

**APPRAISAL SOCIETIES' JOINT COMMENT LETTER TO  
THE NON-PROFIT PANEL OF INDEPENDENT SECTOR ON  
NON-CASH CHARITABLE CONTRIBUTIONS**

American Society of Appraisers  
Appraisal Institute  
American Society of Farm Managers and Rural Appraisers  
National Association of Independent Fee Appraisers

Our professional appraisal societies appreciate the opportunity to comment on the draft valuation reform provisions recommended by the Non-Profit Panel's Working Group relating to "Non-Cash Charitable Contributions". It is our understanding that the Panel's recommendations for donations of conservation and façade easements are still under consideration.

Our organizations credential individuals in a wide range of valuation specialties including Real Estate (i.e., commercial, residential, rural and agricultural lands and easements); Business Valuation (i.e., tangible and intangible property and interests in property, including closely held stock, intellectual property, goodwill); and, Personal Property (i.e., fine arts, antiques, collectibles and other categories of such property). Credentialed members of our organizations adhere to the Uniform Standards of Professional Appraisal Practice (USPAP) and meet rigorous experience, testing, continuing education and Ethics requirements. For real estate appraisal credentialing, our requirements generally exceed those established for State licensed and certified real estate appraisers pursuant to Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), which governs appraisals in many federally-related financial transactions.

Executive Summary

While we strongly support the general direction of the Working Group's valuation recommendations which call for strengthening and clarifying the standards required for tax-related appraisals of non-cash property, we believe that the central feature of the recommendations - the definition proposed for the term "qualified appraiser" – is seriously flawed and must be modified if confidence is to be restored in the competency of those performing tax-related appraisals. Our specific objection, explained immediately below, relates to the fact that the proposed definition establishes alternative and, we believe, inconsistent standards of competency,<sup>1</sup> one of which is significantly inferior to the other.

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<sup>1</sup> Permitted by use of the word "or" at the end of the first sentence under recommendation B(1)c.

- The first portion of the alternative standards - which our organizations cannot support - would permit individuals who are “widely recognized as a reliable source of appraisals for auction, estate planning, and other purposes” to perform tax-related valuations of non-cash property. We object to this language for two reasons: First, the phrase “widely recognized as a reliable source of appraisals” is extremely vague and, in our view, is no better than the IRS’s current and universally-criticized definition which essentially allows anyone who holds himself or herself out as an appraiser to perform valuations. Second, while those in the business of “auctions, estate planning and other purposes” do have unique skills, it is our observation that valuation-specific training, experience, education and a requirement for adherence to the Uniform Standards of Professional Appraisal Practice (USPAP) – which are essential to any reasonable presumption of valuation competency - are not likely to be among them;
- The second portion of the alternative standards, which our organizations support, establishes several meaningful criteria for objectively measuring the likely competency of individuals who seek to perform appraisals for tax and non-tax purposes.<sup>2</sup> While we approve the language of this standard, we believe it (and other components of the valuation recommendations) can and should be strengthened.

#### Suggested Modifications To Working Group Recommendations Relating To The Valuation of Non-Cash Charitable Contributions

Our organizations respectfully recommend the following changes to the Working Group’s valuation-related recommendations:

- (1) Delete that portion of the proposed definition of “Qualified Appraiser (recommendation 1.c) which references individuals who are “widely recognized as a reliable source of appraisals for auction, estate planning, and other purposes.”
- (2) Retain the remaining portion of the definition, with one clarification and two additions:
  - Clarify that for contributions of real estate with a claimed value of more than \$100,000, “a ‘qualified appraiser’ must be a state general certified real estate appraiser or an individual who has earned a designation in real estate valuation from a recognized professional appraiser organization.

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<sup>2</sup> We understand that the term “recognized” is used both in the first part of the proposed “qualified appraiser” definition, which we oppose; and in the second part, which we support. In this regard, we believe that use of the word “recognized” is appropriate as a description of professional appraiser organizations which have institutional status and fully transparent governance; but not in reference to an individual.

- Add an item (iv) to the general “qualified appraiser” definition requiring that an individual must be able to demonstrate verifiable education and experience in valuing the type of property for which the appraisal is being performed.
- Add language establishing a statutory time-frame for IRS to promulgate and implement the basic framework of valuation competency. The Working Group’s proposal gives to the IRS responsibility for “determining minimum education and experience requirements” for those individuals who do not have a designation from a recognized professional appraiser organization. While we do not object to giving this function to the Service, we believe that IRS should be mandated to propose and implement the basic framework for such requirements within a specified time-frame. Six months seems to us to be reasonable. Without a statutory deadline, this process could drag on for an inordinate period of time given the rather low priority valuation issues have received in the past from senior management at the Service.

(3) We share the view of many others that IRS needs to increase its compliance activities in the tax-exempt arena. We believe that enhanced compliance should extend to tax-related appraisals. Accordingly, we urge the Working Group to recommend the establishment of a Service program for pro-actively reviewing higher dollar value appraisals, which would be a significant improvement over the current system under which appraisals are reviewed only after referral by general auditors or examiners.

(4) While our organizations strongly support additional IRS scrutiny of the work of qualified appraisers (including imposition of sanctions on individuals whose appraisals have been found to be abusive), we recognize that pressure on appraisers by users of their services can be a serious problem. Accordingly, we urge the Working Group to recommend that IRS establish a clear policy prohibiting taxpayers and tax practitioners from pressuring appraisers in an effort to improperly influence their conclusions as to fair market value.