

Madison Audubon Society, Inc.
Guidelines for Appraisal Requirements for Gifts of Land or Easements

When a landowner donates land or a conservation easement to Madison Audubon Society and seeks a charitable income tax deduction for the gift, certain appraisal requirements apply. Treasury Regulation §1.170A-13(c) imposes substantiation requirements with respect to any gift of property having a value exceeding \$5,000. Landowners are notified of the requirements below in the *Property Donation Appraisal Review Notification Letter*. 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 is responsible for determining the value of the donation.
2. The donor must obtain a written qualified appraisal of the property, which is one that is prepared by a qualified appraiser following the Uniform Standards of Professional Appraisal Practice (USPAP). The appraisal must be performed no earlier than 60 days prior to the date of contribution and before the due date for the tax return on which the deduction is first claimed. An older appraisal can in many circumstances be updated. If the appraisal is after the donation, it must reflect the value of the conservation easement or fee property on the date of the gift. 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 Madison Audubon Society's use or disposal of the property.
 - The name, address and identifying 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.
 - The signature of the appraiser and the date of the report.
3. 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 Madison Audubon Society 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.

4. The donor must attach IRS Form 8283 to the tax return for the year in which the gift is made, which asks that the donee, the appraiser and the property be identified. This form, which Madison Audubon Society provides to the donor, requires the signature of the appraiser to establish the value of the gift and the signature of Madison Audubon Society's authorized representative to acknowledge receipt of the gift. The appraisal report is filed with Form 8283 when the donated property is valued at \$500,000 or more. The appraiser must complete the value portion of Form 8283. The donor must ensure the Form 8283 is complete and is an accurate representation of the gift.

Madison Audubon Society requires a copy of the complete appraisal and will not knowingly participate in projects where it has significant concerns about the tax deduction. The executive director, or authorized signatory, will only sign the donee acknowledgement on IRS Form 8283 when all other parts have been completed by the donor and appraiser, and the appraisal is attached.

5. The donor is required to maintain complete records pertaining to the gift.

MAS will comply fully with all IRS requirements. The IRS may 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 percent 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 percent of that additional tax may also be assessed.

Procedure to Resolve Concerns

MAS will document how it took appropriate action to resolve any concerns it has with the landowner's tax deduction or the appraisal supporting Form 8283. Appropriate action can include one or more of the following:

- Sharing the concerns regarding the appraisal in writing with the landowner
- Seeking additional substantiation of value
- Seeking expert legal and tax counsel and relying on the counsel's advice
- Withdrawing from the transaction prior to closing
- Refusing to sign the Form 8283 if the organization believes it has not received the gift described on the form or if either the Form or the appraisal appears to support an abusive or fraudulent tax deduction.

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