

Tax certification of cultural property

<http://hdl.handle.net/10222/59332>

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OVERVIEW

Course Level Graduate

Handout Goal The goal of this handout is to understand how archival institutions work with the [Canadian Cultural Property Export Review Board](#) to certify donations as cultural property for income tax purposes.

The Tax Certification "Problem"

Tax certification of cultural property is a process defined in the *Cultural Property Export and Income Act* that encourages the transfer of cultural property to public institutions. The tax certification process is administered by the Canadian Cultural Property Export Review Board ("Review Board"). Applications are submitted to the Review Board by "designated institutions" on behalf of donors or sellers.

Designated institutions must submit information to the Review Board, including an "outstanding significance / national importance justification" and one or more monetary appraisal reports prepared by appraisers certified by the *National Archival Appraisal Board* (NAAB).

The Review Board determines whether (a) the material is of *outstanding significance* by reason of its close association with Canadian history or national life, its aesthetic qualities, or its value in the study of the arts or sciences; and (b) whether the material is of such a degree of *national importance* that its loss to Canada would significantly diminish the national heritage.

The Review Board will establish a "fair market value" for material that meets this criteria. A *Cultural Property Income Tax Certificate* (Form T871) is then issued to the donor or seller.

Applications for cultural property certification can be complicated and expensive. They also present archivists with numerous challenges, including:

- 1) Fair market value is impossible to "prove."
 - 2) Institutions must obtain status as a "designated institution" in one or more "groups of cultural property."
 - 3) Institutions must conduct archival appraisals and prepare finding aids to facilitate monetary appraisals.
 - 4) Monetary appraisals by qualified certified appraisers can be expensive and it can be difficult to locate certified appraisers.
 - 5) The calendar for the tax certification system often "drives" an institution's processing priorities.
 - 6) Monetary appraisal and tax certification require extensive training and mentorship.
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How to Use this Handout

This handout provides a select bibliography of resources designed to facilitate a self-directed exploration of the tax certification process. Materials should be analyzed in relation to the tax certification “problem” and the discussion questions outlined below.

The essential “problem” of the complexity of tax certification and associated challenges cannot be “answered” in a single way. Rather, students are encouraged to use the select bibliography to gain general familiarity with the tax certification process so the issues and challenges can be addressed in an informed manner.

Discussion Questions

Use the following discussion questions to guide your analysis of the materials included in the select bibliography:

- 1) What is the essence of a “fair market value” of archival materials? How does a qualified appraiser determine a fair market value?
- 2) What constitutes a NAAB panel and where do they exist in Canada?
- 3) What should an institution do if qualified appraisers cannot be located?
- 4) What challenges might exist when hiring a qualified appraiser in a government archives setting?
- 5) How should an institution decide if it will request tax certification?
- 6) How would you approach writing your first “Outstanding Significance and National Importance Justification”?
- 7) How can institutions balance their priorities so monetary appraisals do not absorb all of its processing activities?
- 8) How should an archivist handle a donor who is upset about the “fair market value” assigned to their donation?
- 9) What is the role of national organizations (e.g., Canadian Council of Archives, National Archival Appraisal Board, etc.) in the monetary appraisal system?
- 10) Why has so little been written about the monetary appraisal system in Canada?
- 11) How would you go about obtaining knowledge and expertise on the monetary appraisal system in Canada?

Tax Certification Assignment

The select bibliography can be used to complete a report or paper that examines the tax certification process. A sample assignment handout is available: <http://hdl.handle.net/10222/59333>. Instructors or facilitators can evaluate the reports using the associated evaluation rubric: <http://hdl.handle.net/10222/59698>.

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SELECT BIBLIOGRAPHY ON TAX CERTIFICATION

<i>Legislation</i>	Government of Canada. Cultural Property Export and Import Act (R.S., 1985, c. C-51). http://laws.justice.gc.ca/eng/C-51/index.html .
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<i>Canadian Cultural Property Export Review Board</i>	<p>“Canadian Cultural Property Export Review Board,” Canadian Heritage (September 2015), accessed September 16, 2015. http://www.pch.gc.ca/eng/1346091768788.</p> <p>Summary: The website of the Canadian Cultural Property Export Review Board (“Review Board”). The Review Board is an independent administrative tribunal that reports to the Minister of Canadian Heritage. As outlined in the <i>Cultural Property Export and Import Act</i> the Review Board is responsible for:</p> <ul style="list-style-type: none">• certifying cultural property for income tax purposes;• reviewing export permit applications that have been refused; and• determining fair cash offers to purchase cultural property for refused export permits.
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<i>National Archival Appraisal Board</i>	<p>“The National Archival Appraisal Board (NAAB),” National Archival Appraisal Board, accessed August 2, 2015, http://www.naab.ca/index_e.asp.</p> <p>Summary: The website of the independent non-profit organization that provides monetary appraisal services through qualified professional appraisers. Check the “documentation centre” and “2007 conference proceedings” for additional references.</p>
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<i>Designated Organizations</i>	<p>“Designation,” Canadian Heritage (December 2013), accessed September 16, 2015. http://www.pch.gc.ca/eng/1346099372829/1346100256884.</p> <p>Summary: Organizations must be officially designated by the Minister of Canadian Heritage to access the tax incentives and grant provisions under the Cultural Property Export and Import Act. This page provides general information on designation and a list of designated organizations.</p>
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<i>How to Prepare an Application for Certification</i>	<p>“Apply for Certification,” Canadian Heritage (August 2015), accessed September 15, 2015. http://www.pch.gc.ca/eng/1346177157772/1346178291449.</p> <p>Summary: Website with general information on how to apply for certification as cultural property and links to key supporting documents such as the “Application Guide” and the “Movable Culture Program (MCP) Online User Guide.”</p>
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“Outstanding Significance and National Importance (OS/NI): Writing an Effective OS/NI Justification for the Certification of Cultural Property by the Canadian Cultural Property Export Review Board,” Canadian Heritage (December 2013), accessed September 15, 2015.

http://www.pch.gc.ca/DAMAssetPub/DAM-bcm-mcp/STAGING/texte-text/oSNIGuide_1389109575909_eng.pdf.

Summary: A set of guidelines for preparing an original OS/NI justification, prepared or endorsed by a qualified curator, archivist, librarian, or specialist that clearly and convincingly demonstrates how and why the cultural property meets the criteria of outstanding significance and national importance. The document replaces Section 6 of the “[Application Guide](#).” As of January 2016, all certification applications must adhere to the guidelines.

Monetary Appraisal & LAC

“Audit Report: Monetary Appraisal of Acquisitions,” Library and Archives Canada, Audit and Evaluation Directorate (September 2012), accessed August 12, 2015.

<https://www.collectionscanada.gc.ca/obj/012014/f2/012014-370-e.pdf>.

Summary: The objective of this audit was to determine if LAC had policies, systems, and controls in place that were communicated and followed in practice to enable transparent and effective monetary appraisals of acquisitions and subsequent issuance of tax receipts for donations, as per the requirements identified in the Income Tax Act.

“Training on the Monetary Appraisal and on Canadian Copyright Legislation for Canadian Archival Materials Tender Notice (5Z011-15-0132),” Library and Archives Canada (LAC), accessed August 2, 2015.

<https://buyandsell.gc.ca/procurement-data/tender-notice/PW-14-00660470>.

Summary: A 2014 “advance contract award notice” indicating that LAC intended to award a \$500,000 multi-year contract for monetary appraisal and copyright training to a pre-identified contractor (the Canadian Council of Archives).

Articles

Heather Home, “Monetary Archival Appraisal and Tax Receipting in Canada: An Update,” *ACA Bulletin* (April 2010): 8-16. http://members-archivists.ca/documents/Bulletin_Spring2010_WEB.pdf.

Summary: A more recent overview of the monetary appraisal system in Canada. The text is also available in the Queen’s University repository: <http://hdl.handle.net/1974/5569>.

Kula, Sam. “Monetary Appraisal of Film Archives.” Chapter 6 in *Appraising Moving Images: Assessing the Archival and Monetary Value of Film and Video Records*. Maryland and Oxford: Scarecrow Press, 2003, p. 93-126.

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Summary: A book chapter about monetary appraisal of film archives from a key book written by a well-known film archivist.

Silversides, Brock. "Appraising Moving Images: Assessing the Archival and Monetary Value of Film and Video Records (Review)." *Archivaria* 55 (Spring 2003): 149-152.

<http://journals.sfu.ca.ezproxy.library.dal.ca/archivar/index.php/archivaria/article/view/12413/13513>.

Summary: A review of Sam Kula's book by another well-known film archivist.

David Walden, "The Tax Credit System: Blessing or Burden?," *Archivaria* 18 (Summer 1984): 84-90.

<http://journals.sfu.ca/archivar/index.php/archivaria/article/view/11080/12016>.

Summary: One of the earliest journal articles about monetary appraisal.

Example Monetary Appraisal Policies

Halifax Regional Municipality Archives, "Monetary Appraisal Policy," July 2011, accessed August 2, 2015.

<http://www.halifax.ca/archives/documents/MonetaryAppraisalPolicy.pdf>

Nova Scotia Archives, "Monetary Appraisal Policy," March 26, 1999, accessed August 2, 2015.

<http://novascotia.ca/archives/about/policies/monetary.pdf>.

University of Alberta Museums, "Procedure: Appraisals for Museum Object(s)," June 18, 2013, accessed August 2, 2015.

http://www.museums.ualberta.ca/en/AdvisoryServices/~media/museums/Documents/Procedures/Appraisal_Procedure_Client.pdf.

University of Alberta Museums, "Format for Appraisals," April 15, 2013, accessed August 2, 2015.

http://www.museums.ualberta.ca/AdvisoryServices/~media/museums/Documents/Forms%20Cabinet/April%202013/Format_for_Appraisals.pdf.
