

【研究ノート】

米国で美術館へ作品を寄贈する経済的要因
—1986年税制改革法の衝撃—

THE INVISIBLE BOTTOM LINE OF THE DONATION TO ART MUSEUMS IN THE UNITED STATES
~THE IMPACT OF THE 1986 TAX REFORM ACT

松本 英隆*

MATSUMOTO Hidetaka

1. はじめに

まず、この研究ノートは、米国の美術館界に絞って述べていることをお断りしておきたい。米国の美術館は、作品収集に際して、日本と大きく違い、寄贈や遺贈が柱になっている。よって、この研究ノートで言及している事例は、米国の美術館界の特殊な状況によるものである。

また、考察にあたっては、あえて、寄贈するコレクターの心理的あるいは社会的な面には触れていない。あくまで、現象として把握しうる経済的かつ統計的な例に絞っている。その結果として、日本と違って、米国では美術作品の寄贈を促す要因として、経済的メリットが存在していることを、浮かび上がらせるように努めたことをご理解いただきたい。

日本では、2008年6月現在、公益法人制度改革が進行中であるが、博物館側からの視点にたてば、今回の改革が博物館に経済的なメリットをもたらす仕組みとなることを期待したい。寄贈に絞って述べれば、寄贈する側のインセンティブ、動機付けをその仕組みに組み込むことができるかどうか、重要であると筆者は考える。本稿で述べた米国の事例が、寄贈する側の動機の一部を読者諸氏に示していることを願う次第である。

なお、筆者は、本稿を英語で執筆したが、これは、米国におけるケースについてのノートであること、また、ご批判および叱咤を、英語読者からも受けることを想定したので、ご了承願いたい。以下、各章の要旨を列記する。

2. アートコレクターのための経済的恩恵 (要旨)

米国では、アートコレクターは、なぜ自分のコレクションをミュージアムに寄贈するのか。ミュージアム側のステートメントでは、いつもコレクターの寛大さを強調している。

* 読売新聞東京本社事業開発部

しばしば、日本において、米国の寄贈は、慈善的であり、その背景には宗教的な要因があるなどと説明される。

それに対して、この研究ノートでは、米国における寄贈について、3つの重要な側面もあることを紹介する。紹介するのは、次の3点である。

2.1 投資としての美術作品収集

はじめに、美術品収集が投資としての一面があることを、オークション会社サザビーズの資料などで表す。

2.2 美術品評価システム

第2に、美術品評価システムについて、1982年に米国の内国歳入庁（IRS）が、調査した468ケースのうち、実に99.3パーセントが、過剰評価されて申告されていたことなどを取り上げる。

2.3 所得税の控除

第3に、富裕層のアートコレクターは、美術館に寄贈する際、購入価格でなく寄贈時の評価額を認めてもらうことによって、評価額上昇の効果もあり、有利な所得税の控除を受けていることを指摘する。

ここでは、米国の作品寄贈時の税の特徴として、購入時の価格でなく、寄贈時の評価額が算定の前提になっていることに注目する必要がある。例えば、購入時に1000ドルであった作品に対して、ある公共団体への寄贈時に1万ドルの評価額が付けられた場合、所得税30パーセントの区分の人は、3000ドル分の所得税の節税ができる。しかし、そのコストは、実は購入時の1000ドルであったという仕組みとなる。

3. 1986年税制改革法の衝撃（要旨）

1986年税制改革法は、富裕層のアートコレクターに対する最も深刻な税制改革であった。1986年税制改革法に対する美術館界の反応は、米国における美術館の主要な機能の一つを示している。

3.1 1986年税制改革法

1986年税制改革法は、税控除の対象金額を現況の市場価格より、元々の価格に限定したものである。美術館へ作品を寄贈するコレクターは、市場価格上限の金額でなく、購入価格しか控除額として申請できないことになった。例えば、1970年に10万ドルで作品を購入したコレクターが、1986年にその価値が100万ドルに上がったのがわかったとしても、慈善の控除としての額は、10万ドルだけしか認められない。

3.2 その衝撃

その結果、博物館界で何が起きたのか。博物館全体としては、1986年と1987年を比較して、寄贈が32.8パーセント減少した。美術館に絞ると、1986年から1988年に63パーセントも減少した。

具体例として、セント・ルイス美術館長が次のように述べている。「1980年から1985年の間、作品寄付は、毎年約620万ドル（約6億8千万円 * 1ドル=110円として。以下、同じ）であったが、1986年に175万ドルになり、1987年に67万4千ドル、1988年には34万9千ドル（約3,800万円）

となった。」これは、税控除のメリットが極端に少なくなった結果、作品寄贈が約5.6パーセントにまで落ち込んだことを表している。

この点に関して、当時のニューヨーク近代美術館リチャード・オルデンバーグ館長は、「税の動機付けは、偉大なコレクションを形成するにあたり、とても重要なものとしてあってきた」と述べている。

3.3 条項の撤回

アメリカ博物館協会は、1986年税制改革法のいくつかの条項を撤回すべく、ワーキンググループを立ち上げた。ワーキンググループは、上院議員や下院議員に対して、ロビー活動や草の根の電話や手紙攻勢によって、米議会に問題の存在を訴え続けた。

その結果、米議会は、1986年改革法の一部を1991年1月1日から1992年6月30日までの1年半の間、一時停止とした。その一時停止は、絵画や科学的な標本のような有形財産に限られた。

一時停止の影響は、米国の美術館への寄贈の主要因が何であるかを示しているといってもよいだろう。例えば、1986年改革法の一部が一時停止状態であった1991年12月の時点で、アート・インスティテュート・シカゴに寄贈された美術品は、1,895点にも上ったが、一時停止が期限切れとなった後は、27点に沈んでしまった。

最終的に、クリントン大統領は、慈善的な物品贈与への優遇税制を復活させるいくつかの条項を含む予算に、1993年8月10日、署名した。新法の下では、評価性資産の贈与に際し、購入時でなく、現行の市場価格で、上限までの控除が可能となった。これに対するメトロポリタン美術館理事長のコメントが美術館界の本心をよく表している。「すばらしいニュースだ。クリントン政権は、国中の大きな文化施設における投資を支援するということである。」

4. 結び

筆者は、1986年税制改革法は、美術作品寄贈における2つの根本的な見方を提示していると考えている。一つは、作品を寄贈する富裕層のアートコレクターの寛大さは、結局は、経済的な恩恵によって支えられていることが、ある程度、見えてきたこと。もう一つは、政府の徴税方針が、事実上、アメリカの慈善行為、フィランソロピーをしっかりと支援しているということである。

米国では、作品を寄贈するアートコレクターは、美術館から恩恵を受ける一方、一般の人々は、その寄贈作品により美術館で美術を楽しむ機会を提供されるという関係が成り立っている。実質的には、美術館は、富裕層のアートコレクターのための税の隠れ家となっている側面もあるだろう。だからこそ、税制改革論者は、1986年税制改革法によって、税控除を制限した。しかし、その改革法はアートコレクターに対して厳しすぎる内容であった。だから、美術館を中心とした博物館界からの巻き返しにあい、条令の主要な部分は、元に戻された。

筆者は、大事なことは、公共とコレクター双方の利益の調和であるということを描きおきたい。政府は美術作品の寄贈が税の抜け穴にならないようにしつつも、寄贈に対するバランスの良い恩恵を寄贈者に与えた上で、一般の人々がすぐれた作品を美術館で楽しめるシステムを構築

することを指すべきであると考え。

お断りしておかねばならないが、筆者は、米国における美術館への作品寄贈の状況に対して、本稿で批判あるいは賛成する意図はない。筆者が、焦点をあてたいのは、美術館への作品寄贈を促すのは、心理的あるいは社会的な要因だけでなく、経済的な要因が厳然と存在しているということである。

日本において、美術館や博物館の収蔵品を将来に渡って充実させるためには、多くの館で作品購入予算が限られている今、寄贈や遺贈による収集方法の確立は大きな課題であるだろう。そのための制度を構築するにあたり、要望や提案する立場にある関係学会などの関係者、あるいは制度設計をする立場にある行政の担当者を含め、読者諸氏に、一つの事例の提示ができればと考える次第である。

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MATSUMOTO Hidetaka

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1. INTRODUCTION

Why are art collectors in the United States willing to donate their collections to art museums? Compared to art museums in Japan, art museums in the United States can collect works of art mainly through donations and bequests. I would like to examine collectors' incentives on donations. Art museums in the United States emphasize collectors' generosity on their donations. How correct is this statement?

In this paper, first, I will focus on economic benefits that art museums support for art collectors as the incentives for the donations. I will examine three factors: art collection as an investment, appraisals and tax deductions.

Second, to examine my study note I will explain how the 1986 Tax Reform Act shocked art museums and art collectors. The strong reaction provoked by this Act indicates its significance to art collectors.

Finally, I briefly summarize two aspects of tax law on donations to art museums.

2. ECONOMIC BENEFITS FOR ART COLLECTORS

Why do art collectors donate their collections to museums? In the museums' published statements, the writers always emphasize the collectors' generosity. For example, the exhibition catalogue of the William S. Paley Collection in 1992, stated that Richard Oldenburg, Director of The Museum of Modern Art at that time, accepted a gift with the following comment: "[I]t is with pride and deep gratitude that The Museum of Modern Art welcomes the extremely generous gift of the William S. Paley Collection."¹ The writers of art museums' publications emphasize only the altruistic aspect.

There are three important aspects of donations of art collections. The first aspect concerns collecting art as an investment. The second aspect is the appraisal system. Some collectors use art museums as tax loopholes. The third aspect deals with wealthy art collectors, who have collections of museum quality; these collectors can receive income tax deductions through their donations to art museums. In other words, art museums function as a tax shelter for the wealthy. In addition, art collectors leave their names to a public space and receive immortality while receiving tax deductions.

¹ William Rubin and Matthew Armstrong, The William S. Paley Collection, (New York: The Museum of Modern Art, 1992)

2.1 Art Collection as an Investment

Alfred Barr, who was Director of The Museum of Modern Art, drew up a document in 1936 in order to demonstrate the need for a new and much larger home for the Museum. In one section of the document, Barr pointed out that the sales values of modern art had increased tremendously in a relatively few years. He emphasized Seurat's *La Grand Jatte*, which was sold at the artist's death in 1891 for \$200. In 1925, The Art Institute of Chicago bought it for about \$25,000 and in 1930 the Institute refused an offer of over \$400,000. Barr added, "This represents an increase in bid value of about 200,000 percent [2,000 times] in forty years."²

Sotheby's, one of the largest auction companies, emphasizes the benefit of art collecting (See Table 1). The first column in Table 1 shows what a certificate of deposit invested at eight percent would have yielded from 1980 to 1989. It would have reached 200 in 1989, taking 1980 as equal to 100. The Dow Jones industrial stock index did much better. By 1989, it would have tripled in value compared to 1980. Very few people can purchase original Old Master or Impressionist paintings because the prices are beyond the reach of the average person. The table shows that, over the long run, art is a better investment than bank deposits and the stock market. Impressionist paintings would have reached an index of 1,000 in 1989, that is ten times their value in 1980.

² Russell Lynes, Good Old Modern, (New York : Atheneum, 1973), 174-175.

TABLE 1
A COMPARISON OF INVESTMENT FROM 1980 TO 1989

<u>Year</u>	<u>Certificate of Deposit*</u>	<u>Dow Jones Industrials</u>	<u>Old Masters Paintings</u>	<u>Impressionist Paintings</u>
1980	100	100	100	100
1981	108	106	78	118
1982	117	100	82	136
1983	126	136	100	184
1984	136	136	136	211
1985	147	152	156	242
1986	159	206	160	279
1987	171	262	184	468
1988	185	242	211	737
1989	200	300	327	1,000

*At 8%

Source: "Top and Bottom of the Art Market," Economist, 83(October 28, 1989).

2.2 Appraisals

There was no specific statutory requirement that donors obtain appraisals to verify the fair market value of donated property prior to the Tax Reform Act of 1984. Under the Tax Reform Act of 1984, if the amount claimed as a charitable deduction by a taxpayer for a year exceeds \$5,000 to all charities, then the taxpayer must fulfill certain statutory prescribed appraisal requirements.³ That the Internal Revenue Service changed the system of appraisals suggests that appraisals are controversial.

What issues are there in the appraisal system? I offer some examples. In 1976, Alan Shestack, then Director of the Yale University Art Gallery, described a sophisticated way of establishing a false high value for a gift of work of art:

Collector has a . . . Renoir-worth \$100,000 or so. He goes to the Director of the local museum and offers him a gift of \$200,000, on the condition that the museum use the gift to purchase a specified Renoir painting from a specific Dealer. Earlier, Collector had made a deal with Dealer as follows: "If you will buy this Renoir from me for \$190,000, I

³ Marie C. Malaro, A Legal Primer on Managing Museum Collections. (Washington, DC: Smithsonian Institution Press, 1985), 254.

guarantee that someone will buy it from you in a few days for \$200,000.” Director and Dealer both comply. As a result, the museum has Renoir at no net cost. Dealer has a quick \$10,000 profit. Collector has a canceled check for his \$200,000 “donation” (and the rest of us have bigger tax bills).⁴

This is a very complicated way. There is another simple way. On August 10, 1984, the Washington Post reports:

In a typical scheme, an investor will buy an art object for \$5,000 cash but an appraiser will value it at twelve times that price. The owner holds the object for a year to qualify it as a longterm capital asset, donates it to charity and takes a \$60,000 deduction.⁵

Thus, the IRS had appropriate cases to challenge the appraisal system.

Moreover, in 1982, the IRS examined 468 cases of tax returns. The IRS found charitable contributions of art prints valued at \$103 million, or an average of \$ 220,000 per return, IRS officials disagreed with every claim, and explained that the gifts were worth a grand total of \$702,000, or \$1,500 per tax return. Ninety-nine point three percent of the “donation” was overvalued. An average of \$220,000 per return means more than 164 times as much as \$1,500 which the donors might pay for a print. In other words, the donors tried to get the tax deduction of more than 164 times as much as their “investment.” This example suggests that most art donors tried to find a legal loophole to beat paying taxes.

2.3 Tax Deduction

The museum in the United States is a device that creates tax deductions for art collectors. Ralph E. Lerner explains charitable transfers:

The lifetime transfer of a work of art to a charitable organization saves the donor income taxes because of the allowable income tax deduction. For example, a painting that cost the collector \$1,000 some years ago may have a fair market value of \$10,000 today. A contribution of the painting to a public charity (not a private foundation) that properly

⁴ Nissa Simon, “Interview with Alan Shestack.” Yale Alumni Magazine, February 1976, pp. 14-17; reproduced in John Henry Merryman and Albert E. Elsen, Law, Ethic and the Visual Arts, (New York: Matthew Bender, 1979),5-247ff.

⁵ “IRS Claims Vast Overvaluation of Art Prints.” Washington Post, August 5, 1983.

satisfies all the tax rules produces an allowable charitable deduction of \$10,000.⁶ Using Lerner's example, an art collector in the thirty percent tax bracket can save \$3,000 in federal income taxes, inasmuch as donor's actual cost was \$1,000.

3. THE IMPACT OF THE 1986 TAX REFORM ACT

The 1986 Tax Reform Act was the most significant change of the tax law for wealthy art collectors. The reaction of art museums to the 1986 Tax Reform Act clearly shows what the major function of art museums is. Although the 1986 Tax Reform Act influenced most museums, the Act especially shocked art museums. I will examine how the 1986 Tax Reform Act influenced art museums and art collectors.

3.1 The 1986 Tax Reform Act

The 1986 Tax Reform Act limited tax deductibility of charitable gifts of appreciated property to original value rather than current market value.

Under the 1986 provision, a collector who gave a painting to an art museum could claim only the purchase price as a deduction, not the full market value. For example, an art collector who purchased a painting for \$100,000 in 1970 and saw its value climb to \$1 million in 1986 would be allowed a charitable deduction of only \$100,000.

3.2 Its Impact

What happened in the museum world? The American Association of Museums, which is the umbrella organization for the nation's museums and museum professionals, sampled 274 of its 2,200 member institutions in 1988. The study found that the value of objects donated in 1987 was \$12.7 million less than in 1986, decline of 32.8 percent. The study also found that 38,000 fewer objects were donated to those museums in 1987 than in 1986.⁷

The other study of the Association of Art Museum Directors focused on art museums alone. The study found that the value of donations declined by \$161 million, or 63 percent, from 1986 to 1988 for the 116 institutions reporting.⁸

⁶ Ralph E. Lerner, *Art and Income Taxes: The Changing Scene*. (New York: Partner, Sidley & Austin. 1991)

⁷ Grace Glueck, "Gifts to Museums Fall Sharply After Changes in the Tax Code," *New York Times*, May 7, 1989. p.1.

⁸ *Ibid.*, p.17.

The Museum of Modern Art reported a decline in donations of roughly 58 percent between 1986 and 1988, although museum officials declined to reveal dollar figures. On the other hand, James Burke, director of St. Louis Art Museums revealed the following figures: "Between 1980 and 1985, our annual contributions of works of art came to about \$6.2 million per year," he said. "In 1986, the figure was \$1.75 million. In 1987, contributions amounted to \$674,000, and in 1988, \$349,000." ⁹

There are two cases showing how art collectors view art museums. They view them primarily as tax shelters. In the first case, John Whitney Payson had promised for a long time to give the Van Gogh painting *Iris*es to Westbrook College in Portland, Maine. However, in 1987 he sold it at Sotheby's for \$53 million. John Whitney Payson stated that he changed his promise because of changes in the tax law and the unprecedented spiral in art prices.

In the second case, Lewis W. Story, associate director of The Denver Art Museum, told of the influence of tax law on a collector. The collector, who bought a painting by Phillip Guston in the mid 1960's, intended to give it to The Denver Art Museum. "The collector originally paid around \$35,000 for it," Mr. Story said. "But it appreciated to around \$400,000, and after the Tax Reform Act he told us he was no longer in a position to donate it."¹⁰

An official of The Museum of Modern Art spoke against the 1986 tax law in 1989. "Tax incentives have been very important in building up great collections," said Richard Oldenburg, who was then Director of The Museum of Modern Art and became Chairman of Sotheby's America. He added, "It is contrary to public policy to discourage these gifts . . . it is well worth considering a special exception for gifts of art to museums."¹¹ It is important to note that directors of art museums are hired by the trustees.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

3.3 Repeal of the Provisions

To repeal some provisions of the 1986 Tax Reform Act, the American Association of Museums made up a Working Group that included the Association of Art Museum Directors. The Working Group discussed the effects of the 1986 Tax Reform Act whose results showed a 60 percent drop in giving to museums from 1985 to 1987. They worked closely and successfully with the national press to redefine the issues as an important benefit to public institutions rather than a loophole for wealthy collectors. They maintained a constant presence on Capitol Hill through their lobbying and their grassroots calls and letters to Senators and Representatives.

As a consequence of the lobbying, Congress suspended part of the 1986 rule for the eighteen months between January 1 of 1991 and June 30 of 1992. The suspension applied to tangible property, like paintings or scientific specimens, but not to nontangible property, like securities, or real estate.

The impact of the suspension provided some facts that show the major function of an art museum. For example, The Art Institute of Chicago received 1,895 works of art as gifts in December 1991. In December 1992, after the temporary suspension of tax restrictions expired, that number sank to 27.¹² The Metropolitan Museum of Art recorded a fourfold increase in the value of its gifts during the suspension.

Finally, President Clinton signed the budget that included several provisions to restore the charitable-gifts tax break on August 10, 1993. Under the new law, gifts of appreciated property are fully deductible at current market value rather than at the purchase price. This new law encourages art collectors to donate art works to art museums again. While the Treasury Department estimated that Clinton's new budget would cost the Federal Government about \$70 million a year in lost revenue, the museum community was very pleased. "It is superb news," said William H. Lures, President of The Metropolitan Museum of Art. "It means that the Clinton Administration supports investment in our large cultural institutions around the country."¹³

¹² William Grims, "Clinton Proposes to Restore Charitable-Gifts Tax Break," New York Times, February 19, 1993, p. 1

¹³ *Ibid.*, Sec. C, p. 18.

4. CONCLUSION

The 1986 Tax Reform Act seems to provide two core points of view on donations of art works. One is that the generosity of wealthy art collectors has no roots. Their “generosity” is supported by economic benefits that the tax law provides. In other words, the altruistic generosity of wealthy art collectors is questionable to say the least. The other point of view is that the tax policy of the Government virtually supported America's philanthropy.

In the United States, art collectors benefit from art museums, while the public is provided with opportunities to enjoy fine art. The early tax code protected and encouraged charities by granting tax exempt status and deductions. However, art museums seemed to become virtual tax loopholes for the wealthy art collectors. Therefore, tax reformers limited tax deductibility of gifts in The 1986 Tax Reform Act. The Act was too strict for art collectors to donate their collections. It is important to harmonize the public benefit with the collector's benefit. To do so the Government should adjust the rate of tax deductibility of charitable gifts preventing art museums from becoming tax loopholes.

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