

# the artist as philanthropist

## strengthening the next generation of artist-endowed foundations

a study of the emerging artist-endowed  
foundation field in the US

# study report supplement 2018

## Executive Summary

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*Study Report of the National Study of Artist-Endowed Foundations*, published 2010

*Study Report Supplement 2013*, published 2013

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[www.aspeninstitute.org/aefi](http://www.aspeninstitute.org/aefi)

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# EXECUTIVE SUMMARY:

## HIGHLIGHTS OF UPDATED FINDINGS 2018

For the purposes of this research endeavor, an artist-endowed foundation is defined as a tax-exempt, private foundation created or endowed by a visual artist, the artist's surviving spouse, or other heirs or beneficiaries to own the artist's assets for use in furthering charitable and educational activities serving a public benefit. Visual artists associated with private foundations identified during this research include those with primary roles of painters, sculptors, photographers, illustration artists (animators, cartoonists, comic book artists, and illustrators), designers (architects, craft artists, graphic designers, and product, theatrical, or interior designers), and conceptual and performance artists.

Artists' assets derive from art-related activities, as well as other sources unrelated to art. Among assets conveyed to artist-endowed foundations are financial and investment assets, art assets (such as art collections, archives, libraries, and copyrights and intellectual property), real property (such as land, residences, studios, exhibition facilities, and nature preserves), and other types of personal property.

In deploying their assets for public benefit, artist-endowed foundations typically take up roles as one of four functional types: *grantmaking foundation*, contributing support to charitable organizations and individuals, such as artists and scholars; *study and exhibition foundation*, deploying artists' archives, artworks, and other properties in direct charitable activities focused on educational and scholarly purposes; *comprehensive foundation*, combining multiple functions, such as grantmaking in combination with operating an artist residency program, exhibition program, art education program, study center, or house museum; and *estate distribution foundation*, one formed without the intention of perpetuity in order to accomplish the posthumous, charitable distribution of an artist's assets. These roles can change over the course of a foundation's life cycle.

### PROJECT OVERVIEW

The National Study of Artist-Endowed Foundations, the principal research endeavor of the Aspen Institute Artist-Endowed Foundations Initiative/AEFI, is the first research effort focused on the emerging field of private foundations created in the US by visual artists. The Study's aim is to encourage effective practice in the formation and operation of artist-endowed foundations, thereby increasing the ability to fulfill their charitable mandates in art stewardship and cultural philanthropy. The chief strategy toward this aim is to address the significant information gap facing individuals involved in creating, leading, and governing artist-endowed foundations.

The Study's initial findings were released in November 2010. The two-volume Study Report, *The Artist as Philanthropist: Strengthening the Next Generation of Artist-Endowed Foundations*, is available to view and download at [www.aspeninstitute.org/aefi](http://www.aspeninstitute.org/aefi). Volume I of the Study Report provides an overview of the emerging field, its origins and current status, trends, and prospects. Volume II, a handbook on practice, offers artists, their advisors, and foundation leaders a summary of considerations in forming and operating these organizations and their charitable programs.

Since publication of the Study Report, the artist-endowed foundation field has continued to expand, both the number of foundations identified as well as the value of the aggregate assets held by members of the field. This current publication—*Study Report Supplement 2018*—builds on *Study Report Supplement 2013*, continuing the five-year interval documentation of the field by updating the field’s data profile, providing information on its growth, analyzing the factors shaping it, and exploring its possible ramifications. The data focus on a set of benchmark years addressed previously in the Study Report and Supplement 2013 (1990, 1995, 2000, 2005, and 2010) with the addition of data for 2015, which is the most recent year for which the chief source of data—Form 990-PF, the annual information return filed yearly by private foundations with the Internal Revenue Service (IRS)—is available as of November 2018 for the greatest number of foundations. In addition to updating the field’s data profile, this publication highlights several key trends that will shape growth of the field in the coming years.

## **THE ARTIST-ENDOWED FOUNDATION FIELD: FIELD DIMENSIONS – UPDATED 2018**

Artist-endowed foundations, like all nonprofit entities, exist in the context of the broader economy and society. Supplement 2013 noted that national and global financial upheaval defined the period of 2006 through 2010. After reaching record highs in 2007, plummeting stock prices in 2008 signaled the start of the Great Recession in the US. Half of foundations nationally surveyed by the Council on Foundations reported endowment losses of at least 30 percent, followed by significant reductions in grantmaking. As 2010 closed, these factors had stabilized, but had not regained lost ground.

Following 2010, an extended economic growth trend took the stock market to an unprecedented level. As a result, the global art market reached extraordinary heights and continued to broaden to new geographic regions and new modes, including the ever-expanding art fair industry and proliferating online sales platforms. While record-breaking sales were focused in particular areas of the market and on investor favorites, it is also the case that growing demand for product overall pushed the market, and the art world, into a reappraisal of many worthy artists who had not previously been acknowledged properly.

As 2018 closes, financial and political storm clouds are gathering. One has to wonder if they herald the emergence of an inevitable downturn in the economic cycle and thus the art market. Although such a forecast may be questioned, there is little doubt that the good work artist-endowed foundations do in art stewardship and cultural philanthropy is more important than ever against a social backdrop of growing isolationism, anti-immigrant populism, and intolerance. In this challenging context, we offer the following highlights of the updated data and analysis of the artist-endowed foundation field.

### **Universe**

The number of artist-endowed foundations identified by the Study to date now totals 433, including the cohort of 261 foundations identified for research purposes initially; 102 identified additionally for Supplement 2013; and 70 newly identified for Supplement 2018. Identified foundations include those extant currently, as well as those that existed previously but have terminated. Of all identified foundations, 2015 financial data were available for analysis on 310 foundations. Those without data had terminated prior to 2015, filed initial returns after 2015, or failed to file for that year.

## Assets

The artist-endowed foundation field's assets more than doubled in the five-year period of 2011 through 2015, rising 120 percent to \$7.66 billion from \$3.48 billion. By way of comparison, among foundations nationally, assets grew 40 percent in the same period. A single foundation, the newly endowed Cy Twombly Foundation, with assets of \$1.51 billion as of 2015, on its own would have increased the field's assets by 43 percent; absent that bequest, the increase for this period would be 76 percent.

Art assets now account for more than two-thirds of the field's assets overall. In 2015, identified foundations reported aggregate assets of \$7.66 billion, including \$5.37 billion in art assets, representing 70 percent of all assets. This compares with 2010, when foundations reported aggregate assets of \$3.48 billion, including \$1.99 billion in art assets, which represented 57 percent of all assets. Not surprisingly, the field's liquidity has continued to decline. Financial assets grew 56 percent to \$2.05 billion in 2015 from \$1.31 billion in 2010. Nonetheless, they dropped to just 27 percent of all assets from 38 percent.

Alongside, and no doubt reflecting, the growth in art assets, a large majority of the field's assets now are reported as *charitable use assets*—those used or held for use directly in carrying out a foundation's charitable purposes and, as such, with a value excluded from calculation of the private foundation annual payout requirement. The field's charitable use assets increased 168 percent to \$5.52 billion from \$2.06 billion in 2010, rising to 72 percent of all assets in 2015 from 59 percent in 2010. Despite this trend, not all artist-endowed foundations classify art assets as charitable use assets; some consider these investment assets.

The value of the field's art assets is dynamic, encompassing simultaneous reductions and increases over time. A group of 90 foundations reported art assets of \$1 million or more in 2015, together accounting for 99 percent of all art assets held by the field. The aggregate value of art assets held by these foundations saw a net increase of \$3.37 billion (170 percent), rising to \$5.35 billion in 2015 from \$1.98 billion in 2010. But a closer look reveals wide variations within this group. Some foundations reported a decrease in art assets resulting from sales and grants of artworks, totaling \$95.73 million. Other foundations terminated or converted to public charity status, accounting for a total reduction in art assets of \$361.53 million. Still other foundations benefited from generous gifts and bequests, reporting a combined increase in art assets of \$2.99 billion. And a final group was buoyed by the rising art market, reporting increases due to appreciation in the value of existing art holdings totaling \$829.44 million.

Even as the number of identified foundations reporting art assets increased, rising to 170 in 2015 from 147 in 2010, the portion of foundations reporting art assets grew only nominally, to 55 percent from 52 percent. Likewise, the number of foundations owning nonfinancial assets in any combination (art and land, building, and equipment) grew to 181 foundations in 2015 from 167 in 2010, but dropped nominally as a portion of all foundations to 58 percent from 59 percent.

## Charitable Disbursements

Artist-endowed foundations expended \$178.21 million for charitable purposes in 2015, including \$90.17 million (51 percent) in contributions, gifts, and grants and \$88.04 million (49 percent) in charitable

operating and administrative expenses (comprising costs to administer grantmaking programs and conduct direct charitable activities, such as operating artist residency programs, exhibition programs, art education programs, study centers, house museums, and the like). Overall, charitable disbursements increased almost 35 percent in the period from 2011 through 2015.

While contributions, gifts, and grants increased 29 percent, charitable operating and administrative expenses grew 42 percent. The growing portion of charitable disbursements attributed to charitable operating and administrative expenses is a long-term trend presumably tied to the increasing amount of art assets flowing into the field and the requisite costs to care for and deploy these artworks as charitable use assets.

## **Grantmaking**

More broadly, while total giving by artist-endowed foundations increased 29 percent, rising to \$90.17 million in 2015 from \$69.99 million in 2010, foundations nationally saw a 36 percent increase in giving for this same period. The comparison reverses in the long view, however, with giving by artist-endowed foundations rising 131 percent in the 15-year period beginning 2001, in contrast to a 92 percent increase for foundations nationally in that same period.

Not all artist-endowed foundations make grants, but the majority do. Sixty-seven percent of artist-endowed foundations (207) reported contributions, gifts, and grants in 2015. Of this group, 12 percent (24 foundations) reported total giving of \$1 million or more and accounted for 73 percent of all giving by the field. At the other end of the scale, 44 percent (92 foundations) reported total giving of less than \$50,000, accounting for two percent of all giving. The percentage of all giving represented by the single highest grant total paid by a single foundation (The Andy Warhol Foundation for the Visual Arts) remained fairly steady at 17 percent of all giving.

Grantmaking with artworks, typically to museums and educational institutions, continued to represent a distinctive aspect of the field's giving, often as a dimension of activities by estate distribution foundations. The value of the field's art grants varies substantially from year to year. In the five-year period from 2011 through 2015, a number of foundations made grants of artworks and archives valued at more than \$1 million, among them the Sam Francis, Frederick Hammersley, (Beatrice) Mandelman-(Louis) Ribak, Robert Mapplethorpe, Irving Penn, Robert Rauschenberg, George and Helen Segal, and Andy Warhol Foundations.

The focus of the field's grantmaking interest is squarely on the arts and culture, which represent 79 percent of all giving by foundations that reported total giving of \$100,000 or more in 2015. Alongside grants of artworks to museums and universities, grant purposes embrace a wide variety of concerns, including support to artists and scholars directly and to organizations conducting programs assisting artists and scholars and their projects; museum exhibitions and publications; art education programs at primary, secondary and higher education levels; and core operating support and project support for arts and cultural organizations, including those in the performing arts and historic preservation as well as the visual arts.

The remaining 21 percent of giving was dispersed across a range of interests: medical research and services, higher education, human services, social action, HIV/AIDS research and services, the environment, community improvement, religious institutions, and animal welfare.

### **Charitable Compensation and Professional Fees**

Charitable compensation and professional fees constitute a significant proportion of charitable operating and administrative expenses for artist-endowed foundations. In a sample of 42 foundations reporting \$1 million or more in charitable expenditures, which encompasses both grantmaking and charitable operating and administrative expenses, 71 percent reported paying officers, directors, and trustees, and 76 percent also employed staff. In comparison, 20 percent of foundations nationally compensate officers, directors, and trustees, and 27 percent also employ staff.

Despite these differences, compensation comprises 41 percent of all charitable operating and administrative expenses in this sample of artist-endowed foundations, in contrast to 47 percent for foundations nationally.

The higher incidence of staffing and compensation among artist-endowed foundations evidenced in this sample may be attributable to the fact that direct charitable activities involving artworks are common and, because of their complex nature, do not lend themselves to management by volunteers.

The sample of 42 foundations also reported fees for legal services as 12 percent of charitable operating and administrative expenses, compared with three percent paid for such services by foundations nationally. This difference presumably reflects the essential role played by legal services in charitable activities involving the lending, consigning, selling, granting, and licensing of artworks and copyrights. Aspects of the foundation life cycle also may influence higher legal expenditures, including the need among some to update tax status, legal form, and governing documents following the receipt of bequests of artworks. Less happily, litigation related to such matters as estate settlement and authentication disputes is also a likely factor.

### **Foundation Status**

The percentage of the field that reported the status of “operating foundation” remained steady at about one-quarter of identified foundations, even with evidence that some foundations change status during their life cycle. This contrasts with foundations nationally, where operating foundations are in decline, at four percent of the field overall as of 2015 with a drop of 30 percent in the five-year period of 2011 through 2015. The higher incidence of operating status among artist-endowed foundations likely is associated with the preferences of artists’ heirs who create foundations with the intention of making lifetime gifts of their artists’ works while retaining ownership of the associated copyrights. Such gifts are not valued at fair market value for purposes of income tax charitable deductions unless made to an operating foundation (as opposed to a nonoperating foundation).

Operating foundations, which previously reported a majority of the field’s charitable use assets, saw that percentage decline to 48 percent in 2015 from 63 percent in 2010, even as the overall value of

their charitable use assets doubled to \$2.66 billion from \$1.31 billion. Alongside this shift, their share of the field's overall assets dropped nominally to 41 percent from 42 percent. While they continued to report the bulk of their charitable purpose disbursements (85 percent) as charitable operating and administrative expenses, operating foundations also sustained an involvement in grantmaking as noted in the Study's initial findings. Grantmaking accounted for 15 percent (\$9.87 million) of their charitable expenditures in 2015. This is consistent with research pointing to a national trend of grantmaking by operating foundations.

Nonoperating foundations continued to report a majority of the field's assets, rising nominally to 59 percent in 2015 from 57 percent in 2010. At the same time, they saw significant growth in charitable use assets, which rose exponentially to \$2.86 billion in 2015 from \$758.58 million in 2010, increasing their share of the field's charitable use assets to 52 percent from 37 percent.

With grants of \$80.30 million in 2015, nonoperating foundations continued to account for the majority of the field's giving overall (89 percent) and grantmaking dominated their charitable expenditures (72 percent). At the same time, they also continued to report strong charitable operating and administrative expenses, constituting 28 percent of their total charitable disbursements. This aligns with national research finding higher charitable operating and administrative expenses for nonoperating foundations with particular operating characteristics, several of which are found among artist-endowed foundations: conducting direct charitable activities, making grants to individuals, making grants internationally, and maintaining websites.

### **Foundation Size**

Proportionally, the artist-endowed foundation field has more large foundations and fewer small foundations than is the case among foundations nationally. Viewed in the long-term, the largest foundations—those reporting assets of \$50 million and above—grew exponentially in the 20 years between 1995, when there were two such foundations, and 2015, when there were 31. They now represent 10 percent of all extant artist-endowed foundations. This compares with foundations nationally, of which just two percent reports assets of \$50 million or more.

While the smallest artist-endowed foundations—those reporting less than \$1 million in assets—more than doubled in number between 1995 and 2015, their portion of the field overall continued to drop, declining to 43 percent of the overall population from 55 percent. In comparison, 59 percent of foundations nationally reported assets of less than \$1 million in 2015. Artist-endowed foundations at this scale typically include foundations with living donors, those intended to be the beneficiary of a surviving spouse's estate plan, and foundations in the process of estate distribution.

### **Foundation Formation**

Extending a trend noted in Supplement 2013, the formation of artist-endowed foundations continued to slow, dropping to 17 percent in the partial decade after 2010 from 49 percent in the 2001 through 2010 period. This is consistent with national trends in the foundation field, which showed an eight percent growth rate in the period after 2010.

The trend toward creation of foundations after the death of the associated artist continued in the period after 2010, with foundations now split almost evenly between those created posthumously and those created during the artist's lifetime. Foundations established posthumously might be formed under artists' estate plans, or by action of surviving spouses or other heirs or beneficiaries. At the same time that posthumous formation gained momentum, the age of artists who created foundations during their lifetime stayed steady in the seventh decade. The oldest single age rose to a new high of 100 years old.

Survivorship remains a motivation in foundation formation, although it can play out in different ways. A total of 156 foundations associated with deceased artists reported at least \$1 million in assets in 2015. Of this group, foundations associated with artists without lineal descendants continued to be a majority (57 percent). Although this is down from their 64 percent share in the Study's initial findings, the data suggests that, for a substantial portion of artists creating foundations, estate tax considerations are not likely to be a primary motivation. At the same time, foundations associated with artists with lineal descendants accounted for 43 percent, in comparison with their initial 36 percent share. This suggests that the issue of estate taxes on noncharitable bequests, such as those to children, may be a concern for a growing number of artists.

### **Foundation Termination**

Continuing a pattern highlighted in the Study's initial findings, not all artist-endowed foundations exist in perpetuity. Across all decades, a total of 108 identified foundations (25 percent) have terminated to date. More than one-quarter of these (28 percent) terminated after competing their functions as estate distribution foundations and another 25 percent spent out their modest endowments. Nineteen percent of those terminated were discarded without being funded, by the artist themselves or by others after the artist's death. Eleven percent were terminated and replaced by a second foundation, while ten percent converted to public charity status and continued to operate. Four percent saw their tax-exempt status revoked by the IRS.

Of the foundations that functioned as estate distribution foundations, distributing their assets to one or more public charities and then terminating, the largest group (44 percent) operated for ten to thirty years before completing the distribution of their assets to one or several museums and then terminating. The next largest group (37 percent) operated for five years or less, making terminating distributions closely following the artist's death to museums, community foundations, and various public charities identified as of interest to the artist.

### **Associated Artists**

Although the number of identified foundations has increased, the characteristics of their associated artists have changed little overall. Foundations associated with artists whose primary roles are not in the traditional fine arts—photographers, illustration artists, designers, architects, and conceptual and performance artists—have increased in number, but the majority of foundations (67 percent) continue to be associated with artists that have primary roles in the traditional fine art forms: painting and sculpture.

Likewise, the diversity of artists associated with foundations has changed little. Foundations associated with female artists, individually or in collaboration with male artists, have increased in number, almost doubling since initial findings. Nonetheless, foundations associated with male artists (79 percent) continue to represent the bulk of the field. Separately, foundations associated with artists of color increased in number nominally but, at eight percent, continue to represent a very small part of the field.

Foundations associated with more than one artist increased in number, as did foundations that shared an associated artist with another foundation, but foundations with multiple associations make up a small proportion of the total field, 14 and 18 percent, respectively.

## KEY TRENDS

The value of the artist-endowed foundation field's assets grew exponentially in the five-year period from 2011 through 2015, while the pace of foundation formation continued to slow, as it did among foundations nationally.

The field's assets more than doubled to \$7.66 billion as a series of major bequests flowed to foundations that had been established during their artists' lifetimes, including those associated with Louise Bourgeois, Helen Frankenthaler, Mike Kelley, LeRoy Neiman, Irving Penn, Robert Rauschenberg, Maurice Sendak, and Cy Twombly.

With \$1.51 billion in assets as of 2015, the newly endowed Cy Twombly Foundation is the field's first billion-dollar foundation and a likely harbinger of future bequests by prominent artists who have established foundations during their lifetimes.

Alongside major bequests, the rising art market was a key factor increasing the value of the field's assets. A number of foundations, including, among others, the Joan Mitchell Foundation, the Josef and Anni Albers Foundation, Norman Rockwell Art Collection Trust, and the Richard Avedon Foundation, saw significant appreciation to the values of their existing art holdings.

Art assets now constitute more than two-thirds of all the field's assets, which were evenly split between art assets and financial assets in the Study's initial findings. In a related shift, charitable use assets, often the status utilized for art assets, are now in the majority, although once they were on par with noncharitable use assets.

The field's charitable use assets are now split equally between operating foundations (one-quarter of all foundations) and nonoperating foundations (three-quarters of all foundations), indicating that both types of foundation are actively engaged in conducting direct charitable activities. This trend also may indicate a growing appreciation for the greater flexibility afforded by nonoperating status as compared with operating status, particularly for comprehensive foundations engaged in a variety of charitable activities.

The rising portion of the field's charitable purpose disbursements committed to charitable operating and administrative expenses parallels the growth in charitable use assets, presumably the result of an increased emphasis on direct charitable activities involving those assets.

As a dimension of charitable operating and administrative expenses, the artist-endowed foundation field is much more likely to compensate its officers, directors, and trustees and to employ staff than are foundations nationally, although compensation comprises a slightly lower percentage of all charitable operating and administrative expenses for the artist-endowed foundation field. With respect to fees for professional services, artist-endowed foundations dedicate a greater portion of their charitable operating and administrative expenditures to legal services than do foundations nationally.

The majority of artist-endowed foundations makes grants and the scale of this group's giving continues to grow. Over the 15-year period beginning in 2001, the field's giving grew 131 percent in contrast to 92 percent for foundations nationally. The strong focus of the field's giving on arts- and culture-related purposes continues to be a hallmark. Reflecting the artist-endowed foundation field's significant role as a conduit for the posthumous transfer of artists' works to public collections, grantmaking with artworks remains an important aspect of that focus.

Larger artist-endowed foundations are increasing as a portion of the overall field and are likely to be comprehensive foundations—those with multiple activities, often grantmaking in combination with direct charitable activities that deploy charitable use assets. Compared with foundations nationally, the artist-endowed foundation field will have an ever greater percentage of large foundations and an increasingly lesser percentage of very small foundations.

The field's dynamism remains evident, with entities forming as private foundations, changing between nonoperating and operating status, terminating, or converting to public charity status.

As one dimension of this dynamism, a subset of artist-endowed foundations continues to play a defined role, with a limited timeframe, as estate distribution foundations. The number of foundations with this function can be expected to continue increasing alongside growth of the field's art assets. Two patterns in termination are evident, including distribution and termination closely following the artist's death and distribution over a multiple-decade period, concluding with termination. These patterns should be of interest to those who are planning estate distribution foundations.

Artists without lineal descendants continue to account for a majority of the field's larger foundations. This suggests that, for a substantial portion of artists creating foundations, estate tax considerations are not likely to be a primary motivation.

At the same time, foundations associated with artists who are survived by children are growing in number and also as a portion of the field. This points not only to possible estate tax considerations on the part of such artists but also to the increased potential for involvement in foundation governance by artists' family members.

## **LOOKING AHEAD**

The artist-endowed foundation field has entered a period of transformational growth, its assets increasing in value significantly and in ways that eventually will redefine the scope and scale of charitable

activities and charitable disbursements. It takes time for foundations to incorporate major bequests of artworks, develop appropriate charitable programs, and begin converting some of the artworks to financial assets to support grants and other charitable programs. Nonetheless, there can be little doubt that this major growth trend ultimately will reframe the public's perception of the field.

The transparency of foundations and their willingness to educate the public about their processes and programs will be vital in navigating the increased visibility and accountability that accompany substantial growth. Likewise, sustaining the field's generous commitment to collegial exchange and peer assistance will be essential to the success of the next generation of foundations.

Foundation governance will continue to be a critical issue, as discussed in the Study's initial findings, particularly with respect to four concerns that have been flagged since the initial Study Report.

*Public Benefit*—As the number of art collections flowing into the artist-endowed foundation field continues to grow, and the scale of assets classified as charitable use assets continues to increase, effective realization of the charitable use of such assets, and clear evidence of their benefit to the public, will be ever more important to justify this classification for charitable use, as opposed to that of investment asset.

*Conflict of Interest*—As more artists who have children form foundations tasked in part to educate about their works and place their family members in a governance role, it will be crucial that these new fiduciaries have a clear understanding as to the conflict of interest risks that will result should they themselves own and sell the artist's works, potentially benefiting economically from the foundation's activities.

*Professional Development*—As the field expands, and greater numbers of individuals find themselves serving for the first time as a member of an artist-endowed foundation's governing body or in an executive leadership position, a commitment to professional development to educate themselves about private foundation governance will be paramount for these new leaders and the foundations they steward. Likewise, knowledge about this same topic must grow among attorneys and accountants who are not exempt organization specialists but advise artist-endowed foundation clients with respect to governance matters.

*Diversity*—Although foundations associated with artists who are women have grown in number, there remain few associated with artists of color. It is to be hoped this will change in the coming years. In the meantime, given its commitment to generative support for the arts in our multicultural society, it will be important for the artist-endowed foundation field as a whole to consider diversity as a factor in developing foundation boards and staff and in creating new programs and reaching out to new grantees.

Three trends emerging in recent years will continue to shape the field.

*Disclaiming Artists' Estate Assets*—Prominent artists are increasingly being advised to use an estate planning technique—"disclaiming"—that reduces estate taxes by posthumously redirecting assets from taxable bequests, such as those to private individuals, so that they pass instead to a charitable,

tax-exempt entity, typically the artist's foundation. Artists often are not aware that individuals who disclaim assets are prohibited from continued control, an issue that comes to the fore if disclaiming family members serve on the governing body of the recipient foundation. (See Part C. Supplemental Briefing Paper.)

*Artists' Corporations*—Starting in the 1970s, artists were advised in some cases to incorporate their studio practice, and foundations now are beginning to receive this generation's bequests. As a result, a growing number of foundations find themselves with ownership interest in artists' corporations, even as their governing boards learn about the complicated and expensive nature of this situation arising from limits by law on the business holdings of private foundations. (See Supplement 2013 for detailed analysis.) The Bipartisan Budget Act of 2018 included a new provision allowing private foundations to override the limit on business ownership under certain circumstances, such as when the wholly owned entity is operated entirely separately from the foundation. It is not clear how this new policy would align with artist-endowed foundations' art stewardship functions.

*Statutory Copyright Termination*—Artists' estate plans increasingly are prepared using will substitutes, such as trusts. On a technical basis, questions remain as to whether transfer of copyrights by means of will substitute, as opposed to by will, leaves in place the statutory rights of family heirs to take possession of artists' copyrights at a later date, potentially presenting a challenge for artists who intend to bequeath their copyrights permanently to a foundation. (See Supplement 2013 for detailed analysis.)

From the vantage point of 2018, greater forces of public policy will be at play as the field evolves.

*The Economy*—Positive economic factors might continue to help spur the formation of artist-endowed foundations, including a long-rising US stock market and the related strong global art market. It is an open question, however, as to how the greater volatility newly evident in stock markets globally will translate into this picture.

*Estate Tax Exemption*—Alternatively, federal tax policies might slow formation of smaller foundations. The Tax Cuts and Jobs Act approved by Congress in 2017 doubled the federal estate tax exemption to \$11.4 million per person, indexed for inflation. With proper planning, a married couple can exclude double that amount, \$22.8 million. Roughly three-quarters of extant artist-endowed foundations hold assets valued at less than the individual exemption, although some of these are artists' lifetime foundations or those intended to be the beneficiaries under the estate plans of artists' surviving spouses.

*Marital Exemption*—The recognized right of married same-sex couples to be taxed as spouses, and thus to enjoy the federal estate tax marital deduction, has extended this exemption to a broader universe of artists and potentially may function to delay foundation formation for all types of artists with surviving spouses.

*Business Income Tax*—Other factors may contribute to slowing the formation of foundations. The 2017 Tax Act instituted favorable tax treatment for pass-through business entities, such as Limited Liability Companies (LLCs), in some cases making this non-tax-exempt form a potentially appealing

choice for artists' heirs who prefer to retain ownership and operation of a small family collection/estate as opposed to creating a foundation.

Although the number and scale of artist-endowed foundations will continue to increase, many artists will opt to use alternatives to the single-artist, private foundation form.

*Direct Bequests*—Artists will continue to make direct bequests to museums, educational institutions, and community foundations. The bequest by Marisol Escobar (1930–2016) making the Albright-Knox Gallery the beneficiary of her estate plan is a recent example.

*Public Charities*—Artists will continue to establish public charities, dependent on support from members of the general public, as the intended posthumous stewards of creative legacies. An example is the Cosanti Foundation, established in 1993 by Paolo Soleri (1919–2013) and the recipient of a gift of 100 percent interest in his corporation contributed two years before his death.

*Multi-Artist Platforms*—Artists and their heirs will continue to seek out opportunities to combine their lifetime contributions and bequests with those of other artists to achieve their goals for posthumous stewardship. The Center for Creative Photography is one example, recently announcing that the collections of William Silano (1934–2014) and Joan Lifton (born 1935) would be added to its extensive archival holdings.

## CONCLUSION

Notwithstanding exponential growth in the value of the field's assets in the five-year period of 2011 through 2015, artist-endowed foundations continue to represent a very small segment of the universe of 86,000 private foundations in the US. Likewise, their aggregate charitable contributions still pale in comparison with both the \$62.80 billion committed to the arts in total by foundations nationally and the \$1.20 billion appropriated to the arts by the public sector (federal government, states, and localities). But such measures belie the field's potential influence—as the saying goes, it punches above its weight. These distinctively endowed charities are steadily increasing in number and the focus of their activities holds particular relevance to the visual arts. Together they steward a growing cultural heritage of modern and contemporary art, and they actively engage the visual arts field through giving and by direct programs, in ways that set them apart from most other foundations. The updated findings presented in *Study Report Supplement 2018* depict a field experiencing transformational growth in its charitable resources and poised to optimize its educational and philanthropic impact through these enhanced assets.