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Q & A from “Noncash Qualified Appraisals Gone Wrong: Deconstructing Appraiser(al) Requirements and Forms 8283/8282” Webinar, May 2021

QUESTION	ANSWER
<p>Would you recommend that the charity provide Form 8283 to the donor? Or just assist them (obviously the charity has to sign at some point for certain gifts)? We want to avoid stepping into a tax form for the donor, but they often are surprised by the requirement?</p>	<p>The blank form, certainly, and that substantiation is required as well as the necessity of communicating with their tax advisors. The necessity of getting the appraisal. But of course, you do not want to be filling in their blanks.</p>
<p>Do either of the following require that an 8282 and 8283 be filed?</p> <ol style="list-style-type: none"> 1. Gift of an insurance policy to a charity? (and does it make any difference if the policy is new and the donor makes annual contributions to the charity to pay the premium; the policy is an existing policy and the donor makes annual contributions to continue making premium payments; or if it is a fully paid up policy?) 2. If the charity subsequently gifts the donated policy to another charity? 	<p>Again, if the 5k threshold is tripped, you will need an appraisal. The relevant value should be the cash value of the policy. Annual payments to fund ongoing premiums would presumably be cash, not subject to the 8283 requirements.</p> <p>There should be no need for the initial donee charity to file the 8282 if it gifts the policy to another charity.</p>
<p>We're a nonprofit DAF, and we accept some alternative assets. My understanding is that the IRS doesn't require the donor to give us an 8283 unless/until they want to claim the gift as a tax deduction. So, they may have no incentive to get an appraisal/submit an 8283 until they want to file taxes--which could be a year after giving the gift. This causes headaches for our</p>	<p>You as the recipient nonprofit could certainly require a current appraisal for your internal bookkeeping. Some charities do this, but we do not. Most of our noncash assets sell relatively quickly and are often liquidated before the donor is reasonably able to get the 8283. In those cases, we can use the sale price for internal accounting and records.</p>

<p>bookkeeping department. Even though the IRS doesn't require the appraisal/8283 until the donor files their taxes, are WE allowed to require the appraisal (and the 8283) within, say, 60 days of the gift transfer?</p>	
<p>What about a gift of piano? Could not see it referenced in the IRS 8283 instructions.</p>	<p>Is this a question about related use? The instructions will not get into this level of detail, but of course a piano is noncash. Likely this would fall into the “other” or “collectibles” category.</p>
<p>So just to clarify, the qualified appraisal only needs to be included if the artwork is \$20,000 or more? And would you mind clarifying the statement made a moment ago regarding most items not needing the qualified appraisal included unless they're half a million or more? Is that right?</p>	<p>In both of those cases, a copy of the appraisal needs to be included WITH the return. The \$ value is just the threshold for including that copy.</p>
<p>On behalf of a npo I tried to reduce the discount (relative to the original gift's methodology) by referencing the put option, but was stymied by the argument that if the put option was not transferable, it became worthless to the buyer and therefore irrelevant. The owner of a valuation firm (on the npo's committee) said that the lack of transferability would mean that a new appraisal (at time of sale) would have to follow the USPAP guidelines and the asset would once again be construed as illiquid without a guaranteed buyer. This was important because there was a buy-sell agreement with the original gift, making the original donor the future buyer and potentially opening up an excess benefit risk.</p>	<p>This is a great example of why we always suggest that donors speak with the valuation firm as soon as they can. The firm may have specific language and concepts that they'd want to see in order to reduce the discounting. Or, worst case, the donor can decide to hire a different valuation firm (or a subsequent one).</p>
<p>Can you please speak to gifts of real estate and how they would appear on the 8283?</p>	<p>Should be listed as "Other real estate," and relevant bargain sale, basis, and deduction amounts completed.</p>

<p>If the donee was a charitable remainder trust should the EIN be that of the CRT on Part V?</p>	<p>Short answer - yes. In many cases the settlor has reserved a power to change the designation of the remainder charity, and of course it will be years before they see anything.</p>
<p>For a CRT funded with real estate should the EIN on the 8283 be the EIN of the CRT and not the EIN of the charity acting as trustee?</p>	<p>Yes – EIN of the CRT.</p>
<p>How do you answer related use question when the gift is made to a CRT, PIF or charitable gift annuity?</p>	<p>Hard to imagine a case where the gift could satisfy related use rules if there is an income component.</p>
<p>Is the Form 8282 required to be filed for the sale of publicly traded securities listed in Section A of the Form 8283?</p>	<p>No. Publicly traded securities are specifically excluded in the instructions to Form 8282.</p>
<p>If a donor made a gift early in 2020, then completed Form 8283 obtaining both the appraiser's and charity's signature later in 2020, but before December, 2020 when the new version of the form came out - can the donor use the old version of 8283 when filing their 2020 return? (They are on extension for 2020.)</p>	<p>Interesting question – I suspect the old version is acceptable in this circumstance. The IRS should be able to cross-reference the dates for the signatures against the date the new 8283 was released.</p>
<p>Have you seen penalties for late filing of 8282?</p>	<p>Never, even though they're clearly stated.</p>
<p>Are there special considerations an organization should consider when accepting a gift of real estate from another 501(c)(3)? There is no intent to sell the real estate, but to use it in service of our mission.</p>	<p>The other charity should have a lot of useful information, as the current owner. Long-term property management is the major consideration here, so you'll want to understand the ongoing expenses and likelihood of future repairs, improvements, etc.</p>
<p>What sale price do you use if it is a business sale with contingent payments based on future events?</p>	<p>Very good question. This is a tough one. One approach is to take the maximum possible gross payout. But I suppose there is an argument to be made that those contingent payments should not be considered, as they likely would not be realized income at the time of sale from an accounting perspective.</p>
<p>What are the penalties for being late with the filing of the 8282, more than 125 days.</p>	<p>Small cash penalty - \$75 I believe.</p>

<p>If the asset is sold quickly (within same year as donation) for much more than the appraised value, does the donor take the deduction based on sale price or appraised value?</p>	<p>The short answer is the deduction is based on the appraised value. But the donor should consider when the sale might occur and when to get the appraisal for this exact reason. Nonetheless, the appraisal must reference value on the date of the gift, based on info available at that time, and if the later sale is completely unexpected it should not figure into the value.</p>
<p>Is there concern if the value on the 8283 is different than the sale price on 8282? If so, what should be done?</p>	<p>Not necessarily. Obviously the point of the 8282 is so that the IRS can check the actual sale price against the appraised value. But there are many perfectly legitimate reasons those values could be different. For example, think about real estate donated in late 2019 – the pandemic was certainly a material intervening event!</p>
<p>If a charity intends to immediately get rid of something that's over \$5,000 in value, what would your advice be as far as should the charity proceed with that or decline and ask the donor to sell it themselves and donate the cash? This has come up once at our organization, and we ended up disclaiming because our accounting office was uncomfortable with beginning a practice of habitually accepting items we knew up front would be sold/disposed of right away. We asked them to sell and just donate the cash.</p>	<p>This is literally all our DAF does – acceptance and then sale as quickly as possible. So I'd say your org should consider whether the assets are worth accepting and selling. Assuming the asset is highly appreciated, the donor has a <u>very</u> strong tax incentive to donate. And if your org is uncomfortable accepting the gift directly for whatever reason, you should call us!</p>
<p>When the appraisal is higher than the sales price, is there a percentage or difference that would be alarming to the IRS? What difference threshold is acceptable to the IRS?</p>	<p>Great question - the IRS is pretty coy about this. We'd love to know as well.</p>
<p>What if the donor tells you they are not taking a deduction and therefore no need for an 8283? Can the IRS then attach the capital gains to the donor even though the donor gave the asset to charity?</p>	<p>I don't think so. If the asset was donated, how could the IRS argue that the donor realized any gain? Short of an assignment of income situation or perhaps some kind of recapture, it seems unlikely.</p>
<p>Do organizations often offer a list of potential appraisers to provide to donors?</p>	<p>Not sure about most organizations, but Dechomai does have such a list. We are clear that these are not formal recommendations and that we have no relationships with the listed appraisers though.</p>

<p>We tell the appraiser for a CRT real estate to put in the "Purpose line" "For Charitable Deduction Purposes." Is this what you would suggest for the appraiser to put into the Appraisal?</p>	<p>Basically, although perhaps you'd want to add some additional language to specify – “For charitable deduction purposes in connection with a charitable contribution to XYZ Charitable Remainder Trust” or something along those lines.</p>
<p>What is your fee for a CGA? We have a CGA program but would need your for states where we are not licensed.</p>	<p>We charge 2% all-in annually. That is 1% for investments/admin/compliance (matching the ACGA expense assumption) and then another 1% for our operating and loss reserve (basically to pay for doing it). This is assessed quarterly at 50 bps against the fund directly so clearly reduces the residuum. But 100% of the residuum is fully passed through to the charity or charities the donor wants. We have just over 300 charities that have referred completed gifts with us and then we provide them with quarterly reports of all performance.</p>
<p>To be clear, DEFRA section 155(a) 1984 has not been codified? So this is not in effect?</p>	<p>155 is definitely in effect. It is just that they did not incorporate the text into the tax Code itself. This is actually not at all uncommon. Think for example of CARES or SECURE. lots of content that stands alone, without reference to any particular existing title of the US Code, but some items that did amend section 408, etc.</p>
<p>Why is e. "Other Real Estate"</p>	<p>In context, they are making a distinction from conservation easements. Oddly, I am guessing that the IRS is particularly concerned about conservation easements. So oddly, they seem to indicate "Other" is for everything else. No clue why they just don't say "Real Estate".</p>
<p>If donor in the middle of getting appraiser to sign 8283 and using form prior to the new revision, do I need to stop the process and give him the new form, or will he be okay to use older form?</p>	<p>IRS can get pretty sticky about using superseded forms.</p>
<p>Do I understand correctly that gifts of Bitcoin valued over \$5,000 will require a qualified appraisal? In other words, you can't just use the value they were trading for on the date of the gift?</p>	<p>Generally yes, see FAQs on Crypto. What is the value for trading? Trick question: public stock is not the traded value, it is the mean for the day. If you do the same with crypto, was is the 24 hour day? Which one of the 525 exchanges do you choose or multiple exchanges? How was the crypto acquired... mined,</p>

	<p>payment for service/product, investments (short or long)? All of which have different impacts.</p>
<p>Is it sometimes beneficial for the charity to do another appraisal, as well?</p>	<p>Not usually unless it is a life income gift where there could be some issue as trustee or CGA issuer, that could get sideways if materially different. Or, if the charity would be selling the asset back to a related party/disqualified person, then that could make since too relative to potential excess benefit issues.</p>
<p>To qualify for a deduction of a Bitcoin donation in excess of \$5,000, you are required to obtain a qualified appraisal. A qualified appraisal must meet the IRS regulations for proper valuation of fair market value and must be conducted by a “qualified appraiser.”</p>	<p>Correct - the IRS clarified this point, in an obscure way, in the IRS FAQs on Crypto - basically reaffirmed it was "property" and that donors should consult Pub 526 to determine appropriate substantiation. And then that will reference qualified appraisal rules for property over \$5k which gets you back to the appraisal.</p>
<p>If donated property is put in a CRT to benefit charity but donor is the trustee, does the trustee file the 8282?</p>	<p>Yes, it is the trustee.</p>
<p>Do we only need to file a Form 8282 if we receive a Form 8283 from the donor?</p>	<p>Thanks for asking this! I didn't have time to get to it today. The 8282 needs to be filed no matter what! And it often can be filed before the 8283 is filed.</p>
<p>If the form 8282 is filed with the IRS showing the asset was sold for less than the original deduction, does the taxpayer amend the tax return on which they claimed the original deduction?</p>	<p>Great question, no, it is only the value of the appraisal. Any post contribution gain or loss does not cause a recapture or additional deduction. This presumes the appraisal is not inflated of course, but it is quite rare for those numbers to be equal of course.</p>
<p>So at what point would a donor have to amend their return in light of a form 8282 that shows a lower sale price? Isn't the point of the 8282 to now allow the donor to overinflate the deduction?</p>	<p>Probably no amendment necessary until the IRS decides it is. To be clear, while the 8282 provides IRS info from which it might question the value claimed on the 8283, if the donor has a solid appraisal supporting the claimed deduction, it should not matter (much) whether the recipient org later sold for less.</p>

Say a donor gets a qualified appraisal on a condo, then gives the condo 30 days later. The charity sells the condo for \$100K over the appraised price. Can the donor get the property re-appraised?

This question comes up pretty frequently. I always refer the donor back to their CPA - I believe a second appraisal is allowed, but do both appraisals need to be attached? I have never heard a definitive answer but I wouldn't think so. They can just pick the one they wish to use.