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Tax Practice: Overvaluation of Facade Easements Earns Appraisers a Five-Year Suspension from IRS

The Internal Revenue Service has entered into a settlement agreement with a group of appraisers accused of aiding in the understatement of federal tax liabilities by overvaluing facade easements for charitable donation purposes.

An IRS spokesman told Bloomberg BNA March 19 that the terms of the settlement prohibit the name of the firm from being disclosed.

Under the agreement, the appraisers—who are all from the same company—admitted to violating two sections of Circular 230 related to due diligence and submission of accurate documents to the government, the IRS said in a March 19 news release (IR-2014-31).

“Appraisers need to understand that they are subject to Circular 230, and must exercise due diligence in the preparation of documents relating to federal tax matters,” said Office of Professional Responsibility Director Karen Hawkins. “Taxpayers expect advice rendered with competence and diligence that goes beyond the mere mechanical application of a rule of thumb based on conjecture and unsupported conclusions.”

The specific Circular 230 sections at issue are Section 10.22(a)(1), for failing to exercise due diligence in preparation of documents relating to IRS matters, and Section 10.22(a)(2), for failing to determine the correctness of written representations made to the Treasury Department.

Flat Percentage Diminution.

The appraisers prepared reports valuing facade easements donated over several tax years. On behalf of each donating taxpayer, an appraiser completed Part III, Declaration of Appraiser, of Form 8283, Noncash Charitable Contributions, certifying that the appraiser didn't fraudulently or falsely overstate the value of the facade easement.

In valuing the facade easements, the appraisers applied a flat percentage diminution, generally 15 percent, to the fair market values of the underlying properties prior to the easement's donation.

Failure to comply with the terms of the settlement would result in the appraiser's disqualification, which would include a ban from presenting any evidence or testimony in the administrative proceedings before the Treasury Department, and render any appraisal given after disqualification without probative effect, the IRS said in the release.