

## SPECIAL REPORT

# BRAZIL

The art market

# Boom or bust?

This month's ArtRio fair is critical in determining whether the country's art market has neared its peak

In the past ten years, as Brazil's economy grew to become the world's seventh largest, more than 30 million people have been lifted out of poverty, and the number of Brazilians with enough money to spend on luxury goods and art has also grown. There have been high prices at auction for works by Brazilian artists in Brazil, new galleries have opened and existing ones have expanded.

Thirty of the 44 most important galleries have opened since 2000, according to the latest report issued by Latitude, a joint public-private organisation that lobbies on behalf of the country's leading contemporary art dealers. Of these galleries, 81% say business grew over the past year, and 70% hired more staff.

There was a 22.5% increase in sales of contemporary art between 2011 and 2012, following a 44% growth in sales in 2010 and 2011 combined.

Latitude also found that galleries in the primary sector alone registered \$111m in sales last year. The latest estimate of total sales made at the SP-Arte fair, held in São Paulo in April, hovers at around \$133m – more than double last year's sales (and almost three times the reported sales at the last edition of rival fair, ArtRio, held each September in Rio de Janeiro).

### Risk averse

While the art sector in Brazil is growing at a faster pace than any other field in the country's economy, according to a recent article in the daily newspaper *Folha de São Paulo* (the sale of electronic equipment comes in a close second), some in the trade are worried about recent downturns. Brazil's gross domestic product grew a meagre 0.9% last year and unemployment, which fell to an all-time low during the past decade, is once again on the rise. Meanwhile, the Brazilian real has devalued around 20% against



the dollar and the euro, making work by foreign artists more expensive. Foreign investors are also leaving the country, which makes collectors nervous. The massive wave of protests in June has also dampened the mood. "No one wants to take any financial risks in a time of uncertainty

like this," says André Millan, the founder of Galeria Millan in São Paulo.

### Put to the test

Analysts in Brazil warn that the figures in a study released by Tefaf in March (*The Tefaf Art Market Report 2013: The Global Art Market with a focus on China and Brazil*) which estimated that art sales in the country account for 1% of the global market and generate around €455m annually, may be exaggerated. "I would be careful, because these figures distort reality a bit," says Ana Leticia Fialho, an adviser to Latitude. "I helped to gather the data for that study, and the figures are based on a very low rate of return. We asked around 300 people, but got back only around 30%, so these are estimates based on other estimates."

Fernanda Feitosa, the director of SP-Arte fair, believes the coming months – especially this one, which sees the next edition of ArtRio (5-8 September) – will be critical. "I won't say the market has reached its peak, but I can't say we'll double our revenue next year," she says.

Over the past two years, a rush of new buyers flocked to the art market hoping to flip works at auction for fast returns. This is the kind of collector, dealers say, that will shy away now that the economy is souring. "Half of these people will stop now," says Jones Bergamin, the owner of the auction house Bolsa de Arte. "The market won't take a tumble – it just means things will get back to normal, with the same buyers and no more gamblers."

Silas Marti



Brazil's gross domestic product grew a meagre 0.9% last year

Protests in Brazil are sending jitters through the art market as the once vibrant economy slows down

## Taxes: what the state takes when you buy art

The Brazilian art market struggles with some historic challenges, including a complex and burdensome tax system, bureaucratic and time-consuming customs procedures and logistical costs.

Taxation is the tail that wags the dog in Brazil. The main problem is that works of art are subject to the same complicated rules that apply to general assets. Their sale is subject to taxation at federal and state levels, while services relating to art are subject to taxation at federal and municipal levels.

The government has enacted several laws aimed at developing and supporting cultural initiatives. The "Lei Rouanet" allows individuals and companies to deduct from their income taxes a percentage of their donations to (80% and 40%, respectively) and sponsorship of (60% and 30%, respectively) cultural projects.

At the state level, both São Paulo and Rio de Janeiro, with the support of the other states, have recently approved ICMS exemptions (state tax on transfer of goods) for sales to local buyers at SP-Arte and ArtRio. Now the galleries are negotiating with the states to apply these tax benefits nationwide.

- Company income taxes (IR/CSL) are levied on profits (including capital gains) at a combined rate of 34%. For smaller businesses, companies with gross revenues within certain limits may opt for tax regimes levied on gross revenues ("Simples", or presumed profit regime) that lead to taxation between 5% and 20% of the gross revenues, depending on activity and level of income.
- Companies are subject to social security contributions (Pis/Cofins) at a combined rate of 3.65% (under the cumulative regime, in which no credits are allowed) or 9.25% (under the non-cumulative regime, in which expenses with acquisition of services and goods may credit against the contribution to be paid).
- Individual income tax (IR) is levied on ordinary income at progressive rates from 0% to 27.5%, depending on the level of income, while capital gains (for example, profits made on non-recurrent sales of works of art) are taxed at 15%.
- Sales of art are also subject to ICMS, at an average rate of 18%.
- Services are subject to the municipal tax on services



(ISS), at an average rate of 5%.

- Gifts and transfers after death, are subject to state tax on gifts and transfers at an average rate of 4%.

- On imports in addition to Pis/Cofins and ICMS, the federal import tax applies at variable rates depending on the nature of the art imported (it is 4% for art in general).

### A big burden

This array of taxes can easily lead to a total tax burden that exceeds 50%, depending on the type of work of art involved in the transaction.

Rubem Tadeu Cordeiro Perlingeiro and Rodrigo Brunelli Machado

- The writers are partners at the law firm *Ulhoa Canto, Rezende e Guerra*

- For more on "Lei Rouanet", see *The Art Newspaper* 2, p20

## In brief

### Art-fund confidence

While art funds have had limited success in Europe and North America, the founders of Brazil's first and largest art investment vehicle, the Brazil Gold Art (BGA) Private Equity Investment Fund, are confident, despite the country's weakening economy. To its advantage, says the fund's founding member Heitor Reis (right), is that Brazil's living artists – in which the fund exclusively invests – are "the flavour of the month, and this whole movement is just beginning". The BGA fund, which launched in 2011, is not huge by industry standards, but in the context of Brazil's art market stands out at \$20m (which Reis says took 15 days to raise). It currently includes around 700 works, of which around 15% are what Reis refers to as "blue-chip" artists (including Ernesto Neto and Adriana Varejão) and the remainder in emerging talent. Prices paid for works to date range from \$10,000 to \$500,000.

Reis, who was previously the director of the regional Bahia Museum of Modern Art and now sits on the board of Rio de Janeiro's Museum of Modern Art, acknowledges that speculation is a danger in most emerging markets but claims that "in the case of Brazilian art, it is insignificant". The BGA fund plans to keep buying art for another year and then begin a two-year selling process. Melanie Gerlis

