



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

February 4, 2009

CC:ITA:B01:
GENIN-151001-08

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UIL: 170.18-00

Dear _____ :

Thank you for your e-mail dated November 17, 2008, in which you ask whether an appraiser is a qualified appraiser of donated property within the meaning of the Internal Revenue Code if the appraiser, after appraising the donated property, brokers the sale of the donated property on behalf of the donee. I hope the following general information is helpful.

Section 170(f)(11) of the Internal Revenue Code (Code) addresses the term "qualified appraiser". Section 1.170A-13(c)(5)(iv) of the Income Tax Regulations lists categories of persons who cannot be qualified appraisers. For example, under §1.170A-13(c)(5)(iv), the following cannot be qualified appraisers for the appraised property: the donor of the property, a party to the transaction in which the donor acquired the property, the donee of the property, a person employed by, related to, or married to any of the above persons, or any person who does a majority of his or her appraisals for any of the above persons.

Under the Code and regulations, the mere fact that an appraiser of donated property subsequently acts as a broker of the donated property is not a disqualifier.

Notice 2006-96 provides transitional guidance on the § 170(f)(11) definition of "qualified appraiser," but does not address your question.

On August 7, 2008, the Internal Revenue Service published proposed regulations that clarify the substantiation and reporting requirements for cash and noncash charitable contribution deductions. Section 1.170A-17(b)(5) of the proposed regulations lists

qualified appraiser exclusions (disqualifiers). This list is substantially similar to the current regulations. The proposed regulations are not currently in effect because they have not yet been published as final regulations. A hearing on the proposed regulations was held on January 23, 2009. After comments provided at that hearing are fully considered, the regulations will be finalized.

If you have any questions, please feel free to contact me at _____, or
at _____.

Sincerely,

Karin G. Gross
Senior Technician Reviewer, Branch 1
(Income Tax & Accounting)