

Estate planning with art assets is complex, especially when it comes to establishing **basis documentation** for future sales. Many collectors are tempted to skip a formal appraisal at the *date of death valuation* to avoid initial costs or hassle. However, doing so can create significant headaches—and tax exposure—when you sell the artwork later. This article unpacks the critical importance of a **qualified appraisal under oath**, the IRS's expectations, and practical steps to minimize your **capital gains audit risk**.



Understanding Basis and Why Date-of-Death Appraisal Matters

The "basis" of an inherited artwork is generally its *fair market value (FMV) at the date of the decedent's death*. This stepped-up basis can drastically reduce capital gains tax if you sell the artwork later. Without solid documentation proving the FMV at death, the IRS may challenge your basis and demand back taxes, penalties, and interest.

In estate tax returns (Form 706), the IRS requires art valuations be supported by a **qualified appraisal under oath**, irrespective of whether the estate owes taxes. This appraisal supports the reported value and the basis you will use when selling the artwork.

Why Not Skip the Appraisal?

- **Missing documentation invites IRS scrutiny:** The IRS Art Appraisal Services unit actively audits high-value estates with valuable art holdings.
- **Complexity of fair market value:** Art prices fluctuate; without a date-specific appraisal, the IRS may challenge your valuation.
- **Future capital gains exposure:** Without documented basis, you risk paying significantly more when you sell.

What Is a Qualified Appraisal Under Oath?

A qualified appraisal is a formal report by a qualified appraiser who meets IRS standards found in *IRS Regulation 1.170A-13(c)(5)*. For estate matters, appraisers must state under oath:



- The appraisal is performed in accordance with generally accepted appraisal standards.
- The appraiser's qualifications including education, experience, and relevant background.
- The effective date of the appraisal, which must correspond to the date of death (or alternate valuation date if elected).
- Full description of the artwork and methodology used to reach the FMV.

This appraisal must be attached to the **Form 706 estate tax return** if the artwork pushes your estate value into taxable territory, or if your executor chooses to file 706 for other reasons.

IRS Art Appraisal Services Unit and the Commissioner's Art Advisory Panel

The IRS relies heavily on the **Art Appraisal Services unit** and the **Commissioner's Art Advisory Panel (CAAP)** to review appraisals submitted on Form 706. CAAP comprises independent, nationally recognized art experts who:

1. Evaluate whether the appraisal meets strict IRS standards.
2. Assess whether the valuation accurately reflects the fair market value at the date of death.
3. Help IRS examiners to select cases for audit or adjustment.

Estates without a qualified appraisal risk triggering this scrutiny, possibly leading to an audit or adjustment of estate tax and basis.

The 2026 Exemption Amounts and High Estate Tax Rates

Even if your estate falls below the \$12.92 million exemption (in 2023), projected to adjust for inflation yearly, the stakes remain high for basis documentation:

Year	Estate Tax Exemption	Top Estate Tax Rate
2023	\$12.92 million	40%
2026 (projected)	Approximately \$6 million*	40%

*Tentative figures based on current law; always check current IRS numbers.

Significant artwork values near or above these thresholds always warrant proper documentation, as any misvaluation could lead to a 40% estate tax on the art portion.

Form 706 Timelines vs. Illiquid Art Sales: The Nine-Month Challenge

Filing Form 706 is generally due nine months after death, with [View website](#) one six-month extension available. Payment of any estate tax owed is due at the time of filing the return. However, illiquid art assets present a timing challenge:

- **Artwork can take years to sell:** Auction timing, private sales, and market conditions contribute.
- **Illiquid assets can delay estate tax payment:** The IRS permits installment payments in certain cases, but requires a solid basis valuation at death upfront.
- **Limited valuation flexibility:** IRS Form 706 requires the value as of the date of death—or an alternate valuation date 6 months later if elected—but not later.

Skipping an appraisal at this critical window means guessing or arguing valuation years later, a nearly impossible uphill battle.

Practical Steps to Protect Your Basis Documentation

1. **Obtain a qualified appraisal promptly:** Engage a credentialed appraiser to produce a detailed, sworn report reflecting FMV as of the date of death.
2. **Attach appraisal to Form 706:** Even if below the exemption, consider filing to document the valuation and avoid challenges.
3. **Maintain comprehensive records:** Keep auction catalogs, provenance, prior sales records, correspondence, and any expert opinions.
4. **Consult your CPA and estate attorney early:** Don't wait for estate sale time; plan and document proactively.
5. **Be mindful of IRS valuation methods:** Appraisers should use comparables, market data, and current trends—not speculative or insurance values.

Capital Gains Audit Risk: What Happens Without Proper Documentation?

If you sell inherited artwork years later without a qualified appraisal to prove your basis, you face these risks:

- **IRS disputes your claimed basis:** The IRS may assume your basis is zero or the decedent's original purchase price, increasing your capital gains tax dramatically.
- **Interest and penalties:** You may owe back taxes with associated interest and possible penalties for underpayment.
- **Increased examination likelihood:** The IRS targets artwork sales, especially those without a date of death appraisal, via the Art Appraisal Services unit.

Since art often appreciates substantially, underreporting basis can lead to tens or hundreds of thousands of dollars—or more—in unexpected tax bills. Avoid this trap by documenting your artwork's fair market value as close to date of death as possible.

Summary Checklist: Translating IRS Timelines for Art Basis Documentation

Timeline	Action	Item	Notes	Date of Death	Engage qualified appraiser	Start as soon as possible to capture FMV	0-3
months post-death	Receive and review appraisal report	Ensure sworn statement and IRS compliance	6 months				
post-death	File Form 706 extension if needed	Six-month extension to file return	9 months post-death				
	File Form 706 with appraisal attached	Pay any due estate tax	After 9 months				
	Maintain careful sale records	Preserve documents to support basis and sale price					

Final Thoughts

Skipping a qualified appraisal at the date of death might seem like a shortcut, but it is a tax risk you cannot afford. The IRS demands rigorous **basis documentation for art**, especially for high-value and illiquid assets. Working with a qualified appraiser, complying with Form 706 deadlines, and understanding IRS scrutiny separates smooth estate transitions from costly audits or tax surprises down the line.

Proper planning today protects your legacy—and the financial value of your art—tomorrow.