Post-Brexit – "Passporting" in the High Value Art Market

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The UK is ranked second in the global art world as of 2015. More than £8 billion of fine art imports and exports travel throughout the UK each year, representing a 21% share of the international high value art market. Economic implications of Brexit are far from any level of certainty. Yet, preliminary discussions amongst art experts have begun. What will be the potential tax implications and value consequences in a post-Brexit environment? What will be the impact on cross-border purchase and transfer of valued works of art between the UK and European Union nations?

The latest records reveal that in 2015, 85% of art works were imported into the UK yet only 2% of all exports were destined for non-EU countries. The Brexit vote raises issues with regard to the "passporting" of fine art throughout the EU, presenting challenges both in terms of demand for and the value of works of art. While the international art market has experienced a downturn, the ultra-high end of the market has grown by nearly 20%, according to the 2016 annual report released by the European Fine Art Foundation (TEFAF). Predictions speculate that middle market art sales will ease due to an unsettling political environment; however, the high end of the market will remain strong.

Brexit may benefit the UK high value art market, as the UK will be freed of EU regulations, specifically the Artist's Resale Rights (ARR) levy, which took effect in 2013. ARR enables artists and creators of art works to receive a royalty fee each time the work is resold for more than £1,000. Royalties continue for 70 years after the artist's death with the total capped at £12,500. Industry watchers point to the ARR as placing the UK at a market disadvantage compared to auction houses and dealerships in the U.S. Switzerland and other non-EU countries. Notably, the regulation is strictly imposed by the EU and is not an official act of Parliament, suggesting that the existing resale levy could become moot.

Post- Brexit cross border tax and import/export restrictions may encourage construction of a Freeport Storage facility at a designated London airport. Freeports are multi-functional, customized facilities specifically designed and built to secure storage of fine art, antiques, collections and other valuables. Freeport structures are located near international airports, allowing high value art to receive tax-free status if and until the works are transported to the ultimate destination. Freeport storage facilities permit the owner greater flexibility and potential advantage with respect to import/export tax and duties. Brexit may demand that the UK follow other non-EU nations through the construction of Freeport facilities to be competitive.

Brexit may ultimately offer an opportunity for London to harness London's stature in the global art market. The UK tax regime for art investment must be favorable for art dealers and investors in cross-border transactions. Insurance coverage for high value cargo will not be impacted for carriers, such as Ironshore, that can continue to serve its customer base. With a global footprint within the specialty high value sector, Ironshore has the ability to underwrite coverage on European and off-shore paper. As the Brexit specter clouds any finality, the tax treatment of high value investments will be one of aggressive debate as London strives to retain a favorable position within the global art world.

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