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26 CFR 601.201: Rulings and determination letters.

(Also Part I, §§ 170, 2031, 2512; 1.170A-13; 20.2031-6; 25.2512-1.)

## Rev. Proc. 96-15

### SECTION 1. PURPOSE

This revenue procedure informs taxpayers how to request from the Internal Revenue Service a Statement of Value that can be used to substantiate the value of art for income, estate, or gift tax purposes. A taxpayer that complies with the provisions of this revenue procedure may rely on the Statement of Value in completing the taxpayer's federal income tax, estate tax, or gift tax return that reports the transfer of art.

### SECTION 2. BACKGROUND

#### *.01 Income Tax Charitable Deduction.*

(1) Section 170(a) of the Internal Revenue Code allows as a deduction any charitable contribution (as defined in § 170(c)) payment of which is made during the taxable year.

(2) Section 1.170A-1(c)(1) of the Income Tax Regulations provides that if a charitable contribution is made in property other than money, the amount of the contribution is generally the fair market value of the property at the time of the contribution.

(3) Section 1.170A-1(c)(2) provides that the fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.

(4) Section 1.170A-13 sets forth the recordkeeping and return requirements for deductions for charitable contributions. For a deduction for a charitable contribution of property in excess of \$5,000, § 1.170A-13(c) requires a qualified appraisal and an appraisal summary.

(5) Rev. Proc. 66-49, 1966-2 C.B. 1257, provides guidelines for review of appraisals of contributed property for purposes of § 170. Section 4.01 of Rev. Proc. 66-49 states that the Service will not approve valuations or appraisals prior to the actual filing of the tax return to which the appraisal pertains, and will not issue advance rulings approving or disapproving appraisals.

#### .02 Estate Tax.

(1) Section 2031 provides that the value of the gross estate of a decedent is determined by including the value at the time of death of all property wherever situated.

(2) Section 20.2031-1(b) of the Estate Tax Regulations provides that the value of property includible in a decedent's gross estate is its fair market value at the time of the decedent's death.

(3) Section 2032(a) provides that the executor may elect to determine the value of all the property included in the gross estate as of 6 months after the decedent's death. However, property distributed, sold, exchanged, or otherwise disposed of within 6 months after death must be valued as of the date of distribution, sale, exchange, or other disposition.

(4) Section 20.2031-6(a) provides that the fair market value of a decedent's household and personal effects is the price that a willing buyer would pay to a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of the relevant facts.

(5) Section 20.2031-6(b) provides that if there are included among the household and personal effects articles having marked artistic or intrinsic value of a total in excess of \$3,000, the appraisal of an expert or experts, under oath, must be filed with the estate tax return.

(6) Section 20.2031-6(d) provides that if, pursuant to § 20.2031-6 (a) and (b), expert appraisers are employed, care must be taken to see that they are reputable and of recognized competency to appraise the particular class of

property involved. In listing paintings having artistic value, the size, subject, and artist's name must be stated.

#### .03 Gift Tax.

(1) Section 2512(a) provides that if a gift is made in property, the value thereof at the date of the gift is the amount of the gift.

(2) Section 25.2512-1 of the Gift Tax Regulations provides that the value of property is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of the relevant facts.

.04 *Legislation Authorizing User Fees.* Section 10511 of the Revenue Act of 1987, 1987-3 C.B. 1, 166, as amended by § 11319 of the Omnibus Budget Reconciliation Act of 1990, 1991-2 C.B. 481, 511, and by § 743 of the Uruguay Round Agreements Act, 1995-11 I.R.B. 5, 14, requires the Secretary of the Treasury or delegate to establish a program requiring the payment of user fees for requests to the Service for letter rulings, opinion letters, determination letters, and similar requests. The fees apply to requests made on or after February 1, 1988, and before October 1, 2000. The fees charged under the program (1) vary according to categories or subcategories established by the Secretary; (2) are determined after taking into account the average time for, and difficulty of, complying with requests in each category and subcategory; and (3) are payable in advance.

### SECTION 3. SCOPE

.01 Except as provided in section 3.02, this revenue procedure applies to an item of art that has been appraised at \$50,000 or more, and has been transferred (1) as a "charitable contribution" within the meaning of § 170(c), (2) by reason of a decedent's death, or (3) by inter vivos gift.

.02 The Service may issue a Statement of Value for items appraised at less than \$50,000 if (1) the request for the Statement of Value includes a request for appraisal review for at least one item appraised at \$50,000 or more, and (2) the Service determines that issuance of such a Statement would be in the best interest of efficient tax administration.

.03 The Service may decline to issue a Statement of Value when appropriate

in the interest of efficient tax administration. If the Service declines to issue a Statement of Value under this section 3.03, the Service will refund the user fee.

### SECTION 4. DEFINITIONS

.01 The term "art" includes paintings, sculpture, watercolors, prints, drawings, ceramics, antique furniture, decorative arts, textiles, carpets, silver, rare manuscripts, historical memorabilia, and other similar objects.

.02 The term "taxpayer" includes an executor or administrator acting on behalf of an estate, and a donor of a gift.

.03 The term "valuation date" refers to the date of death, the alternate valuation date (as established under § 2032(a)), or the date of the gift.

### SECTION 5. REQUESTING A STATEMENT OF VALUE FOR INCOME TAX CHARITABLE DEDUCTION PURPOSES

.01 To request a Statement of Value from the Service for an item of art transferred as a charitable contribution within the meaning of § 170(c), a taxpayer must submit to the Service a request for a Statement of Value for the item prior to filing the income tax return that first reports the charitable contribution. The request must include the following:

(1) a copy of an appraisal (as described in section 6 of this revenue procedure) of the item of art;

(2) a check or money order payable to the Internal Revenue Service (user fee) in the amount of \$2,500 for a request for a Statement of Value for one, two, or three items of art, plus \$250 for each additional item of art for which a Statement of Value is requested;

(3) a completed appraisal summary (Section B of Form 8283, Noncash Charitable Contributions) that meets the requirements of § 1.170A-13(c)(4); and

(4) the location of the District Office that has or will have examination jurisdiction over the return (not the Service Center where the return is filed).

.02 A taxpayer may withdraw the request for a Statement of Value at any time before it is issued by the Service. The user fee will not be refunded for a

request that is withdrawn. When a request is withdrawn, the appropriate District Director will be notified.

.03 If a request for a Statement of Value lacks information essential to the issuance of a Statement of Value for an item of art, the Service will notify the taxpayer that the request will not be processed for that item unless the Service receives the missing information within 30 calendar days after the date of such notification.

#### SECTION 6. APPRAISAL FOR INCOME TAX CHARITABLE DEDUCTION PURPOSES

.01 An appraisal submitted to the Service by a taxpayer under section 5 of this revenue procedure must meet the requirements for a qualified appraisal under § 1.170A-13(c)(3)(i)-(iii), and must also include the following:

(1) a complete description of the item of art, including:

- (a) the name of the artist or culture,
- (b) the title or subject matter,
- (c) the medium, such as oil on canvas, or watercolor on paper,
- (d) the date created,
- (e) the size,
- (f) any marks, signatures, or labels on the item of art, on the back of the item of art, or affixed to the frame,
- (g) the history (provenance) of the item, including proof of authenticity, if that information is available,

(h) a record of any exhibitions at which the item was displayed,

(i) any reference source citing the item, and

(j) the physical condition of the item;

(2) a professional quality photograph of a size and quality fully showing the item, preferably an 8 × 10 inch color photograph or a color transparency not smaller than 4 × 5 inches; and

(3) the specific basis for the valuation.

.02 The appraisal must be made no earlier than 60 days prior to the date of the contribution of the item of art.

.03 Taxpayers are encouraged to include in the request any additional information that may affect the determination of the fair market value of the item of art.

.04 The requirements of section 6 of this revenue procedure must be met by Subchapter C corporations, even though

they would otherwise be exempt under § 1.170A-13(c)(2)(ii)(B)(3) from the appraisal requirements.

#### SECTION 7. REQUESTING A STATEMENT OF VALUE FOR ESTATE TAX OR GIFT TAX PURPOSES

.01 To request a Statement of Value from the Service for an item of art transferred as part of an estate or as an inter vivos gift, a taxpayer must submit to the Service a request for a Statement of Value for the item prior to filing the federal estate tax return or the federal gift tax return that first reports the transfer of the item. The request must include the following:

(1) a copy of an appraisal (as described in section 8 of this revenue procedure) of the item of art;

(2) a check or money order payable to the Internal Revenue Service (user fee) in the amount of \$2,500 for a request for a Statement of Value for one, two, or three items of art, plus \$250 for each additional item of art for which a Statement of Value is requested;

(3) a description of the item of art;

(4) the appraised fair market value;

(5) the cost, date, and manner of acquisition;

(6) the date of death (or the alternate valuation date, if applicable) or the date of the gift; and

(7) the location of the District Office that has or will have examination jurisdiction over the return (not the Service Center where the return is filed).

.02 A taxpayer may withdraw the request for a Statement of Value at any time before it is issued by the Service. The user fee will not be refunded for a request that is withdrawn. When a request is withdrawn, the appropriate District Director will be notified.

.03 If a request for a Statement of Value lacks information essential to the issuance of a Statement of Value for an item of art, the Service will notify the taxpayer that the request will not be processed for that item unless the Service receives the missing information within 30 calendar days after the date of such notification.

#### SECTION 8. APPRAISAL FOR ESTATE TAX OR GIFT TAX PURPOSES

.01 An appraisal submitted to the Service by a taxpayer under section 7

of this revenue procedure must include the following:

(1) a complete description of the item of art, including:

(a) the name of the artist or culture,

(b) the title or subject matter,

(c) the medium, such as oil on canvas, or watercolor on paper,

(d) the date created,

(e) the size,

(f) any marks, signatures, or labels on the item of art, on the back of the item of art, or affixed to the frame,

(g) the history (provenance) of the item, including proof of authenticity, if such information is available,

(h) a record of any exhibitions at which the item was displayed,

(i) any reference source citing the item, and

(j) the physical condition of the item;

(2) a professional quality photograph of a size and quality fully showing the item, preferably an 8 x 10 inch color photograph or a color transparency not smaller than 4 x 5 inches;

(3) a statement that the appraisal was prepared for estate tax purposes or gift tax purposes;

(4) the date (or dates) on which the item of art was appraised;

(5) the appraised fair market value (within the meaning of § 20.2031-6(a) or 25.2512-1); and

(6) the specific basis for the valuation.

.02 The appraisal must be made no earlier than 60 days prior to the valuation date.

.03 Taxpayers are encouraged to include in the request any additional information that may affect the determination of the fair market value of the item of art.

.04 An appraisal must:

(1) be prepared, signed, and dated by an appraiser, and contain a statement by the appraiser that:

(a) the appraiser either holds himself or herself out to the public as an appraiser or performs appraisals on a regular basis;

(b) the appraiser is qualified to make appraisals of the item of art;

(c) the appraiser is not the taxpayer;

(d) the appraiser was not a party to the transaction in which the decedent or donor of the gift acquired the item of art being appraised, unless the valuation date is within 2 months of

the date of acquisition and the appraised value is not less than the acquisition price;

(e) the appraiser is not the beneficiary or donee receiving the item of art;

(f) the appraiser is not a person who was employed by the decedent or is employed by the taxpayer;

(g) the appraiser is not related to any of the foregoing persons under § 267-(b) or married to a person who is in a relationship described in § 267(b) with any of the foregoing persons;

(h) the appraiser is not an appraiser who was regularly used by the decedent or who is regularly used by the taxpayer or the beneficiary or donee; and

(i) the appraisal fee is not based on the appraised value of the item of art;

(2) include the name, address, and taxpayer identification number (if a taxpayer identification number is otherwise required by § 6109 and the regulations thereunder) of the appraiser. If the appraiser is acting in his or her capacity as a partner in a partnership, an employee of any person (whether an individual, corporation, or partnership), or an independent contractor engaged by a person other than the taxpayer, the appraiser must include the name, address, and taxpayer identification number (if a taxpayer identification number is otherwise required by § 6109 and the regulations thereunder) of the partnership or the person who employs or engages the appraiser; and

(3) include the qualifications of the appraiser who signs the appraisal, including the appraiser's background, experience, education, and membership, if any, in professional appraisal associations.

.05 The appraisal will not satisfy the requirements of this section if the taxpayer has knowledge of facts that would cause a reasonable person to expect the appraiser to overstate or understate the value of the item of art.

## SECTION 9. TAXPAYER'S DECLARATION

.01 A request to obtain a Statement of Value, any factual representations associated with the request, and any amendments to the request must be accompanied by the following declaration: **"Under penalties of perjury, I declare that I have examined this request, including the accompanying**

**documents, and to the best of my knowledge and belief, the facts presented in support of this request are true, correct, and complete."**

.02 The declaration must be signed by the taxpayer, and not the taxpayer's representative. The person signing for an estate must be the executor or administrator of the estate. The person signing for a trust or partnership must be a trustee or general partner who has personal knowledge of the facts. The person signing for a corporate taxpayer must be an officer of the corporate taxpayer who has personal knowledge of the facts. If a corporate taxpayer is a member of an affiliated group filing consolidated returns, a penalties-of-perjury statement must also be signed and submitted by an officer of the common parent of the group.

.03 A taxpayer that submits additional factual information on several occasions may provide one declaration that refers to all submissions.

## SECTION 10. WHERE TO SUBMIT REQUESTS

Requests for a Statement of Value should be sent to the Internal Revenue Service, POB 120, Ben Franklin Station, Washington, DC 20044, Attn: C:AP:AS:ART.

## SECTION 11. NATIONAL OFFICE CONSIDERATION OF REQUESTS

.01 For a completed request for a Statement of Value received after July 15, but on or before January 15, the Service will ordinarily issue a Statement of Value by the following June 30. For a completed request for a Statement of Value received after January 15, but on or before July 15, the Service will ordinarily issue a Statement of Value by the following December 31. It is the responsibility of taxpayers to obtain extensions, as necessary, to file the appropriate tax returns.

.02 If the Service agrees with the value reported on the taxpayer's appraisal, the Service will issue a Statement of Value approving the appraisal.

.03 If the Service disagrees with the value reported on the taxpayer's appraisal, the Service will issue a Statement of Value with the Service's determination of value, and the basis for its disagreement with the taxpayer's appraisal.

## SECTION 12. ATTACHMENT OF STATEMENT OF VALUE TO RETURN

.01 A copy of the Statement of Value, regardless of whether the taxpayer agrees with it, must be attached to and filed with the taxpayer's income, estate, or gift tax return that reports the transfer of the item of art valued in the Statement of Value. However, if, prior to receiving a Statement of Value, the taxpayer files an income, estate, or gift tax return reporting the transfer of an item of art for which a Statement of Value was requested, the taxpayer must indicate on the return that a Statement of Value has been requested and attach a copy of the request to the return. Upon receipt of the Statement of Value, the taxpayer must file an amended income or gift tax return, or a supplemental estate tax return, with the Statement of Value attached.

.02 If a taxpayer disagrees with a Statement of Value issued by the Service, the taxpayer may submit with the tax return additional information in support of a different value.

## SECTION 13. EFFECT OF STATEMENT OF VALUE

.01 A taxpayer may rely on a Statement of Value received from the Service for an item of art, except as provided in sections 13.02 and 13.03 of this revenue procedure.

.02 A taxpayer may not rely on a Statement of Value issued to another taxpayer.

.03 A taxpayer may not rely on a Statement of Value if the representations upon which the Statement of Value was based are not accurate statements of the material facts.

## SECTION 14. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 66-49 is modified.

## SECTION 15. EFFECTIVE DATE

This revenue procedure applies to a request for a Statement of Value for an item of art if the request is submitted after January 15, 1996.

## DRAFTING INFORMATION

The principal authors of this revenue procedure are Jefferson K. Fox of the

Office of Chief Counsel (Income Tax and Accounting) and Deborah Ryan of the Office of Chief Counsel (Pass-throughs and Special Industries). For further information regarding this revenue procedure, contact Karen Carolan of the Office of Art Appraisal Services at (202) 401-4128 (not a toll-free call).

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