

## Tax Matters for the Arts

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JUNE 2015

### Budget measures

On the 12 May 2015, the Treasurer, the Hon Joe Hockey delivered the 2nd Budget of the Abbott Government for the 2015/2016 Financial Year.

It was hailed as a generally pro small business budget and contained none of the nasties of the previous budget that caused so much political damage.

Of major interest to our clients are the following measures:

- No changes announced to the rules surrounding art and superannuation which had been promised to delegates representing the commercial art sector at the Canberra meeting in February
- Small business accelerated depreciation changes
- Small business tax rate cuts
- Changes to methods of motor vehicle claims
- Tax discount for small businesses that are not incorporated
- Immediate deductibility for professional expenses re start-ups
- Arts sector funding re-arranged

#### Detailed changes

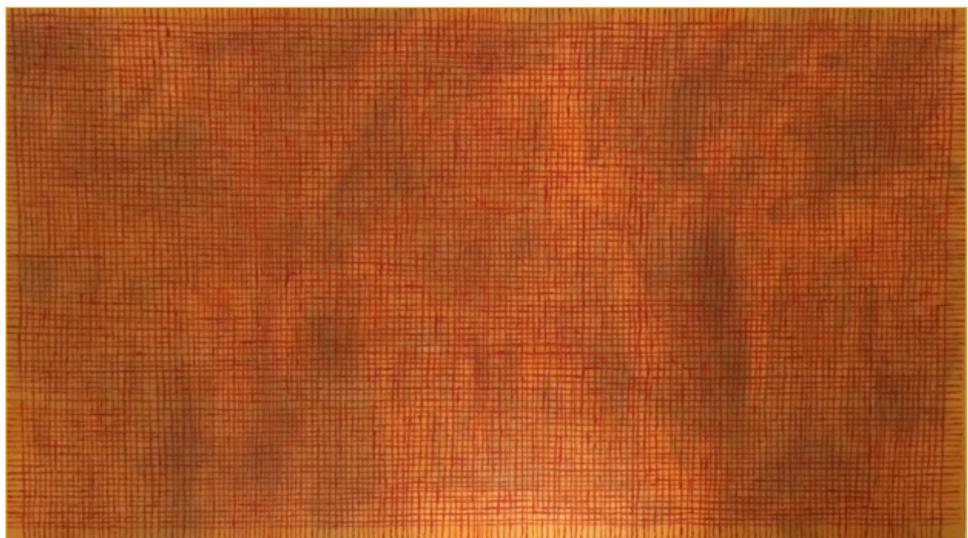
1. Depreciation changes  
The threshold below which small businesses can claim an immediate deduction for the cost of an asset they start to use or install ready for use will be temporarily increased from the current \$1,000 to \$20,000. The \$20,000 threshold will apply for assets acquired & installed ready for use between 7.30pm (AEST) Tuesday 12 May 2015 & 30 June 2017. It is available for small businesses with an aggregate annual turnover of less than \$2 million.

From 1 July 2017, the \$20,000 threshold for the immediate deduction of assets and the value of the pool will revert to \$1,000. While small businesses can access the simplified depreciation regime for a majority of capital assets, certain assets are not eligible (such as horticultural plants and in-house software) for which specific depreciation rules apply. Tom Lowenstein discusses 'Art and Accelerated Depreciation' on page 4.

2. Small business tax rate cuts  
The tax rate for companies with an aggregated annual turnover of less than \$2 million will be reduced by 1.5 per cent (that is, from 30 per cent to 28.5 per cent) from the 2015/16 income year. However, the maximum franking credit rate for a distribution will remain at 30 per cent.
3. The methods of calculating work-related car expense deductions will be modernised from the 2015/16 income year. The "12 per cent of original value method" and the

"one third of actual expenses method", which are used by less than 2 per cent of those who claim work-related car expenses, will be removed. The "cents per kilometre method" will be modernised by replacing the three current rates based on engine size with one rate set at 66 cents per kilometre to apply for all motor vehicles, with the Commissioner responsible for updating the rate in following years. The "logbook method" of calculating expenses will be retained. These changes will not affect leasing and salary sacrifice arrangements. According to Treasury, these changes are designed to align car expense deductions with the average costs of operating a motor vehicle.

4. A 5 per cent tax discount will be introduced for individual taxpayers with business income from an unincorporated business, such as a sole trader, trust or partnership that has an aggregated annual turnover of less than \$2 million. This measure will also apply from the 2015/16 *cont. next page...*



Untitled, 2014, by David Rankin  
oil on board, 75.0 x 125.0 cm

## cont. from page 1 : Budget measures

income year. The discount, given in the form of a tax offset, will apply to the income tax payable on the business income received and will be capped at \$1,000 per individual for each income year.

5. The government will allow businesses to immediately deduct a range of professional expenses associated with starting a new business, such as professional, legal and accounting advice. The measure will be available to businesses from the 2015–2016 income year.

6. The government will invest \$104.8 million over four years to establish a National Programme for Excellence in the Arts to support endowments, international touring and strategic projects, with an emphasis on attracting private sector support.

- Visions of Australia and Festivals Australia programmes will return to the Ministry for the Arts.
- The Major Festivals Initiative will also be transferred with support for this programme to be doubled to \$1.5 million.

- Creative Partnerships Australia will receive \$5.2 million over three years starting in 2015-16 to foster private sector support for the arts.

Funds for these programmes will be transferred to the Ministry for the Arts from the Australia Council.

The Australia Council will continue to be the principal arts funding body, providing funding to artists and arts organisations of approximately \$185 million per annum. There will be no reduction in the Australia Council's funding to the 28 major performing arts companies.

## Evan's corner



by Evan Lowenstein

I was very fortunate to find myself in a warm and sunny USA in May.

My travels this time took me to San Francisco, New York, Chicago and Philadelphia visiting clients, galleries and museums.

It was an interesting experience to contrast and compare what goes on over there with the way galleries operate here in Australia.

One of the most interesting of those was the difference in approach and professionalism that exists in all of the galleries who sell through the primary market. When I entered these galleries I was greeted by very well presented personnel who came across as very knowledgeable and engaging.

This is most certainly the case in the smaller galleries.

The new trend in America is the advent of the 'mega' galleries.

There are a large number of galleries that dominate the arts economy with their market power, both in attracting the clients and the top-selling artists, galleries like

Gagosian, Acquavella, Hauser & Wirth, David Zwirner, Cheim & Read, Matthew Marks etc.

Through their market power they have the ability to host blockbuster shows and attract major museum quality exhibitions and, in turn, they have the clout to attract buyers from major Institutions.

In addition most of the New York galleries are clustered around Chelsea and, if they are large enough, they also have an uptown/midtown presence in some of the most luxurious buildings off Madison Avenue or 5th Avenue, where the prices of works are disclosed only to serious buyers. I had no hesitation in telling them that I was just a "tyre kicker!"

Amongst the shows that I saw were: Lyonel Feininger at Moeller Fine Art, Bruce Conner at Paula Cooper, Cy Twombly and Richard Prince at Gagosian and Tina Barney at Paul Kasmin.

Chicago had a more localised feel showing local artists in a couple of precincts

around the west of the Chicago River in a gentrified area like Fitzroy/Collingwood. It was similar to New York with gallery/warehouse buildings that would house three or four galleries.

The most disappointing aspect of my visits to all of these galleries, big or small, high end or low end, was the lack of knowledge of Australian art or artists. At times I felt that they barely knew where Australia was on the world map, let alone have any understanding of the range of art that we produce here, which is world standard. It left me with a bit of a hollow sense and also left me wondering what needs to be done to bring about more knowledge of Australia and its wonderful artists to the American market. Unfortunately, I think its still a long road ahead for Australian artists to achieve status in markets outside of Australia. What I can say is, as long as I am fortunate enough to keep travelling, I will continue to wave the flag as best I can.



Cloud Gate, Anish Kapoor, Chicago

# Deborah Cheetham

by Fiona Gruber

Deborah Cheetham has just got back from Kalgoorlie where she's been inspiring indigenous school children to sing and compose opera through her program Short Black Opera for Kids, an offshoot of her successful indigenous company Short Black Opera.

It might seem a tall order for years four, five and six but she says it's the perfect age to grab their attention;

"Music is embedded in their DNA; we say, 'let's formalise it'. It can be tedious, as kids usually learn by listening, but the society we live in is based on the written word."

Cheetham, a Yorta Yorta soprano, composer and educator, is intensely proud of her heritage and indigenous culture and is also a passionate champion of opera, an art form steeped in Western musical traditions.

Traditional indigenous culture and opera go very well together, she says.

"There's a great connection in singing our stories and in ceremony, it's actually very like opera."

"Music teaching in public schools is meagre compared to private schools, and for indigenous kids the opportunities are even bleaker but, as well as facilities, it's attitudes that need to change", she argues.

"These kids don't come with less ability to learn. What needs to change to make

it more equitable is the way Australian society views indigenous culture and peoples."

Alongside this, expectations need to be raised among indigenous kids.

"Why shouldn't they reach for the heights?" she says, "both as indigenous Australians and as artists in their own right."

Cheetham is a proselytiser with high standards. She divides her time between performing, travelling the country as an educator and furthering the ambitions of SBO, which is made up entirely of indigenous singers and a program of opera and choral works.

Foremost among these is Pecan Summer, the opera she wrote, which tells the story of the Cummeragunja walk-off in 1939, a mass indigenous protest at the restrictions and dismal conditions of a Christian mission for Aborigines in NSW.

It was commissioned for the Olympic Arts Festival in association with the 2012 London Olympics and has been performed in Melbourne, Adelaide and Perth after its world premiere at Mooroopna, Victoria in 2010.

The plan, she says, is to get it performed throughout Australia and to get the music and the story out there 'because we know so little'.

Although it's a tale close to her heart as her grandparents were part of the protest, she only discovered the connection as an adult.

Growing up as part of the stolen generation in a white religious family, her



Deborah Cheetham,  
Photo by Kristina Kingston

initial musical training was in the church choir followed by a degree at the NSW Conservatorium of Music.

Her 1997 one-woman show White Baptist Abba Fan tells of her journey to discover more about her racial and sexual identity.

She's currently working on a requiem, Eumaralla, about the 19th century resistance wars by the Gunditjmarra people of Western Victoria.

"Song writing is one of our platforms. My way is to write music about absences in the history of our peoples."

Fiona Gruber is a Melbourne and London based arts journalist and broadcaster.

## Art event: Heather B Swann at NGA



Heather B Swann's work at the NGA Contemporary

Canberra-based Heather B Swann has created a twenty-five metre long work for the NGA Contemporary's show *Streetwise: contemporary print culture* that 'wraps the gallery windows with imagery of surreal and otherworldly

creatures' showing 1 May – 7 August 2015 at Queen Elizabeth Terrace, Canberra [www.nga.gov.au/contemporary](http://www.nga.gov.au/contemporary).

Last year Heather won the Paul Guest Prize for drawing at Bendigo Art Gallery for *You Are a Balloon ... wait for a prick*.

Currently, she is involved in *Nervous*, a collaborative, interdisciplinary installation and performance project that she conceived. It began with

the development of a suite of ambiguous objects, with artists from other fields then being invited to further explore and extend the works' physical, conceptual and emotional space and force. The first stage of the project, the making of the

sculptures, was supported by a grant from Arts Victoria and other supporters include: Clemenger BBDO and Medley Hall, the University of Melbourne.

The creative team are working together to develop a cross-media *gesamtkunstwerk* for initial public exhibition and performance in Melbourne in 2015. See <https://vimeo.com/70863012>

### Crowd-source funding

They are currently seeking crowd-funding for the second stage to support commission fees for the composer and director; the construction of an unusual set and towards a travel budget for the workshops of young singers.

Go to <https://australianculturalfund.org.au/projects/nervous/> to support this project.

# Artworks and the newly announced accelerated depreciation for small business entities



by Tom Lowenstein

## The Federal Budget 2015: Art and Accelerated Depreciation.

The Federal Budget announcement on accelerated depreciation for small business has already seen a number of galleries promoting the sale of art as part of business assets.

### Small business accelerated depreciation.

As from the 12 May 2015 to 30 June 2017, small businesses (with the annual turnover of less than \$2,000,000) can claim a complete write-off of business assets, with an individual threshold of \$20,000 for each asset, provided those assets are used in business and there is a nexus between the business and the acquisition.

### Does this accelerated depreciation apply to art?

Based on written advice which we received in 2009 from the ATO in relation

to the then investment allowance, which in principle is similar to the current announcement, as well as verbal advice received from the ATO, we are confident that this accelerated depreciation ruling also applies to acquisition of artworks, subject to certain conditions.

These include:

- Artworks should be in a tangible form and able to be moved from one location to another;
- Artworks must be purchased with a dominant purpose of being displayed on business premises; and
- Artworks must be created by professional artists registered with an ABN.

Under the above conditions we feel that artworks can be claimed under the accelerated depreciation provisions.

### However, is this advisable?

Generally, it is considered that art is an investment and falls under the category of "collectables". It is generally accepted that art is not depreciated as a business asset (despite it being listed as such).

By opting to claim the full 100% write-off, artworks acquired will be depreciated as business expenses. This will mean that the business will forego the right for these works to be treated as collectables and consequently the Capital Gains Tax provisions will not be able to be utilised to reduce any tax on the gain. Instead, all profits and losses will be subject to normal income tax.

### For example, artwork acquired for \$10,000, and then sold after five years for \$15,000.

If an eligible business acquired an artwork as a business asset, there will be an immediate tax deduction of \$10,000, which at the assumed tax rate of 30%; \$3,000 will be saved immediately. When the artwork is sold, income tax will become payable on the full \$15,000, which at the assumed tax rate of 30% will be \$4,500. This equates to an end tax cost of \$1500. If acquired as a collectable, there will be no tax consequences until the artwork is sold, at which stage Capital Gains of \$5,000 will be realised, and assuming a tax rate of 30%, Capital Gains Tax of \$750 will be payable.

### Can the work be gifted under the Cultural Gifts Program at a later stage?

Please note that while the artwork could still be gifted under the Cultural Gifts Program, due to the accelerated depreciation process, the gift would not provide a tax benefit.

*It is imperative that before acquiring a work of art as a business asset, proper advice should be sought from taxation or legal professionals for the above issues to be thoroughly considered.*

## Year End measures to minimise your tax

As the end of the financial year fast approaches, it makes good business sense to turn your attention to ways of minimising your tax legally.

There are no secrets or mysteries, so the main points are summarised here:

### 1. Defer your income

A common way to defer income is to render accounts after the end of the financial year.

In certain cases, there may be a possibility to defer income from one year into the next, this situation might arise when grants or deposits are received for work or jobs not yet completed by the end of June, it may be prudent to review your work in progress at year end.

### 2. Maximise deductions

#### a. Superannuation

All clients who employ staff and are required to pay superannuation on behalf of their employees need to ensure that all the superannuation obligations are up to date.

In addition all taxpayers who wish to make superannuation contributions up the limits need to have made them before the 30 June.

Please don't leave this to the last minute as the banking system can be unreliable and payments made on the 30 June will not show up till July 1 or 2 and therefore deny you the actual deduction.

#### b. Other expenses

As far as the accelerated depreciation Budget measure as explained on page 1 is concerned, businesses seeking to take advantage of the new accelerated depreciation rules must have purchased the new equipment by the end of June or at least have the contracts in place by the end of June for the expense to be incurred in this year. In addition, if there are certain expenses that relate to the following year, then it may be possible for that payment to be made in the current year, such as for travel, materials and some pre-payments in certain conditions.

# Copyfight launch

Kim Williams, former CEO of NewsCorp and current Copyright Agency Board Director, launched Copyfight on Wednesday 17 June in Sydney.

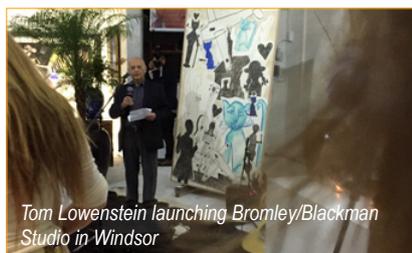
In Copyfight writers, musicians, filmmakers, gamers, lawyers and academics - John Birmingham, Linda Jaivin, Marc Fennell, Clem Bastow, Lindy Morrison, Imogen Banks, Dan Hunter, Angela Bowne and others talk about why copyright matters or doesn't to them.

Edited by Phillipa McGuinness, published by NewSouth with the support of the Copyright Agency's Cultural Fund. Through the Cultural Fund the Copyright Agency Board supports writing, publishing and visual arts projects from around Australia. Every year, 1.5% of licensing revenue or approximately \$2 million per year is available.

The Cultural Fund Committee gives priority to applications that support excellence and innovation in Australian writing, publishing, the visual arts and the development of local and foreign markets for Australian works.

Current focus is on projects that will:

- Provide cultural and educational institutions support to give individual artists, authors and publishers opportunities to develop their professional skills and develop new works;
- Place artists, authors and



## Storage Space Rental

In order to assist clients and friends of our firm we have taken storage facilities in Oakleigh in excess of our requirements.

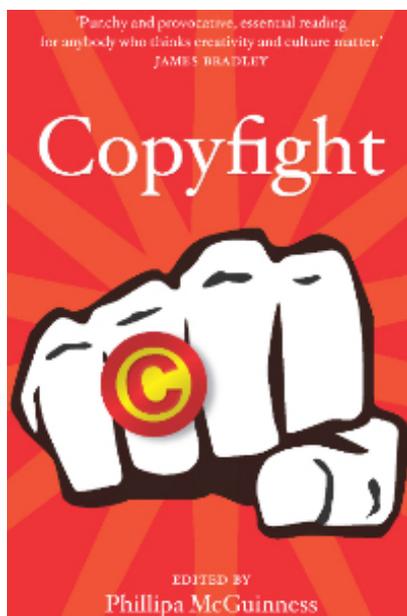
This would be attractive to Trustees of Self managed Superannuation Funds and complies with the storage requirements of the regulations.

The following spaces are available:

Carrels for the upright storage of artworks:

- Single carrels: 145 cm high x 20 cm wide x 135 cm deep
- A total of 38 carrels available

Shelves for upright storage of smaller works / small sculptures / ceramics and /



publishers in educational settings and build awareness of their work in this sector;

- Underpin export market development of Australian publishing and visual arts; and
- Provide Australian content with a profile in the increasingly globalised online environment so that Australians can compete effectively on the domestic and international marketplace for creative works.

For more information go to <http://www.copyright.com.au/cultural-fund> or contact Copyright Agency's Cultural Fund Manager, Zoë Rodriguez +612 9394 7600 or [culturalfund@copyright.com.au](mailto:culturalfund@copyright.com.au)



or flat storage of unframed works:

- Single shelf: 40 cm high x 190 cm wide x 70 cm deep
- A total of 3 shelves is currently available

Storage of sculpture and other 3D objects – by negotiation.

The storage space is fully secured and alarmed.

Access to the space is by arrangement with either Tom Lowenstein, Evan Lowenstein, or Eugene Barilo von Reisberg. 24 hour notice is preferred, but same day access can also be arranged.

## Lowensteins Arts Management P/L

Certified Practising Accountants

ABN: 63 095 459 439

ACN: 095 459 439

### Melbourne

Level 5 / 574 St Kilda Road  
Melbourne VIC 3004

PO Box 6853

St Kilda Rd Central VIC 8008

T + 613 9529 3800

F + 613 9525 1616

E [receptionmelb@lowensteins.com.au](mailto:receptionmelb@lowensteins.com.au)

Tom Lowenstein Partner  
Evan Lowenstein Partner  
Adam Micmacher Partner

### Sydney

Suite 601 / 3 Waverley Street  
Bondi Junction NSW 2022

PO Box 651

Bondi Junction NSW 1355

T + 612 9389 2400

F + 612 9389 6506

E [receptionsyd@lowensteins.com](mailto:receptionsyd@lowensteins.com)

Tom Lowenstein Partner  
Adam Micmacher Partner  
Michael Zillig Partner

### Important

Readers should not act solely on the basis of the material contained in this newsletter. Items herein are general comments only and do not constitute or convey advice. Changes in legislation may occur quickly. We therefore recommend that formal advice be sought from one of our offices before acting in any of the areas covered in this newsletter.

### Tell us your news

Please send us your news of upcoming exhibitions, workshops & opportunities. Space permitting we will publish your news in our next edition.

Next Edition Deadline : 31 July 2015

[newsletter@lowensteins.com.au](mailto:newsletter@lowensteins.com.au)

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## In our next issue

### Estates

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