***BASS, DUNCAN v. COMM.*, NO. 833-20, TC MEMO 2023-41**

**What Happened**

In *Bass*, the taxpayer made noncash charitable gifts to Goodwill, Salvation Army, and Lend-A-Hand. He attached Form 8283 to the return claiming FMVs of $10,286, $10,060, and $10,340 respectively to each organization in total. During the trial, the taxpayer produced 173 separate receipts, indicating that “various property” in “good used” condition was donated to the organizations. Each receipt purported that the gift had an FMV of less than $250. While the taxpayer was employed, he also operated three businesses, one of them being Lend-A-Hand, a nonprofit and used clothing store.

While there was no indication the taxpayer obtained an appraisal, he did hire a tax professional to assist with the preparation of his return, though no appraisals were attached. Consequently, the IRS audited the return and issued a notice of deficiency.

**Findings of the Court**

Gifts to charity are deductible under IRC Sec. 170(a)(1). However, the deduction must comply with Reg. 1.170A-13 requirements. Those contributions that are valued at less than $250 do not require a receipt if it is “inconvenient” for the taxpayer to obtain a receipt. A contribution of $250 or more requires a contemporaneous written acknowledgment. Noncash contributions over $500 must include a description of the property contributed and the taxpayer must maintain appropriate records to document the transaction, Reg. 1.170A-13(b)(3)(i). If the noncash charitable contribution exceeds $5,000, the taxpayer must obtain a qualified appraisal, attach the IRS Form 8283 appraisal summary to the income tax return, and maintain records to document the appraised value of the gift [Reg. §1.170A-13(b)(2)]. When there are similar items of property, they are aggregated for purposes determination of the appraisal requirements [Reg. §1.170A-13(c)(7)(iii)]. In this case, the court was not furnished

any documents as required by the regulations, and the court thus indicated the following:

[T]ax deductions are a matter of legislative grace [*Segel v. Commissioner*, 89 T.C. 816, 842

(1987)]. The burden of proof so requires that the taxpayer “demonstrate that the deductions that

were claimed are allowable based on the relevant statutory provisions and to substantiate the

expenses that gave rise to those deductions” [*Higbee v. Commissioner*, 116 T.C. 438, 440 (2001)].

**Lesson Learned**

The substantiation requirements of noncash charitable deductions are as follows:

• Obtaining a “qualified appraisal.” *Qualified appraisal* means an appraisal document that is prepared

by a qualified appraiser in accordance with generally accepted appraisal standards that comply with

the requirements of the regulation.

• Attach a fully completed appraisal summary to the tax return. Form 8283 provides for a consolidated

statement that must be validated by records maintained by the taxpayer.

• Maintain records containing the information required. The required information must be acquired

prior to the filing of the return. In the event the required information and statements are not acquired

prior to filing, the documents are not valid [*Oakhill Woods v. Comm.* (TC Memo 2020-24); and *Albrecht*

*v. Comm.*, (TC Memo 2022-53)].