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# Passing On Art Through Estate Planning - Testamentary Planning

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# Issues Related to Post-Death Sales of Art

- Expenses
- Taxes
- Valuations

# IRS Art Advisory Panel – Information Request

Estate of [REDACTED]  
Request: 1

## Information Document Request

*With respect to Item 5 as referred to in Schedule F, Item 6, Tangible Personal Property, please provide in digital format on a compact disc (CD):*

A high resolution digital image of the object (digital is preferred but can also be a professional quality 8 x 10 inch color photography). Each object should be shown in its entirety with separate images depicting important details, such as the artist's signature, date or labels and other distinguishing features (including damage and repairs). Multiple views are helpful for three-dimensional works of art. Please note that all photographs and digital images should be labeled with the taxpayer's appraisal object number, the artist's name and title.

- ❖ Along with the photograph, please include, a complete description of the item, indicating the:
  - Name of the artist (sculptor, maker, etc.)
  - Title or subject matter;
  - Size (cite actual dimensions for paintings) or weight, if applicable, for objects made from silver, gold, or other precious materials ;
  - Medium and ground (e.g., oil on canvas, watercolor on paper, etc.);
  - Date created or age;
  - Any signatures, marks, distinguishing features, symbols, or labels on the back or front of the object.
  - Place or origin of the piece
  - History (provenance) of the item; this would mean who has owned the item, has it been shown in museums and/or prominent galleries, standard publications (e.g., the catalogue raisonne, if the item was published in a news article, or in a catalog for museum showing, etc., or a record of exhibitions at which the work of art was displayed);
  - Cost, date and manner of acquisition; Any reference source citing the item;
  - Sales prices of other comparable works of art sold by the artist including price paid;
  - The present location of the art object if it becomes necessary to arrange an inspection;
  - If the "condition" of the item contributes to the claimed value, include a "Condition Report"; and
  - Other information deemed to be relevant to the specific property being valued;
  - Any valuation discount reports

# Considerations When Dividing Art Collections

- Single, non-divisible pieces
- Specific gifts
  - Equalizing gift
  - Maintenance gift
- Right of first refusal/Option to buy from estate
- Taxes

# Considerations When Making Bequests to Charity

- Acceptance, Retention and Display
- Acknowledgement and Confidentiality
- Tax Considerations

# Administering an Estate with Art

- The personal representative of the estate should:
  - Make sure all works are insured and inventoried.
  - Ensure art is securely stored.
  - Marshal assets.
  - Determine ownership of artwork.

# Tips for Drafting Testamentary Documents Dealing With Art

- Financial Power of Attorney
  - Should expressly authorize the attorney-in-fact to deal with all copyright matters, including the negotiation of contracts, arrangements with dealers, etc.
- Will or Revocable Trust
  - Do not dispose of valuable works of art of collections using a standard tangible personal property provision.
    - Consider utilizing a list clearly indicating each piece of art and its beneficiary.
    - If the art is to be sold and proceeds split, state so explicitly in the document.
    - Consider giving heirs a right of first refusal or option to buy art from the estate.
    - Consider including an equalizing gift to ensure fairness among beneficiaries.
    - Include a tax apportionment clause.



# Questions???



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