

Substantiation of Charitable Contributions of More Than \$5,000 (Reg §1.170A-16(d))

Checklist

1. Substantiate contribution with a contemporaneous written acknowledgement from the donee, as described in §170(f)(8) and §1.170A-13(f).

- The written acknowledgement includes a description (but not necessarily the value) of the property, whether the donee provided any goods or services in consideration of the property contributed, and, if applicable, a good faith estimate of such goods or services.
- The acknowledgement was received on or before the earlier of the date of the filing of the tax return, or the due date (including extensions) for filing the return.

2. Obtain a qualified appraisal. Reg §1.170A-17 defines a qualified appraisal as an appraisal document that is prepared by a qualified appraiser in accordance with generally accepted appraisal standards (substance and principles of the Uniform Standards of Professional Appraisal Practice as developed by the Appraisal Standards Board of the Appraisal Foundation) and otherwise complies with the requirements as follows:

Contents of a qualified appraisal:

- Description in sufficient detail under the circumstances, taking into account the value of the property, for a person who is not generally familiar with the type of property to ascertain that the appraised property is the contributed property.
- In the case of real property or tangible personal property, the condition of the property.
- The valuation effective date, defined as the date to which the value opinion applies. For an appraisal report dated before the date of the contribution, the valuation effective date must be 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.
- The fair market value, within the meaning of §1.170A-1(c)(2), of the contributed property on the valuation effective date.
- The terms of any agreement or understanding by or on behalf of the donor and donee that relates to the use, sale, or other disposition of the contributed property.
- The date, or expected date, of the contribution to the donee.
- Information about the appraiser:
 - Name, address, and TIN.
 - Qualifications to value the type of property being valued, including the appraiser's education and experience.
 - If the appraiser is acting in his or her capacity as a partner in a partnership, an employee of any person, whether an individual, corporation, or partnership, or an independent contractor engaged by a person other than the donor, the name, address, and TIN of the partnership or the person who employs or engages the qualified appraiser.

Charitable Contributions of More Than \$5,000 Checklist

- The signature of the appraiser and the date signed by the appraiser (appraisal report date).
- The following declaration by the appraiser:

“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).”
- A statement that the appraisal was prepared for income tax purposes.
- The method of valuation used to determine the fair market value, such as the income approach, the market-data approach, or the replacement-cost-less-depreciation approach.
- 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.

Other qualified appraisal requirements:

- Qualified appraisal report is signed and dated by the qualified appraiser no earlier than 60 days before the date of the contribution and no later than the due date, including extensions, of the return on which the deduction for the contribution is first claimed; in the case of a donor that is a partnership or S corporation, the due date, including extensions, of the return on which the deduction for the contribution is first reported; or in the case of a deduction first claimed on an amended return, the date on which the amended return is filed.
- (A checked box would disqualify the appraisal.) The donor either failed to disclose or misrepresented facts, and a reasonable person would expect that this failure or misrepresentation would cause the appraiser to misstate the value of the contributed property.
- The donor obtained a separate qualified appraisal for each item of property for which an appraisal is required under §170(f)(11)(C) and (D) and paragraph (d) or (e) of §1.170A-16 and that is not included in a group of similar items of property, as defined in §1.170A-13(c)(7)(iii).
- The qualified appraisal must be received by the donor before the due date, including extensions, of the return on which a deduction is first claimed, or reported in the case of a donor that is a partnership or S corporation, or, in the case of a deduction first claimed, or reported, on an amended return, the date on which the return is filed.
- The fee for the qualified appraisal is not based on the appraised value of the property.
- The appraiser has not been prohibited from practicing before the IRS by the Secretary under 31 U.S.C. 330(c) at any time during the three-year period ending on the date the appraisal is signed by the appraiser.
- If the contributed property is a partial interest, the appraisal is of the partial interest.

Note: The donor must retain the qualified appraisal for so long as it may be relevant in the administration of any internal revenue law.

Note: Exception for certain noncash contributions for which a qualified appraisal is not required and a completed Form 8283 (Section A) meets the requirements: publicly traded securities as defined in §1.170A-13(c)(7)(xi); property described in §170(e)(1)(B)(iii) (certain intellectual property); a qualified vehicle described in §170(f)(12)(A)(ii) for which an acknowledgement under §170(f)(12)(B)(iii) is provided; and property described in §1221(a)(1) (inventory and property held by the donor primarily for sale to customers in the ordinary course of the donor's trade or business).

Note: Generally, the appraisal does not need to be attached to a return but for a few exceptions, including: art valued at \$20,000 or more, single item of clothing or household item that is not in good used condition or better for which a deduction is being claimed of more than \$500, qualified conservation contribution of an easement on the exterior of a building in a registered historic district, or deduction of more than \$500,000 for an item (or group of similar items) donated to one or more donees.

Charitable Contributions of More Than \$5,000 Checklist

Qualified appraiser:

- The appraisal specifies the appraiser's education and experience in valuing the type of property and the appraiser makes a declaration in the appraisal that, because of the appraiser's education and experience, the appraiser is qualified to make appraisals of the type of property being valued.
- The following individuals are not qualified appraisers. Any box checked would disqualify an appraiser:
 - An individual who receives a prohibited fee (based on the appraised value of the property).
 - The donor or donee of the property.
 - A party to the transaction in which the donor acquired the property, or any individual who acted as an agent for the transferor or for the donor unless the property is contributed within two months of the date of acquisition and its appraised value does not exceed its acquisition price.
 - Any individual related, within the meaning of §267(b), to, or an employee of, the donor, donee, or a party to the transaction in which the donor acquired the property, or any individual who acted as an agent for the transferor or for the donor.
 - Any individual married to any individual related, within the meaning of §267(b), to, or an employee of, the donor, donee, or a party to the transaction in which the donor acquired the property, or any individual who acted as an agent for the transferor or for the donor.
 - An independent contractor who is regularly used as an appraiser by the donor, donee, or a party to the transaction in which the donor acquired the property, or any individual who acted as an agent for the transferor or for the donor, and who does not perform a majority of his or her appraisals for others during the taxable year.
 - An individual who is prohibited from practicing before the IRS by the Secretary under 31 U.S.C. 330(c) at any time during the three-year period ending on the date the appraisal is signed by the individual.

3. Complete Form 8283 (Section B) and file it with the return on which the deduction is claimed.

- The donor's name and TIN. (Top of page 1 and 2)
- The donee's name, address, TIN, signature, the date signed by the donee, and the date the donee received the property. (Part V)
- The appraiser's name, address, TIN, appraiser declaration, signature, and the dated signed by the appraiser. (Part IV)
- Information about the contributed property:
 - The fair market value on the valuation effective date, as defined in §1.170A-17(a)(5)(i). (Part I, line 3(c))
 - Description in sufficient detail under the circumstances, taking into account the value of the property, for a person who is not generally familiar with the type of property to ascertain that the appraised property is the contributed property. (Part I, line 3(a))
 - In the case of real or tangible personal property, the condition of the property. (Part I, line 3(b))
- The manner of acquisition (for example, by purchase, gift, bequest, inheritance, or exchange), and the approximate date of acquisition of the property by the donor, or, if the property was created, produced, or manufactured by or for the donor, the approximate date the property was substantially completed. (Part I, lines 3(d) and (e))
- The cost or other basis of the property, adjusted as provided by §1016. (Part I, line 3(f))

Charitable Contributions of More Than \$5,000 Checklist

- A statement explaining whether the charitable contribution was made by means of a bargain sale and, if so, the amount of any consideration received for the contribution. (Part I, line 3(g) and attached statement)
- Any other information required by Form 8283 (Section B) or the instructions to Form 8283 (Section B). (Part I, lines 2 and 3(h) and (i); Part III; Part V, Yes/No for intended use)
- Donee signature:
 - The person who signs for the donee is an official authorized to sign the tax or information returns of the donee, or a person specifically authorized to sign Forms 8283 (Section B) by that official. In the case of a donee that is a governmental unit, the person who signs Form 8283 (Section B) for the donee must be an official of the governmental unit.
 - Before signed by the donee, Form 8283 (Section B) was completed.

Note: Exception for the following: the appraiser declaration (this is already part of the form) or information about the qualified appraiser, the manner or date of acquisition, the cost or other basis of the property, the appraised fair market value of the contributed property, and the amount claimed as a charitable contribution.
- A completed copy of Form 8283 (Section B) has been furnished to the donee.
- For each item of contributed property for which a Form 8283 is required, a separate Form 8283 is attached to the return on which the deduction for the item is claimed.

Note: Exception for similar items. A single Form 8283 may be attached for all similar items of property, as defined in §1.170A-13(c)(7)(iii), contributed to the same donee if the forgoing information is included for each item of property.
- If the donor is a partnership or S corporation, the donor has provided a copy of the completed Form 8283 to every partner or shareholder who receives an allocation of a charitable contribution deduction under §170 for the property described in Form 8283. Similarly, a recipient partner or shareholder that is a partnership or S corporation has provided a copy of the completed Form 8283 to each of its partners or shareholders who receives an allocation of a charitable contribution deduction under §170 for the property described in Form 8283.
- A partner of a partnership or shareholder of an S corporation who receives an allocation of a charitable contribution deduction under §170 for property to which the foregoing requirements apply; has attached a copy of the partnership's or S corporation's completed Form 8283 to the return on which the deduction is claimed.

4. Additional requirements:

- If more than one appraiser appraises the property, and the donor uses the appraisal of more than one appraiser, or if two or more appraisers contribute to a single appraisal, each appraiser has complied with all foregoing requirements, including signing the qualified appraisal and Form 8283 (Section B).
- The qualified appraisal of the property to the return on which the deduction is claimed is attached for the following contributions: art valued at \$20,000 or more, single item of clothing or household item that is not in good used condition or better for which a deduction is being claimed of more than \$500, qualified conservation contribution of an easement on the exterior of a building in a registered historic district, and deduction of more than \$500,000 for an item (or group of similar items) donated to one or more donees.
- The forgoing substantiation requirements have been applied to the return for any carryover year under §170(d).

Qualified Conservation Contributions (Reg §1.170A-14)

Checklist

1. Qualified real property interest:

- The contribution is the entire interest of the donor other than a qualified mineral interest. An undivided interest in the property and a perpetual conservation restriction, e.g., easement, are also considered a qualified real property interest.
- The property in which the donor's interest exists was not divided prior to the contribution in order to enable the donor to retain control of more than a qualified mineral interest or to reduce the real property interest donated.

2. Qualified organization:

- The donee is a qualified organization, has a commitment to protect the conservation purpose of the donation, and has the resources to enforce the restrictions.

Note: A qualified organization is a governmental unit described in §170(b)(1)(A)(v); an organization described in §170(b)(1)(A)(vi); a charitable organization described in §501(c)(3) that meets the public support test of §509(a)(2); and a charitable organization described in §501(c)(3) that meets the requirements of §509(a)(3) and is controlled by an organization previously listed.

- The contribution's instrument of conveyance prohibits the donee from subsequently transferring the easement (or, in the case of a remainder interest or the reservation of a qualified mineral interest, the property), whether or not for consideration, unless the donee organization, as a condition of the subsequent transfer, requires that the conservation purposes which the contribution was originally intended to advance continue to be carried out.

3. Conservation purposes (must check at least one):

- The preservation of land area for outdoor recreation by, or the education of, the general public, within the meaning of §1.170A-14(d)(2).
- The protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem, within the meaning of §1.170A-14(d)(3).
- The preservation of certain open space (including farmland and forest land) within the meaning of §1.170A-14(d)(4).
- The preservation of a historically important land area or a certified historic structure, within the meaning of §1.170A-14(d)(5).

4. Exclusively for conservation purposes:

- The donation is to be used exclusively for conservation purposes.
- The contribution accomplishes one of the enumerated conservation purposes but does not permit destruction of other significant conservation interests unless necessary for the protection of the conservation interests that are the subject of the contribution.

Qualified Conservation Contributions (Reg §1.170A-14)

5. Enforceable in perpetuity:

- Any interest in the property retained by the donor (and the donor's successors in interest) must be subject to legally enforceable restrictions, e.g., by recordation in the land records of the jurisdiction in which the property is located, that will prevent uses of the retained interest inconsistent with the conservation purpose of the donation.
- The property is not subject to a mortgage unless the mortgagee subordinates its rights in the property to the rights of the qualified organization to enforce the conservation purposes of the gift in perpetuity.
- There is not a retention by any person of a qualified mineral interest that may extract or remove minerals by any surface mining method other than methods that may have a limited, localized impact on the property but that are not irretrievably destructive of significant conservation interests. (See exceptions in §1.170A-14(g)(4)(ii).)

6. Protection of conservation purpose where taxpayer reserves certain rights:

- When the donor reserves rights, the exercise of which may impair the conservation interest associated with the property, prior to the time the donation is made, the donor has provided documentation sufficient to establish the condition of the property at the time of the gift. For documentation guidelines, see §1.170A-14(g)(5)(i).
- The donor has agreed to notify the donee, in writing, before exercising any reserved right. The terms of the donation provide a right of the donee to enter the property at reasonable times for the purpose of inspecting the property to determine if there is compliance with the terms of the donation. The terms of the donation provide a right of the donee to enforce the conservation restrictions by appropriate legal proceedings, including but not limited to, the right to require the restoration of the property to its condition at the time of the donation.

7. Extinguishment:

- At the time of the donation, the donor must agree that the donation of the perpetual conservation restriction gives rise to a property right, immediately vested in the donee organization, with a fair market value that is at least equal to the proportionate value that the perpetual conservation restriction at the time of the gift, bears to the value of the property as a whole at that time. The proportionate value of the donee's property rights shall remain constant. When a change in conditions give rise to the extinguishment of a perpetual conservation restriction (see §1.170a-14(g)(6)(i)), the donee organization, on subsequent sale, exchange, or involuntary conversion of the subject property, must be entitled to a portion of the proceeds at least equal to that proportionate value of the perpetual conservation restriction, unless state law provides that the donor is entitled to the full proceeds from the conversion without regard to the terms of the prior perpetual conservation restriction.

8. Substantiation:

- The taxpayer has maintained written records of the fair market value of the underlying property before and after the donation and the conservation purpose furthered by the donation, and such information is stated in the tax return as required.
- Substantiation requirements under §1.170A-16(d) are complete.