

Rev. Proc. 66-49

26 CFR 601.602: Forms and instructions.

(Also Part I, Section 170; 26 CFR 1.170-1.)

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[*1]

A procedure to be used as a guideline by all persons making appraisals of donated property for Federal income tax purposes.

SECTION 1. PURPOSE.

The purpose of this procedure is to provide information and guidelines for taxpayers, individual appraisers, and valuation groups relative to appraisals of contributed property for Federal income tax purposes. The procedures outlined are applicable to all types of noncash property for which an appraisal is required such as real property, tangible or intangible personal property, and securities. These procedures are also appropriate for unique properties such as art objects, literary manuscripts, antiques, etc., with respect to which the determination of value often is more difficult.

SEC. 2. LAW AND REGULATIONS.

.01 Numerous sections of the Internal Revenue Code of 1954, as amended, give rise to a determination of value for Federal tax purposes; however, the significant section for purposes of this Revenue Procedure is section 170, Charitable, Etc., Contributions and Gifts.

.02 Value is defined in section 1.170-1(c) of the Income Tax Regulations as follows:

* * *. The fair market value is the price at which the property would [*2] change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts. * * *

.03 This section further provides that:

* * *. If the contribution is made in property of a type which the taxpayer sells in the course of his business, the fair market value is the price which the taxpayer would have

received if he had sold the contributed property in the lowest usual market in which he customarily sells, at the time and place of contribution (and in the case of a contribution of goods in quantity, in the quantity contributed). * * *

.04 As to the measure of proof in determining the fair market value, all factors bearing on value are relevant including, where pertinent, the cost, or selling price of the item, sales of comparable properties, cost of reproduction, opinion evidence and appraisals. Fair market value depends upon value in the market and not on intrinsic worth.

.05 The cost or actual selling price of an item within a reasonable time before or after the valuation date may be the best evidence of its fair market value. Before such information is taken into account, it must be [*3] ascertained that the transaction was at arm's length and that the parties were fully informed as to all relevant facts. Absent 1258 such evidence, even the sales price of the item in question will not be persuasive.

.06 Sales of similar properties are often given probative weight by the courts in establishing fair market value. The weight to be given such evidence will be affected by the degree of similarity to the property under appraisal and the proximity of the date of sale to the valuation date.

.07 With respect to reproductive cost as a measure of fair market value, it must be shown that there is a probative correlation between the cost of reproduction and fair market value. Frequently, reproductive cost will be in excess of the fair market value.

.08 Generally, the weight to be given to opinion evidence depends on its origin and the thoroughness with which it is supported by experience and facts. It is only where expert opinion is supported by facts having strong probative value, that the opinion testimony will in itself be given appropriate weight. The underlying facts must corroborate the opinion; otherwise such opinion will be discounted or disregarded.

.09 [*4] The weight to be accorded any appraisal made either at or after the valuation date will depend largely upon the competence and knowledge of the appraiser with respect to the property and the market for such property.

SEC. 3. APPRAISAL FORMAT.

.01 When it becomes necessary to secure an appraisal in order to determine the values of items for Federal income tax purposes, such appraisals should be obtained from qualified and reputable sources, and the appraisal report should accompany the return when it is filed. The more complete the information filed with a tax return the more unlikely it will be that the Internal Revenue Service will find it necessary to question items on it. Thus, when reporting a deduction for charitable contributions on an income tax return, it will facilitate the review and the acceptance of the returned values if any appraisals which have been secured are furnished. The above-mentioned regulations prescribe that support of values claimed should be submitted and a properly prepared appraisal by a person qualified to make such an appraisal may well constitute the necessary substantiation. In

this respect, it is not intended that all value determinations [*5] be supported by formal written appraisals as outlined in detail below. This is particularly applicable to minor items of property or where the value of the property is easily ascertainable by methods other than appraisal.

.02 In general, an appraisal report should contain at least the following:

- (1) A summary of the appraiser's qualifications.
- (2) A statement of the value and the appraiser's definition of the value he has obtained.
- (3) The bases upon which the appraisal was made, including any restrictions, understandings, or covenants limiting the use or disposition of the property.
- (4) The date as of which the property was valued.
- (5) The signature of the appraiser and the date the appraisal was made. 1259

.03 An example of the kind of data which should be contained in a typical appraisal is included below. This relates to the valuation of art objects, but a similar detailed breakdown can be outlined for any type of property. Appraisals of art objects, paintings in particular, should include:

- (1) A complete description of the object, indicating the size, the subject matter, the medium, the name of the artist, approximate date created, the interest transferred, [*6] etc.
- (2) The cost, date, and manner of acquisition. (3) A history of the item including proof of authenticity such as a certificate of authentication if such exists.
- (4) A photograph of a size and quality fully identifying the subject matter, preferably a 10" x 12" or larger print.
- (5) A statement of the factors upon which the appraisal was based, such as:
 - (a) Sales of other works by the same artist particularly on or around the valuation date.
 - (b) Quoted prices in dealers' catalogs of the artist's works or of other artists of comparable stature.
 - (c) The economic state of the art market at or around the time of valuation, particularly with respect to the specific property.
 - (d) A record of any exhibitions at which the particular art object had been displayed.

(e) A statement as to the standing of the artist in his profession and in the particular school or time period.

.04 Although an appraisal report meets these requirements, the Internal Revenue Service is not relieved of the responsibility of reviewing appraisals to the extent deemed necessary.

SEC. 4. REVIEW OF VALUATION APPRAISALS.

.01 While the Service is responsible for reviewing appraisals, it [*7] is not responsible for making appraisals; the burden of supporting the fair market value listed on a return is the taxpayer's. The Internal Revenue Service cannot accord recognition to any appraiser or group of appraisers from the standpoint of unquestioned acceptance of their appraisals. Furthermore, the Service cannot approve valuations or appraisals prior to the actual filing of the tax return to which the appraisal pertains and cannot issue advance rulings approving or disapproving such appraisals.

.02 In determining the acceptability of the claimed value of the donated property, the Service may either accept the value claimed based on information or appraisals submitted with the return or make its own determination as to the fair market value. In either instance, the Service may find it necessary to:

(1) contact the taxpayer and ask for additional information,

(2) refer the valuation problem to a Service appraiser or valuation specialist,

(3) recommend that an independent appraiser be employed by the Service to appraise the asset in question. (This latter course is frequently used by the Service when objects requiring appraisers of highly specialized experience and [*8] knowledge are involved.)