

Transferring Dividing and Liquidating Art

Estates divorce entities and co ownership

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Illustrative image created for this publication. The artworks and documents do not belong to a real matter.

Main conclusion. Conflict declines when four questions are separated: who owns the work, what rights and liabilities accompany it, what it is worth for the correct purpose, and which mechanism converts that value into a fair distribution.

Legal warning. This article provides general educational information, not legal, tax or financial advice. Consequences depend on facts, documents and jurisdiction. Consult properly licensed independent professionals before transferring, dividing, selling or encumbering art.

Ownership comes before value

A work may belong to an individual, spouses, an estate, a trust, an LLC or co-owners. It may also be consigned, loaned or pledged. Possession is not always title; payment alone does not resolve marital or entity ownership. Gather invoices, payments, contracts, wills, trusts,

operating agreements, inventories, insurance, certificates, correspondence and movement records before negotiating.

Inheritance and probate

The personal representative must safeguard, inventory, value and administer assets under governing instruments, court orders and law. For art, separate estate property from consignments and loans, set the valuation date, identify debt and liens, and decide between in-kind distribution and sale. Dividing by object count is rarely equitable because quality, liquidity, authenticity and tax burden can differ greatly.

- Do not clean, restore, move or sell before documenting condition and authority.
- Use a qualified independent appraiser for the correct purpose; IRS rules govern certain appraisals and charitable gifts.
- Review basis, potential step-up, estate and gift tax, and state obligations with tax counsel or a CPA.
- Record which archives and reproduction rights accompany a work; copyright does not automatically pass with the physical object.

Divorce and equitable distribution in Florida

Florida Statutes section 61.075 governs equitable distribution. Classification as marital or nonmarital can turn on timing, source of funds, gifts, agreements and appreciation attributable to marital effort or resources. The statute begins from equal distribution subject to listed factors, but a collection cannot be divided intelligently without a consistent inventory and valuation.

If both parties want a work, options include award to one with an equalization payment, asset swaps, sale, or temporary co-ownership. Co-ownership without custody, expense and exit rules usually extends conflict.

Companies, galleries and LLCs

A wind-up must distinguish owned inventory, client consignments, partner contributions, loans and pledged assets. Review operating and partnership agreements, consignment contracts and accounting before distribution. Creditor payment and return of third-party property normally precede owner distributions; consigned art is not automatically gallery inventory.

Which professional to engage

Issue	Lead counsel	Typical support
Estate or trust	Probate and estate-planning lawyer.	Tax adviser, art appraiser, conservator and insurer.
Divorce	Family lawyer experienced with complex assets.	Independent appraiser, forensic accountant and provenance specialist.
LLC or gallery	Corporate/commercial lawyer; insolvency counsel if needed.	CPA, creditor counsel, inventory and logistics.
Authenticity or title	Art-law or litigation counsel; IP lawyer where relevant.	Scholar, foundation, archive, conservator and stolen-art databases.
Cross-border	Customs and international-trade counsel.	Art shipper, customs broker, sanctions and cultural-property expertise.

Choose by license and relevant experience, not marketing labels. The engagement letter should define scope, team, rates, retainer, billing, confidentiality, document custody and conflicts. Fees vary too widely for a universal promise: advice or drafting may be fixed-fee; discovery and litigation are often hourly; contingency may be unavailable or inappropriate. Request phased budgets and approval thresholds.

Value is not one number

Basis	Typical use	Common error
Fair market value	Tax, gifts and some divisions under the governing standard.	Not retail price or a guaranteed result.
Retail replacement	Insurance replacement with comparable property.	Often above sale net; can inflate one side of a division.
Marketable cash or liquidation	Orderly or accelerated sale, as defined.	Depends on channel, time, commission and urgency.
Auction estimate	Commercial range for a particular sale.	Not a formal appraisal and may exclude premium and costs.

Sell or hold together

Option	Advantage	Essential condition
Physical division	Each party controls allocated works.	Comparable groupings and equalization for differences.
Buyout	Avoids public sale.	Valuation, funding, tax review and release of claims.
Partial sale	Creates liquidity while retaining a core.	Selection method and net-proceeds formula.
Full sale	Converts collection into divisible cash.	Adequate time, strategy and cost control.
Co-ownership	Preserves collection and future potential.	Detailed agreement, trust and exit mechanism.
Gift or trust	Philanthropic or succession goals.	Tax advice, institutional acceptance and qualified appraisal.

The co-ownership agreement

Specify percentages, custodian, location, insurance, conservation, expenses, exhibition loans, access, no-pledge rules, ordinary and extraordinary decisions, rights of first refusal, valuation, incapacity or death, deadlock and exit. State who receives income, bears losses and cures nonpayment.

The first 30 days

1. Photograph fronts, backs, frames, labels, signatures and damage; assign unique IDs.
2. Control keys, storage, digital accounts and shipping authority.
3. Notify the insurer without altering coverage and confirm insurable interests.
4. Pause unauthorized sales, loans and restoration; ask counsel about injunctive relief.
5. Check stolen-art records, liens, consignments, certificates and provenance.
6. Obtain a purpose-specific, date-specific appraisal before division negotiations.
7. Design mediation before litigation costs force a distressed sale.

Cases and lessons

The Macklowe Collection was sold by court order after the spouses could not agree on value and division. The auction created substantial liquidity for exceptional works, but followed

prolonged litigation: economic success does not mean procedural efficiency. A prior agreement on valuation, buyout and exit can be more valuable than a future record price.

In *Estate of Kollsman v Commissioner*, the U.S. Tax Court rejected important aspects of an appraisal connected to a party interested in selling the art. Credentials do not cure economic conflict or weak methodology. In an estate, divorce or gift, the appraiser should be independent and explain market, comparables, effective date and discounts.

Red flags

- An intermediary represents both sides or is paid by buyer and seller without disclosure.
- Insurance value is used for division, or hammer is confused with premium-inclusive price.
- Works, certificates or archives move before inventory.
- A quick sale is demanded before title, authenticity or authority is established.
- The appraisal lacks effective date, purpose, comparables or independence statement.
- Bank instructions change by email or payment is redirected to a non-contracting third party.

Sources and references

Primary framework: United States and Florida. Sources accessed September 21, 2026. Current law governing the particular matter must be verified.

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https://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0000-0099/0061/Sections/0061.075.html (accessed September 21, 2026)

2. Florida Statutes, Chapter 733, Probate Administration.

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3. Florida Statutes, Chapter 605, LLCs. [https://www.leg.state.fl.us/statutes/index.cfm?](https://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0600-0699/0605/0605.html)

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<https://www.irs.gov/publications/p561> (accessed September 21, 2026; valuation and qualified appraisals)

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8. The Florida Bar, Consumer Information. <https://www.floridabar.org/public/consumer/> (accessed September 21, 2026; choosing and retaining counsel)

9. Sotheby's, The Macklowe Collection. <https://www.sothebys.com/en/series/the-macklowe-collection> (accessed September 21, 2026; court-ordered division and public sale)

10. Estate of Kollsman v Commissioner, U.S. Tax Court.

<https://www.ustaxcourt.gov/UstcInOp/OpinionViewer.aspx?ID=11095> (case addressing appraisal independence and reliability)