Maryland Environmental Trust
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WHAT IS A QUALIFIED APPRAISAL?

Tax deductions for charitable contributions must meet federal standards. To claim a deduction for donating a conservation easement, a landowner must obtain a **qualified appraisal** and complete Internal Revenue Service Form 8283 for noncash charitable contributions. The following are excerpts from the Federal Treasury Regulations §1.170A-13(c)(3) and §1.170A-14(h)(3)(i) with emphasis added. Please see the complete Federal Treasury Regulation text for more information.

*A **qualified appraisal** means an appraisal document that:*

(A) Relates to an appraisal that is not made earlier that 60 days prior to the date of contribution of the appraised property;
(B) Is prepared, signed, and dated by a qualified appraiser;
(C) Does not involve an appraisal fee prohibited by Treasury Regulations §1.170A-13(c)(3)(6)

*A **qualified appraisal** must include the following information:*

(A) A description of the property in sufficient detail for a person who is not generally familiar with the type of property to ascertain that the property that was appraised is the property that was (or will be) contributed;
(B) In the case of tangible property, the physical condition of the property;
(C) The date (or expected date) of contribution to the donee;
(D) The terms of any agreement or understanding entered into (or expected to be entered into) by or on behalf of the donor or donee that relates to the use, sale, or other disposition of the property contributed, including, for example, the terms of any agreement or understanding that-- (1) Restricts temporarily or permanently a donee's right to use or dispose of the donated property, (2) Reserves to, or confers upon, anyone (other than a donee organization or an organization participating with a donee organization in cooperative fundraising) any right to the income from the contributed property or to the possession of the property, including the right to vote donated securities, to acquire the property by purchase or otherwise, or to designate the person having such income, possession, or right to acquire, or (3) Earmarks donated property for a particular use;
(E) The name, address, and (if a taxpayer identification number is otherwise required by section 6109 and the regulations thereunder) the identifying number of the qualified appraiser; and, if the qualified appraiser is acting in his or her capacity as a partner in a partnership, an employee of any person (whether an individual, corporation, or partnerships), or an independent contractor engaged by a person other than the donor, the name, address, and taxpayer identification number (if a number is otherwise required by section 6109 and the regulations thereunder) of the partnership or the person who employs or engages the qualified appraiser;
(F) The qualifications of the qualified appraiser who signs the appraisal, including the appraiser's background, experience, education, and membership, if any, in professional appraisal associations;
(G) A statement that the appraisal was prepared for income tax purposes;
(H) The date (or dates) on which the property was appraised;
(I) The appraised fair market value (within the meaning of Sec. 1.170A-1(c)(2)) of the

property on the date (or expected date) of contribution;

(J) The method of valuation used to determine the fair market value, such as the income approach, the market-data approach, and the replacement-cost-less- depreciation approach; and

(K) The specific basis for the valuation, such as specific comparable sales transactions or statistical sampling, including a justification for using sampling and an explanation of the sampling procedure employed.

The valuation of the conservation easement in the ***qualified appraisal*** *must follow these rules:*

"The value of the contribution under section 170 in the case of a charitable contribution of a perpetual conservation restriction is the fair market value of the perpetual conservation restriction at the time of the contribution.

(1) If there is a substantial record of sales of easements comparable to the donated easement (such as purchases pursuant to a governmental program), the fair market value of the donated easement is based on the sales prices of such comparable easements.

(2) If no substantial record of market-place sales is available to use as a meaningful or valid comparison, as a general rule (but not necessarily in all cases) the fair market value of a perpetual conservation restriction is equal to the difference between the fair market value of the property it encumbers before the granting of the restriction and the fair market value of the encumbered property after the granting of the restriction.

(3) The amount of the deduction in the case of a charitable contribution of a perpetual conservation restriction covering a portion of the contiguous property owned by a donor and the donor's family (as defined in section 267(c)(4)) is the difference between the fair market value of the entire contiguous parcel of property before and after the granting of the restriction.

(4) If the granting of a perpetual conservation restriction after January 14, 1986, has the effect of increasing the value of any other property owned by the donor or a related person, the amount of the deduction for the conservation contribution shall be reduced by the amount of the increase in the value of the other property, whether or not such property is contiguous. If, as a result of the donation of a perpetual conservation restriction, the donor or a related person receives, or can reasonably expect to receive, financial or economic benefits that are greater than those that will inure to the general public from the transfer, no deduction is allowable under this section. However, if the donor or a related person receives, or can reasonably expect to receive, a financial or economic benefit that is substantial, but it is clearly shown that the benefit is less than the amount of the transfer, then a deduction under this section is allowable for the excess of the amount transferred over the amount of the financial or economic benefit received or reasonably expected to be received by the donor or the related person. For purposes of this paragraph (h)(3)((i), related person shall have the same meaning as in either section 267(b) or section 707(b). "

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