

Collecting and inheritance – a wide subject

Collectors should decide about the future of their collection in good time, says the lawyer Prof. Dr. Peter Raue.

Collectors, both singles and couples, often ask themselves – the older they get, the more urgently – the question of what will happen to their collection (regardless of whether it is Art Nouveau vases, hand drawings, sculptures or contemporary art) after their inevitable death.

A clear answer is difficult, because the decision on how to deal with collections depends on so many individual circumstances: Does the collector (collector couple) have children who should inherit the collection? Are the children interested in the collection? Will they look after it, cherish the objects and continue to care for them, or are the collectors already aware that their children don't have any interest in the collection their (grand) parents have compiled and want to sell it as quickly as possible. When it comes to the question of the future of a collection, tax aspects (primarily inheritance tax) are an issue, as well as the collector's worries

that his life's work, the collection, will be preserved as a "corpus mysticum"? The following information surely can't answer all individual questions in detail, however, I would like to provide help to structure considerations as to how collectors can act in view of their collection and its future.

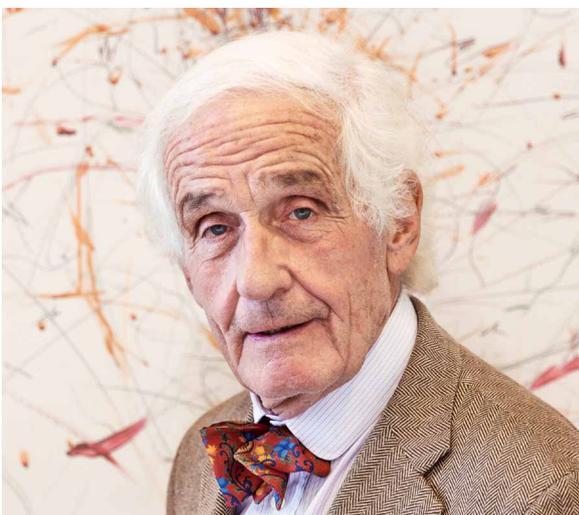
Inheritance or donation?

Naturally, the collector has the freedom to sell the works from his collection (tax-free!). However, he can – fortunately this happens more and more often – decide during his lifetime that works from his collection should be donated to a museum, an archive or a public collection after his death, whether as a permanent loan or (the more preferable option) as a donation. When making a donation, a donation receipt is issued, since an artwork is a donation in kind, which makes the donation tax deductible.

The collector should also bear in mind that he has several options for fully or partly avoid inheritance tax. If the collector makes his collection available to the public – in this case it is sufficient to open his house one or two days a week – and if it is in the public interest to preserve the collection (decided by the respective ministry of culture, which usually gives approval), heirs save 60 % of the inheritance tax if the requirement of public accessibility is met for at least ten years.

This tax discount is even higher if the collection has been the family-owned for 20 years and is made accessible to the public as described. This results in a 100 % exemption from inheritance tax. Those who want to go this way should definitely seek expert advice in their individual case. However, I correctly outlined the legal principle.

Prof. Dr. Peter Raue, attorney, art collector and patron



© Felix Stang

Inheritance or foundation?

Collections that are more than just an accumulation of random acquisitions lose their “character” – perhaps even their uniqueness and thus their value – if individual works are sold. I recommend collectors who want to preserve their collection, but have no certainty whether their heirs will act in his or her sense, to set up a foundation (independent or dependent: both are possible) under civil law, which will then house the collection with the aim of preserving it as an entity for future generations, and at the same time avoiding that heirs have to sell parts of the collection in order to pay inheritance tax. Collectors who pursue this path decide about the aims of the foundation during their lifetime: Should the building that houses the collection (temporarily, like twice a week) be open to the public? Should the collection be part of a museum specialized in the collection’s field, and at best regards the integration of the collection as an enrichment of its own collection and therefore accepts such an offer?

Finally, there is the possibility of founding (building, maintaining) a separate museum for the respective collection. It goes without saying that such a path is associated with high costs, even if the tax deductibility of this project may bring a certain relief.

Inheritance – in tranches

If the collector couple lives in the certainty that the children or other heirs are interested in the collection and want to preserve it in the interest of the collector, then it is advisable to bequeath the collection, possibly with conditions (that is not to sell the works in the next ten years; to make the collection accessible to the public, etc.). In order to keep the inheritance tax as low as possible, I recommend that in this case works of art are gifted to the children during the life-

time of the collector couple, and that this donation is recorded in a written contract, because children can receive an amount of up to € 400,000 every ten years exempt from gift tax. As a rule, such a donation contract will be linked to the clause that the works given to the children may remain in the collector’s possession until the death of the collector and should only be transferred to the children after death.

I recommend not to go this way in the case that the children express their lack of interest in the collection from the beginning. However, after the collector’s death, the children will inevitably have to argue with tax authority’s about the value of the inherited objects, with the result that the children then have to pay the corresponding inheritance tax, which can often only be realized if parts of the artworks are sold to settle the tax debt. This path – passing on to the children, who then sell the works – is particularly common with collections of contemporary art, because it is by no means certain that the currently extremely high prices will remain stable on the art market for the next 10 or 20 years. If the work is transferred to the children during their lifetime, gift tax must be paid immediately based on the current value if the gift (in the case of children) exceeds the value of € 400,000.

Decide now!

It is an amazing experience that I find confirmed time and again: Collectors (this also applies to very successful artists) from time to time ponder about the future of their collection, however, without actually ever making decisions. There is obviously a deep-seated aversion among collectors (and artists) to talk about it in all honesty and then decide what to do with a collection after they die. The uncontested scientific finding that the human mortality rate is at 100 % should prompt decisions. Therefore, as a collector or collector couple, you should make the decision as early as possible and then work on the collection’s future paths.

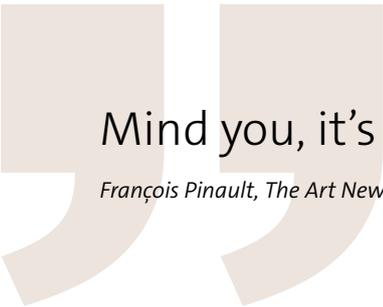
Your collection in good hands.

The collector's perspective gives direction to our work.

Every private collection has its own individual and emotional character. It was compiled with great passion over many years. When we are entrusted with a collection for sale, we want to make this passion and the keen eye that led to the selection of the objects visible and accessible. This way we strive to honor the idea behind the collection and the art lover's lifework. This also applies to heterogeneous collections, which we take care of with a holistic approach. We listen to what moves the collector and together we develop tailor-made marketing concepts. So that the works find a

home in new collections. In the case of corporate collections, we develop an individual marketing and press strategy in close consultation with the company management.

We present the collection and its history in meticulously researched and elaborately produced catalogs. Published in a high print run, we send them to our clients, among them many museums, around the world. The catalogs are regarded as art-historical documents for future generations and provide important reference for the works' provenance.



Mind you, it's quality not quantity that is important.

François Pinault, The Art Newspaper, 2009