

Delaware provides tax shelter for multimillion-dollar masterpieces

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Art collectors and dealers are finding a harbor for their treasures while taking advantage of Delaware's sweet tax benefits. Jennifer Corbett/*The News Journal*

Geneva, Monaco, Luxembourg and ... Delaware?

Long a darling of secretive limited liability companies, the First State is building a reputation as a prime location for out-of-state art collectors and investors to park their multimillion-dollar masterpieces and reap the tax benefits.

In the last two years, New Castle County has seen a proliferation of maximum-security art storage companies, including several Manhattan offshoots, that lock up hundreds of millions of dollars worth of paintings and sculptures by Old Masters and buzzworthy emerging artists.

But ordinary citizens will likely never see this work, including a 10-piece rocket installation.

That's because many of these one-of-a-kind creations will never leave their crates.

Art buyers, including those more passionate about diversifying their portfolios than enjoying their artwork, can ship their purchases directly to Delaware storage facilities and avoid paying sales tax for as long as the items remain here. For the Manhattanite, that amounts to a nearly \$900,000 savings on a \$10 million painting.

The advantages don't stop there. Delaware doesn't tax inventory, it recently repealed its estate tax and it offers less expensive land for storage facilities ideally situated between New York and Washington, D.C., art experts say.

As Geneva and New York crack down on an opaque art market reeling from money laundering and tax evasion scandals, Delaware shines as a pro-business beacon, one that is, arguably, less likely to suffer loss from terrorists, natural disasters or art capers.

Several storage companies offer direct, weekly shuttle service from Delaware to New York — and back again. Masterworks are transported from cavernous warehouses straight out of "Raiders of the Lost Ark" to New York City showrooms crawling with potential buyers.

"I've never been treated so courteously, friendly and positively than in Delaware," said Fritz Dietl, who owns the Delaware Freeport in a Newark, one of at least five art storage companies in Delaware. All are located in New Castle County.

"There's no better place to do business in the world."

Dietl, an Austrian-born New Yorker, went one step further than his local competitors by securing a Foreign-Trade Zone designation from U.S. Customs and Border Protection in 2015. That means art shipped from abroad enters duty-free to his 36,000-square-foot warehouse.

"Think about it like playing Monopoly," says Patricia Cannon of the state Division of Small Business, Development and Tourism. "No one can hurt you on home base."

Since touting tax savings is considered gauche, Dietl and others emphasize that their facilities, collectively totaling more than 200,000-square-feet, benefit the broader community — not just their ultra-wealthy clientele — by bringing in new jobs, investment in derelict buildings and spinoff business for local accountants, lenders, lawyers and art conservators.

Delaware also gains notoriety by catering to the high-powered art world, the business owners claim.

But local art lovers question the direct benefit to the First State. Each storage facility employs only a handful of people, their high-value holdings do nothing to boost government coffers and few, if any, storage sites have partnered with area museums to develop a lending program, which has been established in other states.

Representatives from the Delaware Art Museum, Winterthur Museum and the Brandywine River Museum said they haven't been approached to display the stockpiled art, and they don't even know what's there.

Winterthur has paid a couple of local facilities to store empty crates during temporary exhibitions, according to museum registrar Beth Parker Miller.

"Having someone in our backyard is a little more convenient," she said. "Winterthur doesn't generate that much business for them."

Art storage operators say their clients are a mix of dealers, pure investors, museums, inheritors of art both local and abroad, and collectors who own multiple homes with limited wall space.

"You keep collecting. That's an addiction," Dietl explained. "That addiction feeds our warehouse."

Local gallery owners report they don't know any Delawareans who would want their collections stuffed in crates rather than on display.

"The people I know aren't buying paintings of mass value so they can store them and resell them," said Vicki Manning, co-founder of Somerville-Manning Gallery in Greenville.

"My clients are buying the work for their enjoyment."

Behind the iron curtain

Like bars of gold at Fort Knox, Delaware's hidden treasures are buried in unmarked, video-monitored fortresses in large industrial parks with multiple barriers to entry.

Think of them as offshore banks for art, flush with million-dollar fire suppression systems and industry-validated climate controls — all in an effort to provide maximum assurance that their precious cargo is safe and secure.

Companies refrain from listing exact locations on their websites. Of the four that granted access to The News Journal, two refused to allow photographs of the actual storage areas. Others obscured packing slips.

Client identities, along with the provenance of the art and the total value, remain a mystery.

"Discretion is a huge concern for our clients," acknowledged Derek Jones, executive director of Atelier Art Storage and Services near New Castle.

Each storage facility is slightly different in terms of size, layout and market niche, but all sell square footage in large, open-air rooms filled with racks of artwork and unopened boxes, along with handling packing and shipping. Most also offer private rooms that function as glorified safety deposit boxes for customers seeking an added layer of security and anonymity.

Intimate gallery spaces within the warehouses allow clients to have pieces inspected and appraised away from prying eyes.

That's where Kristin deGhetaldi comes in — escorted, of course.

A graduate of the Winterthur/University of Delaware Program in Art Conservation, deGhetaldi can size up an easel painting's condition, analyze particular pigments and document any travel damage (which, she says, rarely happens).

The painting conservator has expanded her business by servicing local art storage facilities about once a month. The facilities, in turn, appreciate the local expertise and use it to help recruit clients.

"It's a particular niche that Delaware can fill," explained deGhetaldi, who also teaches at UD.

Launched in 1991, Bayshore Fine Art Storage is among the oldest of Delaware's art storage facilities and one of two local, family-owned businesses, along with Hopkins & Sons in New Castle. Both were longtime moving and storage companies that carved out a specialty in art.

"My stepfather got a call out of the blue one day from a private collector in California who asked if we could build him a room," said Bayshore Vice President Matt Larmore, who now operates two art storage facilities near Glasgow totaling 60,000 square feet. "We've been growing the business ever since."

The company constructed vaulted chambers within its warehouses – described as buildings-within-a-building – to maximize security.

"The insurance guys like to tease me," Larmore said. "We've built in so much redundancy but we are constantly asking ourselves what we can do better."

Larmore admits he's not an art aficionado, but three of his competitors are. All came to Delaware within a six-month span in 2015.

First was Philadelphia-based Atelier, which oversaw the relocation of the Barnes Foundation's 4,000-piece collection from Lower Merion to Philadelphia in 2012. Atelier put down roots in Delaware in the summer of 2015, largely thanks to Mati Bonetti de Buccini, wife of real estate developer Chris Buccini whose company The Buccini/Pollin Group has spearheaded the redevelopment of Wilmington.

"When we moved from New York City, I saw that Delaware had something unique to offer when it came to art storage," recalls Bonetti de Buccini, now director of Atelier's 40,000-square-foot space. "I met with Derek and instead of competing we decided to partner up."

Atelier's facility comes equipped with a fleet of 15 GPS-monitored vehicles that resemble refrigerated trucks to appear inconspicuous. Some big-ticket collections inside the warehouse necessitate their own heads of security and biometric readers that authenticate fingerprints.

Shortly after Atelier moved in, Crozier Fine Arts, a known commodity on the Manhattan and Hamptons art scenes, opened its seventh U.S. facility four miles away. The company was recently acquired by Iron Mountain, a \$10 billion Boston-based document storage company.

Crozier's more unusual art occupants have been Napoleon Bonaparte's hat and an enormous painting made of bubblegum that had to be stored flat.

The 41,000-square-foot New Castle warehouse is run by Randall Brockett, a striking figure with chin-length hair and a slight European accent whose romance with a Russian-born real estate magnate briefly captured the attention of New York City gossip columnists.

While giving a tour to U.S. Sen. Chris Coons last month, Brockett noted that Crozier previously leased space from Bayshore to test the market. He applauded Delaware for its panoply of tax advantages, explaining that short-term clients are lured here because they can get in and out quickly with minimal fuss.

"All we want is for them to have their private jet serviced and incorporated in Delaware," the Democrat senator joshed.

International intrigue

Private jets are a fixture at Le Freeport Luxembourg, conveniently located next to the country's only airport with a paved runway.

In Southeast Asia, Christie's operates a fine art storage facility within the Singapore FreePort. An auction house spokeswoman declined comment for this story.

Geneva pioneered the freeport concept more than a century ago with bonded warehouses that temporarily housed commodities like grain and tea. Today, more than \$100 billion in goods, including Van Goghs, Picassos and Gauguins, are believed to be held in Switzerland's custom-free zones. Freeports also store fine wines, diamonds, rugs, vintage cars, musical instruments, cigars and taxidermy.

The difference between a freeport and a regular art storage warehouse is that freeport clients are exempt from paying import taxes or duties, which can be 5 to 15 percent of the work's value. And if an artwork is sold at a freeport, the transaction tax is waived.

Not surprisingly, this high-roller world has attracted controversy. The leaked Panama Papers in 2015 revealed that an alleged Nazi-looted painting by Modigliani had been stored in Geneva's tax-free vaults.

For the past two years, Yves Bouvier, owner of Geneva Freeport and partner in a Singapore facility, has been embroiled in a high-profile dispute with a Russian billionaire over selling works at huge markups. Bouvier has denied any wrongdoing.

Similarly, billionaire international art dealer Guy Wildenstein was accused of hiding art and assets in a maze of foreign trusts and moving millions of dollars in artworks from New York to Switzerland. He was cleared of tax fraud earlier this year.

Art storage is definitely a rich man's game, acknowledged Dietl, who wears a pressed shirt and sparse beard. "When you invest in stocks, you don't pay use or sales tax. Art has become an asset in the same way."

Edged with sunflowers, the Delaware Freeport shares grounds with a purveyor of forklifts and rail siding. Just past the loading dock and stark white viewing room, Dietl offers a glimpse behind the steel veil: Art stored at a comfortable 69 degrees with 50 percent relative humidity.

A high school dropout who launched an art transportation company a quarter-century ago, Dietl says he has worked with every major museum around the world and relies on word-of-mouth advertising. Clients are charged a few dollars per square foot a month.

Delaware art storage facilities generally charge customers 20 percent less than equivalent facilities in New York, according to Karen Boyer, founder of Elements in Play, a New York-based art advisory firm.

"If you're buying a \$3 million painting and don't plan to hang it for a period of time, it makes perfect sense," she said.

Delaware Freeport is one of only five sites in the state certified as a foreign-trade zone, along with the Port of Wilmington, the juice importer Citrusuco, the Delaware City Refinery and the Wilmington pharmaceutical company Noramco. Dietl pays the state \$10,000 a year for the designation, according to Cannon, director of intergovernmental relations and special projects for the state economic development office

It's a "marketing pitch," she said. Art has to be more than 100 years old for the customs duty to apply, anyway, "and they're not moving in and out of Delaware too often."

But the pitch apparently worked. Dietl says he's at capacity and is scouting a second Newark location to double his storage space.

Shipping art two hours south from New York is safer and more cost-efficient than sending it to halfway around the world, he said.

"It makes us the absolute equivalent to the Geneva Freeport."

Soon, New York's first freeport could give Dietl and Delaware a run for the money.

This fall, ARCIS will open a 110,000-square foot facility in Harlem that can store as much as 2.5 billion worth of goods duty-free. Like the Delaware Freeport, ARCIS clients' valuables will be exempt from U.S. duty and excise taxes until they exit; New York state sales tax may still apply.

Located at a global epicenter for art and finance, the four-story, sustainable building is responding to pent-up demand after about 165,000-square-feet of art storage space that disappeared from Manhattan last year because of property turnover, according to ARCIS Executive Director Tom Sapienza.

"I don't see Delaware as competition," he said, explaining that ARCIS boasts the largest dock in the tristate area and was built to conform with the strict specifications of the Van Gogh Museum in Amsterdam. Security features include both retina and vascular scanning upon entry.

The art storage market is boundless, according to Sapienza, because "every day more art is being created."

Market research backs him up. While the mercurial art market contracted in 2015, global art sales are still estimated to be from \$45 billion to \$57 billion annually.

Last year, nearly two-thirds of art collectors reported that investment returns were an important motivating factor in purchasing art compared to 47 percent in 2014, according to a Deloitte Luxembourg & ArtTactic Art & Finance Report.

That's troubling to art buffs like Barry Schlecker, who has been known to hyperventilate in the presence of a folk art piece made of mud or molasses. He now owns more than 400 of them and estimates his collection is worth around \$50,000.

"To buy a piece of art and stick it in a vault so you can't see it and enjoy it – I don't get it," said Schlecker, who produces the Brandywine Festival of the Arts.

He acknowledged the lucrative business potential, however.

"I guess whenever you go to McDonald's, you're going to find a Wendy's or Burger King."

Home-court advantage

Despite the saturated landscape, Delaware's five art storage facilities have yet to join forces with dozens of museums across the state.

Other states, like California, offer collectors tax exemptions if they ship an artwork to a museum in a state without sales tax and display it there for 90 days. When the piece is ultimately sent back, California waives its 7.25 percent sales tax and the museum exposure can boost the value of the art.

Both the Portland Art Museum and Jordan Schnitzer Museum of Art at the University of Oregon have benefited from this arrangement. The Schnitzer Museum advertises on its website the tax benefits of its Masterworks on Loan program.

But don't expect the Delaware Art Museum to try something similar.

"We only take loans when the loans make sense for us," said Heather Campbell Coyle, the museum's chief curator.

The museum already displays less than 5 percent of its collection due to space constraints, she continued. Loaned artwork must fit into the exhibition schedule and allow "us to present something meaningful to our community."

Two years ago, Manning said she agreed to present works loaned to her by California collectors looking for a tax break. She won't do it again.

"I can bring in work of that quality and have it for sale in my gallery," she explained.

John Schoonover, grandson of popular Wilmington illustrator Frank Schoonover, said he doesn't begrudge art storage companies and their clients for making a buck.

Asked how his grandfather, a former pupil of Howard Pyle, would react if his Hopalong Cassidy and Joan of Arc images were heaped in a plywood crate somewhere, the gallery owner responded diplomatically.

It "goes with the territory" of being a commercial artist, he said.

"Most of my artists are dead so they're not going to complain."

Tax deferral or tax dodge?

The art owners aren't complaining either. Experts say Delaware offers collectors – particularly pure investors – a number of tax advantages found in few other states.

Chief among them is Delaware's lack of sales or use tax. Delaware is one of only five states hawking that benefit, and the only one in the Mid-Atlantic.

"It's a huge difference, especially over a place like New York City where most of the art transactions originate," said Jack Sullivan, a tax and corporate law attorney based in Manhattan.

New York City's sales tax is 8.875 percent. Buy a \$10 million painting in the Big Apple and have it shipped to Park Avenue? That's an \$887,500 tax bill.

But ship it to the home of tax-free shopping and the tax bill is a whopping zero.

There's only one catch:

The sales-tax savings evaporates if the same New York City collector decides to retrieve the work from Delaware and hang it on his living room wall. That event is supposed to be reported in tax filings, but it's an honor system that experts say often gets ignored.

"It's no different than when someone from Pennsylvania buys a TV at Best Buy in Wilmington and does not pay tax on it once they get home," Delaware accountant Jordan Rosen said. "Enforcement is not what it could be and people are not as honest as they could be."

The system is fraught with "chicanery," Sullivan agreed. Auction houses may claim to ship art to Delaware or a tax haven in Europe, but "it really goes out the back door."

Since gaming the system with a flat-screen TV is less of a financial hit to the government than, say, an N.C. Wyeth painting, state attorneys general have stepped up their investigations of tax-dodging art collectors.

Last year, the Swiss Parliament also tightened regulations for freeports, after clients began shipping their work to less scandal-tainted locations, including in Delaware.

Todd Levin, director of Levin Art Group consultancy in New York, advises his clients to just pay the sales tax in their home state and be done with it.

"In most cases, I'm not convinced that every T is crossed and every I is dotted," he said of the storage facilities.

That's a non-issue in tiny Delaware. Even the dead here get a tax break.

The General Assembly last summer voted to repeal Delaware's estate tax, which tops out at 16 percent. Starting Jan. 1, that could save millions of dollars for the estates of the deceased that own more than \$5.5 million worth of paintings and antiques stored here.

"The repeal of the estate tax is a huge, huge thing that was on my wishlist for the past year," said Brockett, the Crozier manager.

Another incentive for out-of-staters is that if they form a trust in Delaware, they can avoid paying estate taxes in their home state, according to legal experts.

A trust is a legal entity similar to a small corporation that can hold assets, such as cash or property, and "lend" it to heirs tax-free. Trusts can last forever in Delaware, unlike in most states.

"Artwork is something of a natural fit for a dynasty trust," said Scott Swenson, a partner at Connolly Gallagher who heads the Delaware Bar Association's estates and trusts section. "It means your family can retain it in perpetuity as long as it is legally owned by the trust."

"And the art can physically reside anywhere."

Despite those advantages, New York lawyers who work closely with high-wealth art collectors claim that Delaware's tax benefits are a bit overblown.

Steve Schindler heads the art law group for the firm Schindler Cohen & Hochman and chairs the art law committee for the New York City Bar Association. Collectors often ignore the sales tax imposed by their home states, he said, and hire competent professionals to mitigate estate taxes and other costs.

"I think there's some clever marketing going on here," the Manhattan attorney said. "In my personal experience, I'm not seeing clients overwhelmingly gravitating to Delaware."

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