

Asset valuations and your estate plan go hand in hand

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If your estate plan calls for making noncash gifts in trust or outright to beneficiaries, you need to know the values of those gifts *and* disclose them to the IRS on a gift tax return. For substantial gifts of noncash assets other than marketable securities, it's a good idea to have a qualified appraiser value the gifts at the time of the transfer.

Adequately disclosing a gift

A three-year statute of limitations applies during which the IRS can challenge the value you report on your gift tax return. The three-year term doesn't begin until your gift is "adequately disclosed." This means you need to not just file a gift tax return, but also:

- Give a detailed description of the nature of the gift;
- Explain the relationship of the parties to the transaction; and
- Detail the basis for the valuation.

The IRS also may require certain financial statements or other financial data and records.

Generally, the most effective way to ensure you've disclosed gifts adequately and triggered the statute of limitations is to have a qualified, independent appraiser submit a valuation report that includes information about the property, the transaction and the appraisal process.

IRS-imposed penalties

Using a qualified appraiser is important because, if the IRS deems your valuation to be “insufficient,” it can revalue the property and assess additional taxes and interest. If the IRS finds that the property’s value was “substantially” or “grossly” misstated, it will also assess additional penalties.

A “substantial” misstatement occurs if you report a value that’s 65% or less of the actual value — the penalty is 20% of the amount by which your taxes are underpaid. A “gross” misstatement occurs if your reported value is 40% or less of the actual value — the penalty is 40% of the amount by which your taxes are underpaid.

Before taking any action, please consult with us regarding the tax and legal consequences of any estate planning strategies. In addition, we can help you work with a qualified appraiser to ensure your gifts are properly valued and adequately disclosed.

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