

Manual for use by the corporate art collector

In the past, major collectors would buy larger houses to show their art works. Now, many private collectors – in particular corporate art collectors – find or build large spaces to show their art and then continue to buy art to exhibit within them. Increasingly, private collectors are taking on the role of non-profit institutions (such as museums and institutional associations).



mission statements.

They have large gallery spaces, often purpose-built, with storerooms, extensive archives, libraries and staff. They mount exhibitions that are open to the public, publish catalogues and organise education programmes. Some have artist residencies and ambitious

In a nutshell, some private collectors are building private

art museums and foundations.

While these private art collections are dotted around the globe and can be very interesting to visit, they may create tensions between public museums and private museum building: will these private museums act to divert private funds that might otherwise have gone towards public programming? Will there be fewer donations of artworks to public institutions? Should the government be supportive of, and incentivise, private museum building? Within the private collections, will this mean that the artworks are not maintained as rigorously as they might be in the public sector?

Before we answer these critical questions, let's review how a corporate art collector may achieve such a project of building a "private museum".

1. So, what do you want to build exactly, as a corporate art collector?

Why have so many companies, large and small, chosen to collect art? The reasons are as varied as those for collecting personally, but generally fall into one of several camps.

The earliest, famously pioneered by Chase Manhattan (now J.P Morgan) under the direction of David Rockefeller, tended to be the offshoots of an owner's intense personal interests.

Then comes a broad and ever-expanding category of companies with the foresight and means to enliven their properties with pieces that have both investment potential and prestige value.

From the perspective of the bottom line, it makes much more sense to buy art that has a reasonable chance of appreciation than to buy decorative works which will eventually become obsolete: faced with bare walls, particularly in areas used by clients and senior staff, a company would be wise to invest in promise and quality and hope to add both beauty and a source

of future capital to their workplace.

Charlotte Appleyard and James Salzman, in their book "Corporate Art Collections – a handbook to corporate buying" subdivide corporate collections in four broad categories:

- First, there is the traditional corporate collection, where works are being purchased directly from galleries or artists to enhance the office environment. These might be considered to be "curatorially led", seeking to enrich the office cultural ecology. Many of the collections that fall into this category are owned by banks or financial service organisations such as Standard Bank of South Africa Limited.
- The second category includes those collections that seek to say something about the company's corporate identity. Either by accident or design, these collections have become very involved with how the company is perceived or would like to project itself. For example, the law firm Simmons & Simmons is now the proud owner of a sizeable contemporary art collection, started by former partner Stuart Evans, which is famous for its ownership of many works from the Young British Artists.
- The third category is broadly referred to as "the philanthropists" or "corporate patrons". Whilst almost all of the collections extend their interests through sponsorship of the arts, a small but growing number have structured their entire collection strategy around a charitable remit through the creation of prizes or direct engagement with the domestic and international artistic community. For example, British Airways collects, commissions, educates and promotes through the visual arts, comprehensively and widely.
- Finally, the "all-rounders", companies whose work with the arts permeates their identity, office environment, social outreach and sponsorship. The best example that

comes to mind, when talking about “all-rounders”, is Louis Vuitton. The eponymous founder of Louis Vuitton developed an intense interest in contemporary culture, as his success grew. He frequented the salons held in the studio of Felix Nadar, later patron and dealer of some of the most famous names in the 19th century painting, including Monet, Renoir, Sisley, Cezanne and Degas. The Louis Vuitton brand is proud of its close relationships with contemporary artists such as Yayoi Kusama, Takashi Murakami, Daniel Buren, etc. In addition to the Espace Culturel Louis Vuitton, where temporary exhibitions of contemporary artists are held, the Fondation Louis Vuitton is due to open its doors this month.

As a newcomer to corporate art collecting, it is critical to lay out some solid foundations to a private museum building project.

Indeed, the top management of the company toying with the idea of corporate collecting should seek professional advice from the outset, by consulting with reputable art galleries, curators, lawyers, brokers and researchers, in order to clarify what objectives are to be achieved through building a private art collection.

Ideally, a business plan should be drafted from the inception of this project, in order to set up some short-term, medium-term and long-term goals for the corporate art collection to reach, as milestones.

2. And where do you want to build your corporate art collection?

In parallel to this dialogue between the top management of the aspiring corporate collector and its advisors on the scope of the future art collection, room must be made – literally – to

talk about the available space.

A full assessment of the space available to display art ought to be made at the outset. Most corporate collections concentrate on wall-based work because offices do not typically have the room to accommodate sculptures.

However, the London office of Deutsche Bank, which is the work base of some members of the team of around 20 staff who manage Deutsche Bank's art collection, displays an impressive set of sculptures in its reception hall.

Other corporate art collections evolve, over the years, from office-hanging art to fully-fledged private museums located in purpose-built buildings. The Fondation Cartier, for example, was inaugurated on 20 October 1984 in Jouy-en-Josas, in Versailles and then moved, 10 years later, to its current location in Paris, which is a purpose-built architecture of glass and steel created by architect Jean Nouvel.

3. Is it a foundation? A trust? Is it a limited liability company?

Making decisions about the scope, space and location of the future art collection are essential to then decide which legal form such collection should take.

Options for a collector may be to either locate or transfer his or her collection to a trust or foundation, the choice often depending on state laws and the nature of the reporting requirements, some of which can be onerous.

Such arrangements may permit an individual collector to avoid estate taxes and maintain some control over the assets.

Trusts and foundations can offer viable, creative solutions for collectors concerned about the fate of their artworks.

In the United Kingdom, it is possible for anyone to set up an

art owning charitable foundation and/or private museum and whose purposes include the holding, preservation, study and promotion of cultural property.

The majority of such organisations are established as charitable companies limited by guarantee, although some are established as charitable trusts.

In order to enjoy the full range of tax exemptions and reliefs, charities in England and Wales are obliged to register with the Charity Commission and HMRC to demonstrate public benefit. In France, private museums may be run by associations, state-approved or corporate foundations.

Let's have a look at the example of Don and Doris Fisher, founders of the Gap. They put together an outstanding collection of contemporary art through the years and then created a trust through which their collection would be loaned to the San Francisco Museum of Modern Art for a period of 100 years (renewable for another 25) as if absorbed into the permanent collection. The Fisher heirs would maintain control of the collection with a trust that stipulated:

(1) 75 percent of works displayed in the new wing must be Fisher works;

(2) the most important works must be shown every five years; and

(3) the work can be deaccessioned (i.e. sold) only to upgrade the collection and in consultation with the collection curator, who has veto power over certain pieces.

This creative arrangement was a win for all, preserving the collectors' vital legacy and catapulting an average museum into a premier position.

Other collectors, like the Rubells and Martin Z. Margulies, have established private-operating foundations which, by

sharing their collections with the public, provide certain tax deductions while allowing them to maintain control of their collections during their lifetimes.

An additional tax strategy employed by collectors is to convey the artworks to a limited liability company and transfer interests in the entity to family members or trusts.

This allows the collector, through the entity, to maintain a degree of control over the collection while discounting the value of the collector's estate at death. The caveat here is that the entity needs to have a legitimate business purpose and the collector should not retain too much control.

While François Pinault built some of his very substantial art collection firstly in his own name, he then transferred his cultural assets into the holding company Artemis that manages his and his son's (François-Henry Pinault) shareholdings in the various businesses of the group (luxury with Kering, art auctions with Christie's, real estate, art, vineyards, press, etc). The François Pinault Foundation was then founded and currently owns and manages the two permanent display spaces of this powerful contemporary art collector: Palazzo Grassi and Punta della Dogana in Venice.

4. Because tax matters

Anywhere in the world, the corporation is at its heart about the balance sheet, no matter how large or small the figures.

While the stated reasons for corporate collecting will almost never include taxes, it remains a fact that tax codes may permit, albeit in a grey manner and to varying degrees, deductions along three principal lines: depreciation, investment credits and charitable donations.

For example, American depreciation laws allow companies to deduct against their profits the cost of their assets, so long as three conditions are met: the assets have been acquired for

a business purpose, they have a lifespan and they can be said to deteriorate over time.

While the usual candidates for depreciation range from computers to plant machinery, there is an argument to be made – particularly in the contemporary primary market – that works of art or decorations can also be classified as depreciating.

Despite the international bad rep that France has in relation to its tense and versatile relationship with taxation, this country is at the forefront of adopting fiscally-friendly policies for corporate art collectors and sponsors.

The law of 1 August 2003 relating to sponsorship, associations and foundations, so-called "Aillagon law", greatly contributed to creating a favourable legal and tax framework for the financing of privately-funded art and cultural initiatives of general interest.

All art sponsorship payments ("*mécénat*") allow corporate taxpayers to benefit from a 60 percent tax reduction on corporate tax (up to 0.5 percent of the EBIT). If such cap is reached, or if the EBITDA is nil or negative, the French company can roll such tax reduction during the next 5 tax years.

Both the US and France grant hefty tax relief to companies which buy works of art to constitute corporate art collections. For example, article 238 AB of the French tax code provides that companies can deduct, from their taxable turnover, the acquisition price of original art works produced by living artists, over a period of five years.

Another Gallic example is the tax cuts granted to French companies that make donations to public bodies which main activity is to present contemporary art fairs to the public.

In the United Kingdom, a new Cultural Gifts Scheme has been set up in 2012, to boost charitable donations. Companies which

donate prominent cultural or art objects to the nation can now receive a reduction in their corporate tax liabilities.

The maximum value of the tax reduction available in relation to the donor's liability to corporation tax is 20 percent of the agreed value of the object. Total tax reductions under this scheme, and taxes offset under the existing inheritance tax Acceptance in Lieu scheme, is subject to an increased annual limit of GBP30 million a year overall. This scheme enables UK companies which own corporate art collections to gift important works of art to UK public institutions and receive a reduction on their corporation tax liabilities.

5. Get me some art, baby!

Now that the scope, space, legal form of the corporate art collection have been set and clarified, and now that the tax advantages of setting up a corporate art collection have been assessed, it is time for the corporate collector to get to work and buy some art works.

A number of the best corporate art collections started with modest budgets. Quality rather than profit has steered most of them, and in most cases this approach has resulted in the formation of very valuable collections.

The budget needs to be set to cover not only the costs of the works themselves but any professional fees, including consultants, legal fees, art handlers, installation and insurance.

Many books have been written on the subject of sound art collection management – from buying art, to practicalities of ownership and deaccessioning. I recommend, in particular, "Owning art – the contemporary art collector's handbook", "The Art collector's handbook" and "Commissioning contemporary art – a handbook for curators, collectors and artists".

Since these topics pertaining to art collection management are

similar for all types of collectors – individual or corporate – I will not delve further into these.

However, I emphasise that a corporate art collector must take particular care in its dealings with art works, artists, art galleries, auction houses and other collectors because any behaviour deemed inappropriate in the art world, adopted by such corporate art collector, may have a severe impact on the reputation of this company, even beyond the microcosm that is the art world.

To conclude, I do not think that private collections are diverting fluxes of money from public non-profit art institutions (such as public museums) to more “egoistic” projects. I think that certain types of corporations will be happy with sticking to charitable donations and sponsorship – widely incentivised by tax regimes around the world -; while others will want to go a step further and fulfil with a more personal touch their cravings for the arts.

These more intense and passionate art collectors will decide to set up a corporate art collection and/or private museum, depending on their goals, available space and budget.

Certain countries, such as France and the US, are extremely proactive in fostering both types of corporate involvement with the arts, while others, such as the UK and Italy for example, have much room for improvement, especially in relation to supporting corporate art collections and private museums.

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