

## **Guidelines for Donations of Works of Art to The Robert McLaughlin Gallery**

Thank you for considering the donation of artwork(s) to The Robert McLaughlin Gallery. The Gallery is grateful to our generous donors for their support in building and growing the Permanent Collection.

This guide is intended to give potential donors information to help them make decisions about the future of their collections, and to understand the donation process at The Robert McLaughlin Gallery.

### **Contents:**

- Donations to The Robert McLaughlin Gallery Permanent Collection
- Tax Receipts and Appraisals
- Donations of Cultural Property
- Bequests
- Recognition
- De-accessions
- Contact Information
- Definitions

### **Donations to The Robert McLaughlin Gallery Collections**

The Robert McLaughlin Gallery (the RMG) accepts donations of artworks for its Permanent Collection and art asset collection. To ensure that your donation fits with the Gallery's collecting policy, there is a formal acquisition process which can take anywhere from 2 - 12 months or more to be completed.

1. If you are considering a donation of an artwork(s), the first step is to contact The Robert McLaughlin Gallery through either the CEO, the Senior Curator, or the Curator of Collections. Please include a digital image (jpg, tif, png, pdf), and a description that includes the artist, title, date of work, medium, size, provenance, and any other relevant information about the work. The Curatorial department will review your offer, which may take several weeks. All acquisitions must meet the following criteria:
  - Satisfactory proof of the work's authenticity, documentation of its provenance
  - The terms of sale or donation must be unrestricted
  - Works that enhance the collection and fit a priority area
  - Importance (measured with quality) to Canadian art history
  - The work was not acquired through illegal, unethical, or irresponsible traffic
  - The condition of the work is satisfactory
  - It will not impede storage capabilities
  - The RMG must be equipped to properly care for the work

If the artwork(s) is suitable for the gallery's Permanent Collection, the artwork(s) will be brought forward to the RMG's Acquisition Committee meeting for approval. Alternatively, artworks can be donated to the Gallery's Art Asset Collection and not accessioned into the Permanent Collection. These works still require approval from the RMG's staff and may be used at the discretion of the Gallery including being gifted or sold to raise funds. The funds raised from the sale of these works is

unrestricted. A tax receipt will be issued to the donor or the estate for the fair market value of the donated Art Asset Collection work(s).

2. The Acquisition Committee will review the proposed works for the Permanent Collection at the RMG. It is preferable that the works be onsite when presented to the committee. The donor will be required to cover the cost of transporting the artwork(s) in a manner approved by the RMG to ensure the safety of the work. The donor may make a donation to the RMG, equal to or greater than the cost of the transportation, for which the RMG will issue a charitable donation tax receipt.
3. The Acquisition Committee is made up of members of the Board of Directors. Meetings are scheduled several times a year, as necessary. The Committee considers the gifts based on existing criteria in the RMG's Acquisition Policy. If the Acquisition Committee approves a gift, the donation process will proceed.
4. Once the donation has been approved by the Acquisition Committee, the donor will be asked to sign a Deed of Gift that legally transfers ownership to the Gallery. A Deed of Gift cannot be signed until all approvals have been received. The date on that legal transfer is considered to be the official donation date. For example, if a donation is brought to the Gallery in December 2020, and is not accepted until February 2021, the legal transfer date will be for February 2021. Please note that the physical artwork needs to be in the building at this point in the process. The donor will be required to cover the cost of transporting the artwork(s) in a manner approved by the RMG to ensure the safety of the work. The donor may make a donation to the RMG, equal to or greater than the cost of the transportation, for which the RMG will issue a charitable donation tax receipt.

### **Tax Receipts and Appraisals**

The Robert McLaughlin Gallery is a registered charity according to the guidelines of the Canada Revenue Agency, and is able to issue tax receipts for the appraised fair market value of the donation. All donations are eligible to receive a tax receipt, however only donations to the Permanent Collection can be certified as Canadian Cultural Property.

To issue a tax receipt, the RMG must have an appraisal completed by a qualified appraiser with no association to the Gallery or the donor. The Gallery will arrange to have an appraisal completed. For artworks valued at \$1,000 CAD or less, a qualified member of the RMG's staff may appraise the donation. However, if an outside appraisal is required, the donor will be required to cover the cost of the appraisal. The donor may make a donation to the RMG, equal to or greater than the cost of the appraisal, for which the RMG will issue a charitable donation tax receipt.

For donations from the United States: The Robert McLaughlin Gallery is a registered charity according to the guidelines of the Internal Revenue Service, and we are able to issue the necessary documentation required by the IRS for donations from the United States. Please be advised that it is the responsibility of the donor to provide the appraisal/valuation in the format required by the IRS.

We are not able to advise donors about personal tax information. Please consult your accountant or refer to the "Gifts and Income Tax" booklet issued by the Canada Revenue Agency

<http://www.cra-arc.gc.ca/E/pub/tg/p113/README.html> or call the Charities Directorate: 1-800-267-2384.

### **Donations of Cultural Property**

Donations of artworks of significant value or cultural significance may be certified by the Canadian Cultural Property Export Review Board as Cultural Property, and the donor may be able to enjoy tax benefits available for this designation. The Gallery or the donor may recommend that the donation be certified as Cultural Property, but it is the responsibility of the donor to determine if it will benefit them financially. Please note that the RMG will not pursue certification if the donation is valued under \$15,000 CAD.

Donations of Cultural Property (see below) valued over \$50,000 require two appraisals. The average of these appraisals is then submitted for certification. The Gallery will arrange to have the appraisals completed; however, the donor must cover the cost of the appraisals. The gallery will issue a tax receipt equal to the cost of the appraisals. The process of applying for certification is lengthy, and is completed by the Gallery, but the donor should be prepared to wait as long as 6 months to a year or more, depending on the complexity of the donation and required appraisals. Tax receipts for gifts of Cultural Property will be issued for the same tax year in which the application has been processed and accepted by CPERB, subject to the CRA deadline for tax receipts.

### **Bequests**

We encourage donors with whom discussions have taken place about the future of their collections, to make the necessary adjustments to their Last Will and Testament if they intend for artwork(s) to come to the Gallery after their death. Please ask your lawyer to send the relevant section of your will to the Gallery, to be kept on file. Please be advised that bequests will be subject to the process that applies to all donations outlined in this document.

If you do not notify the RMG of your intention to leave artworks to the Gallery in your will, please understand that we are not under any obligation to accept these items, and when the time comes, we will treat them as any other donation and proceed according to our donation process.

### **Recognition**

Donations to the Permanent Collection become the property of the RMG, and we may store, display or interpret the artwork(s) at our discretion. At any point where artwork(s) are on display or where images are used, the Gallery will credit the donor according to their wishes detailed on the Deed of Gift.

### **Deaccessioning**

The donation process is designed to minimize the need to remove artworks from the Permanent Collection, but circumstances may change and it may at some point become necessary. Once a de-accession is approved by the Acquisitions Committee, artworks are then disposed of according to existing policy.

### **Contact**

For any additional information, please contact:

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## **Definitions**

Appraisal – An appraisal is an estimate of the fair market value of an object at the time of donation.

Art Asset collection – This small collection at the Gallery consists of donations that were given to the Gallery in order to raise funds. For example, the intent is that the work may be sold by the Gallery for the purpose of raising funds for the Gallery. These funds can be used at the Gallery's discretion.

Cultural Property – artworks designated to be of outstanding significance and national importance by the Canadian Cultural Property Export Review Board.

Cultural Property Import and Export Act - The Cultural Property Export and Import Act was passed on September 6th, 1977 by the Government of Canada to help protect significant examples of the cultural, historic and scientific heritage of Canada from being exported out of the country. As well, it is meant to protect the illegal importation of cultural property into Canada from other countries. The Canadian Cultural Property Export Review Board, an arm's length agency of the Department of Canadian Heritage, carries out the implementation of this Act. To encourage the protection and preservation of Canadian heritage, the Cultural Property Export and Import Act is able to provide tax incentives to Canadians who donate or sell important artworks (not necessarily Canadian in origin) to public institutions in Canada. Please consult your tax advisor to see if this can benefit you.

Donation – The Canada Revenue Agency defines a donation as being a voluntary transfer of property without valuable consideration to the donor. However, if the donation is made to a registered charity, a tax receipt may be issued for the fair market value.

Fair Market Value – The highest dollar value you can get for your donation in an open and unrestricted market, between a willing buyer and a willing seller who are acting independently of each other.

Permanent Collection – The Permanent Collection at the Gallery consists of donations, purchases or bequests, in the collection of The Robert McLaughlin Gallery. Ownership of all artworks is transferred to the Gallery at the time of acquisition. Display of the Permanent Collection is determined by the Gallery, and any items not on display are stored in secure, climate-controlled storage. The Permanent Collection is handled by the curatorial staff only.

Deaccessioning - The process by which a work of art is permanently removed from a gallery's Permanent Collection.