PERSPECTIVES

The Essential Role of Qualified Personal Property Appraisers in Estate and Donation Valuations

Our perspectives feature the viewpoints of our subject matter experts on current topics and emerging trends.

When purchasing an expensive engagement ring, one would not seek the expertise of a real estate agent. Similarly, when an estate requires an appraisal, it is crucial to engage the appropriate expert for high value personal property. This includes fine art, jewelry, antiques, high-value rugs, wine, furniture, silver, rare manuscripts, antiquities, ethnographic art, coins, and memorabilia. Too often, a single appraiser is hired for the entirety of the estate. Furthermore, executors or attorneys frequently do not understand that for high value personal property, they must engage a "qualified appraiser" to perform a "qualified appraisal" in order to satisfy Internal Revenue Service (IRS) standards. Additionally, someone with expert knowledge about the subject property might be hired to appraise it for charitable contribution purposes without realizing that, as the original seller of the property or as a person or entity with a future interest in the property, the IRS will not look favorably on the impartiality of their appraisal. Specifically, an expert from the gallery who originally sold the artwork to the client or an expert from a gallery or auction house who wishes to later receive the consignment, can be viewed by the IRS as having a conflict of interest.

In this article we will discuss what constitutes a qualified appraiser, why an estate or a donor might need such an expert, and some of the potential problems they might encounter when evaluating a collection or trying to take the deduction for a charitable contribution.

UNDERSTANDING REQUIREMENTS FOR QUALIFIED APPRAISALS AND APPRAISALS OF PERSONAL PROPERTY

Beginning in 2006, the Pension Protection Act provided new statutory definitions of a "qualified appraisal" and "qualified appraiser" for tax returns filed after August 17, 2006. According to the IRS, a qualified appraiser is defined as a person who has earned an appraisal designation from a recognized professional appraisal organization. The three main appraisal organization in the United States are the Appraisers Association of America, the Appraisers Society of America, and the International Society of Appraisers. The IRS states that appraisers must meet minimum education requirements and have at least two or more years of experience. This includes a college education, a professional trade educational program, and an apprenticeship or education program similar to college-level courses. The IRS has also stated that a qualified appraiser must regularly prepare appraisals for which they are paid, and that the appraiser is not an "excluded" individual.[1] On top of the IRS regulations, appraisers who have qualified for membership and have joined an appraisal organization must adhere to the ethical standards of that organization. For example, the Appraisers Association of America requires that appraisers must:

- Provide independent valuation outside of third-party influences.
- Retain no outside interest in the subject property other than an accurate and professional value.
- Contract for appraisal work only within the areas of their professional expertise.
- Reach objective value conclusions by considering all factors in appraisal standards.
- Use the highest standards of connoisseurship in examining and documenting property.
- Maintain that professional remuneration is independent of the value of the subject property.[2]

IRS GUIDELINES FOR HIGH-VALUE ASSET APPRAISALS IN ESTATE PLANNING AND CHARITABLE DONATIONS

In 2025, the federal estate tax exemption amount was set at $13.99 million for individuals and $27.98 million for married couples. If an estate exceeds these thresholds, the filing of IRS Form 706, also known as the federal estate tax return, is mandatory. This form calculates the total value of the estate's assets and liabilities as

[1] https://www.irs.gov/appeals/art-appraisal-services
[2] https://www.appraisersassociation.org/about-us

of the date of death and determines the applicable tax. The taxable amount is reduced by any taxable gifts made by the decedent during their lifetime, referred to as the "exemption amount." Only the portion of the estate exceeding the exemption is subject to taxation. While this process may seem straightforward, historical evidence indicates numerous challenges in accurately appraising fine art and other high value personal property for estates, donations, or when the decedent has made donations and the estate seeks to reduce the taxable amount.

For estates, the process begins with the filing of Form 706. This form is due within nine months of the date of death, but a six-month extension can be granted if the estimated taxes are paid when the extension paperwork is filed. Once the Form 706 is filed, the IRS closely examines the appraisal report and its crucial elements such as: the appraiser's qualifications, the approach and methodology of value, and the described property.

For non-cash charitable contributions, a supporting qualified appraisal must be conducted by a qualified appraiser, and Form 8283 must be included with the tax return in order to validate the deduction for any gift in excess of $5,000. If a deduction of $20,000 or more is claimed for a donation of art or collectibles, a complete copy of the appraisal must be attached to the tax return and, if requested, a photograph of appropriate size and quality that clearly depicts the object must be provided, with a preference for high-resolution digital images.[3]

The IRS itself has the Art Appraisal Services (AAS). The professionals at the AAS "review the fair market value (FMV) claimed for personal property included in federal income and estate and gift tax cases, in accordance with the Internal Revenue Code […] Although organized under the IRS Independent Office of Appeals, AAS typically assists IRS's examination function, lawyers from the IRS Office of Chief Counsel and the Department of Justice, as well as appeals officers, on the valuation of personal property and works of art."[4]

An estate appraisal for personal property determines the value of a deceased person's belongings, which is crucial for fair distribution among beneficiaries, tax purposes, and the probate process. It typically includes items like jewelry, antiques, collectibles, vehicles, and real estate. Evaluating high-value personal property for estate and donation purposes presents numerous challenges. These challenges often involve thorough research, market understanding, and determining whether the appraiser meets the criteria of a qualified appraiser. A notable example of these potential issues is the case of the *Estate of Eva Franzen Kollsman v. Commissioner*.

TAX COURT RULING IN THE *ESTATE OF EVA FRANZEN KOLLSMAN V. COMMISSIONER*

Conflict of Interest and Valuation Issues

In 2017, the US Tax court (the Tax Court) rejected the appraisal of two Old Master paintings in the estate of Ms. Eva Franzen Kollsman saying that the paintings were undervalued by $2.4 million and that the estate's expert had a "significant conflict of interest that could cause a reasonable person to question his objectivity."[5] The two paintings in question were "Village Kermesse with the Dance Around the Maypole" by Pieter Brueghel the Younger (the Maypole painting), and "Orpheus Charming the Animals," attributed to either Jan Brueghel the Elder or Jan Brueghel the Younger (the Orpheus painting).

The estate's expert witness was the chair of the esteemed auction house's Old Master paintings department with 40 years of experience in that area, but it is important to note that he was not a qualified appraiser. The expert estimated the fair market value of the Maypole painting for $500,000 and the Orpheus painting for $100,000. However, the Tax Court decided that there were several problems with his opinion.

[3] https://www.irs.gov/pub/irs-pdf/p561.pdf
[4] https://www.irs.gov/appeals/art-appraisal-services
[5] Estate of Eva Franzen Kollsman v. Comm'r of Internal Revenue, 2017 T.C.M. (RIA) 2017-040 (2017).

Although appraisal organizations require appraisers to "provide independent valuation outside of third-party influences"[6] the IRS does not explicitly state that a qualified appraiser must not have an unbiased interest or perceived unbiased interest in the property. It is clear from this case that the Tax Court did take the expert's conflict of interest into consideration as they noted that he offered to sell the paintings at the same time he was evaluating them. The Tax Court also highlighted the absence of any comparable sales used for analysis in the expert's appraisal. The evaluation had an effective date as of the date of death, and, typically, the Tax Court does not consider events or sales which come after this date. However, the Maypole painting eventually sold for $2.4 million, and the estate's expert was left to explain why there would be such a large discrepancy. The expert argued that a surge in interest in Old Master paintings by Russian buyers drove the price up, but this statement was not well supported and failed to convince the Tax Court.

ASSESSING THE PHYSICAL CONDITION IN ART APPRAISALS FOR QUALIFIED APPRAISALS

One of the requirements for a qualified appraisal as noted by the IRS is "a description of the property in sufficient detail for a person who is not generally familiar with the type of property to determine that the property appraised is the property that was (or will be) contributed" which includes "the physical condition of any tangible property."[7] The estate's expert noted grime on the painting's surface which would require cleaning. He said the restoration would pose a risk which could devalue the work, and he took the condition of the paintings into account when evaluating them. The Tax Court found that his valuation opinion was not convincing as the estate's executor had consulted another restoration company less than a month after the decedent's death and was told that the cleaning the paintings was "reasonably safe."

Subsequently, the Ninth Circuit upheld the Tax Court's decision to value the Maypole painting at nearly $2 million and the Orpheus painting at $375,000, agreeing that the Tax Court correctly applied the law regarding art valuation and that its expert witness supported the findings.

HOW HIGH-VALUE ASSET APPRAISALS AND VALUATION SERVICES CAN HELP

Although valuing art and other high-value personal property can be subjective, it is crucial for appraisers to adhere to IRS guidelines, Tax Code regulations, and professional ethical standards. This ensures objectivity and consistency in determining the estate's tax liability or the accurate value for donation purposes. Appraisers must disclose any past, present, or current interest in the property they are evaluating. Executors, attorneys, or donors should ensure they hire an expert who not only understands the market but also the complexities of such appraisals. Additionally, they must verify that the expert can provide a qualified appraisal as a qualified appraiser.

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[6] https://www.appraisersassociation.org/about-us
[7] https://www.irs.gov/appeals/art-appraisal-services#qualified

appraiser, and review appraiser at a major personal property evaluation firm. Compliant with USPAP, Christian has presented at conferences, historic homes, and insurance companies on fine art and appraisal topics. She has authored articles on personal property valuation and served as an expert witness in depositions.

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