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MEMORANDUM

TO: Clients and Friends

FROM: Erik Dryburgh
Matthew A. Clausen

DATE: April 2022

RE: Appraisal Requirements

This memorandum summarizes the requirements an appraisal must meet in order to be a "qualified appraisal" within the meaning of Section 170(f)(11)(E). In general, a donor must obtain a qualified appraisal in order to take an income tax deduction for a charitable contribution of property exceeding $5,000. This memorandum addresses the requirements of a qualified appraisal, the criteria for determining who is a "qualified appraiser," and the need to attach an appraisal summary to the donor's tax return.[1]

A. QUALIFIED APPRAISAL. To be a qualified appraisal, a document must:

1. Be made not earlier than sixty (60) days prior to the date of the contribution, and be received by the donor no later than the due date (including extensions) of the return on which the deduction is claimed.

2. Be prepared, signed, and dated by a qualified appraiser (see Part B, below).

3. Not involve an appraisal fee, which is based on the appraised value of the property.

[1] This memorandum covers the statutory requirements under Section 170(f)(11)(E) of the Internal Revenue Code and final Treasury Regulations issued on July 27, 2018 (T.D. 9836). Those regulations become effective on January 1, 2019, but taxpayers may rely on them for gifts made in prior years.

4. Be conducted in accordance with generally accepted appraisal standards. An appraisal prepared in accordance with the Uniform Standards of Professional Appraisal Practice, as developed by the Appraisal Standards Board of the Appraisal Foundation, will meet this requirement. (Additional information about these standards is available at www.appraisalfoundation.org.)

5. Include the following information about the property:

   a. A description of the property that sufficiently identifies the property that was appraised as the property that was (or will be) contributed.

   b. Where a partial interest in property is being contributed, the appraisal must be of the partial interest.

   c. In the case of real estate or tangible personal property, the physical condition of the property.

   d. The terms of any agreement relating to the use, sale, or other disposition of the property contributed, including any agreement or understanding that restricts or earmarks donated property for a particular use or reserves the right to any income or voting rights associated with the property.

6. Include the following information about the valuation:

   a. The appraised fair market value on the "valuation effective date," which must be either the date of contribution or, if the appraisal is made before the date of contribution, then a date no more than sixty (60) days before the date of contribution.

   b. The method of valuation used to determine the fair market value, such as the income approach, the market-data approach, and the replacement-cost-less-depreciation approach.

   c. The specific basis for the valuation, such as specific comparable sales transactions or statistical sampling, including a justification for using sampling and an explanation of the sampling procedure employed.

7. State the following dates:

   a. The date the appraisal is made (i.e., the date the appraiser signs the appraisal).

b. The valuation effective date (see Paragraph 6.a, above).

c. The date of contribution, or if the appraisal is made before the contribution, then the expected date of contribution.

8. Include the following information about the appraiser:

a. The name, address, and identifying number of the qualified appraiser and of any entity or person who employs or engages the qualified appraiser.

b. The qualifications of the appraiser to value the type of property at issue, including background, experience, education, and membership, if any, in professional appraisal associations.

9. Include a statement that the appraisal was prepared for income tax purposes, and also the following declaration:

> 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. section 330(c).

B. QUALIFIED APPRAISER. A qualified appraiser is an individual who:

1. Has either:

a. Earned an appraisal designation from a recognized professional appraiser association. The designation must be awarded on the basis of demonstrated competency in valuing the type of property for which the appraisal is performed; or

b. Successfully completed college or professional-level coursework (including, in some cases, through an employer apprenticeship program) in valuing the type of property being valued, ***and*** have at least two (2) years' experience in valuing the type of property being valued.

2. Is not:

   a. The donor, donee, or any party to the transaction in which the donor acquired the property.

   b. Employed by or related to any of the above parties.

   c. An independent contractor that performs appraisals primarily for one of the above parties.

   d. Anyone who been prohibited from practicing before the IRS at any time during the three-year period ending on the date of the appraisal

C. APPRAISAL SUMMARY.

In addition to obtaining a qualified appraisal, the donor must attach an "appraisal summary," which must be signed by both the appraiser and the donee organization, to the donor's income tax return for any year in which the deduction is claimed (including any years to which an the excess contribution amount is carried forward). The IRS has provided Form 8283 for this purpose. For a claimed deduction of more than $500,000, the donor must also attach the qualified appraisal to the return(s).