



Toledo
Community
Foundation

Inspiring and Connecting Thoughtful Giving

Toledo Community Foundation

toledocf@toledocf.org

300 Madison Avenue

Suite 1300

Toledo, Ohio 43604

P. 419.241.5049

F. 419.242.5549

About Your Foundation

Since 1973, **Toledo Community Foundation** has provided individuals, families and businesses interested in the well-being of our community with an *efficient, effective, low-cost, professionally managed* mechanism to achieve their charitable goals.

For philanthropists wishing to maximize the impact and life of their charitable gifts, the Foundation provides *resources for thoughtful giving*. Using its expertise and personalized services, **Toledo Community Foundation** helps donors transform their philanthropic impulse to measurable community impact. Beyond the gifting of assets, the Foundation helps donors identify issues of importance to them and *inspires engagement* with community organizations addressing these issues, thereby maximizing the impact of charitable gifts and creating a greater sense of fulfillment.

[<< Back to Front Page](#)

[Forward this article](#)

[>> Print this Article](#)



The Taxing Side of Art Collecting

(c) 2010 On Wall Street and SourceMedia, Inc. All rights reserved.



AN ACCOUNTANT COLLEAGUE of mine recently consulted with me about a case where his client—a retired widower in his eighties—had to reevaluate his entire estate plan because of the tax impact of the rapid appreciation of two sculptures over the course of a decade.

When the estate plan was originally drafted, the client's art collection was valued at about \$5 million, one-third of his taxable estate. The estimated tax on his estate, including the collection, was \$4.5 million. This amount could have been paid out of the client's liquid assets or the second-to-die insurance policy on him and his late wife. The policy was owned through a trust.

Now, the two small bronze pieces by a modern sculptor accounted for 80% of the value of his collection. Emotions and other unpredictable elements may suddenly drive art prices up or down, when a famed artist suddenly becomes "hot." That's exactly what happened to this artist, and the prices of these sculptures heated up dramatically.

But the collector and his financial advisors had created a traditional estate plan that did not anticipate rapid changes in the value of the sculptures, and put a well-intentioned estate plan at risk.

In this case, similar pieces by the artist sold for more than \$16 million at several public auctions. The new value of the two sculptures brought the estate-tax estimate up to \$5.9 million on one piece alone. All the client's liquid

assets and insurance would not be enough to pay it. The collector was considering selling the collection to reduce his tax burden.

The value of a collection is only partly market driven. Cultural tastes change, and with them the value of clients' precious pieces. Not taking this into account, and not using a specialist, can hurt the estate plan.

EMOTIONAL ATTACHMENTS

Disposing of a collection raises an important consideration not typically covered by traditional estate plans: the issue of ownership.

In the case of this octogenarian art collector, he and his accountant ultimately needed to figure out how they could save his collection-so he could enjoy the artwork in his living room during his remaining years, and prevent it from being sold upon his death.

The situation that this art collector and his accountant found themselves in is all too common. Most clients and advisors tend to treat collections as an afterthought in financial and estate plans. That is, they leave them out, or include them only at the last minute.

Unique assets are usually lumped in with the "other tangible personal property" of a financial plan, which either do not appreciate in value (for example, most furniture) or actually depreciate with time (say, the family car). Rather than acknowledge that artwork or collections need management as long-term investments, the plan assumes that the values will remain static, and that there will be no issue with managing the distribution or sale of the property upon the death of the client.

INVESTOR OR COLLECTOR

Planners and advisors need to learn how to recognize when their clients have reached the tipping point between investor and collector. The distinction is that the collector wishes to own the artwork and control the future ownership of the artwork, based on his or her principles.

Serious collectors of art, coins and other unique assets often have strong emotional attachments to their treasure, which means that determining their "value" is more than a financial calculation.

Investors-those individuals with unique assets but no strong emotional attachments to them-may allocate about 10% of their portfolio. But for collectors, the weight they place on the ownership of these items can skew the allocation process.

When a client decides to leave a collection to family members or donate it to a charity, then that desire to control

ownership is as important to the client as the assets-and must be incorporated into the overall financial plan.

If possible, the collection should be organized into a program separate from, but parallel to, the investment assets. This includes inventory and provenance requirements of the assets, buying, selling and growing the value of the assets, the storage and moving of assets, and the copyright and ownership control over the collection.

By the same token, advisors should be attuned to when a client expresses a desire to sell a collection. Planning and managing the liquidation of unique assets is as complex as preserving them.

Most financial planning revolves around wealth replacement. For example, many plans try to replace the taxes that will be paid out of investments with life insurance proceeds that aren't subject to estate tax. A dollar is a dollar no matter where you hold it-the investments are fungible, and the actual ownership of an asset isn't really relevant. What is relevant is the client's overall wealth.

Tangible property can't be treated the same way as fungible or liquid assets. In a recent estate-related case, for example, a person tried to discount the interest in a Picasso by giving a fractional share to another individual.

The tax court said the discount wasn't valid because you can't sell a third of a Picasso. You can only sell the entire piece and use a third of the proceeds. The lesson is that many traditional financial planning techniques won't work with collections because tangible property can't be treated the same as liquid assets.

For example, you can use a grantor- retained income trust (GRIT) for tangible, non-depreciable property, such as a painting or vacant land, and then take a gift-tax deduction for the retained interest, for transfers made to family members. It's a specific provision in the statute. However, you can't do that if it's a liquid or investment asset.

TAKING CHARGE

When including a collection in a financial planning portfolio, advisors first need to find out whether their client has engaged any curators, dealers, agents or managers to represent them for either purchases or sales, and the terms of any contractual arrangements.

Advisors need to ask whether an executor has been assigned, and whether that executor knows how to maintain and/or dispose of the collection, particularly if the items have not been left to any person or organization in the will.

Once an advisor understands the nature of the client's existing professional relationships, he can begin to consider how to organize the collection within the broader estate plan.

Ideally, an advisor should think about helping a client set up some form of management company for the collection, overseen by a specialist in artwork and collectibles.

Unlike investment assets, finding the right experts for tangible property may be difficult. There are few investment funds for paintings, and no Morningstar index for tracking performance.

Because of the private, exclusive nature of the art and collectibles market, often specialty advisors are found only through personal relationships or connections held by people in the industry.

In choosing a manager, find out whether he or she has any experience with the transfer of tangible property. Since the assets are unique, sometimes the only way professionals can really understand the complexities of the process is if they've done it themselves.

Other considerations include whether managers are also collectors themselves and therefore can relate to the emotional component of the process. If so, they will better understand the importance of preserving the client's control over the ownership of the collection, not just the associated wealth.

Once a specialist has been chosen, conduct a proper inventory, including information on the provenance or origin of the pieces in the collection.

The client-when working with a dealer or art advisor-should sort the items into "good, better and best" categories during their lifetime in order to make ongoing valuations easier.

If an appropriate inventory with sufficient documentation is maintained, periodic assessments on the appraised value of the collection can be done by a professional online, and at a low cost.

After all, the inheritors of such unique assets should be able to reap the joy of the collection without the burden of an unanticipated tax bill.

Matthew F. Erskine is principal of The Erskine Co. in Worcester, Mass., offering expertise in the management of unique family assets. He can be reached at www.erskineco.com.

© Factiva, Inc. All rights reserved.

[Terms of Use](#)

[Unsubscribe](#)

This newsletter is provided by the above listed firm which is a registered investment adviser ("RIA"), qualifies for an exemption or exclusion from registration requirements, or does not fall within the definition of an RIA under the Investment Advisers Act of 1940 (the "Act") or any applicable state laws. Any subsequent, direct communication by the firm with a prospective client shall be conducted by a representative that is registered, qualifies for an exemption or exclusion from registration in the state where the prospective client resides, or is not defined as an investment adviser representative under the Act or any applicable state laws. This newsletter contains general information that is not suitable for everyone. The information contained herein should not be construed as personalized investment advice. There is no guarantee that the views and opinions expressed in this newsletter will come to pass. Investing in financial markets involves gains and losses and may not be suitable for all investors. Information presented herein is subject to change without notice and should not be considered as a solicitation to buy or sell any security.

POWERED BY  hnw