The Potential Impact of Recent Appraisal Regs On Charitable Giving

Do charitable gifts play an important role in your estate plan? If you make or plan to make substantial noncash gifts to charity, you should be aware of how new requirements for appraisals can affect those donations.

Recently, the IRS finalized 10-year-old proposed regulations regarding substantiation and reporting requirements for charitable deductions. Although the final regs are similar to those proposed earlier, there are some significant changes to rules on appraiser qualifications and the contents of their appraisals. The new rules became effective January 1, 2019.

How to Substantiate Contributions

According to the final regulations, you must substantiate noncash charitable contributions over $5,000 and over $10,000 for closely held stock, by:

- Obtaining a contemporaneous written acknowledgment (CWA) from the recipient stating: 1) the amount of your contribution, and 2) a description and good-faith estimate of the value of any goods or services provided in consideration of your contribution,

- Obtaining a qualified appraisal of the property by a qualified appraiser,

- Filing Form 8283 (Section B) — signed by you, the recipient and the appraiser — with your federal income tax return on which the deduction is claimed,

- For contributions over $500,000, attaching a copy of the appraisal to your tax return.

You should obtain the CWA and appraisal by the extended due date of your tax return or, if earlier, the date you file your return.

There are some exceptions to these substantiation rules. No appraisal is required for certain types of property, including publicly traded stock, vehicles (if your deduction is limited to the gross sale proceeds), certain inventory and intellectual property. Check with us for more information.

How Appraisals Qualify

To qualify, an appraisal must be prepared by a qualified appraiser in accordance with generally accepted appraisal standards. Some commenters have urged the IRS to require strict compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), developed by the Appraisal Standards Board of the Appraisal Foundation. However, the final regs define generally accepted appraisal standards to mean the "substance and principles" of USPAP, giving appraisers the flexibility to follow appraisal standards developed by other organizations.

The final regs also include a detailed list of information an appraisal must contain. It must be signed and dated by the appraiser no earlier than 60 days before the property is contributed and no later than the extended due date of your return.

Who Qualifies as an Appraiser

A qualified appraiser is someone with "verifiable education and experience in valuing the type of property for which an appraisal is performed." The education and experience requirement may be satisfied by either:

1. Successfully completing certain professional or college-level coursework *and* obtaining two or more years of experience in valuing the type of property being appraised, or
2. Earning a recognized appraiser designation from a generally recognized professional appraiser organization.

Coursework must be obtained from an educational institution, a generally recognized professional trade or appraiser organization, or a satisfactory employer educational program.

A qualified appraiser doesn't need to have education and experience in valuing property identical to the property being appraised. According to the final regs, "type of property" means "the category of property customary in the appraisal field for an appraiser to value." So, for example, if it's customary for professional antique appraisers to appraise antique widgets, an appraiser with two years of experience in valuing antiques generally would be qualified to appraise an antique widget.

Suppose, however, that it's not customary for professional antique appraisers to value new widgets. An appraiser with experience in valuing antiques generally but no experience in appraising new widgets wouldn't be considered qualified to conduct a valuation of this type of property.

Who *Doesn't* Qualify as an Appraiser

The final regs also specify that the following individuals are *not* qualified appraisers, regardless of their education and experience:

- The property's donor (you),
- The property's recipient (the charity),
- A party to the transaction in which you acquired the property (the person who sold or gave it to you, for example), unless you contribute the property within two months after you acquire it and its appraised value doesn't exceed its purchase price,
- Certain relatives and employees and their spouses of the individuals listed above,
- An independent contractor who regularly performs appraisals for the donor, recipient or party to the property's acquisition and who doesn't regularly perform appraisals for others, or
- Someone who has been suspended from practice before the IRS at any time during the previous three years.

Also ineligible is anyone who receives a prohibited appraisal fee. This is a fee based to any extent on the property's appraised value.

Don't Lose Your Deduction

If you're planning to make a charitable gift of property that requires a qualified appraisal, make sure your appraiser has the right credentials and experience. Otherwise, you may lose valuable tax deductions, even if a donation is otherwise legitimate and the reported value of the donation is accurate.

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