

Tax and Estate Planning for Art Collectors

Navigating Valuation Challenges, 1031 Exchange Opportunities,
Inter Vivos Transfers, and Post-Mortem Sale Considerations

WEDNESDAY, APRIL 19, 2017

1pm Eastern | 12pm Central | 11am Mountain | 10am Pacific

Today's faculty features:

K. Eli Akhavan, Tax and Estate Planning for Art Collectors, **Akhavan Law Group**, New York

Scott K. Tippett, Attorney, **The Tippett Law Firm**, Oak Ridge, N.C.

The audio portion of the conference may be accessed via the telephone or by using your computer's speakers. Please refer to the instructions emailed to registrants for additional information. If you have any questions, please contact **Customer Service** at **1-800-926-7926 ext. 10**.

NOTE: If you are seeking CPE credit, you must listen via your computer – phone listening is no longer permitted.

Tips for Optimal Quality

FOR LIVE EVENT ONLY

Sound Quality

If you are listening via your computer speakers, please note that the quality of your sound will vary depending on the speed and quality of your internet connection.

If the sound quality is not satisfactory, you may listen via the phone: dial 1-866-961-9091 and enter your PIN when prompted. Otherwise, please send us a chat or e-mail sound@straffordpub.com immediately so we can address the problem.

If you dialed in and have any difficulties during the call, press *0 for assistance.

NOTE: If you are seeking CPE credit, you must listen via your computer – phone listening is no longer permitted.

Viewing Quality

To maximize your screen, press the F11 key on your keyboard. To exit full screen, press the F11 key again.

Continuing Education Credits

FOR LIVE EVENT ONLY

In order for us to process your continuing education credit, you must confirm your participation in this webinar by completing and submitting the Attendance Affirmation/Evaluation after the webinar.

A link to the Attendance Affirmation/Evaluation will be in the thank you email that you will receive immediately following the program.

For CPE credits, attendees must participate until the end of the Q&A session and respond to five prompts during the program plus a single verification code. In addition, you must confirm your participation by completing and submitting an Attendance Affirmation/Evaluation after the webinar and include the final verification code on the Affirmation of Attendance portion of the form.

For additional information about continuing education, call us at 1-800-926-7926 ext. 35.

If you have not printed the conference materials for this program, please complete the following steps:

- Click on the ^ symbol next to “Conference Materials” in the middle of the left-hand column on your screen.
- Click on the tab labeled “Handouts” that appears, and there you will see a PDF of the slides for today's program.
- Double click on the PDF and a separate page will open.
- Print the slides by clicking on the printer icon.

Estate Planning for the Art Collector

Scott K. Tippett

The Tippett Law Firm, PLLC
Greensboro, North Carolina

T: (336) 643-0044

E: skt@sktlaw.com

Estate Planning for the Art Collector

Establishing Title

"Just because the client bought it doesn't mean the client owns it."

-Lawrence Shindell, CEO of ARIS Corp.

Estate Planning for the Art Collector

Establishing Title

Cézanne's Bouilloire et Fruits (case summary courtesy of www.artloss.com)

- The Cézanne was one of seven paintings stolen from a private residence in Boston in 1978, and recovered as part of the Bakwin Case.
- The Cézanne resurfaced in 1999 when a retired lawyer attempted to sell the work using a Swiss lawyer and Panamanian shell company to hide his true identity. Unable to sell the work the lawyer attempted to extort money from the theft victim who appointed the ALR to recover all seven works on his behalf.
- In 1999 after working closely with the FBI and Swiss Police the ALR recovered the Cézanne which was subsequently sold for \$29.3million. Over the next ten years the ALR recovered the six remaining works, the last of which was returned to the theft victim in 2010.

Estate Planning for the Art Collector

Establishing Title

Roman marble portrait head of Marcus Aurelius

- A Roman marble head of Marcus Aurelius, stolen on the 22nd December 1996, along with nine Roman portraits, from a museum in Skikda, Algeria.
- During one a routine catalogue searches of a specialist antiquities sale in New York, June 2004, a Roman marble portrait bust of the emperor Marcus Aurelius was matched with the marble portrait stolen from Algeria.
- The New York bust was confirmed as a match. Interpol, who originally circulated the details of the theft and pulled the piece from the sale.
- The marble head was repatriated to the Algerian Cultural Ministry.

Estate Planning for the Art Collector

Establishing Title

Austin J40 Pedal Car

- One of only 700 produced by Austin between 1950's - 60's. Stolen from a private UK residence in 1998. The theft victim had kept excellent photographs of the item which clearly depicted a number of unique scratches and marks on the body of the car. The car successfully identified the item from these photographs when the car was scheduled for sale at auction in Melbourne in 1999.
- The car was successfully recovered and the case led the recovery of over £200,000 worth of objects which were being offered for sale in Australia and had been stolen from a second private residence in the same area of the UK. Information was relayed to Interpol and UK law enforcement whose investigation led to two arrests and the seizure of hundreds of stolen items including an important collection of bronzes which had been stolen from a Paris art gallery in 1998.

Estate Planning for the Art Collector

Establishing Title

\$80,000 painting was recovered in 2007 at the Palm Beach Fine Arts Fair in Florida after it was found to have been stolen in 1995 from the Buffalo Club in New York State.

For another interesting story about the recovery of black market art see:

<http://www.browardpalmbeach.com/news/the-trail-from-a-6-million-french-art-heist-ends-in-suburban-south-florida-6326968>

Estate Planning for the Art Collector

Establishing Title

1. Why is title important?
2. Ownership issues may lower value.
3. Only 25% of ownership claims are related to historical and contemporary ownership claims. 75% arise from traditional liens and encumbrances and more general questions of legal authority to sell.
4. Ownership risks can and do affect the value.
 - Assessing ownership risks is part of the appraisal process.

Estate Planning for the Art Collector

Establishing Title

5. No prudent art collector would buy an expensive work without establishing credible and lawful title.
 -
6. Merely having a title may not be good enough to secure the right of ownership.
7. Art theft victims now have better means to seek recovery. Recent court decisions have returned works of art to former owners despite the expiration of the statute of limitations.
8. Pre 1946 works require special care.
9. While collectors have always understood and appreciate the significance of the ownership history (provenance) of a work of art, guidelines for determining provenance are relatively new.
 - -1998 – Association of Museum Directors established guidelines for determining ownership history.
 - -1998 – Presidential advisory commission on Holocaust assets established
 - -1999-American Association of Museums established guidelines for determining provenance.

Estate Planning for the Art Collector

Establishing Title

7. A collector's failure to perform adequate due diligence prior to acquisition can put the piece of art at risk, particularly if the collector later wishes to sell it.

Estate Planning for the Art Collector

Establishing Title

- Art Loss Register, an international database, with over 300,000 items of stolen art in the database. www.artloss.com.
- Offers preventative registration as well. Can register work so if it goes missing or turns up for sale, owner is alerted.
- Potential buyers may search to see if an item has been entered as lost or stolen. The fees are generally \$75 each and \$760 for every 25 searches.

Estate Planning for the Art Collector

Establishing Title

How Good is A Seller's Warranty of Clear Title?

Risks:

The upstream seller may no longer be in business.

May not have assets to stand behind the prior warranty.

May be hard to pursue if he is located in a foreign country where the warranty is hard to enforce.

Estate Planning for the Art Collector

Establishing Title

While some insurance companies will reimburse some legal fees.

Typically offered as an endorsement to a homeowner's policy.

Does not cover the actual value of the work of art if the owner is required to forfeit the work.

Estate Planning for the Art Collector

Establishing Title

ARIS APTI Policy

Art Title Protection Insurance (ATPI[®])

The ARIS ATPI[®] policy is a title insurance policy structured to address the chain of title and lien risks inherent in art as a form of personal property. The ARIS ATPI[®] policy guarantees clear legal title, insuring against two general title risk categories:

Art Provenance/Chain of Title Risks

Theft - contemporary or historical
(e.g., WWII)

Illegal import or export

“Classic” Title Risks

Security interests

Creditor liens

Authority to sell

Estate Planning for the Art Collector

Establishing Title

- The ARIS ATPI[®] Policy is a Damages-Plus Defense Cost Policy
 - Coverage is for the face value of the policy plus the cost to defend against a claim.
 - Appreciation of the value of the art can be addressed via policy endorsement.
- The ARIS ATPI[®] Policy Term
 - Indefinite, until the insured work is re-sold or otherwise transferred by charitable gift or donation.
 - The policy term is automatically extended to the insured's successors in interest at law, e.g., heirs.
 - The insured has the option to elect a shorter term of coverage.

Estate Planning for the Art Collector

Establishing Title

- The Time Window for Covered Risk Occurrence
 - For provenance title risks, those occurring at any time before the date the policy is issued.
 - For "classic" title risks, those arising at any time during the Seller's ownership (or most recent period of ownership).
 - For authority to sell risks, any lack of legal authority to sell at the time of the transaction and policy issuance.
- Policy Exclusions
 - Those consistent with real estate title exclusions.
 - A general exclusion for affirmative misrepresentation.
 - ***ARIS ATPI® is a "tell us what you know" policy, but it is not contingent on what the insured "should have known."***
 - Exclusions for claims against ARIS and its reinsurer(s) in the nature of defamation of title, impairment of value or damage to reputation of transaction principals asserted because of the ARIS ATPI® application or underwriting processes.

Estate Planning for the Art Collector

Establishing Title

- Art Title Advisors: (www.arttitleadvisors.com)
 - Fee based service that prepares an ownership rights protection report that describes the results of its investigations into a title.
 - Checks both public and private databases as well as its extensive network of dealers and museums.
 - Reports provide collectors with a documented record of due diligence structured to help defeat competing ownership claims. Fees start at \$750.

Estate Planning for the Art Collector

Establishing Title

- Non-Theft Title Risks for Works of Art
- Common non-theft title risks, among others:
- **Authority to sell:** Does the seller have the authority to sell the work?
- **Multi-collateralization of art.** The UCC applies to works of art. No national UCC clearing house/database, so a state by state search may be necessary. What is owner secured a loan with multiple creditors without full disclosing prior, existing liens?
- Family disputes. Personal property disputes involving inheritance, divorce or other family matters.

Estate Planning for the Art Collector

Establishing Title

- Gallery conversion cases. Cases involving galleries that sell a consignor's art without paying the consignor or in violation of the consignment agreement, such as without the consignor's consent or below a minimum agreed-on price point.
- Government seizure. The forcible taking of property by government law enforcement because, for instance, the property was stolen or associated with violations of money laundering or source country patrimony laws.
- Import/export. A claim that movement of art across borders violated regulated import and export of goods internationally.
- Loans/gifts to museums. A dispute about whether property in a museum's possession was loaned (for exhibition only) or gifted (ownership transferred to the museum).
- Storage disputes. Whether a storage company has the legal right to sell property in a unit if storage fee payments are delinquent for a certain period.

Estate Planning for the Art Collector

Establishing Title

Recent Cases:

Davis v. Carroll, 937 F.Supp.2d 390 (SDNY 2013)

A merchant's heightened duty of due diligence, for purposes of qualifying as buyer in ordinary course of business, is triggered where there are warning signs about problems in a sale.

Whether art dealer was buyer in ordinary course of business, bargain basement prices that art gallery offered art dealer regarding artwork, which had been consigned to gallery, along with battery of irregular and suspicious issues pertaining to gallery's ownership of and right to sell those artworks, constituted “red flags” that triggered duty of heightened inquiry on dealer's part before consummation of any sales transaction.

Art dealer who failed to insist upon clear answer or documentation regarding gallery's ownership or rights of sale, failed to consult with authors and preparers of catalog of artist's works, and failed to examine gallery's list of retail prices to more accurately ascertain whether prices for artworks were so low as to provide cause for concern failed to comply with heightened duty of inquiry.

Estate Planning for the Art Collector

Establishing Title

USA v. Baltimore Museum of Art, 991 F.Supp.2d 740 (E.D. Va. 2014)

Famous artist's unsigned oil painting that was seized by government after being stolen during museum exhibition and then decades later purchased at flea market was in lawful possession of museum until stolen from museum's collection, as required for museum to hold superior title to purchaser's title, under Virginia law governing detinue claims, where museum received painting as loan, catalogued and exhibited painting, reported theft to police department, later catalogued painting's status as stolen, reported in board meeting minutes that insurance claim was filed due to theft, and confirmed in financial ledger entry that payment was received from insurer.

Estate Planning for the Art Collector

Establishing Title

Search term:

art-work (work +3 art) /s titl! /p steal! stol!
theft! tak!

Estate Planning for the Art Collector

Establishing Title

USPAP

Internal Revenue Service adopted Uniform Standards of Professional Appraisal Practice (USPAP) standards.

Three Rules

1. Scope of work
2. Competency
3. Standards Rule 7 (use of extraordinary assumptions)

Estate Planning for the Art Collector

Establishing Title

1. Scope of work

Appraiser must identify the type of data and extent of data researched and the type of analysis and extent of analysis applied to arrive at opinions or conclusions.

Estate Planning for the Art Collector

Establishing Title

2. Competency

Appraiser must disclose to client how appraiser's lack of information could affect the client's clear legal title to a work of art.

Estate Planning for the Art Collector

Establishing Title

3. Standards Rule 7.

If the available information is not within the (ordinary) assumption definition, (allowed only if known to be true), then the use of an extraordinary assumption is required (ownership does not fall within the ordinary assumption definition).

Estate Planning for the Art Collector

Valuation Issues

IRS Art Advisory Panel

All taxpayer cases selected for examination that include an item of art with a claimed value of \$50,000 or more must be referred to Art Appraisal Services for possible review by the Commissioner's Art Advisory Panel.

The AAS staff provides written reports or memos to the requesting IRS office, with a copy for the taxpayer, outlining the Panel's recommendations for any adjustments to fair market value with all supporting evidence.

Taxpayers may request reconsideration of an adjusted claimed value only if they provide substantial new information or probative evidence. The AAS staff may submit such information to the Panel for reconsideration at a subsequent meeting.

Estate Planning for the Art Collector

Valuation Issues

- During Fiscal Year 2015, the latest year for which information is available, the Panel reviewed 446 items with an aggregate taxpayer valuation of \$649,296,221 on 59 taxpayer cases. The average claimed value for an item reviewed by the Panel was \$1,455,821.
- The Panel recommended accepting the value of 156 items or 35 percent of the items presented. It adjusted 290 items or 65 percent of the appraisals it reviewed. On the 290 items adjusted, the Panel recommended total net adjustments of \$114,125,764 to the appraised values, an 18 percent increase.
- The Panel reconsidered three items originally valued at \$600,000 by the taxpayers and \$1,500,000 by the Panel. After reviewing the additional information, the Panel revised their recommendations to \$1,200,000. The items reconsidered are not included in the information above or that follows.

Estate Planning for the Art Collector

Valuation Issues

- Preferred Object Identification Format for Art* Valued Over \$50,000
- Note: This format is recommended for the object identification section in your appraisal report. It is not intended to stand alone as an appraisal report.
- * Art includes paintings, sculptures, watercolors, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, rare manuscripts, historical memorabilia, and other similar objects.
- VALUATION EFFECTIVE DATE:
- FAIR MARKET VALUE: \$
- ARTIST: Artist (last name, first name) (nationality, dates) or Culture or Maker
- DESCRIPTION: A complete description of the object, including but not limited to:
 - Title or Type of Object
 - Date or Period
 - Medium (materials and techniques)
 - Dimensions
 - Signature, inscriptions or other identifying details
 - Subject matter
- PROVENANCE:
- EXHIBITIONS:
- LITERARY REFERENCES/CATALOGUE RAISONNÉ:
- CONDITION:
- ACQUISITION COST, DATE AND SOURCE:

Estate Planning for the Art Collector

Valuation Issues

- APPRAISED VALUE SUPPORT:
- AUCTION OR PRIVATE SALES:
- PRICE SALE, LOCATION, DATE, LOT # DESCRIPTION

- **For example:**
- \$50,000 Jones Auctions, NY, NY: 06/04/09, #435 House on a Hill, 1990, Oil on canvas, 24 x 32 inches
- \$65,000 Smith Gallery, Wash., DC: 5/15/09 House by a Stream, 1962, Oil on canvas, 20 x 24 inches

- Include images of your comparable sales and/or the auction catalogue pages.

- REASONING FOR APPRAISED VALUE:
- The appraisal of each work should provide the basis or reasoning as to how the appraiser arrived at the individual appraised value. Individual comparable sales should be included. These sales should be analyzed in terms of quality, etc. and discussed as to how they relate to the subject property. The item discussion should include commentary regarding any special conditions or circumstances about the property, and a discussion of the quality or importance of the property in relation to other works of art by the same artist, and of the state of the art market at the time of valuation. Whenever possible, statements should be supported with factual evidence.
- Note: It is understood that complete information will not be readily available in every case. However, the validity of the appraiser's valuation is enhanced and the IRS's appraisal review facilitated by complete and accurate information. This object identification should be accompanied by a professional quality photograph of the subject property (See photographic requirements).

Estate Planning for the Art Collector

Valuation Issues

Rev. Proc. 96-15 provides a procedure by which a taxpayer may request valuation for federal income, estate, and gift tax purposes.

Estate Planning for the Art Collector

Valuation Issues

Estate of Elkins v. Commissioner, (No. 13-60472, Fifth Circuit, 2014).

Estate brought action challenging IRS' denial of discount for "fractional ownership" of 64 pieces of modern and contemporary art Decedent own at his death. Value of each work was stipulated, issue was value of fractional interest.

The Estate had applied a fractional-ownership discount of 44.75 percent uniformly to the Decedent's interest in each work of art. The Service took a zero-discount position, which the Tax Court rejected, instead using a 10% discount despite the lack of any evidence supporting a 10% discount.

Estate Planning for the Art Collector

Valuation Issues

Decedent and his wife each created an inter vivos Grantor Retained Income Trust (“GRIT”) that held title to their respective half interests in three of the 64 works (the “GRIT Art”).

After the death of his wife during the terms of the GRITs, and for the remainder of his lifetime, Decedent continued to own his 50 percent interest in those three pieces.

His three children received his late wife’s 50 percent interest, 16.667 percent each.

Decedent and his children voluntarily subjected their respective interests in the works of art to various restraints on possession, partition, and alienation.

Estate Planning for the Art Collector

Valuation Issues

- Decedent and his children encumbered all 61 items of Disclaimer Art with a “Co-Tenants Agreement.”
- Among other things, it spelled out each co-owner’s right of possession for a specified number of days during any 12 month period.
- The Co-Tenants Agreement agreement prohibited the sale of an interest in any work by a co-owner without the prior consent of all owners.

Estate Planning for the Art Collector

Valuation Issues

On appeal the Fifth Circuit accepted the Tax Court's rationale and its finding of fact, but rejected the Tax Court's 10% discount.

We repeat for emphasis that the Estate's uncontradicted, unimpeached, and eminently credible evidence in support of its proffered fractional-ownership discounts is not just a "preponderance" of such evidence; it is the only such evidence. Nowhere is there any evidentiary support for the Tax Court's unsubstantiated declaration that "a 10% discount would enable a hypothetical buyer to assure himself or herself of a reasonable profit on a resale of those interests to the Elkins children."

Estate Planning for the Art Collector

Valuation Issues

We conclude our review by examining the entire record to see if we can determine the correct quantum of the fractional-ownership discounts and thereby avoid remand. When we do so, we conclude that the discounts determined by the Estate's experts are not just the only ones proved in court; they are eminently correct.

We are never comfortable in disagreeing with, much less reversing, a jurist of the experience, reputation, and respect enjoyed by the Tax Court judge whose work product we are called on to review today. Yet, our review of the court's extensive explication of this case and its ultimate conclusion that the proper discount is 10 percent, leaves us with the "definite and firm conviction that a mistake has been made."

Estate Planning for the Art Collector

Valuation Issues

Stone v. U.S. (No. 07-17068, 9th Cir. 2007).

Appeal of district court order awarding an estate tax refund in the amount of \$53,932.60. The district court found that the Estate was entitled to claim a 5% fractional-interest discount when valuing its undivided 50% interest in a nineteen-painting art collection. The Estate argues that a larger discount is appropriate.

Estate Planning for the Art Collector

Valuation Issues

At trial, the Estate sought a 44% fractional-interest discount, which was proposed by its appraiser, Carsten Hoffmann (“Hoffmann”). The district court was persuaded that some discount was appropriate, and thus rejected the government’s initial contention that no discount should apply.

After reciting Treasury Reg. § 20.2031-1(b), the court, without much discussion, observed that the district court applied *Propstra v. United States*, 680 F.2d 1248, 1251 (9th Cir. 1982) correctly, and upheld the district court’s findings of fact and conclusions of law.

Estate Planning for the Art Collector

Valuation Issues

Elkins or *Stone*?

Observations:

1. 9th Circuit vs. 5th Circuit.
2. Service offered no alternative to zero discount in *Elkins*, but conceded a 5% discount in *Stone*.
3. *Elkins* Court found TP's expert testimony & evidence was "uncontradicted, unimpeached, and eminently credible..." while the *Stone* Court noted the TP's expert's "total lack of experience in the art market..."

Estate Planning for the Art Collector

Valuation Issues

Observations cont'd

4. Service will not repeat the same mistake again so *Elkins* of limited value. Future disputes will not be 0% or 45%, but competing positive values.
5. Fractional interests in artworks are entitled to some level of discounting.
6. Lease agreements and co-tenancy agreements may be necessary to keep the fractional interests transferred out of our client's estates; however, they likely will not impact the discounting analysis - due to Section 2703(a)(2)'s application.

Tax and Estate Planning for Art Collectors

K. Eli Akhavan, Esq.
Akhavan Law Group, LLP

Agenda

- Section 1031 Exchange
- Non-Charitable Planning
- Charitable Planning

Tax-Free Exchange

- Section 1031(a) of the Code allows for exchanges of “like-kind” property to be made without any current income tax consequences.
- The statute limits the tax treatment to situations where both the relinquished property and the replacement property are property:
 - Held for productive use in a trade or business; or
 - Investment property.

Collector as Investor

- Art collector must purchase artwork for investment.
- “Investment” is not defined under Section 1031, but practitioners interpret it to mean that the property is held primarily for profit, and the burden of proof is on the collector.
- Treas. Reg. 1.1031(a)-1(b) provides that unproductive real estate that is held by a nondealer for future use or future realization of the increase in value is property held for investment. Test is applied at the time of the exchange.

Collector as Investor (cont'd)

- *Wrightsmen* is a leading case on investor characterization of a collector.
- Charles Wrightsmen was an art collector and kept his collection in his residence. However, he claimed expenses related to the collection were fore investment and therefore deductible. The Court of Claims established the following criteria in determining whether a collector can be an investor:
 - Collector must establish that investment purpose was principal consideration and intention.
 - Consulting with experts and perusing trade publications
 - Time commitment to collection
 - Establishing a level of expertise
 - Keeping records
 - Collectors face high bar in proving that they collected works of art for investment

Like-Kind

- No guidance as to what constitute “like-kind” artwork for purposes of Section 1031.
- For purposes of Section 1033 (involuntary conversions), lithographs may not be replaced with artworks in different “artistic media” such as oil paintings watercolors, sculpture or other forms of art.
- Rev. Rul 76-214 provides that the exchange of noncurrency bullion-type gold coins of one country for noncurrency bullion type gold coins of a second country is “like-kind”. However, gold bullion for silver bullion are not of like-kind, pursuant to Rev. Rul. 79-143.

Mechanics

- The artwork must be sold and bought from same individual/entity.
- Choose a QI/investor's agent (qualified intermediary)
- Identify artworks to be sold to QI
- Enter into exchange agreement
- Transfer the artwork to be sold to the QI to ultimately be sold to a third party
- Identify artworks within 45 days of entering into exchange agreement (EA)
- Transfer the purchased artwork from the QI to the investor within 180 days of entering into EA (this includes final payment – auction houses offer extended payment terms and title to property doesn't transfer until auction house receives payment in full – ensure within 180 days)
- File IRS Form 8824

Common Issues with Art 1031

- “Like-kind”
 - Medium
 - Artwork used predominantly in the US and artwork used predominantly outside the US are NOT like-kind. Use is based on the 2-year period ending on relinquishment date and the 2-year period beginning on the date of acquisition.
- Maximum number of properties that a taxpayer may identify is 3 properties without regard to the FMV, or any number of artworks as long as the aggregate FMV as of the end of the identification period doesn't exceed 200% of the aggregate FMV of all the relinquished properties as of the date they were transferred by the taxpayer.

Common Issues with Art 1031 (cont'd)

- A taxpayer has 45 days from the date the first relinquished property is transferred to the QI to identify the replacement works the agent should purchase. Replacement property is identified via taxpayer in a signed written document which is delivered before the end of the identification period to the either the person obligated to transfer the replacement property to the taxpayer or any other person involved in the 1031. Query whether a taxpayer can change from one work to another from an exhibition/set of one artist.
- QI – clients like to use an art dealer as QI. QI cannot be a “disqualified person” – employee, attorney, accountant, banker, broker within the 2-year period ending on the date of the transfer of first relinquished property. The written agreement with QI requires the QI to acquire the relinquished property from the taxpayer, transfer the relinquished property, acquire replacement property, and transfer the property to taxpayer.

Reverse Exchanges

- Taxpayers can do a “reverse exchange” – first identify work to purchase before identifying what to sell.

Irrevocable Trusts

- Remove appreciation from estate
- Consider using a DAPT for hesitant clients
- Transfer investment artwork to “Art LLC”
- Sale to IDGT and gifting
- GRAT

Charitable Planning

- Important of appraisal
- Capital gain property versus ordinary income
- Related use rule
- CLAT/CLUT
- CRAT/CRUT

45 ROCKEFELLER PLAZA, SUITE 2000, NEW YORK, NY 10111
1129 NORTHERN BOULEVARD, SUITE 404, MANHASSET, NY 11030

AKHAVAN

— LAW GROUP —



BOUTIQUE ASSET PROTECTION & ESTATE PLANNING FIRM

- THE AKHAVAN
LAW GROUP, LLP
REPRESENTS
CLIENTS IN THE
FOLLOWING
MATTERS:
- HIGH NET-WORTH ESTATE PLANNING
 - ASSET PROTECTION
 - TAX PLANNING FOR REAL ESTATE TRANSACTIONS
 - FOREIGN BANK ACCOUNT REPORTING
 - US AND INTERNATIONAL TAX PLANNING
 - BUSINESS SUCCESSION PLANNING

ELI AKHAVAN, MANAGING PARTNER OF THE AKHAVAN LAW GROUP, REPRESENTS HIGH NET-WORTH INDIVIDUALS AND FAMILIES WORLDWIDE IN ESTATE AND TAX PLANNING MATTERS. IN ADDITION TO HIS FULL-TIME LAW PRACTICE, ELI SERVES AS ADJUNCT PROFESSOR OF INTERNATIONAL TAXATION AT ST. JOHN'S UNIVERSITY SCHOOL OF LAW.

✉ ELI@AKHAVAN.LAW



☎ (212) 829-1100

