

Private Foundations Bulletin

Planning for an Artist or Collector-Endowed Foundation

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For artists and collectors alike, grappling with their posthumous legacies and estate plans can be complicated and, quite frankly, overwhelming. Establishing an artist or collector-endowed foundation is a noble endeavor that can have a lasting impact on the world long after the artist or collector has passed. Such foundations serve as a bridge between artists and collectors, fostering creativity, preserving artistic legacies and contributing to the enrichment of society.

The process of creating such a foundation requires careful planning and consideration of various factors. In our [December 2022 Private Foundations Bulletin](#), we discussed various artwork-specific considerations for active foundations, including the valuation and preservation, as well as charitable distribution, of artworks. In this article, we will explore the key considerations when planning to establish an artist or collector-endowed foundation.

Mission and Vision

The foundation's mission and vision should be the guiding principles that shape the nature of its operations and programmatic activities. Consider what you want to achieve with the foundation – whether it's supporting emerging artists, preserving a particular art style, promoting cultural diversity, or perhaps managing the existing collection accumulated by the living artist or collector. Your mission and vision will inform every decision you make, from grantmaking to governance structure.

Legal Structure

Choosing the right legal structure for your foundation is crucial. Common options include a private operating foundation or a private non-operating (grantmaking) foundation. The choice will affect your foundation's tax status, governance and various reporting requirements within the IRS Form 990-PF. Seek legal counsel and tax compliance advice to understand the implications of each option and select the one that aligns with your mission and goals.

Endowment Management

The financial sustainability of a foundation relies heavily on prudent endowment management. Determining the initial endowment contribution of artwork and its classification – i.e., charitable use vs. non-charitable use – is critical. Should the foundation's plans ultimately include the liquidation of bequeathed artwork to then invest in a perpetual endowment, establishing an investment strategy that aligns with the foundation's mission and long-term goals is paramount. Consult with investment managers to create an investment policy that balances risk and return while adhering to the foundation's stated goals.

Governance and Leadership

Establish a governance structure that ensures transparency, accountability and effective decision-making. Define roles and responsibilities for Board members/trustees and consider including artists and collectors who can bring valuable insights to the table. In addition, attorneys and certified public accountants with expertise in the private foundation sector should also be considered when establishing the foundation's

governance and leadership team.

There is the potential for acts of self-dealing to occur (i.e., transactions between the foundation and a disqualified person) and special care should be given. Particularly in the case of the artist and collector-endowed foundation, the initial bequest from the founding artist or collector can trigger many unexpected events with family members or other heirs and prior business associates. The appropriate and more importantly practical, governance policies will help your foundation function smoothly and avoid such acts of self-dealing.

Grantmaking Strategies

Decide how the foundation will distribute its non-charitable use assets and resources to achieve its stated mission. Consider the nature of the grants the foundation will make – i.e., whether you will provide grants, scholarships, or fellowships to artists, museums, or art institutions. Determine the selection criteria, application process and evaluation mechanisms for your grants. Flexibility and adaptability in grantmaking are important to respond to changing artistic landscapes.

Curation and Collection Management

If the foundation intends to house and manage the endowed art collection, establish robust protocols for acquisition, conservation and exhibition. Determine how the collection will contribute to your mission, whether it's for educational purposes or public enjoyment. Implement a clear cataloging and tracking system to maintain transparency and accountability in collection management.

Passing It Forward

Establishing an artist or collector-endowed foundation can be a rewarding endeavor that leaves a lasting legacy in the world of art and culture. However, its success requires careful planning and consideration of various factors, from defining your mission and legal structure to managing its endowment and engaging with the public. By addressing these key considerations, you can create a foundation that makes a meaningful and lasting impact on the art community and society as a whole.

Contact Us

We welcome the opportunity to answer any questions you may have related to this topic or any other accounting, audit, tax or advisory matters relative to private foundations. Please call 212.286.2600 or email any of the Private Foundation Services team members below:

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