ADVISOR'S QUARTERLY
Resources for Donors

What Is a Qualified Appraisal? An Article for Donors

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Donors who make charitable gifts of property other than cash or marketable securities must meet special gift substantiation requirements if they wish to claim federal income tax deductions for their gifts. More specifically, for gifts above specified dollar amounts described below, the tax law requires a donor to hire a qualified appraiser who must complete a qualified appraisal of the gift property. The donor must also attach specific documents to his or her tax return depending on the type and value of the assets donated.

It is important to note that these detailed requirements are unique to appraisals for charitable gift purposes. Many appraisals that would be perfectly appropriate for other valuation purposes, such as obtaining insurance or financing, might not pass muster when it comes to substantiating a charitable gift. The purpose of this article is to familiarize donors generally with these qualified appraisal rules. Please note that the IRS issued final regulations on this topic in 2018. Some of the rules noted in this article are not effective until January 1, 2019.

Donors should always consult competent legal or tax advisors to determine how the rules would apply in their particular situation. Donors' advisors can find more information about the qualified appraisal requirements in Internal Revenue Code §170(f)(11) and Treasury Regulations §§1.170A-13 through 1.170A-18.

When Is an Appraisal Required?

Qualified appraisals are most commonly obtained for gifts of real estate, tangible personal property (e.g., artwork), or privately-held stock. However, qualified appraisals are required for a gift of any asset other than cash or readily marketable securities, subject to the de minimis exception mentioned below. This could include gifts of a life insurance policy, publicly-traded stock subject to restrictions (e.g., Rule 144 stock), or even your right to receive payments pursuant to an existing charitable remainder trust or gift annuity contract.

A de minimis exception provides that a qualified appraisal is required only if the income tax deduction to be claimed by the donor exceeds $5,000 (or $10,000 for gifts of privately-held stock). For purposes of determining whether the $5,000 threshold is crossed, a donor must aggregate gifts of similar items of property made to all charities during the year. For example, if during a single calendar year a donor made gifts of three rare books, each worth approximately $2,500, to three different charities, a qualified appraisal would be required because the aggregate value of $7,500 exceeds the $5,000 threshold.

A donor must obtain the qualified appraisal no earlier than 60 days prior to the date of the gift, and no later than the due date (including extensions) of the federal income tax return on which the charitable deduction is first claimed. Because of the 60-day requirement, donors might wish to negotiate with appraisers up front for a reduced fee for "refreshing" the appraisal if they anticipate the gift date might be delayed for some reason.

It is the donor's legal responsibility to obtain a qualified appraisal; the charity cannot properly pay for the appraisal.

Who Is a Qualified Appraiser?

Not surprisingly, the IRS is interested in making sure that qualified appraisers of charitable gifts are both capable and unbiased. Therefore, the tax law defines a qualified appraiser as someone who regularly performs appraisals for compensation and has the necessary credentials and experience to appraise the type of property being given to charity.

A qualified appraiser is an individual, as opposed to an entity, who has an official designation from a licensing body or who has the required minimum education and experience in appraising assets of the nature donated. The appraiser must also regularly perform appraisals of the same type and nature as the item donated.

The regulations state that the following persons cannot, by definition, be qualified appraisers with respect to the gift property:

- The donor.
- A party to the transaction in which the donor acquired the gift property (i.e., the person who sold, exchanged, or gave the property to the donor), unless the property is contributed within two months of the date of the donor's acquisition of the property and its appraised value does not exceed its acquisition price.
- The donee charity.
- Any employee or family member of the foregoing persons or organizations.
- An appraiser who is regularly used by the foregoing persons or organizations who does not perform a majority of his or her appraisals during the tax year for other persons.
- Any individual, if he or she had knowledge of facts that would cause a reasonable person to expect the appraiser to overstate the value of the gift property.

The donor’s attorney, CPA, or the charity might be able to recommend individuals who would be suitable qualified appraisers. The donor can also search for credentialed appraisers and learn more about appraisal standards at the following websites: www.appraisalinstitute.org and www.appraisalfoundation.org.

What Must Be Included in the Appraisal?

The following are some of the items that must be included in a qualified appraisal to substantiate the income tax deduction:

- A description of the donated items, including the physical condition of any tangible personal property donated. The description must contain sufficient detail such that a person unfamiliar with the type of property donated could ascertain that the property valued in the appraisal was in fact the property that was donated to charity.
- The date or anticipated date of the donation. The appraisal must also contain the date on which the appraisal was performed and the date on which the valuation was based. For example, “Donor made a charitable gift of the asset on January 3, 2018. Appraisal was performed on January 13, 2018, with the value of the asset determined as of January 3, 2018.”
- The fair market value of the donated property as of the date of the contribution.
- The terms of any donation agreement. The new regulations expand on what “terms” must be reported. The appraisal must include “(t)he terms of any agreement or understanding by or on behalf of the donor and donee that relates to the use, sale, or other disposition of the contributed property…”
- The following declaration of the appraiser: “I understand that my appraisal will be used in connection with a return or claim for refund. I also understand that, if there is a substantial or gross valuation misstatement of the value of the property claimed on the return or claim for refund that is based on my appraisal, I may be subject to a penalty under §6695A of the Internal Revenue Code, as well as other applicable penalties. I affirm that I have not been at any time in the three-year period ending on the date of the appraisal barred from presenting evidence or testimony before the Department of the Treasury or the Internal Revenue Service pursuant to 31 U.S.C. §330(c).”
- The method employed by the appraiser to arrive at the final valuation, e.g., comparable sales, replacement value, or other method. This must include “specific basis for the valuation such as specific comparable sales or statistical sampling, including a justification for using sampling and an explanation of the sampling procedure employed."
- The name, address, and taxpayer identification number of the appraiser. The appraisal must also include the same information for the appraiser’s employer, if any.
- The qualifications of the appraiser including the appraiser’s education and experience.

- A statement that the appraisal was performed for "income tax purposes."
- The appraiser's signature and the date signed.

It might be wise for the donor to review the above items with the qualified appraiser before finalizing the engagement to make sure there is a clear understanding of what the final appraisal document will contain.

What Is an Appraisal Summary?

A donor who is required to obtain a qualified appraisal to substantiate an income tax deduction must also attach an appraisal summary to the tax return on which the deduction is first claimed. This appraisal summary is currently incorporated into Section B of IRS Form 8283—Noncash Charitable Contributions. In addition to summarizing required data from the qualified appraisal, Form 8283 also requires the donor to specify how and when the gift property was acquired and its cost basis. (Note that if the claimed income tax deduction is greater than $500,000, or is greater than $20,000 and relates to a gift of artwork, the donor must also attach a copy of the signed, qualified appraisal and not just the summary.)

The donor must list the name, address, and taxpayer identification number of the qualified appraiser, and also obtain his or her signature on the Form 8283. By signing, the appraiser acknowledges: 1) that he or she is qualified to make appraisals of the type of property being given, 2) that the appraisal fee was not based on a percentage of the appraised property value, 3) that overstatement of the gift value could subject him or her to penalties, and 4) that he or she has not been disqualified from presenting evidence or testimony to the IRS.

An appropriately authorized official of the donee charitable organization must also sign Form 8283. By signing, the charity acknowledges the date it received the gift property, but does not indicate agreement or disagreement with the appraisal value. However, if the charity sells, exchanges, or otherwise disposes of the gift property within three years after it was received, the charity must report the date of disposition and the sale price on IRS Form 8282—Donee Information Return. This enables the IRS to compare the value claimed for charitable deduction purposes with the ultimate value realized by the charity. The IRS can assess penalties on the taxpayer and/or the appraiser if it determines the gift value was substantially or grossly overstated.

Best Practices

The qualified appraisal rules are complex. Donors should consider these tips to help ensure success:

1. Meet with a tax advisor prior to making a gift of more than $5,000 in unmarketable assets and again before claiming the charitable income tax deduction. This will help ensure that the advisor is aware of the gift and is prepared to assist in complying with the gift substantiation requirements.
2. Do not delay in obtaining the appraisal. While a taxpayer is permitted to wait to obtain the appraisal until the due date of his or her tax return, all sorts of unknown issues and situations can arise between the gift date and the tax filing deadline that could make obtaining a qualified appraisal difficult or impossible.
3. Make sure to obtain the appropriate signatures on Form 8283, including from the designee of the charity (or trustee if the donor is contributing to a CRT), the qualified appraiser and, of course, the donor. ■