



Protecting Your Artistic Legacy

Estate Planning Basics

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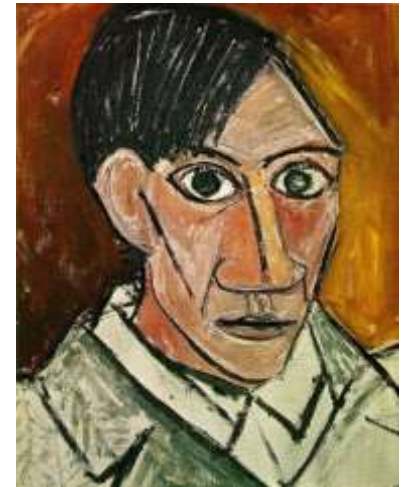
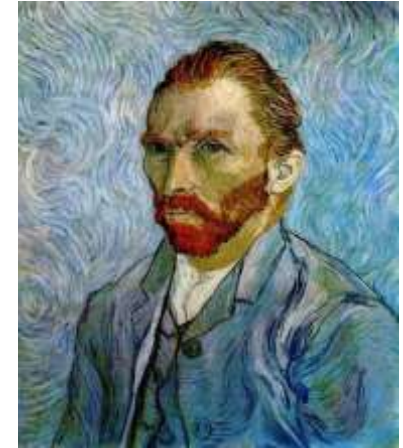
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Why Is Estate Planning Important?

Your Legacy.

- ✓ Control the disposition of artistic works and other property
- ✓ Reduce complications for intended beneficiaries
- ✓ Designate individuals you trust
- ✓ Have a plan for incapacity
- ✓ Protect minor children and loved ones with special needs
- ✓ Increase tax efficiency
- ✓ Gain peace of mind



Planning for Incapacity

Medical Decisions

Health Care Proxy

- Advisable to discuss preferences with your agent
- Make sure your college student has one!

Living Will

HIPAA Authorization

Financial Decisions

Power of Attorney

- General Durable
- Major Gifts Rider - Gifts over \$500
- Digital Assets - Email, online banking, social media

Revocable Trust

Consider naming an alternate outside of the household.

Planning Your Estate

A Few Questions to Consider...

- **Intestacy** - What happens if you die without a Will?
- **Last Will and Testament** - What are the advantages of having a plan in place?
- **Revocable Trust** - Should you transfer assets to a trust during lifetime?
- **Other Will Substitutes** - What about joint property and beneficiary designations?
- **Gifting** - Is it better to gift your assets away during life or at death?
- **Tax** - Will your estate be subject to tax?

What Happens if You Die Without a Will?

Who Benefits?

If you die without a Will (intestate), the estate is distributed according to state law

What!!! Not everything goes to my spouse??? New York law provides that if a decedent is married with children, the surviving spouse will receive the first \$50,000 and ½ of the balance and children receive the other ½

Especially important for unmarried partners

Artistic property may pass to individuals who don't appreciate its true value

Who's Responsible?

If both parents die, a court will be left to decide who should serve as guardian of minor children

An estate administrator may have little or no understanding of your career and artistic works

EPTL §4-1.1 Intestate Distribution

Survived By	Intestate Distribution
Spouse only, no children	All to spouse
Spouse and child(ren)	\$50,000 and ½ of residue to spouse; balance to child(ren) or issue by representation
Issue only, no spouse	All to issue by representation
Parents only, no spouse or issue	All to surviving parent or parents
Sibling or their issue only, no spouse, issue or parents	All to siblings by representation

Last Will and Testament

Ensures that property will pass to the people you want, in the way you want

- Avoid family disagreements

Differentiate artistic property

- Sale, donation, or designated beneficiaries

Plan for minors and loved ones with special needs

- Testamentary trusts

Allows for tax efficient planning

Will formalities

- Don't try this at home!
- Probate



Should I Have a Revocable Trust?

Reasons Where One Might Consider Trying to Avoid Probate...

- Individual is a celebrity
 - Individual has one or more “lost heirs”
 - Individual has property in multiple jurisdictions
 - Individual has his/her domicile in a “bad” state
 - Individual is aged or infirm
 - Individual’s plan is likely to result in a contest
 - Individual desires planning flexibility after incapacity
-
- Ease of administration
 - COVID-19 court closures and related issues

Other Will Substitutes

Jointly owned property passes by operation of law to the surviving joint tenant

Retirement plans and life insurance policies pass by beneficiary designation

- **Joint tenancy**
- **Beneficiary designations**
- **Payable-on-death**

Make sure your beneficiary designations are up to date!

- Once a divorce proceeding is commenced, neither party can change beneficiary designations on life insurance policies, change title of joint accounts or take other actions without written consent of the other party or order of the court
- Post-divorce, it is important to make changes. Note that for ERISA retirement plans, designations are automatically revoked only to the extent permitted by law (federal ERISA law can pre-empt)

Understanding Key Fiduciary Roles

- Designate individuals you trust
- Select the right person for each task
- Make your wishes known and provide written guidance where appropriate
- Consider naming co-fiduciaries and successors
 - Executors
 - Trustees
 - Guardians
 - Health Care Proxies
 - Powers of Attorney



Create an Inventory of Artistic Works

Why This Is So Important!

- Theft, fire, flood, authentication, valuation, maintenance and administration

What Should You Include?

- Listing of all artistic works
 - date, title, medium, dimensions, location
- Exhibition records, articles, contracts
- Intellectual property rights
 - copyright and trademark
- Photographs and audio-video records
- Maintenance and instillation

Charitable Donations and Gifting

Pledge Agreements - terms are prearranged, control important details of your gift

Donating to Museums - there are many elements to consider: research, timing, exhibition, restrictions, storage, installation, conservation

Restricted Gifts - what to know about restricted gifts

Gifting During Lifetime vs. At Death

- carryover basis
- stepped-up basis



Estate Tax Planning

- Federal exemption is currently \$11.58 Million, but is scheduled to revert to \$5 Million (indexed) after 2025
- State exemptions are often significantly lower. New York exemption is \$5,850,000, but no gift tax
- No portability of state exemption
- New York's estate tax "cliff"
- Qualified appraisals

Gross Estate	NYS Estate Tax	Amount Over Exclusion	Effective Tax Rate on Amount Over Exclusion
\$5,850,000	\$0	\$0	N/A
\$6,200,000	\$535,600	\$350,000	153.03%

Thank You For Your Attention!

Questions?

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