss) and the agent (the one taking direction). An agent can be an employee, but also can be an independent person with whom the principal is working. In an agency relationship, if an agent reveals that he or she is working for a principal and enters agreements for the principal, generally only the principal, not the agent, is liable. Where an agent does not mention that he has a principal, both the agent and the principal very well may each be jointly or separately liable. If an agent violates the instructions given by the principal, the principal will generally still be held liable to third parties for the unauthorized acts of the agent. This holds

true if a reasonable person in the third party's position would have believed that the agent was acting "in the scope of his agency" and relied on this apparent authority to their detriment. In the art world, the most common agency agreements are between artists and their galleries, or between artists and their publishers. Although this may come as a shock to many in the art world, the artists are the principals (bosses) and the galleries and the publishers are the agents. Yes, in the eyes of the law, publishers and galleries work for artists, not the reverse. Therefore, if a gallery makes misrepresentations about an artist's work, or acts in an otherwise dishonest manner, a third-party collector, publisher, gallery, etc. would also have a claim against the artist, even though the artist had no idea that the gallery was acting in an illegal or inappropriate manner. It is important that agency contracts, better known as "Artist/Gallery Contracts," or "Artist/Publisher Contracts," define the nature and the scope of the agency. The limitations on the representations and actions that the agents can make without the approval of the artist must be clearly set out. To help ensure compliance, the agreement should contain clauses providing for indemnification (legalese for "reimbursement") to the artist for any claims made by third parties resulting from inappropriate representations and actions by the gallery and/or publisher. [1] **CORPORATIONS**

Picture the ceiling of the Sistine Chapel where God is about to touch the finger of Adam. Now picture handing documents to a clerk after standing in a long line at a dingy government office. Both images represent creation. God created man, and the clerk created your corporation. With a thunder clap or the parting of the skies, man was brought to life; with a \$45 check and the thud of a rubber stamp on your "Articles of Incorporation," your corporation is brought to life. A corporation is a "person" in the eyes of the law. It is a legal entity, separate and apart from the individuals who run or own it. When a statute refers to a "person," the statute applies to a corporation as well. Corporations pay taxes, are liable for negligence, debts, discrimination, and anything else that an individual would be liable for—even criminal acts (since they cannot put a corporation in jail, they let the senior officers of the corporation go instead). Although the law establishes a "legal fiction," that a corporation is a person, it still does not live in the flesh. To take this moribund entity and give it life, it needs people. The people in a corporation who carry out its various functions are given different titles. If we maintain the "corporation is a person" analogy when describing the components of a corporation, then the brains of the corporation are called the Board of Directors. The arms of the corporation, which initially carry out the dictates of the brain, are called the officers. The fingers, the part of the body that actually carries out the tasks, are the employees. The body, the soul of the corporation, is the shareholders. In larger corporations, there is a clear distinction between these various groups. One set of individuals serves as the Board of Directors; another comprises the officers; others are employees; and then there are a multitude of shareholders scattered throughout the world. In a corporation set up by an artist, the artist may find that along with a spouse and/or a few very close friends or relatives, they make up all the components of the corporation. They are the Board of Directors, the officers, the employees and the shareholders all simultaneously. Nothing is wrong with the multiplicity of roles—in fact, it is quite common. Even though the corporation may consist of only one or two people, it is still a separate and distinct legal entity in the eyes of the law. This needs to be given greater emphasis. The people who make up the corporation are not liable for the actions or debts of the corporation. When a corporation signs a lease for a studio and then defaults on the called-for payments, the landlord may only sue the corporation, not the individuals who make up the corporation: Board members, officers, directors, employees and shareholders are not liable to the landlord for the back rent due. [2] Protection from liability is not limited to rental contracts: It applies to notes from the bank, and to your company's act of negligence (a sculpture purchased from a corporation which falls apart). This limitation of liability is the single greatest reason people incorporate. Years ago there were also several tax benefits available to corporations as opposed to partnerships or sole proprietorships. However, most of these tax benefits have evaporated and few remain. An important exception to the limitation of liability rule, which arises in the arts more than any other place, is that it does not apply for violations of copyright by the corporation. If an owner, officer, or even an employee of the corporation violates someone else's copyright, the individuals who are involved in the copyright infringement will be held *personally liable in addition* to the

corporation. Additionally, in order to obtain corporate protection, various corporate formalities must be carried out. Most jurisdictions require regular meetings of the Board of Directors, the officers, and at least an annual meeting of the shareholders. All contracts must be entered into in the company's name, with the "indicia corporate status" being clear (this includes the words Company, Incorporated, Corporation, Co., Inc., and Limited). These disclosures allow third parties dealing with the incorporated artist to know that they are dealing with a corporation and not the human being in front of them. If the various corporate obligations of meetings, documents in corporate names, checks in corporate names, etc., are not fulfilled, the party who is seeking recourse can "pierce the corporate veil" and reach the individuals in the company. Furthermore, it is important that after the corporation receives its registration from the state, it pays its annual fees to remain in good standing. The corporation must abide by the various legal rules and regulations so it is not susceptible to a challenge as a "sham" entity. Since a corporation is regarded as a "person," each year, if it has made a profit, it pays federal, state, and local taxes just as an individual would. The artist/owner of the corporation gets a salary, and at year's end receives a W-2. If any money remains in the corporation's coffers after paying expenses and taxes, it can distribute those profits as dividends to its shareholders. Shareholders then pay income tax on those dividends. This is called "double taxation" (first the corporation pays taxes, and then the artist/shareholder does, both on the same funds) which is something that an incorporated artist wants to avoid at all costs. Therefore, most incorporated artists, in their capacity as CEO, at the end of the year, give themselves a bonus equal to any profits that remain in the corporate accounts. In this way the corporation does not pay any taxes. Taxes are paid only once, by the artist, as part of his or her personal income tax. Artists sometimes create corporations whose sole assets are their artworks and then use the stock in the corporation as an estate planning tool. Questions regarding taxes, bonuses, zeroing out your corporation, and using corporations as estate planning vehicles are individual in nature, and should be discussed and handled by a financial planner.

**SUB-CHAPTER S CORPORATION** A Sub-Chapter S corporation is created like a regular corporation. It has a board of directors, shareholders, officers, and employees; it is required to hold meetings; and it is a person in the eyes of the law. The one major difference between a regular corporation and a Sub-Chapter S corporation is that a Sub-Chapter S corporation is taxed as a partnership. Sub-Chapter S corporations have several limitations concerning the number and type of shareholders and other technical limitations that generally do not affect artists' corporations. At year's end, there is no need to worry about double taxation because the profits of the corporation are allocated to the shareholders based on their percentage of ownership in the corporation. The flow-through avoids the risk of double taxation, yet leaves the benefits of the corporate limited liability. Historically this has made the Sub-Chapter S corporation a very attractive vehicle for artists.

**LIMITED LIABILITY COMPANY** In the early 1990s, a new type of business entity was created: the Limited Liability Company ("L.L.C."). It was first approved by just a few states, but when the I.R.S. gave it its blessing, L.L.C.s became widely adopted. They are now recognized by almost every state in the United States. In essence, the Limited Liability Company is a business entity similar to a general partnership, but which possesses the limited liability or "veil" of the corporation. Properly structured L.L.C.s are treated as partnerships for federal and state tax purposes. An L.L.C. is generally more advantageous for an artist's business than a Sub-Chapter S corporation, due to its lack of corporate formalities. There are few state filings, and most of the meeting and other corporate requirements are reduced or eliminated. Its members manage the L.L.C. in a manner similar to a partnership, yet it provides for simple transferability of each member's interest in the L.L.C. There are no restrictions on the type of individuals who can own the company. There are no limits on the maximum number of members it can have, but there is usually a requirement that there be two members at a minimum. An L.L.C. can even have different classes of interests. If properly drafted, an L.L.C. is taxed as a partnership; that is, there is no tax liability at the entity level and no taxes on distributions to owners. Taxes would only be on the individual level. Members of a limited liability entity may deduct the losses incurred by the limited liability company in a manner that is similar to a partnership. This advantage is not available to shareholders in most corporations. To initiate the formation of an L.L.C., a document known as the

"Articles of Organization" is filed in the state in which the limited liability company is being created. The information provided to the public about the makeup of the L.L.G. is less than that of a corporation. Specifically, the information contained in the L.L.G.'s Articles of Organization filed with the state provides fewer details than that found in a corporation's Articles of Incorporation. The limited liability company is rapidly becoming the vehicle of choice for most small business ventures in the art world and elsewhere. It provides most of the tax and organizational benefits of a partnership with the same debt and liability protection of a corporation. **CONCLUSION** Many options are open to an artist regarding how to structure his or her business. No one form is right for everybody. The important thing to remember is to make an informed and beneficial decision. Doing nothing and letting the state and the IRS decide on the form of the business by having their default structures govern it is the worst of all possibilities. With proper planning, the artist can step back through the looking glass into the world of art, knowing that strange and bizarre world which lurks on the other side of the glass has been conquered. It is no longer a threat; it is now an ally affording the artist's world border protection! **NOTES** 1. There is another form of partnership called the Limited Partnership, which is a popular entity in the entertainment industry but is rarely seen in the visual arts world. 2. In real-world situations, however, if you are a small start-up company with few assets, the landlords will ask the principals of the corporation to sign the lease on an individual basis as well as in their corporate capacity.

**4. A UNDERSTANDING OF EVERYDAY FINANCES** *Robert T. Higashi* ROBERT T. HIGASHI is a certified public accountant with the firm of Robert T. Higashi, an Accountancy Corporation, in Los Angeles, California. Many of Mr. Higashi's clients are artists. Struggling to survive can be disastrous to your work. I believe that economic freedom, the ability to work and live where you want to and not where you have to, is dependent upon economic success. Once achieved, however, economic success creates other problems. Tax rates rise as high as 40 percent in our society. The state may add 11 percent to this startling figure. On another level, too much success, or "too many toys," as the saying goes, can cause a maelstrom of budget problems, and that is an equal distraction. To the person faced with these facts, financial planning becomes imperative. Generally it encompasses tax and investment planning. It may also lead to retirement and estate planning. But don't be turned off by these words up front. It's not just bookkeeping, taxes, and being prudent we're discussing here. More than that, it's an understanding of certain basic concepts that enable you to create and become more productive as an artist. **UNDERSTANDING OF ACCOUNTING** • First, let's demystify the term "accounting." The techniques of business are not as complicated and sophisticated as you might think. Once understood they are easy to apply, not only by multinational corporations but also by individuals struggling to survive. Everybody has a different idea about what accounting is: It is a set of books, financial statements, invoices, and receipts. Accounting encompasses much more than any one of those things, but it's simple to understand. Accounting is nothing but the recording, classifying, and summarizing of economic data, a science of economic transactions. These data are usually rendered in terms of dollars and cents, but they can also be used in terms of "units," that is, a number of paintings or sculptures. I find many times that artists are not aware of the real help and assistance this business tool can bring to them. I can't express strongly enough to you my feeling that accounting is of value to the artist who has passionate dreams of creating, of making something new and unprecedented. Artists are always asking, "Why does the businessman have all the money?" The answer is that the artist often does not recognize and adopt the tools used by shrewd, wise, calculating businessmen. That may be a large part of why even some successful artists are behind in this area of economic achievement. Yet the need to feel self-sufficient and create a proper environment seems paramount among artists. So I think it does us no harm to regard art as a profit-making venture, a way to make money and to sustain yourself and your work. **CASH PLANNING** One of the most fundamental principles of accounting is budgeting, or "cash planning." This is a very helpful tool because it enables you to predetermine your cash needs. At the same time it helps monitor your economic performance. Basically, cash planning is the system of comparing your estimated cash flow with your actual cash flow, both in and out. To write a budget you simply design a calendar that shows perhaps a 6 or 12-month period. Then you take into consideration all the financial ingredients of your life, the

cash you require and your fixed obligations—studio facilities, equipment, helpers, supplies and research, automobile expenses and insurance, good food, drink, and laughs—whatever makes up your life. When you total the cost of all these things you determine your financial needs. Next, you determine your cash flow from the sale of art, lecture fees, grants and loans, perhaps teaching salaries or royalties. You determine when you can expect this money to arrive, and you mark it on your calendar. Now you have a comparison of the cash required and the cash expected, and from that you can make sound financial decisions. As things happen and conditions change you simply reorganize the figures. You update your plan for the next month, week, or year. When you revise your plan as the need arises, you become better at it, falling closer each time to that “bull’s-eye” which is your desired financial situation. That opens up all kinds of interesting possibilities. Suppose in the beginning you wanted only a kiln and a glazer. In time, you decide to make your studio more useful. It needs more ventilation for ovens, more electrical power, a skylight to provide natural light, shelving, a wall taken out. These things cost money, and if your budget projections suggest that such studio additions could really happen, you will undergo changes in the way you approach your work. Thus, budgeting becomes a tool for personal and professional growth. There are other benefits to consider. A budget compels you to coordinate various aspects of your life. A budget determines just exactly when you will be short of cash, which gives you ample time to arrange financing from a bank, dealer, agent, relative, or friend. Perhaps most important, a budget places you in positive control of your financial future. After all, if you’re experiencing a shortage of money, you are hardly a rarity. And yet you don’t have to be a victim of circumstances if you use this tool of foresight. That’s a simple description of how a budget can work for you. Now let’s view a more complicated use of it.

**BUDGETING IN ACTION** I was once assisting a sculptor who experiments with color and light. His needs include expensive materials and a \$100,000 piece of equipment which produces the desired effect of light and color. The sculpture he wanted to produce was a large piece. Labor and overhead were added to the budget. However, without sophisticated accounting techniques we couldn’t devise a reasonable, accurate projection of the cost. The way of most artists is to wait for a commission before they begin a large work. “I will create a work, present the work, and I will get my money.” While this is a safe approach to budgeting for doing a large work, it certainly was not productive in the mind of my client, who couldn’t wait for that to begin. He had the inspiration then, and the probable cost to him was phenomenal, including a projected payroll of \$6,000 per month for the four months he estimated were necessary to create the work. That was a lot of money to pay toward something which he might or might not be able to sell. He had no guarantee someone would purchase the sculpture for the high price he planned to ask. The large financial risk involved was, to him, worth taking. It was even exciting, because to him, belief in himself made it important that he take a risk. If an artist is really good, it would seem natural that people would help him fulfill his creative power and passion. Often this is exactly what happens. The first step in the artist’s conception of the plan should be the budget. How much will it cost? Where can the money come from? A sound budget is a conceptually complete blueprint for action. In the case of my client, the work was eventually sold to an important art collector for a substantial amount of money. And I will return later to the creative financing which helped this project. First, however, let’s discuss another basic, important accounting tool.

**KEEPING RECORDS** Record keeping, or bookkeeping, is essential to your operation. It tells you whether you operate at a profit or loss, and how much of a profit or loss. You have two basic reasons for keeping records: (1) for your own edification as you keep track of your affairs and (2) for your obligation to statutory authorities—the federal, state, and city governments. The Internal Revenue Service is the most imperative reason for keeping records. The IRS requires that you keep “adequate books and records” to substantiate the income and expenses declared on your income tax return; the responsibility of satisfying them with the legitimacy of your claims rests entirely upon you. No one has ever really formalized a definition of adequate books and records. As far as the IRS is concerned, if it can follow your records, then your records are adequate. The IRS presumes that every person in business opens a bank account, so generally, the basic foundation of books and records consists of bank statements and canceled checks. The bank keeps records of your monthly statements, cash receipts, and canceled checks. At the end of

the year some banks, for a fee, can also give you a computer printout of all your checks. All of these are individual documents of the funds you've spent. The bank records them for you, and all you need do is compile and classify the various documents. Now you have a whole financial picture, a record of how you spent money. You could sit down with that and summarize a year's activity in a few hours. In addition, you should keep any invoices, bills of sale, receipts of various kinds, and any business documents. The sum total of all these documents will constitute adequate books and records. A clear picture of your financial history will greatly assist your projections for the future. Bookkeeping systems vary from keeping receipts and invoices in a shoe box and tabulating them once a year, to your own microcomputer which produces monthly financial statements and other financial reports. In between these extremes are manual, pegboard, and computer service bureau systems. Depending on your particular circumstances and needs, any one of these systems may be appropriate. The wide range of systems may seem confusing to you. I recommend that you hire a certified public accountant to help you choose and install the right system.

**ACCOUNTING SYSTEMS**  
**Cash-Basis Method** The simplest type of accounting system is called the cash-basis method of accounting. This system records income when it is received in cash, and expenses when they are paid in cash. It is the most commonly used method of accounting because of its simplicity. However, the cash-basis method merely tracks the cash through your business. It doesn't tell you how much people owe you, how much you owe others, or what you have in inventory.  
**Accrual Method** To obtain this information for your records you should adopt the accrual method of accounting. This is a more complete method of reporting economic transactions because it recognizes income when you earn it and expenses when you incur them. Suppose you owe your welders \$20,000. You haven't paid them yet. But at the end of the year, you can record an expense of \$20,000 based on the accrual system, thereby allowing yourself a deduction for the sum of money you owe. Conversely, if you shipped an art piece to a customer and billed him \$40,000, but you haven't been paid yet, then this transaction must be recorded as income under the accrual accounting method. But you also can report and deduct the expenses incurred. The accrual method proposes to tell you what really happened in an economic transaction. That's a closer picture of the truth than the cash basis method of accounting. Records are just as important for your own personal reasons. You should keep an accurate, detailed record of all the artwork you produce and the location of each work, whether it's in your studio, a gallery, a museum, or a private collection.

**INVENTORY YOUR WORK** You should take periodic inventories to determine whether your artwork is all physically accounted for and located. This documentation of your total output is of great importance to you. There are cases of art either lost or misplaced by galleries and museums. Such institutions handle the work of many artists. Through the passage of time and a lot of activity, a work may become mishandled or misplaced, damaged, or lost. An agreement must be reached that the galleries and dealers will inform the artist when a work has been sold and to whom. This way you will know when your share of the sale is due. Suppose you consign 15 paintings to a gallery and six months later that gallery sends you a statement which says they have only 13 of your paintings. Where did the other 2 go? Maybe those 2 paintings represent \$15,000 each in total sales, and to you maybe they represent, net after commission, \$21,000. Could you possibly be out \$21,000? If your records are not meticulous and accurate, you could run into big problems. You have no effective means of representing yourself, and that leaves you at the mercy of someone else, which is where you don't want to be. Before you send your work on consignment, you should obtain a written agreement with the gallery as to who is responsible for insuring the goods. Many times a work is damaged in transit, or while being unpackaged and handled by a gallery. If there's no prior agreement you may be subject to loss, and at best there may be an argument as to who is responsible and who gets the tax write-off. Suppose you have an exhibit. Besides this *certificate of insurance* you should obtain a *written agreement of responsibilities*. This should be a clear-cut agreement as to what exactly the artist must provide and what the gallery must provide in terms of the kinds of space, the kinds of help, and the kinds of expense reimbursements. If these matters are not resolved in advance, they may later become the subject of disputes, not only with both parties, but with the IRS too if it reviews your early income and expense record to verify the correctness of your income tax return. These matters are the general conduct of business, a system

which says that before you have an exhibit, and before you transact any major business, you should prepare a list of things which must be resolved. Contrary to being a lot of added work, this attention to organization and good record keeping pays off in many ways. It contributes to your creative output and productivity by furnishing you with timely information about the cost and expenses of your work. It relieves the anxiety of "not knowing." It eliminates the lack of effectiveness which always accompanies disorganized business.

**PLANNING YOUR TAXES WISELY**

The subject of "taxes" is very broad and stimulates a great deal of thought and a lot of questions. A complex network of taxes raises money for the government. Tax laws are complicated, dynamic, and ever-changing. By giving special concessions to various segments of society, Congress uses tax legislation to effect desired social results. In effect, what government does do is give certain groups more money through tax incentives, thereby avoiding the need to have a special congressional appropriation of money for the same purpose. Tax is a euphemism for money. A tax break is less open to criticism. It is more disguised. So when we talk about taxes, we're not talking just about a painful obligation, but also about a way to obtain more money or preserve the money you have. The situation is not hopeless, as some people think. You are not entirely a victim of circumstances. Our system of taxation is a system by self-confession in that you are left to confess your income and expenses. That leaves you in control of the situation. You must remember that you can minimize your taxes by arranging your affairs in the most tax-advantageous manner with the aid of a skillful, creative tax planner.

**FEDERAL TAX**

"The government" represents federal, state, county, and city governments. Federal and state income taxes are the most important because they're by far the highest—up to 51 percent. To a lot of people, including writers, musicians, and artists, tax consultation is vital to their livelihood. Artists, I feel, are among those most needing assistance. They often don't make as much money or do as well economically as other professionals. The artist is a true small businessperson, albeit somewhat oblivious to making money. Most states have income taxes. Each state has its own individual rates and laws. The various state rates reach as high as 11 percent. In rare instances some cities, such as New York, have income taxes. The stakes are high with the 1998 federal rates including self-employment taxes going up over 55 percent.

**STATE AND LOCAL TAXES**

The next major tax to consider is a state, county, or city sales tax. Each state governs its own rates and laws. Most states assess a tax ranging from 2 to 8 percent based on the sales price of goods and sometimes services. This tax may be passed on to the purchaser in some states or assessed against the artist. In either case, accurate records must be kept of the sales and sales taxes collected and paid. The artist must check with his or her own state or municipal authorities to learn what he or she must do to comply with the law. Say you're an artist living in California. You sell a painting for a thousand dollars to a collector who walks into your studio, and you neglect to add the 8.25 percent sales tax. You sell another painting for a thousand dollars to a friend. Because you want to give this person the best price possible, you again leave off the sales tax. Now you owe to the State of California a bill of \$152, which comes out of your sales price. In my experience many artists have unknowingly failed to charge sales tax on art sold directly out of their studio. The sales tax people, as a result of subsequent audits, have assessed these artists the uncharged 8.25 percent plus penalties and interest. This assessment comes long after the money has been spent, and results in a real hardship. What you must do then is file for a resale license, qualifying yourself as someone who is in business and incurs sales taxes, and charge the appropriate sales tax as any other merchant would.

**OTHER TAXES**

There are other taxes to consider. Each city usually charges a business license tax, generally based on gross receipts. You should always keep adequate records to compute these taxes. Moreover, there are penalties that are levied when these taxes are neglected. There are federal and state payroll taxes, with each state having its own individual laws. When an artist hires employees, he or she is required to withhold federal social security and income tax deductions from their pay and remit to the government as required. Most states also have a state payroll-withholding requirement. Quarterly and annual payroll tax returns and year-end W-2 forms must also be filed. The combined rates are usually no more than 10 percent of the gross payment. However, here again the reporting of payroll requirements is very precise, and violations result in substantial penalties. Many states have personal property taxes. Those are assessed by the

municipalities. Unlike all the other taxes previously mentioned, personal property taxes are not computed and reported by you. The state or county sends you a tax bill for payment. The tax laws are numerous and complicated. They require a certified public accountant to help you interpret them, and to understand what is required of you by law. I once represented an artist who, when he came to me, hadn't paid any taxes for years. Furthermore, he had no notion of how much money he had made each year. With this client, I sat down and wrote a story—the story of his life based on the last few years. In this way, we tried to piece together his sources of income. When asked what his activities had been in a given year, he said, "Oh, that year I had an exhibit. The rest of the year I didn't work. I just went to Africa." Later, however, he presented me with a tattered bundle of notes. It turned out to be statements of bank deposits totaling \$40,000, which he had "kept for some reason." I asked him, "Where did all that money come from?" to which he replied, "I don't know, Bob, it came from all over." The reason he hadn't kept track of his income was either that he didn't know it was his responsibility or he didn't accept it as his responsibility. Explaining where the money went to was not so difficult. We had canceled checks. Some of them qualified as deductions. But the sources of the bank deposits were a problem. The consequences were that the government said that unless he could prove otherwise, that \$40,000 was income.

**DEDUCTING BUSINESS EXPENSES** Expenses are a basic concept in taxation. All business expenses are deductible against business income. Business expenses are defined as those that are ordinary and necessary to the conduct of your work. The definition is broad, and yet it specifically excludes all expenses of a personal nature, such as food, shelter, clothing, and entertainment. It includes the cost of your work: your supplies, facilities or studio, employees, utilities, rent, telephone bills, auto expenses, travel and promotion, and anything further that relates to your work—including your accounting and legal fees. Travel and expenses to out-of-town exhibits and dealers are often incurred. Also, most of the cost of the meals and lodging during that time are deductible. Since many of these expenses are paid by cash, the IRS requires that a "concurrent" diary or daybook be kept to substantiate the cash expenses. You can use this diary for all other cash expenses during the year. If the diary is properly documented, actual receipts are needed only for those expenditures over \$75. If your studio is in your home, you may be able to allocate a portion of your home as your work area. Special rules apply that should be reviewed with your accountant. A part of your utilities, maintenance costs, and all other work-related concerns are deductible.

**TAX LAWS THAT APPLY TO ARTISTS** Artists often receive prizes and awards, or fellowships and endowments. The 1986 Tax Reform Act now requires the entire amounts to be reported as income. However, a candidate for a degree may still exclude from income a scholarship or grant used for tuition, books, and supplies. But some tax laws do not work to the benefit of artists as much as others. There's the concept of donating art to a charitable organization. If a collector donates art to a museum, he or she can deduct the full market value of that work. But if an artist donates her own work of equal value to a museum, she can deduct only the actual cost to her of its production, that is, the cost of "paint and canvas." This often seems negligible to the artist. The concept of "taxable income other than cash" is another tax matter that relates particularly to artists. Take the example of one artist selling his painting to another artist, who in turn gives his own painting to the first artist. In other words, they exchange artworks. Under the IRS Code you can deduct as a business expense only the cost of your painting—the price of the "paint and canvas." If that cost was \$50 and the painting is worth \$1,000, then your reportable taxable income on that transaction is \$950. Another example of "income other than cash" is the case of the artist who receives services as payment for his work. Suppose a dentist pays you for an art piece with \$1,800 worth of dental work. The law requires that you report the value of this service as income.

---

How to succeed in the business of Being an Artist! The original "bible" in the field, published in cooperation with The National Endowment for the Arts. Everything that you, as an artist, need to know about how to price your work, how to

sell your work, how to put together a portfolio, how to get a dealer, how to keeping track of your sales and revenues. Expert advice from world leaders in the arts - from Andy Warhol to James Rosenquist to Robert Motherwell to Julian Schnabel. How to sell to corporations, how to get grants, how to sell at auction, how to sell to collectors. Key information on how to find the centers to sell your art, how art consultants operate, what are the politics of art.

---

Best New Books for 2019 - Join us from 6:30 to 8:30 pm at the Sandy Hill Community Centre, 250 Somerset the ottawa small press book fair AUTUMN 2019, TWENTY-FIFTH ANNIVERSARY EDITION. La Fab Arts Centre is located at 212 chemin old chelsea Chelsea QC. Agenda Business report As always, Show and Tell: Bring your creations! The Sandman Vol. 1: Preludes & Nocturnes 30th Anniversary - Arts & Culture. Arts and culture programs. Miami Dade College continues a tradition of cultural and artistic endeavor. MDC features award-winning performances Matilda at 30:She would have been prime minister for a - Los Angeles Time Out New York - ... on the cheap a company with a \$80 million-plus in cash on its books. In November, the Sunday Business Post marked its 30th anniversary by dropping the Sunday part of its title. The Business Post's owner of slightly more than a year, Galway News Corp UK & Ireland, pulled the plug on its print edition. Computerworld - This book is not yet featured on Listopia. Add this Start your review of The Dark Knight Returns: 30th Anniversary Edition. The art style fits the story well. Billboard - It seems appropriate to start a review of Winnipeg's 2019 arts and culture Danny Schur had a big year "mounting a revamped version of Strike! The Winnipeg International Jazz Festival celebrated its 30th anniversary in June. for artists, musicians and small business owners was destroyed by fire. Planning a trip to Miami for Art Basel? Read this first - A Process of Ongoing Improvement - 30th Anniversary Edition.. In this intriguing business novel, which illustrates state-of-the-art economic theory, Alex Rogo 30th Anniversary Edition - APD Singapore Pte Ltd - 30th Anniversary Edition. As America has steadily changed in 30 years, so has the book.. I said that writing is a craft, not an art, and that the man who runs the memo, the corporation report, the business letter, the notice from the bank. The Business of Art: 30th Anniversary Edition eBook by Lee - Book Review: Dragon Quest Illustrations: 30th Anniversary Edition are over 500 pieces of art that Toriyama has created from 1986 to 2016. Images of Organization: 30th Anniversary Edition: Amazon.co - 9 and a slightly longer version of the theme. 1:30. Jun 14, 2015 - Uttaran Serial is an Indian drama serial that is aired on 1 st December 2008 on the Tim Urban of Wait But Why joins us for episode 522 of The Art of Charm because he knows all too well This week we celebrate our ninth anniversary with a huge chapter. Jcpenney catalog 1994 - Finaeo - Need website

content writing services for your business anniversary?. Commission a famous artist to draw a series of funny cartoons or caricatures. A special ebook or a printed book which is great if you're celebrating a

---

## Relevant Books

---

[ [DOWNLOAD](#) ] - Read å@£å•—ç§%oçf›è°- pdf

---

[ [DOWNLOAD](#) ] - Ebook An Art-Lovers Guide to the Exposition pdf

---

[ [DOWNLOAD](#) ] - Marvel Spotlight (1979-1981) #2 pdf online

---

[ [DOWNLOAD](#) ] - Computational Models of Referring: A Study in Cognitive Science  
free epub, pdf online

---

[ [DOWNLOAD](#) ] - Smelly Stuff (Good Stuff Books Book 3)

---