

Should you donate your artwork to a charity auction?

by Alyson B. Stanfield

Last year I asked my newsletter subscribers to share their creative self-promotions stories for an article I was writing. A handful wrote to tell me that donating their work to charitable organizations has paid off in more ways than one. That's great! When you donate to a charity, you (hopefully) meet new, influential people in your community and feel a sense of satisfaction that you helped out a good cause. Unfortunately, this isn't always the case.

Artists are bombarded with requests for donations to worthy organizations. Before you agree to give your work outright, be aware that in the U.S. you are allowed to deduct only the cost of your materials on your federal tax return. That's right: you, the artist, are not able to deduct the fair-market value of your donation. This law has been in effect since 1969, when the previous allowable deduction was repealed.

Amazingly, if someone else owned your work and donated it to a charity, they could deduct the entire fair-market value. You can't. If you think this is unfair, you're not alone. Museums would love to see the return of this deduction, as it would encourage more donations directly from artists. Other art organizations and Congresspeople have been trying to create a more favorable giving environment for years to no avail. The 1969 law prevails in the U.S.

Thankfully, many art and artist organizations that request donations are now making sure artists are first being paid before the work is auctioned off (or raffled, or whatever). Artists then have the choice to donate the entire proceeds or be paid a reasonable amount, after which the organization keeps all the profits. On the other hand, many charitable organizations are unaware of how unfair the law is for artists. When asking an artist to donate their work, these unknowing organizations don't realize the difficult position they are putting artists in. It's up to you to help educate them.

Stay on top of laws and how they apply to you. Don't rely on others. Even some CPAs are confused by this law. I sat in a presentation on taxes for artists given two CPAs who incorrectly answered the question of whether or not an artist could deduct the fair-market value of their work. And those of us "in the know" corrected them, although I'm not sure they believed us at the time.

Below are some credible resources addressing the topic and Congressional attempts to change the law:

http://www.artsusa.org/issues/advocacy/advocacy_article.asp?id=1377

<http://www.manhattanarts.com/pages/banas.html>

http://www.law.harvard.edu/faculty/martin/art_law/denial_of_fmv.htm

http://www.acfnewsresource.org/art/artists_gift.html

The Society of North American Goldsmiths offers excellent guidelines for donating artwork:

http://www.snagmetalsmith.org/documents/Fundraising_Auctions.pdf

Remember, there are excellent reasons to donate your work to a good cause (as outlined in the first paragraph). I advise you always to donate to an organization whose mission is dear to your heart, but you don't have to donate to everyone. It's up to you to ask a lot of questions and make an informed decision as to what is best for you.

Alyson Stanfield is an art marketing consultant who helps artists promote themselves and build their businesses. Get her "6 Habits of Highly Successful Artists" for free at

<http://www.artbizcoach.com>.