

MAY 2007



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## Dynasty Trusts for the Art Collector

BUYING ART CAN BE A GREAT INVESTMENT. BUT SINCE PAINTINGS, PHOTOGRAPHS AND SCULPTURES HAVE THE POTENTIAL TO RISE TREMENDOUSLY IN VALUE OVER THE COURSE OF AN INVESTOR'S LIFE, ART COLLECTORS OFTEN LOOK TO DONATE THEIR COLLECTIONS TO MUSEUMS BEFORE DYING. THIS DONATION SERVES TWO PURPOSES. FIRST, IT CREATES A LARGE ONE-TIME DEDUCTION ON THE COLLECTOR'S INCOME TAXES. SECOND, THE DONATION DECREASES THE TOTAL VALUE OF THE COLLECTOR'S ESTATE, PROTECTING HIS OR HER HEIRS FROM HEFTY ESTATE TAXES.

### THE BENEFITS OF A DYNASTY TRUST

In recent years, however, donating large collections to museums has become problematic. Some organizations, like the Museum of Modern Art in New York City, are becoming increasingly wary of taking on entire personal collections because they have limited space in their galleries and warehouses. The government is also discouraging donations to museums, believing collectors try to inflate the value of their collections solely for tax reasons.

One popular approach to avoid these obstacles and keep artwork within your family is to create a dynasty trust. "Dynastic trusts are a great way to insulate family wealth from creditors, former spouses and the government," says Dick Oshins, an estate attorney in Las Vegas, Nev. "If created properly, they can also erode the impact of transfer taxes on those assets."

A dynasty trust (also known as a "generation-skipping" trust) is created for all of your descendants except your children. By skipping a generation, dynasty trusts are able to avoid estate taxes. They can last for hundreds of years and, in many states, in perpetuity. Long after you are gone, a dynasty trust can distribute income and hold principal assets—including your artwork—exactly as you desired when you created the trust.

When forming a dynasty trust, Oshins says it is important to remember the following:

- When created properly, dynasty trusts can save your descendants a tremendous amount of money in taxes and keep nonfinancial assets within your family.
- Dynasty trusts do not protect your assets from all taxes.
- These trusts are highly complicated and require an experienced attorney who specializes in creating them.

A dynasty trust works like other trusts in that assets are first designated to a trust. Then those assets grow tax-free and are distributed amongst your beneficiaries according to the rules you establish for them.

However, there are limits to dynasty trusts. Realizing that the government was losing millions of dollars in estate taxes to dynasty trusts, Congress enacted the generation-skipping transfer tax (GSTT) in 1986. The GSTT attempts to tax an estate at least once as assets transfer from generation to generation.

The GSTT says that assets above \$2 million that pass straight to your grandchildren are subject to taxes, even if they are part of a dynasty trust. However, you can use your own \$2 million deduction to create your dynasty trust. When you do that, the trust's income and principal may be distributed tax-free for the duration of the trust. Above that exemption, a one-time 47% GSTT tax is assessed to your dynasty trust assets.

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## ALTERNATIVE SOLUTIONS

Another way to protect your art is to create a family partnership that leases the art to the family. If properly created, the family partnership is able to skirt the GTSS, because this business creates income for the trust. For instance, your family LLC, which is held in the dynasty trust, will own the art collection. The pieces are then leased by the LLC to your family members for use. The rent your descendants pay for use of the art goes back into the trust and appreciates tax-free. The partnership can also allow the trust to lend pieces of your collection to a museum for periods of time rent-free.

If you are intent on leaving your artwork to a museum or charity and not your family, the best way to do so is through a charitable trust. This trust can be part of your overall philanthropic plan (great for both doing good and minimizing taxes). By donating your art to a charitable trust, you are able to reap the immediate income tax deduction when you donate the collection and work with the museum so that the trust holds the art.

Dynasty trusts are sophisticated estate planning tools, and you need the help of a seasoned professional to create one that ensures your assets will be protected from excess taxes. Talk to your Financial Advisor and estate attorney about whether a dynasty trust is the right way to protect your assets and artwork from a hefty tax bill after you are gone. ■

If you are creating a dynasty trust specifically to keep pieces of artwork in your family, your primary goal will be to establish a trust so that your descendants can avoid a forced sale of your artwork. If you have a collection worth more than the \$2 million deduction, you may want to sell off a few pieces to devalue the collection to put into the dynasty trust.

Oshins says one way to do this is to sell off one piece in a series. “Say you own all of the Andy Warhol paintings from one particular period in his career,” he says. “The series is worth far more together than the individual pieces separately. Selling off one to break up the series will make the assets far less valuable.”

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