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Appraisers' Valuations for Tax Filings Come Under Microscope With New Law

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It may soon become trickier to get an item appraised for tax purposes. The Pension Protection Act, passed in August, puts appraisers in the sights of the Internal Revenue Service by saying they can be penalized for valuations the agency later decides are off the mark.

The move marks a big change because taxpayers, not appraisers, historically have borne the brunt of a wrong valuation. One result: The cost of getting something appraised may well rise.

Appraisals are used for a number of purposes in tax filings. For instance, noncash assets donated to charity are often appraised so the donor can claim the value as a deduction on his income-tax return and lower his tax bill.

Examples might be an individual who donates to charity a share in a private company that is expected to go public later, or a business that gives a conservation easement to a local government by agreeing not to develop its real estate but to maintain the property for conservation purposes instead.

Now, the PPA has introduced penalties on appraisers, but they aren't alone in facing the music. Accountants, brokers, estate executors and others may also be slapped because of the broad brush with which it was written.

The rule is beginning to have a chilling effect on appraisers because it raises a host of questions, including which kind of tax -- gift and estate tax, income tax, or both -- is affected, and who may be hit by penalties.

The American Bar Association Section of Real Property, Probate and Trust Law have urged the IRS to clear up a number of uncertainties in the rule, which is included in Internal Revenue Code Section 6695A.

The IRS is reviewing these and other comments on the matter and plans to publish regulations later to spell out details of the law, according to an IRS spokesman.

"I've heard indirectly that some appraisers are holding back in terms of doing income- and estate-tax appraisals, or that they're limiting the scope of appraisals," says William Forsberg, a partner at Parsinen Kaplan Rosberg + Gotlieb P.A. in Minneapolis and co-author of the ABA group's comments.

Code Section 6695A simply refers to "any person" as being subject to the penalties. It's not clear whether the rule could extend beyond an appraiser to include, say, an attorney hired by the appraiser to opine on whether an entity is a limited partnership, for example.

The American Society of Appraisers, in a statement issued by the head of its government relations committee, said, "the Pension Protection Act's appraisal provisions will greatly improve the reliability of tax-related valuations and the qualifications of those performing them."

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