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# Take care of your art and your wallet

GRACE W. WEINSTEIN
**AFTER TAX**

A work of art is a joy forever but not unless it is appraised, insured and preserved for future generations.

An appraisal, which should include a complete photographic record of your collection, can establish values for estate planning (fair market value) and/or insurance (replacement value) purposes. Periodic reappraisals can keep pace with changing values.

Photos are essential in establishing before-and-after value if a work is damaged. Renee Vara, national fine art specialist for the Chubb Group, notes that, with the exception of jewellery, most damage is partial. Digital photos can document before-and-after condition.

When the mortar on a Park Avenue building loosened, for example, water leaked into the interior walls and damaged a Louis XV dresser. Insurance covered the damage but only because the owner had pictures to document the dresser's condition before and after the deluge.

Supplement the appraiser's written and photographic record with your own journal or scrapbook describing everything you know about each object in your collection. Include dated receipts, documents identifying age and provenance, and reports describing the date, extent and cost of any repairs or restoration.

As you document your collection, remember the environment in your home is critical. Fine art and antique furniture should be kept out of direct sunlight; pieces on display should be rotated or curtains kept closed. Dry winter air can cause wood to split or warp; moisture should be maintained with a humidifier.

Adequate insurance is also vital and "adequate" means more than a package homeowners' policy. Homeowners' insurance limits dollar coverage for valuables, rarely covers breakages and may limit coverage to depreciated values rather than replacement values. A scheduled personal articles floater lets you individually list and insure each item for a specific amount.

Next step: decide what should happen to your collection when you are dead. Do you want your family to keep the collection, do you expect to sell it or do you think you might donate it to charity?

If you want to pass your collection on to the next generation, your heirs may be forced to sell other assets to pay federal estate taxes as high as 50 per cent. In fact, with the interplay of federal and state transfer taxes since the 2001 tax legislation did away with offset provisions, the tax cost may be more than 50 per cent.

An alternative might be to place the works in a family limited partnership. FLPs are especially useful "where an asset is hard to divide", says Janine Racanelli, managing director of the wealth advisory group at JP Morgan Private Bank. The illiquid nature of the partnership also provides the option of marketability discounts.

If you expect your heirs to sell the works, they may face a capital gains tax of 28 per cent. If you want to sell the works yourself but prefer to duck the tax, you could donate them to a charitable remainder trust. The trust can sell the works without being subject to capital gains tax, then invest the proceeds to provide you with a stream of income for life.

The money in the trust at your death goes to the charity or charities you designated.

One problem with disposing of artworks is that values are subjective. They also fluctuate. Valuation for estate tax purposes might not mean a thing when it comes to a sale at a later date. Unless the works are sold immediately after your death, in other words, your family might end up paying estate tax on a value that will never actually be realised.

If you are not sure how your collection should be disposed of at your death, Ms Racanelli suggests including a disclaimer in your will. If you name a charity as your secondary beneficiary, your primary beneficiary typically your spouse or children will have nine months after your death to decide what to do with the works. If they decide not to keep the art, it goes to the charity you designated.

Perhaps you plan to donate all or part of your collection to charity. If you make the donation during life and want a deduction for the fair market value, best make sure the charity will put the works to what the IRS calls a "related use".

Donating valuable paintings to a museum that will display them meets the related-use rules. Donating the same paintings to a museum that will sell them fails the test, limiting your deduction to the work's cost basis.

The Federal Art Advisory Panel establishes the value of works donated to charity, both during life and after death.

It also sets values for works left in an estate. Meeting just twice a year (which can hold up an estate settlement), it sets values without regard to whether donors would prefer a high value (for an income tax deduction during life) or a low value (for estate or gift tax purposes).

*taxexpert101@aol.com*