A Closer Look

The Fine Art of Transferring Your Treasured Collections

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In Brief

- **Collected with passion and love, art and collectibles can be a deeply meaningful legacy to hand down for generations to come.**
- **Yet those emotions, and the illiquid nature of the assets, can add significant complexity to the process of transferring art or collectibles in a way that maintains family harmony and satisfies key financial goals.**
- **These complexities make transferring a whole collection, or even one or more individual pieces, to the next generation especially challenging.**
- **Whatever you envision as the next home for your art (with your family, with a museum or charity, or with an outside buyer), it's vital to communicate your intentions with family members, appraisers, trustees, and others, and to build flexibility into your plans.**

For many, art and other fine collectibles — such as antiques, gems, historical memorabilia, rare manuscripts, or cars — are an expression of aesthetic and personal values as much as an investment. Whatever created your financial resources, having the opportunity to discover and collect objects of beauty and rarity may be one of life's greatest joys. In part because of that emotional attachment, how best to hand down your treasures can be an especially difficult and delicate subject. If you hope to pass pieces to the next generation, keep in mind that due to the illiquid nature of art and the wide differences in value from one piece to the next, equitable transfer can be difficult.

Deciding whether to gift art and collectibles to heirs, donate them to a museum or charitable institution, or to sell them — now or as part of your estate — depends on a careful assessment of your own priorities, the priorities of your family members, and an understanding of the available options. Ongoing communication with family members, or with a museum, can help prevent misunderstandings. Working with experienced professionals, from qualified appraisers to estate planning specialists, can help you establish a strategy designed to meet your goals.

Weighing the Financial Implications

When transferring the art or collectibles you love, the financial considerations become paramount — especially if the pieces represent a sizeable portion of your overall wealth. If you're going to hand down all or part of your collections within the family, how can you structure things in a way that's fair and equitable to all of your heirs, and produces a financially desirable outcome? If you plan to donate or sell the works, what are the most tax-efficient ways to do so, and how can you ensure the best financial result for your family?

Why Proper Valuation Is a Must

Putting an accurate dollar value on your art or collectibles is an important consideration at any phase of ownership, from buying and selling to properly insuring your pieces. That's true especially when it comes to donations to museums or wealth transfer. If your plan is to keep your pieces in the family, proper valuation can help you be fair to all family members.

Accurate valuation is also essential to claiming income tax deductions or gift/estate tax exemptions. If the IRS elects to examine your tax returns, art with a claimed value of $50,000 or more will have to be submitted for possible review by the Art Advisory Panel. The panel, comprising some 25 noted art experts, advises the IRS on issues of fair market value.[1] Submissions must include professional quality photographs as well as a detailed form establishing the work's provenance, exhibition history, condition, and other factors, so be sure to keep careful records, including bills of sale from each purchase. Resolution before the panel may take several years, underscoring the need for careful valuation and organization. It's also important to have financial plans in place should you receive an adverse ruling.

If you plan to donate works to museums, proper valuation is essential to claiming a fair and defensible tax deduction. And, should you choose to sell, valuation is vital to setting a fair and reasonable price and for anticipating and preparing for the income tax event the sale might generate.

Any tax benefit claimed requires valuation work by a qualified appraiser — an experienced professional who has met certain educational requirements and is certified by a nationally recognized appraisal organization. Look for one with special expertise in the types of art and collectibles you own. A trusted art advisor may be able to introduce you to an appraiser, and organizations such as the American Society of Appraisers, the Appraisers Association of America, and the International Society of Appraisers can direct you to specialists in your area.

Keeping Your Art and Collectibles in the Family

Of all transfer options, passing art or collectibles down to family may offer the greatest satisfaction. It's the chance to start a family tradition that could potentially continue for generations after you're gone, offering descendants the opportunity to benefit from the same pleasure that the works gave to you. Yet gifting or leaving works to family also presents numerous financial, emotional, and practical complexities.

Emphasizing communication and flexibility. One of the most important questions to answer early on is whether your children or grandchildren truly have an interest in maintaining and protecting the items you've collected. Will they love them as much as you have? Starting the communication process early may help avoid surprises later on. Share the reasons why you love the pieces you own, what they mean to you personally, and the values they represent.

As your children enter adulthood, having regular conversations to explore their seriousness about the art — is the collection something they cherish? — can help you make the best decisions about gifting. It's also important to allow for some flexibility in your planning. While you, as the owner, can ultimately decide who gets what, taking their wishes into account can help ensure that your pieces have the positive effect you envision. By contrast, making inflexible decisions based on unspoken assumptions regarding their tastes or desires could lead to disappointment or resentment within the family — potentially damaging the legacy you had hoped to create.

Gifting now. Next come the strategic choices of when to transfer the pieces — through gifts while you're alive or as part of your estate. Lifetime gifting offers some distinct advantages. For example, the current high gift tax exemption ($11.4 million for individuals, $22.8 million for a couple for 2019) could enable you to transfer valuable pieces without triggering gift taxes. If that exemption subsequently drops,[2] those works would already be out of your estate.

Another benefit is that transferring art and collectibles, as opposed to liquid assets, is unlikely to affect your cash flow. Thus, holding onto liquid assets and letting

[1] https://www.irs.gov/appeals/art-appraisal-services

[2] Barring an adjustment by Congress, gift tax and estate tax exemptions in 2026 will revert to their 2017 level of $5 million for an individual, or $10 million for a couple, adjusted for inflation. https://www.irs.gov/newsroom/treasury-irs-making-large-gifts-now-wont-harm-estates-after-2025.

Case in Point: The High Cost of a Failure to Plan Ahead

A family had owned a painting by a famous mid-20th century American artist for many years. Because of the artist's renown, family members believed it was worth up to $4 million, and had developed expectations around what its eventual sale could bring. When the family matriarch died, she left the painting to one of her three children, and compensated the others by giving each several other pieces of art she owned.

Unfortunately, that assumed value was based on family lore rather than a formal appraisal. When the heir who had received the single painting decided to sell, he learned that its value was nowhere near what the family had always assumed. In the end, the pieces left to the other heirs turned out to be worth considerably more. Thus the matriarch, despite a sincere desire to treat her children equally, left them with decidedly unequal inheritances.

Better planning might have helped the family avoid that situation. An accurate appraisal of all of her works might have enabled the matriarch to distribute her collection more fairly. With comprehensive estate planning, she might have moved some or all pieces out of her estate, thus minimizing potential estate taxes. And an experienced art advisor could have helped the heirs better choose the timing and venue when selling their pieces, thus reaping a potentially higher sale price.

go of the art could be a way to lessen the size of your taxable estate without reducing income you may need for living expenses. At a more emotional level, gifting now rather than after you're gone offers your heirs more years in which to enjoy the gift, and lets you share in the happiness it brings them.

For all of its advantages, gifting now presents its own potential complications, and moving art out of your estate during your life may not always be the best choice. For example, should your heirs decide to sell the works at some point, they could be subject to sizeable capital gains taxes. (While the long-term capital gains rate for most property is 20%, for art and other collectibles, the rate is 28%). If you leave them in your estate, the heirs would get an automatic step-up in basis to the date-of-death fair market value — thus reducing or even eliminating the capital gains on a subsequent sale. Finding the best choice from a tax perspective may require a careful consideration of the potential impact of capital gains versus estate taxes.

Another potential disadvantage of gifting now is the requirement that you remove the work from your possession — and protection. Depending on your child's or grandchild's living situation, the wall of a rented apartment lacking proper security may not be the safest home for valuable objects. Some collectors who gift art to family members choose to rent the works back in order to continue displaying them in their own homes. But keep in mind that establishing accurate rental values can be difficult (though not impossible), and the rent you pay to your heirs could have income tax consequences for them.

Finally, the inherent volatility of the art market creates the risk of inadvertently wasting portions of your lifetime gift tax exemption. For example, if a piece is worth $5 million when you make the gift, and it subsequently depreciates, you've used up $5 million of your lifetime gift tax exemption for something worth less than that amount.

Irrevocable trusts. For some collectors, gifting through a trust, rather than directly to an heir, can be an effective way to move illiquid assets such as art out of your estate. A trust can provide protection from creditors should one of your heirs get into financial difficulties.

If you use a special type of trust known as a **grantor trust**, there are additional benefits. For example, if you pay rent to the trust, rather than to your heirs, there won't be income tax consequences. In some cases, you might choose to sell your works to the trust, instead of gifting them, which also will not have income tax consequences. That might be the choice if, for example, you have already used much or all of your lifetime gift tax exemption.

Trusts can also provide an effective way to manage the complexities of transferring art in blended families. Say, for example, a collector owns several valuable paintings. He wants his spouse from a second marriage to fully enjoy them, while ensuring that his children, rather than his spouse's, will ultimately inherit them. He creates a marital trust stipulating that when he dies, the works will remain with the spouse for life, after which they will go to his children.

If you have multiple works and multiple potential beneficiaries, a family entity such as a **family limited partnership (FLP) or limited liability company (LLC)** might help you manage both the art and your heirs' expectations. Say, for example, a collector owns several valuable works and has three grown children whom she hopes will enjoy them. Gifting individual works to individual children may be fraught with potential conflict. As market values shift, one heir might own a work with a fair market value several times that of the works owned by her siblings. Yet other solutions — such as giving each child a one-third share of the pieces, could lead to complications and disagreements over how to manage, care for, and display the pieces.

Instead, the owner could gift the pieces to an FLP or LLC, which owns 100% of the works. The owner appoints a professional manager, knowledgeable in art, to properly value, insure, and care for the pieces. The manager can establish an equitable system for who gets to display the works and when, and can help resolve any disputes among the heirs, each of whom owns 33% of the FLP or LLC, either directly or through trusts established for each heir's benefit. One additional benefit of gifting in this manner is that you may be able to obtain valuation discounts, since your heirs own minority interests in the FLP or LLC, rather than owning the actual art. Discounts could mean you use up less of your lifetime gift exemption. Yet the management must be handled carefully. If you, as the original owner of the art, retain too much control over the pieces in the FLP or LLC, the IRS could argue that the pieces are still part of your estate for transfer tax purposes.

Case in Point: Finding a Home For Treasured Memorabilia

An avid collector of historical memorabilia owned more than 1,000 items ranging from correspondence to official documents to personal belongings of celebrated figures.

The collector was growing older and less able to care for the objects — worth a combined $3 million to $5 million. After decades of gathering the objects, he longed to see them stay together. Yet while his children loved the collection, none had the space for or interest in displaying it. He turned to his Bessemer Trust team to help explore his options. A careful analysis of the current value of the items relative to what he paid for them many years earlier revealed that selling the collection outright would trigger significant capital gains taxes. He could leave the collection to his kids in the estate (where a step-up in basis would mitigate capital gains taxes for his heirs), but that would saddle the children with a complex job of selling more than 1,000 pieces, the team advised.

His advisors suggested he consider donating the works. Some well-known museums were unenthusiastic, because they already had similar items. Nor was his alma mater interested in taking on such a large collection. The advisors suggested he consider donating to a respected but lesser-known museum. For that museum, the items would be a signature holding that would certainly go on display — just as the owner wanted. Finally, his team helped arrange a modest endowment, funded by the collector, to ensure the museum could properly curate the pieces. Knowing his collection would live on intact and benefit the public gave him peace of mind.

Leaving the works in your estate offers you the opportunity to enjoy them throughout your lifetime. And this approach mitigates the threat of capital gains taxes should your heirs choose to sell any pieces. When your estate is eventually settled, your heirs will receive an automatic step-up in basis — inheriting the pieces at the current fair market value. Of course, if the works continue to appreciate in value between the time of inheritance and the time they are sold, capital gains taxes would apply to that increase. (Conversely, if the artwork has decreased in value, your heirs will receive a step-down in basis.)

Among the disadvantages of this approach is that the art or collectibles could significantly reduce the liquidity of your estate. The 2019 estate tax exemption stands at $11.4 million for individuals and $22.8 million for a couple (assuming you haven't used up any of the exemption through lifetime gifting). If your estate is large enough to exceed that exemption, and your art or collectibles are highly valuable, your heirs might be compelled to sell them quickly in order to pay estate taxes within the nine-month window provided by the IRS. That, in turn, might mean selling at "fire sale" prices, as opposed to waiting for the right time and the right buyer. As an alternative to selling, heirs might take out loans against a piece or pieces in order to pay estate tax, though leveraging art and collectibles can be challenging.

Another concern with leaving art or collectibles in your estate is the potential for discord among family members based on who receives which pieces. Over time, the tastes or interests of your heirs may have changed, or certain pieces may have appreciated or depreciated in value, disproportionately favoring some heirs. Some family members may favor selling, while others want to keep pieces in the family. Since you won't be on hand to help resolve such issues, it's important to build flexibility into your estate plan. For example, you might draft a letter of wishes that explains your preferences regarding how the pieces may be distributed, or how they might be sold, and suggests a knowledgeable advisor to consult, but which leaves your trustee with sufficient room to make key decisions as needed.

Donating Your Art or Collectibles

If you don't plan to keep the works in the family, donating to a museum offers the opportunity to share your passions with a wider audience. You may also gain financial benefits, such as an immediate charitable deduction, so long as the recipient museum meets certain requirements.

Despite these advantages, donating to a museum should be done with care, in order to be sure of achieving your objectives. For example, you may assume that the museum you have in mind will quickly put your prized twentieth-century American landscapes on display. But if the museum already has similar works by the same artist or of the same genre, those pieces could wind up in storage (or even up for sale). If the museum does plan to exhibit your pieces, it may expect you to provide an endowment to pay for curation and other expenses. In both instances, a detailed conversation about the museum's plans for your gift, in advance, will help avoid surprises.

To increase the chances that your work will actually be displayed, you might consider widening the scope of potential recipients to include college art museums, or other smaller institutions more likely to use them. And, if you plan to donate art after death, you may want to name an alternate recipient in addition to your primary one (or give your executor the authority to do so), in case the primary recipient decides not to put the art on display. The flexibility could help ensure that your wishes are realized. Keep in mind that in order for you to receive an income tax deduction for the full fair market value, the institution you donate to must use art as part of its tax-exempt mission (although this is not the rule for estate tax purposes). Donating a painting to an unrelated charity that plans to sell it at a fundraiser would not qualify. In that case, you may only be able to deduct your basis, or the price you originally paid.

Depending on the nature of your objects, and your family situation, there are other options for donating. For example, a split-interest trust (such as a **charitable lead trust** or **charitable remainder trust**) could help you contribute to a favorite nonprofit and realize some tax benefits while still providing income for family. Some collectors may choose to donate **fractional interests** to a museum — gifting a certain portion of ownership of an artwork, usually with a promise to transfer the remaining portion later. Fractional gifts offer potential tax benefits and the ability to continue hanging the work on your wall until the full transfer occurs. But there are numerous restrictions and conditions, so it's important to speak with your tax advisor first.

Another possibility for donating art is through your private foundation, if you have one. But this route creates complexities. Because art is generally illiquid, you must make sure you maintain sufficient cash to satisfy the rule that foundations must distribute 5% of their assets each year. And once the art is within your foundation, self-dealing rules prohibit you from hanging it on your own walls. If you still love a painting that you're planning on parting with, commissioning a high-quality reproduction could enable you to continue enjoying its aesthetic beauty.

Collectors may even choose to create a separate, **private operating foundation** — a tax-exempt organization that must use most of its income for charitable services or programs such as arts education. This may be an option for collectors who wish to share their objects with the public. Yet, as with fractional gifts, numerous restrictions and conditions apply.

Putting Pieces Up for Sale

If your family shows little interest, and you don't plan on donating to charity, selling the pieces outright offers the opportunity for a clean break. This is an increasingly common plan. You've enjoyed the collection for years, and now you or your heirs can use the proceeds for other needs and opportunities. But be aware that selling can exact a price. If you sell the art during your lifetime, capital gains (or other state and local taxes) can take a substantial bite out of the proceeds.

In the past, sellers who purchased similar works to replace those they sold could defer capital gains taxes. Under the new tax law effective January 2018, this is no longer possible for art and collectibles. If the pieces are sold as part of your estate, capital gains will be less of a factor, thanks to the step-up in basis that your heirs receive. And, if you specifically direct in your will that art is to be sold upon your death, the costs related to selling the work or works are deductible. As described above, however, if your heirs are forced to sell quickly to pay estate taxes, they may not receive the best price.

Finding Experts to Help Guide the Way

However you choose to transfer your treasured collections, expert guidance is essential. Owners with an emotional attachment to their art or collectibles may overvalue their potential sales price — underscoring the importance of a qualified appraiser who has no emotional or financial interest in what the pieces are worth.

In addition to a qualified appraiser, you may also want to work with an experienced art advisor, who can help you with everything from locating pieces you may be interested in buying, to helping you select the right auction house, private buyer, or nonprofit recipient when the time comes to let go of them.

Your team doesn't end there. Trust and estate experts and philanthropic advisors can help ensure that your plan for these valuable assets works seamlessly with your overall financial strategies. And family wealth specialists can help educate the next generation as responsible stewards of art and other assets. Together, they can help you align your passion as a collector and your goals for your family with solutions based on your individual needs.

Glossary of Terms

Charitable lead trust. An irrevocable split-interest trust designed to provide income to one or more charities for a specific period of time, after which the remainder of the trust goes to family members or other beneficiaries.

Charitable remainder trust. An irrevocable split-interest trust generating a regular income stream for the beneficiaries for a specific period of time, after which the remainder of the trust goes to a designated charity.

Family limited partnership (FLP) or limited liability company (LLC). An entity that may be used to hold one or multiple pieces of art and transfer to family members, or to trusts for family members. Discounts may apply to transfers of FLP or LLC interests.

Fractional interest. Gifting a certain portion of ownership of an artwork to a museum, usually with a promise to transfer the remaining portion later. While fractional gifts offer potential tax benefits, there are numerous restrictions and conditions, so it's important to speak with a tax advisor first.

Grantor trust. A trust in which the grantor is treated as the owner for income tax purposes. Transactions between the grantor and the trust usually do not have income tax consequences, and the trusts can be used for the benefit of spouses and/or descendants.

Private operating foundation. A tax-exempt organization that must use most of its income for charitable services or programs. This may be an option for collectors who wish to share their objects with the public, though numerous restrictions and conditions apply.

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