

FREE PREVIEW

17 pages of the full 105-page guide - not the paid edition

FREE SAMPLE CHAPTER

BARATELLI INSTITUTE - PRACTITIONER GUIDE SERIES

Treasure Assets

Art - Wine - Jewelry - Collector Cars

SAMPLE CHAPTER IN THIS PREVIEW

Chapters 4 + 5 -- Tax Treatment + Estate Planning

17-page preview - drawn from the 105-page full guide

BARATELLI INSTITUTE

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MENTORING AT SCALE

ABOUT THIS FREE PREVIEW

Treasure Assets, Free Preview

Treasure Assets is the 105-page practitioner reference for the art, wine, jewelry, and collector-car holdings that sit on a high-net-worth balance sheet but get ignored by the corporate-finance vocabulary. Eighteen chapters covering authentication and provenance, custody and agreed-value insurance, the tax treatment of collectibles (28% long-term rate; basis tracking; wash-sale and like-kind rules), estate planning and the lifetime-gift-vs-bequest-vs-charitable-disposition decision tree, the ownership-vehicle decision (direct, LLC, trust, foundation, fractional), and category-specific deep-dives on art, wine, jewelry, and collector cars.

This free preview gives you the cover, the table of contents, the Reading Map by Role, and one complete chapter at full quality -- Chapter 5, Estate Planning, Gifting, and Charitable Structures. It is the collector-lifecycle-to-disposition chapter: the moment the family-office principal turns from acquiring to deciding what happens next. Lifetime gift, bequest at death, charitable contribution -- each carries different tax math, different basis consequences, and different family dynamics.

Read it the way a family-office practitioner reads a reference: find your client situation in the persona table, then check the chapter against the existing estate plan you inherited. If the Picasso is named in a will but not in a schedule of insured property, the work in this chapter is the gap.

WHAT YOU GET IN THIS PREVIEW

Cover - About This Preview - Table of Contents - Reading Map by Role - one full sample chapter

Sample chapter: Chapters 4-5 -- Tax Treatment of Treasure Assets + Estate Planning, Gifting, and Charitable Structures

The full guide is available at baratelliinstitute.com. Single-user license; not for redistribution.

CONTENTS**Table of Contents**

About This Guide	5
PART I The Treasure Asset Playbook	7
01. Why Treasure Assets Belong (or Don't) in a Portfolio	9
02. Authentication, Provenance, and Due Diligence	13
03. Custody, Insurance, and Physical Risk Management	17
04. Tax Treatment of Treasure Assets	21
05. Estate Planning, Gifting, and Charitable Structures	26
06. Ownership Vehicles: Direct, LLC, Trust, Foundation, Fractional	31
PART II Art	36
07. The Art Market: Mechanics and Participants	38
08. Art as Investment: What Works, What Doesn't	43
09. Art-Specific Structures: Lending, Funds, Fractional	47
PART III Wine	52
10. The Wine Market: Collectors, Investors, and the Difference	54
11. Wine Authentication, Storage, and Condition	59
12. Wine-Specific Structures: En Primeur, Bonded Storage, Funds	63
PART IV Jewelry	67
13. The Jewelry Market: Signed, Pedigree, and Period	69
14. Jewelry Authentication and Grading	74
15. Jewelry Ownership: Wear, Insurance, Estate	78
PART V Collector Cars	82
16. The Collector Car Market: Segments and Marques	84
17. Car Authentication, Provenance, Due Diligence	89
18. Car Ownership: Storage, Insurance, Concours	93
The Treasure Asset Annual Calendar	97
Appendix: The Treasure Asset Diligence Checklist	98
Resources & Further Reading	104
About the Author	111
Other Baratelli Institute Guides	112

WHO THIS GUIDE SERVES

A Reading Map by Role

Treasure assets are corporate assets. Art, wine, jewelry, collector cars, watches, and equine operations each have a market, a custody profile, an insurance regime, a tax treatment, and an estate-disposition decision tree -- and each is best served by a different reading path through this guide. The first-time collector, the family-office principal inheriting a built collection, the CPA carrying the basis-tracking ledger, and the estate attorney structuring the disposition each enter the work with different urgency and a different starting chapter.

You are...**Read in this order****First-time collector / novice**

- Ch 1 - Why Treasure Assets Belong (or Don't) in a Portfolio
- Ch 2 - Authentication, Provenance, and Due Diligence
- Ch 3 - Custody, Insurance, and Physical Risk Management
- The category Part for your asset (Art, Wine, Jewelry, Cars)
- Ch 4 - Tax Treatment of Treasure Assets

Family-office principal / advisor

- Ch 1 - Why Treasure Assets Belong (or Don't)
- Ch 4 - Tax Treatment of Treasure Assets
- Ch 5 - Estate Planning, Gifting, and Charitable Structures
- Ch 6 - Ownership Vehicles (LLC, Trust, Foundation, Fractional)
- The Treasure Asset Annual Calendar

CPA tracking basis + carry costs

- Ch 4 - Tax Treatment of Treasure Assets
- Ch 3 - Custody, Insurance, and Physical Risk Management
- Ch 6 - Ownership Vehicles
- Apx - The Treasure Asset Diligence Checklist
- Companion Excel: basis ledger + insurance scheduler

Estate attorney / planner

- Ch 5 - Estate Planning, Gifting, and Charitable Structures
- Ch 6 - Ownership Vehicles
- Ch 4 - Tax Treatment of Treasure Assets
- Ch 2 - Authentication, Provenance, and Due Diligence
- Apx - The Treasure Asset Diligence Checklist

Art-focused collector or fund

- Ch 7 - The Art Market: Mechanics and Participants
- Ch 8 - Art as Investment: What Works, What Doesn't
- Ch 9 - Art-Specific Structures (Lending, Funds, Fractional)
- Ch 2 - Authentication and Provenance
- Ch 5 - Estate Planning + Charitable Structures

Wine / car / jewelry specialist

- Your category Part (10-12 Wine; 13-15 Jewelry; 16-18 Cars)
- Ch 3 - Custody, Insurance, and Physical Risk
- Ch 4 - Tax Treatment of Treasure Assets
- Ch 5 - Estate Planning + Charitable Structures
- Apx - The Treasure Asset Diligence Checklist

Chapter 4

Tax Treatment of Treasure Assets

The collectibles rate, related-use doctrine, basis and holding period issues, sales-and-use tax traps, and the reporting requirements that accompany treasure-asset ownership.

The US tax treatment of treasure assets is different from, and generally less favorable than, the treatment of public securities. The differences are not incidental — they compound across decades of ownership and routinely produce tax outcomes that surprise collectors operating on instincts developed in the equity markets.

The 28% collectibles capital-gains rate.

Under Internal Revenue Code Section 408(m) and Section 1(h), long-term capital gain on the sale of ‘collectibles’ held by individual taxpayers is taxed at a maximum rate of 28 percent — eight percentage points above the 20% top rate on long-term capital gain from most other investment assets.¹ Plus the 3.8% Net Investment Income Tax where applicable, plus state tax, the top effective federal rate on collectibles gain can approach 32 percent at the federal level alone.

‘Collectibles’ under Section 408(m) includes: works of art, rugs, antiques, metals, gems, stamps, coins, alcoholic beverages, and any other tangible personal property specified by the Treasury Secretary. Collector cars, despite not being explicitly enumerated, are generally treated as collectibles when sold by individual collectors for gain. Wine is explicitly within the definition.

The rate differential is a real cost. On a \$1M gain on a piece held for 20 years, the collectibles rate produces \$80,000 more federal tax than the same gain on stock. Across a typical collector’s lifetime of acquisitions and dispositions, the cumulative impact is substantial.

Basis tracking.

Basis tracking for treasure assets is harder than for securities and is routinely mishandled. Each piece has its own basis — original cost plus capital improvements (conservation, restoration, frame upgrades, jewelry re-setting, car restoration) less any prior partial dispositions.

Common basis-tracking failures: lost purchase documents from old acquisitions; failure to capitalize restoration and conservation expenses (treated as personal rather than capital); inherited pieces treated with original cost basis rather than stepped-up basis at decedent’s death; gifted pieces treated with donor’s basis rather than recipient’s appropriate basis. Each failure produces higher taxable gain at sale than is legally required.

A disciplined collection maintains a basis ledger alongside the inventory: for each piece, the acquisition cost, the acquisition date (holding period), the accumulated basis additions (capitalized improvements), any basis adjustments from charitable partial gifts or casualty losses, and the current adjusted basis. At sale or disposition, the ledger makes the gain calculation clean; without it, documentation produced from reconstruction often overstates gain and pays unnecessary tax.

The dealer/investor/collector distinction.

IRC distinguishes three categories for tax purposes, with materially different outcomes.²

Dealer. A taxpayer who holds collectibles primarily for sale to customers in the ordinary course of business. Gains are ordinary income at top marginal rates (37% top federal vs. 28% top collectibles capital-gains rate). Deductions available include inventory carrying costs, ordinary business expenses. Treatment applies to actual dealers but can accidentally apply to collectors whose activity level crosses the threshold.

Investor. A taxpayer who holds collectibles primarily for capital appreciation, with sufficient activity to rise above hobbyist but not to the level of dealer activity. Gains are capital at the 28% collectibles rate. Ordinary expenses may be deductible under Section 212 (subject to prior-2018-law limits that largely eliminated miscellaneous itemized deductions for individuals).

Collector (personal-use property). A taxpayer who holds treasure assets for personal enjoyment. Gains are capital at the 28% collectibles rate. Losses on personal-use property are generally not deductible — an asymmetry that disadvantages collector-status taxpayers materially.

The line between investor and collector is fact-specific and has been litigated extensively. A taxpayer who wants investor classification (to preserve loss deductions) must demonstrate continuity of activity, profit motive, record-keeping discipline, and engagement with the market consistent with investment activity. The purely personal-enjoyment collector, whose pieces are displayed in the home and are part of lifestyle, will almost always be classified as a collector.

State tax considerations.

State tax on treasure-asset gains follows the individual's state of residence at sale. For California residents, the combined federal-plus-state effective rate on collectibles gain can exceed 42 percent. For Florida residents, the effective rate is the federal rate alone — one of many reasons collectors with substantial anticipated dispositions have particularly strong reasons to establish clean Florida domicile before the transaction.

Sales and use tax can apply to purchases depending on delivery location and state rules. Large purchases warrant state-specific analysis; use tax on pieces imported to high-sales-tax states can be substantial and is commonly overlooked at purchase.

The use-value vs. investment-value tension.

A recurring tension: pieces held for personal enjoyment are personal-use property with asymmetric tax outcomes (gains taxable, losses non-deductible). Pieces held for investment may qualify for more favorable treatment but require genuine investment activity and documentation. Many serious collectors hold pieces that are simultaneously loved and potentially appreciating — and the tax classification can go either way depending on how the collector structures activity and documentation.

A family with significant wealth and meaningful collections often benefits from deliberate structural separation: personal-use pieces held individually; investment-character pieces held in an investment entity (LLC, trust) with documented investment activity. Chapter 6 addresses the ownership structure options.

The tax treatment of treasure assets is a persistent drag that thoughtful structure mitigates but cannot eliminate. Collectors who model acquisitions without the tax framework materially mis-estimate the after-tax economics of their decisions.

NOTES

1. Collectibles capital-gains rate: IRC §1(h)(4)(A)(i) (defining collectibles gain); §1(h)(5) (referring to §408(m) for collectibles definition). Maximum 28% rate: §1(h)(1)(F). Collectibles definition: §408(m)(2) (any work of art, rug or antique, metal or gem, stamp or coin, alcoholic beverage, or any other tangible personal property specified by Treasury). Treasury specifications: Treas. Reg. §1.408-10(b). Net investment income tax: IRC §1411 (3.8% on net investment income above threshold).
2. Dealer / investor / collector distinction: dealer status producing ordinary income at §1221(a)(1) (property held primarily for sale to customers in ordinary course of trade or business) excluded from capital-asset definition. Investor status: IRC §212 (deduction of expenses for production of income); suspended 2018-2025 for individuals under §67(g). Collector / personal-use property: §165(c)(3) (personal casualty losses allowed only with respect to federal disaster areas post-TCJA). Leading classification cases: *Wrightsmen v. United States*, 428 F.2d 1316 (Ct. Cl. 1970) (collector status); *Williford v. Commissioner*, T.C. Memo 1992-450 (investor status upheld for active collector-investor); *Barrish v. Commissioner*, T.C. Memo 1984-602 (investor loss disallowance for personal-use property).
3. Basis step-up at death: IRC §1014 (basis of property acquired from a decedent equals fair market value at date of death). Carryover basis for gifts: IRC §1015 (basis generally equals donor's basis, with exception for gift-tax portion attributable to appreciation). The basis step-up on inherited collectibles is a significant planning consideration, often outweighing the collector's preference to gift during life.
4. State sales and use tax on collectibles: jurisdictional rules vary by state. Use-tax enforcement against high-value art purchases has intensified following *Wayfair v. South Dakota*, 138 S. Ct. 2080 (2018), expanding economic-nexus standards. New York, California, and Illinois have active audit programs for out-of-state art purchases brought into the state.
5. Section 1031 like-kind exchanges: limited to real property post-TCJA (IRC §1031 as amended by Pub. L. No. 115-97). Collectible-for-collectible exchanges that previously qualified under pre-2018 §1031 (e.g., art for art) no longer produce deferral. This change eliminated a common planning tool for serious collectors who previously rolled appreciation across acquisitions without current-year recognition.

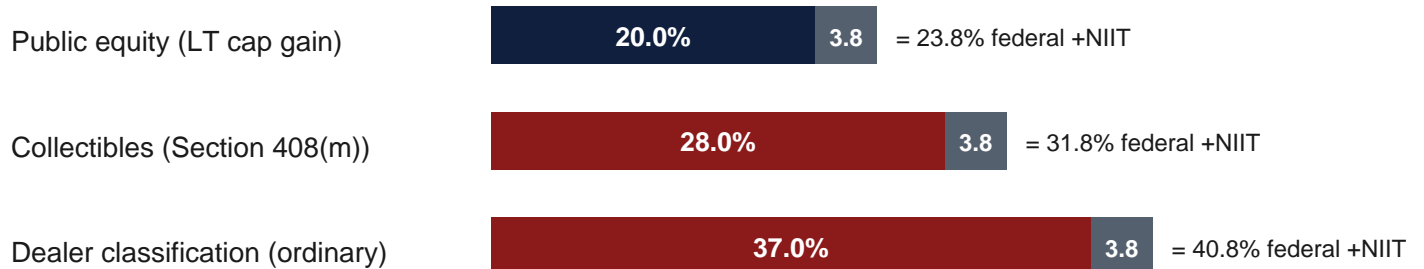
Real-world marker. *The IRS Art Advisory Panel reviews appraisals on art valued at \$50,000 or more in estate, gift, and charitable returns. Reviewers are senior auction-house specialists and museum curators serving unpaid. Estate of Newberger (TC Memo 2015-246) is the canonical case showing the Panel's reach: the Tax Court accepted the IRS's higher valuation against a Sotheby's appraisal because the lower number undercounted what the same painting had sold for at Christie's six years earlier. Estate planners pull this case before they tell a client*

what number to put on Form 706. Sources: Internal Revenue Manual §4.48.2; Estate of Newberger v. Commissioner (T.C. Memo 2015-246); IRS Publication 561 and Form 8283 instructions.

FIGURE 4.1

Tax Treatment of Collectibles

Federal long-term capital-gains treatment on \$1M gain



Federal Tax on \$1M Long-Term Gain

Asset class	Rate	Federal tax
Public equity	23.8%	\$238,000
Collectibles (held as investment)	31.8%	\$318,000
Collectibles (held personally)	31.8%	\$318,000
Collectibles (dealer income)	40.8%	\$408,000

The 8-percentage-point differential compounds across decades of collection activity.
Estate step-up at death (Section 1014) rewards holding, not lifetime sale.

Chapter 5

Estate Planning, Gifting, and Charitable Structures

Gifts, bequest, and charitable-contribution strategies for treasure assets: qualified appraisal, fractional gifting, promised gifts, and the structures that optimize after-tax legacy.

Treasure assets present distinct estate-planning opportunities that ordinary investment assets do not, and distinct charitable-planning mechanics that are commonly misunderstood. Both opportunities become meaningful as collections scale, and both require discipline to execute correctly.

The valuation question at death.

At the decedent's death, treasure assets receive a basis step-up to fair market value under Section 1014 — an outcome that favors collectors dramatically relative to lifetime disposition. A piece acquired for \$100,000 that is worth \$2M at death passes to heirs with a \$2M basis. If the heirs sell immediately, there is no capital gain; if they hold and later sell, gain is measured from the stepped-up basis rather than the original acquisition cost.

The practical implication: collectors with meaningful appreciated positions generally benefit from holding until death rather than selling during life. This is the opposite of the advice often given for concentrated positions in equities (where gift-then-sell strategies using trusts can shift appreciation out of the estate at low gift-tax cost). Treasure assets at death-value step-up reward patient holding.

Valuation discipline.

The estate-tax valuation of treasure assets is both a cost concern (high valuation = more estate tax) and a basis concern (high valuation at death = higher basis for heirs). The optimal outcome depends on whether the family will sell or retain; the valuation process must be defensible either way.

A properly-prepared estate valuation for significant treasure assets requires:

- Qualified appraisal from a USPAP-compliant appraiser with recognized credentials in the specific category.
- Comparable-sales analysis drawing on actual auction and private-sale data for similar pieces in similar condition.
- Valuation discounts where appropriate (fractional interests, lack of marketability, market liquidity considerations).

- Appropriate date-of-death valuation (or six-months-after-death alternate valuation date under Section 2032 where advantageous).
- Appraisal documentation compliant with IRS Publication 561 standards for defensibility under audit.

The IRS Art Advisory Panel reviews high-value art appraisals in estate-tax returns; comparable scrutiny applies to high-value jewelry, cars, and other categories. Appraisal that has not been prepared to withstand Panel review routinely produces adjustments and penalties.

Charitable giving: the related-use doctrine.

Charitable contributions of treasure assets to qualified charities produce income-tax deductions under IRC Section 170.¹ The deduction mechanics have a specific wrinkle for tangible personal property: the ‘related-use’ doctrine under Section 170(e)(1)(B)(i).²

If the donated tangible property is put to a use by the charity that is *related* to the charity’s tax-exempt purpose (a painting donated to a museum for display; a rare book donated to a research library for its collection; a historic automobile donated to an automotive museum for exhibition), the donor deducts the full fair market value of the property.

If the property is put to an *unrelated* use — the museum sells the painting to fund operations; the library liquidates the rare book; the charity holds the property as general investment — the donor’s deduction is limited to the *lesser of cost basis or fair market value*. For highly appreciated pieces, this limit dramatically reduces the deduction.

The implication: a donor who wants full-fair-market-value charitable deduction must ensure the recipient charity actually uses the property in its exempt function. Donation agreements should specifically address the charity’s intended use; charities that routinely sell donated property should be evaluated carefully.

Qualified appraisals for charitable gifts.

Section 170(f)(11) requires a ‘qualified appraisal’ for charitable contributions of non-cash property above \$5,000.³ Failure to obtain a qualified appraisal can disallow the deduction entirely — a recurring and expensive error.

Qualified appraisal requirements include: appraiser credentials (education, experience, professional designations in the specific asset category); appraisal timing (within 60 days of donation and before the return due date); specific content requirements (methodology, comparable sales, USPAP compliance); appraiser’s signed declaration; and attached Form 8283 with appraiser’s acknowledgment.

For contributions above \$500,000, the appraisal must be attached to the return itself. IRS review is common at this scale; the Art Advisory Panel reviews charitable-contribution art appraisals regularly.

Charitable vehicles for treasure-asset gifting.

Private Foundation. Direct contribution of appreciated tangible property to a private foundation is deductible at basis (not fair market value) unless specific qualified-appreciated-property exceptions apply. Foundations may not operate at scale as museums without unrelated-business-income-tax concerns. Useful for cash-plus-property funded family foundations but less useful as a pure treasure-asset charitable vehicle.

Donor-Advised Fund. DAFs can accept tangible-property contributions, typically monetizing through sale. DAF sale produces unrelated-use treatment — donor's deduction limited to basis. Useful for converting treasure assets into DAF-held cash for later charitable distribution at the cost of the appreciation-based deduction.

Charitable Remainder Trust (CRT). Treasure assets can fund CRTs, with the trust selling the property tax-free (as a charitable entity) and distributing income to the donor. Careful structuring required; tangible-property CRTs have specific rules that affect the donor's current deduction timing.

Fractional Gift Strategy. A collector donates a partial interest (say, 10% annually for ten years) to a qualifying institution. Each year's gift produces a deduction based on the fractional interest's value; the institution typically takes physical possession for the proportionate period. The strategy spreads deductions across years and allows the collector to enjoy the piece for most of each year while transitioning ownership to the institution. Section 170(o) imposes specific requirements; correct implementation requires careful planning.

Museum Direct Gift with Use Restriction. The collector gifts to a museum with a specific agreement that the piece will be exhibited (related use), preserving the full-fair-market-value deduction. Deed-of-gift language matters materially; museum agreements negotiated without tax counsel often leave donor deductions exposed to challenge.

Charitable giving of appreciated treasure assets, executed correctly, produces some of the most efficient tax outcomes available in all of philanthropic planning. Executed poorly, it produces disallowed deductions, IRS scrutiny, and the loss of both the tax benefit and the piece itself. The mechanics are where the outcome lives.

NOTES

1. Charitable contribution deduction: IRC §170. Contribution limits: §170(b) (30% of AGI for capital-gain property donated to public charities at FMV; 20% to private foundations). Carryover of excess contribution: §170(d) (five-year carryover). Date-of-death basis step-up operates independently under IRC §1014; alternate valuation date election under §2032.
2. Related-use doctrine for tangible personal property: IRC §170(e)(1)(B)(i) (reduction of deduction for tangible personal property not put to use related to charity's exempt purpose). Related use must be at time of contribution or at reasonable time thereafter; sale of donated property shortly after donation typically fails related-use test. See *Rolfs v. Commissioner*, 668 F.3d 888 (7th Cir. 2012) (fire-department demolition of donated house not a related charitable use). Deduction where related use fails: limited to the lesser of fair market value or adjusted basis.
3. Qualified appraisal requirements: IRC §170(f)(11); Treas. Reg. §1.170A-13. Appraisal timing: obtained not earlier than 60 days before donation and no later than due date of return (including extensions). Qualified appraiser definition: IRC §170(f)(11)(E) (specific education and experience requirements; earned appraisal designation from recognized professional appraiser organization; meets minimum education and experience requirements). Form 8283 signed and attached to return for contributions over \$500,000.

4. Fractional-interest gifts: IRC §170(o) (special rules for fractional interests in tangible personal property). Requires: (a) all interests in the property held by donor and charity at time of initial fractional contribution; (b) 10-year completion period (full gift within 10 years or donor's death); (c) charity took substantial physical possession at least once during each year of fractional ownership and used property in its exempt purpose; (d) current valuation measured at each fractional gift. Recapture applies if requirements not met.
5. Private-foundation contribution limits for tangible personal property: IRC §170(e)(5) (qualified-appreciated-property exception was time-limited and is no longer generally applicable for tangible property). Default treatment: basis deduction only for tangible property contributed to a non-operating private foundation. IRS Art Advisory Panel: described in IRM 4.48.2 (Audit Guidance on Art Valuation).

Real-world marker. *Eli Broad's two-billion-dollar art collection went to The Broad Foundation and ultimately to The Broad museum in Los Angeles — a structure that captured the full FMV deduction, kept the collection together, and built a public-facing institution branded with the donor's name. Mitchell Rales's Glenstone, the Walton family's Crystal Bridges, and Doris Fisher's gift to SFMOMA followed similar architectures. The deduction works because the receiving entity uses the art for its exempt purpose; the related-use rule cuts the deduction to basis if the charity sells the piece instead. Sources: The Broad Foundation public Form 990 filings; LA Times Broad coverage; Eli Broad **The Art of Being Unreasonable** (Wiley 2012); Glenstone Foundation public information; Crystal Bridges Museum public records.*

FIGURE 5.1

Charitable Gifting: The Related-Use Matrix

Recipient type	Related use	Deduction basis
Museum (piece exhibited)	YES	Fair market value
Museum (piece sold by museum)	NO	Lesser of basis or FMV
Private foundation (held)	MAYBE	Basis (unless QAP exception)
Donor-Advised Fund (sold)	NO	Lesser of basis or FMV
CRT (sold tax-free by trust)	N/A	FMV of remainder interest
Fractional gift to museum	YES	FMV of fractional interest

The related-use doctrine determines whether the donor deducts FMV or basis.

- For highly appreciated pieces, the difference between FMV and basis can be 10x or more.
- Museum donation agreements should specifically address intended use to preserve the deduction.
- Qualified appraisal (Section 170(f)(11)) is required for any non-cash gift above \$5,000.
- IRS Art Advisory Panel reviews high-value charitable-gift appraisals; documentation discipline is essential.

END OF FREE PREVIEW

Decide. Act. Now.

What you just read is one chapter of eighteen. The full guide takes the same level of care into authentication and due diligence, custody (including the freeport vs domestic decision), agreed-value insurance, the 28%-collectibles tax rate and basis tracking, ownership vehicles (LLC, trust, foundation, fractional), and category-specific chapters on the art market, wine collecting and storage, jewelry grading and ownership, and the collector-car segments and concours circuit.

The companion Excel workbook operationalizes the frameworks -- the basis-tracking ledger, the insurance-renewal scheduler, the storage-cost-per-asset model, the auction-house take-rate comparison, and the lifetime-gift-vs-bequest-vs-sale decision matrix.

If you serve clients who own treasures and you have to be ready before the disposition conversation -- whether triggered by estate planning, divorce, charitable giving, or simple rebalancing -- this is the reference. The companion volume to the Family Office Reference Guide, written from the seat that quarterback both.

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