Session 3:

After Death: What Happens to Art in an Estate?

November 11, 2026

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author.
The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

Lathrop GPM

Presenters



Sara Hire
Counsel
Lathrop GPM



Amanda Kruse
Associate
Lathrop GPM



Andrea Roth
Managing Director
Roth | Escher Art Group

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

Recap from Session 2: Lifetime Planning and Management

1. **Art is a specialized asset**
   Illiquid, hard to value, costly to hold and tax-sensitive.

2. **Manage the collection over time**
   Keep a living plan: acquire, document, protect, review, transfer.

3. **Records and appraisals matter**
   The right value depends on purpose and date; don't wait for a loss or death to build the file.

4. **Plan the transfer**
   Talk with beneficiaries, consider lifetime gifts, and choose the right ownership structure.

5. **Deferral has a cost**
   Tax, family conflict, lost value and unfulfilled wishes fall on fiduciaries and heirs.

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

Part 3: The Collection after Death

Immediate responsibilities	Secure the art and establish who has authority.
Valuation and reporting	Use the correct purpose, effective date and evidence.
Disposition and legal issues	Choose an authorized path and document the decision.
A smoother transition	Give the next fiduciary usable records and clear instructions.

Federal tax framework. Administration and remedies depend on governing state law.

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

The First Fiduciary Decisions

Why art needs special care

Each object has unique condition, ownership and provenance risks.

A sale may take time while care, insurance and tax costs continue.

Immediate priorities

Confirm authority, locations and possession of every work.

Notify the insurer and review access, vacancy and transit coverage.

Photograph condition and commission the appropriate valuation.

Early protection preserves the choices available to the estate.

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

Valuation

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

Outdated Values Can Change the Distribution Plan

Illustrative values	Earlier plan	Current review
Painting A	$100,000	$300,000
Painting B	$100,000	$100,000

Does the document promise specific works or equal value?

The answer determines whether updated values change allocation, equalization or only expectations.

Updated values inform decisions. The documents and applicable law control authority.

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

Valuation Depends on Purpose/Intended Use and Date

Purpose/ Intended Use	Value question	Timing
Estate tax	Fair market value of the included interest	Date of death, unless a valid alternate election applies
Distribution	Value required by the instrument and state law	Confirm the applicable allocation date
Insurance	Coverage and replacement-value requirements	Review when custody or risk changes
Sale planning	Expected proceeds after costs	Current market and proposed sale window

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

Federal Estate-Tax Valuation and Filing

Date-of-death baseline	Document fair market value, condition and ownership interests.
Alternate valuation	An election must reduce both gross-estate value and estate/generation-skipping tax (GST).
Return support	Use Form 706 requirements and detailed expert appraisal evidence.
Calendar and liquidity	Form 706 is generally due nine months after death. Plan payment separately.

Charitable income-tax appraisal thresholds do not replace estate-tax reporting rules.

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

Art Donations: 3 Different Thresholds

Claim or value	Charitable income-tax requirement	Important distinction
More than $5,000	Generally obtain a qualified appraisal and file Form 8283, Section B.	Aggregate similar items under the applicable rules.
$20,000 or more	For an art deduction at this level, attach the complete signed appraisal.	Provide a suitable photograph if the IRS requests one.
$50,000 or more	A qualifying work may support an optional IRS Statement of Value request***	Separate from the audit-referral rule discussed later.

These rules concern charitable income-tax deductions. A bequest follows a different tax analysis.

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

The Qualified Appraiser

Qualifications

Demonstrated education and experience with the property type.

Recognized designation or the regulatory education and experience route.

Regularly performs appraisals for compensation.

Independence and engagement

Check disqualified-party and relationship rules.

Avoid prohibited value-based appraisal fees.

Specify intended tax use, effective date and required deliverables.

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

The Report Must Show Its Work

Identify the object	Artist, title, medium, dimensions, images, condition and provenance.
Define the assignment	Tax purpose, interest appraised, effective date and relevant restrictions.
Explain the value	Market selection, comparable sales, adjustments and assumptions.
Complete the disclosures	Appraiser identity, qualifications, signature, dates and required declarations.

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

IRS Appraisers and the Art Advisory Panel

Art Appraisal Services (AAS)

IRS staff appraisers review valuation evidence.

They assist examination, Appeals and government counsel.

They may review works without a Panel referral.

Art Advisory Panel

Outside specialists advise AAS on values.

In an audit, a work valued at $50,000 or more generally triggers AAS referral, subject to exceptions.

AAS determines possible referral to the Panel.

A $50,000 audit referral and a voluntary Statement of Value are different procedures.

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

Administration on Death

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

Carrying out the Estate Plan

Read the operative gift	Specific artwork, a share of residue or a tangible-property memorandum?
Confirm title and authority	Match the work to the owner, governing document and authorized fiduciary.
Apply the allocation standard	Use the required valuation date and any valid equalization mechanism.
Complete the handoff	Document receipt, condition, transport, insurance and relevant tax records.

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

Selling Art: comparison of channels

Channel	Potential fit	Terms to evaluate
Auction house	Competitive bidding and a scheduled sale.	Reserve, commissions, guarantees, expenses and unsold lots.
Gallery	Artist expertise and access to established buyers.	Consignment period, pricing authority, payment and custody.
Private sale	A targeted buyer and negotiated terms.	Price evidence, conflicts, buyer diligence and settlement.

The fiduciary should compare expected net proceeds and risk, then record the rationale.

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

Charitable transfers after death

Estate-tax charitable bequest

Section 2055 governs qualifying transfers.

Confirm the recipient, enforceable terms and deductible interest.

Coordinate acceptance with the estate plan.

Other charitable deductions

Section 170 governs individual income-tax gifts.

Section 642(c) has separate estate/trust gross-income and governing-instrument rules.

A gift of art from principal does not automatically create an income-tax deduction.

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

Authority and fiduciary duties

Administration pathway

Probate authority depends on appointment, governing law and court orders.

Trust authority depends on title, the trust terms and applicable law.

Loans, liens and entity documents may limit transfers.

Decision-making duties

Protect property and manage costs prudently.

Address loyalty, conflicts and impartial treatment.

Use appropriate experts and supervise the work.

Keep beneficiaries informed as applicable law requires.

The governing instrument and applicable law determine the fiduciary's powers and duties.

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

Authenticity, provenance and restricted materials

Authenticity and ownership

Collect invoices, prior appraisals, exhibition records and loan files.

Resolve gaps in provenance and competing title claims.

Use specialists and disclose uncertainty before transfer.

Ivory, taxidermy and other materials

Identify the species and relevant components.

Distinguish possession from sale, shipment or export.

Check federal, state and local restrictions plus permits.

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

Security and the expert team

Custody and access	Reconcile inventory, keys, alarms, locations and authorized contacts.
Care and movement	Engage conservators, fine-art handlers, shippers and suitable storage.
Insurance continuity	Confirm coverage before changes in occupancy, possession or transit.
Incident response	Contact police promptly, preserve the scene and provide object records.

Clear custody records protect the work and support the fiduciary’s decisions.

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

Beneficiary disputes: a process before a promise

Illustrative situation

Two beneficiaries want the same painting. One relies on a family conversation. The documents are unclear.

Questions for the fiduciary

What does the governing document actually direct?

Which facts and values can everyone evaluate?

What neutral allocation or dispute process is authorized?

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

When the intended plan cannot proceed

Existing discretion	Use authorized alternatives, substitute recipients or sale powers.
Agreement or modification	Explore a valid nonjudicial settlement or modification under governing law.
Court involvement	Seek construction, instructions or a permitted modification when needed.
Charitable restrictions	Review gift terms, charitable-purpose limits and any required court or regulator role.

A practical solution still needs legal authority, appropriate participation and tax review.

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

A complete handoff for the collection

The collection file

Current inventory and location of every work.

Ownership, provenance, condition and valuation records.

Insurance schedules and trusted professional contacts.

The instruction file

Identified beneficiaries and confirmed charitable interest.

Coordinated documents, decision powers and fallback terms.

Care budget, communication plan and a review schedule.

The attorney and appraiser should coordinate before a crisis and throughout administration.

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

Q&A

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author. The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.

Contact us

Sara Hire
408.299.1376
sara.hire@lathropgpm.com

Amanda Kruse
612.632.3479
amanda.kruse@lathropgpm.com

Andrea Roth, Ph.D., ASA
925.299.6850
andrea@RothEscherArt.com

For more information about our Private Client Services group, visit: https://www.lathropgpm.com

© 2026 Lathrop GPM. All rights reserved. Dissemination and duplication is prohibited without express consent from the author.
The content is intended for informational purposes and is not legal advice or a legal opinion of Lathrop GPM.