

SUMMARY
H.R. 1598 "ARTISTS' CONTRIBUTION TO AMERICAN HERITAGE ACT"
S. 694 "ARTIST-MUSEUM PARTNERSHIP ACT"

Before 1969 artists, composers and writers (artists) could donate self-generated works to a non-profit institution and receive a fair-market-value deduction. Subsequent to 1969, as part of broad tax reform, they could deduct only the cost of materials.

As a result, before 1969 the Library of Congress received, annually, 15 - 20 large gifts of manuscripts from authors. In the four years following the repeal of the deduction, the Library received only one gift.

The bills, H.R. 1598 (introduced 4-26-01) and S. 694 (introduced 4-4-01) would restore the fair-market-value deduction with safe-guards to prevent abuse:

Works of art shall be created at least 18 months prior to the date of contribution by the artist, who has previously publicly sold, performed or exhibited similar works.

The artist shall obtain a written appraisal of the fair market value of the work by a qualified appraiser, and the appraisal shall be attached to the artists' tax return.

The use of the work of art shall be related to the purpose of the institution that receives it. (For example, a painter could not contribute a painting to a non-profit hospital and take a fair-market-value deduction.)

The artist can only take a deduction against income earned and related to the art and only against the income earned in the year the gift is made. (For example, a painter who earns a substantial portion of his/her income as a musician, can only deduct the fair-market value of a painting donated to a museum, from the income earned from painting or a related activity, such as teaching art, but not from the income earned as a musician.)

As a result of the 1969 legislation, many works of art, which would have been contributed to American institutions, have been sold into private collections or abroad, in effect depriving the public of these works. (For example, Igor Stravinsky planned to donate his papers to the Music Division of the Library of Congress the month the Tax Reform Act of 1969 was signed into law. Instead, the papers were sold to a private foundation in Switzerland.)

If the widow(er) of an artist donates a work of art created by his/her deceased spouse, the widow(er) can take a fair-market-value deduction, as can the collector of the artist's work. In addition, the artist's estate is taxed at fair-market value. Finally, a patent holder, who contributes his/her patent, can take a fair-market-value deduction for the contribution.

The benefit to the nation, when artists are encouraged to contribute their work during their lifetime cannot be overemphasized. It allows the public, historians, scholars and others to learn from the artist his/her aesthetic intention for the work, how it was intended to be displayed, performed or interpreted and what influences affected the artist.

The House bill (H.R. 1598) and the Senate bill (S. 694) are identical, except for the name.