United States Tax, Export and Provenance Rules for Art Collections Owned by Non-U.S. Collectors

A Guide for Collectors and their families to the location rule that decides the United States estate tax on art and other objects; the tax treaties, which for German, British, French, Swiss and Italian collectors decide the question before the Code is reached; the museum-loan exemption; the gift tax on objects handed over in the United States; storage, ownership structures and the movement of objects; what an object is worth when the Internal Revenue Service asks; whether a work may leave Europe at all; the permanent exposure of works with a gap in their wartime history; and what happens to a collection when the collector dies.

A securities portfolio has a tax address fixed by law, and a house cannot be moved. A painting can. The work that hangs this year in a collector's Manhattan apartment may hang next year in Munich and the year after sit in a customs warehouse in Geneva, and each of those locations produces a different United States tax result when the collector dies or gives the work away. For what the law calls tangible personal property, the rule is a question of fact: where the object is physically located on the day that matters. No other rule in the field is so easy to state, and none depends so directly on decisions the owner can still make.

The rule is also incomplete without two further questions. The first is whether a tax treaty applies, because for a collector domiciled in Germany or the United Kingdom the location of the object in the United States does not matter for the federal estate tax at all, while for a collector domiciled in France, Switzerland or Italy it matters entirely. The second is whether the object may be moved lawfully, because the export laws of Germany, France, Italy and the United Kingdom, and since April 13, 2026 a permanent United States regime for claims to art lost in the Nazi era, decide whether a work can leave and whether it can be sold.

The mistake this guide exists to prevent is the plan that treats an object's location as settled and the treaty as an afterthought. A collection that crosses borders is planned in the opposite order: first the treaty, which for most European collectors decides whether the United States may tax the objects at all; then location, which decides the result wherever the treaty allows the United States to tax and always decides the state taxes; then the export and provenance questions, which decide whether the plan can be carried out. Each of these can be resolved while the collector is alive, and none of them can be resolved by the family afterwards.

This guide describes the location rule and its limits (Part I), the treaties (Part II), the museum-loan exemption (Part III), gifts of objects located in the United States (Part IV), storage, structures and the movement of objects (Part V), valuation before the Internal Revenue Service (Part VI), the European export regimes (Part VII), provenance and the amended Holocaust Expropriated Art Recovery Act (Part VIII), and the administration of a collection after the collector's death (Part IX), followed by practical steps. The rules, thresholds and figures are stated as of this writing in September 2026 and must be confirmed against current law before any decision.

Summary.

1. For art and other physical objects the United States estate tax follows physical location. Objects in the United States on the day of death are United States property of a foreign owner, counted against the $60,000 filing threshold and taxed at rates of up to 40 percent; objects in Paris, Munich or a Geneva warehouse are not. The states with their own death taxes reach objects located there whatever the treaty says.

2. The treaties decide first. A collector domiciled in Germany, the United Kingdom, the Netherlands, Austria or Denmark who is not a United States citizen pays no federal estate or gift tax on art located in the United States; a collector domiciled in France does, with a proportionate credit; collectors domiciled in Switzerland, Italy, Japan and the other older treaty countries are taxed by location with a proportionate share of the credit that shelters $15,000,000 in 2026. Only seven treaties cover gifts.

3. A work imported solely for exhibition, lent to a public museum and on exhibition or in transit to or from it when the owner dies is treated as outside the United States. The exemption does not cover lifetime gifts, and it is lost by paperwork that does not match its three conditions.

4. Handing a painting, a watch or a car to a family member while the object is on United States soil is a taxable gift by a foreign donor, with an annual exclusion of $19,000 per recipient for 2026 and no lifetime exemption; the same gift made after the object has been shipped abroad is not taxed. German, British, Austrian and Danish donors are protected by treaty; French donors are not.

5. Structures and storage behave as elsewhere: a foreign company converts the object into a foreign share at a later income tax cost; a revocable trust does not help and can fix United States status for an object that was here when it was transferred; the free zones of Geneva, Luxembourg and Singapore are outside the United States tax base because they are outside the country; a Delaware warehouse is not.

6. Valuation is adversarial. The Internal Revenue Service refers every examined return with a single work claimed at $50,000 or more to its Art Appraisal Services, presents works generally above $150,000 to its Art Advisory Panel, imposes penalties of 20 or 40 percent for understatements, and will issue a Statement of Value for a significant work before the return is filed, for a fee of $8,400 for up to three items.

7. Whether an object may leave Europe is decided by licence: an EU licence for export outside the Union (paintings over EUR 150,000), a German licence even for shipment to another EU country (paintings over 75 years old and EUR 300,000), a French certificate (paintings over EUR 300,000), an Italian attestato (works over 70 years old and EUR 50,000 since April 14, 2026) and a British licence (oil paintings over £180,000); listed national treasures may be refused exit at any value.

8. Since April 13, 2026, claims to art lost in the Nazi era have a permanent path through United States courts: the six-year clock runs from the claimant's actual discovery, and defenses based on the passage of time and on comity, act of state and forum are barred. A researched provenance is part of an object's value, and one shipment made in the weeks after a death can create a gift, forfeit an exemption or break an export law.

Part I. Location decides the United States estate tax on objects

The United States taxes the estate of a foreign owner who is neither a citizen nor a resident on the property situated in the United States at death.[1] What counts as situated in the United States follows special rules: shares of an American company count wherever the share certificates are kept, most deposits with American banks do not, and real estate is where the land lies. Tangible personal property has the simplest rule of all. Under the Treasury regulations it is United States property if it is "located in the United States" and foreign property if it is located outside the United States; the instructions to the estate tax return for nonresidents add that real estate and tangible personal property "are located in the United States if they are physically located there."[2] The paintings in a collector's New York apartment, the jewelry in a Manhattan safe-deposit box, the car in a Miami garage and the wine in a Napa cellar are therefore inside the United States estate tax at full value; the identical collection in a Paris apartment or a Swiss warehouse is outside it. The tax is computed at rates that reach 40 percent above $1,000,000, the credit available to a foreign estate is $13,000, the equivalent of a $60,000 exemption, and a return on Form 706-NA is required once the United States property, increased by taxable gifts made during life, exceeds $60,000.[3] A single painting of moderate value is enough to require the return and, with it, the transfer certificate that museums, warehouses and auction houses demand before they release an object; the Service currently states a processing time of twelve to eighteen months for estates below the filing threshold.[4]

Two refinements matter. First, an object that the collector transferred during life to a revocable trust, or in another way that leaves the collector in control, is treated as located in the United States if it was here either when it was transferred or at death.[5] A painting placed in a revocable trust while it hangs in New York and shipped to Geneva before death therefore remains in the United States estate. Second, objects genuinely passing through the United States have been held not to be located here: a 1949 appellate decision concerned a traveler who died in Florida on her way home with her jewelry and personal effects, and the Tax Court later applied the same reasoning.[6] No regulation or ruling adopts that rule, the return instructions state a pure physical-location test, and the argument is weakest for an object that is stored, exhibited or offered for sale in the United States. The French, Italian and Japanese treaties, by contrast, deem an object in transit to be located at its destination.[7] Documentation, not intention, proves transit.

Part II. The tax treaties decide before the Tax Code

For a collector domiciled in one of the fifteen countries that have an estate tax treaty with the United States, the treaty is the first question, because it often changes the answer.

[1] I.R.C. § 2103.

[2] Treas. Reg. §§ 20.2104-1(a)(2), 20.2105-1(a)(2); Instructions for Form 706-NA (Rev. Sept. 2025).

[3] I.R.C. §§ 2001(c), 2101(b), 2102(b)(1), 6018(a)(2), (3).

[4] Treas. Reg. § 20.6325-1; IRS, "Transfer certificate filing requirements for the estates of nonresidents not citizens of the United States" (updated May 5, 2026).

[5] I.R.C. § 2104(b); Treas. Reg. § 20.2104-1(b).

[6] *Delaney v. Murchie*, 177 F.2d 444 (1st Cir. 1949); *Pulvermann v. Commissioner*, 30 T.C. 231 (1958).

[7] U.S.-France estate and gift tax convention art. 7(1); U.S.-Italy estate tax convention art. III(1)(b); U.S.-Japan estate and gift tax convention art. III(1)(b).

The treaties with Australia, Austria, Denmark, France, Germany, Japan and the United Kingdom also cover the gift tax; those with Canada, Finland, Greece, Ireland, Italy, the Netherlands, South Africa and Switzerland do not.[8] For art and other objects they follow three patterns.

Under the treaties with Germany, the United Kingdom, the Netherlands, Austria and Denmark, only real estate and the business property of a permanent establishment may be taxed by the country in which they are located; everything else, including art, jewelry, cars and wine, is taxable only in the country in which the collector is domiciled, wherever the object is.[9] A German collector's paintings in a New York apartment are therefore free of United States federal estate tax, and of federal gift tax if given away there, provided the collector is not a United States citizen; the German treaty even preserves German domicile for a German citizen who has lived in the United States for up to ten years, and the British treaty preserves British domicile for a British national resident in the United States for fewer than seven of the past ten years.[10] The Dutch treaty covers only the estate tax, so a Dutch collector's lifetime gift of a painting located in the United States is taxed under the Code; and the Austrian treaty remains in force although Austria itself has levied no inheritance or gift tax since August 1, 2008.[11]

The French treaty is different. Its Article 7 allows the country in which tangible movable property is located to tax it, deems an object in transit to be located at its destination, and excepts only the personal-use objects of an individual who falls under the treaty's short-stay rule.[12] A French collector's paintings in Manhattan are therefore within the United States estate and gift tax. The relief is arithmetical: the estate receives a credit in proportion to the share of the worldwide estate that is located in the United States, measured against the credit that shelters $15,000,000 in 2026; property passing to a spouse who is not a United States citizen is counted only to the extent it exceeds half of the United States property; the executor may elect a treaty marital deduction up to the applicable exclusion amount instead of a qualified domestic trust; and France credits the United States tax against its own.[13]

The older treaties with Switzerland, Italy, Japan, Australia, Finland, Greece, Ireland and South Africa leave the location rule in place: the United States taxes objects located here at death, and grants in return a proportionate share of the credit available to a citizen's estate, under all of these treaties except those with Ireland and South Africa.[14] A Canadian

[8] IRS, "Estate & gift tax treaties (international)" (reviewed Sept. 8, 2026); Instructions for Form 706-NA (Rev. Sept. 2025); Instructions for Form 709-NA (2025).

[9] U.S.-Germany estate and gift tax convention, signed Dec. 3, 1980, as amended by the Protocol of Dec. 14, 1998, art. 9; U.S.-U.K. estate and gift tax convention, signed Oct. 19, 1978, art. 5(1)(a); U.S.-Netherlands estate tax convention, signed July 15, 1969, art. 8; U.S.-Austria estate and gift tax convention, signed June 21, 1982, art. 7(1); U.S.-Denmark estate and gift tax convention, signed Apr. 27, 1983, art. 8.

[10] Germany convention arts. 4(3), 11(1)(a); U.K. convention arts. 4(2), 5(1)(b).

[11] Netherlands convention art. 2(1); Austria convention arts. 2, 7.

[12] U.S.-France estate and gift tax convention, signed Nov. 24, 1978, as amended by the Protocol of Dec. 8, 2004, art. 7(1), (2). Article 6 of the convention concerns the business property of a permanent establishment, not tangibles.

[13] France convention arts. 11(2), 11(3), 12(2)(a), 12(3); I.R.C. § 2102(b)(3)(A); I.R.C. § 2010(c)(3)(A), as amended by Pub. L. No. 119-21, § 70106.

[14] U.S.-Switzerland estate tax convention, signed July 9, 1951, art. III; U.S.-Italy estate tax convention, signed Mar. 30, 1955, arts. III(1)(b), IV; U.S.-Japan estate and gift tax convention, signed Apr. 16, 1954, arts. III(1)(b), IV; I.R.C. § 2102(b)(3)(A); Instructions for Form 706-

collector's estate receives a proportionate credit and a marital credit under the income tax treaty, and pays United States estate tax on nothing but real estate and business property if the worldwide estate does not exceed $1,200,000.[15] A collector from a country with no treaty (Belgium, Spain, Luxembourg and Monaco among them) is taxed under the Code with the $13,000 credit only.

Two limits apply to every treaty. Each preserves the right of the United States to tax its own citizens, so an American citizen living in Munich or London is not protected. And every treaty covers only the federal estate and gift taxes; the states are free to tax. New York taxes a nonresident's tangible property located in the state above a basic exclusion of $7,350,000 for 2026, which disappears entirely once the taxable estate exceeds 105 percent of that figure; Washington taxes objects located there above $3,000,000 at rates of up to 20 percent for deaths on or after July 1, 2026; Massachusetts, Oregon, Illinois, Minnesota, Connecticut, Pennsylvania and New Jersey, among others, follow the same rule; and Connecticut and Minnesota look through companies that hold such property.[16] A German collector's painting in New York can thus be free of federal tax and still taxed by New York, and whether Germany credits that tax is a question for German counsel.[17]

Collector domiciled in	**Federal estate tax on art located in the United States at death**	**Relief**	**Gift of art located in the United States**
Germany, United Kingdom, Netherlands, Austria, Denmark	None, unless the collector is a United States citizen or the object is the business property of a permanent establishment	Exemption by treaty; the German treaty adds a pro rata credit and marital rules for property the United States may still tax	Germany, United Kingdom, Austria, Denmark: no United States gift tax. Netherlands: the Code applies (estate tax treaty only)
France	Yes (Article 7); an object in transit is deemed located at its destination	Pro rata credit; 50 percent marital exclusion; treaty marital deduction election; French credit for the United States tax	Yes; France credits the United States tax
Switzerland, Italy, Finland, Greece	Yes, by location (the Italian treaty deems an object in transit located at its destination)	Proportionate share of the credit available to a citizen's estate	The Code applies; no treaty protection
Japan, Australia	Yes, by location	Proportionate share of the credit	The United States may tax by location; the home country credits
Ireland, South Africa	Yes, by location	Credit only; no proportionate exemption	The Code applies
Canada	Yes, unless the worldwide estate does not exceed $1,200,000	Pro rata credit and marital credit under Article XXIX B	The Code applies

NA (Rev. Sept. 2025) (listing the treaties with Australia, Canada, Finland, France, Germany, Greece, Italy, Japan and Switzerland).

[15] U.S.-Canada income tax convention art. XXIX B, paras. 2, 3, 8 (Protocol of Mar. 17, 1995).

[16] Germany convention art. 2(1)(a); N.Y. Tax Law §§ 952(c), 960(a); N.Y. Dep't of Taxation & Finance, basic exclusion amount for dates of death in 2026; Wash. Rev. Code §§ 83.100.020, 83.100.040 (as amended by ch. 209, Laws of 2026); Mass. Gen. Laws ch. 65C, § 2A(b); Or. Rev. Stat. § 118.010(2)(b); 35 Ill. Comp. Stat. 405/5(a)(2); Minn. Stat. § 291.005, subd. 1(8); Conn. Gen. Stat. § 12-391(e)(2); 72 Pa. Stat. § 9116(b)(2).

[17] Germany convention art. 11(3), (4).

Collector domiciled in	Federal estate tax on art located in the United States at death	Relief	Gift of art located in the United States
A country with no treaty (Belgium, Spain, Luxembourg, Monaco and others)	Yes, by location	$13,000 credit only	The Code applies

Table 1. Treatment of a non-citizen collector's art located in the United States under the estate and gift tax treaties, as of September 2026. The state death taxes apply in every case according to the object's location.

Part III. The museum-loan exemption

One exception is written into the location rule. A work of art owned by a foreign collector is not treated as property within the United States, even while it hangs on an American wall, if it was imported into the United States solely for exhibition, is lent for that purpose to a public gallery or museum no part of whose net earnings benefits any private person, and is on exhibition, or on its way to or from exhibition, in that gallery or museum when the owner dies.[18] All three conditions are tested on the day of death, and each is narrowly drawn. A work bought in New York or brought in for private use and lent later does not satisfy the import condition; a dealer's showroom, an art-fair stand or a private exhibition space does not satisfy the public-gallery condition; and a loan that has ended, or a work that has returned to the owner's residence, does not satisfy the third. The exemption is therefore organized in advance: the import purpose is stated on the customs entry, the loan agreement is signed before the work arrives, and the work's exhibition or transit status can be shown on any date. It is available to a collector from any country, including the countries whose treaties allow the United States to tax by location, since no treaty restricts a domestic exemption.

Three related rules complete the picture. The exemption applies to the estate tax only; the gift tax asks whether the object was physically situated in the United States at the moment of the gift and contains no exception for loaned art, so a painting given to a child while it hangs in an American museum is a gift of United States property.[19] New York exempts from its own estate tax works of art lent to a public gallery located in New York and on exhibition or in transit at death, and Minnesota deems a nonresident's work of art on loan to a Minnesota charity to be located outside the state.[20] And a work lent by a foreign owner to an American non-profit institution can be protected against seizure by any court while it is in the United States if the State Department determines before importation that the object is of cultural significance and its exhibition in the national interest.[21]

Part IV. Gifts of objects located in the United States

For a foreign donor the United States gift tax has an unusual shape. Gifts of shares and other intangible property are outside it altogether; gifts of real estate and tangible property located in the United States are inside it, at rates of up to 40 percent, with an annual exclusion of $19,000 per recipient for

[18] I.R.C. § 2105(c); Treas. Reg. § 20.2105-1(b).

[19] Treas. Reg. § 25.2511-3(b)(1).

[20] N.Y. Tax Law § 960(d); Minn. Stat. § 291.005, subd. 1(8)(iii).

[21] 22 U.S.C. § 2459(a).

2026, an exclusion of $194,000 for gifts to a spouse who is not a United States citizen, an unlimited deduction for gifts to a spouse who is a citizen, and no lifetime exemption of any kind.[22] The location of the object at the moment of the gift decides. A Zurich collector who hands her United States-resident son a painting while it hangs in the New York apartment has made a taxable gift of its full value less $19,000, because Switzerland has no gift tax treaty with the United States; the same painting shipped to Zurich and handed over there passes with no United States gift tax at all. A watch presented at a wedding in Connecticut, a car signed over during a Florida winter and jewelry divided among daughters in an Aspen house are each taxable gifts of United States property, whatever the family understood the occasion to be.

The treaties follow the patterns of Part II. A donor domiciled in Germany, the United Kingdom, Austria or Denmark who is not a United States citizen pays no United States gift tax on an object located here; a donor domiciled in France does, with a French credit; a Japanese or Australian donor is taxed by location; and a Dutch, Swiss, Italian or Canadian donor has no treaty protection for gifts at all.[23] Connecticut, alone among the states, has a gift tax of its own, which reaches a nonresident's gifts of tangible property located in Connecticut above an exemption of $15,000,000 for 2026.[24] And a United States person who receives more than $100,000 in a year from a foreign individual must report the gifts on Form 3520.[25]

The rule of conduct follows from the rule of law: a valuable object is given away only after it has left the United States, and the shipping documents, the customs export record and the delivery receipt are kept, because years later they are the only evidence of where the object was on the day of the gift. An object that is to stay in the United States and pass at death is held in a form the treaty or a structure protects; it is not gifted in place, and it is not placed in a revocable trust while it is here.

The object	United States tax result	Treaty modification	What decides the outcome
Painting in the collector's United States apartment at death	Counted in the United States estate at full value	German, British, Dutch, Austrian and Danish collectors: exempt. French, Swiss, Italian and Japanese collectors: taxed, with a pro rata credit	The state estate tax applies regardless; contents, jewelry and vehicles count
Work on documented loan to a United States public museum	Treated as outside the United States	Available under every treaty	Import for exhibition, loan agreement, exhibition or transit status at death; no protection for gifts
Collection in a free zone in Geneva, Luxembourg or Singapore	Outside the United States estate tax; location controls	None needed	A Delaware warehouse is inside the United States: it saves sales tax, not estate tax

[22] I.R.C. §§ 2501(a)(1), (2), 2511(a), 2505(a), 2503(b), 2523(a), (i), 2001(c); Treas. Reg. § 25.2511-3(a)(1), (b)(1); Rev. Proc. 2025-32, § 4.42, 2025-45 I.R.B. 695. The return is Form 709-NA.

[23] Germany convention arts. 1(b), 9; U.K. convention arts. 2(1), 5(1)(a); Austria convention art. 7; Denmark convention art. 8; France convention art. 7(1); Japan convention art. III(1)(b); IRS, "Estate & gift tax treaties (international)".

[24] Conn. Gen. Stat. §§ 12-640, 12-642(a)(11), 12-643(3)(B).

[25] I.R.C. § 6039F; Instructions for Form 3520.

The object	United States tax result	Treaty modification	What decides the outcome
Painting handed to a child on United States soil	Taxable gift by a foreign donor at up to 40 percent; annual exclusion only	German, British, Austrian and Danish donors: exempt. French donors: taxed. Dutch, Swiss, Italian and Canadian donors: no treaty	Move first, give second, keep the shipping papers; Connecticut gift tax
The same painting handed over in Zurich	No United States gift tax	None needed	Customs export file; the recipient's Form 3520 above $100,000 a year
Object placed in a revocable trust while in the United States, later moved abroad	Still in the United States estate under section 2104(b)	Treaty patterns as above	Do not fund a revocable trust with objects located in the United States
Work in genuine transit through the United States at death	Argued to be outside the United States on the strength of a 1949 decision; no regulatory rule	France, Italy, Japan: deemed located at destination	Contemporaneous shipping documents; storage, exhibition or offer for sale defeats the argument

Table 2. One object, seven situations: the United States result, the treaty modification and the facts that decide it.

Part V. Storage, structures and the movement of objects

Location can be chosen, and the choice is the planning instrument peculiar to this asset class. There is no exit charge on shipping an object out of the United States; there is only the requirement that the collector be alive, competent and free of export constraints when it happens, and that the shipping file prove the date. The collection is then managed by location: the works in the United States residence are those whose exposure the estate can bear or whose treaty position is settled; the major works enter the United States on museum-loan terms or not at all; and storage is sited with the tax in mind. The customs free zones in Geneva, Luxembourg and Singapore are outside the United States estate tax base because they are outside the United States, not because they are free zones; a foreign-trade zone or bonded warehouse in Delaware or New York is inside it, because the customs statutes suspend duties and, at most, state property taxes, and nothing in federal law treats zone property as situated outside the United States for estate or gift tax purposes.[26] Since June 28, 2025 the European Union treats placement in a free zone as an import, so that an archaeological object more than 250 years old needs an import licence, and other listed categories more than 200 years old and worth EUR 18,000 or more per item need an importer statement, to enter the Luxembourg facility.[27]

Ownership structures behave as they do for other assets. A foreign company that owns the collection in substance converts the objects into shares of a foreign company, which are not United States property wherever the

[26] 19 U.S.C. §§ 81c(a), 81o(e); I.R.C. § 7701(a)(9); Treas. Reg. § 20.2104-1(a)(2). Delaware's attraction for art storage is the absence of a sales or use tax, which does not displace the use tax of the state in which the object is later used: N.Y. Tax Law § 1110(a); Cal. Rev. & Tax. Code § 6201; Cal. Code Regs. tit. 18, § 1620(b)(3).

[27] Regulation (EU) 2019/880 of Apr. 17, 2019 on the introduction and the import of cultural goods, O.J. L 151, 7.6.2019, arts. 2, 3, 4, 5, 16 and Annex, Parts B and C.

paintings hang; the price is that the company's basis in the art does not change at the collector's death, so that a later sale or liquidation realizes the gain that direct ownership would have eliminated, and that the collector's personal enjoyment of company-owned art in a private residence invites the argument that the company should be disregarded.[28] A revocable trust does not remove an object from the United States estate and, as Part I explains, can fix its United States status. For collectors from Germany, the United Kingdom, the Netherlands, Austria and Denmark these structures are unnecessary for the federal tax and relevant only for the state taxes; for French, Swiss, Italian and Japanese collectors and for collectors from non-treaty countries they are the alternative to moving the object.

The income tax follows the owner rather than the object. A foreign collector's gain on the sale of art, in the United States or elsewhere, is generally outside the United States income tax unless the collector has a United States tax home or office, is present in the United States for 183 days or more in the year, or is engaged in a United States trade or business, and the withholding regime for real estate does not apply to art.[29] An American heir who sells inherited works pays tax on the gain above the value at the collector's death, at a maximum rate of 28 percent for collectibles plus, where applicable, the 3.8 percent net investment income tax; because property acquired from a decedent takes a fair-market-value basis whether or not it was subject to United States estate tax, a collection that passes at death from a treaty-protected collector to an American child arrives with no United States transfer tax and a stepped-up basis, whereas a lifetime gift carries over the collector's basis.[30]

Part VI. What an object is worth according to the IRS

Every tax result in this field is multiplied by a number, the object's fair market value, defined as the price at which the object would change hands between a willing buyer and a willing seller, neither under compulsion and both reasonably informed, in the market in which such objects are most commonly sold to the public.[31] An estate whose personal effects include articles of marked artistic value worth more than $3,000 in total must file the sworn appraisal of an expert with the return.[32] The Internal Revenue Service reviews these figures through its own institutions. Every examined return that contains a taxpayer's appraisal of a single work claimed at $50,000 or more is referred to Art Appraisal Services, whose appraisers present works, generally those claimed above $150,000, to the Art Advisory Panel, a body of up to twenty-five curators, scholars and dealers who review the claimed values without knowing the taxpayer or whether the value supports an estate or gift tax return or a charitable deduction.[33] In fiscal year 2023 the Panel reviewed 195 items with a claimed value of $795.5 million and adjusted 47 percent of the values, in both directions.[34] A value reported at 65 percent or less of the correct value carries a 20 percent penalty on

[28] I.R.C. §§ 2104(a), 1014(a), (b)(1); Treas. Reg. § 20.2105-1(f); Rev. Rul. 84-139, 1984-2 C.B. 168; Conn. Gen. Stat. § 12-391(e)(2)(B); Minn. Stat. § 291.005, subd. 1(8)(iv).

[29] I.R.C. §§ 865(a), (e)(2), (g)(1), 871(a)(2), (b), 897(c)(1).

[30] I.R.C. §§ 1(h)(4), (5), 408(m)(2), 1411(a), 1014(a), (b)(1), 1015(a); Rev. Rul. 84-139, 1984-2 C.B. 168.

[31] Treas. Reg. §§ 20.2031-1(b), 25.2512-1.

[32] Treas. Reg. § 20.2031-6(b), (d).

[33] Internal Revenue Manual 4.48.2.2.1, 4.48.2.3(1), (2); IRM 8.18.1.1.7, 8.18.1.12; IRS, "Art appraisal services" (updated June 28, 2026).

[34] IRS, The Art Advisory Panel of the Commissioner of Internal Revenue, Annual Summary Report for Fiscal Year 2023, Pub. 5392 (Rev. 6-2024).

the resulting underpayment; at 40 percent or less the penalty is 40 percent; and the appraiser is exposed to a penalty of his own.[35]

The practical rules follow. The appraiser is independent: the Tax Court has given little weight to an appraisal by an auction-house specialist who was soliciting the consignment, and found values four times those reported.[36] The comparables are actual sales adjusted for date, condition and attribution, with the buyer's premium counted as part of the price a buyer pays. The attribution reported is the one the market would pay for, with doubts disclosed, because scholarship shifts, catalogues raisonnés are revised and several artists' foundations have closed their authentication boards. Where an estate holds many works by one artist, the courts allow a discount for the effect of releasing them together: the works of David Smith, Alexander Calder and Georgia O'Keeffe were each valued on that basis.[37] And for a single dominant work the Service will issue a Statement of Value for an item appraised at $50,000 or more, on request filed after the death or gift and before the return, for a fee of $8,400 for up to three items and $800 for each further item; the taxpayer may rely on it, must attach it to the return whether or not he agrees with it, and should expect to wait several months for it.[38] Provenance belongs in the same file: since the April 2026 amendments described in Part VIII, a gap between 1933 and 1945 in a work's European history is a permanent legal exposure that reduces value, complicates insurance and can lead an auction house to decline the consignment, and it is researched, disclosed and priced rather than left for the Panel to discover.

Part VII. Whether an object may leave Europe

The tax plan assumes that objects can move; the law of cultural property decides whether they may. Entering the United States is the easier direction for ordinary art: original paintings, drawings, prints and sculpture enter free of duty and were carved out of the 2025 and 2026 tariff actions as "informational materials," although antiques more than a century old, works of Russian origin and, according to trade reports, works of Canadian origin under the measures in force since August 19, 2026 are not equally protected, and the position must be confirmed at the time of shipment.[39] Antiquities and archaeological material are another matter: the United States bars the import of designated material from thirty-one countries with which it has cultural-property agreements and from Afghanistan, Lebanon and Ukraine under emergency action, and from Iraq and Syria under separate statutes, unless the source country certifies that the export was lawful; anything stolen from a foreign museum or monument may not be imported at all; and an object removed in breach of a foreign law that

[35] I.R.C. §§ 6662(a), (g), (h), 6664(c)(1), 6695A.

[36] *Estate of Kollsman v. Commissioner*, T.C. Memo. 2017-40, aff'd, No. 18-70565 (9th Cir. June 21, 2019).

[37] *Estate of Smith v. Commissioner*, 57 T.C. 650 (1972), aff'd on another issue, 510 F.2d 479 (2d Cir. 1975); *Calder v. Commissioner*, 85 T.C. 713 (1985); *Estate of O'Keeffe v. Commissioner*, T.C. Memo. 1992-210.

[38] Rev. Proc. 96-15, §§ 3.01, 7.01, 8.01, 11, 12.01, 13; Rev. Proc. 2026-1, App. A (user fee), as stated in IRS, "Art appraisal services" (June 28, 2026), and Publication 561 (Rev. Dec. 2025).

[39] Harmonized Tariff Schedule of the United States (2026), ch. 97; 50 U.S.C. § 1702(b)(3); *Learning Resources, Inc. v. Trump*, 607 U.S. ___ (Feb. 20, 2026); Proclamation No. 11012, 91 Fed. Reg. 9339 (Feb. 25, 2026); 91 Fed. Reg. 47,318 (July 28, 2026); Proclamation No. 10420, 87 Fed. Reg. 38,875 (June 30, 2022); Proclamations Nos. 11046 to 11048, 91 Fed. Reg. 46,639 (July 23, 2026).

vests ownership in the state is stolen property in the hands of an American possessor.[40]

Leaving Europe is where plans fail. Any cultural object listed in the Annex to the European Union's export regulation needs an export licence to leave the customs territory of the Union above the Annex thresholds: paintings more than 50 years old worth EUR 150,000 or more, watercolours EUR 30,000, drawings and prints EUR 15,000, sculpture EUR 50,000, archaeological objects more than 100 years old at any value; the licence is issued by the Member State in which the object was lawfully and definitively located, is valid throughout the Union and may be refused where the object is protected as a national treasure.[41] Four national regimes then add their own rules. Germany requires a licence even for shipment to another EU country for paintings more than 75 years old worth EUR 300,000 or more, watercolours and sculpture EUR 100,000, drawings, prints and photographs EUR 50,000 and other antiques more than 100 years old EUR 100,000; works owned by their creator and objects present in Germany only temporarily, for up to two years, are exempt; property listed as national cultural property, or held in a public collection, may leave permanently only with a federal licence that is refused where German heritage interests prevail, after which a purchase procedure follows and no new application may be made for five years; and unlicensed export is a crime punishable by up to five years' imprisonment.[42] France requires a certificate for any export of a cultural object above its own thresholds, since January 1, 2021 paintings more than 50 years old worth EUR 300,000 or more, watercolours EUR 50,000, drawings EUR 30,000, sculpture EUR 100,000 and other antiques EUR 100,000; the certificate may be refused only for a trésor national, it must be granted for an object lawfully imported into France within the previous fifty years, and a refusal bars any new application for thirty months, during which the State may make a purchase offer at international market prices and, if the owner refuses it, renew the refusal without compensation.[43] Italy prohibits the permanent export of notified works and of works belonging to public and ecclesiastical bodies, requires an attestato di libera circolazione for any work of cultural interest by a deceased artist executed more than seventy years ago and worth more than EUR 50,000, a threshold raised from EUR 13,500 with effect from April 14, 2026, requires a self-declaration below it, and allows the Ministry, while the application is pending, to buy the object compulsorily at the value the applicant declared.[44] The United Kingdom requires an individual licence for export to any destination, the European Union included, for objects more than fifty years old above £180,000 for an oil painting, £65,000 for most other categories and £10,000 for photographs and portraits of British historical figures, and may defer the licence, typically for two to four months and then up to six months more, so that a British institution can match

[40] 19 U.S.C. §§ 2602, 2603, 2606, 2607, 2609; 19 C.F.R. § 12.104g (as amended through Aug. 26, 2026); 18 U.S.C. §§ 2314, 2315; *United States v. Schultz*, 333 F.3d 393 (2d Cir. 2003); 19 U.S.C. § 1595a(c).

[41] Council Regulation (EC) No 116/2009 of Dec. 18, 2008 on the export of cultural goods, O.J. L 39, 10.2.2009, art. 2 and Annex I.

[42] Kulturgutschutzgesetz (KGSG) of July 31, 2016, BGBl. I S. 1914, as amended by the Act of July 17, 2025, §§ 6, 7(1), 21, 23, 24(1), (2), (8), 83.

[43] Code du patrimoine arts. L111-1, L111-2, L111-4, L111-6, L121-1; Annexe 1 to arts. R111-1, R111-3, R111-13 and R111-17 (thresholds in force since Jan. 1, 2021).

[44] D.Lgs. 22 gennaio 2004, n. 42, arts. 10, 13, 14, 65, 68, 70, as amended by Legge 17 marzo 2026, n. 40; Codice penale art. 518-undecies.

the price.[45] Switzerland has no general export licence for privately owned art; objects in the Geneva free ports remain on Swiss territory, with customs duties and value added tax suspended.[46] None of these regimes takes account of an American estate plan. A family whose planning assumes that the Munich picture will join a New York sale, or that the Paris collection will follow the heirs to America, asks the export question first, and the time to ask it is while the collector can still decide what is kept where.

Category	EU licence: export outside the EU (Reg. 116/2009, Annex I)	Germany: export to another EU state (§ 24(2) KGSG)	France: certificate for any export (Annexe 1 to art. R111-1)	Italy: permanent export (art. 65 Codice, from Apr. 14, 2026)	United Kingdom: individual licence (OGEL limits)
Paintings	over 50 years; EUR 150,000	over 75 years; EUR 300,000	over 50 years; EUR 300,000	deceased artist, over 70 years; attestato above EUR 50,000	over 50 years; £180,000 (oil or tempera); £10,000 for portraits of British historical figures
Watercolours, gouaches, pastels	over 50 years; EUR 30,000	over 75 years; EUR 100,000	over 50 years; EUR 50,000	as paintings	£65,000
Drawings	over 50 years; EUR 15,000	over 75 years; EUR 50,000	over 50 years; EUR 30,000	as paintings	£65,000
Prints and lithographs	over 50 years; EUR 15,000	over 75 years; EUR 50,000	over 50 years; EUR 20,000	as paintings	£65,000
Sculpture	over 50 years; EUR 50,000	over 75 years; EUR 100,000	over 50 years; EUR 100,000	as paintings	£65,000
Photographs	over 50 years; EUR 15,000	over 75 years; EUR 50,000	over 50 years; EUR 25,000	over 25 years; attestato at any value	over 50 years; £10,000
Archaeological objects	over 100 years; any value	over 100 years; any value	excavated or national antiquities: any value; other objects: EUR 3,000	any value	British finds: nil; others £65,000
Furniture and other antiques	over 100 years (listed types from 50 years); EUR 50,000	over 100 years; EUR 100,000	over 50 years; EUR 100,000	as paintings	£65,000
Works owned by the artist	excluded	excluded (§ 24(1) no. 2)	excluded	living artist: free exit with self-declaration	exempt when exported by the maker

Table 3. Licence thresholds for the export of art, as of September 2026. For objects in Germany, France and Italy the EU licence is required in addition for any export outside the Union. Listed national treasures are outside the thresholds and may be refused exit at any value.

[45] Export Control Act 2002; Export of Objects of Cultural Interest (Control) Order 2003, S.I. 2003/2759, Sch. 1; Arts Council England, UK Open General Export Licence value limits (current Jan. 15, 2026); Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest, Annual Report 2024-25.

[46] Bundesgesetz über den internationalen Kulturgütertransfer (KGTG) of June 20, 2003, SR 444.1, arts. 3 to 5; Swiss counsel should confirm the position for any specific object.

Part VIII. Provenance and the amended HEAR Act

A gap in a European work's ownership history between 1933 and 1945 has always been a warning; since April 13, 2026 it is a permanent legal exposure. The Holocaust Expropriated Art Recovery Act of 2016 allowed a claim to recover a work lost in that period because of Nazi persecution to be brought within six years after the claimant actually discovered the identity and location of the work and the claimant's own interest in it, whatever any other limitations rule provided, but the Act was to expire on January 1, 2027, and courts had continued to dismiss claims on other grounds: delay, adverse possession under foreign law, act of state and comity.[47] The Holocaust Expropriated Art Recovery Act of 2025, signed on April 13, 2026, removed the expiration date, kept the six-year discovery rule, provided that for any timely claim "all defenses or substantive doctrines based on the passage of time, including laches, adverse possession, acquisitive prescription, and usucapion" and all "non-merits discretionary bases for dismissal, including the act of state doctrine, international comity, forum non conveniens, prudential exhaustion, and similar doctrines" may not be applied, removed, for claims against foreign states and their museums, the objection that a state's taking of its own nationals' property does not violate international law, and applies to every claim pending on April 13, 2026 or filed thereafter.[48] The Act creates no new cause of action and contains no rule protecting a good-faith purchaser; the claim itself remains a claim for the return of property under state law, brought against whoever holds the work, including an heir.

In Europe the Washington Conference Principles of 1998 and the Best Practices adopted on March 5, 2024 remain non-binding, but Germany replaced its Advisory Commission on December 1, 2025 with an arbitration body, the Schiedsgerichtsbarkeit NS-Raubgut, which a claimant may invoke unilaterally and whose awards are binding, and losses are registered in the public Lost Art database.[49] For a collecting family the consequence is diligence rather than alarm: the wartime history of every European work is researched against the Lost Art database, the Art Loss Register, the resources of the Claims Conference and the World Jewish Restitution Organization and the Getty Provenance Index before the work is valued, lent, sold or shipped; purchases and consignments are documented with provenance warranties; and a documented provenance is treated as part of what the collection is worth, because the market and the Internal Revenue Service now treat it that way.

Part IX. After the death of the collector

The first rule of administering a collection is that nothing moves. Every shipment, loan return and family errand is stopped until the estate's advisers have answered three questions for each significant object: where it

[47] Holocaust Expropriated Art Recovery Act of 2016, Pub. L. No. 114-308, 130 Stat. 1524 (Dec. 16, 2016), §§ 4, 5.

[48] Holocaust Expropriated Art Recovery Act of 2025, Pub. L. No. 119-82, 140 Stat. 752 (Apr. 13, 2026) (S. 1884, 119th Cong.), § 2, amending § 5 of the 2016 Act (new subsections (b), (f) and (g); former subsection (g), the sunset, struck); *Federal Republic of Germany v. Philipp*, 592 U.S. 169 (2021) (domestic-takings rule overridden by new § 5(b)).

[49] Washington Conference Principles on Nazi-Confiscated Art (Dec. 3, 1998); Best Practices for the Washington Conference Principles (Mar. 5, 2024); Die Beauftragte der Bundesregierung für Kultur und Medien, "Schiedsgerichtsbarkeit NS-Raubgut"; Deutsches Zentrum Kulturgutverluste, Lost Art database.

is, and what that location means under the treaty and the state law; who owns it, and whether title and provenance are clean; and whether it may lawfully cross the borders the plan requires. A relative who ships pictures home in the week after the funeral can convert a museum-exempt work into estate property, make a taxable gift of estate assets or violate an export law in a single day, and none of those results can be undone. In parallel, custody of every object is confirmed against the inventory, the collector's insurance is converted to estate coverage, and one appraisal is commissioned to the strictest standard, built to withstand the Art Advisory Panel and supported by a Statement of Value where one work dominates; it will serve the United States return, the home-country inheritance tax return, the insurance schedule and any later sale. The machinery of the United States return then applies to warehouses and museums as it does to banks: the transfer certificate is required before an institution releases an object, a treaty position is disclosed on the return, and the pro rata credit is computed on the property the treaty allows the United States to tax.[50]

Decisions about disposition come afterwards. Works that pass to heirs are handed over in the country the treaty and the location rule favor, since the geography rules of Part IV govern the logistics of an inheritance as well as of a gift. Works that are sold leave Europe only after the licences of Part VII have been obtained, and the sale proceeds are taxed, if at all, according to the seller's status rather than the object's location. Works that go to charity earn the estate of a foreign collector a United States deduction only if the recipient is a domestic charity or the gift is used within the United States, so a bequest of a painting located in New York to a European museum earns no federal deduction; and a donor with United States income who gives a work to a museum obtains a deduction for its full value only if the museum's use is related to its purpose and the work is not sold within three years.[51] The state taxes complete the checklist: the estate tax of the state in which an object is located, and the sales and use taxes that follow an object delivered in New York or first used in California.[52] Throughout, the shipping file is a legal file: bills of lading, customs entries, export licences, loan agreements and condition reports are the documents that will prove where an object was, whether it was in transit or on exhibition, and who owned it, years after the people who knew are gone.

Part X. Practical steps for the collector

1. **Make a location inventory.** One list of every significant object and where it physically is (country, building, custodian), updated whenever an object moves and noting where each object was on the date of any transfer to a trust or a family member. For this asset class the list is the tax analysis.
2. **Establish the treaty position.** The country of domicile and the collector's citizenship decide whether the United States may tax the objects at all. A German, British, Dutch, Austrian or Danish domiciliary who is not a United States citizen plans for the state taxes only; a French, Swiss, Italian or Japanese domiciliary plans by location.

[50] Treas. Reg. § 20.6325-1; I.R.C. §§ 6114, 2102(b)(3)(A); Instructions for Form 706-NA (Rev. Sept. 2025).

[51] I.R.C. §§ 2106(a)(2)(A), (E), 2522(b), 170(e)(1)(B)(i), 170(e)(7), 2055(e)(4).

[52] N.Y. Tax Law §§ 1105(a), 1110(a), 1118(2); Cal. Rev. & Tax. Code § 6201; Cal. Code Regs. tit. 18, § 1620(b)(3).

3. **Decide what hangs in the United States.** The American residence carries what the estate can afford to expose or what the treaty protects; the major works visit on documented museum-loan terms or stay in Europe. The museum exemption does not cover gifts.
4. **Never give an object away on United States soil.** The object is shipped first and given second, the customs export file is kept, and no object located in the United States is placed in a revocable trust unless the treaty exempts it.
5. **Choose storage on purpose.** Geneva, Luxembourg and Singapore are outside the United States tax base; Delaware is not. An object said to be in transit is in transit only if the documents prove it.
6. **Know the provenance before anyone asks.** Every European work's 1933 to 1945 history is researched against the lost-art databases now, and every purchase and consignment carries a provenance warranty; since April 2026 the exposure does not expire.
7. **Ask the export question early.** Whether a work can leave Germany, France, Italy or the United Kingdom, at what threshold and after what delay, is settled while the collector can still choose where the work is kept, not discovered by the executors.
8. **Appraise once, properly.** An independent appraisal built for the Art Advisory Panel serves the United States return, the home-country tax, the insurance and the eventual sale; for one dominant work, a Statement of Value fixes the number before the return is filed.
9. **Leave standing instructions that nothing moves.** The family is told in advance that after the collector's death no object travels until the advisers have cleared tax, title and borders.

Conclusion

Collectors think in periods, attributions and provenance; the tax law thinks in locations, values and documents, and the two can be reconciled only while the collector is alive. The treaty decides whether location matters; location decides the federal result where it does and the state result always; the export regimes decide whether the plan can be executed; and the amended HEAR Act decides whether the work can be sold at all. Where an object is on the day it changes hands, and how complete its papers are when it does, will determine how much of the collection the family keeps; both are, as of today, within the collector's control.

Contact

A collection that crosses borders, a European collection with works in an American residence, works on museum loan, objects in free zones or heirs on both sides of the Atlantic, is planned around the treaty, the location of each object, the museum-loan exemption, the gift tax on objects located in the United States, valuation before the Internal Revenue Service, the European export regimes and the permanent restitution exposure of the amended HEAR Act. **Ashford International Law PC advises collectors and their families** on this planning: treaty analysis and location strategy for collections, museum-loan and storage structuring, gift and estate planning for tangible property, appraisal strategy and Statements of Value, provenance and export diligence with European counsel, and the administration of collections in cross-border estates, alongside the family's existing advisers or leading the U.S. side end to end.

The firm is led by attorney **Caroline Esche Ashford, PhD, JD**. A graduate of Columbia University Law School, she has 17 years of experience in international estate planning and the cross-border taxation and administration of estates and trusts, including estates with significant art and collectible holdings. Dr. Ashford is also licensed to practice law in Germany. She advises in French and German as well as English.

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This guide is intended for general educational purposes and does not constitute legal or tax advice, nor does it create an attorney-client relationship. The matters described, the United States estate and gift taxation of tangible personal property of nonresidents who are not citizens under I.R.C. §§ 2101 to 2106, 2501 and 2511 and the regulations, including the works-of-art exemption of § 2105(c), the transfer rule of § 2104(b) and the judicial transit doctrine; the estate and gift tax treaties with Australia, Austria, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, the Netherlands, South Africa, Switzerland and the United Kingdom, which differ by country in their treatment of tangible property and do not bind the states; the state death, gift, sales and use taxes of New York, Washington, Connecticut, Minnesota, California and other states; valuation and appraisal practice before the Internal Revenue Service, the Art Advisory Panel and the Statement of Value procedure of Rev. Proc. 96-15; the income tax rules of §§ 1(h), 865, 871, 1014, 1015 and 1411; the charitable rules of §§ 170(e), 2055(e)(4), 2106(a)(2) and 2522; United States import restrictions and tariff measures; the export-control and cultural-heritage regimes of the European Union, Germany, France, Italy, the United Kingdom and Switzerland; and the Holocaust Expropriated Art Recovery Act of 2016 as amended by Public Law 119-82, depend on the specific objects, facts, countries and states concerned and on the law in effect at the relevant time, and they change. Statuses, thresholds and figures are stated as of this writing in September 2026 and must be confirmed before any decision. Nothing here is advice on any particular object or transaction. A collector or family whose collection crosses borders should obtain advice from qualified counsel in each relevant country, including cultural-property and customs specialists where indicated, before any object moves.

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