Appraisal of Donated Property

The United States Tax Court issued a decision in late January of 2014 that fleshes out IRS regulations regarding appraisals of donated property. In Alli v. Commissioner (T.C. Memo. 2014-15, Jan. 27, 2014), the Tax Court upheld the IRS' decision to disallow a charitable deduction for property donated by a Michigan taxpayer to Volunteers of America (VOA), a 501(c)(3) exempt organization. The decision provides guidance for exempt organizations that are receiving donated property and wish to give their donors some direction about how to properly document the gift.

In this case, the taxpayers donated buildings that had been purchased in 1983 from the U.S. Department of Housing and Urban Development (HUD) at a HUD auction for $353,000. Over time, the buildings deteriorated and were subject to enforcement action by HUD. Rather than correct multiple deficiencies, the taxpayers quit claimed the buildings to VOA. Only 6 units of 34 were rented at the time of the donation. Volunteers of American sold the buildings to an investor for $60,000.

The taxpayers claimed a charitable deduction and filed Form 8283 as required by the IRS, describing the building as being in good condition with an appraised Fair Market Value of $499,000. They did not include an appraiser's name, address, identifying number, or declaration of value. Their claim for deduction was denied.

The Alli decision goes into the elements of a qualified appraisal, and for that reason it is valuable as a reminder of what is required of potential donors. Here is what the Tax Court requires:

- **Timeliness:** The appraisal must be made no more than 60 days before the gift and no later than the date of the return.
- **Appraiser:** The appraiser must be a qualified professional with verifiable education and experience in valuing the subject property.
- **Fee:** The appraiser must not receive a prohibited fee (one that is a percentage of the allowable deduction).
- **Certification:** The appraiser must sign and date the appraisal.
- **Property Identification**: The property must be described in sufficient detail for an ordinary person to figure out that the appraised property is the property that was (or will be) contributed.
- **Physical Condition:** The property's physical condition must be described.
- **Date of the Gift:** The appraisal must include the date (or expected date) of contribution.
- **Any Agreements between Donor and Donee:** The appraisal must include the terms of any agreement or understanding entered into (or expected to be entered into) by or on behalf of the donor or donee that relates to the property's use, sale, or other disposition prior to or subsequent to the transfer, including such things as temporary restrictions, continuing use by donor, rights to control income, and earmarks.

IRS Deduction Regulations are found at 26 CFR 1.170A-13 "Recordkeeping and Return Requirements for Deductions for Charitable Contributions." If you have any questions about specific donations or charitable deductions, contact this firm, your accountant, or other tax professional. ◆

Kathryn M. Vanden Berk, JD

30 W. Monroe St.
Suite 800
Chicago, IL 60603

Phone: (312) 442-9076
Fax: (312) 275-7775
www.beavandenberk.com

Bea & VandenBerk
ATTORNEYS AT LAW