

Protecting Art and Collectibles in Your Estate Plan

By Brian Humes, CPA, Managing Director, Commerce Family Office at Commerce Trust

Individuals acquire fine art pieces and collectibles for various reasons. Perhaps buyer impulse takes over when a person sees a painting in a gallery or at auction and just "has to have it." It could be the end result of one's lifelong search for that "perfect" piece to complement a personal collection. Another might have a genuine passion and love for the art world and collects works by a particular artist or from a certain period in history.

For many collectors, they consider art to be one of the most lucrative investments for their portfolios, particularly during times of market volatility.

If you are an avid collector, perhaps you have acquired pieces for one of the reasons mentioned above — or, you may have any number of other personal motivations for searching the world for the fine art pieces you cherish.

Whatever the case may be, it is important that you think about the protection and preservation of your art collection by arranging for its disposition in your estate plan and working with an executor or trustee who is knowledgeable about gifting collectibles. The following suggestions may serve as a guide to get you started.

Considerations for Including Fine Art in Your Estate Plan

Have all documentation for your art pieces in good order.

Gather all paperwork and provenance documentation relating to each piece in your collection, including bills of sale, invoices, correspondence, photographs, serial numbers, identifying marks, and, of course, appraisals and insurance information.

Properly organize and catalog all available information for each piece and store your records in a safe place. Transfer documentation to digital records for convenient access (online inventory management systems are available to assist with this part of the process).

Once completed, give a copy of the detailed inventory list to your legal and estate planning professionals responsible for the disposition of your assets upon your death. According to the findings in Deloitte's report, only 12 percent of the collectors surveyed had taken this important step to formalize their art inventories with their estate planning advisors.²

The Ultra-Wealthy's Investment in the Art Market

According to key findings in Deloitte's "Art & Finance Report 2021," the wealth of ultra-high net worth individuals associated with art and collectibles was estimated at \$1,481 billion in 2020. The report estimates that amount could increase to \$1,882 billion by 2025.¹



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Think through your plans well in advance.

It's difficult to be objective about the pieces in your art collection. After all, you invested a substantial amount of time, effort, and capital in them, and pride in ownership is only natural. When planning for their disposition in your estate plan, you should be realistic about what each piece will mean to others — try not to let your biases and passions misguide you.

Not everyone views your art the same way you do, so you need to carefully consider which family member or friend really wants or deserves each piece in your collection. Before deciding about the disposition of your fine art, have candid, personal conversations to determine which pieces you want to gift them in your estate plan. Talk about your sentimental attachment to each piece and invite input from others. Mediate disagreements among family members over specific art pieces early on rather than leaving those arguments for your attorneys to settle later.

Also, you may want to consider an additional cash gift to beneficiaries to help them cover the costs of owning your artwork, and fully explain to each beneficiary the continuing obligations of artwork ownership.

Consider other gifting alternatives.

Perhaps giving your art collection to a favorite gallery or museum is preferable to passing on specific pieces to close friends and family members. This option not only would ensure the professional care and preservation of your collection but also would allow your pieces to be viewed, studied, and enjoyed by countless art lovers who share your passion for years to come.

Another alternative is to organize the sale of your art collection after your death and give away the proceeds. It is not uncommon that family members would rather have other assets such as cash or stocks instead of fine art pieces. If you decide to sell your collection, take an active part in the disposition process with your estate planning professionals. You do not want the art pieces to be sold at auction after your death for less than their market value.

Maintain important professional relationships.

Once you've made all the decisions regarding the future of the pieces in your art collection, we suggest the following:

- Maintain relationships with the art dealers, galleries, museums, auction houses, appraisers, and insurance providers — anyone that you want involved with the disposition of your collection after your death. Inform them of your decisions regarding the disposition of the pieces in your art collection. You may want to introduce family members and estate planning professionals to these individuals to facilitate an easier transition of the assets when the time comes.
- Immediately document your decisions with your estate planning attorneys and financial advisors.
- Verify your executors and trustees are comfortable working with fine art collections and will properly execute the disposition of the pieces.



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Ensure your wishes will be honored.

Commerce Financial Advisors can connect you with attorneys, members of the art community, and estate planning professionals who specialize in the evaluation and disposition of fine art collections. Our professional advisors will help you articulate your vision, work with you and your estate planner to document your wishes, and transfer your collection as planned. Contact us today.

¹ Deloitte, "Art & Finance Report 2021: Key findings," pages 19, <https://www2.deloitte.com/lu/en/pages/art-finance/articles/art-finance-report.html>

² Deloitte, "Art & Finance Report 2021: Key findings," pages 34, <https://www2.deloitte.com/lu/en/pages/art-finance/articles/art-finance-report.html>

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Brian is the managing director of Commerce Family Office in St. Louis. In this role, he collaborates closely with clients on strategies for addressing the complex personal, family, and financial challenges that can accompany significant wealth and often impact current and future generations. Brian works to help clients integrate core values into wealth planning and decision making, translate vision and mission statements into actionable solutions, implement successful family communication strategies, and establish effective family governance structures and processes. He has more than 35 years of experience providing comprehensive and sophisticated services to multiple high net worth families.

Prior to joining the Commerce Family Office team, Brian was an owner and principal with CliftonLarsonAllen in Saint Louis, MO advising clients in a wide spectrum of industries, with a heavy concentration in commercial real estate transactions, distribution companies and family business succession planning. Prior to joining CLA, he was the founding partner of Humes & Barrington LLP, a 60+ person public accounting firm in St. Louis which merged into CLA, a national accounting firm in 2010. Before forming Humes & Barrington, Brian was a manager in the St. Louis office of Price Waterhouse Coopers. Brian serves on the legal board of Koch Development Co. a privately held real estate investment and development company in St. Louis, MO and CK Supply Company, a regional distributor and ESOP owned enterprise. Brian earned his Bachelor of Science from William Jewell College. He is a Certified Public Accountant and belongs to the American Institute of Certified Public Accountants and the Missouri Society of Certified Public Accountants.



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