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By Roger E. Wilde*

Just this past February, the Los Angeles Chapter of the American Society of Appraisers (ASA) held the first National IRS Symposium on Valuation Issues in Cerritos, California.

Approximately 165 appraisers from various disciplines (business valuation, real estate, personal property and art, equipment) heard the top IRS officials in valuation, appraisal, estate and gift tax, Office of Professional Responsibility, and Abusive Transactions. According to Dennis Webb, President of ASA's Los Angeles Chapter, the IRS wanted to share information with the appraisal community about the newly-implemented changes in their national appraisal program.

IRS raises expectations for BV community

In the past, many in the business valuation industry believed that the IRS failed to appreciate their professional expertise and applications. For example, "many professionals feel that the IRS's low expectations for business valuations ignored the protocols of the valuation profession," wrote Louis J. Cercone, Jr. ASA, CVA, CPA/ABV, in a 2002 issue of *The CPA Journal*.

In response, an IRS valuation "review team" reassessed its standards for the profession, and issued its *Business Valuation Guidelines* in 2004. (Available as a free download from *BVResources.com.*) These IRS *BV Guidelines* include development, resolution, and reporting guidelines, and are intended for use by IRS personnel. (Of note, the IRS encourages the appraisers for taxpayers to follow the appraisal standards promulgated by their own professional organizations.)

As part of its valuation upgrade, the IRS also assembled a department with over 300 in-house appraisal professionals and staff, and obtained legal means to penalize appraisers found to be "aiding and abetting" abusive tax transactions and reporting. The IRS also recently established a new collaborative approach for the appraisal review process, seeking early resolution of appraisal issues by working directly with the taxpayer's appraiser.

The Symposium confirmed that the IRS is still working hard to achieve its goals of improving both appraisal and appraiser quality. The first presentation was by Howard Lewis, IRS National Valuation Program Manager, who was instrumental in developing the IRS *BV Guidelines*. Lewis focused on three topics: 1) the national programs the IRS is developing to improve professional responsibility; 2) an update about

Congressional legislation impacting appraisers; and 3) various considerations for appraisers about practice before the IRS.

According to Mr. Lewis, there were two reasons the Treasury Department decided not to use the *Uniform Standards for Professional Appraisal Practice* (USPAP) for its IRS *BV Guidelines*. First, Treasury wanted the ability to amend the rules, if necessary. Second, Treasury wanted to maintain its ability to accept less structured reports that are adequate to support values.

At the Symposium, Mr. Lewis indicated that although USPAP was not their primary *Guideline*, it is still important guidance for the IRS. Likewise, he reiterated that “each of the available sets of standards [from the various appraisal organizations] was instrumental in developing our guidelines.”

And as it did during the development of the *BV Guidelines*, the IRS aims “to improve the consistency of valuation reports throughout our program and enhance quality by adhering to these guidelines. We also hope to model the private sector and increase the acceptability of our conclusions by taxpayers, internal decision makers, and the courts.” Based on the presentations at the Symposium, the IRS appears to be making progress towards these goals.

Top five tips for avoiding (or surviving) an IRS appraisal audit

Lewis also cited the five best ways to make sure a valuation report passes any IRS scrutiny:

1. *Be thorough*. Any valuation report should be self-contained, with a complete description of the appraised business or property, and a full statement and analysis of the facts. It should also provide a detailed explanation of the valuation methods with a description of the data sources used to support their value conclusion.

2. *Play IRS advocate*. Business appraisers should self-test themselves and their reports, asking the questions that the IRS appraisers would likely ask—and then they should be sure that their appraisal report has the answers.

3. *Be responsive*. If and when the IRS asks questions about the taxpayer’s appraisal, the appraiser should respond with all relevant facts, valuation methods, and the sources of data they used to support the report’s conclusions.

4. *Work towards an agreement*. Taxpayer’s appraiser should communicate through taxpayer’s counsel and, if permitted, directly with the IRS appraisers to identify any facts, valuation methods, models, and/or applied theories on which the parties agree. (The IRS does not expect to always reach agreement as to the results of the valuation.)

5. *Collaborate where possible*. The taxpayer’s appraiser should not be afraid to ask questions and seek clarity from the IRS.

More IRS appraiser penalty information to come

The Symposium also covered appraiser disqualification to practice before the IRS, pursuant to the newly-developed Appraiser Penalty Process, based on Section 6701 of the Internal Revenue Code. Subsequent sessions focused on the need for better valuation and appraiser quality in the specific tax-related areas of: estate and charitable gifts; art appraisals; machinery and equipment; conservation easements and facades; and partial interest discounts.

According to Dennis Webb, the LA Chapter is working with the IRS to publish a summary of the Symposium. Future *BVU* issues will cover this and the best practices to emerge from this first collaboration.

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