I KNOW IT WHEN I SEE IT – VALUATION ISSUES

By: Robert D. Kaplow, Esq.

I. PURPOSES OF VALUATION

A. Sale / Purchase

B. Estate tax

C. Gift tax

D. Insurance

E. Financing / Refinancing

F. Charitable deduction

G. Succession planning

H. Planning for estate liquidity

II. TYPES OF ASSETS TO BE VALUED

A. Business

B. Art

C. Other types of tangible personal property

D. Intellectual property

E. Real estate

F. Easements – Conservation / Façade

III. COMMON ISSUES / CONCERNS

A. An art – not a science?

B. Experience of appraiser – including litigation or tax matters

C. Educational qualifications of appraiser

D. Ability to provide timely appraisals

E. Cost of appraisal

F. Discipline actions against appraiser

G. Know the purpose of the valuation

IV. ROLE OF THE ACCOUNTANT

A. Advise appraiser of particular facts that would increase or decrease value

B. Provide accurate financial information and tax returns

C. Advise of any unusual circumstances in connection with the business or financial statements or tax returns

V. BASIC RULE OF VALUATION

> "The fair market value . . . is the net amount which a willing purchaser . . . would pay for the interest to a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts."
>
> IRS Reg §20.2031-3

All valuations are trying to determine this fair market value

VI. BUSINESS VALUATIONS – REV. RUL. 59-60

A. Rev. Rul. 59-60 outlines the approach, methods and factors to take into account in valuing closely held businesses

B. Rev. Rul. 59-60 is applicable to valuations for income tax purposes as well as for estate and gift tax purposes

C. Approach to valuation as provided in Rev. Rul. 59-60:

1. Fair market value is a question of fact and depends upon the circumstances in each case

2. No formula applies to all cases

3. Appraiser must determine the amount of risk inherent in the business

4. Valuation of a company is a "prophesy" as to the future, but must be based upon facts available as of the date of the appraisal

D. Factors to consider per Rev. Rul. 59-60:

1. The nature of the business and the history of the enterprise from its inception

2. The economic outlook in general and the condition and outlook of the specific industry in particular

3. The book value of the stock and the financial condition of the business

4. The earning capacity of the company

5. The dividend-paying capacity

6. Whether or not the enterprise has goodwill or other intangible value

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7. Sales of the stock and the size of the block of stock to be valued

8. The market price of stocks of corporations engaged in the same or a similar line of business having their stocks actively traded in a free and open market, either on an exchange or over-the-counter

E. Capitalization rates

1. Rev. Rul. 59-60 recognizes that to determine the value of a company, it is necessary to capitalize the income of the company at “some appropriate rate”

2. Determining the proper “cap” rate is one of the “most difficult problems in valuation”

3. There are no standard tables of capitalization rates

4. In determining the appropriate cap rate, the appraiser should consider the following:

   - the nature of the business

   - the risk involved, and

   - the stability or irregularity of earnings

F. Determination of factors

1. Since valuations cannot be made on the basis of a prescribed formula, cannot assign mathematical weights to each factor

2. Likewise, cannot take an average of several factors (such as book value, capitalized earnings and capitalized dividends)

3. Have to look at all factors when determining the value of the business

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VII. VALUATION METHODOLOGY

A. Appraisers of real estate or businesses will review various methods for determining the value of the real estate or business and arrive at a conclusion of value based on one of the methodologies

B. Three methods:

- Market approach
- Income approach
- Asset approach

C. Market approach

1. Determine comparable companies, analyze their financial information and apply to the subject company

2. Guideline Public Company Method. Market multiples are calculated based on publicly quoted prices or the prices of comparable companies

3. Guideline M&A Method. Market multiples are determined based on transaction prices of sales of similar companies

4. May be hard for appraiser to obtain this information

D. Income approach

1. Value of the business is the present value of the cash flow to be generated in the future

2. This method takes into account the time value of money and the risk of generating the projected cash flow

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E. Asset approach

1. Develop a fair market value balance sheet of the company

2. All assets and liabilities are identified and shown on the balance sheet, including intangible assets

3. Subtracting the value of the liabilities from the assets results in the fair market value of the company

F. Once the value is determined – decide if any discounts or premiums apply

1. Depends on the purpose of the valuation. Is the valuation of the whole company or just the owner's share?

2. Discount for lack of control

3. Discount for lack of marketability

4. Premiums for control

5. Discounts generally determined by comparisons to publicly traded interests and studies

6. No automatic discount percentages

7. IRS may contest the discount percentages

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VIII. APPRAISALS FOR INTERNAL REVENUE SERVICE

A. The Internal Revenue Code provides requirements for appraisals of certain assets in connection with contributions to charities, gifts or estate valuations

B. IRS Publication 561, "Determining the Value of Donated Property", provides information for determining the value of donated property, including information regarding required "qualified appraisals"

C. Charitable Donations

1. Form 8283 to be filed (See Exhibit A)

2. Qualified appraisals are required unless the deduction is $5,000 or less. In determining the $5,000 amount, all similar items are aggregated and treated as one property, even if donated to separate charities

3. Art valued at $20,000 or more requires a complete copy of the signed qualified appraisal to be attached to the income tax return

4. Art valued at $50,000 or more – taxpayer can request a "Statement of Value" from the IRS before filing the tax return. Rev. Proc. 96-15

a. Requires qualified appraisal

b. $2,500 fee to IRS

c. Completed Form 8283, Section B

5. Other property (besides art) – a qualified appraisal must be attached to the return if the deduction is more than $500,000. Failure to attach the appraisal results in the denial of the deduction.

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6. Requirements for a qualified appraisal:

   a. IRS Regulations set forth very detailed rules for the appraisal and the appraiser. Regulation Section 1.170A-13(c)(3) (qualified appraisal requirements) and Section 1.170A-13(c)(5) (qualified appraiser requirements)

   b. Requirements summarized in pages 8-11 of IRS Publication 561. (See Exhibit B)

7. Substantial penalty for failure to comply with qualified appraisal requirements – can be denied the charitable deduction

8. Appraisals not required for contributions of certain property:

   a. Stock in trade, inventory or property held primarily for sale to customers in the ordinary course of business

   b. Publicly traded securities

   c. Patents and other intellectual property

   d. Vehicles where the donee organization sells the vehicle without a significant intervening use or material improvements of the vehicle by the organization (because the charitable deduction is limited to the amount received by the charity upon the sale)

IX. APPRAISAL REPORT

A. IRS Regulation 1.170A-13(c)(3) specifies the requirements for a qualified appraisal

B. AICPA has issued its list of best practices for a valuation report

C. VS Section 100, Paragraph .51 Valuation of a Business, Business Ownership Interest, Security, or Intangible Asset (ALCPA, Professional Standards) recommends that the report be structured with the following sections:

- Letter of transmittal
- Table of contents
- Introduction
- Sources of information
- Analysis of the subject entity and related nonfinancial information
- Financial statement or financial information analysis
- Valuation approaches and methods considered
- Valuation approaches and methods used
- Valuation adjustments
- Non-operating assets, non-operating liabilities, and excess or deficient operating assets (if any)
- Representation of the valuation analyst
- Reconciliation of estimates and conclusion of value
- Qualifications of the valuation analyst
- Appendixes and exhibits

D. In addition, the introduction of the report should provide the following information:

1. Identity of the client

2. Purpose and intended use of the valuation

3. Intended users of the valuation

4. Identity of the subject entity

5. Description of the subject interest

6. Whether the business interest has ownership control characteristics and its degree of marketability

7. Valuation date

8. Report date

9. Type of report used (namely, a detailed report)

10. Applicable premise of value

11. Applicable standard of value

12. Assumptions and limiting conditions (alternatively, these often appear in an appendix)

13. Any restrictions or limitations in the scope of work or data available for analysis

14. Any hypothetical conditions used in the valuation engagement, including the basis for their use

15. If the work of a specialist was used in the valuation engagement, a description of how the specialist's work was relied upon

16. Disclosure of subsequent events in certain circumstances

17. Any application of the jurisdictional exception

18. Any additional information the valuation analyst deems useful to enable the user(s) of the report to understand the work performed

X. <u>REVIEWING THE REPORT</u>

A. Confirm that the key information, dates and facts are correct

B. Make sure the report includes each of the valuation methods and provides a clear explanation of why such valuation method was used or rejected

C. Verify that the assumptions made by the appraiser are reasonable and not outlandish

D. Make sure the appraiser has included his or her credentials

E. Confirm the appraiser is independent and a full-time appraiser

F. Internal Revenue Manual Section 4.48.4 provides the guidelines that the IRS appraiser will use in reviewing the appraisal. Make sure the appraisal will meet or exceed those requirements

XI. MAKE PROPER FILINGS WITH THE IRS

A. If the appraisal is going to be provided to the IRS, make sure it meets the requirements of Reg. §1.170A-13(c)(3)

B. If taking a charitable deduction, make sure to property file Form 8283

C. Charitable deductions were denied in these cases:

1. Mohamed v. Commissioner, T.C. Memo 2012-152 (May 29, 2012). Taxpayer, a real estate broker and real estate appraiser, was denied an $18,000,000 deduction for a charitable contribution of real estate. The problem was that the taxpayer prepared his own appraisal and the IRS regulations require appraisal by an unrelated third party.

2. Schweizer v. Commissioner, T.C. Memo 2022-102 (October 6, 2022). Taxpayer's $600,000 contribution of art to a museum was disallowed because the appraiser was not a certified appraiser, and the taxpayer filed an incomplete Form 8283.

XII. APPRAISER QUALIFICATIONS

Appraiser should be certified by one or more organizations and meet their guidelines, such as:

A. USPAP – Uniform Standards of Professional Appraisal Practice – issued by the Appraisal Standards Board

B. The Financial Institutions Reform Recovery and enforcement Act (FIRREA) cites USPAP as the standard to be enforced by state real estate appraiser regulatory agencies

C. USPAP compliance is also required by professional appraiser associations and many federal, state and local agencies

D. See also, American Society of Appraisers and American Institute of CPAs

EXHIBIT A

Form **8283** (Rev. November 2022) Department of the Treasury Internal Revenue Service

Noncash Charitable Contributions

Attach one or more Forms 8283 to your tax return if you claimed a total deduction of over $500 for all contributed property.

Go to *www.irs.gov/Form8283* for instructions and the latest information.

OMB No. 1545-0074

Attachment Sequence No. **155**

Name(s) shown on your income tax return | **Identifying number**

Note: Figure the amount of your contribution deduction before completing this form. See your tax return instructions.

Section A. Donated Property of $5,000 or Less and Publicly Traded Securities—List in this section **only** an item (or a group of similar items) for which you claimed a deduction of $5,000 or less. Also list publicly traded securities and certain other property even if the deduction is more than $5,000. See instructions.

Part I Information on Donated Property—If you need more space, attach a statement.

1	(a) Name and address of the donee organization	(b) If donated property is a vehicle (see instructions), check the box. Also enter the vehicle identification number (unless Form 1098-C is attached).	(c) Description and condition of donated property (For a vehicle, enter the year, make, model, and mileage. For securities and other property, see instructions.)
A		☐	
B		☐	
C		☐	
D		☐	
E		☐	

Note: If the amount you claimed as a deduction for an item is $500 or less, you do not have to complete columns (e), (f), and (g).

	(d) Date of the contribution	(e) Date acquired by donor (mo., yr.)	(f) How acquired by donor	(g) Donor's cost or adjusted basis	(h) Fair market value (see instructions)	(i) Method used to determine the fair market value
A						
B						
C						
D						
E						

Section B. Donated Property Over $5,000 (Except Publicly Traded Securities, Vehicles, Intellectual Property or Inventory Reportable in Section A)—Complete this section for one item (or a group of similar items) for which you claimed a deduction of more than $5,000 per item or group (except contributions reportable in Section A). Provide a separate form for each item donated unless it is part of a group of similar items. A qualified appraisal is generally required for items reportable in Section B. See instructions.

Part I Information on Donated Property

2 Check the box that describes the type of property donated.

- **a** ☐ Art* (contribution of $20,000 or more)
- **b** ☐ Qualified Conservation Contribution
- **c** ☐ Equipment
- **d** ☐ Art* (contribution of less than $20,000)
- **e** ☐ Other Real Estate
- **f** ☐ Securities
- **g** ☐ Collectibles**
- **h** ☐ Intellectual Property
- **i** ☐ Vehicles
- **j** ☐ Clothing and household items
- **k** ☐ Other

* Art includes paintings, sculptures, watercolors, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, rare manuscripts, historical memorabilia, and other similar objects.

** Collectibles include coins, stamps, books, gems, jewelry, sports memorabilia, dolls, etc., but not art as defined above.

Note: In certain cases, you must attach a qualified appraisal of the property. See instructions.

3	(a) Description of donated property (if you need more space, attach a separate statement)	(b) If any tangible personal property or real property was donated, give a brief summary of the overall physical condition of the property at the time of the gift.	(c) Appraised fair market value
A			
B			
C			

	(d) Date acquired by donor (mo., yr.)	(e) How acquired by donor	(f) Donor's cost or adjusted basis	(g) For bargain sales, enter amount received	(h) Amount claimed as a deduction (see instructions)	(i) Date of contribution (see instructions)
A						
B						
C						

Name(s) shown on your income tax return	Identifying number

Part II **Partial Interests and Restricted Use Property (Other Than Qualified Conservation Contributions)—** Complete lines 4a through 4e if you gave less than an entire interest in a property listed in Section B, Part I. Complete lines 5a through 5c if conditions were placed on a contribution listed in Section B, Part I; also attach the required statement. See instructions.

4a Enter the letter from Section B, Part I that identifies the property for which you gave less than an entire interest ______
If Section B, Part II applies to more than one property, attach a separate statement.

b Total amount claimed as a deduction for the property listed in Section B, Part I: **(1)** For this tax year . . . ______
(2) For any prior tax years . ______

c Name and address of each organization to which any such contribution was made in a prior year (complete only if different from the donee organization in Section B, Part V, below):

Name of charitable organization (donee)

Address (number, street, and room or suite no.)	City or town, state, and ZIP code

d For tangible property, enter the place where the property is located or kept ______

e Name of any person, other than the donee organization, having actual possession of the property ______

		Yes	No
5a	Is there a restriction, either temporary or permanent, on the donee's right to use or dispose of the donated property?		
b	Did you give to anyone (other than the donee organization or another organization participating with the donee organization in cooperative fundraising) the right to the income from the donated property or to the possession of the property, including the right to vote donated securities, to acquire the property by purchase or otherwise, or to designate the person having such income, possession, or right to acquire?		
c	Is there a restriction limiting the donated property for a particular use?		

Part III **Taxpayer (Donor) Statement—**List each item included in Section B, Part I above that the appraisal identifies as having a value of $500 or less. See instructions.

I declare that the following item(s) included in Section B, Part I above has to the best of my knowledge and belief an appraised value of not more than $500 (per item). Enter identifying letter from Section B, Part I and describe the specific item. See instructions.

Signature of taxpayer (donor) ______ Date ______

Part IV **Declaration of Appraiser**

I declare that I am not the donor, the donee, a party to the transaction in which the donor acquired the property, employed by, or related to any of the foregoing persons, or married to any person who is related to any of the foregoing persons. And, if regularly used by the donor, donee, or party to the transaction, I performed the majority of my appraisals during my tax year for other persons.

Also, I declare that I perform appraisals on a regular basis; and that because of my qualifications as described in the appraisal, I am qualified to make appraisals of the type of property being valued. I certify that the appraisal fees were not based on a percentage of the appraised property value. Furthermore, I understand that a false or fraudulent overstatement of the property value as described in the qualified appraisal or this Form 8283 may subject me to the penalty under section 6701(a) (aiding and abetting the understatement of tax liability). 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 section 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).

Sign Here

Appraiser signature		Date
Appraiser name	Title	

Business address (including room or suite no.)	Identifying number
City or town, state, and ZIP code	

Part V **Donee Acknowledgment**

This charitable organization acknowledges that it is a qualified organization under section 170(c) and that it received the donated property as described in Section B, Part I, above on the following date ______

Furthermore, this organization affirms that in the event it sells, exchanges, or otherwise disposes of the property described in Section B, Part I (or any portion thereof) within 3 years after the date of receipt, it will file **Form 8282**, Donee Information Return, with the IRS and give the donor a copy of that form. This acknowledgment does not represent agreement with the claimed fair market value.

Does the organization intend to use the property for an unrelated use? . . . . ☐ **Yes** ☐ **No**

Name of charitable organization (donee)	**Employer identification number**	
Address (number, street, and room or suite no.)	City or town, state, and ZIP code	
Authorized signature	Title	Date

EXHIBIT B

If the only interest you own in real property is a remainder interest and you transfer part of that interest to a qualified organization, see the previous discussion on valuation of a remainder interest in real property.

Qualified Conservation Contribution

A qualified conservation contribution is a contribution of a qualified real property interest to a qualified organization to be used only for conservation purposes.

Qualified organization. For purposes of a qualified conservation contribution, a qualified organization is:

- A governmental unit;
- A publicly supported charitable, religious, scientific, literary, educational, etc., organization; or
- An organization that is controlled by, and operated for the exclusive benefit of, a governmental unit or a publicly supported charity.

The organization must also have a commitment to protect the conservation purposes of the donation and must have the resources to enforce the restrictions.

Conservation purposes. Your contribution must be made only for one of the following conservation purposes.

- Preserving land areas for outdoor recreation by, or for the education of, the general public.
- Protecting a relatively natural habitat of fish, wildlife, or plants, or a similar ecosystem.
- Preserving open space, including farmland and forest land, if it yields a significant public benefit. It must be either for the scenic enjoyment of the general public or under a clearly defined federal, state, or local governmental conservation policy.
- Preserving an historically important land area or a certified historic structure. There must be some visual public access to the property. Factors used in determining the type and amount of public access required include the historical significance of the property, the remoteness or accessibility of the site, and the extent to which intrusions on the privacy of individuals living on the property would be unreasonable.

Building in registered historic district. A contribution of a qualified real property interest that is an easement or other restriction on the exterior of a building in a registered historic district is deductible only if it meets all of the following three conditions.

1. The restriction must preserve the entire exterior of the building and must prohibit any change to the exterior of the building that is inconsistent with its historical character.
2. You and the organization receiving the contribution must enter into a written agreement certifying, that the organization is a qualified organization and that it has the resources and commitment to maintain the property as donated.
3. If you make the contribution, you must include with your return:
   a. A qualified appraisal,
   b. Photographs of the building's entire exterior, and
   c. A description of all restrictions on development of the building, such as zoning laws and restrictive covenants.

If you claim a deduction of more than $10,000, your deduction will not be allowed unless you pay a $500 filing fee. See Form 8283-V, Payment Voucher for Filing Fee Under Section 170(f)(13), and its instructions.

Qualified real property interest. This is any of the following interests in real property.

1. Your entire interest in real estate other than a mineral interest (subsurface oil, gas, or other minerals, and the right of access to these minerals).
2. A remainder interest.
3. A restriction (granted in perpetuity) on the use that may be made of the real property.

Valuation. A qualified real property interest described in (1) should be valued in a manner that is consistent with the type of interest transferred. If you transferred all the interest in the property, the FMV of the property is the amount of the contribution. If you do not transfer the mineral interest, the FMV of the surface rights in the property is the amount of the contribution.

If you owned only a remainder interest or an income interest (life estate), see *Undivided Part of Your Entire Interest*, earlier. If you owned the entire property but transferred only a remainder interest (item (2)), see *Remainder Interest in Real Property*, earlier.

In determining the value of restrictions, you should take into account the selling price in arm's-length transactions of other properties that have comparable restrictions. If there are no comparable sales, the restrictions are valued indirectly as the difference between the FMVs of the property involved before and after the grant of the restriction.

The FMV of the property before contribution of the restriction should take into account not only current use but the likelihood that the property, without the restriction, would be developed. You should also consider any zoning, conservation, or historical preservation laws that would restrict development. Granting an easement may increase, rather than reduce, the value of property, and in such a situation no deduction would be allowed.

Example. You own 10 acres of farmland. Similar land in the area has an FMV of $2,000 an acre. However, land in the general area that is restricted solely to farm use has an FMV of $1,500 an acre. Your county wants to preserve open space and prevent further development in your area.

You grant to the county an enforceable open space easement in perpetuity on 8 of the 10 acres, restricting its use to farmland. The value of this easement is $4,000, determined as follows:

FMV of the property before granting easement:		
$2,000 × 10 acres		$20,000
FMV of the property after granting easement:		
$1,500 × 8 acres	$12,000	
$2,000 × 2 acres	4,000	16,000
Value of easement		$4,000

If you later transfer in fee your remaining interest in the 8 acres to another qualified organization, the FMV of your remaining interest is the FMV of the 8 acres reduced by the FMV of the easement granted to the first organization.

More information. For more information about qualified conservation contributions, see Pub. 526.

Appraisals

Appraisals are not necessary for items of property for which you claim a deduction of $5,000 or less. (There is one exception, described next, for certain clothing and household items.) However, you will generally need an appraisal for donated property for which you claim a deduction of more than $5,000. There are exceptions. See *Deductions of More Than $5,000*, later.

The weight given an appraisal depends on the completeness of the report, the qualifications of the appraiser, and the appraiser's demonstrated knowledge of the donated property. An appraisal must give all the facts on which to base an intelligent judgment of the value of the property.

The appraisal will not be given much weight if:

- All the factors that apply are not considered;
- The opinion is not supported with facts, such as purchase price and comparable sales; or
- The opinion is not consistent with known facts.

The appraiser's opinion is never more valid than the facts on which it is based; without these facts it is simply a guess.

The opinion of a person claiming to be an expert is not binding on the Internal Revenue Service. All facts associated with the donation must be considered.

Deduction over $500 for certain clothing or household items. You must include with your return a qualified appraisal prepared by a qualified appraiser of any single item of clothing or any household item that is not in good used condition or better, and for which you deduct more than $500. Attach the appraisal and Form 8283, Section B, Noncash Charitable Contributions, to your return. See *Household Goods* and *Used Clothing*, earlier.

Cost of appraisals. You may not take a charitable contribution deduction for fees you pay for appraisals of your donated property.

Deductions of More Than $5,000

Generally, if the claimed deduction for an item or group of similar items of donated property is more than $5,000, and was made after December 31, 1984, you must: get a qualified appraisal signed and dated by a qualified appraiser, complete Section B of Form 8283, and attach Form 8283 to your tax return. There are exceptions, discussed later. You should keep the appraiser's report with your written records. Records are discussed in Pub. 526.

The phrase "similar items" means property of the same generic category or type (whether or not donated to the same donee), such as stamp collections, coin collections, lithographs, paintings, photographs, books, nonpublicly traded stock, nonpublicly traded securities other than nonpublicly traded stock, land, buildings, clothing, jewelry, furniture, electronic equipment, household appliances, toys, everyday kitchenware, china, crystal, or silver. For example, if you give books to three schools and you deduct $2,000, $2,500, and $900, respectively, your claimed deduction is more than $5,000 for these books. You must get a qualified appraisal of the books and for each school you must attach a fully completed Form 8283, Section B, to your tax return.

Exceptions. You do not need an appraisal if the property is:

- Nonpublicly traded stock of $10,000 or less;
- A vehicle for which you obtained a contemporaneous written acknowledgement (including a car, boat, or airplane) for which your deduction is limited to the gross proceeds from its sale;
- Qualified intellectual property, such as a patent;
- Certain publicly traded securities for which market quotations are readily available;
- Inventory and other property donated by a corporation that are "qualified contributions" for the care of the ill, the needy, or infants, within the meaning of section 170(e)(3)(A) of the Internal Revenue Code; or
- Stock in trade, inventory, or property held primarily for sale to customers in the ordinary course of your trade or business.

Although an appraisal is not required for the types of property just listed, you must provide certain information about a donation of any of these types of property on Form 8283.

Publicly traded securities. Even if your claimed deduction is more than $5,000, neither a qualified appraisal nor Section B of Form 8283 is required for publicly traded securities that are:

- Listed on a stock exchange in which quotations are published on a daily basis,
- Regularly traded in a national or regional over-the-counter market for which published quotations are available, or
- Shares of an open-end investment company (mutual fund) for which quotations are published on a daily basis in a newspaper of general circulation throughout the United States.

Publicly traded securities that meet these requirements must be reported on Form 8283, Section A.

A qualified appraisal is not required, but the applicable parts of Form 8283, Section B, must be completed, for an issue of a security that does not meet the requirements just listed but does meet these requirements:

1. The issue is regularly traded during the computation period (defined later) in a market for which there is an "interdealer quotation system" (defined later),
2. The issuer or agent computes the "average trading price" (defined later) for the same issue for the computation period,
3. The average trading price and total volume of the issue during the computation period are published in a newspaper of general circulation throughout the United States, not later than the last day of the month following the end of the calendar quarter in which the computation period ends,
4. The issuer or agent keeps books and records that list for each transaction during the computation period the date of settlement of the transaction, the name and address of the broker or dealer making the market in which the transaction occurred, and the trading price and volume, and
5. The issuer or agent permits the Internal Revenue Service to review the books and records described in item (4) with respect to transactions during the computation period upon receiving reasonable notice.

An interdealer quotation system is any system of general circulation to brokers and dealers that regularly disseminates quotations of obligations by two or more identified brokers or dealers who are not related to either the issuer or agent who computes the average trading price of the security. A quotation sheet prepared and distributed by a broker or dealer in the regular course of business and containing only quotations of that broker or dealer is not an interdealer quotation system.

The average trading price is the average price of all transactions (weighted by volume), other than original issue or redemption transactions, conducted through a United States office of a broker or dealer who maintains a market in the issue of the security during the computation period. Bid and asked quotations are not taken into account.

The computation period is weekly during October through December and monthly during January through September. The weekly computation periods during October through December begin with the first Monday in October and end with the first Sunday following the last Monday in December.

Nonpublicly traded stock. If you contribute nonpublicly traded stock, for which you claim a deduction of $10,000 or less, a qualified appraisal is not required. However, you must attach Form 8283 to your tax return, with Section B, Parts I and V, completed.

Deductions of More Than $500,000

If you claim a deduction of more than $500,000 for a donation of property, you must attach a qualified appraisal of the property to your return. This does not apply to contributions of cash, inventory, publicly traded stock, or intellectual property.

If you do not attach the appraisal, you cannot deduct your contribution, unless your failure to attach the appraisal is due to reasonable cause and not to willful neglect.

Form 8283, Section B, must be completed and the Form 8283 attached to your tax return.

Qualified Appraisal

Generally, if the claimed deduction for an item or group of similar items of donated property is more than $5,000, you must get a qualified appraisal signed and dated by a qualified appraiser. You must also complete Form 8283, Section B, and attach it to your tax return. See Deductions of More Than $5,000, earlier.

A qualified appraisal is an appraisal document that:

- Is made, signed, and dated by a qualified appraiser (defined later) in accordance with generally accepted appraisal standards;
- Meets the relevant requirements of Regulations section 1.170A-17(a);
- Is dated no earlier than 60 days before the date of the contribution and no later than the date of the contribution. For an appraisal report dated on or after the date of the contribution, the valuation effective date must be the date of the contribution made not earlier than 60 days before the date of contribution of the appraised property, and
- Does not involve a prohibited appraisal fee.

You must receive the qualified appraisal before the due date, including extensions, of the return on which a charitable contribution deduction is first claimed for the donated property. If the deduction is first claimed on an amended return, the qualified appraisal must be received before the date on which the amended return is filed.

Form 8283, Section B, must be completed and the Form 8283 attached to your tax return. Generally, you do not need to attach the qualified appraisal itself, but you should keep a copy as long as it may be relevant under the tax law. There are four exceptions.

- If you claim a deduction of $20,000 or more for donations of art, you must attach a complete copy of the appraisal. See Paintings, Antiques, and Other Objects of Art, earlier.
- If you claim a deduction of more than $500,000 for a donation of property, you

must attach the appraisal. See *Deductions of More Than $500,000*, earlier.

- If you claim a deduction of more than $500 for an article of clothing, or a household item, that is not in good used condition or better, you must attach the appraisal and Section B of Form 8283 to your return. See *Deduction over $500 for certain clothing or household items*, earlier.
- If you claim a deduction for an easement or other restriction on the exterior of a building in a historic district, you must attach the appraisal. See *Building in registered historic district*, earlier.

Prohibited appraisal fee. Generally, no part of the fee arrangement for a qualified appraisal can be based on a percentage of the appraised value of the property. If a fee arrangement is based on what is allowed as a deduction, after Internal Revenue Service examination or otherwise, it is treated as a fee based on a percentage of appraised value. However, appraisals are not disqualified when an otherwise prohibited fee is paid to a generally recognized association that regulates appraisers if:

- The association is not organized for profit and no part of its net earnings benefits any private shareholder or individual,
- The appraiser does not receive any compensation from the association or any other persons for making the appraisal, and
- The fee arrangement is not based in whole or in part on the amount of the appraised value that is allowed as a deduction after an Internal Revenue Service examination or otherwise.

Information included in qualified appraisal. A qualified appraisal must include the following information.

1. A description of the property in sufficient detail for a person who is not generally familiar with the type of property to determine that the property appraised is the property that was (or will be) contributed;
2. The physical condition of any tangible property;
3. The date (or expected date) of contribution;
4. The terms of any agreement or understanding entered into (or expected to be entered into) by or on behalf of the donor and donee that relates to the use, sale, or other disposition of the donated property, including, for example, the terms of any agreement or understanding that:
    a. Temporarily or permanently restricts a donee's right to use or dispose of the donated property;
    b. Earmarks donated property for a particular use; or
    c. Reserves to, or confers upon, anyone (other than a donee organization or an organization participating with a donee organization in cooperative fundraising) any right to the income from the donated property or to the possession of the property, including the right to vote donated securities, to acquire the property by purchase or otherwise, or to designate the person having the income, possession, or right to acquire the property;
5. The name, address, and taxpayer identification number of the qualified appraiser and, if the appraiser is a partner, an employee, or an independent contractor engaged by a person other than the donor, the name, address, and taxpayer identification number of the partnership or the person who employs or engages the appraiser;
6. The qualifications of the qualified appraiser who signs the appraisal, including the appraiser's background, experience, education, and any membership in professional appraisal associations;
7. A statement that the appraisal was prepared for income tax purposes;
8. The date (or dates) on which the property was valued;
9. The appraised FMV on the date (or expected date) of contribution;
10. The method of valuation used to determine FMV, such as the income approach, the comparable sales or market data approach, or the replacement cost less depreciation approach; and
11. The specific basis for the valuation, such as any specific comparable sales transaction.

Art objects. The following are examples of information that should be included in a description of donated property. These examples are for art objects. A similar detailed breakdown should be given for other property. Appraisals of art objects—paintings in particular—should include all of the following.

1. A complete description of the object, indicating the:
    a. Size,
    b. Subject matter,
    c. Medium,
    d. Name of the artist (or culture), and
    e. Approximate date created.
2. The cost, date, and manner of acquisition.
3. A history of the item, including proof of authenticity.
4. A professional quality image of the object.
5. The facts on which the appraisal was based, such as:
    a. Sales or analyses of similar works by the artist, particularly on or around the valuation date.
    b. Quoted prices in dealer's catalogs of the artist's works or works of other artists of comparable stature.
    c. A record of any exhibitions at which the specific art object had been displayed.
    d. The economic state of the art market at the time of valuation, particularly with respect to the specific property.
    e. The standing of the artist in his profession and in the particular school or time period.

Number of qualified appraisals. A separate qualified appraisal is required for each item of property that is not included in a group of similar items of property. You need only one qualified appraisal for a group of similar items of property contributed in the same tax year, but you may get separate appraisals for each item. A qualified appraisal for a group of similar items must provide all of the required information for each item of similar property. The appraiser, however, may provide a group description for selected items the total value of which is not more than $100.

Qualified appraiser. A qualified appraiser is an individual with verifiable education and experience in valuing the type of property for which the appraisal is performed.

1. The individual:
    a. Has earned an appraisal designation from a generally recognized professional appraiser organization, or
    b. Has met certain minimum education requirements and 2 or more years of experience. To meet the minimum education requirement you must have successfully completed professional or college-level coursework obtained from:
        i. A professional or college-level educational organization,
        ii. A professional trade or appraiser organization that regularly offers educational programs in valuing the type of property, or
        iii. An employer as part of an employee apprenticeship or education program similar to professional or college-level courses.
2. The individual regularly prepares appraisals for which he or she is paid.
3. The individual is not an excluded individual.

In addition, the appraiser must make a declaration in the appraisal that, because of his or her background, experience, education, and membership in professional associations, he or she is qualified to make appraisals of the type of property being valued. The appraiser must complete the Declaration of Appraiser section on Form 8283, Section B. More than one appraiser may appraise the property, provided that each complies with the requirements, including signing the qualified appraisal and the Declaration of Appraiser section on Form 8283, Section B.

Excluded individuals. The following individuals cannot be qualified appraisers for the donated property.

1. The donor of the property or the taxpayer who claims the deduction.
2. The donee of the property.
3. A party to the transaction in which the donor acquired the property being appraised,

unless the property is donated within 2 months of the date of acquisition and its appraised value is not more than its acquisition price. This applies to the person who sold, exchanged, or gave the property to the donor, or any person who acted as an agent for the transferor or donor in the transaction.

4. Any person employed by any of the above persons. For example, if the donor acquired a painting from an art dealer, neither the dealer nor persons employed by the dealer can be qualified appraisers for that painting.
5. Any person related under section 267(b) of the Internal Revenue Code to any of the above persons or married to a person related under section 267(b) to any of the above persons.
6. An appraiser who appraises regularly for a person in (1), (2), or (3), and who does not perform a majority of his or her appraisals made during his or her tax year for other persons.
7. An individual who receives a prohibited appraisal fee for the appraisal of the donated property. See *Prohibited appraisal fee*, earlier.
8. An individual who is prohibited from practicing before the IRS under section 330(c) of title 31 of the United States Code at any time during the 3-year period ending on the date the appraisal is signed by the individual.

In addition, an individual is not a qualified appraiser for a particular donation if the donor had knowledge of facts that would cause a reasonable person to expect the appraiser to falsely overstate the value of the donated property. For example, if the donor and the appraiser make an agreement concerning the amount at which the property will be valued, and the donor knows that amount is more than the FMV of the property, the appraiser is not a qualified appraiser for the donation.

Appraiser penalties. An appraiser who prepares an incorrect appraisal may have to pay a penalty if:

1. The appraiser knows or reasonably should have known the appraisal would be used in connection with a return or claim for refund, and
2. The appraisal resulted in:
   a. a substantial valuation misstatement,
   b. a substantial estate or gift valuation understatement, or
   c. a gross valuation misstatement.

The penalty imposed on the appraiser is the smaller of:

1. The greater of:
   a. 10% of the underpayment due to the misstatement, or
   b. $1,000, or
2. 125% of the gross income received for the appraisal.

In addition, any appraiser who falsely or fraudulently overstates the value of property described in a qualified appraisal of a Form 8283 that the appraiser has signed may be subject to a civil penalty for aiding and abetting as understatement of tax liability, and may have his or her appraisal disregarded.

Form 8283

Generally, if the claimed deduction for an item of donated property is more than $5,000, you must attach Form 8283 to your tax return and complete Section B.

If you do not attach Form 8283 to your return and complete Section B, the deduction will not be allowed unless your failure was due to reasonable cause, and not willful neglect, or was due to a good faith omission.

You must attach a separate Form 8283 for each item of contributed property that is not part of a group of similar items. If you contribute similar items of property to the same donee organization, you need attach only one Form 8283 for those items. If you contribute similar items of property to more than one donee organization, you must attach a separate form for each donee.

Internal Revenue Service Review of Appraisals

In reviewing an income tax return, the Service may accept the claimed value of the donated property, based on information or appraisals sent with the return, or may make its own determination of FMV. In either case, the Service may:

- Contact the taxpayer to get more information;
- Refer the valuation problem to a Service appraiser or valuation specialist;
- Refer the issue to the Commissioner's Art Advisory Panel (a group of dealers and museum directors who review and recommend acceptance or adjustment of taxpayers' claimed values for major paintings, sculptures, decorative arts, and antiques); or
- Contract with an independent dealer, scholar, or appraiser to appraise the property when the objects require appraisers of highly specialized experience and knowledge.

Responsibility of the Service. The Service is responsible for reviewing appraisals, but it is not responsible for making them. Supporting the FMV listed on your return is your responsibility.

The Service does not accept appraisals without question. Nor does the Service recognize any particular appraiser or organization of appraisers.

Timing of Service action. The Service generally does not approve valuations or appraisals before the actual filing of the tax return to which the appraisal applies. In addition, the Service generally does not issue advance rulings approving or disapproving such appraisals.

Exception. For a request submitted as described earlier under *Art valued at $50,000 or more*, the Service will issue a Statement of Value that can be relied on by the donor of the item of art.

Penalty

You may be liable for a penalty if you overstate the value or adjusted basis of donated property.

20% penalty. The penalty is 20% of the underpayment of tax related to the overstatement if:

- The value or adjusted basis claimed on the return is 150% or more of the correct amount, and
- You underpaid your tax by more than $5,000 because of the overstatement.

40% penalty. The penalty is 40%, rather than 20%, if:

- The value or adjusted basis claimed on the return is 200% or more of the correct amount, and
- You underpaid your tax by more than $5,000 because of the overstatement.

How To Get Tax Help

If you have questions about a tax issue; need help preparing your tax return; or want to download free publications, forms, or instructions, go to *IRS.gov* to find resources that can help you right away.

Preparing and filing your tax return. After receiving all your wage and earnings statements (Forms W-2, W-2G, 1099-R, 1099-MISC, 1099-NEC, etc.); unemployment compensation statements (by mail or in a digital format) or other government payment statements (Form 1099-G); and interest, dividend, and retirement statements from banks and investment firms (Forms 1099), you have several options to choose from to prepare and file your tax return. You can prepare the tax return yourself, see if you qualify for free tax preparation, or hire a tax professional to prepare your return.

CAUTION *For 2021, if you received an Economic Impact Payment (EIP), refer to your Notice 1444-C, Your 2021 Economic Impact Payment. If you received Advance Child Tax Credit payments, refer to your Letter 6419.*

Free options for tax preparation. Go to *IRS.gov* to see your options for preparing and filing your return online or in your local community, if you qualify, which include the following.

- **Free File.** This program lets you prepare and file your federal individual income tax return for free using brand-name tax-preparation-and-filing software or Free File fillable forms. However, state tax preparation may not be available through Free File. Go to *IRS.gov/FreeFile* to see if you qualify for free online federal tax preparation, e-filing, and direct deposit or payment options.
- **VITA.** The Volunteer Income Tax Assistance (VITA) program offers free tax help to people with low-to-moderate incomes, persons with disabilities, and