

The art of estate planning

An art collection is a special asset to account for in an estate plan

It goes without saying that your art collection, including paintings, sculptures and other pieces of art, can represent a significant portion of your estate. Thus, it's critical to account for these assets in your estate plan.

While you can apply many traditional estate planning strategies to an art collection, this asset type can present unique challenges. Of course, you'll want to preserve the value of your collection and avoid unnecessary taxes but knowing how your collection will be managed and displayed after your death may also be of importance.

What's the collection worth?

It's vitally important to have your collection appraised periodically by a professional. The frequency depends in part on the type of art you collect, but generally it's advisable to obtain an appraisal at least every three years, if not annually.

Regular appraisals give you an idea of how the collection is growing in value and help you anticipate tax consequences down the road. Also, most art donations, gifts or bequests require a "qualified appraisal" by a "qualified appraiser" for tax purposes.

In addition, catalog and photograph your collection and gather all appraisals, bills of sale, insurance policies and other provenance documents. These items will be necessary for the recipient or recipients of your collection to carry out your wishes.

What are my options?

Generally, there are three options for handling your art collection in your estate plan: Sell it, bequest it to your loved ones, or donate it to a museum or charity. Let's take a closer look at each option:

1. If you opt to sell, keep in mind that capital gains on artwork and other “collectibles” are taxed at a top rate of 28%, compared to 20% for other types of assets. Rather than selling the collection during your lifetime, it may be preferable to include it in your estate to take advantage of the stepped-up basis, which allows your heirs to reduce or even eliminate the 28% tax. For example, you might leave the collection to a trust and instruct the trustee to sell it and invest or distribute the proceeds for the benefit of your loved ones.
2. If you prefer to keep your collection in the family, you may opt to leave it to your heirs. You could make specific bequests of individual artworks to various family members, but there are no guarantees that the recipients will keep the pieces and treat them properly. A better approach may be to leave the collection to a trust, LLC or other entity – with detailed instructions on its care and handling – and appoint a qualified trustee or manager to oversee maintenance and display of the collection and make sale and purchasing decisions.
3. Donating your collection can be an effective way to avoid capital gains and estate taxes and to ensure that your collection becomes part of your legacy. It also entitles you or your estate to claim a charitable tax deduction. To achieve these goals, however, the process must be handled carefully. For example, to maximize the charitable deduction, the artwork must be donated to a *public* charity – such as a museum or university with that status – rather than a private foundation. And the recipient’s use of the artwork must be related to its tax-exempt purpose. In other words, the recipient would have to exhibit it or use it for art education, for example, rather than selling it. Also, if you wish to place any conditions on the donation – such as specifying where the collection can or cannot be displayed or including your name on signage accompanying the artworks – you’ll need to negotiate the terms with the recipient before you deliver the items.

If you plan to leave your collection to loved ones or donate it to charity, it's critical to discuss your plans with the intended recipients. If your family isn't interested in receiving or managing your collection or if your charitable beneficiary has no use for it, it's best to learn of this during your lifetime so you have an opportunity to make alternative arrangements.

The right strategy for you

The greatest value of a piece of art may be intangible, but that doesn't lessen the need to properly account for it in your estate plan. With careful planning and qualified valuation assistance, it can create significant tax benefits. Qualified valuation and estate planning advisors can design a strategy that's right for you.

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1875 Century Park East, Suite 2000
Los Angeles, CA 90067
(P) 310 553-8844 | (F) 310 553-5165
www.weinstocklaw.com