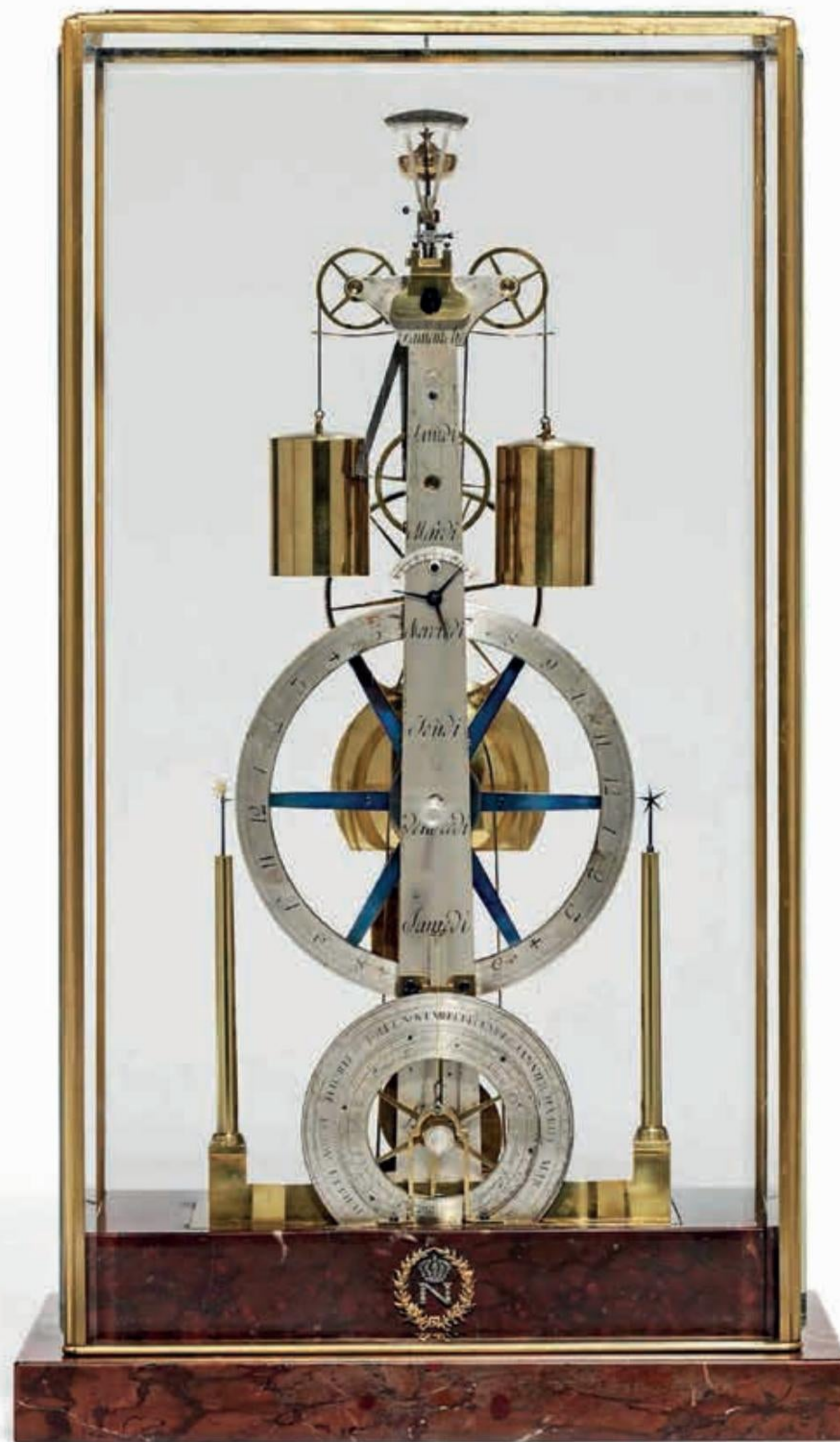


Christie's Bulletin for Professional Advisers

Spring 2016 · Volume 20, Number 1



CHRISTIE'S

HERITAGE & TAXATION ADVISORY SERVICE

Negotiated Sales • Heritage Exemptions • Lease of Objects
Cultural Gifts Scheme • Pre- and Post-sale Tax Advice
Other Tax Valuations

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NICOLAS POUSSIN (1594-1665)

The Death of the Virgin

red chalk, pen and

brown ink and watercolour

15 3/8 x 12 3/8 in. (39 x 31.4 cm.)

Negotiated by Christie's and accepted
in lieu of inheritance tax; permanently
allocated to the British Museum.





Frances Wilson
Christie's Heritage &
Taxation Advisory Service

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Cover
THE BREGUET 'NAPOLEON' CLOCK
FROM THE ILBERT COLLECTION
24 in. (61 cm.) high with case

Negotiated by Christie's and accepted
in lieu of inheritance tax; permanently
allocated to the British Museum.

Editorial

For most of its 30-year history, *Christie's Bulletin for Professional Advisers* has been published biannually in summer and winter. We have now decided to move to a spring and autumn schedule; this will make it easier to bring you the latest news at two important times of year. The UK Chancellor's autumn statement is usually delivered in November, which was always too late for inclusion in our winter issue. Likewise, any announcements regarding legislative changes by the government in the summer were always too late for inclusion in our summer issue. The new spring/autumn schedule will hopefully mean that the *Bulletin* can be timelier in its Heritage News offering, and continue to explore key issues in depth.

In this issue we have a few more articles on the theme of historic houses. The first of these was prompted by the restructuring of a key public body. On 1 April 2015 English Heritage was divided into two parts: English Heritage Trust, and Historic England. Guy Braithwaite explains the role of the latter, which inherited the statutory and protection functions of the old organisation.

Our second article relating to historic houses was also triggered by an event of April 2015: the tragic fire at Clendon Park House. Harry Fitzalan Howard reminds us of the importance of having adequate insurance cover, and looks at some of the considerations specific to heritage and listed properties.

Turning to recent legal developments, in 2015 the German government proposed new legislation to protect the country's cultural property. Andreas Richter summarises the draft legislation and assesses its potential impact on artists, heirs, collectors and dealers.

Here in the UK, HMRC has recently put forward draft regulations extending the Disclosure of Tax Avoidance Schemes regime (DOTAS) into the realms of Inheritance Tax. The draft Inheritance Tax Avoidance (Prescribed Descriptions of Arrangements) Regulations were published on 16 July 2015; there followed an eight-week technical consultation, the results of which were recently announced. Christopher McCall QC evaluates the possible effects of the draft regulations and makes the case for them to be rethought.

Finally, this year is the 250th anniversary of the founding of Christie's. Our corporate archive includes auctioneers' copies of published sale catalogues dating back to 1766, and librarian Lynda McLeod has taken inspiration from one of these to tell the story of the most significant house sale in the firm's history, that of Stowe House in 1848.

We hope you find these articles interesting as well as helpful to you in your work. We also hope you will join us in celebrating Christie's anniversary. Special events are being planned to mark the occasion; please visit our website throughout the year for further details.

Frances Wilson

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Comments and Suggestions

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Note

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Ruth Cornett
Christie's Heritage
& Taxation Advisory Service

Heritage News

Since the last issue of the *Bulletin*, the UK has had a general election and the Chancellor has announced the first Conservative budget of the new Parliament, followed by the Autumn Statement. In other words, it has been an even busier year than usual. In the midst of all the economic and political changes, there have also been significant developments in the heritage world.

Change to conditional exemption claim deadlines for relevant property trusts

After the flurry of summer activity, the Finance (No.2) Act 2015 received royal assent on 18th November. The Act included the amendment to the terms of Section 79 (3) Inheritance Tax Act 1984 (IHTA) effective from that date. The change had been long-sought and removes an anomaly for relevant property trusts holding property on which conditional exemption (CE) could be claimed. Hitherto, a claim for CE had to have been made and the property designated in advance of a 10-year charge falling due; a claim in progress was insufficient to defer the liability. The change means that henceforth, where property comprised in a settlement is subject to a charge under Section 64 IHTA and conditional exemption is desired, the claim must now be made within two years of the event rather than prior to its occurrence.

HMRC have advised that any claims which the Heritage Team is currently actively considering that were made under the old requirements will be taken forward to

the point of designation, but designation will not be made until the charge under Section 64 IHTA has occurred. When furnishing the IHT 100 for that event, a claim for conditional exemption should be made in the usual way.

Cultural Gifts and Acceptance in Lieu Report 2015

Arts Council England (ACE) published its annual report on the Cultural Gifts Scheme (CGS) and the Acceptance in Lieu (AIL) Scheme in November. The total available budget for both schemes remains at £40 million of tax settled; however, in 2014-15 only £25.7 million was settled through the two schemes, possibly an indication of how long cases can take to conclude and the difficulties of ensuring that the budget is fully used. In recent years the budget has been completely exhausted and a few cases have had to straddle two funding years in order to conclude. As usual, it is the AIL cases which take the lion's share of the budget, with around £25.5 million of inheritance tax settled. This year was also noticeable for the increased number of cultural gifts, 6 out of a total of 29 completed cases, although the total value of CGS in terms of tax settled and disclosed remains comparatively small. ACE points out in its report that it is a feature of the CGS that individuals are permitted to spread the tax reduction over five years and so the figures disclosed in 2015 may not reflect the total tax reduction for all the CGS gifts agreed during the reporting year. The amount of tax reduction in 2014-15 for CGS

donations agreed in earlier years was £45,000 and the value of the tax settled in 2015 was just over £137,000. Two significant drawbacks to the scheme are the inability to either carry-back the tax relief to earlier tax years or to amend the claim in later years should the donor's circumstances change. These are disincentives for many would-be offerors. More flexibility with the allocation of the tax reduction would be very welcome.

The report makes the point that much of the AIL Panel's time was taken up with allocation of the works by Frank Auerbach from the estate of the late Lucian Freud. These have been distributed to regional galleries across the UK and the AIL panel's enthusiasm for supporting the regions is mentioned in the report. It is often worth considering an offer in lieu or a CGS donation to a regional museum or gallery as objects may be pre-eminent in a local context and thus sought by the regional curators.

New museum and gallery directors appointed

In my last report I commented on the retirement and resignation of many museum and gallery directors. Since then their successors have been announced: Alex Farquharson has taken over as the director at Tate Britain and Hartwig Fischer has replaced Neil MacGregor as the director of the British Museum. The new director of the Ashmolean Museum, replacing Professor Christopher Brown, is Dr Alexander Sturgis, while at the National Portrait Gallery, Dr Nicholas Cullinan replaced Sandy Nairne in the spring of 2015. At Tate Modern, Frances Morris will replace Chris Dercon when he stands down in 2017. We wish the appointees every success in their new roles.

Contemporary Art Society announces new scheme to acquire works of art

In December 2015 the Contemporary Art Society (CAS) announced the launch of a new scheme to assist museums in the UK in acquiring works by British contemporary artists who have established an international reputation over the last 20 years. The new scheme replaces the CAS's Annual Award which ran between 2009 and 2015. The CAS has been supported by the Sfumato Foundation to provide a new 'Great Works' award, enabling one major work to be acquired each year for a UK museum or gallery. The 69 museums across the UK which are members of CAS are invited to make a case for how the acquisition of a contemporary work would benefit their institution, its audiences, scholarship and profile. The winner will be announced in March 2016 and the acquisition will go on display in 2016-17.

DCMS announces the launch of a research paper

In September, the Department for Culture, Media and Sport (DCMS) announced that it intends to publish a white paper on the arts in the UK. The announcement marked the 50th anniversary of the publication of the first white paper on this topic by the first Minister for the Arts, Jennie Lee. That report recognised the important role of living artists in promoting public engagement with the arts. As the recent announcement explains, the new white paper will explore four key themes:

- the role that culture plays in creating places where people want to live, work and visit, and how our culture and heritage contribute to vibrant, healthy communities across the country

- financial resilience in cultural organisations and institutions through new funding models
- public engagement with culture; how to ensure that everyone can learn about and through culture, and get the right encouragement and opportunities to experience and participate in cultural activities throughout their lives
- tourism and, in particular, how to work with British cultural institutions to promote the UK abroad, in its relations with other countries and international organisations, and to support trade, exports, inward investment, inbound tourism and the presentation of cultural artefacts.

The themes are very much in line with the need for cultural institutions to find better ways of engaging with the public and seeking alternative sources of funding. The publication date of the white paper has not yet been announced.

Historic Houses Association's Report

In October the Historic Houses Association (HHA) released the findings of a report commissioned to assess the economic and social contribution of independently owned historic houses and gardens. The report makes interesting reading and, while the general finding that historic houses and gardens make a vital contribution to rural economies and tourism is not surprising, the scale of that contribution is. The key findings are in the economic, social, community and cultural contributions, but the emphasis is on the economic contribution (thus echoing one of the themes in DCMS's white paper). In terms of sheer numbers, the economic findings of the report are an important

demonstration of just how essential historic houses and gardens are to the UK. As well as direct employment (approximately equivalent to 16,500 full-time jobs), historic houses support through their purchases approximately 23,000 local businesses and more than 41,000 full-time equivalent jobs. As may be expected, tourism and the wider economy also benefit significantly from historic houses and gardens, with the research indicating that more than 24 million visits to them take place annually. The total estimated gross expenditure by the visitors is just over £1 billion, and much of this spend takes place off-site, particularly in rural towns and villages. It is also interesting to note that many of the historic houses and gardens play important roles in education and learning and, as well as direct employment, provide opportunities for volunteers, with a total of almost 22,000 volunteer days having taken place in 2014. Part of the report's purpose was to establish the scale of the problem of maintaining these properties, an issue which the HHA has commented on frequently. Those historic houses that replied to the survey reported spending £41 million on one-off repairs and almost £91 million on one-off capital development over the last three years. There is, however, a backlog of repairs which is now estimated to be increasing by approximately £11 million per annum.

Heritage Counts 2015

The annual report on the state of the historic environment, *Heritage Counts*, was released in November 2015. This is the 14th annual audit of the historic environment in England and reports on major developments and trends in the heritage sector. This year *Heritage Counts* considered the local historic environment and those responsible for its care. Much of this environment is looked after by private individual owners or Preservation Trusts. This is perhaps not surprising, but the amount of public engagement with and participation in the historic environment has increased significantly, which is surprising. Participation has increased in number: 72.6% of all adults visited at least one heritage site in the 12 months (2014-15); between 2007-8 and 2014-15 membership of the National Trust has grown by 18% and for English Heritage Trust it has grown by 43%. Membership of Friends of the HHA has also increased by 65%, from 24,500 in 2007-08 to 40,500 in 2014-15. Educational participation has also increased, although by a smaller amount: there were approximately 1.9 million school visits to historic sites in 2014 and this is a 2% increase on the figure in 2001, when the data was first published. With regard to the maintenance and care of buildings, the largest source of public funding in the UK is the Heritage Lottery Fund. Since its creation the HLF has awarded over £6.6 billion to support

heritage projects and about 40% of the funding has been allocated to projects in areas with high levels of deprivation.

The statistics reported in *Heritage Counts* reinforce the view that there is growing popularity for heritage and highlight the importance of maintaining the historic environment for everyone to enjoy, but the report also draws attention to the backlog of repairs faced by the private owners of historic houses which currently stands at £764 million, double that in 2009. The same point has been made by the HHA over the years but the situation shows no immediate signs of improvement.

But is it good for us?

I mentioned in a previous issue that *Heritage Counts* 2014 had included the results of the Taking Part survey commissioned especially for that report, which had suggested that heritage is good for wellbeing. The DCMS has now published an analysis of the data from the Taking Part surveys from 2010 to 2013 which found that there is no significant correlation between visiting a museum or gallery and happiness. There did, however, seem to be a 'statistically significant association' between visiting heritage sites or participating in moderate intensity sport, and happiness. Museum professionals urged caution over interpretation of the data; clearly more research needs to be done.



Christopher McCall QC
Maitland Chambers

Christopher is a trust specialist at Maitland Chambers in Lincoln's Inn with a practice encompassing both charities and private trusts, and in the latter context extending to issues of inheritance tax and capital gains tax. He started in practice in the mid-1960s and some ten years later became one of the Revenue's retained Counsel, working for them over a period of thirty years at the same time as conducting an extensive practice for private clients. In 2015 he was awarded STEP's Lifetime Achievement Award for his work in the field of private client and trust law.

DOTAS and Inheritance Tax – Perhaps a Little Paranoid?

Author's Note

The article below was written before 2 February when HMRC issued its welcome statement that it planned to revisit its thinking on the application of the Disclosure of Tax Avoidance Schemes (DOTAS) arrangements in the context of IHT. In a sense therefore it is no longer relevant. But perhaps it still serves a purpose as a critique by reference to which readers might address any further developments in relation to DOTAS generally and IHT in particular. Readers will have their own views of what should be the DOTAS hallmarks for the purposes of IHT; the author welcomes the fact that HMRC has shown that it is ready to be responsive to constructive solutions that respect the principles of DOTAS, but avoid penalizing those who take 'plain vanilla' steps to restructure their estates. It is also welcome news that responses to the consultation approached the matter on that basis. DOTAS is not unreasonable in itself; on the contrary. But overkill is not acceptable, and future draft regulations should be reviewed with care.

Some months ago HMRC put forward a draft of regulations extending the Disclosure of Tax Avoidance Schemes regime (DOTAS) far more aggressively into the realms of Inheritance Tax. There followed a brief consultation period and we now await the outcome. Suffice it to say that on one reading of the draft there must have been cause for almost universal concern amongst those with large enough estates to contemplate using any of the reliefs from the tax, from gifts within the

scheme of potentially exempt transfers to the purchase of an old master or a farm. A careful reading of the draft regulations could reasonably leave the feeling that they were infected by nothing short of a paranoid fear of what the taxpayer gets up to when faced with the thought that one day his heirs will face the burden of inheritance tax.

The vice of the draft lay not in its expected attack on what might be called the artificial tax avoidance devices dreamed up by clever advisers who see an unintended hole in the legislation and work out how to take advantage of it. Few who have come to accept the DOTAS regime in other areas of tax can really complain when they are asked to disclose the use of marketed schemes in the context of inheritance tax. Many a device (most famously the so-called Franco scheme of the '70s) escaped the tax only because in days when retroactive tax charges were still considered inappropriate the Revenue took time to close the stable door because they did not know that the horses were bolting out of their sight.

But now we know that the days of such schemes are long since past.

So it is not the idea of a DOTAS extension into the realms of inheritance tax at large that is the cause for concern; it has a perfectly legitimate role to play. Rather, it is the fact that it has in this case been extended to cover not just schemes in the truest sense of the word but also, on one reading at least, almost any step taken, however innocent, which might reduce the ultimate burden of inheritance tax.

The draft regulations have to be read in the light of the definition of the word 'arrangements' for the purpose of what was the original enabling legislation in Part 7 of the Finance Act 2004; the word means any 'scheme or transaction or series of transactions', so that a single step is all that was needed to constitute 'arrangements' even though the latter word appears in the plural. What then in the draft IHT regulations was required if disclosure was to be required was (in any event) that the so-called Condition 1 was satisfied, namely that the arrangements had to have as their main or one of their main purposes the achievement of an advantage in relation to IHT. In addition, one of two alternative conditions had to be met; either

- (Condition 2) One or more elements of the arrangements would be unlikely to have been entered into but for the obtaining of the tax advantage, or
- (Condition 3) The arrangements involved one or more contrived or abnormal steps without which the advantage could not be obtained.

The combination of Conditions 1 and 3 might be thought to be relatively unexceptionable; the disclosure of contrived steps and manufactured schemes is part and parcel of DOTAS. So long as abnormality is to be judged in terms not of what is normal for the taxpayer in question but what is normal taking a view of the actions of taxpayers in general, this part of the draft seems fair enough. But Condition 2 is a different matter. Take the case of a parent who gives the family home to one or more of his children and takes a lease at a full rental. The lease would surely not have been entered into but for the protection of the

tax advantage which could be expected to be obtained by the gift. But it is nothing more than mainstream planning for the reservation of benefit after the making of a gift to be negated in this way; the legislation expressly signposts that the taking of such a step will preclude the application of the anti-avoidance regime. How can that be tax avoidance rather than the distinct concept of tax mitigation, namely the seeking of tax advantages in ways wholly consistent with the evident purpose of the legislation (compare the statements of Lord Templeman in the New Zealand Privy Council case of *Challenge Corporation*, where he sought to distinguish acceptable mitigation from unacceptable avoidance in a way which even the tax inspector on the *Clapham omnibus* would have been ready to applaud).

But if a single-step transaction can be within the scope of the regulations, what then of the case of the elderly couple who sell the family home to 'down-size' and then take the opportunity to make gifts to their children to get them on the first rung of the housing ladder? One of the main purposes of this must be the saving of tax by the reduction of the donors' estates; if not it would surely have been done by way of loan from that increasingly familiar challenger bank, the Bank of Mum and Dad, if only, say, to give protection in case a child's marriage should break up (for no parent likes to think that his generosity will benefit a divorcing son or daughter in law, above all if the donor is still alive to rue the day the gift was made). It is a strange world in which gifts which are declared to be potentially exempt from tax have to be disclosed as a form of tax avoidance.

But that appears to be the meaning of the draft regulations, and if proof be sought it can be found in the fact that a special exemption was generously made for the case where 'a person makes or amends their will or codicil'. Some may indeed think it little short of extraordinary for the draftsman to regard it as necessary to exempt from disclosure the exercise of an individual's right to go to his solicitor and ask him for help in making a will, an exercise hedged around as it is with privilege and confidentiality until the dread day comes when he has to recognise that 'you can't take it with you' and his executors have to publish the will. This is not tax avoidance; it is the arrangement of the testator's affairs as he thinks fit with whatever IHT consequence the legislation may impose. But the draftsman did think exemption necessary. In other words he had what can only be termed a perverted view of tax avoidance. Making a will is not tax avoidance; it is planning for the inevitable. We surely have not reached the day when that which is forced upon us by the bounds of mortality is seen by that inspector on the Clapham omnibus as something which needs a special exemption not to be equated with tax avoidance.

Many may feel that the attack on tax avoidance in its proper sense, that is to say the making of arrangements which on a purposive construction can be seen to be without the parameters of the legislative intention, was long overdue; the author has indeed argued the point for HMRC on numerous occasions and not always without success. So in that sense one ought to welcome the IHT DOTAS. But the draft goes far too far.

Are all lifetime gifts to be disclosable if they have a material effect on the donor's prospective tax liability? The will-making exemption suggests that that is the case. What about the elderly who decide to invest on the AIM market or indulge their passion for fine art or invest in agricultural land on the basis that it is not only a good investment but may in part shelter their estate from tax?

If the regulations when finally published are left in their original form one can but feel that they will not only prove unworkable for advisers and their clients, but above all for the fisc, which may well find that it is deluged with information which it simply does not need. It cannot be right that we have to keep HMRC informed of every gift where the donor jokes that 40% of his generosity comes from the Chancellor, of every purchase of assets eligible for tax relief. But the will-making exemption makes it clear that the draftsman is not in a mood to give those who think about the taxation of their estates the benefit of any doubts.

The fact is that Condition 2 needs to be rethought.



Guy Braithwaite
Historic England

After two years in a London auction house, Guy joined English Heritage in 1994 as a regional caseworker. Since then he has coordinated grant schemes nationally and spent two years with Heritage Lottery Fund on secondment. He is now National Quality Assurance Manager for Historic England, supporting local teams in their grant-giving and advisory casework, including advice to HMRC on the conditional exemption tax incentive.

The Role of Historic England

2015 was a landmark year for England's heritage. The overwhelming public reaction to the field of poppies first installed at the Tower of London continued as it was displayed at several locations round the country, while the commemoration of the 200th anniversary of the Battle of Waterloo and the 800th of the Magna Carta reinforced the significance of these key historical events. At the same time, a new structure emerged for protecting and presenting the physical remains of the nation's heritage.

On 1 April, Historic England was launched as the newly-focussed public body for the historic environment. Historic England is the operating name of the Historic Buildings and Monuments Commission for England. We advise on listing and planning, give grants, provide guidance, do research, and care for an extensive archive. The Commission had previously been known as English Heritage and, in addition to the functions already mentioned, had managed and presented to the public the national heritage collection of more than 400 monuments and buildings which includes Stonehenge, Dover Castle, Rievaulx Abbey, Osborne House, Audley End and Brodsworth Hall. From 1 April 2015, we transferred the care (but not ownership) of these sites to a newly-established charity, the English Heritage Trust, under a licence which runs until 2023 and gives the charity the exclusive right to use the English Heritage name.

This new model opens up great opportunities and potential for the English Heritage Trust. Although the licence

maintains the safeguards of continued public ownership of the sites in its care, the new arrangement provides a clarity of purpose for the Trust and a flexibility which had not previously been possible. In addition, the Government has made £80 million available to address a backlog of urgent repairs and to invest in the development of facilities at a number of priority properties.

For Historic England, the new model means a sharper focus on the historic environment beyond the national collection. As a statutory consultee in the planning process, advising local authorities on a variety of development proposals, we have an important role to play in helping to manage change in a way that respects and enhances the historic environment. Increasingly, we are shifting this constructive conservation work to early engagement, either by discussions with property owners and developers at the pre-application stage or with local authorities and government bodies at a strategic level. Our research and listing work supports this upstream approach so that we can direct our resources to where they are most needed. We are responding to such factors as the government's growth agenda, investment in infrastructure and climate change.

Our work on heritage sites which are in poor condition has also gained a fresh focus with the creation of dedicated heritage at risk teams around the country. We have been monitoring the state of England's built environment and publishing the Heritage at Risk Register for more than a decade now.



Above

Stray Walls, Castle Howard

A tower and section of wall before repair

© Historic England

Right

Stray Walls, Castle Howard

One of the towers after repair

© Historic England



As an Official Statistic, Heritage at Risk is widely accepted as a benchmark for assessing risk and a means of prioritising action. We work with owners, custodians and local authorities to find solutions for heritage at risk assets. In some cases, this means analysing problems and advising on repairs. In others, we can help identify alternative uses, different approaches to management or other bodies with funds available to help. Our budget is limited, so we tend to reserve our grant funds for cases where other agencies are unable to help or cannot react quickly. This may be for emergency action, project development or for repair projects, targeting properties which are low priority for other public or charitable funding, such as those in private ownership.

These initiatives rely on a partnership approach. We aim to work constructively with active and committed owners and custodians. Very occasionally, such an approach is not possible and more direct help or intervention is called for.

Historic England works from nine local offices around the country and an archive and record centre in Swindon which is also home to a number of specialist teams. Some activities and facilities are still shared with English Heritage. This enables the two organisations to achieve economies of scale, for example in certain back-office functions. One more outward-facing example of this joint activity is the conditional exemption tax incentive. Historic England advises HM Revenue & Customs on historic environment property qualifying for one of the tax reliefs available for national heritage property of outstanding interest. Some cases involve large and complex historic entities comprising land, buildings and historically associated objects.

While Historic England staff cover historic land, outstanding buildings and their amenity land, we obtain expert advice on historically associated objects from English Heritage. Here, English Heritage can bring to bear its experience in curating

and managing the collections at around a hundred of the sites in its care. It has a range of specialist knowledge and skills amongst its curator and conservator teams and a national perspective which goes with an organisation that looks after its own large and important collection.

England's historic environment is rich and diverse. It is a key part of our national identity and one of the unique selling points of the tourist industry. At Historic England we aim to champion historic places of all kinds. Historic houses are an important part of our shared heritage. We aim to provide a service that responds to their particular needs and challenges, whether in the context of the planning system, finding solutions for heritage at risk or in advising on the conditional exemption scheme. Our overall aim is to ensure that historic houses continue to thrive as homes or find new uses sympathetic to their significance so that they have a secure future.

Chatsworth Renewable
Energy Centre
© Chatsworth Estate



Case study 1

Historic England has enjoyed a long and close relationship with the Chatsworth Estate, where every conceivable national designation applies and historic buildings of the highest significance are littered across a landscape of equal importance. Since taking on the running of the Estate in 2004, the 12th Duke and Duchess of Devonshire have invested significantly in the House and Estate, with comprehensive works requiring statutory consent. Historic England is heavily involved in providing detailed pre-application advice on diverse proposals, working in partnership with the Estate and the local planning authority. An ambitious proposal was to create a renewable energy centre for Chatsworth.

Funded by the famous 2010 attic sale, the technology required a new building in close proximity to the main House. We recognised the benefits of the scheme and shared the Estate's confidence that the proposed location adjacent to the Grade I listed stables could accommodate a building of high-quality modern design. The building is considered an exemplar of its type. Alongside investment in green energy, the comprehensive repair and representation of the great House has been something upon which we have provided specialist, detailed advice. Our role in bringing our national expertise and experience to bear is welcomed and helps shape proposals for the better.

Castle Howard
 Pyramid and piers on
 St Anne's Hill after repair
 © Historic England



Case study 2

Castle Howard is an exceptional landscape in terms of its vast size, complexity and significance. The key phase of the creation of the current designed landscape and buildings took place in the early to mid-18th century, on the site of Henderskelf Castle and village. John Vanbrugh, and later his assistant Nicholas Hawksmoor, were responsible for the initial design and construction of the house and gardens, as well as numerous buildings in the gardens and park for the third Earl of Carlisle.

Historic England has been working closely with the Estate and Natural England to help find solutions for at-risk buildings and elements of the landscape. We advised on a conservation management plan for the whole Estate, completed in 2008, which set out a programme of action. Parts of the Estate are now in Environmental Stewardship and some major repairs have been achieved. We were able to help with the restoration of the Pyramid and, in conjunction with Natural England, have supported repairs to the extensive sham castle known as the Stray Walls.



Andreas Richter
P+P Pöllath + Partners

Andreas is a trust and estate partner in the law firm of P + P Pöllath + Partners in Berlin.

The Reform of the Law on the Protection of Cultural Property in Germany

Introduction

In the coming year, an amendment to the cultural property protection legislation will be passed in Germany; inter alia, to implement the EU Directive 2014/60/EU on the return of cultural objects unlawfully removed from the territory of a member state.

The cultural protection legislation, which is currently scattered over three texts, will be harmonised and merged into a single Act. This legislation will make improvements in various areas. According to the preliminary ministerial draft, 'the draft legislation includes improved import and export restrictions to better protect national cultural property (*nationales Kulturgut*) against exodus, to regain cultural property unlawfully removed from Germany and to more effectively return cultural property of, and unlawfully removed from, foreign states, to them' (unofficial translation from German).

During the summer, there was an uproar in the German art scene after an unofficial draft version of the planned Act was leaked. Artists, collectors and art dealers sharply criticised both the unofficial draft bill and the responsible Federal Government Commissioner for Culture and the Media, Prof. Monika Grütters.

The official draft bill, which had long been awaited and was finally published on 15 September, provides less severe restrictions than initially expected. Is it, then, anything to be worried about?

To answer this question and to illustrate the concerns of the German art traders regarding the draft bill, this article will compare the current law with the expected changes. In this respect, special attention will be paid to the changes to the rules on the prevention of the exodus of German cultural property.

Prevention of the exodus of German cultural property

a. Current legal situation

Regarding the exodus of cultural property, German law currently differentiates between exports to EU member states and those to non-EU countries. Whereas, according to Regulation (EC) No 116/2009, exports to non-EU countries require a licence by the competent authority if certain thresholds as to age and value of the cultural goods are exceeded (e.g. for paintings: €150,000 and 50 years), such restrictions do not apply regarding intra-EU exports. In contrast to other jurisdictions, according to German law, cultural goods can be circulated and sold freely within the EU, except if they are listed on the so-called Register of Cultural Property of National Significance (*Verzeichnis national wertvollen Kulturgutes*, hereinafter referred to as the Register). So far, the Register is, however, rather small. The reason for this might be that collectors refrain from requests for registration due to the trade restrictions imposed on, and the corresponding diminution in value of, the artwork, as a consequence thereof.

Besides, the federal states, which are authorised to put cultural goods on the Register, have not become aware of planned exports of artworks to other EU member states in the past.

If cultural goods are brought to other EU member states without any export license being required, they can be sold there – at auctions for example – also to collectors from non-EU countries. This again does not require any export licence by a German authority. At this point, the export to the non-EU country and its potential licensing are governed by the law of the state where the artwork is sold. This state will normally not be interested in the preservation of German cultural property and will then authorise the export.

Consequently, a possibility of indirect unauthorised export of German cultural property to non-EU countries remains.

b. Changes by the planned amendment

In the past, it has been difficult for the Federal Republic to repurchase cultural goods of national importance – especially valuable ones – and to return them to Germany after they were sold abroad. In order to keep artworks of national significance in Germany, the preliminary ministerial draft includes stricter export restrictions.

Generally, the preliminary ministerial draft preserves the principle of a free movement of cultural property. However, this principle is limited by various rules. For instance, cultural goods which are classified as nationally significant may only be exported, whether temporarily or permanently, with an appropriate license.

National cultural property is defined as such cultural property which is:

- a) listed on the Register, or
- b) publicly owned and held by a public institution which preserves cultural property, or
- c) owned and held by an institution which preserves cultural property and is mostly publicly financed, or
- d) part of an art collection of the Federal Republic or of a federal state (exception: regarding privately owned cultural property, this only applies if the lender agrees; such an agreement is revocable at any time).

Furthermore, exports to EU member states shall only be permitted if the cultural property either does not exceed a certain age and value (e.g. for paintings: €300,000 and 70 years) or if the export is authorised by the competent supreme federal state authority. Before any export of works which exceed these limits, the vendor has to apply for an export license. A failure to adhere to this duty may trigger criminal liability.

The authority should make a decision within ten days after the application. After receiving the request, the authority will review whether the artwork in question amounts to 'national cultural property'. This presupposes:

- that the work is of special significance for the cultural heritage of Germany, of its federal states or of one of its historical regions and, as a result, gives identity to German culture, and
- that its exodus would constitute a substantial loss for the German cultural heritage and, as a result, there is an outstanding cultural and public interest that the work stays within the Federal Republic.

If these legal preconditions for registration are not fulfilled, the authority has to grant the license. If they are fulfilled, however, the approval of a pluralist expert committee is needed before the artwork can be added to the Register. This committee must be convened by the authority and is composed of experts from institutions which preserve cultural property, academics, art dealers and private collectors.

The requirement of an export licence is highly contested among collectors, artists and dealers alike. The reason for this is that, in contrast to the position under current law, the authorities will become aware of considerably more artwork. They have the opportunity to consider whether the artworks amount to national cultural property or not. Accordingly, the number of entries on the Register will rise. Owners of cultural goods fear this entry, since the smaller market (only within Germany) will be accompanied by a diminution of the value of their property.

The government was accused of preparing an expropriation and, when the draft bill was leaked, German artists like the painter Georg Baselitz announced that they intended to withdraw their works from the museums and take them abroad, or that they had already taken them abroad. In comparison to the unauthorised leak, however, the official preliminary ministerial draft is considerably more moderate. In particular, the following key points apply in the context of the new rules for the protection against the exodus:

- During the lifetime of the artist, the export of work still owned by him to another EU member state does not require any licence. Moreover, during his lifetime, the classification of artworks as cultural

property of national significance is only possible if the artist agrees. Thereby, the creative phases of the artists shall not be intruded upon.

- There are no changes regarding the export of cultural property to a non-EU country; in so far the requirements of the Regulation (EC) No 116/2009 on the export of cultural goods still apply.
- For cultural property which had formerly been permanently located in Germany, and then was located outside Germany for more than five years and should now be returned to Germany, the competent authority can assure that the artwork will not be registered as cultural property of national significance. Such an assurance requires that the artwork will then be located in Germany for more than five years and is publicly displayed or available for research purposes as a loan.
- Contemporary art is excluded from the requirement for a licence. Paintings, for instance, are only affected if they are more than 70 years old and have a value of at least €300,000; watercolour paintings are affected if they are more than 70 years old and have a value of at least €100,000.
- The authority is obligated to grant the license if the export helps to return cultural property which was taken from its former owner as a result of NS-persecution.
- If cultural property is exported unlawfully, this gives rise to a claim for return against the state the goods were exported to.
- In case the authority's approval to export an artwork is denied, but the owner is forced to sell the artwork due

to economic hardship, the state shall work towards an equitable relief for the loss of profit.

- Entries on the Register shall still be possible upon request or by the authorities.
- Entries on the Register grant tax advantages within the meaning of the German Income Tax Act and the German Inheritance and Gift Tax Act.
- Furthermore, the protection of public collections shall be enhanced by putting them under statutory protection. This improves the possibilities for the recovery of cultural property which has been illicitly exported or lost in any other way. Artworks lent to museums by private collectors can be classified as national property and obtain statutory protection too, if the lender approves. This approval is revocable at will.

Duties of care when putting cultural property into circulation

Illicit trade with cultural property as well as illegal excavation shall be combated by a sophisticated system of duties of care for those who bring cultural goods into circulation.

First, there will be a general duty of care for everyone who brings cultural property into circulation. Such a person has to make sure whether the work of art was lost or illicitly imported or excavated. Since the general duty of care shall also apply to private individuals, who, on the other hand, shall not be excessively burdened, the general duty of care will only apply in cases where suspicion of an illegal origin would be obvious to a reasonable person. A violation of the general duty

of care renders the contract void. This means that anyone who fails to comply with the duty of care makes himself liable to a potential claim for damages by the other contracting party.

Concerning art dealers, however, stricter rules apply: in addition to the general duty of care, inter alia the name and address of both the vendor and buyer have to be recorded and a description and an image of the artwork have to be made, so as to allow the determination of the identity of the cultural property and of its provenance. Furthermore, documents which prove the lawful import and export have to be scrutinised. All inspections and their results have to be recorded and those records must be kept for a period of 30 years. A violation of the duties of care in commercial dealings is a non-criminal offence which is punishable by an administrative fine.

However, the draft bill contains penal provisions as well. Criminal liability arises if:

- a) cultural property is exported without a license even though a license is required, or
- b) illicitly exported cultural property is made the subject of a contract, or
- c) cultural property is imported despite an import prohibition, or
- d) cultural property which was lost in any way, imported or excavated illegally, is brought into circulation.

Import controls and simplified return procedure

With the amendment of the cultural property protection legislation, new regulations for the import of cultural goods are put into effect, which shall facilitate the recovery and the return of illicitly exported cultural objects to their country of origin. Instead of the previous so-called 'list method', which required an entry on the register of the contracting states and, as a result, was ineffective in practice, there will be an import check in the future. At the time of the import, evidence of a legal export from the country of origin has to be submitted. Illicit exports of cultural property from EU member states or contracting states will then constitute illegal imports to Germany.

Conclusion

To sum up, the following conclusion can be drawn: it is unlikely that the reform of the law has any negative impact on artists.

The reform will bring certain restrictions to heirs, collectors and dealers. These restrictions, however, will presumably not be as draconian as it had partially been assumed after the leak of the unofficial draft bill. The planned statutory regulations are also more liberal than those of other EU member states.

Those new rules which restrict the principle of a free movement of cultural property – which is explicitly stipulated in the draft bill – have to be interpreted restrictively. In addition, the conditions

which need to be fulfilled seem to indicate that there are high hurdles for a classification of cultural property as being of national significance. The Federal Government estimates that 90–95% of the cultural property which requires an export license is not 'culturally significant'.

Nonetheless, these legal concepts are indeterminate and therefore require interpretation. This interpretation is for the authorities to decide. Thus, there is a lack of legal certainty. The risk that the competent supreme federal states' authorities will prefer an extensive interpretation cannot be ruled out. At the moment, it is impossible to predict the amount of cultural goods which will practically lose their merchantability because of the registrations. Only the administrative practice in the future may lead to clarification. The equitable relief for the diminution in value caused by the registration will not play a big role in practice, because of the requirement of economic hardship. It also remains to be seen whether the export applications can be processed quickly enough to guarantee smooth trading.

For the international market, the planned reform probably leads to a decreasing supply of German artworks of certain age and value.



Harry Fitzalan Howard
Gauntlet Insurance Services

Harry founded Gauntlet in 1982 and is one of the country's leading private client insurance brokers, specialising in arranging bespoke insurance policies for the owners of heritage properties, London homes and landed estates throughout the UK.

Insurance of Historic Houses and Art Collections

The protection of heritage buildings of architectural importance, their art collections and contents, can be a major concern for owners, be they individuals, families or trustees. Many disastrous events remain beyond an owner's control and can put the building and contents at risk of serious damage or destruction. Responsible owners will use thorough risk management planning to prevent a disaster, but if the worst does happen, quality insurance arrangements will be the key to recovering from the event by reinstating the property or compensating for the loss.

Many will be aware of the April 2015 fire at Clandon Park, an historic house belonging to the National Trust in Surrey. Eighty fire fighters attended the property to tackle the blaze which took nearly 24 hours to bring under control and finally extinguish. Only one room was left unscathed. Speaking at the site the morning after the fire, Dame Helen Ghosh, Director General of The National Trust, said: 'The scale of the damage to the mansion has been devastating. The house is now essentially a shell, most of the roof, ceiling and floors have collapsed into the bottom of the building ... We have saved some significant items but certainly not everything that we wanted to save. We have a very well-rehearsed plan to get key items out of houses.' The National Trust is hopeful that a combination of insurance proceeds and public donations will enable the house to be rebuilt and that the property will have a

long term future; when, and in what form, remains to be seen. The cost of reinstating the property is now estimated to be well in excess of £30 million.

What is clear is that without adequate specialist insurance even a well-funded public body would not be able to reinstate the property and furnish it with the quality chattels and finishes which existed prior to the loss. A 2015 survey of Heritage Alliance and Historic Houses Association members showed that the five principle threats to UK heritage properties are perceived to be weather/water damage, fire, lack of funding, wear and tear, and crime and vandalism. Other than lack of funding and wear and tear, the other risks can all be covered by insurance.

In recent times there has been a significant shift in the importance placed on insurance. Prudent owners, including trustees, wish to protect their heritage assets with as much care and management as other more 'liquid' assets. The wealth of a family today can just as easily be located on the walls of the property as in the value of the property itself. General household insurance is not appropriate for covering such high value historic and listed properties, and standard household insurers may lack the required knowledge, experience and specialist understanding required to deal with claims arising from this sector. The industry has responded by providing policies specifically designed for owners of historic and listed properties.

The very significant rise in the value of fine art collections over the last thirty years has resulted in owners becoming increasingly aware that effective insurance cover needs to be in place to protect the capital value of their assets from total loss – say in a fire or burglary – and also from depreciation in value following, for instance, accidental damage or water damage. Trustees often have a legal duty to protect an art collection, and cost-effective insurance will provide the cover they need.

As most owners will be aware, the simplest and most cost-effective way of insuring fine art is to base the insurance cover on an Inventory Valuation and so cover the individual works of art on an 'Agreed Value' basis of settlement. In order to reduce premium costs, owners can select to insure objects which are conditionally exempt from capital taxes for their net value; i.e. after deduction of the deferred tax element from the value of each item. Specialist insurers and brokers are able to design bespoke policies which take into account such issues in order to keep premiums to a minimum.

Currently the art insurance market is at the lowest level seen for many years. Premium rates have never been more competitive and therefore options such as insuring fine art for selected perils, i.e. fire and theft only rather than full 'all risks' cover have gone out of fashion, as there is no real premium saving between the two. If the market should turn and significant rate increases are seen again, then such methods of reducing premiums may well reappear.

In addition to protecting fine art with comprehensive intruder and fire detection systems, underwriters are beginning to insist that the art is fully recorded and

photographed using digital management systems like Collectrium. In the event of a loss, such a system can quickly provide detailed descriptions, photographs and insured values of all items lost or damaged.

Historic and Listed buildings have much higher rebuilding costs than more modern homes due to their age, construction and specialist nature. A typical modern (post-war) building could cost between £800 and £1,500 per square metre to rebuild, whereas a listed property might typically cost between £1,700 and £5,000 per square metre. Heritage and historic properties are usually subject to much stricter planning and building controls, meaning that local authorities will insist that any damage is repaired to a required standard.

Insurers providing this specialist coverage will usually work exclusively with brokers who have similar levels of expertise in handling the insurance requirements of owners in this sector. Specialist brokers have experience of advising owners how to structure insurance policies bespoke to the property being protected, as well as advising on aspects of disaster planning, recovery planning, security and fire detection. All of these factors are taken into account by insurers when calculating premiums and agreeing levels of cover unique to the property being insured.

Despite the higher rebuilding costs and values associated with this class of insurance, the cover is normally wider and premiums are, relatively speaking, lower than the rates charged for 'standard' household insurance. Generally, these specialist insurance policies cover many of the hidden additional costs which may be incurred when dealing with a claim for an historic or listed property, such as:

- archaeological costs incurred following an insured event
- meeting Local Authority conditions under the Planning (Listed Buildings and Conservation Areas) Act 1990
- monuments, statues and memorials within the grounds
- documenting the reinstatement of an historic or listed building.

The true test of the quality of an insurance policy is when a claim has to be made. A specialist broker and insurer experienced in handling claims from the historic and listed property sector will know which experts to appoint to handle the loss. The experience of a specialist loss adjuster appointed by the insurers to investigate and report on the claim, as well as that of building conservators, specialist building contractors experienced at working on heritage property, stonemasons and specialist suppliers, and conservation and restoration specialists for the art and antiques, all add to the speed and quality of restoration. The team involved in assessment, repair and restoration is critical in achieving reinstatement as quickly and painlessly as possible for the owner, whilst meeting all of the requirements laid down by local and national government authorities.

Many of the specialist policies available today can incorporate a wide range of options for cover which prudent owners may require when insuring a heritage or historic building. These include:

- the fabric of the building
- Fine Art and Household Contents insurance for all of the items not permanently fixed to the building, including the high value works of art

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- Liability Insurance – to cover the owner's and occupiers' legal liability to all employees and visitors
 - Consequential Loss Insurance – if the property is open to the public as a visitor attraction or has businesses operating from it, owners will need to insure against loss of income and consider the costs of relocating businesses to other locations
 - Garden & Garden Ornament Insurance – much value can be associated with the landscaped gardens and ornaments and statues therein which will need insurance protection
 - Terrorism – since 1993, damage to commercial and certain types of residential property has been excluded or limited under standard property insurance contracts and additional cover may need to be considered
 - Building Works – building works on site at heritage and historic properties significantly increase the risk of damage (as illustrated by the fires at Uppark (1989), Windsor Castle (1992), Russborough House (2010) and many others). Often the terms of the building contract issued in connection with the works (JCT Contracts or similar) will require additional insurance cover to be arranged. It is essential that advice is taken from the specialist broker prior to contracts being signed.

Having made the decision to arrange insurance, owners will need to think about the level of insurance needed. To do this, the following questions should be considered:

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- Does the building have an historic value which would be destroyed or compromised by rebuilding in part or in whole? If the property is likely to be de-listed or otherwise have local authority constraints lifted, reinstatement may not always be appropriate and it may be worth considering alternatives to full reinstatement insurance.
 - If the building is part of a group of historic buildings would the overall value be significantly reduced if a specific part was not reinstated? In such circumstances it would be reasonable for full reinstatement insurance to be arranged.
 - Are there any commercial factors which may affect the insurance? For example, is there an obligation under a lease or mortgage, or does the property form part of an investment or commercial portfolio? It is important to arrange cover in accordance with any existing obligations, and these normally require full reinstatement cover to be in force.

Consideration needs to be given to the fact that total losses in these property types are extremely rare and that claims against these insurance policies are usually on a partial loss basis. The point at which a heritage or historical building becomes so damaged that full reinstatement is not justified or required is a difficult one to identify; figures of 50–60% are often suggested as the 'break point', but no statutory guidance currently exists and each case is reviewed on its individual merits by the authorities.

Whilst insurance will protect owners in the event of a loss, the prevention is obviously better than the cure. No matter how well reinstatement works are carried out, the loss of historic fabric or fine art is irreversible. When buying insurance, one is purchasing a 'promise to pay' to provide financial compensation and the means to effect repairs and replacements. With good risk management an owner can do much to prevent damage occurring, or at least minimise the impact if damage does occur. A specialist broker will negotiate terms commensurate with the quality of the risk, and this will be reflected in the premium.



Lynda McLeod
Associate Director,
Librarian, Christie's

And so the People Came... The Stowe House Sale of 1848

2016 is a significant year for Christie's: 250 years ago, in December 1766, James Christie (1730–1803) began selling household goods at his first permanent saleroom in Pall Mall, St James's, London. Very little is known about his youth and adolescent years and we find him in London in the early 1750s, having journeyed down from Perth, Scotland, as a young man in his twenties. He began his long auctioneering career in the Covent Garden area of London with the auctioneer Mr Annesely and a decade later, around 1761, we see him hiring rooms in Spring Gardens and near Oxford Street in which to hold his general household goods sales. These early sales included objects as diverse as linen, hay, furniture, livestock, trees and bulbs. In 1766 he hired his first permanent salerooms at the west end of Pall Mall and 83–84 Pall Mall was to be his 'Great Room', viewing and auction rooms and home for the next 37 years. Three developments took place during the last 30 years of the 18th century which became ideal selling opportunities for James Christie: the French Revolution; the Grand Tour; and a growing wealthy marketplace in a relatively peaceful London. Each would bring goods to James Christie's auction rooms.

After his son, James (1773–1831) 'the younger', climbed onto the rostrum in 1794, the firm continued to hold named sales, house sales and auctions of the property of royals and nobles and single-owner collections. James 'the younger' introduced works from classical antiquity to the broad spectrum of art being sold at the auction house.

By the time both James Christie and his son died, the company had held many 'on the premises' house sales in London, Middlesex and bordering counties such as Surrey and Berkshire. These included the Governor Wynch deceased sale held 'at his late villa, called Westhorp House situate [sic] at Little Marlow, in the County of Bucks' in October 1781; Caleb Whiteford's deceased sale at his 'late dwelling, No. 28 Argyle Street' [London] in June 1810 and Mrs Vickers, Millener [sic] 'retiring to the country' with the sale taking place 'at her House, nearly opposite St James's Church, in Jermyn Street' in November 1769.

The largest, most important house sale held on the premises in the firm's history took place in the 19th century. Even today, with important single-owner collection sales being held around the globe and house sales being coordinated, catalogued, and inventoried by teams of specialists and supporting staff, none can compare to the greatest house sale that ever took place. That was the contents of Stowe House in Buckinghamshire, the country home of the Dukes of Buckingham.

The sale was organised and overseen by Henry B. Christieⁱ together with George Christie and Mr William Manson (who was with the firm from 1831 until he died in 1852). It commenced on August 15, 1848 and continued for forty days; a notice of the forthcoming event was published in *The Times*.ⁱⁱ

Right

Catalogue of the Contents
of Stowe House: Order of Sale

One needs to remember that this was long before the National Trust encouraged visitors to view houses and gardens.ⁱⁱⁱ The indignation of the journalist writing about the rash of hoi-polloi traipsing uninvited around such a grand house can be sensed in his words:

'During the past week the British public has been admitted to a spectacle of painful interest and gravely historical import. One of the most splendid abodes of our almost regal aristocracy has thrown open its portals to an endless succession of visitors, who from morning to night have flowed in an uninterrupted stream from room to room, and floor to floor, not to enjoy the hospitality of the lord, or to congratulate him on his countless treasures of art, but to see an ancient family ruined, their palace marked for destruction, and its contents scattered to the four winds of Heaven...'

The report continues: '...under the lofty arch which crowns the long avenue from Buckingham [town], and opens the first view of the magnificent Palladian façade, has lately passed a daily cavalcade which, except in its utter absence of style, might remind one of the road to Epsom [races] on a Derby day. Barouches, flys, stage-coaches, 'busses' pressed from the metropolitan service, and every gradation of 'trap', down to the carrier's cart hastily emptied of groceries, dragged to Wolverton [rail station],^{iv} and filled with the unfortunate holders of return tickets [back] to [London], constituted a dreary antithesis to the *cortège* which so lately brought Royalty to Stowe...'^v

This sale was the first occasion in the 19th century when collectors, dealers and art historians, as well as those with no means to purchase but a curiosity to see how the mighty had fallen, could look around a house (with, one would imagine, much 'ooing' and

'aahing'). This was a house which would normally be open only to family, friends and visiting royals, nobles and dignitaries. To gain access to the estate at the time of the sale one had to be in possession of the sale catalogue, which was priced at 15 shillings [30p]; this admitted up to four people to the private view, which ran from 3 August 1848 right up to the start of the auction.^{vi} Hundreds of people flocked to the house every day during the summer for a day-trip away from London during the viewing and the sale.

The house of Buckingham and Chandos had been in the Temple family in the manor of Stowe since the reign of King Edward VI. The original mansion was erected by Peter Temple in 1569 and the house we see today is a fine example of Palladian architecture, built in the 17th century by the architect William Cleare (other architects such as Sir John Vanburgh, William Kent and Robert Adam designed and added to the main mansion over time). The house contains over 400 rooms, including the Marble Saloon, the State Music Room, Library and State Drawing and Dining Rooms. The south façade, overlooking the gardens, is one of the finest examples of neoclassical architecture in Britain, stretching over 140 metres (460 feet). The central block at the piano nobile level with six unfluted Corinthian pilasters stand over 11 metres (35 feet) tall. Today the house is a Grade I Listed Building and is overseen and maintained by the Stowe House Preservation Trust.^{vii} Following the sale the family spent little time there and house and estate fell into further decline. It wasn't until after the Great War that the house was given a new lease of life when it opened as a school on 23 May 1923, initially with 99 schoolboys. John Fergusson Roxburgh (1888–1954) was the founding headmaster.

ORDER OF SALE.

The Sale will commence each Day at Twelve o'clock punctually.

FIRST DAY'S SALE,

Tuesday, August 15, 1848.

The Drawing-Room—Majolica, or Raffaele Ware Lot
1 to 133

SECOND DAY'S SALE.

Wednesday, August 16, 1848.

Japan Closet—Majolica, or Raffaele Ware; Drawing
Room—China, Bronzes, &c. 134 to 265

THIRD DAY'S SALE.

Thursday, August 17, 1848.

Shakspeare Closet—Majolica, or Raffaele Ware; Tapestry
Drawing Room 266 to 394

FOURTH DAY'S SALE.

Friday, August 18, 1848.

Tapestry Drawing Room (*continued*)—China, Bijouterie,
Raffaele Ware; State Drawing Room—Furniture 395 to 533

FIFTH DAY'S SALE.

Saturday, August 19, 1848.

State Drawing Room (*continued*)—Furniture, &c. 534 to 639



What events led to such an important collection being sold under the bright lights of a public auction?

According to the Dictionary of National Biography, Richard Plantagenet Temple-Nugent-Brydges-Chandos-Grenville, 2nd Duke of Buckingham and Chandos (1797–1861), was a politician and a bankrupt aristocrat who was born at Stowe, the only child of the 1st Duke of Buckingham and his wife, Anna Eliza, she being the only child and heir of James Brydges. He was educated at Eton College, for a brief time went up to Oriel College, Oxford, and under his father's influence became an MP for Buckinghamshire.^{viii}

Following his father's death in 1839 he became the second Duke of Buckingham. Burdened with the huge debts left to him by his father, he inherited a heavily encumbered estate. He went on to add to the already large debt by leading a dissolute, loose, and profligate life. He was regularly financially embarrassed by having to ask family, friends and acquaintances for money. Together with a disastrous approach to the management of the house and estate and unwisely spending too much money on the refurbishment of parts of the house before the several-day visit by Queen Victoria and Prince Albert in 1845, by 1847 the Duke had debts of nearly £1.5 million. By 1848 there was little surprise at his downfall when the news began to percolate that the estate and house were to be sold. His notoriety remains the humiliating spectacle of the sale of the family heirlooms, art collection and estate of Stowe and the contents in 1848. Towards the end of his life he lived far less grandly in rooms in the Great Western Hotel, Paddington.

The collection at Stowe reflected the taste and mores of a great family, and the sale catalogue included 60,000 ounces of gold and silver plate which were laid out for viewing; so called 'forests' of vases, candelabras, épergnes, goblets, tankards and every form of variety of plate.^{ix} Gifts of royal personages and distinguished men, galleries of family portraits and collections of family memorials were stacked around the house complete with the Christie's 'ticket' tied onto each piece indicating its lot number and sale date. Objects for sale included marbles, bronzes, classical antiquities and objects of vertu, curiosities, china, glass and wines, together with records of a great many fashionable events.

The picture collection included a portrait of Charles Brandon, Duke of Suffolk (founder of the family on the Chandos side), catalogued as by Holbein, which hung in the State Closet and was lot 51 in the twenty-first day's sale on Tuesday September 12, bought for 48 guineas (£50–8s) on behalf of the Duke of Sutherland. The most important pictures in the collection were sold on Friday, September 15th and included Rembrandt's *The Unmerciful Servant*, 7 feet by 5 feet 10 inches (213.5 x 178 cm.), lot 438, which was purchased by Samuel Maws on behalf of Richard Seymour-Conway, 4th Marquess of Hertford for 2,200 guineas (£2,310). Now re-attributed to 'Follower of Rembrandt' with the title Centurion Cornelius (*The Unmerciful Servant*) this painting is in the Wallace Collection and hangs at Hertford House in Manchester Square, London.^x

So popular was interest in the sale that immediately after its conclusion Henry Ramsey Forster compiled, and David Bogue published, the 'Stowe Catalogue, Priced and Annotated' 4to., 310 pages with a number of illustrations, with Rembrandt's *The Unmerciful Servant* as the frontispiece.^{xi}

The auction was held over forty days in the State Dining Room. 5,000 lots were sold and the total proceeds came to the comparatively small sum of £77,562-4s-6d, with the furniture realising £27,152-13s-0d; the plate £21,491-11s-5d; the pictures £19,785-6s-0d and the cellar of wines fetching £2,912-4s-9d. Interestingly there is a hand-written valuation at the front of the auctioneer's book held in Christie's Archives that valued the collection at £82,510.^{xii} In the conditions of business it is noted that 'purchasers [are] to give in their names and places of abode' and they are expected to 'pay down 5s. in the pound, or more, in part of payment or the whole of the purchase-money.' All lots were 'to be taken away, with all faults and errors of description, at the Buyer's expense and risk, within two days from the sale.'

Many works of art with a Stowe House provenance can be found in important UK public collections including the Wallace Collection, the V&A Museum and The British Museum. Many other objects were bought by important collectors such as Ralph Bernal, Mr Hope of Deepdene, Sir Anthony Rothschild and Sir Robert Peel.

Left

Catalogue of the Contents of
Stowe House: Frontispiece

Right

Catalogue of the Contents of
Stowe House: Title Page

The coverage of the story of the sale, the overwhelming numbers of visitors viewing the house and popular interest in the spectacle was unprecedented for a mid-19th century sale. The press wrote about it at length and people flocked to the estate with interest and curiosity. The Duke and his immediate family lived under the shadow of the fall from grace for months before the sale and for years thereafter. The pictures in the collection, which had been valued at over £60,000, failed to excite an expectant audience as the quality of the paintings, as it turned out, was poor. On closer inspection it became obvious that many of the family portraits and pictures by many masters, hanging the main rooms and picture galleries, included copies. It would appear both Dukes over a period of time had sold the originals for much needed money. For the auction house the sale was a coup and the Christie name became even more famous. For the family, the fall from grace in society was huge, and the people did come. They came in their hordes during that summer of 1848 with their picnic hampers and inquisitiveness. They came, jostled and packed closely together on any 'sharra-bang'^{xiii} they could hire, loan or borrow once alighted at Wolverton station during the 120 mile round trip from London. They left in wonderment and awe.

ⁱ H.B. Christie was the last Christie to be directly involved with the auction house when he retired from the firm in 1889.

ⁱⁱ *The Times* report, 14 August, 1848 reproduced in *Art Sales: A History of sales of Pictures and other Works of Art* by George Redford. Published by Private Subscription 1888. Pp.138-141.

ⁱⁱⁱ The National Trust was formed in 1895.

^{iv} Wolverton Station was part of the North Western Railway in 1848.

^v The manor of Stowe is about three miles north-west of the town of Buckingham.

^{vi} Sale catalogues could be purchased at numerous venues other than Christie's, including the City of London, Leicester Square and in Manchester, Liverpool, Birmingham, Oxford, and Aylesbury and also at Wolverton and Euston stations.

^{vii} Stowe House is open to the public 280 days a year. Stowe Landscape Gardens became part of the National Trust in 1989 and the gardens are open to the public 365 days a year.

^{viii} See oxforddnb.com

^{ix} *Memorials of Christie's: A record of Art Sales from 1766 to 1896* / by William Roberts. London 1897 George Bell & Sons, p. 143-151.

^x See wallacecollection.org

^{xi} See archive.org/details/stowecataloguepr00buck. This publication was able to reflect on the people who attended the sale and highlight events that took place during the sale and commented further on the provenance of many pieces.

^{xii} Christie's Archives muniment room is based at King Street and is open by appointment to visiting researchers twice a week on Tuesday and Thursday. The collection includes auctioneers' copies of published sale catalogues from 1766. The handwritten notes in the valuation made at Stowe recounts 'Effects, Plate, Pictures £60,810'; 'Books & Prints £11,000'; 'Mss.£7,000' and 'Wine £3,500 (£82,310)', the valuation was then increased up to £85,000.

^{xiii} Charabanc: an early form of bus, used typically for pleasure trips. Often pronounced 'sharra-bang' in colloquial British English.

CATALOGUE

OF THE

CONTENTS

OF

STOWE HOUSE,

NEAR

BUCKINGHAM;

Which will be Sold by Auction, by

Messrs. CHRISTIE and MANSON,

ON THE PREMISES,

On TUESDAY, AUGUST 15th, 1848,

AND EXTENDING OVER

THIRTY-SEVEN DAYS,

Commencing at Twelve o'clock precisely each Day.

PRICE FIFTEEN SHILLINGS,

TO ADMIT A PARTY OF FOUR, WITHOUT WHICH NO PERSON CAN BE ADMITTED.

PRIVATE SALES

Negotiated by Christie's, the first ever joint acquisition of two Rembrandt van Rijn masterpieces, by the Louvre Museum and the Rijksmuseum

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Left

REMBRANDT VAN RIJN (1606-1669)

Portrait of Maerten Soolmans

oil on canvas · 210 x 134.5 cm.

Painted in 1634

Right

REMBRANDT VAN RIJN (1606-1669)

Portrait of Oopjen Coppit

oil on canvas · 210 x 134.5 cm.

Painted in 1634

