December 21, 2017

Estate Planning Update December 2017 - Estate Planning for Art

According to press reports, Leonardo da Vinci's "Salvator Mundi" became the most expensive artwork ever sold at auction, going for $450.3 million last month. The general consensus is that this was the highest price ever paid for a work of art. However, the art market is one of the most opaque markets in the world, with many transactions taking place in private. We have no way of knowing of any undisclosed private sale for a price that exceeded this one.

Regardless of its place in auction history, this sale highlights the continued strength of the art market. It is also an important reminder that this is a good time to review your art holdings in light of the significant appreciation that has occurred during the past 15 to 20 years. From an estate planning perspective, there are a number of considerations that individuals should take into account when considering how to plan for the preservation of a collection, whether by gift or testamentary transfer to loved ones or by contribution to charity.

If the art owner's estate planning objective is to preserve a collection, care should be taken to determine whether the intended recipients are interested in the collection, how its care and maintenance will be funded, and what alternative investment opportunities will be lost by continuing to invest in art. Issues can arise when the current owners do not sufficiently consult with the intended recipients as to their interest in the collection. Many families do not take into account the cost of capital as it relates to art assets, nor do they consider the ongoing costs associated with securing, maintaining, insuring and possibly curating those assets.

Art owners also may wish to consider charitable objectives, including whether and when to make loans or contributions of art to charitable organizations. Recipients may include museums or other public charities or private foundations. Art owners typically will want to maximize charitable deductions and ensure that their charitable intentions are carried out.

Art is an emotional and complicated asset class requiring careful thought and planning as part of an overall estate plan. Please contact your Day Pitney attorney if you would like to discuss specific planning issues and opportunities related to your art holdings, whether they include a da Vinci or something else.