

Donation hazards

A recent Tax Court decision illustrates some of the tax headaches that can accompany making a major donation.

John and Susan Crimi owned a considerable amount of real estate in New Jersey. They received offers from a number of developers who hoped to develop homes on certain vacant parcels. To be more confident about the value of the land, the Crimis had an appraisal prepared in 2000. It found that if the land were subdivided into building lots, it would be worth over \$45,000 per acre, or \$2.95 million overall.

At the same time, local municipalities and conservation groups indicated an interest in obtaining the land for a nature conservancy. However, they did not have enough cash to pay the fair market value of the property.

In October 2003 the Crimis entered into a bargain sale with the county, selling the property for \$1.55 million. The deal was completed in July 2004. The Crimis claimed the difference between the fair market value and the proceeds, \$1.4 million, as a charitable contribution over the next two tax years.

The IRS challenged the gift on two grounds. First, the Service felt that the property was not worth \$2.95 million, reducing the value of the charitable gift in turn. Second, for gifts valued at more than \$500,000, the taxpayer is required to attach Form 8283 to the tax return and include a “qualified appraisal.” A qualified appraisal values the property on the date of the transfer; the appraisal done in 2000 would not be qualified under the technical requirements of the tax code. Failure to meet the qualified appraisal requirements bars the charitable deduction regardless of the underlying values.

The Crimis took the matter to the Tax Court. Two experts were called to testify to the value of the property on the date of the gift, and new appraisals were done. The IRS expert found the value to be \$660,000, which was less than the cash received. The taxpayers’ expert posited a value of \$3.7 million. On the whole, the Tax Court favored the approach taken by the taxpayers’ expert, subject to some downward adjustments.

More importantly, the Tax Court accepted the taxpayers’ paperwork on the donation that accompanied their tax return. The Court did not reach the question of whether the appraisal met all technical requirements, but it held instead that the Crimis had reasonably relied upon the expertise of tax professionals, with whom they had worked for 20 years. The charitable deduction for the donation of the land was sustained.

The moral of this story may be that no good deed goes unpunished. The Crimis no doubt feel vindicated by their Tax Court victory, but had they known that a donation of land to the town would trigger a costly, major fight with the IRS, they might have opted for the simpler approach of selling to a developer.