



Vermont Land Trust

CONSERVING LAND FOR THE FUTURE OF VERMONT

APPRAISAL REQUIREMENTS: GIFTS OF LAND OR CONSERVATION EASEMENTS

When a landowner donates land or a conservation easement to the Vermont Land Trust (VLT) and seeks a charitable income tax deduction for the gift, certain appraisal requirements apply. Treasury Regulation §1.170A-13(c) impose “substantiation” requirements with respect to any gift of property having a value exceeding \$5,000. Donors should consult with their tax advisers concerning the details of these regulations but the substantiation requirements can be summarized as follows:

- 1) The donor must obtain a written “**qualified appraisal**” of the property. The appraisal must be performed no earlier than 60 days before the gift is made and no later than the tax return filing date (or as that date is extended by taxpayer obtaining a filing extension). An older appraisal can in many circumstances be updated. In brief, the following information must be included in the qualified appraisal:
 - A description of the property including its location and its physical condition.
 - The actual or expected date of the gift, and the date on which the property was valued by the appraiser.
 - The terms of any agreement or understanding that restricts VLT’s use or disposal of the property.
 - The name, address, and social security number of the appraiser, and a statement describing the appraiser’s qualifications.
 - A statement that the appraisal was prepared for income tax purposes.
 - The appraised fair market value of the property on the actual or expected date of the gift, a description of the method of valuation used, and the specific basis for the valuation, such as comparable sales.
 - A description of the fee arrangement between the donor and appraiser.
 - The signature of the appraiser and the date of the report.
- 2) The appraisal must be performed by a “**qualified appraiser.**” In general, this means the appraiser must be qualified by training and experience or certification to perform appraisals. Further, the appraiser cannot have any personal stake in the property or the gift, cannot be related to the donor or VLT, or have any business relationship with either party that would cause a reasonable person to question the appraiser’s independence. The appraiser’s fee

cannot be based upon a percentage of appraised value.

- 3) The donor must attach a “**fully completed appraisal summary**” to the tax return for the year in which the gift is made. The appraisal summary must be on IRS Form 8283, which asks that the donee, the appraiser, and the property be identified. This form, which is provided to the donor by the Vermont Land Trust, requires the signature of the appraiser to establish the value of the gift, and the signature of VLT to establish that the gift was received. The appraisal report itself is not filed with Form 8283 except when the donated property is valued at \$500,000 or more, in which case the full appraisal report must be filed with the donor’s income tax return. The appraiser must complete the value portion of Form 8283. VLT is not concurring in the value of the gift by signing form 8283,.
- 4) The donor is required to **maintain records** pertaining to the gift, including a copy of the qualified appraisal.

If VLT sells or otherwise disposes of the donated property within two years of the gift, the Vermont Land Trust must file IRS Form 8282, and send a copy to the donor. This form allows the IRS to cross-check the sales price received by VLT against the value claimed on the donor’s tax return. The IRS will impose substantial penalties if a gift is overvalued. These penalties apply when the value stated on the donor’s tax return exceeds by more than 150% the value determined by the IRS. Beyond the obligation to pay the tax due on the lower value determined by the IRS, a penalty of 30% of that additional tax is also assessed.

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