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# The Company That Owns Culture: The Tax Traps Behind Art and Grails on Your Balance Sheet

By the BlackRefer Editorial Team · November 6, 2026 · About a 14-minute read

What changes when a business, rather than its owner, holds art, collectibles and grails: the tax traps, the paperwork and the exit, plus a readiness checklist.

The BlackRefer Editorial Team writes BlackRefer Insights, practical guides for business owners built from primary sources. This piece explains what changes when a business, rather than its owner, holds art, collectibles and "grails," and where the rules bite.

**Not legal, tax or financial advice.** This article is general information about federal income tax and accounting rules as of November 16, 2026. State rules differ, and the right answer depends on your entity, your facts and your records. Nothing here is a recommendation to buy, hold or sell any asset, and nothing here suggests that art or collectibles will gain value. Do this with your attorney and CPA.

There's a pitch going around: buy the painting, the rare print or the grail sneakers through your business, hang them in the office, and let the company "own culture." Build a collection, support artists, get a write-off.

Some of that can be real. A business can own art. A company can commission Black artists, display their work, insure it, lend it and one day sell or donate it. But the write-off part is where most of the pitch falls apart, and where the IRS has spent decades pushing back.

So we'll go in reverse order: **traps first, then the balance sheet, then the paperwork, then the exit.** If the plan still makes sense after the traps, it may be worth building.

## Part 1: The traps (read these before you buy anything)

### Trap 1: "We'll depreciate it." Generally, you can't.

For tax purposes, the IRS says property must have a determinable useful life to be depreciated: "it must be something that wears out, decays, gets used up, becomes obsolete, or loses its value from natural causes." 1 Art on a wall generally doesn't fit that description, and courts have said so.

In Associated Obstetricians & Gynecologists, P.C. v. Commissioner (6th Cir. 1985), a medical practice bought "over seventy works of art" totaling $75,410.32, displayed them in its offices and depreciated them over 10 years. The Tax Court denied the deductions, and the appeals court affirmed: the practice "had the burden of proving both that the art objects had determinable useful lives and what those useful lives were," and it couldn't. 2

You may hear about an exception. In Simon v. Commissioner (2d Cir. 1995), professional violinists were allowed to depreciate 19th-century bows they actually played, because the bows suffered wear and tear. A Third Circuit case, Liddle, reached the same result for a 17th-century bass viol, according to the IRS's own citation of it. 3 But even Simon's majority drew a line: "paintings that hang on the wall of a law firm merely to be looked at ... do not generally suffer wear or tear," and "valuable artwork purchased as office ornamentation ... would probably fail to qualify." 4

The IRS has also said, in Action on Decision 1996-009 (as read in a third-party copy), that it believes Simon and Liddle "are wrongly decided and the issue should be pursued in other circuits." 3 Those cases also arose under an older depreciation system; how they would apply today is a CPA question.

**The takeaway: don't plan to depreciate grails by "using" them.** Wearing the sneakers, handling the cards or playing the guitar sets up a fight with the IRS, and the IRS has said it intends to keep having that fight.

## Trap 2: "It's the company's, but it hangs in my house." That can be income to you.

The IRS's rule on fringe benefits is broad: "Any fringe benefit you provide is taxable and must be included in the recipient's pay unless the law specifically excludes it," generally valued at what someone "would have to pay a third party in an arm's-length transaction to buy or lease the benefit." 5 The IRS guidance doesn't use an art example, but the principle covers company property an owner-employee enjoys personally.

If you own a corporation, personal use can also be treated as a dividend. In Nicholls, North, Buse Co. v. Commissioner (Tax Court, 1971), a case about a corporate yacht, the court said that "making available ... corporate-owned facilities to stockholders for their personal benefit, may result in the receipt by the stockholders of a constructive dividend," measured by "the fair rental value" for the period. 6 (We read that opinion only through an excerpt, and it involved a yacht, not art. We found no art-specific case.) The IRS's corporations guide also lists transfers of property to shareholders for less than fair market value among possible constructive distributions. 7

**Hypothetical (no real company):** a two-owner design firm buys a large painting through the company, then hangs it in one owner's living room "for safekeeping." The company paid for it; the owner enjoys it. That's the fact pattern the fringe-benefit and constructive-dividend rules are built for. If company art goes home, talk to your CPA first about how, or whether, to document it.

### Trap 3: "We'll park profits in art." C corporations can get taxed for that.

A C corporation that piles up earnings instead of distributing them can face a 20% accumulated earnings tax on accumulated taxable income. 8 Accumulation "beyond the reasonable needs of the business" is treated as evidence of a tax-avoidance purpose unless the company proves otherwise. 9 IRS regulations specifically list "Investments in properties, or securities which are unrelated to the activities of the business of the taxpayer corporation" as a sign of accumulation beyond reasonable needs. 10 A minimum credit generally shelters accumulated earnings up to $250,000 ($150,000 for certain service corporations, such as health, law and consulting) as of November 2026. 11

If your company isn't an art business, a growing collection bought with retained earnings can look like exactly what that regulation describes. Run any purchase like this past your attorney and CPA first.

### Two more you should know

• **The hobby-loss rule.** For individuals and S corporations, deductions for an activity "not engaged in for profit" are limited. There's a presumption of a profit motive if income exceeds deductions in "3 or more of the taxable years in the period of 5 consecutive taxable years." Among the IRS's own factors: "Does the activity have elements of personal pleasure or recreation?" and "Does the taxpayer intend to profit from appreciation in the value of assets...?" The IRS says the limit doesn't apply to C corporations. 12,13 Forming an LLC around a collection doesn't make it a business.

• **Entertainment facilities.** No deduction is allowed for items "with respect to a facility used in connection with" entertainment, amusement or recreation. 14 Whether that reaches art (say, in a company-owned venue) depends on the facts.

## Part 2: What your balance sheet actually says

**Tax rules and accounting rules are different systems.** "Art isn't depreciated" is a tax rule that comes from the IRS's useful-life test and court cases. How your company's financial statements treat the same piece under GAAP is a separate question, and for a business it's a judgment call for your CPA.

What we can say from FASB's codification (which we read in third-party reproductions, because FASB's site blocked access):

• **Depreciation is cost allocation, not valuation.** GAAP describes depreciation as spreading cost over useful life "in a systematic and rational manner. It is a process of allocation, not of valuation." 15 Your books generally reflect what you paid, adjusted under the rules, not what a piece might fetch today.

• **The explicit "no depreciation for art" rule is narrow.** It sits in the not-for-profit guidance and requires evidence that a work "individually has cultural, aesthetic, or historical value that is worth preserving perpetually" and that the holder can and does preserve it. Simply putting "a painting in a protective environment is not by itself evidence" of that. 16

• **Business "collections" are a high bar.** FASB guidance says businesses that hold "collections" follow the same subtopic, but a collection must be "held for public exhibition, education, or research in furtherance of public service rather than financial gain," cared for and preserved, and subject to a policy for using sale proceeds. 17 Office décor, or art held for financial gain, generally won't fit.

• **Impairment can push value down.** Long-lived assets are tested for impairment when events such as "a significant decrease in the market price" or "a significant adverse change ... in its physical condition" occur, and a loss is recognized if the carrying amount isn't recoverable and exceeds fair value. 18 A common way to describe the result is "carried at cost, less any impairment."

• **Art held "as an investment" may be a different bucket.** A Big Four accounting guide written for nonprofits says art "held as an investment" is accounted for under investment guidance. 19 We found no single FASB rule for a for-profit company's investment art, so classification is your CPA's call.

If a lender or investors read your statements, keep in mind that three different numbers can describe the same piece: what you paid (books), what an appraiser says (appraisal) and what your insurer will pay (policy). Know which one anyone is quoting.

## Part 3: Provenance and paperwork are the asset

Documentation is where "owning culture" earns its keep. A piece with a clean, complete record is easier to insure, value, lend, sell, donate and pass on. A piece without one is a question mark.

### Title: you only get what the seller had

Under the Uniform Commercial Code (each state enacts its own version), "A purchaser of goods acquires all title which his transferor had or had power to transfer," with specific exceptions for good-faith buyers in some situations. 20 A weak title chain becomes your problem once you've paid. Have your attorney review title on any significant purchase.

Search the FBI's National Stolen Art File, a database of stolen art and cultural property. The FBI cautions that recovered items are removed and "not all recoveries are reported," so a clean search isn't proof of clean title. 21

### Insurance: your property policy may not cover it

Texas's insurance regulator explains that inland marine coverage can cover property such as "Fine art," "Property in transit" and "Valuable papers," and advises: "If your business uses property that isn't covered by your commercial property policy, ask your agent about inland marine coverage." 22 Nebraska's regulator also lists fine arts among inland marine classes. 23 The NAIC's consumer guidance (written for households, but the logic carries over) notes that "insurers will require an appraisal" in many cases, that "some policies may require periodic appraisal," and suggests you "store photos of each item and a copy of the appraisal in a safe place." 24 How often to re-appraise is between you, your insurer and your appraiser; some owners use a set interval of a few years as a working example, not a rule.

### The provenance file

For each piece, keep one file (digital and backed up) with:

1. Bill of sale, invoice and proof of payment, showing the company as buyer
2. The title chain and any prior provenance documents
3. Your NSAF search date and result
4. Artist or maker information and any certificates of authenticity
5. Condition reports and dated photos
6. Appraisals, with the appraiser's qualifications
7. The insurance schedule and policy
8. A location and storage log, including any loans or exhibitions
9. Board or owner approval of the purchase and its business purpose

However you store it, the file needs to exist, carry dates and travel with the piece.

## Part 4: When the IRS looks at your art

Valuation gets reviewed, closely, when art shows up on a return.

• **Art Appraisal Services (AAS).** The IRS's AAS office reviews fair market values claimed for works of art in income, estate and gift tax cases, "including IRS Form 8283." 25

• **The $50,000 line: mandatory referral.** "A referral to AAS is mandatory for fine and decorative art valued at $50,000 or more." 26

• **The $150,000 line: the Art Advisory Panel.** AAS can send works to the Commissioner's Art Advisory Panel, which has "up to 25 renowned art experts." The IRS says, "Generally, these art works have individual values above $150,000, but AAS has discretion." The panel "does not issue written reports. Final determinations of value are made by AAS." 25 In other words, $50,000 is the referral line to AAS; $150,000 is the general panel line, not the other way around.

• **Advance review.** For art appraised at $50,000 or more, you can generally request a Statement of Value before filing. As of the IRS page reviewed June 28, 2026, the fees are "$8,400 for one to three items and $800 for each additional item." 25 Re-check before you rely on that.

• **What the panel did in FY2023** (the latest report as of November 2026): it reviewed 195 items on 37 cases with a combined claimed value of $795,527,954. It recommended accepting 103 items (53%) and adjusting 92 (47%), with 29 increased and 63 decreased. 27 That mixes estate and gift cases with charitable ones, so it doesn't mean the IRS "usually accepts" values. It does mean nearly half were changed.

• **Appraisers carry risk too.** They can face penalties for valuation misstatements unless the value "was more likely than not the proper value." 28

## Part 5: The exit (decide before you buy)

Every piece leaves the company eventually: sold, donated, distributed or inherited. The exit determines the tax, so plan it before entry, with your attorney and CPA.

### Selling: 28% versus 21%

• **For individuals (and owners of pass-throughs),** long-term gain on collectibles, including "any work of art," is taxed at a **maximum** rate of 28%, as of November 2026. 29,30 That's a ceiling; owners in lower brackets may pay less. It isn't "art is taxed at 28%."

• **Pass-throughs don't change that.** In partnerships and S corporations, the character of gain flows through to owners "as if" they realized it directly, and gain on selling an interest attributable to collectibles is treated as collectibles gain. 31,32,30 Putting art in an LLC or S corporation doesn't by itself avoid the 28% treatment.

• **C corporations are different.** A C corporation's taxable income is taxed at 21% as of November 2026. 33 Our reading of the statutes (an inference, not an IRS sentence) is that the individual 28% collectibles cap doesn't apply to C corporations, because corporations are taxed under a different section. But money taken out of a C corporation as dividends is generally taxed again at the shareholder level. Two layers can cost more than one. Run both scenarios with your CPA.

• **You may not have "capital gain" at all.** The tax code excludes from capital assets inventory "held ... primarily for sale to customers," depreciable business property, and "a literary, musical, or artistic composition" held by the person who created it. 34 A gallery, a reseller or a flipper of sneakers or cards may have ordinary income. An artist's own work isn't a capital asset in the artist's hands.

• **Sneakers, cards and comics:** the tax code's collectibles list names art, rugs, antiques, metals, gems, stamps, coins and alcoholic beverages, plus anything the Treasury specifies. 35 It doesn't name modern grails. Whether yours count is a facts question for your CPA.

• **Reporting:** individuals report collectibles sales on Form 8949 with code "C." 36 A C corporation reports on its own return.

### Donating: generosity with a paperwork stack

• **New for 2026: a floor and a cap for C corporations.** As of tax years beginning after December 31, 2025, a corporation's charitable contributions are deductible "only to the extent" they exceed **1%** of taxable income and don't exceed **10%**, under Public Law 119-21. 37 Excess over 10% can carry forward five years; amounts below the 1% floor carry forward only in limited cases. S corporations and partnerships pass deductions through to owners, who apply individual limits. This is new law as of November 2026; watch for IRS guidance.

• **Related use matters.** If the charity's use of donated art is "unrelated to the purpose or function" behind its exemption, the deduction is reduced by the would-be long-term gain, roughly to your basis. 37 Donated art you created, or held a year or less, faces other reductions. 38

• **Appraisal thresholds.** Over $5,000 requires "a qualified appraisal"; over $500,000 requires attaching it. For partnerships and S corporations, the rule applies at the entity level. 37 For art claimed at $20,000 or more, you attach the appraisal to Form 8283. 38

• **Who and when.** A qualified appraisal follows USPAP standards, must be signed no earlier than 60 days before the gift, and its fee "cannot be based to any extent on the appraised value." 39 The dealer who sold you the piece can't be your appraiser for it. 26

• **The three-year watch.** If the charity disposes of the piece within three years, it files Form 8282, and in some related-use cases you may have to give back the deduction above your basis. 40,37

## A short decision path

1. **Write down why the company is buying** (display, brand, inventory, investment). That answer drives accounting, tax and the accumulated-earnings question.

2. **Pick the entity on purpose.** Each choice changes the exit math.

3. **Assume no tax depreciation.** Price the purchase as if there's no deduction until sale or donation.

4. **Keep company property at the company,** or document why it isn't.

5. **Build the provenance file before you pay.**

6. **Insure it properly** and ask what appraisal the insurer requires.

7. **Map the exit, and revisit yearly.** Laws change; the 2026 charitable floor is proof.

## Owning culture, honestly

A company that commissions, displays and preserves the work of Black artists and makers can put culture at the center of its brand. But owning art isn't a tax shelter, and the values of art and collectibles can rise or fall and are hard to verify. Buy with a clear purpose and document from day one. Insure it properly, and plan the exit before entry. Work through it with your attorney and CPA from the start.

General information, not legal, tax or financial advice. Federal figures are as of November 16, 2026; state rules differ.

# Companion: Culture-on-the-Balance-Sheet Readiness Checklist

**Before you buy**

• ☐ We've written down the business purpose for the purchase, and our attorney and CPA have reviewed it.

• ☐ Our CPA has confirmed which entity should own the piece and how the exit would be taxed (28% maximum for noncorporate owners vs. 21% corporate plus dividend tax).

• ☐ We're not counting on tax depreciation, and nobody is planning to "use" a grail to depreciate it.

• ☐ If we're a C corporation, our CPA has considered the accumulated earnings tax and "reasonable needs of the business."

• ☐ Our attorney has reviewed title, and we've searched the FBI National Stolen Art File (and saved the result).

**When you own it**

• ☐ The piece has a complete provenance file: bill of sale, title chain, authenticity, condition reports, photos, appraisals, insurance and a location log.

• ☐ It's insured under the right coverage (ask about inland marine), at the value our insurer and appraiser agree on.

• ☐ Company-owned pieces stay at company locations, or any personal use has been reviewed by our CPA (fringe benefit or constructive dividend).

• ☐ Our CPA has set the GAAP treatment (cost, impairment, classification).

**Before you sell or donate**

• ☐ We know whether the gain would be capital, collectibles or ordinary income.

• ☐ For a donation, we've confirmed related use, hired a qualified appraiser (not the dealer who sold it to us) within 60 days of the gift, and planned Form 8283.

• ☐ If we're a C corporation, we've applied the 2026 1% floor and 10% cap.

• ☐ We've noted the three-year Form 8282 window.

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**About the editorial team:** BlackRefer's editorial team researches and writes practical guides for Black business owners and the people who support them. Every statistic is linked to its primary source, and examples are labeled as examples.

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